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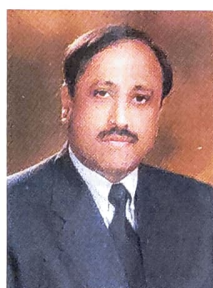
EDITORIAL VINOD JAIN*

RIGHT TO INFORMATION – A MILESTONE IN GOVERNANCE – ROLE OF PROFESSIONALS

The right to information Act, 2005 has been finally passed and notified on 21st June, 2005 bringing a legislative force to right to information including inspection of work, documents, records besides taking notes, extracts of certified copies of documents and records or taking electronic back up of information and also to seek certified samples of materials from any public authority. A public Authority include any body created under or by the constitution or created by any law or by notification or bodies, uncontrolled or substantially financed by the government, directly or indirectly.

The Right to Information Act will bring transparency, accountability and will help in containing corruption in public life and the Indian citizen will be more informed of the official facts, in the possession of public authority. The adequate structure is already in place to ensure that any member of the public including an ordinary citizen without assigning any reason can seek information, records, circulars, orders, papers, database, panels and even log books being maintained by any public authority. This would mean that the honourable citizens of this country can seek information in respect of any area including :-

- Developmental activities being undertaken in their area including the resources deployed, the quality of the material used, number of persons employed, amounts spent and all other similar information from the State Information Officer, who is bound to provide information on payment of nominal prescribed fees.



Contd...7

LIMITED LIABILITY PARTNERSHIP

The Department of Company Affairs has issued a concept paper on proposed Limited Liability Partnership (LLP) Law. The detailed concept paper is available on the site of Department of Company Affairs. The concept paper also includes draft Limited Liability Partnership Act, 2006 for public comments. Main features of the LLP Law include: -

- Minimum 2 Partners
- Unlimited number of partners as compared to maximum 20 permitted by the Partnership Act.
- Limited Financial Liability
- Separate Legal Entity of LLP with perpetual succession
- Mutual rights and duties among the partners are to be governed by mutual agreement.
- Unlimited liability in case of a fraud;
- Partners to be agent of LLP but not of all other partners
- Free Transferability of Partnership interest
- Conversion of partnership firms to LLP, conversion of private Company to LLP and conversion of unlisted public company into LLP.
- Regulation on foreign LLPs
- Provision of amalgamation, merger and demerger of LLP
- **For Income Tax purpose, LLP will be a pass-through vehicle, i.e. the transactions and properties of LLP shall be treated as the transactions and properties of the partners. Even the capital gain on sale of assets of LLP will be assessed in the hands of the partner.**

Contd...7



All India Chartered Accountants' Society
Announces an intensive

WORKSHOP ON SERVICE TAX

DATES:
from 17th to 24th December 2005
(17th, 23rd & 24th)

TIMINGS:
1.30 p.m. to 8.30 p.m.

from concepts to practice

3rd ANNUAL WORKSHOP ON DIRECT TAXES

DATES:
from 18th to 31st January 2006
(18th, 19th, 21st, 23rd, 24th & 31st)

TIMINGS:
1.30 p.m. to 8.30 p.m.

VENUE:

India International Centre (IIC), Annexe Building, Lecture Hall, 40, Max Mueller Marg, New Delhi - 110003

for details please see page no.4

for details please see page no.5

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1.0 ADVANCES AGAINST GOLD ORNAMENTS

Hallmarking of gold jewellery ensures the quality of gold used in the jewellery as to caratage, fineness and purity. Therefore, banks would find granting of advances against the security of such hallmarked jewellery safer and easier. Preferential treatment of hallmarked jewellery is likely to encourage practice of hallmarking which will be in the long-term interest of consumer, lenders and the industry.

Thus, it has been directed to banks by RBI that while considering granting advances against jewellery, they may keep in view the advantages of hallmarked jewellery and decide on the margin and rates of interest thereon accordingly.

(Source: RBI/2005-06/196)

2.0 CDR MECHANISM FOR SMEs

The Reserve Bank of India recently issued guidelines for Debt Restructuring Mechanism for Small and Medium Enterprises (SMEs). The highlights of the same are as follows:

A. Definition of SMEs

Units with investment in plant and machinery in excess of SSI limit and up to Rs. 10 crore may be treated as Small and Medium Enterprises (SME).

B. Eligibility Criteria

- All non-corporate SMEs irrespective of the level of dues to banks.
- All corporate SMEs, which are enjoying banking facilities from a single bank, irrespective of the level of dues to the bank.
- All corporate SMEs, which have funded and non-funded outstanding up to Rs. 10 crore under multiple/consortium banking arrangement.

- Accounts involving wilful default, fraud, malfeasance and accounts classified by banks, as "Loss Assets" will not be eligible for restructuring under these guidelines.

C. Viability Criteria

Banks may decide on the acceptable viability benchmark, consistent with the unit becoming viable in 7 years and the repayment period for restructured debt not exceeding 10 years.

D. Prudential Norms for restructured accounts

i) Treatment of 'standard' accounts subjected to restructuring

A rescheduling of the instalments of principal alone, would not cause a standard asset to be classified in the sub-standard category, provided the borrower's outstanding is fully covered by tangible security.

ii) Treatment of 'sub-standard' / 'doubtful' accounts subjected to restructuring

A rescheduling of the instalments of principal alone, would render a 'sub-standard' / 'doubtful' asset eligible to continue in the 'sub-standard' / 'doubtful' category for the specified period, provided the borrower's outstanding is fully covered by tangible security.

E. Classification of Additional finance

Additional finance, if any, may be treated as 'standard asset' in all accounts viz; standard, sub-standard, and doubtful accounts, up to a period of one year after the date when first payment of interest or of principal, whichever is earlier, falls due under the approved restructuring package.

F. Time frame

Banks should work out the restructuring package and implement the same within a maximum period of 60 days from date of receipt of requests.

(Source: DBOD. BP. BC. No. 34 / 21.04.132/ 2005-06)

3.0 ACCOUNTABILITY OF BANK FOR CHEQUES LOST IN TRANSIT

The Madhya Pradesh High Court has held in a recent judgement that a bank is liable and bound to pay the value of the cheques, it has lost in transit.

4.0 GUIDELINES FOR ISSUE OF COMMERCIAL PAPER

The brief of the guidelines for issue of commercial paper as announced by the Reserve Bank of India are given hereinbelow:

A. Eligibility

Corporates, Primary Dealers and All India Financial Institutions are eligible to issue Commercial Paper on the basis of following eligibility criteria:

- The Tangible Net Worth (TNW) is not less than Rs. 4 crore;
- Company has been sanctioned working capital limit by Banks or All-India Financial Institutions; and
- The borrowal account is classified as Standard Asset by financing banks/Institutions.

B. Rating Requirement

All eligible participants shall obtain the credit rating from credit rating agencies as may be specified by the Reserve Bank of India from time to time. The minimum credit rating shall be P-2 of CRISIL or such equivalent rating by other agencies.

C. Maturity

Commercial Paper can be issued for a minimum maturity period of 7 days and maximum of 1 year.

(Source: MPD 272/07.01.279/2005-06)

5.0 TECHNOLOGY UPGRADATION FUND SCHEME (TUFS)

The Government has approved the following modifications in the Credit Linked Capital Subsidy @ 20% under Technology Upgradation Fund Scheme (CLCS@20%-TUFS) with effect from 1st September 2005:

1. Price benchmarking of machinery

The price benchmarking of the eligible indigenous machinery has been done away with. However, price benchmarking of imported second hand looms will continue

2. ISO-9001 certification

Manufacturers should obtain ISO-9001 by 31st December 2005 to be considered as benchmark manufacturer..



3. Benchmarking of manufacturers

In place of price benchmarking of the indigenous machinery, the machinery manufacturer shall be benchmarked. The criteria for benchmarking shall be evolved by the office of the Textile Commissioner in consultation with Textile Machinery Manufacturers Association (TMMA).

4. Capital subsidy availment

The government has provided an option to avail of 20% capital subsidy on 'front ended' basis along with bank finance.

(Source: 28 (19)/2005 – MS/5/2005-06)

6.0 BANKS' CAN EXPOSED IN CAPITAL MARKET UPTO 40% NET WORTH

The Reserve Bank of India has decided to rationalise the prudential norms for the banking sectors capital exposure into the capital market in following manner:

- (i) RBI restricts banks' aggregate capital market exposure to 40% of net worth on sole & consolidated basis.
- (ii) RBI also modifies direct capital market exposure to 20% of the bank's consolidated net worth.
- (iii) Banks asked to indicate a timeframe for reducing their exposure to the capital market to the prescribed levels.
- (iv) RBI to provide higher limits on case-by-case basis, based on bank's internal controls and risk management systems.
- (v) RBI to initiate a supervisory review process with select banks having significant exposure to sensitive sectors like real estate, highly leveraged NBFCs, VC funds and capital markets.

7.0 SAVING RATES DEREGULATED

The Reserve Bank of India has recently decided to de-regulate savings rates in following manner:

- (i) RBI to de-regulate the savings bank deposits and lending rates on small loans aggregating up to Rs 2 Lakh.
- (ii) RBI asks banks to have very low minimum balances as well as charges so as to ensure greater financial inclusion.
- (iii) RBI asks all banks to make available a basic banking 'no frills' account.

8.0 LEASEHOLD INDUSTRIAL PLOTS IN DELHI CAN NOW BE CONVERTED INTO FREEHOLD

The Delhi government has decided to allow conversion of built-up industrial plots from leasehold to freehold on payment of conversion charges irrespective of size of the plot in the National Capital Territory of Delhi.

The One-time conversion fee would be calculated as: Plot area x notified land rate x 10/100. There would be remission of 40% for the original lessees and there would be surcharge of 33-1/3% on the conversion fee in case of GPA holders.

A separate scheme was already in force for the freehold of the industrial plots in industrial areas developed by Delhi Development Authority.

9.0 ELECTRONIC CLEARING SERVICE (ECS) - BANK STATEMENT

It has been required by the Reserve Bank of India that in the ECS report (paper as well as electronic), a short abbreviation of the user name is provided to the banks to facilitate provision of details in the account statements. Accordingly, the banks have been directed that this abbreviation may be appropriately captured and utilized to provide the required details to the customers in their passbook / Account Statement regarding the credits effected through ECS. Appropriate technology solutions may also be adopted to make the above simpler.

(Source: RBI/2005-06/181)

10.0 SETTING UP OF SPECIAL ECONOMIC ZONES IN INDIA

The government of India recently cleared 17 proposals for setting up of Special Economic Zones (SEZs), including one each by Ranbaxy, Zydus Cadila and Biocon with investments of at least Rs.3,000 crore. Proposals for two free-trade warehousing zones, to be set up by IL&FS at Kandla and Chennai, were also approved.

The government also decided to insist on a minimum land area of 25 acres for IT, biotech and gems and jewellery SEZs because of a large number of proposals coming in.

AUDIT

1.0 RBI TIGHTENS BALANCE SHEET NORMS FOR CO-OPS.

In a bid to ensure greater transparency in the reporting of annual financial statements of co-operative banks, it has been directed by the Reserve Bank of India that effective from the year ending March 31, 2006, co-operative banks will be required to furnish detailed accounts of the investments, profits, NPAs, provisions, etc. in their balance sheets.

2.0 APPLICABILITY OF AS 28, IMPAIRMENT OF ASSETS

ICAI has provided relaxations to SMEs from the measurement principles of AS 28, Impairment of Assets. As per AS 28, 'value in use' of an asset is the present value of estimated future cash flows expected to arise from its continuing use and from its disposal at the end of its useful life.

ICAI through an announcement has given an option to SMEs to measure the 'value in use' on the basis of reasonable estimate of the value of using the asset over its useful life instead of computing the value in use by the present value technique. The logic behind giving relaxation is the fact that computation of 'value in use' by present value technique involves detailed cash flow projections to be made by an enterprise and such detailed cash flow projections are often not readily available with the SMEs.

The relaxation is in fact simplification of estimating the recoverable amount of the assets.

INMAGS

..... Due Diligence, Takeover, Merger & Amalgamation

adv.



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CERTIFICATE COURSE

WORKSHOP ON SERVICE TAX

from concepts to practice

DATES:

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(Lunch: 1.30 p.m. to 2.00 p.m.)

THE COMPREHENSIVE REFRESHER COURSE ON SERVICE TAX

A Comprehensive Refresher Course/ Workshop on Service Tax is being conducted spread over 3 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.

WORKSHOP COVERAGE

Day 1 - 17/12/2005 (Saturday)

- Concept of Service Tax
- Evolution/Scheme of Service Tax Levy
- Services rendered in India/ out of India
- Service Tax Authorities/ Departments
- Applicability to Residents/Non-residents/MNCs
- Registration - Centralised/ Decentralised
- Pan based code (STC)
- Payment of Service Tax / Filing of returns
- Exemption/abatement from Service Tax
- Assessments
- Penalties / Appeals
- Applicable provision of Central Excise Act, Rules and Notifications
- Concept of Tax Credit (Cenvat)
- Operational issues of Cenvat credit

REGISTRATION FORM

- By Fax - Fax Form to : 91-11-2622 3014
 - By email - email Form to: cfoworld@vsnl.net
 - By Mail - Mail to The Secretariat:
All India Chartered Accountants' Society
503-504, Chiranjiv Tower, 43, Nehru Place, New Delhi-19
 - Name: Mr./Ms.
 - CA Membership No. :
 - Designation :
 - Company Name :
 - Address: Pin:
 - Phone : (O) (R)
 - Fax : Mobile :
 - E-mail :
- payable to "All India Chartered Accountants' Society"
- Via DD/Cheque (Delhi only) No. :
- Date : Bank:
- Amount :
- Signature :

Day 2 - 23/12/2005 (Friday)

SPECIFIC SERVICES - Concept, Scope, Interpretations, Clarifications, Circulars, Notifications and Case Laws:

- Business Auxiliary • Management Consultancy
- Franchise • Banking & Financial • Stockbroker
- Foreign Exchange Broker • Forward Contract
- Goods Transport Agency • Courier Agency
- Packaging • Transport of Goods by Air • Air Travel Agents • Rent-a-Cab Scheme Operator
- Tour Operator • Rail Travel Agents • Clearing & Forwarding Agent • Customs House Agent
- Cargo Handling • Storage & Warehousing
- Commercial Training or Coaching • Intellectual Property • Maintenance or Repair • Authorised Service Station • Recruitment • Manpower Recruitment or Supply Agency • Security Agency
- Clubs or Association

• Latest development & latest case laws in Service Tax

SPEAKERS

Experts invited to address the participants at the workshop are:

- Mr. Ashok Batra
- Mr. Atul Gupta
- Mr. J. K. Mittal
- Mr. Nilambar Marawah
- Mr. P. K. Sahu
- Mr. R. Krishnan
- Mr. S. Madhavan
- Mr. Sanjiv Aggarwal
- Mr. V. Lakshmi Kumaran

Note: Certain speakers are under confirmation.

PARTICIPATION FEES

- NON CAs/CORPORATE Rs. 2750/- per person
- CAs/CA FIRM Rs. 2500/- per person
- AICAS MEMBERS* Rs. 2250/- per person
- CFO WORLD MEMBERS Rs. 2250/- per person

* For All India Chartered Accountants' Society's (AICAS) Membership please contact, AICAS Secretariat.

For further details please contact:
Kanika (9350503880) / Medha (9899600345)

**RESTRICTED TO ONLY 100 PARTICIPANTS
ON FIRST COME FIRST SERVE BASIS**

Day 3 - 24/12/2005 (Saturday)

SPECIFIC SERVICES - Concept, Scope, Interpretations, Clarifications, Circulars, Notifications and Case Laws:

- Practicing CA/ CS/ CWA • Management Consultancy/other specific services rendered by CA Firms • Consulting Engineer's • Scientific and Technical Consultancy • Technical Testing and Analysis • Commercial or Industrial Construction • Construction of Complex
- Architect • Real Estate Agent/Consultant • Interior Decorator • Outdoor Caterer • Mandap Keeper • Pandal or Shamiana • Conventional
- Business Exhibition • Event Management
- Cable Operator • Sound Recording • Program Production • Video Tape Production
- Photography • Advertisement • Broadcasting
- Beauty Parlour • Health and Fitness • Fashion Designing • Cleaning Activity

- Export of Services Rules 2005
- Concept of import of services
- Issues of Cross Border Services

SPECIAL COMBO OFFER COMBINED FEE STRUCTURE FOR SERVICE TAX & DIRECT TAXES WORKSHOP

Category of Participants	Fee under Special Combo Offer
Non CAs/ Corporate	Rs. 7000/-
CAs/CA Firm	Rs. 6250/-
AICAS Members	Rs. 5500/-
CFO World Members	Rs. 5500/-

NOTE:

- Participation fees covers high tea, lunch and background material to the participants.
- **Alternative nominee for specific session(s) or day(s) could be permitted.**
- 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 experiences and raised queries during interactive session.



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WORKSHOP COVERAGE

Day 1 - 18/01/2006 (Wednesday)

- Basic framework / Overview of Income Tax Law
- Income of Charitable Trusts, NGOs, Societies, Section 25 Cos., Mutual benefit Societies, Not for profit Organisations and Institutions
- FCRA
- Exempted Incomes
- Disallowability of expenses u/s 14A
- Income from House Property
- Income from other sources

Day 2 - 19/01/2006 (Thursday)

- Salary, expatriate salary, posting outside India
- Corporate Taxation, MAT, Deemed dividend
- TDS / TCS
- Clubbing of incomes
- Certain Deemed incomes
- Aggregate of income
- Set off and Carry forward of losses
- Taxation issues related to conversion of proprietorship/partnership into Company

SPEAKERS

Experts invited to address the participants at the workshop are:

- Sh. Ajay Bahl, FCA
- Sh. Ajay Vohra, FCA
- Sh. Ajay Wadhwa
- Sh. C.L. Jhawar
- Sh. Dinesh Kanabar, FCA
- Sh. Girish Ahuja, FCA
- Sh. Krishan Malhotra, FCA
- Sh. K. Sampath, FCA
- Sh. Pramod Jain, FCA
- Sh. Pradeep Dinodia, FCA
- Sh. Rakesh Gupta, FCA
- Sh. Ravi Gupta
- Sh. Rajesh Jain, FCA
- Sh. R.N. Lakhotia
- Sh. Sanjeev Choudhary, FCA
- Sh. Ved Jain, FCA
- Sh. Vinod Jain, FCA

Note: Certain speakers are under confirmation.

Day 3 - 21/01/2006 (Saturday)

- Profits and gains of business or profession – Section 28, 30, 32, 35D, 40, 40A & 43B
- Section 37 & precaution to be taken for disallowances by Assessing Officer
- Presumptive Incomes u/s 44AD, 44AE & 44AF
- Special deductions for computing profits of foreign companies and non-residents regarding turnkey projects, head office expenses and royalties
- Special deductions for certain priority sectors locationwise / industrywise
- Deductions available under Chapter VI-A
- Deductions under Sections 10A, 10B

Day 4 - 23/01/2006 (Monday)

- Relevancy of other laws in Tax assessments and practical aspects
- Taxation issues related to mergers, demergers, amalgamation and restructuring
- Fringe Benefit Tax
- Implication of Accounting Standards on Taxable income - allowances and disallowances
- Taxation of agriculture assets and agriculture incomes

PARTICIPATION FEES

- **NON CAs/CORPORATE** Rs. 4750/- per person
- **CAs/CA FIRM** Rs. 4250/- per person
- **AICAS MEMBERS*** Rs. 3750/- per person
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PLEASE SEE AICAS SPECIAL COMBO OFFER AT PAGE NO. 4

For further details please contact:

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- A Certificate of satisfactory completion of workshop will be issued.
- Participants are expected to share their own practical experiences and raised queries during interactive session.
- All participants should bring their copy of Income Tax Act and Income Tax Rules for ready reference.

**RESTRICTED TO ONLY 100 PARTICIPANTS
ON FIRST COME FIRST SERVE BASIS**

Day 5 - 24/01/2006 (Tuesday)

- Concept of 'Transfer'
- Capital Gains on House property, Collaboration, Securities, compulsory acquisition, depreciable assets/other assets & Investment options
- Taxation of Mutual Fund Incomes and Venture Capital Funds
- Transfer Pricing - Determination of appropriate method, practical issues, TP Study and documentation
- Special provisions relating to certain income of Non-residents
- DTAA & Implications of variations in treaties
- Advance rulings, withholding tax
- Taxation of family/private Trusts

Day 6 - 31/01/2006 (Tuesday)

- Survey, search and seizure
- Reassessments, offences, penalties & prosecution, TRO powers
- Appeal to CIT, ITAT, High Court & Supreme Court
- Wealth Tax

Valedictory Function (8.00 p.m. to 8.30 p.m.)

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- By email – email Form to : cfoworld@vsnl.net
- By Mail – Mail to The Secretariat:

All India Chartered Accountants' Society
503-504, Chiranjiv Tower, 43, Nehru Place, New Delhi-19

- Name: Mr./Ms.
- CA Membership No. :
- Designation :
- Company Name :
- Address :
- Pin :
- Phone : (O) (R)
- Fax : Mobile :
- E-mail :

payable to "All India Chartered Accountants' Society"

Via DD/Cheque (Delhi only) No. :

Date : Bank :

Amount :

Signature :

1.0 INCOME TAX DECISIONS

1.1 Allowability of loss on embezzlement

Hon'ble Allahabad High Court in the matter of Shiv Narain Karmendra Narain Vs. CIT held that business loss on embezzlement will be allowable as expense in the year in which it was discovered and ascertained and not in the year of embezzlement. The decision is based on the decision of Hon'ble Supreme Court in the matter of Associated Banking Corporation of India Vs. CIT [56 ITR 1] [277 ITR 27].

1.2 Availability of Foreign Tax Credit in India

Hon'ble Income Tax Appellate Tribunal Mumbai Bench in the matter of Jt. Commissioner of Income Tax Vs. Digital Equipment India Ltd. held that Foreign Tax Credit cannot exceed the tax leviable in respect of that income in country of which the assessee is a resident. The provisions of Article 25(2)(a) of the Double Taxation Avoidance Agreement between India and USA make it clear that the deduction on account of income tax paid in US, from income tax payable in India, cannot exceed the Indian Income Tax liability in respect of such an income. [277 ITR (AT) 15].

1.3 Tax jurisdiction on International Transaction

Hon'ble Income Tax Appellate Tribunal Bangalore Bench in the matter of Wipro Limited Vs. Income Tax Officer held that foreign company providing data base on annual / semi-annual subscription basis for payment even if service is not utilized. Data Server of the company located outside India and it is having no permanent establishment in India, receipt of materials offered by the foreign company is not amenable for taxation in India. Payment made

by the assessee for obtaining data base is not subject to deduction of tax at source. Tribunal further held that web-based foreign publishing house giving access to data base to all those who are willing to pay, access restricted to specific individual and no licence granted to assessee to use in any manner is not a royalty under Article 12(3)(a) of Double Taxation Avoidance Agreement between India and USA. [278 ITR 57AT].

1.4 Attachment of Property of transferee for tax arrears

Hon'ble Calcutta High Court in the matter of Electro Zavod (India) Pvt. Ltd. and others Vs. Commissioner of Income Tax and Others held that property cannot be attached for arrears of tax of transferor where transferee has paid full consideration and property is in his possession [278 ITR 187].

1.5 Section 154 powers curbed

Hon'ble Calcutta High Court in the matter of Smriti Properties Pvt. Ltd. Vs. Settlement Commission held that waiver of interest by Settlement Commission cannot be undone by any rectification proceedings u/s 154 based on subsequent Supreme Court decision which seemed to hold that Settlement Commission did not have power of waiver. [278 ITR 274].

1.6 Fee for technical services - defined

Hon'ble Authority for advance ruling in the matter of South-West Mining Limited given a ruling that fees paid to non-resident Consultant for carrying out analysis of samples and technical consultants visiting India are fees for technical services deemed to accrue in India [278 ITR 233].

2.0 HP GOVT. WITHDRAWS PROFESSION TAX

Giving in to intense pressure from professionals, the Himachal Pradesh government has withdrawn the profession tax imposed earlier this year.

The tax was imposed on legislators, lawyers, journalists, brokers, real estate and insurance agents, company directors, doctors, chartered accountants and contractors, besides other entrepreneurs and government employees earning more than Rs 108,000 per year.

3.0 I-T ACT MAY BE AMENDED TO EXEMPT NEGATIVE PROFITS FROM TAX

In a major relief to exporters, the Government is likely to exempt negative profits from the tax purview shortly by amending the controversial provisions in the income tax laws. The amendment is likely to be carried out by way of issuing an ordinance.

Exporters have been pressing for an amendment to the provisions under section 80 HHC of the Income Tax Act to enable them to avail tax exemption on a retrospective basis.

Revenue department has agreed for this and is expected to carry out the amendment from retrospective basis.

Negative profits are calculated adding export incentives to profit or loss directly derived from exports.

SERVICE TAX

1.0 REVISED FORMATS OF ST-1/ST-2/ST-3

The Central Government has revised the existing formats of various forms of service tax relating to application for registration, certificate of registration and return of service tax.

FEMA

1.0 TELECOM FDI HIKED TO 74%

The cabinet has finally cleared the proposal to hike the foreign direct investment limit in the telecom sector to 74% from 49% with some modifications. It attached certain caveats like barring Indian telcos from allowing remote access for repair and maintenance and appointing expatriates at key positions.

In hiking the composite foreign investment limit to 74%, the cabinet has mentioned that the remaining 26% needs to be held by residents Indians or Indian companies. This means that if the Indian company has any foreign component, it would be proportionately counted while arriving at the 74% foreign investment ceiling.



CAPITAL MARKET

1.0 BSE LISTING PLAN MAY NOT COME THROUGH

The BSE may not get to float an IPO as the Sebi is planning to keep the company as an unlisted entity.

2.0 SEBI LACKS POWER TO PENALISE FOR FALSE INFORMATION

The Securities and Exchange Board of India (Sebi) appointed adjudicating officer (AO) has expressed his inability to impose any penalty on an entity which allegedly provided incorrect or false information because there are no specific provisions in Sebi regulations to book entities which provide incorrect or false information.

3.0 SEBI PLANS SYSTEM FOR REAL TIME MONITORING

The Sebi will soon install an integrated market surveillance system to check irregularities in stock markets by monitoring tradings throughout the day.

Contd. from page no. 1

Right to Information

- Decisions taken by the cabinet including the background papers submitted to the cabinet of Government of India or State Government of India are now open for public inspection.
- Details about tenders received, minutes of the meetings of various committees, background papers and even how a particular decision was taken will all come under public scrutiny.
- Panel maintained by various authorities including the basis on which work is allotted, the fees paid and any other aspects

of various work or assignment being granted by any public authority, public sector corporation, Public sector banks, nationalized Insurance Companies, Central Government, State Governments, Municipal Corporation or Panchayats, will all be covered by Right to Information Act. This will significantly help transparency and dissemination of information and knowledge.

- Amount spent by MLAs / M.P.s from their fund in their area;
- Even expenses incurred on horticulture, or water supply or cleaning of any area can be sought, verified and then controverted with reference to actual fact.

We also understand that several non government organizations have become very active in seeking information in possession of public authorities. Not only these NGO's are seeking information but are also filing public grievances petition before relevant authorities, wherever financial facts are found to be different as compared to the real fact.

We, the profession of Chartered Accountants has a very important role to play in the society and the Right to Information Act can significantly help not only in obtaining all relevant information for the benefit of the profession but will also enable the profession of Chartered Accountants to contribute significantly in the decision making process and participation in the governance. We, highly qualified and experienced professionals can play a leading role in several NGO's in not only seeking certain relevant information but also utilizing it by its comparison, analysis and creating useful reports for necessary further action in the interest of the improved decision making process, bringing transparency, accountability as well as containing corruption. As an example some of us can seek information from Commissioners of Income Tax about the cases in which refunds are pending, period for which they are pending, the reasons for the pendency and the action proposed, besides policy guidelines in this regard.

Similarly information can be sought or action being taken or the policy of the government in respect of misuse of powers by certain Officials which sometimes are clearly against the established law. We can play an important role against breeding corruption.

The Right to Information Act has sufficient provisions to ensure that these rights have no conflict with the public interest and do not affect efficient operations, optimum use of limited fiscal resources. There are provisions to preserve confidential and sensitive information. However the information, which can be treated as confidential and secret, has been significantly limited. No information can be kept as secret or confidential in case the same will have to be provided if it is sought by the parliament or by the State Legislature. This is a very important test and benchmark, which will be very difficult to be crossed by corrupt officials to keep the information confidential or secret with an ulterior motive.

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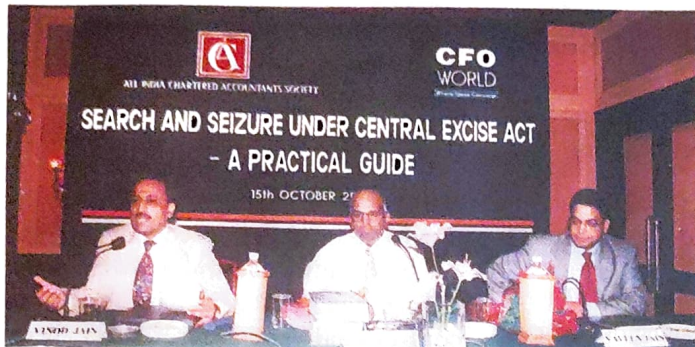
Limited Liability

There are no specific provisions for accounts and audit and may be the relevant provisions of the Companies Act will be made applicable to LLPs, if the Government so deem fit. It will be appropriate if the Government specifically provide for mandatory maintenance of books of account and mandatory audit of all the LLPs.

The profession of Chartered Accountants need to examine in detail the various provisions of the law and its impact on the society, business and more particularly on the profession, as **it is expected that the LLP Law will be most useful for Chartered Accountants** and other professionals. How far this vehicle will help us in competing with international large professional outfits is to be analysed and necessary corrective action taken. The Council of the Institute may also examine whether it will permit Chartered Accounts to practice as Limited Liability Partnership. A new era is beginning.



**CFO WORLD MEETING ON 15TH OCTOBER, 2005
SEARCH AND SEIZURE UNDER CENTRAL EXCISE ACT
- A PRACTICAL GUIDE**



(L-R) Mr. Vinod Jain, President, AICAS; Mr. V. Lakshmi Kumaran, Senior Advocate and Mr. Naveen Jain, Former Chairman, CFO World.



Mr. Praveen Sharma, Head - Finance & Accounts, Dharampal Satyapal Ltd. welcoming Mr. V. Lakshmi Kumaran, Senior Advocate by presenting a bunch of flowers.



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A. Benefits of becoming a member of Society

Besides other benefits, some of the prominent benefits to the member of the society are:

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**MID - TERM REVIEW OF RBI ANNUAL CREDIT POLICY
STATEMENT FOR THE YEAR 2005-06**

The highlights of the mid-term credit policy announced by the Governor of the Reserve Bank of India are as follows:

- GDP growth projection for 2005-06 revised to 7.0-7.5 per cent from the earlier projection of around 7.0 per cent.
- Exports in the first half of 2005-06 increased by 20.5 per cent compared with 30.8 per cent in the corresponding period in the previous year.
- Imports rose by 33.1 per cent as against an increase of 37.3 per cent in the corresponding period last year.
- Foreign exchange reserves stood at US\$ 143.4 billion as on October 14, 2005, increasing from US\$ 141.5 billion as at end March 2005.
- Bank Rate kept unchanged at 6.0 per cent.
- Reverse Repo Rate increased by 25 basis points to 5.25 per cent. The spread between reverse repo rate and the repo rate maintained at 100 basis points.
- The cash reserve ratio (CRR) kept unchanged at 5.0 per cent.
- SPVs or any other entity, notified by the RBI, which are set up to finance infrastructure companies/projects would be treated as FIs and ECBs raised by such entities would be considered under the approval route.
- Banks to be allowed to issue guarantees or standby letters of credit in respect of ECBs raised by textile companies for modernization or expansion of textile units.
- Banks advised to fix their own targets for financing the SME sector.
- General provisioning requirement for 'standard advances' increased from the present level of 0.25 per cent to 0.40 per cent; direct advances to agricultural and SME sectors exempted from the additional provisioning requirement.

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