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EDITORIAL

CA PROFESSION : MAJOR OPPORTUNITIES EMERGING

The profession has seen various initiatives in the recent past, those brought in new avenues and opportunities for the chartered accountants. The profession is getting geared up to reposition itself to a higher level; and, besides its regulatory, compliances and control functions, the Chartered Accountants are now playing a very important role in strategic management, creation of new businesses, resource raising, sustainable growth, corporate planning, and so on and so forth.

International Recognition

The Central Council of the Institute has been able to finalize Mutual Recognition Agreement with the Institute of Chartered Accountants in England and Wales, Scotland, Australia, Canada, CPA Australia as well as with CGA Canada. The negotiations for mutual recognition with European Union nations are in advanced stages. In respect of recognition with USA and Singapore advanced level discussions are underway and the Central Council of the Institute is in the process of structuring a consensus.

The demand for Indian chartered accountants in various parts of the world is increasing with rapid pace especially in the banking sector, financial services sector, information technology sector as well as in manufacturing sector. **The demand for professional services as practicing chartered accountants and business advisors is also very large in various parts of the world.** We need to structure and channelize the international demand to the benefit of all the interested chartered accountants and CA firms in India.

Opportunities in the field of Finance and Management

The Council of the Institute had launched several new Certificate Courses including Certificate Course in Valuation, Certificate Course in Forex Risk and Treasury Management and derivative and **most importantly a flagship Certificate Course of Masters in Business Finance (MBF)**. Another major initiative taken is to develop Leadership Skills among CAs through residential programme.

A significant number of members across India have qualified and benefited from these initiatives. The industry, banks, insurance, service sector both in India and overseas have recognized these initiatives as major successful penetration of Indian chartered accountants as CFOs, upcoming CFOs, treasury managers, merchant bankers, investment bankers, private equity players, private equity funds and most importantly as part of the top management team as well as the middle management layers.

The chartered accountants both in practice as well as in industry are playing a very important role now as part of the top management team to develop new avenues, ideas, initiatives, plans, projects and build new innovative business models. Chartered Accountants with their Prudence, Excellence and Integrity are ensuring sustainable growth with new management philosophy - **"We create value, Valuations will follow"**. The advent of this niche area for chartered accountants in practice as well as in industry is poised to grow at a very fast pace, within India and overseas, providing larger demand for Indian chartered accountants as well as substantial increase in the salary and professional remuneration levels in a very near future.

CA Curriculum

The CA Curriculum has been further strengthened by mandating 2 slots of 15 days each as GMCS course. The inclusion of advanced level IT training up to 250 hours, as a mandatory part of the CA training (in addition to the existing 100 hours), including therein working level knowledge of SAP, Oracle, ERP, Advanced Excel and Data Management Techniques will further strengthen the capabilities of chartered accountants. These advanced techniques will be offered to the members too.

The CA profession is also actively considering major initiatives of a mandatory 3 months residential/ day scholar course before completing chartered accountancy final examination with a view to achieve a major leap to place

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LATEST IN FINANCE

1.0 SUZLON'S FCCB DEFAULT IS INDIA'S BIGGEST

Wind turbine manufacturer Suzlon Energy has defaulted on \$221 million worth of foreign currency convertible bonds (FCCBs) maturing on October 11, 2012, after it failed to get an extension from bondholders. This is the biggest FCCB default by an Indian corporate, topping Sterling Biotech's \$184-million delinquency in May and takes the quantum of defaults on convertibles to \$664 million this year.

2.0 BANK CAN FREEZE ACCOUNT INTO WHICH IT MISTAKENLY CREDITED MONEY: HIGH COURT

When a bank inadvertently omits to upload the stop payment instruction issued by its account holder and the cheque is thus credited to the account of the payee despite such instruction, the bank is well within its rights to freeze the account of the payee till he returns the money with interest.

Citation : Andhra Pradesh High Court in Ganesh Cotton Traders, Guntur, v. The General Manager, UCO Bank, Kolkata & Others.

3.0 BANKS CAN'T LEND TO JEWELLERS FOR PURCHASE OF GOLD

After putting curbs on Non-Banking Finance Companies (NBFCs) lending against gold, the Reserve Bank of India (RBI) banned banks from lending for purchase of gold by jewellers.

4.0 RBIDIRECT MONITORING OF UNHEDGED FOREX EXPOSURES: RBI

The Reserve Bank of India (RBI) directed banks to put in place a mechanism to evaluate the risks from unhedged foreign currency exposure of companies.

Banks will also be allowed to charge a premium on the credit offered to companies that not have taken cover for currency fluctuation risks.

5.0 FIIs CAN FREELY HEDGE

The Reserve Bank of India (RBI) has made it easier for Foreign Institutional Investors (FIIs) to invest in the domestic equity and debt markets.

Foreign institutional investors (FIIs) can now approach any Category I dealer bank, authorized to deal in foreign exchange, for hedging their currency risk on the market value of their entire investment in equity and/or debt.

6.0 RBITO INTRODUCE INFLATION-INDEXED BONDS SOON

To protect the returns of investors from the vagaries of inflation, the Reserve Bank of India (RBI) plans to introduce inflation-indexed bonds (IIBs).

The principal on the IIBs will be indexed to inflation and the coupon will be calculated on the indexed principal.

H.R. Khan, Deputy Governor, Reserve Bank of India (RBI) explained that the capital (principal) will be adjusted (to inflation) and investors will earn interest on the enhanced capital based on the reference rate.

He also said that IIBs is being discussed between the joint group of the RBI and the Government. It will be notified soon.

7.0 COMPANIES SEEK RBI HELP TO CUT DOLLAR LOAN COSTS

Banks and corporate are hopeful that the Reserve Bank of India (RBI) will change rules to allow many infrastructure and unlisted companies to lower the cost of their dollar loans. Large private sector and MNC lenders recently met senior central bank officials to discuss the possibility of allowing all companies access to certain simple derivatives to reduce financing cost. At present not all companies are allowed to carry out these transactions, better known as cost reduction derivative strategies.

Banks are not asking for reintroduction of complex and exotic products which are barred by RBI regulations. However, allowing simpler and safer structures to a wider universe of companies over and above the plain vanilla options will enable many corporate borrowers to prune cost and take advantage of the global dollar liquidity.

At present, most companies are going for straight-forward option deals that give them an



Contd.....from pg 1

CA PROFESSION : MAJOR

Indian chartered accountants in middle management and top management positions, in India as well as outside India. The profession is actively in touch with top most HR institutions and advisors. The depth of knowledge and commitment to work hard with integrity, efficiency and excellence has been clearly established by chartered accountants. With appropriate positioning of the profession, major opportunities can be taken up fully to the hilt, by the chartered accountants with a substantial increase in professional earnings as well as major hike in salaries.

The potential for a major leap for chartered accountancy profession is to be fully harnessed by a visionary effort.

The branding of Indian chartered accountants in India and overseas is to be initiated at the level of the Institute as well as at the level of all chartered accountants as torch bearers to enable us to leap into a successful and highly promising era. It is also very important for each chartered accountant to plan and implement positioning at a high level. Let's all Aspire and Accomplish!

opportunity to buy dollars at the end of three to four years when the foreign currency loan has to be repaid. But the premium they pay on such options largely offsets the cost advantage of a cheaper External Commercial Borrowing.

8.0 BANKS MAY HAVE TO WRITE OFF DECCAN LOANS

Banks may be forced to write off about three-fourths of their Rs 4,000-crore loans to media company Deccan Chronicle Holdings due to skimpy collateral, and slow progress in the investigation into possible fraud due.

9.0 BANKS SAY REGULATORS SHOULD REWRITE BASEL III CAPITAL RULES

U.S. banks are protesting capital rules proposed by regulators to comply with international standards and have asked that rules for assessing risk in their assets be replaced with something easier to follow.

Financial industry groups via letter to federal Reserve also said that hinder credit availability,

dampen economic growth and harm the competitiveness of the U.S. banking system.

10.0 MAJORS CORPORATE DEFAULTS TO BANKS- CENTRAL GOVERNMENT TO PUT SAFEGUARDS

The finance ministry is set to review the process adopted by state-run banks to assess loans after it found that these lenders are saddled with the biggest cases of corporate defaults. Amounting Rs. 13000 Cr. Loan given by banks to Deccan Holdings, Kingfisher Airlines & Zoom Developers.

11.0 REAL ESTATE: FOREIGN INVESTORS EYES ON INDIA

APG Asset Management, one of the world's largest pension asset managers, and at least two sovereign wealth funds Abu Dhabi Investment Authority and The Government of Singapore Investment Corp will invest directly in the Indian real estate market, moving away from their earlier strategy of routing investments through private equity funds.

12.0 SEBI TO HIRE INVESTIGATING AGENCIES FOR SAHARA CASE

Market regulator Securities & Exchange Board of India (SEBI) plans to hire professional investigating agencies to help it probe matters relating to Sahara group for implementation of a Supreme Court order about refund of money collected from 3 crore investors.

The Securities and Exchange Board of India (SEBI) has already asked these investors against yielding to any pressure from "Saharas or their agents" for switching over their investments in two Sahara companies -- SIRECL and SHICL -- to other group companies.

13.0 NEW INSURANCE NORMS CAN BE A DOUBLE-EDGED SWORD

The finance ministry's proposal to allow insurance companies to invest in AA-rated securities will broaden investment options for insurance companies.

Currently, insurance companies only invest in AAA-rated securities, which restricts their choice to government bonds and debt instruments of



top government-owned companies and a handful of the country's largest private sector firms. The AA-rated universe is several times bigger and various kinds of companies are its members.

Rating agencies and insurance companies, however, say the new norms will help insurers provide better returns to policyholders without sacrificing safety. "AA-rated securities give 50-100 basis points higher returns than AAA-rated paper and there's no great difference in risk profile.

Rating agencies, however, say the risk is manageable. "There's no threat to the quality of assets if insurance companies.

14.0 UAE FUNDS TO RUN INTO A UAE WALL

In a recent order, the UAE's Securities & Commodities Authority (SCA) has instructed distributors and investment advisors to seek its approval before selling a product that SCA in a circular said that Prior to any promotion, an application for the promotion of foreign mutual fund units must be submitted to the SCA by the local promoter (product distributor, banks selling third-party investment products, etc)... enclosing the documents stated in the form for each fund wishing to promote its units within the UAE.

The UAE regulator has further said it would review product prospectuses and give approvals within 30 days of receiving the submissions. The SCA has also retained the right to disallow products that could potentially be detrimental for investors in the UAE.

15.0 PE FIRMS EYE DIVERSIFIED MICRO-FINANCE INSTITUTIONS

After a gap of two years, private equity (PE) investors are again stacking investments in the microfinance sector. This time, it is the diversity of the portfolio that is attracting PE investors rather than profits from the core business of lending.

Drifting away from Microfinance Institutions (MFIs) operating under the traditional group lending model, PE firms are now investing in MFIs with strong distribution networks to market a gamut of products and services - from

insurance, pension plans, chit funds to smokeless cooking ovens and bicycles.

17.0 GLOBAL CFOs SEE INDIA AS INVESTMENT DESTINATION

Chief Financial Officers (CFOs) from Europe and the US see India as an attractive investment destination, with its appeal lying in market size, higher growth rates, and access to new customers.

While China tops the league of most attractive investment destinations, India ranks fourth in a global survey.

Four in every ten global CFOs plan to invest in India next year. 10 per cent say they plan to enter the Indian market, and 24 per cent has plans to increase their investments in India. Another 6 per cent plan to keep investments at the same level, according to the BDO Ambition Survey, which surveyed CFOs from mid-sized companies planning foreign expansion.

18.0 POOL PRICING: CEA COUNTERS VIEWS OF COAL INDIA INDEPENDENT DIRECTORS

The Central Electricity Authority (CEA) has said that Coal India's independent directors' observation that the miner would incur losses of Rs 3,000 crore by implementing the proposal for pool pricing is "not correct".

The CEA, which furnished details to the Power Ministry said that it is "not favouring the power companies" and if fuel supplies at 80 per cent of plants' demand have to be met, some of that gap has to be met by imported coal.

The independent directors alleged that CEA is favouring power companies and their price pooling proposal will benefit them by offering cheaper imported coal.

19.0 BHARTI AIRTEL MAY MERGE INDIA & AFRICA

Bharti Airtel, the country's largest telco by revenue and customers, is planning its most significant restructuring by combining its Indian and African operations into a single business entity under a global CEO.



CORPORATE AND ECONOMIC LAWS

1.0 PF RELIEF FOR INTERNATIONAL WORKERS

The Ministry of Labour and Employment recently issued a notification amending the Provident Fund scheme as applicable to 'International Workers':

International Worker covered under a social security agreement entered between India and another country can withdraw contributions from the Provident Fund on termination of employment with Indian employer.

International Worker can withdraw from the Provident Fund either directly or through the employer.

The amendment will benefit foreign nationals who have contributed to the Provident Fund in India before the agreement between their home country and India came into force.

However, those from countries with which India does not have a social security agreement will still be eligible to withdraw from the Provident Fund after reaching the age of 58.

2.0 NEW PENSION SCHEME FOR PVT COMPANIES

The Pension Fund Regulatory and Development Authority (PFRDA) have approved a scheme for corporate subscribers, CG Scheme.

The scheme will follow the government investment guidelines issued from time to time. The new scheme will be offered by only public sector PFMs, who have obtained registration under the PFRDA.

3.0 PUT SHAREHOLDING, EXECUTIVE PAY INFO ON WEBSITES: MCA

The corporate affairs ministry has suggested to companies that they disclose details of executive pay and shareholding patterns of promoters on their websites. The ministry's guidelines for voluntary disclosure on companies' websites are aimed at improving corporate governance practices and spreading awareness among investors. They also require companies to provide details about share transactions by their directors and relatives on their websites.

NYSE-listed International Paper and IP Holdings in March last year had acquired 53.46% stake by striking a deal with the promoters of Andhra Pradesh Paper Mills for around R1,112 crore. Subsequently, it made an offer to shareholders of the company as required under the law, but had paid non-compete fees selectively to the founders - the Bangur family.

4.0 SEBI RIGHT TO REVISE OF PRICE CHALLENGED AT SC

The world's largest paper company, International Paper, and its Singapore-based subsidiary IP Holding Asia Singapore PTE moved the Supreme Court, challenging the sectoral tribunal's order that directed companies to hike the open offer price to shareholders of Andhra Pradesh Paper Mills.

5.0 ARBITRATION A CONSCIOUS DECISION TO BYPASS COURTS

The Delhi High Court reiterated the above words of the Supreme Court, while setting aside the arbitration award without correcting the patent mistakes therein in *Bharti Cellular Ltd vs Department of Telecommunications*.

While doing this, the court pointed out that it was open for the petitioner to seek appropriate legal remedies.

6.0 SAT HIKES AP PAPER OPEN OFFER PRICE

Securities Appellate Tribunal (SAT) has directed International Paper Com many to pay the non compete fee of ₹ 130.73 a share to public shareholders in the AP Paper Mills open offer case.

FEMA

1.0 FDI RESTRICTION ON E-COMMERCE TO STAY

The government's decision to allow foreign supermarket chains will not be allowed to sell products through e-commerce, the official in the Department of Industrial Policy & Promotion.

While foreign investment is allowed in various non-store format activities such as mail order and e-commerce as long as it is B2B (business-to-business), we are not permitting it for B2C (business-to-consumer) activities.



DIRECT TAXATION

1.0 TAXMEN MUST PROBE INTER-CORPORATE GIFTS

Gifts given by one company to another need to be probed into by the tax authorities, according to the Authority for Advance Ruling, a quasi-judicial body for deciding tax disputes involving foreign companies.

2.0 WITHHOLDING TAX ON FOREIGN BORROWINGS SLASHED

The rate of withholding tax has been cut to 5 per cent from 20 per cent. The lower rate will be applicable for overseas borrowings made after July 1, 2012 and before July 1, 2015. Borrowings under a loan agreement or by way of issue of long-term infrastructure bonds that comply with External Commercial Borrowings (ECB) regulations as administered by the Reserve bank of India (RBI) would be eligible for benefits of the concessional tax regime.

3.0 RAJIV GANDHI EQUITY SAVING SCHEME

The Finance Minister approved the much awaited Rajiv Gandhi Equity Saving Scheme with one change. Now this scheme will also provide tax benefits through investment in mutual funds and exchange trade funds, besides blue-chip shares.

4.0 TAX RESIDENCY CERTIFICATE MANDATORY FOR FOREIGN INVESTORS

All foreign investors will have to produce tax residency certificates (TRC) of their base nation to claim benefits under the double taxation avoidance treaty from April 1, 2013.

5.0 CBDT PANEL RECOMMENDS 14 TAX ACCOUNTING STANDARDS

A CBDT appointed committee has recommended as many as 14 tax accounting standards.

These standards, also known as TAS, if and when adopted, will have a significant impact on computation of income chargeable to tax.

The Central Board of Direct Taxes (CBDT) had in December 2010 set up this committee to study the harmonization of accounting standards issued by the CA Institute with the direct tax laws in India.

CAPITAL MARKET

1.0 GET SMS ALERTS FROM EXCHANGES FOR EVERY TRADE

To keep a check on unauthorised trades through investor accounts, stock exchanges will now send SMSs to all investors. The investor will also be able to inform the bourses in case of an 'unauthorised' trade.

2.0 INSTITUTIONAL PARTICIPATION MUST FOR IPOS, SAYS SEBI

Capital markets regulator Securities and Exchange Board of India (Sebi) has said spillover from the retail category to the qualified institutional buyers (QIBs) category in initial public offerings (IPOs) will not be permitted.

Any public offering will need compulsory participation from QIBs, which, among others, includes foreign institutional investors (FIIs), mutual funds and insurance companies.

3.0 IRDA APPROVES PROPOSAL FOR RAISING INSURER'S STAKE IN A CORPORATE ENTITY

Insurance companies may now be able to acquire up to 15% stake in a single corporate house. The board of the insurance regulator, Insurance Regulatory and Development Authority, which met recently, has cleared a proposal to increase the investment limit currently capped at 10%.

5.0 OVERCHARGING SET TO COST PHARMA COMPANIES FULL SALES REVENUE OF DRUG

A drug maker found overcharging will have to shell out the entire sales revenue of the medicine from the date of its launch as penalty.

National Pharmaceutical Pricing Authority (NPPA) said that if a company has not been booked for overcharging for selling the product without price approval, if any, pertaining to the period prior to fixation of the price of the said formulation, the entire sale amount from the date of introduction of the product till issue of the price notification order shall be recovered from the company, treating the entire sale proceeds as 'unauthorised sales'.



SOME IMPORTANT JUDGEMENT

On Direct Tax

- The **Bangalore ITAT** held that deduction under section 80-IA is to be allowed unit-wise without deducting losses in other unit.
Citation: - Jindal Aluminium Ltd. v. ACIT [2012] 26 taxmann.com 317 (Bangalore - Trib.)
- The **Hyderabad ITAT** held that the developer following "Percentage Completion Method" would also be entitled to deduction under section 80-IB(10).
Citation: - Keerthi Estates (P.) Ltd. V. DCIT, Hyderabad [2012] 26 taxmann.com 259 (Hyderabad - Trib.)
- The **Hyderabad ITAT** held that : -
Where warranty clause was part of sale document and it imposed a liability upon assessee to discharge its obligations under said clause for period of warranty, provision made for warranty charge was to be allowed as deduction.
Citation: - Sree Rayalaseema Green Energy V. DCIT, Hyderabad [2012] 26 taxmann.com 251 (Hyderabad - Trib.)
- The **Chennai ITAT** held that the Market Development Fee paid to UK based company not taxable in India as fee for technical services either

under section 9(1)(vii) or under article 13 of Indo-UKDTAA.

Citation: - Gama Industries Coimbatore Ltd. V. CIT [2012] 26 taxmann.com 247 (Chennai - Trib.)

- The **Mumbai ITAT** held that the Process of bottling of LPG into smaller cylinders amounts to 'manufacture' so as to allow deduction under sections 80HH, 80-I/80-IA.
Citation: - Hindustan Petroleum Corpn. Ltd. V. DCIT, Mumbai [2012] 26 taxmann.com 220 (Mumbai - Trib.)
- The **Mumbai ITAT** held that where liaison office of assessee merely co-ordinated its purchases in India, it could not be regarded as assessee's PE in India and, thus, no income could be attributed to it under section 9.
Citation: - DDIT v. M. Fabricant & Sons Inc. [2012] 26 taxmann.com 193 (Mumbai - Trib.)
- The **Mumbai ITAT** held that the Tribunal held that the present system of e-filing of return is totally dependent upon the usage of software and there are possibilities of entering incorrect data without having the expert knowledge. Non-inclusion of any information can be rectified via a rectification application.
Citation:- Shrikant Real Estates (P.) Ltd. v. ITO, Mumbai. [2012] 26 taxmann.com 265 (Mumbai - Trib.)

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Ans 2. No, if you are interested in earning consistently in a disciplined way.

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FINANCIAL INDICATORS

	Current Rate* (in %)	Month Ago (in %)	3 Month Ago (in %)	6 Month Ago (in %)
3 Month LIBOR (\$)	0.31	0.34	0.44	0.46
3 Month MIBOR (₹)	8.68	8.70	9.09	9.77
SENSEX	18846	18631	17560	16420
NIFTY	5738	5652	5322	4966
CRR	4.25	4.5	4.75	4.75
REPO	8	8	8	8
REVERSE REPO	7	7	7	7
Gold (per 10 gm)	31415	31456	29751	28427
Silver (per kg)	59933	62176	52971	53573
Crude (USD/bbl)	107.25	114.33	113.22	112.73
Rs. vs USD	54.34	53.05	55.34	53.34
Rs. vs Euro	69.43	68.21	68.04	69.07
Rs. vs Yen (₹ 100)	68.31	67.82	70.51	66.93
Rs. vs RMB	8.63	8.44	8.69	8.47
Rs. vs Pound	86.97	84.84	86.45	86.11
MCX Aluminium	103.65	105.56	101.55	106.85
MCX Copper	416.4	429.3	416.6	431.3

*As on 10th Nov. 2012

(Sources: Bloomberg, NSE, BSE, RBI, MCX)

8. The **Calcutta ITAT** held that where assessee-transporter made payments for hiring of trucks simplicitor, and not for transporting goods by them, assessee would not have any TDS obligation.

Citation:- Lokesh Duggal v. ITO, Calcutta. [2012] 26 taxmann.com 32 (Kolkata - Trib.)

On Indirect Tax

9. The **Gujarat High Court** held that where job-work carried out by assessee amounted to 'manufacture' and, it was not a business auxiliary service, service tax paid wrongly thereon was refundable.

Citation:- CCEST, Bhavnagar. v. Modest Infrastructure Ltd. [2012] 27 taxmann.com 6 (Gujarat)

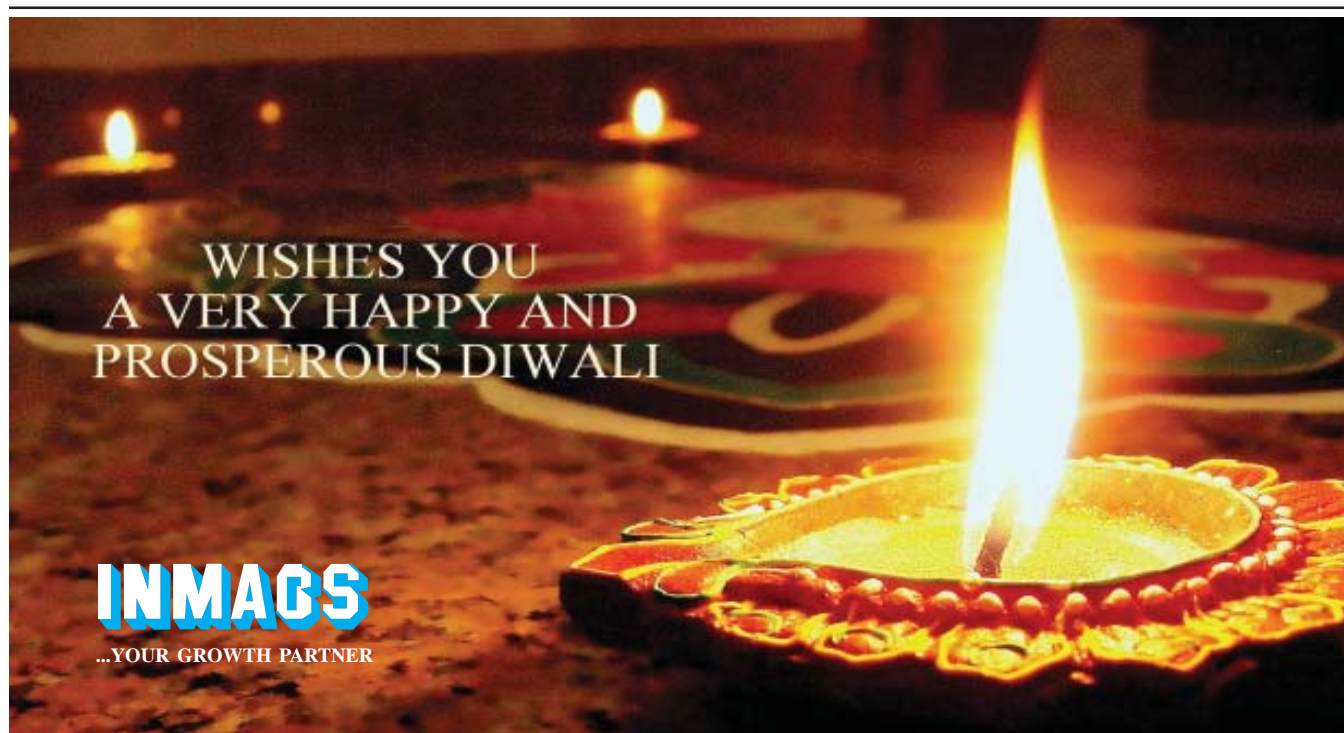
10. The **Gujarat High Court** held that the Service Tax paid twice by mistake is refund subject to time limit

of section 11B and doctrine of unjust enrichment cannot apply.

Citation:- CC Patel & Associates (P.) Ltd. v. Union of India [2012] 26 taxmann.com 130 (Gujarat)

11. The **Authority for Advance Rulings (AAR)** ruled that where applicant company failed to demonstrate that transfer of shares of an Indian group company to another Indian group company was authorised by Article of Association and was effected in the mode prescribed by the Articles of Association and meeting requirements of Section 82 of Companies Act, matter was to be left to Assessing authority for deciding question of taxability.

Citation:- Orient Green Power Pte. Ltd [2012] AAR



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