

# The Chartered Accountant World

A JOURNAL OF  
ALL INDIA CHARTERED ACCOUNTANTS' SOCIETY



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## EDITORIAL

### PROBITY IN PUBLIC LIFE: WILL IT REMAIN A DREAM



CA VINOD JAIN\*

The recent episode of horse-trading by various political leaders in relation to the Trust Vote including an open show of tainted money in Parliament has let down the Indian society and Indian public beyond tolerance. The total erosion in moral values in public life, it appears, is gaining grounds and Probity may be a far-fetched dream.

A number of well known political leaders with misguided pride are openly declaring large income, gifts, and wealth arising out of political donations received by them in their individual capacity and are even paying Income-tax and other taxes on such income. It is also reported in media that certain prominent political leaders or their family members have been gifted with real estate by the job seekers or their relatives in lieu of jobs in government departments. The bureaucracy and a part of Judiciary are already crippled with serious dose of corruption. The entire structure of our mother land has been a victim of the termite of corruption and we have become hollow. The growth of Indian economy is on large scale impacted by corruption in public life and in the economic and political system of the country. How to achieve Probity is a crucial question.

A section of the political leaders justify political donations, gifts and corruption as their genuine requirement to meet their day-to-day needs. Also a substantial sum of money is required by them to meet the needs of their followers, party workers and supporters besides the cost incurred for organizing various political rallies, dharnas and other political programs. How to equitably achieve the aforesaid requirements on the one hand and keep the Probity in public life on the other is being argued

### EXCELLENCE IN PROFESSIONAL DELIVERY: PREPARING TOWARDS THE BUSY SEASON

The Government has preponed the last date of tax audit and filing of Income tax returns to 30<sup>th</sup> September this year onwards. The Chartered Accountants' community is gearing up towards a very busy period with a challenge to deliver its services in an excellent professional manner.

To enable us to meet this challenge of completing the professional assignments with excellence and quality, timeliness and meet the requirements of law, auditing standards, accounting standards and various other regulatory requirements, it may be important for us to urgently develop standard operating procedures and checklists. We need to organize fully the professional delivery with the help of a trained team. It is inevitable to upgrade professional capabilities to enable usage of technology and softwares to reduce the delivery time and to improve the quality even if the volumes are increasing due to lower availability of Chartered Accountants arising out of a



### All India Chartered Accountants' Society

announces

#### 3 Days Intensive Workshop on VAT (Value Added Tax)

Critical issues and complex situations including CST to be deliberated upon by prominent professionals and academicians

Dates : **Saturday 8<sup>th</sup>; Friday 21<sup>st</sup> and  
Saturday 22<sup>nd</sup> November, 2008**

At : **Lecture Hall, India International Centre,  
Lodhi Estate, New Delhi**

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### LATEST IN FINANCE

#### 1.0 REPO RATE, CRR HIKED; ECONOMY TO SLOWDOWN TO 8%.

- Repo rate raised by 50 basis points to 9%
- Cash Reserve Ratio raised by 25 bps to 9%
- Reverse repo, bank rate unchanged at 6%
- GDP growth rate projection lowered to 8% from 8-8.5%
- Efforts to cool inflation to 7% by March 2009

#### 2.0 RBI ISSUES NORMS FOR LOAN WAIVER

The Reserve Bank of India said the amount eligible for waiver under the Government package for small and marginal farmers would be treated as "performing assets" by banks. It will also be considered as claim on the Government with zero risk weight for meeting capital adequacy norms.

As per Central Bank instructions to banks, this waiver should be transferred to a separate account, and can be treated as a performing asset only if adequate provision is made for the loss in Present Value (PV) terms. The discount rate for arriving at the loss in PV terms should be taken as 9.56 per cent, which is the yield to maturity on 364-day Treasury Bills today.

#### 3.0 INTEREST SUBVENTION SCHEME FOR EXPORTERS TO END ON SEPT. 30

The government will withdraw the interest subvention scheme for exporters on account of rise in value of the rupee with effect from September 30. The government has decided to bring this scheme to a close from

September 30, 2008. Under the scheme, exporters were compensated for reduction in profits due to appreciation of the rupee against the dollar last fiscal.

#### 4.0 SECURITY FOR EXTERNAL COMMERCIAL BORROWINGS LIBERALISATION

Under the extant ECB guidelines, the choice of security to be provided to the overseas lender / supplier for securing ECB is left to the borrower. However, creation of charge over immoveable assets and financial securities, such as shares, in favour of the overseas lender is subject to FEMA Regulations

- 4.1 As a measure of rationalization of the existing procedures, it has been decided to allow AD Category - I banks to convey 'no objection' under the Foreign Exchange Management Act (FEMA), 1999 for creation of charge on immovable assets, financial securities and issue of Corporate or personal guarantees in favour of overseas lender / security trustee, to secure the ECB to be raised by the borrower.
- 4.2 On compliance of the above conditions, AD Category - I banks may convey their 'no objection', under FEMA, 1999 for creation of charge on immovable assets, financial securities and issue of personal or corporate guarantee, subject to the conditions indicated in paragraphs 6(a), 6(b) and 6(c), respectively.
- 4.3 (a) **Creation of Charge on Immoveable Assets**  
  
The 'no objection' for creation of charge on immovable assets may be conveyed under FEMA, 1999 either in favour of the lender

or the security trustee, subject to the following conditions:

- (i) 'No objection' shall be granted only to a resident ECB borrower.
  - (ii) The period of such charge on immovable assets has to be co-terminus with the maturity of the underlying ECB.
  - (iii) Such 'no objection' should not be construed as a permission to acquire immovable asset (property) in India, by the overseas lender / security trustee.
  - (iv) In the event of enforcement / invocation of the charge, the immovable asset (property) will have to be sold only to a person resident in India and the sale proceeds shall be repatriated to liquidate the outstanding ECB.
- (b) **Creation of Charge over Financial Securities**

AD Category - I banks may convey their 'no objection' under FEMA, 1999 to the resident ECB borrower for pledge of shares of the borrowing company held by promoters as well as in domestic associate companies of the borrower to secure the ECB subject to the following conditions :

- (i) The period of such pledge shall be co-terminus with the maturity of the underlying ECB.
- (ii) In case of invocation of pledge, transfer shall be in accordance with the extant FDI policy.
- (iii) A certificate from the Statutory Auditor of the company that the ECB



proceeds have been / will be utilized for the permitted end-uses.

### (c) Issue of Corporate or Personal Guarantee

The 'no objection' to the resident ECB borrower for issue of corporate or personal guarantee under FEMA, 1999 may be conveyed after obtaining -

- (i) Board Resolution for issue of corporate guarantee from the company issuing such guarantees, specifying names of the officials authorised to execute such guarantees on behalf of the company or in individual capacity.
  - (ii) Specific requests from individuals to issue personal guarantee indicating details of the ECB.
  - (iii) Ensuring that the period of such corporate or personal guarantee is co-terminus with the maturity of the underlying ECB.
4. AD Category-I banks may invariably specify that the 'no objection' is issued from the foreign exchange angle under the provisions of FEMA, 1999 and should not be construed as an approval by any other statutory authority or Government under any other laws / regulations.

(RBI/2008-09/92 A. P. (DIR Series)-Circular No. 01)

### 5.0 NO COLLATERAL FOR LOANS UP TO RS 5 LAKH TO SMEs: RBI

The Reserve Bank of India (RBI) has expressed concern over the fact that banks in the country are asking for collateral while lending to SME sector when the amount is as low as Rs 5 lakh.

Usha Thorat, Deputy Governor, RBI, said that banks are not supposed to insist on collateral security from SMEs for advances up to Rs. 5 Lakh but only take into account the viability of their projects while granting loans.

### 6.0 EXCHANGE EARNER'S FOREIGN CURRENCY (EEFC) ACCOUNT

It has been decided to withdraw the interest facility on EEFC Accounts from November 01, 2008. Accordingly, with effect from November 01, 2008, all EEFC accounts shall only be permitted to be opened and maintained in the form of non-interest bearing current accounts.

(RBI/2008-09/118 A. P. (DIR Series) Cir. No. 04)

*contd ... pg 1*

### PROBITY IN PUBLIC...

by these political groups to justify their corrupt practices. The system needs to determine as to whether in a democratic set up, we need such leaders who wish to commercialize public life rather than treating themselves as public servants. At the same time, political contribution to political parties in a transparent manner would be necessary to run the political system and the society needs to determine genuine ways and means through which such needs can be met, without which Probity in public life will only remain a distant dream.

The civil society, the Government and the top political leadership need to take a pledge to eradicate corruption completely from politics, Judiciary, Bureaucracy and economic system of the country. Young educated and public-spirited citizens of this great nation have to take a plunge in politics and cleanse it. Probity in public life has to be established by all means and there is no alternate.

*contd ... pg 1*

### EXCELLENCE IN PROFESSIONAL DELIVERY...

large growth momentum in the last few years.

The practicing Chartered Accountants should make an appropriate assessment of the volume of the work involved and the time to be spent on various assignments so that their professional fee can be properly negotiated and keep in view the actual cost of delivery, the increased overheads and other expenses. Through these columns we had brought to the knowledge of the practicing fraternity that our counterparts in the industry have already enhanced their remuneration by about 2 to 5 times in the last three years, an appropriate substantial increase in the fee scale by the practicing professionals will be a must as a class to ensure sustainability and to enable them to afford higher salaries, desired infrastructure and technological up-gradation. All these are just and reasonable expectations of the practicing professionals to deliver quality services in the interest of economic and social development in the country.

The Chartered Accountants fraternity needs to ensure voluntary compliance by industry and businesses and need to support them in complying with requirements of income-tax, MAT, FBT, Dividend Tax, Service tax, Company Law, VAT and various other legal and regulatory requirements. This would be possible only by a keen and detailed study including check listing of various requirements for Compliance and project management skills to enable the delivery in a time bound manner. It is time to Act Now.



## TAXATION

### 1.0 VALUATION METHODOLOGY & NOT ASSESSEE, AT FAULT

The Delhi Income-tax Tribunal has held that where valuation of perquisite determined by the assessee relying on interpretation of Taxman's Direct Taxes Ready Reckoner, the assessee could not be deemed to be an assessee-in-default and consequently, interest under section 201(1A) could not be levied though the valuation methodology was held not justified. The tribunal held that the assessee had some basis (though that interpretation might not have been correct) on which the decision was taken not to deduct tax on the impugned amount, and unless it was shown that there was something more than mere reliance upon the reckoner, the assessee could not be held to be an assessee-in-default, and consequently, interest under section 201(1A) could not be levied.

### 2.0 INTEREST ON BORROWING IS EXPENDITURE

The Mumbai income-tax tribunal has held that expenditure incurred for earning an income cannot be disallowed for non-receipt of such income. During the year, the assessee had borrowed certain funds and invested the same in a partnership firm. The assessee did not receive any interest during the current year from the amount invested in the partnership firm but paid interest for the borrowed funds. The AO disallowed the interest expenditure on the ground that return on investment in the

partnership firm is exempt under section 10(2A) of the Income Tax Act and thus does not form part of total income. Hence in terms of section 14A, the expenditure was not allowable.

### 3.0 CBDT RELAXES SCRUTINY IN SURVEY CASES

CBDT has decided to exempt a taxpayer from scrutiny after a survey if his account books are not impounded, there is no retraction of income declared during the survey and income declared excluding additional tax demanded by the department is not less than the last fiscal. The decision would immediately save about 15,000 taxpayers, whose premises were surveyed in 2006-07 and those who filed returns last year, from scrutiny.

### 4.0 TDS CERTIFICATE NOT NEEDED WITH TAX RETURN

The government has said that annexure and TDS/TCS certificates like Form-16 are not required to be submitted along with income tax returns. Wherever documents are attached with the return, the receiving official is required to detach and return to the tax payers all such annexure. According to CBDT, the original documents and certificates may be produced by assesses as and when called for by the assessing officer.

### 5.0 TERMS TO AVOID OF BENEFIT IN CASE OF EDUCATION

The Delhi Income Tax Tribunal has held that no concession would be available to an employee where the perquisite value of free/concessional education exceeds Rs. 1,000 per month per chaild (pmpc). The benefit has been given only to

persons whose cost or perquisite value of free educational facility did not exceed Rs. 1,000 pmpc.

### 6.0 INCOME TAX CAN BE PAID THRU ANY BANK ACCOUNT: CBDT

As per the Central Board of Direct Taxes, Taxpayers can now deposit income tax from the bank accounts of any person in addition to credit and debit cards.

### 7.0 REFERRAL FEE TO FOREIGN COS NOT TAXABLE IN INDIA, RULE SAAR

Giving relief to companies that procure clients on referral basis, the Authority for Advance Ruling (AAR) had held that fee paid to overseas clients will not be subject to taxes in India. The AAR while giving a ruling in a reference made by Singapore-based real estate consultant held that the receipt on account of the referral fee arising to the applicant would not be taxable in India.

### 8.0 PAYMENT TO ACCREDITED AD AGENCIES NOT COMMISSION

The Kolkata Income Tax Tribunal has held that payment made by an assessee company to accredited advertising agencies could not be termed as payment of commission, and accordingly no TDS is required to be deducted under the provisions of section 194-H of the Income-Tax Act, 1961.

### 9.0 CBDT RELAXES NORMS FOR COMPANY TAX RETURNS

In what could be a major relief to the corporate sector, the revenue department has decided to scrutinize the tax returns of over



# CERTIFICATE COURSE



# All India Chartered Accountants' Society Announces an Intensive 3rd Workshop on Service Tax from concepts to expertise.....



**DATES:**  
From 8<sup>th</sup> August 2008 to 23<sup>rd</sup> August 2008  
(8<sup>th</sup>, 9<sup>th</sup>, 22<sup>nd</sup> & 23<sup>rd</sup> August 2008)

**TIME:**  
11.00 a.m. to 9.00 p.m.  
(Lunch: 1.00 p.m. to 2.00 p.m.)  
(High Tea: 5.30 p.m. to 6.00 p.m.)

**VENUE:**  
India International Centre,  
Annexe Building, Lecture Hall,  
40 Max Mueller Marg, New Delhi

## THE COMPREHENSIVE REFERESHER COURSE ON SERVICE TAX

A Comprehensive Refresher Course/ Workshop on Service Tax is being conducted spread over 4 days with the active participation of eminent speakers and professionals. The MAIN THRUST is to carry out an indepth study of the basic concepts, critical issues and their practical applications including tax planning of the laws, rules and regulations and recent case laws relating to Service Tax.

### DAY 3 – 22<sup>ND</sup> AUGUST 2008 (FRIDAY)

<b>Session-XIV</b> 11.30 am to 12.15 pm 12.15 pm to 1.00 pm	<b>Open House discussion amongst the delegates-Experience Sharing</b>
<b>Session-XV</b> 1.45 pm to 3.45 pm	<b>Refund of Service Tax</b> <i>Critical Issues</i>
<b>Session-XVI</b> 3.45 pm to 5.15 pm	<b>Cenvat Credit</b> ●Concept of Cenvat Credit ●Definition of input services-issues & litigation ●New Rule 6(3) and (3A)- Practical aspects & issues ●Operational issues in Cenvat credit including relevant notifications, Circulars and case laws ●Concept of Input Service Distributor
<b>Session-XVII</b> 5.45 pm to 6.45 pm	<b>Real Estate &amp; Infrastructure Services</b> ● Initialization of related critical issues from industry perspective ● Commercial or Industrial Construction Services ●Construction of Complex Services ●Erection, Commissioning & Installation Services ●Services in execution of Works Contract
<b>Session-XVIII</b> 6.45 pm to 7.30 pm	● Services tax on Real Estate Developers-issues & litigation ● Renting of Immovable Property Services ● Special Economic Zones related Issues ● Program Production Services ● Advertisement Services ● Broadcasting Services ● Space or Time Selling Services ● Sponsorship Services
<b>Session-XIX</b> 7.30 pm to 8.00 pm	● Convention Services ● Business Exhibition Services ● Event Management Services
<b>Session-XX</b> 8.00 pm to 9.00 pm	● Special session on Stock Broking and Financial Services ● Stock Broking Services ● Recognised Association or Registered Association Services (Commodity Exchanges) ● Processing and Clearing House Services ● Portfolio Management Services ● Other Financial Services

### DAY 4 – 23<sup>RD</sup> AUGUST 2008 (SATURDAY)

<b>Session-XXI</b> 11.30 am to 12.15 pm	●Critical Issues and complex areas in service tax
<b>Session-XXII</b> 12.15 pm to 1.00 pm	●On Line Information and Database Access or Retrieval Services ●Internet Telecommunication Services ●Telecommunication Services
<b>Session-XXIII</b> 2.00 pm to 2.45 pm	●Management Maintenance or Repair Services ●Authorised Service Station Services ●Commercial Training or Coaching Services ●Manpower Recruitment or Supply Agency's Services
<b>Session-XXIV</b> 2.45 pm to 4.00 pm	● Tour Operator's Services ● Rent a Cab Services ●Design Services ●Development & Supply of Contents Services
<b>Session-XXV</b> 4.00 pm to 5.30 pm	●Export of Services Rules, 2005 ●Taxation of Services (Provided from Outside India and received in India) Rules, 2006-Issues & litigation
<b>Session-XXVI</b> 6.00 pm to 6.45 pm	●Supply of tangible goods-VAT vs. Service Tax ●Supply of tangible goods services (New) - need & evolution
<b>Session-XXVII</b> 6.45 pm to 7.30 pm	●Accounting and auditing issues in Services Tax ●Service Tax Compliance Audit ●Handling Departmental Audit
<b>Session-XXVIII</b> 7.30 pm to 9.00 pm	●Panel of Experts ●Practical issues in various aspects of services tax including specific case studies

## SPEAKERS - SERVICE TAX WORKSHOP

Dr. Awadesh Singh IRS, Addl. Commissioner of Service Tax  
Sh. Ashok Kumar Pandey IRS, Assistant Commissioner of Service Tax  
CA Ms. Amrita Mitra, Grant Thornton-Mumbai  
CA Atul Gupta, Director, Deloitte Touche Tohmatsu India  
CA Anita Rastogi, Indirect Taxation, Price Waterhouse & Co.  
Mr. J.K.Mittal FCA, Advocate  
CA Kamal Aggarwal, Ernest & Young  
CA Manmohan Khemka, AICAS  
Mr. N.Mathivanan, Sr. Advocate, Lakshmi Kumaran & Sridharan  
CA (Dr.) N.C. Maheshwari,  
CA Ravi Gupta  
Mr. Rohini Aggarwal, PWC - Indirect Taxation  
Dr. Sanjiv Agarwal, Co-Editor Service Tax Journal  
CA Supriya Oberai Jain, Sr. Manager, KPMG  
CA Saloni Roy, Ernest and Young  
Mr. T.R.Rustagi, Former Chief TRU-CBEC  
Mr. V.K.Garg, Commissioner Of Service Tax

Speakers are invited & being confirmed.

### FEE DETAILS

Non CAs/Corporate	Rs. 4000/-
CAs/CA Firm	Rs. 3700/-
AICAS Members	Rs. 3500/-
CFO World Members	Rs. 3500/-

RESTRICTED TO ONLY 100 PARTICIPANTS ON FIRST COME FIRST SERVE BASIS

### NOTE:

- Alternative participants permitted
- Sending of cheques doesn't confirm registration
- Participation fees covers background material to the participants, lunch and high tea
- A voluntary Appraisal Questionnaire to judge the understanding of the workshop is proposed
- A Certificate of satisfactory completion of workshop will be issued
- Participants are expected to share their own practical experience and raised queries during interactive session
- Alternative nominee for specific session(s) or day(s) could be permitted.
- Programme is subject to last minute changes due to extraneous circumstances.

For further details please contact : Ms. Chhaya (9873230416)  
aicas.cfo@gmail.com, cfoworld@gmail.com

## FOR FURTHER DETAILS PLEASE CONTACT:

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503-504, Chiranjiv Tower, 43, Nehru Place, New Delhi-110019  
Tel. : 26223712, 26226933, 26228410

Registration for ☐ Service Tax

Name : Mr/Ms .....  
CA Membership No. : .....  
Designation : .....  
Company Name : .....  
Address : ..... Pin .....  
Phone : (O) ..... (R) .....  
E-mail : .....  
Payable to "All India Chartered Accountants' Society"  
Via DD/Cheque (Delhi only) No. : .....  
Date : ..... Bank : .....  
Amount : ..... Signature .....



1,000 top companies, provided no major disputes are pending against them and they had been complying with laws. The annual returns of tax complying companies would not be scrutinized this year. The decision has been taken by the Central Board of Direct Taxes (CBDT) to encourage better tax compliance among the corporates.

#### **10.0 ORDER UNDER SECTION 119(1) OF THE I.T. ACT, 1961 REGARDING EXEMPTION FROM THE TDS PROVISIONS UNDER SECTION 197**

In exercise of the powers conferred under sub-section (1) of section 119 of Income-tax Act, 1961, Central Board of Direct Taxes has directed that corporations which are established by a Central, State or Provincial Act for the welfare and economic upliftment of ex-servicemen and whose income qualifies for exemption from income-tax under section 10(26BBB) of the Income-tax Act, 1961, are given exemption from Tax Deduction/Collection at Source on their receipts.

(CIRCULAR NO. 7/2008, DATED 1-8-2008)

### **SERVICE TAX**

#### **1.0 INTERIM RELIEF TO RETAILERS FROM SERVICE TAX ON RENT**

Bringing some cheer to modern retailers in an otherwise troubled market, the Bombay High Court granted interim relief from payment of service tax on the rents of immovable property. Retailers will not have to pay service tax till the final order in this regard is issued by the

Supreme Court (SC). The petitioners will have to file a written undertaking stating that in the event the challenges against such tax was disallowed, they will pay the amount due in accordance with the statutory provisions, the court observed.

The Retailers Association of India had filed a writ petition challenging the levy of service tax on property as unconstitutional. The matter came up for hearing in the Bombay High Court on July 30, 2008. The provision to levy 12% service tax on commercial rentals came into force on June 1, 2007 as part of the 2007-08 Budget.

### **NBFC**

#### **1.0 NO-DEPOSIT TAKING NBFCs GET MORE TIME FOR CRAR**

Non-Banking finance companies (NBFCs), which do not accept deposits, will now have more time to meet the Reserve Bank of India's requirements on capital adequacy norms. The central bank has extended its earlier deadline for these players to meet CRAR (capital-to-risk-assets ratio) requirements. These companies now need to achieve a 12% CRAR ratio by March 2009 against RBI's earlier circular, asking them to meet these levels with immediate effect. On similar lines, they need to reach a CRAR level of 15% by March 2010 as against the earlier date of April 1, 2009. The central bank, which had imposed stringent guidelines for deposit-taking NBFCs few years ago, is now bringing even non-deposit taking NBFCs under sufficient control due to underlying systemic risks.

### **FEMA**

#### **1.0 INVESTMENT IN CREDIT INFORMATION COMPANIES**

The Reserve Bank of India issued a directive clarifying that while considering applications for the grant of certificate of registration under the Credit Information Companies (Regulation) Act, 2005, it would ensure that no single investor, whether the resident in India or outside India, holds more than 10% of the equity capital of any credit information company. The ceiling of 10% will be equally applicable to investments made under the Foreign Direct Investment Scheme. This is in line with its policy of ensuring well diversified ownership of banks and other entities in the financial sector as well as entities in financial sector infrastructure.

#### **2.0 ACCOUNTING FOR TAXES ON INCOME-ACCOUNTING STANDARD 22- TREATMENT OF DEFERRED TAX ASSETS (DTA) AND DEFERRED TAX LIABILITIES (DTL) FOR COMPUTATION OF CAPITAL**

As creation of DTA or DTL would give rise to certain issues impacting the balance sheet of the Company, it is clarified that the regulatory treatment to be given to these issues are as under :-

- The balance in DTL account will not be eligible for inclusion in Tier I or Tier II capital for capital adequacy purpose as it is not an eligible item of capital.
- DTA will be treated as an intangible asset and should be deducted from Tier I Capital.

RBI/2008-09/ 107-DNBS (PD) C.C.  
No. 124/03.05.002/ 2008-09



### CAPITAL MARKET

#### 1.0 ESTABLISHMENT OF CONNECTIVITY WITH BOTH DEPOSITORY NSDL AND CDSL—COMPANIES ELIGIBLE FOR SHIFTING FROM TRADE FOR TRADE SETTLEMENT (TFTS) TO NORMAL ROLLING SETTLEMENT

The stock exchanges may consider shifting the trading in securities, which are listed in Annexure 'A' and established connectivity with both the depositories during March and April, 2008 to normal Rolling Settlement subject to the following:

- a) At least 50% of other than promoter holdings as per clause 35 of Listing Agreement are in dematerialized mode before shifting the trading in the securities of the company from TFTS to normal Rolling Settlement. For this purpose, the listed companies shall obtain a certificate from its Registrar and Transfer Agent (RTA) and submit the same to the stock exchange/s. However, if an issuer-company does not have a separate RTA, it may obtain a certificate in this regard from a practicing company Secretary/Chartered Accountant and submit the same to the stock exchange/s.
- b) There are no other grounds/reasons for continuation of the trading in TFTS.

(MRD/DoP/SE/Cir-25/2008-August 01, 2008)

#### 2.0 SEBI MOVES SC AGAINST SAT RELIEF TO GSACHS

SEBI imposed a penalty on Goldman Sachs for not-disclosing issue of offshore

derivatives to an Overseas Corporate Body (OCB), which was challenged before the Securities Appellate Tribunal. The quasi-judicial body quashed the penal order and imposed a fine of Rs. one Lakh on SEBI.

#### 3.0 TO DELIST, COS WITH NEAR-THRESHOLD PUBLIC MONIES MUST BUY BACK 50 %

The companies in which public shareholding is marginally above the mandatory requirement for remaining listed would be able to delist only if at least 50% of the public shareholders respond to its buyback offer. Insertion of the clause would ensure that promoters do not indulge in frivolous delisting from stock exchanges.

In other words, if public shareholding in a company is 12% - just 2% more than the norm of 10% - it would be allowed to delist only if it manages to acquire at least 6% from shareholders. According to current norms, if shareholding falls below the minimum prescribed level, the company can go in for voluntary delisting.

#### 4.0 A/C ABILITY: ANNUAL REPORTS MAY BE REAUDITED

The ministry of corporate affairs is working on a proposal according to which audited annual accounts of companies would be scrutinized on a regular basis. Currently, the government directs special audits only in cases where irregularities come to light. While the ministry of corporate affairs is supposed to review the accounts of unlisted companies, capital market regulator SEBI should take up the review of listed companies.

#### 5.0 REMFS GET CLEAN CHIT FROM MOF

The cloud over real estate mutual funds (REMF) has lifted. The finance ministry has brushed aside RBI's concerns of REMFs violating foreign direct investment norms in the realty sector. North Block has said the central bank's concern – stating that REMF scheme notified by SEBI in April contradicted FDI norms – was unwarranted. In the reply to RBI, the ministry has stated that investment through REMFs could be allowed as there was no linkage between the investments made by a fund and its investors. REMF investors only own units in the fund and don't drive its investments decisions on assets. Moreover, SEBI has prescribed several restrictions on investments by REMFs.

#### 6.0 SEBI PUTS RESOLUTION OF DISPUTES ON FAST TRACK

The market regulator's decision to put resolution of disputes on the fast track is working well. In just over a year after announcing rules for consent orders, the Securities and Exchange Board of India has settled close to 83 cases. Consent order is a new system of settling disputes in the capital markets by an agreement between a regulator and the accused through a penalty or a fine. The things have certainly moved fast as consent happens in a matter of months against the earlier practice of disputes going on for years.

#### 7.0 SAT SETS ASIDE SEBI DIRECTIVE ON MYSORE CEMENTS OPEN OFFER

The securities Appellate Tribunal has set aside the SEBI order which had directed German company Heidelberg Cement (represented by Cementum

IB.V) to pay the public shareholders of Mysore Cements Rs 72.50 per equity share in its open offer, instead of Rs 58 per equity share that it had paid. Basically SEBI was asking that the non-compete fee paid by Cementum to the promoters of Mysore Cements should be added to what was paid to the public shareholders, including interest for the delay.

#### **8.0 SAT SETS ASIDE SEBI ORDER ON D-LINK**

SAT has set aside the impugned order of the SEBI board barring D-Link India Ltd from dealing in securities for one month, saying it had provided misleading information to the investors relating to the buyback of its shares

SAT has held that a company is under no obligation to buyback its securities even after its shareholders have passed a special resolution authorizing it to do so. Section 77 A of the Companies Act is only an enabling provision. Moreover, Regulation 15 of the buyback regulation read with regulation 8 requiring the company to make a public announcement, if the company wanted to buyback makes it abundantly clear that it is only when the second step of making an offer to the shareholders has been taken that the company is obliged to go through the buyback.

### **ACCOUNTING**

#### **1.0 FLUNKED IN CA EXAM? DON'T LOSE HEART**

Those who have cleared Inter Exam Can Be A/C Technicians. The Institute of Chartered Accountants of India has opened new career option for unsuccessful candidates aspiring to become chartered accountants. Candidates who could not clear CA finals will just have to appear for 100-hour computer training to get the accounting technician certificate.

### **COMMODITY**

#### **1.0 FOURTH NATIONAL COMEX GETS NOD**

The Ministry of Consumer Affairs has given in principle approval to the proposal of Indiabulls and MMTC to set up the country's fourth national level commodity exchange to facilitate trade in commodities across all sectors. The exchange was proposed to be set up in Gurgaon on the outskirts of the national capital

## **CONGRATULATIONS !**



AICAS congratulates **ABHINAV BINDRA** for bestowing on India an unprecedented glorious win in Olympics 2008.

With this Initial Step, We wish him a bright future ahead.

***Best of Luck India !!***

## **DIGITAL SIGNATURES!!!**

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for Rs.650/- (without token) &  
Rs.1000/- (with Token)**

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