

# The Chartered Accountant World



## EDITORIAL ADVISORY BOARD

*Mr. Vinod Jain, FCA, Chairman*

**MEMBERS -** Mr. Anil Sharma, FCA;  
Mr. Avineesh Matta, FCA;  
Mr. Naveen Jain, FCA;  
Mr. Pramod K. Kapur, FCA;  
Mr. Praveen Sharma, FCA;  
Mr. Shiv Mittal, FCA;  
Mr. Sunil Khemka, FCA;  
Mr. Vijay Gupta, FCA;  
Mr. Vinod Rustagi, FCA.

## ANNUAL SUBSCRIPTION

- for Chartered Accountants:  
Rs. 200/- . Single Copy Rs. 20/-
- for Others: Rs. 250/- .  
Single Copy Rs. 25/-

## EDITORIAL

### INDIAN ECONOMY – BACK ON THE GROWTH PATH



CA VINOD JAIN\*

The recent turmoil in the US economy has shaken the confidence of the Indian businesses in the economic and monetary system of the world. The sentiments have been hurt very significantly.

The distress sale of Indian Companies shares by foreign investors of more than US \$ 25 billion, non renewal of short-term

international funding of about US \$ 50 billion and reduction in growth rate of foreign direct investments during last 3 months have impacted the exchange rate, market sentiment, international demand for exports and the resultant reduction in confidence of the Indian businesses.

We must thank Dr. Manmohan Singh that after assuming the charge of Finance Minister he has been able to very quickly take very important strategic action including substantial reduction in excise duty rates and certain initial steps to improve the liquidity into the system. This is indicative of only a very good beginning towards the future steps which may be inevitable to provide necessary impetus to growth.

The Government of India, the thinkers and the opinion makers may consider the following suggestions for immediate implementation for revival of growth rate of the Indian economy:

- As a sequel to reduction in excise duty, it may be very important to immediately announce reduction in service tax rates to 8% and 4% slabs to give boost to the service sector. In view of CENVAT this is also a natural requirement.
- The central government and the State governments need to consider reduction of VAT rate comprehensively to

*contd. ... pg 3*

### TERRORISM – WE ARE READY TO FIGHT!

The unprecedented invasion on Indian sovereignty by terrorists has shaken the very nerves of every Indian. It is a warning signal to the entire society to be more vigilant, more demanding and more forthcoming to defend themselves. It is necessary to brutally weed out all terrorists and also to strategically eliminate terrorism. Terrorists have no religion.

Hindu, Muslim, Sikh, Christian, Jain and Bodh all the religions teach and preach to inculcate human values, to ensure a peaceful and constructive living for one and all to make this mother earth a beautiful place for humanity to survive and flourish. **There is no reason to have suspicion or to divide the society in the name of religion.** We all have to live together with mutual trust and haramony. Faith is the most important element which needs to be kept by word, by thoughts and conduct by each and every member of society.

Polity and the politicians are one of the most important necessities of society and for successful and effective functioning of democracy. Unnecessarily maligning politicians as a class will only desist good people to join politics, which will be suicidal for society. At the same time, the time has come where politicians have to do soul searching that power is not for enjoyment but to serve citizenry. Only the citizens with the zeal to serve with righteous virtues are needed in the polity. Some important suggestions to be considered by the society, thinkers, politicians and opinion makers of this country are as follows:

- Strategically create mutual trust and faith among various religions, classes of society. Involve religious leaders proactively.
- Deal aggressively with the terrorists, their supply line in terms of logistics, money, arms and ammunitions and most importantly banish moral and local support.

*contd. ... pg 3*



### LATEST IN FINANCE

#### 1.0 RUPEE EXPORT CREDIT INTEREST RATES- EXTENSION OF PERIOD OF CREDIT

Interest Rates effective from November 28, 2008 to April 30, 2009 will not be exceeding BPLR\* minus 2.5 percentage points per annum for the following categories of Export Credit.

##### Categories of Export Credit

##### a. Pre-shipment Credit

- (i) Up to 270 days
- (ii) Against incentives receivable from Government covered by ECGC Guarantee up to 90 days.

##### b. Post-shipment Credit

- (i) On demand bills for transit period (as specified by FEDAI)
- (ii) Usance bills (for total period comprising usance period of export bills, transit period as specified by FEDAI, and grace period, wherever applicable)
  - Up to 180 days
  - Up to 365 days for exporters under the Gold Card Scheme.
- (iii) Against incentives receivable from Govt. (covered by ECGC Guarantee) up to 90 days
- (iv) Against undrawn balances (up to 90 days)
- (v) Against retention money (for supplies

portion only) payable within one year from the date of shipment (up to 90 days)

*\*BPLR Benchmark Prime Lending Rate*

##### Note:

- (i) Since these are ceiling rates, banks would be free to charge any rate below the ceiling rates.
- (ii) Interest rates for the above-mentioned categories of export credit beyond the tenors as prescribed above are deregulated and banks are free to decide the rate of interest, keeping in view the BPLR and spread guidelines.

*(RBI/2008-09/299 DBOD. Dir. (Exp). BC. No. 88/04.02.01/08-09)*

#### 2.0 REVIEW OF PRUDENTIAL NORMS - PROVISIONING FOR STANDARD ASSETS AND RISK WEIGHTS FOR EXPOSURES TO COMMERCIAL REAL ESTATE AND NBFCs

- (a) **Provisioning Norms:** The provisioning requirements in case of Tier II UCBs for all types of standard assets stand reduced to a uniform level of 0.40 per cent except in the case of direct advances to agricultural and SME sectors, which shall continue to attract a provisioning of 0.25 per cent, as hitherto. Tier I UCBs will continue to make a general provision of 0.25% on all their standard assets
- (b) **Loans and advances secured by commercial real estate:** Such loans would attract a risk weight of 100 per cent as against the extant risk weight of 150 per cent.

- (c) **Loans and advances to NBFCs:** The risk weights on exposure to such companies will remain unchanged at 100 per cent.

*(RBI.No.2008-09/ 300 UBD.PCB.Cir. No. 29 / 09.11.600/2008-09)*

#### 3.0 REPO AND REVERSE REPO RATE REDUCED

RBI has decided to reduce the fixed repo rate under the Liquidity Adjustment Facility (LAF) by 100 basis points from 7.5 per cent to 6.5 per cent and the reverse repo rate by 100 basis points from 6 per cent to 5 per cent with effect from December 8, 2008.

*(RBI/2008-2009/257 FMD. MOAG. No./01.01.01/2008-09)*

#### 4.0 RBI OPENS LAF WINDOW TO HOUSING FINANCE COs TO FIGHT CREDIT CRUNCH

Housing finance companies are the latest to get access to the special liquidity facility extended by the Reserve Bank of India (RBI) to mutual funds and non-banking finance companies (NBFCs). The central bank has also extended the liquidity adjustment facility (LAF) from its current deadline of March 31, 2009 to June 30 2009.

#### 5.0 REPO LIABILITIES FOR CRR CALCULATION

RBI said in the draft guidelines that "The liabilities on account of repo borrowing would be included in the net demand and time liabilities calculation for maintenance of cash reserve ratio. However, inter bank repo transactions would continue to be netted, as hitherto".



*contd. from pg 1*

### INDIAN ECONOMY...

provide further fuel to the growth path. The Chartered Accountants community is quite confident that even if the rates are reduced by 40% to 50%, the overall collection of the revenue of the Government will be rather more as compared to the collection in terms of the present rate, by improved compliance and improved business activities due to higher demand.

- It is important to immediately announce deficit funded infrastructure projects by at least Rs. 200000 crore for immediate commencement of their implementation to put back necessary confidence into the economy.
- The reduction in commodity prices including oil, metal and other important commodities internationally is a natural correction in the backdrop of speculative rise in prices in last 2 years.
- The Real Estate Sector and the Infrastructure Sector will require special attention of the Government. The comprehensive reduction of interest rates, taxes on these sectors and adequate money supply will be necessary to stimulate the growth of housing, real estate and infrastructure sector.
- Special incentive package is needed to boost tourism and hospitality industry. Aviation is seen severely hit, flights moving at abysmally low capacity, lower travel by businesses warrant removal of FBT.
- Inflation cannot be the 1<sup>st</sup> agenda as an economy. The important agenda at this stage would be to bring back the activity and positive outlook into the economy. A substantial reduction

in CRR and SLR would be mandatory as the Indian Banking Sector will need at least additional flow of Rs. 2 lakh crore within next 2 months which can be released from the system by the Reserve Bank of India.

- The Indian banking sector and the financial market need not have apprehension about possible NPA's and should not desist from lending. The position of the Indian economy and the Indian businesses is reasonably strong and apprehensions of the banking sector is mainly impacting adequate flow of money and has adversely reduced the growth rate of M<sup>3</sup> (Money supply).

The aforesaid suggestions may be considered in the backdrop of detailed reasoning and suggestions given in our Editorial of November Issue. **We are glad to say that a significant number of our suggestions have been accepted by the Government and partly implemented already.**

We as a nation with progressive outlook are on the right path and would request Dr. Manmohan Singh to continue with the dual charge at this crucial hour where his technology as a finance minister is most needed by the Indian economy. Let our (business) spirits be high.

*contd. from pg 1*

### TERRORISM...

- Internationally ensure that terrorists are not able to have access to arms and ammunitions. All sovereign countries, manufactures and dealers of arms and ammunitions must have self regulatory and ethical Code of Conduct in place to ensure that they do not eventually serve the

terrorism by supplying, directly or indirectly, their products to unwarranted elements. Failure to follow a well publicized code of ethics in this regard can be made very severely punishable by international collective action.

- It is important to have a very quick trial and punishment mechanism for terrorists. In most cases it may not be necessary to give them benefit of principles of natural justice, civil liberties and human rights. Terrorists cannot have any rights of any kind whatsoever.
- The design of terrorists and the forces behind them for aggression against India is to destabilize our economy, tourism, the economic growth and our strategy to become number one economic power in the world. We cannot permit any invasion of any kind.
- The media, including the electronic and print media may be subjected to ethical discipline by ensuring that the terrorist activities are least publicized to reduce the impact of terrorism. Terrorist understand very well that the media is there to make their (in)human acts known to all. Once publicity is restricted the brutal and evil designs of terrorist will not be propagated.
- It is very important to ensure that the names of the terrorists are not published or publicized with a view to maintain religious harmony, as the names, most of the times give wrong signals and result to provide benefit to divisive forces only. **Terrorist is a terrorist, has no religion.**
- There is need to have a hard talk with Pakistan and if necessary to aggressively weed out terrorist camps by combat action.

We as a nation are one, India will not any recurrence of such event.

# 1<sup>ST</sup> WORKSHOP ON VAT AND SALES TAX



Panel Discussion



Cross section of participants attending the workshop

## LEADING EXPERTS SHARING THEIR TECHNICAL EXPERTISE



CA Ashok Batra  
Member, Indirect Tax & Law Committee of ICAI



CA H. L. Madan



CA R. P. Varshney



CA Rakesh Garg



Sh. B. P. Joshi  
Addl. Comm., Deptt. of Trade & Taxes



Sh. H. C. Bhatia  
Advocate



CA K. Mahesh



Sh. Balram Sangal  
Advocate



Sh. Girish Shukla  
Advocate

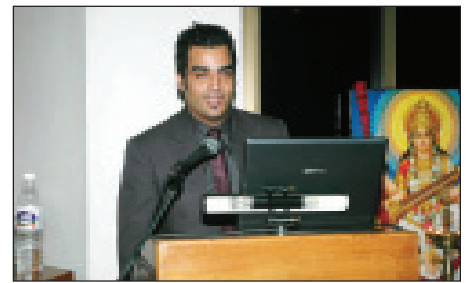




CA Sushil Aggarwal



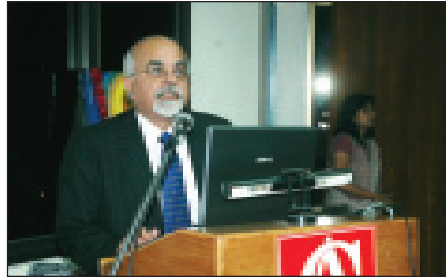
Sh. G. K. Marwah  
Hon'ble Member, VAT Tribunal



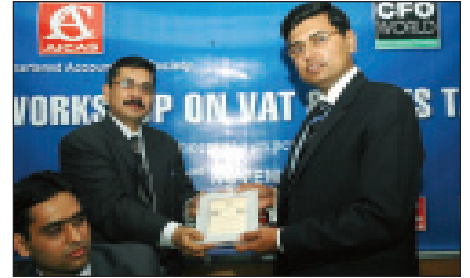
Mr. Krishan Arora  
Manager (Indirect Taxes) - KPMG



Sh. Vineet Bhatia  
Advocate



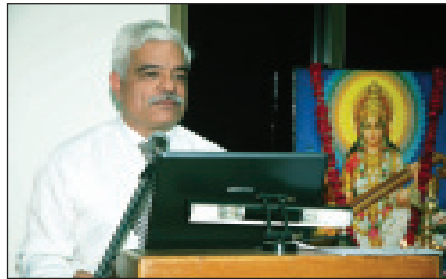
Sh. Raj Kr. Batra  
Advocate



Mr. Manish Mishra  
Manager (Indirect Taxes) - KPMG



Mr. Rajesh Jain  
Advocate

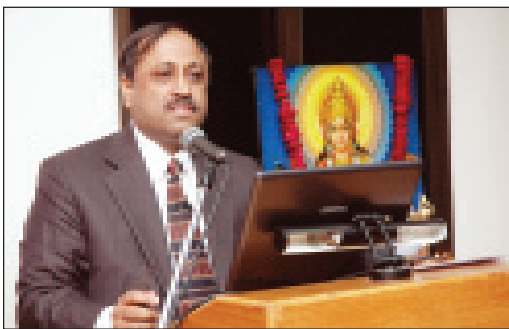


Sh. Sushil Verma  
Advocate



Mr. Siddharth Mehta  
Sr. Mgr., KPMG

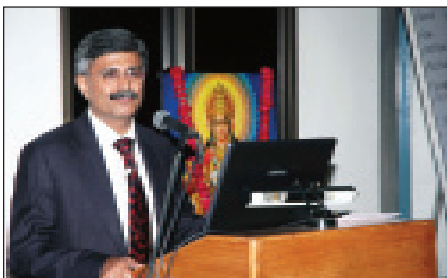
## 1<sup>ST</sup> STUDENT'S WORKSHOP



CA Vinod Jain  
Chairman, INMACS Management Services Ltd.



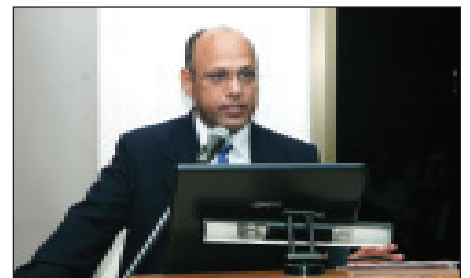
Cross section of participants attending the workshop



CA Sunil Sukhija



CA Dinesh Bahl  
Sahni Natrajan & Bahl



CA Anil Sharma



### TAXATION

#### 1.0 DUTY CUTS\*

- Three slabs of excise duty- 14%, 12% and 8% applicable to non petroleum products have been reduced by 4% each. Revised rates will be 10%, 8% & 4%
- Duty on cotton textiles and textiles articles has been reduced from 4% to nil.
- Ad-valorem on car of 1500cc and above has been reduced from 24% to 20%.
- Duty on cement has been reduced from 12% to 8%.
- Naphtha, imported for generation of electric energy, has been fully exempted from basic custom duty.
- Export duty of 8% on iron ore fines has been withdrawn
- Export duty on iron ore lumps has been reduced by 10% to 5%.

(\*Reduction in excise duty valid till 31st March 2009)

#### 2.0 VODAFONE TAX UPHELD

In a setback to Vodafone, the Bombay high court dismissed the telco's writ petition against the income tax department's show cause notice seeking around \$1.7 billion as capital gains tax. Vodafone will now move to the Supreme Court. The high court is learnt to have dismissed the plea mainly on the ground that there is no "patent illegality" in I-T Department's show cause notice. Also, as per sources, the petitioner, Vodafone international, has suppressed a very important agreement dated February 11, 2007, between Hutchison and Vodafone international.

Vodafone, based on advice received, continues to believe that the transaction is not subject to tax in India and is confident of positive outcome ultimately.

#### 3.0 FOREIGN CARGO AIRLINES' INCOME FROM WAREHOUSING NOT TAXABLE: HC

The High court in the case of CIT vs KLM Royal Dutch Airline, upheld the tribunal decision, which said that the assessee did not derive any income other than profits from the operation of aircraft in international traffic and hence, in terms of articles 8, the same was not subject to tax in the Netherlands.

#### 4.0 LOSS ARISING ON ACCOUNT OF FOREIGN EXCHANGE FLUCTUATION WOULD BE ALLOWED AS A REVENUE DEDUCTION AS PER THE PRODUCTION SHARING CONTRACT

The taxpayer was engaged in the business of oil exploration and had entered into a Production Sharing Contract (PSC) with the Government along with other consortium members. The taxpayer claimed deduction of foreign exchange loss arising on the translation of expenses incurred in foreign currency at the end of the accounting period. The Assessing Officer (AO) held that the loss recognised by the taxpayer was notional and accordingly, did not allow deduction for such loss.

On appeal, the Income tax Appellate Tribunal (Tribunal) and the High Court held that

loss arising on account of devaluation of rupee was allowable for tax purposes in the year in which the same had been incurred. On appeal by the Revenue authorities before the Supreme Court, the Court observed that the PSC established an independent mechanism for the treatment of costs, expenses, income, profits, etc incurred or earned by the consortium members engaged in oil exploration. Accordingly, the accounting and tax treatment of expenditure / income provided for in the PSC prevailed over the normal provisions of the Act. The PSC was considered to represent a distinct, complete code, which provided for specific accounting and tax treatment of income/ expenses. In the instant case, since the PSC provided that the loss arising on account of foreign currency translation could be claimed as a tax deduction in the same year, such expenses were required to be allowed as a tax deduction.

*CIT vs Enron Oil & Gas India Ltd (305 ITR 75)*

#### 5.0 FILING OF BILL OF ENTRY MANDATORY TO SECURE RELEASE OF GOODS

The Supreme Court held that filing a bill of entry was mandatory for importers to obtain release of goods. Further, the Apex Court observed that filing of the bill of entry was required for custom appraisal. Accordingly, the Supreme Court here permitted the Revenue to encash the bank guarantee on the grounds that the goods had been released.

*Union of India vs Atam Fibres (P) Limited (2008 TIOL-190-SC-CUS)*



### SERVICE TAX

#### 1.0 CENVAT ON IMPORTED GOODS IS ADMISSIBLE ONLY ON THE BASIS OF BILL OF ENTRY

Essar Gujarat Limited (Essar) imported certain goods in three consignments and transferred the goods directly from the port to the factory of the loan licensee (being the taxpayer). The taxpayer availed Cenvat credit of the countervailing duty (CVD) paid by Essar.

The Revenue sought to deny the credit on the ground that goods were received in the factory under the cover of delivery challans, which were not the appropriate documents for availing of credit.

The Supreme Court held that the taxpayer produced the triplicate copy of the bill of entry in respect of two consignments; and hence, was entitled to Cenvat credit. However, in respect of the third consignment, the taxpayer did not produce the triplicate copy of the bill of entry; hence, the credit was not admissible.

*Union of India vs Marmagao Steel Limited (229 ELT 481)*

#### 2.0 TIME LIMIT FOR FILING SERVICE TAX REFUND FOR EXPORTERS EXTENDED

In a bid to give some relief to exporters, the government simplify the refund based service tax exemption scheme on taxable services attributable to exports, the time limit for filing refund claims has been extended from 60 days to six months.

### INSURANCE

#### 1.0 IRDA DESIGNS CUSTOMIZED POLICY

The Insurance Regulatory & Development Authority (IRDA) has taken free pricing to next level by giving non-life insurance companies more freedom to design their own products. Both individual and businesses, who buy non-life insurance, can now look forward to policies that are either more comprehensive or better designed to meet their requirement.

### CORPORATE LAWS

#### 1.0 ARBITRATION BETWEEN COMPANY AND DIRECTOR IS ALLOWED: SC

According to the Supreme Court, there could be arbitration of disputes between a company and its director who also functions as an employee. The Supreme Court said that as a director is involved in policy making, the contract is not merely one of employment, Consultancy agreements are commercial.

#### 2.0 RULE REQUIRING NEW OWNER OF PREMISES TO CLEAR ELECTRICITY ARREARS VALID

The Supreme Court ruled in Paschimanchal Vidyut Vitran Nigam vs. DVS Steels & Alloys that a rule requiring the new owner of the premises to clear electricity arrears of the former was valid. The distribution company in this case, successor to UP Electricity Board, insisted on the company to pay the arrears of the former owner before getting the connection.

#### 3.0 NEW PENSION MATHS FOR FOREIGN EMPLOYEES

The labour ministry has changed the definition of pensionable salary for foreign employees, including Indian citizens working aboard. Pensionable salary of foreign or international employees contributing to Employees Provident Fund Organization (EPFO) will now be average monthly pay drawn during the entire contributory period of service instead of the average of last 12 month's salary. The new definition is not applicable on domestic EPFO subscribers as they are already regulated by a ceiling of 6500 per month placed by employee pension scheme, 1995 (EPS) on their pensionable salary. This means that the employer's contribution of 8.33% of eligible earning of the employee to the EPS cannot exceed Rs. 6500 per month even if the calculated sum is higher. The ceiling does not exist for the international employee.

### FEMA

#### 1.0 FIPB BARS LAND RESALE BY RETAILERS WITH FOREIGN JOINT VENTURES

The foreign Investment Promotion Board (FIPB) has clarified that foreign joint ventures in the construction and development business will not be allowed to sell undeveloped land they acquire to sell. The ambit of this clarification includes foreign joint ventures in housing, commercial premises, townships, resorts, educational institutions and city and regional townships.

## ICAI NEWS

**1.0 INDIA, UK ACCOUNTANCY BODIES INK MOU**

Chartered Accountancy Bodies of India and the UK have signed a memorandum of understanding (MoU) that provides for mutual recognition of qualifications. It however, does not provide for auditing rights in respective countries. The MoU arrangement provides that existing members of ICAI with two years of post qualification experience will be eligible for ICAEW membership on passing the ICAEW's one paper on case study. The ICAI members with less than two years of experience will be required to pass three papers - case study, technical integration business change and technical integration business reporting. On the other hand, members of ICAEW will become eligible for ICAI membership subject to passing ICAI's four examination papers for the special modules - taxation, law, ethics and communication; information technology and strategic management and auditing and assurance.

**INMACS****INMACS MANAGEMENT SERVICES LTD.****Your companion on the road map of TRANSITION TO IFRS...**

Inmacs through its acquired expertise and experience brings to you IFRS Convergence Services ranging from, but not limited to:

- Introduction to the concepts of IFRS
- Training internal resources on the concepts of IFRS
- Detailed study of existing accounting systems and practices
- Designing and determining a strategy of transition from Indian Accounting Standards to IFRS

Conversion of Financial Statements prepared on the basis of Indian GAAP to IFRS based Financial Statements

*For more information, please contact*

**CA Deepti** at: TEL: 91-11-26223712, Mob.: 9811192162 or  
e-mail at - ifrs@inmacsindia.com, deeptikheror@inmacsindia.com

## ICAI MEMBER'S ATTENTION

**CPE CREDIT REQUIREMENTS FOR THREE-YEARS ROLLING PERIOD 2008-2010**

The first calendar year 2008 of the three years rolling period 2008-2010 is on the verge of its completion. Members may kindly ensure that they complete the minimum CPE Credit Requirements for the calendar year 2008. The CPE Credit Requirements for the three years' rolling period 2008-2010 are as given below:

- All the members who are holding Certificate of Practice (except those members who are residing abroad), unless exempted, are required to:
  - (i) Complete at least 90\* CPE credit hours in each rolling three-year period of which 60 CPE credit hours should be of structured learning.
  - (ii) Complete minimum 20 CPE credit hours of structured learning in each year.
- All the members who are not holding Certificate of Practice or are residing abroad (whether holding Certificate of Practice or not), unless exempted, are required to:
  - (i) Complete at least 45 CPE credit hours of structured/unstructured learning in each rolling three-year period.
  - (ii) Complete minimum 10 CPE credit hours of structured/unstructured learning in each year.

\*We may clarify that out of minimum 90 hours of CPE requirements, the members have to complete 60 CPE hours of Structured Learning (20 CPE hours of structured learning per year of three years rolling period is mandatory). The remaining 30 hours could be completed either through structured or unstructured CPE learning activities, any time during the three years period from 1st January, 2008 to 31st December, 2010.

*Continuing Professional Education Committee*

● **Contact details** : Dharampal (9350597662) / Chhaya (9873230416) All India Chartered Accountants' Society - CFO World 422, Okhla Industrial Estate, Phase-III, New Delhi-110020. Ph: 26223712, 41000043, 32478997 E-mail: cfoworld@gmail.com / aicas.cfo@gmail.com ● **EDITOR**: Pankaj Gupta, LLB, FCS E-mail: pankajguptafcs@gmail.com ● **PUBLISHED & PRINTED**: At New Delhi by Satish Chandra, Administrative Officer, on behalf of All India Chartered Accountants' Society, 4696, Brij Bhawan, 21A, Ansari Road, Darya Ganj, New Delhi-110 002 Phone 23265320, 23288101 E-mail : aicas.cfo@gmail.com Printed at: EIH Ltd., Unit : Printing Press, No. 7, Sham Nath Marg, Delhi-110054. Views expressed by contributors are their own and the Society does not accept any responsibility.

If undelivered, please return to :  
All India Chartered Accountants' Society  
4696, Brij Bhawan 21A, Ansari Road,  
Darya Ganj, New Delhi-110 002