

SIRC Newsletter

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FEBRUARY 2013 | Volume 38 ■ Part 08



Southern India Regional Council ▶ THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA ▶ SET UP BY AN ACT OF PARLIAMENT



Salient Features of Company Amendment Bill



SIRC CALENDAR**FEBRUARY 2013 & MARCH 2013**

Contact: Dr. T. Paramasivan, Senior Deputy Director (Tech.) – ICAI - Phone: 044 – 30210361 / 320 – Email: sirc@icai.in

<i>DATE and TIME</i>	<i>PROGRAM DETAILS</i>	<i>RESOURCE PERSON</i>	<i>FEE ()</i>	<i>CPE CREDIT</i>
Feb 6, Wednesday 06.15 pm - 08.30 pm	*CPE Study Circle Meeting RECENT DEVELOPMENTS IN NBFC	CA. K. Bharathi Chennai	150/-	2 hrs
Feb 13, Wednesday 06.15 pm - 08.30 pm	*CPE Study Circle Meeting FINANCIAL DUE DILIGENCE	CA. Arun Laxminarayanan Chennai	150/-	2 hrs
Feb 22, Friday 06.15 pm - 08.30 pm	*CPE Study Circle Meeting ROLE OF AUDITOR IN FRAUD DETECTION	CA. Sriram Gopalakrishnan Chennai	150/-	2 hrs
Feb 23, Saturday 09.30 am - 5.00 pm	**** ONE DAY SEMINAR ON DIRECT TAXES	Details at page 06	600/-	6 hrs
Feb 26, Tuesday 04.00 pm - 07.30 pm	*INVESTOR AWARENESS PROGRAMME	Details will be hosted in the website: www.sircoficai.org	No Delegate fee	2 hrs
Feb 27, Wednesday 06.15 pm - 08.30 pm	*CPE Study Circle Meeting ITR AND E-FILING OF INCOME-TAX RETURNS – PRACTICAL ISSUES (INCLUDING TDS)	CA. J Prabhakar Chennai	150/-	2 hrs
Feb 28, Thursday 06.00 pm - 08.00 pm	*PANEL DISCUSSION ON UNION BUDGET	Details at page 22	No Delegate fee	2 hrs
Mar 2, Saturday 09.30 am - 5.00 pm	**SEMINAR ON CENTRAL STATUTORY AUDIT OF BANKS	Details at page 07	3000/-	6 hrs
Mar 4, Monday 06.00 pm - 08.00 pm	**** PUBLIC MEETING ON UNION BUDGET	Details below	No Delegate fee	NA
Mar 9, Saturday 09.30 am - 5.00 pm	*SEMINAR ON CLAUSE BY CLAUSE ANALYSIS OF FINANCE BILL-2013	Details at page 13	750/-	6 hrs
Mar 13, Wednesday 06.15 pm - 08.30 pm	*CPE Study Circle Meeting	Details will be hosted in the website: www.sircoficai.org	150/-	2 hrs
Mar 16, Saturday 09.30 am - 5.00 pm	*** SEMINAR ON BANK BRANCH AUDIT	Details at page 07	2000/-	6 hrs

* Programmes at "ICAI Bhawan", SIRC Premises, Chennai – 600034.
 ** Programme at Hotel Taj Connemara, Binny Road, Chennai – 600002.
 *** Programme at Hotel Le Royal Meridien, 1 GST Road, St. Thomas Mount, Chennai - 600 016
 **** Programme at Hotel Bliss, Near Ramanuja Circle, Renigunta Road, Tirupati.
 ***** Programme at Rama Rao Kalamandap Karnataka Sangha, New No.111, Habibullah Road, T. Nagar, Chennai - 600 017.

PUBLIC MEETING ON UNION BUDGET

Rama Rao Kalamandap
Karnataka Sangha.
New No.111, Habibullah Road,
T. Nagar, Chennai - 600 017.

Monday, March 4, 2013

Timings: 5:30 PM to 8:30 PM

Topics**Direct Taxes****Indirect Taxes****Economic Perspective****Resource Persons**Shri. Firoze .B. Andhyarujina
MumbaiShri. Shailesh .P. Seth
MumbaiMr. B S Raghavan, IAS
Former Chief Secretary, Govt. of Tripura**NO DELEGATE FEE**

Secretary, SIRC

Chairman, SIRC

MEMBERS ELECTED TO THE TWENTY SECOND COUNCIL Southern India Regional Constituency



CA. Babu Abraham Kallivayalil
Kochi



CA. Devaraja Reddy M
Hyderabad



CA. Murali V
Chennai



CA. Raghu K
Bangalore



CA. Santhana Krishnan S
Chennai



CA. Sekar G
Chennai



CA. Venkateswarlu J
Hyderabad

MEMBERS ELECTED TO THE TWENTY FIRST REGIONAL COUNCILS Southern India Regional Council



CA. Adusumilli Venkateswara Rao
Hyderabad



CA. Aruloli P.R
Chennai



CA. Gopal Krishna Raju
Chennai



CA. Jomon K. George
Kochi



CA. Jose V.X
Kochi



CA. Naresh Chandra Gelli V
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Bangalore



CA. Phalguna Kumar E
Tirupati



CA. Prasanna Kumar D
Visakhapatnam



CA. Rajarajeswaran P.V
Madurai



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Hyderabad



CA. Srinivas C.S.
Bangalore



CA. Sripriya K (Ms.)
Chennai



CA. Suresh P.R.
Bangalore

GLIMPSE AT VISHWAS - 44TH REGIONAL CONFERENCE OF SIRC OF ICAI AT BANGALORE HELD ON 18TH AND 19TH AUGUST 2012



GLIMPSE AT VISHWAS - 44TH REGIONAL CONFERENCE OF SIRC OF ICAI AT BANGALORE HELD ON 18TH AND 19TH AUGUST 2012



GLIMPSE OF PROGRAMMES AND ACTIVITIES OF SIRC OF ICAI FEBRUARY 2012 TO FEBRUARY 2013



Chairman, SIRC of ICAI assuming office on February 23rd 2012



Seminar on Central Statutory Audit of Banks on February 25th 2012



Seminar on Bank Branch Audit on March 3rd 2012



Group Photograph-Orientation Programme for Branch Chairmen of SIRC of ICAI - March 9-11 2012



Public Meeting on Union Budget on March 21st 2012



Regional Residential Seminar at Yercaud - April 20-22, 2012



Joint Regional Conference at Baroda on June 8th, 2012



National Convention for CA Students at Hyderabad - June 28 & 29, 2012



Chartered Accountants Day - July 1st, 2012



IT Security Summit - December 14 & 15, 2012

Chairman writes ...



My Dear Professional Colleagues,

The month of January has gone past in the new year, and we are in the month of February and busy planning for the year ahead! "Time and Tide wait for no one" and we all need to cope with it! Quarterly reviews have been completed and we are gearing up for the announcement of the Union Budget proposals and the Finance Bill!

Theme Issue: Business Management and Corporate Governance

In order to survive and develop in a competitive globalized market, organizations have to conduct their affairs based on the principles of integrity and good governance.

Corporate Governance refers to principles which enforce governance based on ethical practices, in the interest of all stakeholders. Corporate governance (CG) comprises of the set of systems, principles and processes by which a company is governed. They provide the guidelines as to how the company can be directed or controlled so that it can fulfill its goals and objectives in a manner that adds to the value of the company and is also beneficial for the stakeholders in the long run. Stakeholders in this case would include everyone ranging from the Board of Directors, management, shareholders to customers, employees and the society at large. The management of the company hence assumes the role of a trustee for all the others as aforesaid.

Similarly members of our Institute who would like to pursue careers in business management need a diverse range of business management skills covering marketing, finance, human resources management and information technology. With a strong foundation on finance and information technology, many of our members have reached pinnacle of power in many organizations that we have to take as role models for our younger generation.

In view of the importance of the subject area, this issue of our SIRC Newsletter has been devoted to Business Management and Corporate Governance.

In her article 'Effective Code of Conduct and Ethics Policy' CA. Smriti Chandrasekar has elaborated the importance of an effective code of conduct (for employees at various levels in an organization) and has also given suggestions as to how to frame a simple but effective code of conduct and ethics policy.

Independent Directors constitute an important pillar in an effective corporate governance system. In his article 'Principles of Corporate Governance – Independent Directors' CA. S. Venkatesan analyses the provisions of the Companies Bill 2012 which proposes to enshrine the core principles of Corporate Governance for the first time, in the Act itself.

CA. T.S. Rajagopal in his article 'Corporate Governance - Analysis of Indian and International practices', in the backdrop of the norms for corporate governance prescribed by the SEBI analyses the corporate governance practices in some Indian corporates by addressing certain questions which would enable us to appreciate the corporate governance practices in our Indian enterprises vis-à-vis their international practices.

In view of its contemporary relevance for our profession we carry an article entitled 'Companies Bill 2012 – The Dawn of a New Era' by Shri S. Dhanapal to explain the salient features of the Companies Amendment Bill 2012 from Chartered Accountants perspective.

The Economy

Our Finance Minister is hopeful of achieving 20-60% savings on subsidies a year through better distribution under the new direct benefit transfer (DBT) scheme which he anticipates to roll out completely by 2013 end.

Economic experts are hoping that with the promise that the subsidy on diesel, which accounts for 60% of the total fuel subsidy bill, will be phased out in two years, the targeted savings on account of DBT in other subsidies would indeed come handy for the centre in its sincere endeavour for the fiscal consolidation.

The Union Budget & Finance Bill will hopefully contain proposals for fuelling the economic growth of the country, and we eagerly await these proposals.

To our Members in Industry

There has been a concern about the shortage of high skill knowledge workers that has become one of the biggest challenges facing organizations. It is obvious that these talented and highly paid experts are most valuable assets of any organization.

It is found by a Research Team, whose report was published in one of the recent issues of the Harvard Business Review that many organizations are redefining the job of their experts such as transferring some of their tasks to lower skill people inside or outside their organizations and outsourcing work that require scarce skills but is not strategically important. Our members in Industry would also like to ponder over this re-designing the jobs of experts serving with them so that the overall effectiveness and efficiency (of their organizations) would increase further. I believe that such a transformation, if adopted by various organizations, would be in the overall interest of the nation's economy.

SIRC conducted its 61st AGM, which was delayed due to certain administrative issues. I place on record my sincere gratitude to members who attended that AGM and participated in the discussions and deliberations.

Last month, SIRC had organized two Memorial Lectures Ashok Kumbhat Memorial Lecture which was delivered by CA. Harish Salve and V Sankar Aiyar Memorial Lecture which was delivered by Padma Bhushan Shri Nandan Nilekani. SIRC salutes the dignitaries for their eloquent, informative and enlightening address.

Highlights of the year 2012-13

Many challenging tasks were accomplished during this year by SIRC. It is time to highlight some of the important events and acknowledge the support and contribution given by all for the whole year:

- ✓ 44th Regional Conference of SIRC of ICAI at Bangalore with participants around 3255 delegates
- ✓ Live Webcast of 44th Regional Conference of SIRC of ICAI
- ✓ SIRC Website has been converted into a portal with online registration facility
- ✓ 634 CPE Hours Programmes held by SIRC at Chennai, besides other places
- ✓ 3 Day Orientation programme for Chairmen, Vice-Chairmen and Secretaries attended by all 36 Branches of SIRC of ICAI
- ✓ CA Day was celebrated in a befitting manner

- ✓ *Go Green Project is given priority and all branches are advised to have paperless communication to the extent possible.*
- ✓ *Memorial Lectures (S. Vaidyanath Aiyar, P. Brahmayya, P.P. Gururaja, Upadhyaya, D. Rangaswamy and Ashok Kumbhat and V.Sankar Aiyar) were held during the year.*
- ✓ *Orientation Programme for Employees of Branches of SIRC of ICAI.*
- ✓ *2 National Conferences and 3 Sub Regional Conferences organized during the year.*
- ✓ *Inaugurated the KIOSK at SIRC Premises to view the website and other important details for students and members.*
- ✓ *Popularized the Workshop on Advanced Excel in SIRC*
- ✓ *Unveiling the Bust of the First President of ICAI CA G P Kapadia at the premises of the SIRC, Chennai*

Acknowledgements

It has been a great honour and privilege for me to have led the Southern Region as its Chairman for the year 2012-13, and I place on record my sincere and heartfelt thanks to each and everyone who supported the activities and programs of the SIRC throughout the year. My first and foremost gratitude goes to President CA. Jaydeep Narendra Shah and Vice President CA. Subodh Kumar Agrawal of the Institute for

their guidance in enabling me to discharge my duties as Chairman of SIRC, which I did to the best of my ability and living up to the expectations of the members.

My special thanks to SIRC Office Bearers, Vice Chairman CA. D. Prasanna Kumar, Secretary CA. P.V. Rajarajeswaran, Treasurer CA. P.R. Suresh, and all the Members of the Regional and Central Council members for their unstinted cooperation during my tenure as Chairman.

My thanks also goes to all my illustrious predecessors, Past-Presidents and Senior Members of the profession, since without their good wishes and blessings, I would not have been able to achieve all that I did as Chairman of this Region.

I also place on record my sincere thanks to all the 36 Branch Chairmen and the Managing Committee Members for their support in organizing various activities and programmes in coordination with the SIRC.

The 44th Regional Conference (VISHWAS) which was a resounding success was due to the large participation of the Members and the efforts put in by the Conference Committee and the Host Bangalore Branch of SIRC of ICAI. I would like to thank all the Conference Committee Members and my special thanks also go to CA. M. Nithin, Chairman Bangalore Branch and all his Managing Committee Members especially CA K. Venkatesh Babu and my council colleague CA C.S.Srinivas.

I record my sincere appreciation and thanks to all the Resource Persons of various CPE Seminars and Study Circle Meetings.

I also thank all the Resource Persons who have contributed to the Articles (Theme Based) of the SIRC Newsletter throughout the year, and the Editorial Board.

The administration has a vital role for the success of all programmes or activities of SIRC. The support I received from the administration was substantial and I would like to whole-heartedly convey my sincere thanks to all the Officers and Staff of SIRC and SRO for their valuable support and co-operation.

I have enjoyed my tenure as Chairman of the SIRC, and have done the best I could, to the best of my abilities sincerely and discharged my duties and responsibilities consciously with the assistance, support and co operation of the members of the Council. As they say "Change" is the only constant in life and I will be handing over the baton to the incoming Chairman at the ensuing Council Meeting and I wish the new members of the Council and the office bearers who will be elected, all the very best, for the ensuing year and term.

Yours in professional service



CA. K. VISWANATH
kviswanath.sirc@gmail.com

ONE DAY CPE SEMINAR DIRECT TAXES

Organised by: SIRC of ICAI, Hosted by: Tirupati Branch of SIRC of ICAI

Hotel Bliss, CPE Credit
Near Ramanuja Circle,
Renigunta Road, Tirupati

6
HOURS

Inaugural Session : 9.30 AM to 10.00 AM

Saturday, February 23, 2013

Timings: 9:30 AM to 5:00 PM

Topics
Real Estate Transactions- Taxation Issues
Business Deductions- Recent Case Laws

Resource Persons
CA. Sriram Seshadri,
Chennai
CA. V K Subramani
Erode

DELEGATE FEE: ₹ 600/-

Delegate fee by way of Cash or by Cheque / DD drawn in favour of 'Tirupathi Branch of SIRC of ICAI' payable at Tirupathi shall be sent to Tirupathi Branch of SIRC of ICAI Flat No.10, Aditya Towers, Balaji Colony, Tirupathi-517501. Ph : 0877-2231308 ; e-mail:tirupathi@icai.org; SIRC Office – 044-30210320/361; sirc@icai.in

Secretary, SIRC

CA. E. Phalguna Kumar, Ex-officio Member, Tirupati Br.
Mobile: 94418 86303

Chairman, SIRC

CA. K. S. S. Prasad, Secretary, Tirupati Br.
Mobile: 98491 49925

CA. B. Chandra Reddy, Chairman, Tirupati Br.
Mobile: 94409 01373

SEMINAR ON CENTRAL STATUTORY AUDIT OF BANKS

Hotel Taj Connemara,
Binny Road,
Chennai - 600 002.

CPE Credit
6
HOURS

Saturday, March 2, 2013

Timings: 9:30 AM to 5:00 PM

Topics	Resource Persons
Risk Management And Basel III	Mr.V.Radhakrishnan, Deputy General Manager, Indian Bank, Chennai
Restructure- Mahapatra Committee's Recommendations	Sri. K.Rajagopalan, AGM-Micro Enterprises, Indian Bank, Chennai
Critical Issues In Big Ticket advances	Sri. Surinder Kumar Sangar, General Manager, Union Bank of India, Mumbai
Provision For Taxes-The Accounting Angle With Special Reference To Recent Judgments in Tax issues of Bank	CA.S. Ananthan, Bangalore
Miscellaneous Issues:	
1. Impact of SEBI Directive On Qualified Reports - The SEBI Angle & The Auditors Angle	Shri S. Dhanapal, Chennai & CA. P S Kumar, Chennai
2. AS – 15 and the Actuary	Shri. P Arunachalam, Actuary, Chennai
3. Issues in finalizing Consolidated Accounts	CA. S. Ramesh, Chennai

DELEGATE FEE: ₹ 3000/-

Delegate fee by way of Cash or by Cheque / DD drawn in favour of 'SIRC of ICAI' payable at Chennai shall be sent to SIRC of ICAI, ICAI Bhawan, No.122, Mahatma Gandhi Road, Nungambakkam, Chennai – 600034. Phone: 044-30210320; Fax: 044-30210355; Email: sirc@icai.in

Secretary, SIRC

Chairman, SIRC

SEMINAR ON BANK BRANCH AUDIT

Hotel Le Royal Meridien,
1 GST Road,
St. Thomas Mount,
Chennai - 600 016.

CPE Credit
6
HOURS

Saturday, March 16, 2013

Timings: 9:30 AM to 5:00 PM

Topics	Resource Persons
Branch Audit- from Bankers View	CA. S.Pattabiraman, General Manager & Head-South Zone, Corporation Bank, Chennai
Advances-Certain Key Questions	CA. Vivek Govind, Kochi
Technology As An Audit Tool in Bank	CA. D.Venkataraman, Salem
An Advisory On Auditor's Role Vis-A- Vis Bank Audit	Eminent Resource Person
Adding Value to L FAR	CA.S Bernard, Myladuthurai

DELEGATE FEE: ₹ 2000/-

Delegate fee by way of Cash or by Cheque / DD drawn in favour of 'SIRC of ICAI' payable at Chennai shall be sent to SIRC of ICAI, ICAI Bhawan, No.122, Mahatma Gandhi Road, Nungambakkam, Chennai – 600034. Phone: 044-30210320; Fax: 044-30210355; Email: sirc@icai.in

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CA. Smriti Chandrasekar

Chennai

smritichandrasekar@gmail.com

EFFECTIVE CODE OF CONDUCT AND ETHICS POLICY

In a factory in the suburbs of Chennai, a 'Code of Conduct and Ethics' policy was pasted on notice boards placed in strategic locations. The process to report a violation, with contact information of the Compliance Officer, was displayed. There was one flaw: the document was in English while most of the factory workers were better versed with the vernacular. The company was wholly owned by a foreign entity that believed in integrity and in communication of its zero-tolerance stand on fraud, across the globe, to all levels of management. Good intentions lost to not-so-good drafting?

Corporate governance refers to principles which enforce governance based on ethical practices, in the interest of all stakeholders. It states the company's commitment to values and integrity. The Code of Conduct and Ethics Policy is an important part of this governance framework. Certain aspects have made this Code more effective for organizations, ensuring that the pillars of integrity and trust are built on strong foundations. This article aims to examine these factors.

What do companies and employees despair about?

Most companies have clauses to cover confidentiality, conflict of interest, gifts and entertainment, dealing with political parties, accounting norms, safeguarding of assets, and the manner of raising a complaint.

When it comes to implementing a Code of Conduct and Ethics Policy, certain factors that create a cause for concern are:

1. Retaliation against the whistleblower
2. Too much legal jargon
3. Belief that the reporting mechanism may not be used
4. Selecting a Compliance Officer

5. Misusing the system for false complaints
6. Identification of genuine complaints
7. Air of trust being displaced
8. Signing off on the document without understanding its true spirit
9. Lack of clarity regarding grey matters
10. Role as complainant

These concerns can be managed by incorporating pertinent clauses and making their content specific to the company.

One size does not fit all

All organizations are not the same. Differentiating factors could be in the nature of location, localization, size, structure, employees' background, nature of services and solutions. A Code of Conduct and Ethics (COCE) Policy should be drafted to suit the organization's true nature. The culture of the organization paves the way for inclusion of certain clauses, the language employed, the extent of permissible creativity and even the manner of communication. Easier said than done, the process of defining an abstract value system based on tangible processes is a mammoth task. Here are some suggestions on how this can be simplified:

- **Map each clause to the related processes:** Prior to inclusion of a clause, the risk factors of the related processes needs to be understood. The objective is not to dilute the intentions of the clause, but to factor nuances that specifically affect the business. For example, in case of the gifts clause, consider the procurement process. How is

segregation of duties managed in the procurement department? What system overrides is allowed when it comes to vendor transactions? Once such factors are considered, the level of risk involved can be assessed and the clause can be appropriately structured. Harassment clause maybe framed after consulting with Human Resources team, clause on confidentiality maybe discussed with the Information Security team, clause on accounting with the Finance team, and so on. Ford Foundation's 'Staff Code of Conduct and Ethics' is unlike most other codes as it is very specific to their entity. Charitable organizations have a different manner of functioning and their clauses are detailed to match their intricacies.¹

The company's internal policies and the COCE Policy must go hand-in-hand - a seamless integration between the two is necessary. Ford's 'Code of Conduct Handbook', under each clause, contains Policy Overview, Core Requirements and References. The first two sections seem to provide the guidance and the References section refers to policy notes and directives, thereby integrating their internal policies with their Code.²

- **Choosing a Compliance Officer:** Mere choosing of a Compliance Officer at a CXO level will not provide the right solution. An individual who can be viewed by both the management and an employee as independent, trustworthy and approachable must be identified. An individual with an existing role in the organization maybe awarded this position as a Compliance Officer. If no such person can be internally placed, consider using an external person. People do tend to trust someone from the outside to be independent and to

1. The Policy is publicly available at http://www.fordfoundation.org/pdfs/about/Staff_Code_of_Conduct_and_Ethics.pdf

2. The Code is publicly available at http://corporate.ford.com/doc/corporate_conduct_standards.pdf

3. The document is publicly available at http://www.wipro.com/documents/investors/pdf-files/Code_of_Business_Conduct_and_Ethics_March_2011.pdf

resolve the issue in an appropriate manner.

- **Modes of Communication:** Wipro's 'Code of Business Conduct and Ethics' provides three processes for employees to escalate a potential violation³. There are various ways by which employees may be permitted to communicate a suspected violation, including the person to whom the issue may be escalated. Emails, hotlines, drop-boxes, and letters are most often allowed. These depend on what can be perceived to be most convenient to the whistleblower. If your employees involve a huge sales force that travels often, provide an email ID or a hotline.

Anonymous reporting is permitted by many companies. The risk of false reports being made and the identity not being known is always present. However, depending on the severity of the violation, employees may hesitate to readily share their information, again, for fear of retaliation. Employees, in general, must be encouraged to disclose their identities and their interests must be protected.

Other considerations

Irrespective of the nature of operations, size and other differentiating factors, some general parameters to consider are explained below:

- **Do not patronize:** What is right and what is wrong has been taught to us since our elementary school days. While it is true that a few unscrupulous characters within the organization can commit a fraud, it is certainly not the rule of majority. The language chosen must not sound patronizing or condescending. In general, the average person can gauge the difference between an ethical practice from an unethical one. A few stray cases may disregard integrity and in others, the situation faced with may have more shades of grey. Providing examples and specifying the manner of escalation or seeking clarification gives employees guidance.
- **Simple, yet comprehensive:** How many employees read the company's

COCE Policy before signing off on the acknowledgement? It is human tendency to disregard any document that runs to many pages in fine print. The Policy must be drafted in a simple manner, yet remain comprehensive. Using bullet points, quotations, question-answer formats, makes the document visually appealing. Verizon's 'Code of Conduct' for employees exemplifies this.⁴

- **Participation:** Involving employees in the initial stages brings in more acceptances through participation. Asking for suggestions on ethics related issues they regularly face will open up ground realities. Past cases of violations, whether the same was reported, and how it was resolved will open up facts on what could be preventing employees from communicating unethical practices and what is expected from the management. These aspects must be considered prior to framing the guidelines, modes of communication and even choosing a Compliance Officer.
- **Protection of interest:** Employees will not report a potentially suspicious transaction if they fear retaliation. Many employees fear that they may lose their jobs, they may not be promoted, or that their work environment will be displaced by an aggrieved reporting manager who may be directly or indirectly affected by the reported violation. It is important to guarantee that employees will not suffer negative consequences for raising an inquiry. Employees must also be permitted to seek counsel of HR to have such concerns resolved.
- **Resolution:** Employees will be interested to know how their report was resolved and whether action was taken. They will be keen to understand whether management is taking their word seriously and if a report is given its due importance. The reporting mechanism must clearly state the roles of the whistleblower and the investigating authority. It is a good practice to let employees know how a certain situation was resolved while still maintaining identities of

the complainant and the violator confidential, as the case maybe.

- **Creativity:** Using photographs, quotations, and a colourful layout makes the document more appealing to the reader. Cooper Industries' 'Code of Conduct and Business Ethics' is simple, yet comprehensive and makes for an interesting read.⁵

The written word alone does not close the deal

Lack of communication or lack of implementation is a major reason cited by most organizations when it comes to failure of the document.

Implementation of the COCE Policy using effective communication methods is essential to reinforcing management's commitment to ethical standards. Mindtree's 'Integrity Policy' contains three parts of which the second part has well-illustrated instances of ethical dilemmas faced, without disclosing identities, and how it was resolved. The message in the document is clear: management prioritizes integrity above everything else, including business interests.⁶

Communication: The document must be communicated at frequent intervals, starting from the time when a person joins the organization. The document may be made accessible in the company's portal with a prominent link. Communicating case studies of everyday concerns that employees face, using posters at strategically placed locations, quotations on ethics and integrity and other forms of visual media help in better communication and therefore, better implementation. Caterpillar's Code of Conduct is available for download at their portal in different languages covering their geographical areas of operation, including Tamil.⁷

Irrespective of the level of seniority, deadlines or importance, the manner of dealing with a person having a questionable sense of values reflects whether the company is serious about running an ethical business. When management demonstrates that it lives by its rules, potential fraudsters and violators know that they have no place in the company's framework. ■

4. This document is publicly available at https://www22.verizon.com/about/careers/codeofconduct_10_2012.pdf

5. The document is publicly available in Cooper Industries' Corporate Governance section under Investor Relations (<http://phx.corporate-ir.net/phoenix.zhtml?c=75146&p=irol-govHighlights>)

6. The Policy is publicly available at www.mindtree.com/downloads/mindtree_integrity_policy.pdf

7. The policy is publicly available at <http://www.caterpillar.com/company/strategy/code-of-conduct>



CA. S. VENKATESAN

Chennai

venkatesan.sfl@gmail.com

Principles of Corporate Governance - Independent Directors

Companies Bill 2012 proposes to enshrine the core principles of Corporate Governance, for the first time, in the Act itself.

We may recall that Securities Exchange Board of India (SEBI) introduced the famous Clause 49 in 2000 requiring listed companies to put in place and follow corporate governance practices. These were enlarged and revised in 2003 and 2006 substantially, including therein many non-mandatory norms also. Voluntary Corporate Governance guidelines were also exposed in 2009 laying down the path to a comprehensive code for corporate governance. Likewise, Reserve Bank of India (RBI) and Insurance Regulatory and Development Authority (IRDA) prescribed their own corporate governance norms for Non-Banking Finance companies and Insurance Companies respectively.

In fact, SEBI desired jurisdiction to prescribe matters relating to corporate governance for listed companies, while the Ministry of Corporate Affairs decided to lay down the framework in the Act and make it applicable to both listed and certain unlisted public companies, leaving it to other Regulators to add (more stringent) conditions as they may decide for their constituents to follow.

SEBI and RBI, have released their draft proposals aligning their regulations with Companies Bill besides their own additional requirements for early adoption of the principles, ahead of enactment of the new provisions.

In this context, it is important to understand the provisions of the Companies Bill 2012 fundamentally and build up on other additional Regulatory requirements. Independent Directors play an important central role in corporate governance and hence this Article discusses the provisions of clauses 149 and 150 of Companies Bill 2012 relating to them.

No. of Independent Directors - Clause 149 (3) states that every listed public company shall have at least one-third of the total number of directors as Independent Directors (rounding off any fraction as one), and the Central Government may prescribe the minimum number of Independent Directors in case of any class or classes of public companies.

First time, unlisted public companies may be required to appoint Independent Directors. To start with, it may be prescribed for large corporate, and the number may be lower than one-third.

SEBI proposes to retain their existing provisions (requiring at least half of the board consisting of Independent Directors where the Chairman is an executive director, or where the non-executive Chairman is a promoter or related to any promoter or person occupying management positions at Board level or at one level below the Board) which are stricter.

RBI proposes to require, even unlisted NBFCs with asset-size of Rs 1000 crore and above, to follow corporate governance requirements applicable to listed companies, including appointment of Independent Directors. In other words, such unlisted NBFCs, whether public or private, will have to appoint more Independent Directors than any other unlisted public company.

In addition every director of NBFCs will be required, as a term of his / her appointment, to enter into a Deed of Covenants with the NBFC as proposed to be prescribed by RBI, which would apply to the Independent Directors also.

Definition of Independent Directors Clause 149(6) provides the definition of Independent Directors as under:

“An independent director in relation to a company, means a director other than a managing director or a whole-time director or a nominee director,—

- (a) *who, in the opinion of the Board, is a person of integrity and possesses relevant expertise and experience;*
- (b) *(i) who is or was not a promoter of the company or its holding, subsidiary or associate company;*
(ii) who is not related to promoters or directors in the company, its holding, subsidiary or associate company;
- (c) *who has or had no pecuniary relationship with the company, its holding, subsidiary or associate company, or their promoters, or directors, during the two immediately preceding financial years or during the current financial year;*
- (d) *none of whose relatives has or had pecuniary relationship or transaction with the company, its holding, subsidiary or associate company, or their promoters, or directors, amounting to two per cent. or more of its gross turnover or total income or fifty lakh rupees or such higher amount as may be prescribed, whichever is lower, during the two immediately preceding financial years or during the current financial year;*
- (e) *who, neither himself nor any of his relatives—*
 - (i) *holds or has held the position of a key managerial personnel or is or has been employee of the company or its holding, subsidiary or associate company in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed;*
 - (ii) *is or has been an employee or proprietor or a partner, in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed, of—*
 - (A) *a firm of auditors or company secretaries in practice or cost auditors*

- of the company or its holding, subsidiary or associate company; or
- (B) any legal or a consulting firm that has or had any transaction with the company, its holding, subsidiary or associate company amounting to ten per cent. or more of the gross turnover of such firm;
- (iii) holds together with his relatives two per cent. or more of the total voting power of the company; or
- (iv) is a Chief Executive or director, by whatever name called, of any nonprofit organisation that receives twenty-five per cent. or more of its receipts from the company, any of its promoters, directors or its holding, subsidiary or associate company or that holds two per cent. or more of the total voting power of the company; or
- (f) who possesses such other qualifications as may be prescribed.”

Hitherto nominee director appointed by financial institutions were considered as Independent Director. Now, under the Companies Bill, they will not be considered as Independent Director

The new definition bars a director and his relatives having 'pecuniary relationship' during the two immediately preceding financial years or during the current financial year. Earlier, the prohibition was for 'material' pecuniary relationship. Therefore, any pecuniary relationship by the director or his relative, now disqualifies the person. Of course a time limit of current and past two years is a relaxation.

Further, mere receipt of director's remuneration was not considered as pecuniary relationship which is not the case now. Therefore, if a director is a managing or whole-time director receiving remuneration from the holding/ subsidiary/associate company, he cannot be an Independent Director.

The scope of the Section has also been widened and prohibited connections are well- defined.

Having requisite qualification and experience was not mandatory earlier, which is now mandatory.

Further, the Government has retained power to prescribe qualification also.

SEBI has proposed to retain/require the following conditions, viz.

An Independent Director

1. is not related to or having material pecuniary relationship

with key managerial personnel; 2. is not a material supplier/service provider/ customer/lessor/lessee, affecting his independence

3. is not less than 21 years of age

Clause 149 (7) requires a Declaration of Independence while Clause 149(8) requires them to comply with an elaborate code as contained in Schedule IV to the Bill, inter alia, covering professional conduct, role and function, duties, manner of appointment/reappointment/ resignation/ removal, performance evaluation and holding of separate meetings amongst them.

SEBI proposes to align their requirements with the Bill.

Clause 149(9) deals with remuneration to Independent Director. This Section prohibits granting of stock options to them. Listing agreement, which permitted stock option, will be amended to fall in line with the Bill.

Clause 149(10) and 149(11) now prescribes a term up to five consecutive years and for a second consecutive term of another five years on passing a special resolution with disclosure in Board's Report. A cooling period of three years with a prohibition of any direct/ indirect connection/association with the company in any capacity is prescribed before he can be considered for another appointment. SEBI proposes to revise the 'term' in line with the Bill in its current non- mandatory requirement.

Clause 149(12) brings in clarity in the liability of Independent Directors limiting it only in respect of such acts of omission or commission by a company with their knowledge through Board processes and with their consent or connivance or where they had not acted diligently. SEBI proposes to align the listing agreement with the Bill.

Clause 150 empowers Central Government to prescribe the manner and procedure of selection of Independent Directors out of a data bank of names, addresses and qualifications of eligible and willing persons for appointment as Independent Directors. Such a data bank, maintained by anybody, institute or association needs to be notified by the Central Government. The appointment of Independent Directors shall be approved by the company in general meeting and the explanatory statement shall indicate the justification for choosing the appointee.

These Regulations will be in place for listed companies, NBFCs and Insurance Companies shortly, even before the corporate world is required to follow, after the Bill is passed and the provisions are notified.

In its consultative paper on review of Corporate Governance norms in India, SEBI has reviewed the subject in the light of OECD principles and the guiding principles specified by Adi Godrej Committee.

It proposes to explicitly specify 26 principles of corporate governance in the listing agreement which will have over-riding effect over the rules laid down in the listing agreement.

In the said paper, they have also placed a number of new proposals for wider discussion. Proposals relating to Independent Directors are given below.

1. **After discussing the pros and cons of appointment of Independent Directors** by minority shareholders in the Indian context, they have proposed to make the appointment of a director by small shareholders as a mandatory requirement under listing agreement (optional in the Companies Bill)
2. **Cumulative voting for appointment of Independent Director:** Presently, Companies Act, 1956 enables election of directors through cumulative voting. The said option is also provided in the Companies Bill 2012 and therefore, is best left to the choice of the company
3. **Certification course and training for independent directors:** while the requirement may be retained as non-mandatory, it is proposed to require disclosure of the methodology/details of training imparted to Independent Directors in the Boards' Report.
4. **Mandate minimum and maximum age for Independent Directors:** Minimum age is already prescribed in the existing listing agreement at 21 (being retained). Maximum age, as in the case of Executive directors, is for consideration.
5. **Performance evaluation of independent director:** It is proposed to mandate the requirement of performance evaluation for Directors and to require such evaluation report of the independent director should also be based on his attendance and contribution to the board/committee meetings and such appraisal shall be placed before the nomination committee for taking a decisions for reappointment.

6. **Lead Independent Director:** In case the company has an Independent Chairman, he shall act as the Lead Independent Director. On a flip side, such proposal may lead to creation of power centre among independent directors, whereas independent directors are collectively expected to function in tandem in the interest of all the stakeholders. To avoid the same, the post may be rotated among the independent directors every three years. This proposal may be examined in light of the above.
7. **Restriction on the number of independent directorships:** As per the Voluntary Guidelines issued by MCA, the maximum number of public companies in

which an individual may serve as an Independent Director should be restricted to seven. It needs to be examined as to whether to restrict number of independent directorships.

Based on the feedback, these proposals will become additional conditions with such modifications as may be considered necessary.

Conclusion:

It may be observed that, in general, the Companies Bill enacts corporate governance framework which is elaborate and more stringent on many aspects than the existing one, while leaving it to other Regulators to impose additional conditions considered necessary. SEBI and RBI, for their part, propose to

amend their Regulations on corporate governance ahead of Company Law, incorporating the new provisions and laying down further conditions of their own.

Independent Directors are going to play a much bigger role as they are seen as a crucial link between the management and minority shareholders / stakeholder on the other. Increasingly, they are seen as trustees of good corporate governance. They will play an important role in the functioning of public companies. The corporate too will benefit a lot from their guidance and professional input. Chartered Accountants, with their qualification, experience and expertise would be sought after to fill the requirement of independent directors. ■

SEMINAR ON CLAUSE BY CLAUSE ANALYSIS OF FINANCE BILL-2013		P. Brahmayya Memorial Hall 'ICAI Bhawan' No.122, Mahatma Gandhi Road, Nungambakkam, Chennai - 600034	CPE Credit 6 HOURS
Saturday, March 9, 2013		Timings: 10:00 AM to 5:00 PM	
Topics	Resource Persons		
Clause By Clause Analysis – Direct Taxes	CA. T Banusekar Chennai		
Clause By Clause Analysis – Indirect Taxes	CA. N R Badrinath Bangalore		
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Secretary, SIRC		Chairman, SIRC	

OBITUARY				
M.No	Name	Status	Place	Date of Death
002535	MR. VISWANATHAN K S	FCA	CHENNAI	08/10/2012
003271	MR. GOLLAPUDI SUBRAHMANYA SASTRI	FCA	HYDERABAD	18/11/2012
004059	MR. RAJAN M K	FCA	CHENNAI	25/10/2012
005486	MR. ABRAHAM CHULLIPARAMBIL VAREED	FCA	BANGALORE	17/10/2012
009109	MR. VISWANATHAN S	FCA	THIRUVANANTHAPURAM	31/07/2012
009592	MR. SAMPATH N C	FCA	ERODE	29/10/2012
020152	MR. UPENDRA NAYAK U	FCA	MANGALORE	13/05/2011
020731	MR. VENKATARAMAN B	FCA	BANGALORE	19/03/2012
024566	MS. ANURADHA PRITHIVIRAJ	FCA	HYDERABAD	10/07/2011
028030	MR. THIMMARAJU T S	FCA	BANGALORE	05/10/2012
081247	MR. KRISHNAMURTY K	FCA	BANGALORE	21/08/2012
207897	MR. RAVI KIRAN KUMAR REDDY P	FCA	HYDERABAD	26/12/2012

May the Almighty Architect of the Universe rest their souls in peace.

CORPORATE GOVERNANCE - ANALYSIS OF INDIAN & INTERNATIONAL PRACTICES

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In what way are firms in India viewed differently from US Firms in the arena of corporate governance? Are they seen as contributors to good governance and consequently, to the national economy? Are corporate executives and the board looked upon as greedy or as important social leaders? (the responses are only from my reading only and as such, you may give a frank assessment of all these issues; support your answers where possible with news items or other materials you have come across). What is your overall opinion of the role of Indian public enterprises in corporate governance? What criteria (e.g. profits, environmental impact, and economic development) should these corporations apply to promote corporate governance?

Governance is a word used in gentlemanly language. A citizen is expected to behave in a manner such that he respects laws and obeys the rules and regulations including tax, finance and to society. A citizen is not expected to violate the rules and regulations to which he is subjected to. A corporate enterprise or entity is a non-existent personality and is expected to comply with the rules and regulations applicable to it much more than a citizen. In the eyes of the owners viz. shareholders, corporate are expected to perform in a very professional and efficient manner at the same not compromising on the compliance to rules and regulations be it the corporate law or tax or environment etc.

Such governance has evolved over a long period of time say more than 20+ years. It has a very significant impact globally and it spreads across all business enterprise globally. Equally corporate scandals have also evolved over period of time - Maxwell, Enron, Worldcom, Satyam (in India), WIPRO (recently) to name a few. In India the governance levels were existent but lot of deficiencies existed when the Satyam scam was unearthed. Even in that case the scandal came to light when the CEO admitted himself of the practices and the country's audit or other machines could not find the same. Ironically, the CEO received the best corporate governance complainant award the year before the scam. This only highlights the deficiencies in the system to unearth the scandals either through the audit means or through other surrogate means. Even after Satyam case, the recent WIPRO scam of 4 mn\$ was again a classic case.

The Sarbanes-Oxley Act of 2002 (called SOX) and the Foreign Corrupt Practices Act of 1977 (FCPA) were brought only to re-inforce and instill the corporate governance requirements and compliance.

These provisions have extra territorial applications and companies across globe are subject to these regulations if they are directly or indirectly (through holding companies) listed in the US stock exchanges. The disclosures required under Form 10 K of SEC regulations make it mandatory for corporate to make filings on 'Directors, Executive officers and corporate governance' and "certain relationships and related transactions and Director independence".

In more or less similar manner the Securities and Exchange Board of India (SEBI) prescribes norms for corporate governance. This is also evolving over period of time in line with market realities. In the first instance the listed companies were governed by the listing agreement with the stock exchanges and it was regulated by Securities Contract Regulation Act, 1956. This Act was repealed and SEBI was formed to administer the corporate governance and other aspects of disclosure for corporate listed in the stock exchanges. The stock exchanges implemented the guidelines given by SEBI over period of time.

In respect of companies whose shares are listed in the stock exchanges, SEBI requires certain mandatory provisions like Management Discussion and Analysis Report (MDAR) and disclosure on corporate governance including

- ♦ composition of the board
- ♦ independent directors
- ♦ brief profile of the directors
- ♦ attendance of directors for the board and shareholders meetings
- ♦ shareholding pattern and the promoter and non-promoter holdings
- ♦ periodicity of the board and shareholders meetings
- ♦ managerial remuneration including the sitting fees paid to the directors
- ♦ audit committee and other committees
- ♦ risk management and certification by CEO / CFO

Apart from non mandatory disclosures like adoption of 'whistle blower policy', existence of certain committee like the investor grievance committee, remuneration committee and the like. In addition there are certain guidelines which are purely voluntary like appointment and rotation of external auditors.

Within India the corporate governance norms are evolving with the growth of

the Indian Financial Markets. Recently in order to have more strict norms for listed companies (since 2009) SEBI has made it mandatory for corporate to have 25% of the share capital to be owned by public shareholders to qualify for listing. In those cases where the public shareholding fell short of 25%, corporate were given time to either increase the share capital only through public subscription or dilute the promoter holding such that it is reduced to 75%. This means more public participation in the equity leading to better governance and compliance with the disclosure, conduct of business and adherence to GAAP requirements. Corporate Social Responsibility is one more aspect gaining significance and companies have started disclosing in their annual reports, their activities and contribution towards the same. This means what the company gives back to the society to which it belong is the key message.

The corporate world in India is looked upon by the public as leaders of change and the CEO or chairman are seen as role models. Mr N Narayanamurthy is seen as a pioneer in corporate governance in the form of disclosure. Even before SEBI disclosure came into force, Infosys started disclosing many things in their annual report. The initiative of Mr Nandan Nilekeni for Unique Identity number (Uninor) is also a distinct step towards this. The philanthropic activities of TATA is another classic example. The corporate social responsibility initiative of TVS (Mr Venu Srinivasan) and Godrej (Mr Adi Godrej) are role models for corporate to follow. In this way governance in general and corporate governance in particular is evolving in India.

Corporate should have profit as the primary goal as they exist for this is their obligation to the investors. At the same corporate should apply their focus may be 10% to 15% towards the environment in which they operate in the form of pollution, plastic free packaging, recycling of water (Ro principles), use of solar energy instead of grid energy as a saving of fuel are some of the examples which will make them seen as leaders in the society. This will make them visibly seen as 'lead by example' for others to follow.

Recently Companies Act, 1956 in India is getting amended wherein some of these guidelines or requirements are made mandatory. These are initiatives that the Government is also taking to bring more governance into the corporate but some corporate do these by themselves for others to follow.

Question 2: Some of the large corporations are well known for their family lineage and control (eg. Reliance, TATA group of companies, Godrej, Birla group companies and the TVS group companies). Choose one or more of these large corporations and identify who its large shareholders are (need not mention the names but may want to comment whether majority of the shareholders are family members). Do you believe that large family and related party holding of shares is good or bad for minority shareholders? What do you believe is the impact of such holdings on corporate governance specifically? Do you believe reducing the family holdings would improve corporate governance? In what sense?

Family controlled business in India is not a new thing. Pre-liberalisation stage witnessed most of the companies started and functioning as family owned business only. With the opening of economy, lot of professionalism set in (late 70s and early 80s) and many companies started collaborations with foreign companies primarily for technology. Even in this case, mostly the management control was retained with Indian entities barring certain cases. Slowly ownership and management was separated and management responsibility was entrusted to professionals with 'key performance indicator' as yardstick for assessment of the functioning of managers.

In the case of TVS still the parent is owned by the 5 family members of TVS (sons of TVS Iyengar). The TVS sons not a listed entity holds stakes in other individual TVS companies operating in different areas of manufacture or finance. Some of these companies are listed in stock exchanges like TVS Motor, Sundaram-Clayton, Wheels India, Sundram Fasterns, Sundram Brake Linings, Sundaram Finance etc. The other companies are fully family owned like Brakes India, Lucas TVS, Sundaram Industries, Southern Roadways, etc.

Whether the existence of large family shareholding in corporate is good or bad could not be answered straightaway. Both Companies Act and the Accounting Standards of the Institute of Chartered Accountants of India prescribe the methodologies for disclosure and reporting of the transactions with related parties. In the Indian context still family run business is occupying more business enterprises for both listed and unlisted entities.

Companies Act, 1956 prescribes concept of interested directors (sections 297, 299 and 301) and requires annual disclosures in the board meetings. Directors who do not disclose the list of interest firms or companies are disqualified from acting as a director and will eventually vacate office as per the provisions of the Act. In addition the Accounting Standards issued by the Institute of Chartered Accountants of India has a specific standard on disclosure of related party transactions (AS 18). This standard defines the concept of related party and also makes suggestions regarding disclosure of the transactions with such related parties. Disclosure under this standard is mandatory

for all the listed entities as well as companies which have sales turnover of Rs 50 crores or more whether listed or unlisted. SEBI has on its part prescribed the concept of independent directors on the board of listed entities. Corporate should have 1/3rd of its strength as independent directors and if the Chairman of the company is not independent, more than half of the board should be independent. Independence of directors meant no connectivity with the promoter group in a pecuniary manner. These are the three way steps taken on the corporate in India to ensure that the related party holding of stakes in the companies does not adversely influence the minority shareholders.

As a review mechanism the corporate boards in India reviews on a quarterly basis the transactions with related parties to ensure that the transactions are at arm's length basis. The fundamental principle behind this is that the family owned directors on the board do not unnecessarily or unduly influence on the transactions with the related party entities.

Let us share some of the practices of TVS in this regard. TVS is a family owned group with lot of listed entities and are into automotive components. There is inter relationship between the companies in more than one way and this is handled in a very professional manner. For each related party transaction there is a clear documentation setting out the terms of reference and deliverables. The prices are comparable with the market rates and benchmarked with non related party entities. In fact in some cases the prices are simply fixed at 1% less than non related party prices in order to establish that there is no undue influence of related party transactions. In most of the companies, the test of the management success is clearly appreciated by public shareholders at the company's annual general meetings. There are clear goals set like EPS, dividend payouts, bonus shares (or bonus dividend) etc. In TVS there is a policy of 30% dividend payout in some of the companies which is a clear indication that the company takes care of minority shareholders as well.

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There are also some of the cases where this is misused in the corporate world. Satyam is a classic case where the funds were diverted to related entity called Maytas (Satyam spelt backwards).

We would vote for existence of family owned shareholding in order to establish clearly that family owned stakeholders conduct business in a professional manner not only to get more profits for the business entity but also take due care of minority shareholders. There should be freedom for the business owners in this domain and it should be left open to them for organizing business in their own way. Having said this we cannot undermine the control mechanism that should exist in the form of surveillance, audit, and disclosures. Large business houses exist in this environment (like TATA, Reliance, Birla, TVS, Godrej) and it is clear evidence that related party transactions are not prejudicial to the minority shareholders.

At the same there are fully publicly owned companies like Hindustan Unilever, P & G which are run without family ownership. In these companies as well, the above guidelines are applicable and are followed meticulously. The one distinct feature of these companies are that they have their roots set in abroad very strongly and India is one of their arm. Therefore it was possible for them to get organized in a public owned structure right from beginning. Going by the practices of both the styles of business houses, it is very difficult to differentiate between the two. ■



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Companies Bill - 2012 - The Dawn of a New Era

The entire corporate India woke up to the morning of 19th December 2012 with a fresh breeze, new hopes and exciting challenges. With just two days left for the much hyped Armageddon of 21st December 2012 when the world was supposed to end as per a famous prediction, the Lok Sabha passed the much awaited Companies Bill, 2012 which marks the dawn of a new era, an era

of progressive thinking, greater investor democracy and higher corporate growth with higher responsibility.

The Companies Bill, 2012 is all set to replace the 55 Year old Companies Act of 1956 which has been the single most important legislation for all incorporated companies in India and bread and butter for many professionals.

Companies Bill, 2012, a vibrant initiative is meant to replace the existing Companies Act of 1956, one of the most important legislation governing all companies in India for the past 56 years. Companies Bill 2012 proposes to give it after much speculation and eagerness on the subject, Lok Sabha finally approved the Bill on the night of 18th December, 2012.

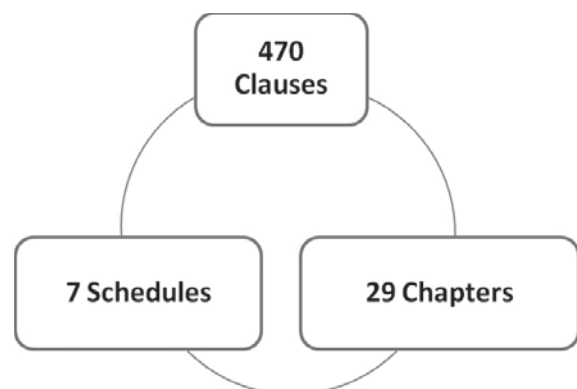
A GLIMPSE AT THE ORIGIN OF COMPANIES ACT IN INDIA

ORIGIN OF COMPANIES ACT IN INDIA	AMENDMENTS TO THE COMPANIES ACT, 1956
<p>The oldest piece of legislation in India relating to companies was started and emerged by the following Acts enacted from time to time:</p> <ul style="list-style-type: none"> ➤ Act of 1857 ➤ Companies Act ,1866 ➤ Replaced by Indian Companies Act, 1913 ➤ Recommendations of Company law committee set up in 1950 ➤ Indian Companies act,1956 	<p>Amended for about 24 times since 1956</p> <ul style="list-style-type: none"> ➤ Major amendment to the Companies Act, 1956, was made by enacting the Companies Amendment Act, 1988 ➤ Recent Amendment was made by the Companies Amendment Act, 2002

PATH WAY OF COMPANIES BILL 2012

23rd October 2008	Companies Bill, 2008 was introduced in the Lok Sabha to Replace Existing Companies Act, 1956
3rd August 2009	Companies Bill 2009 was reintroduced in the Lok Sabha on to replace Existing Companies Act, 1956 with modifications and the same was referred to SCF for further process
31st August 2010	Report of Standing Committee on finance on companies bill, 2009 was introduced in the Lok Sabha
14th December 2011	Companies Bill 2011 introduced in Lok Sabha
18th December 2012	Companies Bill 2012 passed by Lok Sabha

OVERVIEW OF COMPANIES BILL 2012



NEW DEFINITIONS INTRODUCED IN SECTION 2

Accounting Standards	Deposit	Postal Ballot
Associate Company	Expert	Promoter
Auditing Standards	Financial Institution	Public Financial Institution
Authorised Capital	Financial Statement	Register of Companies
Books of Accounts	Foreign Company	Related Party
Called up capital	Free Reserves	Remuneration
Charge	Global Depository Receipts	Serious Fraud Investigation Office
Chartered Accountant	Independent Director	Small Company
Chief Executive Officer	Indian Depository Receipt	Subscribed capital
Chief Financial Officer	Interested Director	Sweat Equity Shares
Company Limited By Guarantee	Issued Capital	Turnover
Company Limited by Shares	Key Managerial Personnel	Unlimited Company
Company Liquidator	Notification	Voting Right
Contributory	Official Liquidator	Whole Time Director
Control	One Person Company	
Cost Accountant	Ordinary or Special Resolution	

DEFINITIONS WHICH HAVE BEEN DISCONTINUED FROM EXISTING ACT

District Court	State Level Institution	Share with Differential Rights
Industrial Company	Option in Securities	Sick Industrial Company
Industrial Undertaking	Operating Agency	Issued generally
Information memorandum	Public Holiday	

SOME INTERESTING NEW DEFINITIONS

<p>“One Person Company” means a company which has only one person as a member</p>
<p>“Small company” means a company, other than a public company, - (i) paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than five crore rupees; or (ii)turnover of which as per its last profit and loss account does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than twenty crore rupees: Provided that nothing in this clause shall apply to - (A) a holding company or a subsidiary company; (B) a company registered under section 8; or (C) a company or body corporate governed by any special Act</p>

COMPARISON OF EXISTING COMPANIES ACT, 1956 WITH COMPANIES BILL, 2012

ON

IMPORTANT AREAS

I. INCORPORATION

Basis for Comparison	Provision contained in existing Companies Act, 1956	Provision contained in Companies Bill 2012
Maximum number of members for private companies	50 (Fifty)	200 (Two Hundred)
Minimum Number of members	Public company to have minimum seven members and private companies to have minimum 2 members	No change for private and public companies. New concept of one person company introduced which can have a single member
Object Clause of MOA	Object clause bifurcated into – Main Objects, Incidental or Ancillary Objects and Other Objects.	MOA to contain the objects for which the company is proposed to be incorporated and any matter considered necessary in furtherance thereof.

Registered Office	Companies are required to furnish the details of the Registered office of the company by filing e-Form 18 at the time of incorporation. Notice of every change of the situation of the registered office, shall be given to the Registrar within thirty days of the change, who shall record the same.	A company shall, on and from the fifteenth day of its incorporation have a registered office. The company is also required to furnish to the Registrar verification of its registered office within a period of thirty days of its incorporation in a prescribed manner. Notice of every change of the situation of the registered office, shall be given to the Registrar within fifteen days of the change, who shall record the same.
Commencement of Business	Provision is applicable only to public limited companies	Applicable to all companies having share capital
Alteration of Article Conversion of Companies	Section 31 Special Resolution passed for conversion of Private to public limited companies and public to private Limited Companies are required to be filed within thirty days from the date of General meeting approving the special resolution	Clause 14 (2) Special Resolution passed for conversion of Private to public limited companies and public to private Limited Companies are required to be filed within fifteen days from the date of General meeting approving the special resolution
Charitable Institutions	Section 25 No specific provisions relation to amalgamation of the kind of company with which amalgamation can be done Default Made in compliance with the clause punishable with fine of Five Thousand Rupees for Every day of default	Clause 8 (10) A Company registered under this section shall amalgamate only with another company registered under this section and having similar objects. Penal provisions has been increased substantially Default Made in compliance with the clause punishable with fine which shall not be less than ten lakh rupees but which may extend to one crore rupees and the directors and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than twenty-five thousand rupees but which may extend to twenty-five lakh rupees, or with both
Authentication of documents, Proceedings and contracts.	Section 51,52 and 53 Can be Signed by the Director, the manager, the secretary or other authorised officer of the Company	Clause 21 Authentication of documents, proceedings and contracts can be done by the Key managerial Personnel or an officer of the company duly authorised by the board.
Service of Documents	Section 51,52 and 53 Documents may be served by the company or an officer by post under a certificate posting or by registered post	Clause 20 Documents may be served by the company or an officer by registered post, speed post or courier.

2. SHARES AND SHARE CAPITAL

COMPANIES ACT, 1956	COMPANIES BILL, 2012
ISSUE OF SHARES AT A DISCOUNT	
Section 79 permits issue of shares at discount subject to compliance with conditions	Issue of shares at discount is prohibited except in case of sweat equity shares
ISSUE OF PREFERENCE SHARES FOR MORE THAN 20 YEARS	
Section 80 prohibits issue of irredeemable preference shares and preference shares redeemable after 20 years	Issue of preference shares for period exceeding 20 years is permitted for infrastructure projects
ISSUE OF SHARES ON PRIVATE PLACEMENT, BONUS SHARES AND GDRS	
No specific provision for issue of shares on private placement, bonus shares and GDRs exist in the present Act.	Specific provision introduced for issue of shares on private placement, bonus shares and GDRs in the Bill
CONSOLIDATION AND DIVISION OF SHARES	
Company permitted to consolidated or sub divide its shares by passing resolution in general meeting	Consolidation and division which results in changes in the voting percentage of shareholders shall require approval of the Tribunal to be effective

3. BOARD MEETINGS

COMPANIES ACT, 1956	COMPANIES BILL, 2012
FIRST BOARD MEETING	
No specific time stipulated for holding first board meeting.	Every company shall hold the first meeting of the Board of Directors within thirty days of the date of its incorporation
TIME GAP BETWEEN TWO MEETINGS	
At least one meeting to be held in every quarter	Not more than one hundred and twenty days shall intervene between two consecutive meetings of the Board
LENGTH OF NOTICE	
No specific length of notice specified	Meeting of the Board shall be called by giving not less than seven days' notice
PENALTY	
Every officer of the company whose duty it is to give notice as aforesaid and who fails to do so shall be punishable with fine which may extend to one thousand rupees.	Every officer of the company whose duty is to give notice under this section and who fails to do so shall be liable to a penalty of twenty-five thousand rupees.
BOARD MEETINGS THROUGH VIDEO-CONFERENCING ALLOWED NOW	
<ul style="list-style-type: none"> ➤ Under clause 173(2), participation of directors at Board Meetings has been permitted through video-conferencing or other audio visual means ➤ Central Government may, by notification, specify such matters which shall not be dealt with in a meeting through video conferencing or other audio visual means. 	

4. ANNUAL GENERAL MEETINGS

COMPANIES ACT, 1956	COMPANIES BILL, 2012
MAXIMUM TIME FOR HOLDING FIRST AGM	
18 months from incorporation or 9 months from closure of accounts, whichever is earlier	9 Months from closure of accounts
TIME AND DAY	
Every annual general meeting shall be called for a time during business hours, on a day that is not a public holiday	Every annual general meeting shall be called during business hours, that is, between 9 A.M. and 6 P.M. on any day that is not a National Holiday
LENGTH AND MODE OF NOTICE	
Private companies can specify the length of notice in their Articles of Association. Written Notice mandatory	21 days clear notice to be given by all companies. Notice may be given in writing or in electronic form in the manner prescribed
CONSENT FOR SHORTER NOTICE	
Consent to be given by all members entitled to vote at the meeting	Consent to be given by not less than 95% of the members entitled to vote at the meeting
QUORUM	
Private Companies – 2 Members Public Companies – 5 Members	Private Companies – 2 Members Public Companies – 5 members where total number of members do not exceed 1000 - 15 members where total number of members exceed 1000 but do not exceed 5000 - 30 members where total number of members exceed 5000
STATUTORY MEETING	
Every Public limited company to hold statutory meeting after one month but before 6 months from the date of entitlement to commence business and file statutory report with ROC	No similar provision is there in the new bill

5. DIRECTORS

COMPANIES ACT, 1956	COMPANIES BILL, 2012
MAXIMUM NUMBER OF DIRECTORS	
12	15 More than 15 can be appointed by passing special resolution
MAXIMUM NUMBER OF DIRECTORSHIP	
15 Excludes private companies, unlimited companies, alternate directorship and directorship in non-profit associations	20 Out of which not more than 10 can be public companies. Includes Alternate Directorship also. No specific exclusions are provided.

COMPOSITION OF BOARD	
Minimum 2 directors in case of private and 3 in case of public companies. Maximum 12 Directors	Certain class of companies to have atleast 1 women director. Every company to have atleast one director who has stayed for atleast 182 days in India in previous Calendar year. Listed Companies to have atleast 1/3rd independent directors.
DISCLOSURES IN BOARD'S REPORT	
Section 217 contains disclosure requirements of Board's report	Additional Disclosures proposed by the bill, namely, Extract of Annual Return, Number of board meetings, CSR initiatives and policy, particulars of loans, guarantees, investments etc
DIRECTORS RESPONSIBILITY STATEMENT	
Section 217(2AA) prescribes the content of Director's responsibility statements which contains 4 clauses	Additional clauses proposed by the bill in respect of "Internal Financial Controls" and "Systems to ensure compliance with laws"

6. AUDIT, AUDITORS AND ACCOUNTS

COMPULSORY CONSOLIDATION OF ACCOUNTS:

Existing Companies Act - Consolidation is not mandatory. Balance Sheet of subsidiary to be attached by holding company while filing return to ROC

Companies Bill 2012 - Companies having subsidiary company to prepare consolidated financial statements in addition to standalone statements. Subsidiary companies include Associate and Joint Ventures also.

CERTIFICATION

Existing Companies Act - Balance Sheet and Profit & Loss Account to be signed by Manager or Secretary, if any, and by not less than 2 directors one of whom shall be the MD where there is one.

Companies Bill 2012 - Financial statements can be signed by Chairman alone if so authorised by the Board.

FINANCIAL YEAR AND EXTENSION

Existing Companies Act - Financial year not to exceed fifteen months. Financial year can end on date other than 31st March. Financial Year can be extended up to 18 months by ROC.

Companies Bill 2012 - Financial year to end on 31st March every year for all companies. No explicit provision regarding extension of financial year is given.

HIGHLIGHTS OF COMPANIES BILLS 2012 – OTHER PROVISIONS

MAINTENANCE OF ACCOUNTS

- Maintenance of Accounts in electronic form permitted
- Financial statements to include Balance Sheet, Profit & Loss and Cash Flow Statement
- Consolidation made mandatory for companies having subsidiaries, associates and Joint Ventures

FILING OF REPORTS AND RETURNS

Disclosures required in Board's report have been made more comprehensive.

Board's report to include extract of annual return, number of board meetings etc

Annual Return

Annual return to be made up to end of financial year not up to date of AGM. Scope of return enlarged to great extent

All annual returns as stated above to be certified either by company secretary of the Company or by a Company Secretary in practice

Every Listed company to file return to ROC regarding changes in shares held by promoters and top 10 shareholders within 15 days of the change

KEY MANAGERIAL PERSONNEL AND THEIR REMUNERATION

No company can have both Managing Director and Manager at the same time

Maximum limit of 11% (of net profits) for overall managerial remuneration is retained.

Every company belonging to such class or description of companies as may be prescribed, to have managing director, or chief executive officer or manager and in their absence, a whole-time director, company secretary and chief financial officer

INSPECTION, INQUIRY & INVESTIGATION

- Statutory status to SFIO proposed and SFIO is given wide powers
- SFIO's report to be treated as report filed by Police Officer
- SFIO will have power to arrest in certain cases which attract punishment for Fraud and person accused of such offence shall be released on bail subject to conditions as mentioned in the relevant provisions of this bill.
- Protection of employees during investigation by the authority is provided
- During inquiry and investigation or on request of creditor having due of more than one lakh, the central government may by order direct that transfer, removal or disposal of funds, assets, properties of the company shall not take place during such period not exceeding three years or may put restrictions and conditions as deemed fit
- Foreign companies are also covered

PREVENTION OF OPPRESSION & MISMANAGEMENT

Clause 241 of the Bill corresponds to Section 397 of the Act with the difference that from the language used in the bill it appears that relief can be sought even for past concluded acts under the provisions of the Bill, whereas same was not possible under the existing Act.

Class Action Suits (New Clause 245) – Class action by member of members, depositor or depositors or any class of them (not applicable to banking companies).

SECRETARIAL AUDIT & CSR

Secretarial Audit mandated for all listed companies and certain other class of companies. Board to respond to qualifications contained in Secretarial Audit by means of explanation in Board's report.

CORPORATE SOCIAL RESPONSIBILITY

Followings Companies Shall constitute a CSR Committee:

- Net worth of rupees five hundred crore or more, or
- Turnover of rupees one thousand crore or more, or
- Net profit of rupees five crore or more

Committee to consist of at least three directors out of which at least one should be independent director

Board to ensure that at least 2% of the average net profits of last 3 years is spent by the company on CSR activities every financial year, else reasons for not spending to be specified in the Board's report.

RELATED PARTY TRANSACTIONS

- Every related party transaction to be disclosed in Board's report.
- Clause 188 of the bill which carries provisions regarding related party transactions, combines existing sections 297 and 314.
- Central Government Approval has been done away with.

COMPROMISES AND ARRANGEMENTS

- Simplified procedure for compromise or arrangement between two or more small companies or between holding and wholly owned subsidiaries introduced
- Cross-border mergers permitted with any foreign company with prior approval of RBI. Countries and rules to be notified by Central Government. Consideration can be in cash or in Depository receipts or partly in cash and partly in Depository receipts
- Objections to the compromise or arrangement shall be made only by persons holding not less than 10% of shareholding or having outstanding debt amounting to not less than 5% percent of total outstanding debt as per the latest audited financial statement.
- The Central Government shall, by notification, constitute, a Tribunal to be known as National Company Law Tribunal and an Appellate Tribunal to be known as National Company law Appellate Tribunal.
- Auditor of the company shall confirm that, accounting treatment proposed in scheme of compromise or arrangement is in conformity with Accounting standards prescribed under section 133. The certificate needs to be filed with tribunal.
- Notice of scheme along with documents shall also be sent to SEBI, RBI, IT authorities, Registrar, stock exchanges, official liquidator, Competition commission of India and other sector regulators or authorities which are likely to be affected by the compromise or arrangement and the representation of authorities shall be made within thirty days from the date of receipt of documents, failing which it would be presumed that, they have no representations to make.

Certificate from company secretary/chartered accountant/cost accountant in practice is required to be filed with Registrar in such form as to whether the scheme is being complied in accordance with the orders of tribunal or not.

New terminologies “merger by absorption” and “Merger by formation of a new company” introduced.

In a creditor compromise, report of the auditor that fund requirement after restructuring shall conform to liquidity test based on estimates provided to them by board needs to be provided

A company registered under Section 8 of the New Act (non-profit companies) shall amalgamate only with another company registered under that section and having similar objects.

APPOINTMENT OF FIRST AUDITOR

NON-GOVERNMENT COMPANIES

Appointed by the Board of Directors within thirty days from the date of registration of the company

if Not

shall inform the members of the company, who shall within ninety days at an extraordinary general meeting appoint such auditor

GOVERNMENT COMPANIES

Controller and Auditor-General of India within sixty days from the date of registration of the company

if Not

Board of Directors of the company shall appoint such auditor within the next thirty days

if Not

Members of the company, who shall within sixty days at an extraordinary general meeting appoint such auditor

WHAT'S IN STORE FOR AUDITORS

➤ AUDITORS

Appointment	Encouraging Clauses	Restrictive Clauses
<ul style="list-style-type: none"> Listed Companies - Individual Auditor to retire every five years. Ten years in case of firm of Auditors Other Companies - Auditor to be appointed for a term of 5 years in each appointment. Appointment to be ratified in each AGM. 	<ul style="list-style-type: none"> Internal audit may be made mandatory for prescribed companies 	<ul style="list-style-type: none"> Auditors not to render other services like book keeping, accounting etc. directly or indirectly to the company or its holding company or subsidiary company Members of a company may resolve to provide that in the audit firm appointed by it, the auditing partner and his team shall be rotated at such intervals as may be resolved by members.

➤ COST AUDITORS

- Cost auditing standards' have been mandated.
- Central Government may direct that the audit of cost records of class of companies, which are required to maintain cost records and which have a net worth of such amount as may be prescribed or a turnover of such amount as may be prescribed, shall be conducted in the manner specified in the order.

PANEL DISCUSSION ON UNION BUDGET - 2013

P. Brahmajya Memorial Hall
'ICAI Bhawan'
No.122, Mahatma Gandhi Road,
Nungambakkam, Chennai - 600034

CPE Credit
2
HOURS

Thursday, February 28, 2013

Timings: 6:00 PM to 8:00 PM

Topics	Resource Persons
Panel Discussion – Direct Taxes	CA. R Bupathy Chennai
Panel Discussion – In Direct Taxes	Shri. Vaitheeswaran Chennai

NO DELEGATE FEE

Secretary, SIRC

Chairman, SIRC

**THE MONTH THAT WAS
(JANUARY 2013)**

3 rd	Investor Awareness Programme
4 th & 5 th	Workshop on Enabling Service Tax Practice
5 th	CPE Programme on Corporate Governance – Role of Chartered Accountants
18 th & 19 th	Blood Donation Camp
19 th	Practical Workshop on XBRL
19 th	CPE Seminar on Insurance
25 th	Investor Awareness Programme
26 th	Ashok Kumbhat Memorial Lecture
30 th	CPE Seminar on Companies Bill 2012
31 st	V Sankar Aiyar Memorial Lecture
2 nd , 9 th , 16 th , 23 rd & 30 th	Study Circle Meetings

SIRC acknowledges the contribution and support extended by Central Council Members of ICAI, Regional Council Members of SIRC, Resource Persons and the delegates/participants for making all the programmes a resounding success.

Invitation for Contribution of Articles

SIRC of ICAI invites Articles from Members for publication in the SIRC Newsletter. SIRC is releasing Theme Based monthly Newsletter. The theme finalized for the February 2013 issue as follows:

Month	Theme	Articles to reach SIRC on or before
March 2013	Bank Audit	February 10, 2013
April 2013	Corporate Audit	March 10, 2013
May 2013	Financial Instruments	April 10, 2013

Members may send the soft copy of their article, profile and passport size colour photograph to SIRC by email to sirc@icai.in and sircnewsstr@icai.in for consideration by the Editorial Board on or before the above said dates.

DISCLAIMER

The SIRC/ICAI does not accept any responsibility for the views expressed in different contributions/ advertisements published in this Newsletter.

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Adv.

**SOUTHERN INDIA REGIONAL COUNCIL OF
THE INSTITUTE OF CHARTERED
ACCOUNTANTS OF INDIA**

The IPCC Coaching Classes for November, 2013 Examinations will commence on 13th February, 2013.

Fees: For Both groups - Rs.4,000/-
One group - Rs.2,000/-

Class Timings :

Monday to Saturday – Group I : Morning 6.30 a.m. to 9.30 a.m.

Group II : Evening 5.30 p.m. to 8.30 p.m.

On Sundays (Both Gr.I & II) : Between 7.00 a.m. and 5.00 p.m.

The coaching class fee should be remitted through Syndicate Bank, Nungambakkam branch, Chennai-34. The application form and bank challan can be had from SIRC office. The outstation students may remit the fee by way of demand draft drawn in favour of "SIRC of ICAI" payable at Chennai. The demand draft along with the details of Name, Student Regn.No, Address, Contact No., etc. should be sent to SIRC of ICAI, "ICAI Bhawan", 122 Mahatma Gandhi Road, Chennai 600034.

Visit our website "sircoficai.org" for latest announcements and information relating to coaching classes and e-mail to sircclasses@icai.in for further details.

CA. V.K.Subramani
Erode
vksintax@gmail.com

Updates on Direct Taxes

1. *Reduction in share of profit due to induction of partners vis a vis capital gains:*

In CIT v. P.N.Panjawani (Deceased) through LRS (2012) 80 DTR (Kar) 200 the assessee was a partner in a firm consisting of three equal partners. Subsequently, the firm was reconstituted admitting four more persons as new partners. The new partners contributed capital and the existing partners reduced their share of profit from one-third to one-sixth. The existing partners also withdrew the amounts brought in by the new partners. The Assessing Officer treated the amount withdrawn by the partners as capital gain towards relinquishment of their 50% share in the firm. There was no retirement of partners and there was only reduction in share of existing partners. In spite of the fact that the firm owned immovable assets, it was held that there was no transfer between the existing partners and new partners. The court accordingly held that the transaction did not attract the provisions of section 2(47) as much as to levy tax on the same, as capital gains.

2. *Intimation under section 143(1) does not bar filing of revised return under section 139(5):*

In Tarsem Kumar v. ITO (2012) 80 DTR (P&H) 164 the assessee filed a return which was processed under section 143(1) and a meagre sum was received by way of refund. The assessee filed a revised return after the receipt of intimation under section 143(1) in which the claim of refund was enhanced to Rs.3.61 lakhs. The revised return was treated as non est by the Assessing Officer. The court held that intimation under section 143(1) is deemed to be a notice of demand under section 156 for the obvious purpose of making machinery provisions relating to recovery of tax workable. Nothing more can be inferred from the deeming provision and such intimation under section 143(1) is not to be treated as an assessment order. Once the intimation is not taken as assessment order, the eligibility for filing revised return under section 139(5) is to be looked

into independently subject to the time limit prescribed therein. The Court accordingly held that the revised return filed by the assessee including claim of refund of tax as valid in law.

3. *Excess amount received by retiring partner not chargeable as capital gain:*

In Chalasani Venkateswara Rao v. ITO (2012) 349 ITR 423 (AP) the assessee was a partner in a firm with 50% share. There was some dispute amongst the partners and the assessee sent a notice for dissolving the firm. As per section 43 of the Partnership Act, 1932 where the partnership is at will, the firm would stand dissolved by any partner giving notice in writing of his intention to dissolve the firm. Under the compromise recorded in the apex court, the assessee received a sum much more than the amount standing to his credit in the capital account. The Assessing Officer taxed the amount so received in excess to the amount of capital as capital gain by applying section 45(4). The court held that section 45(4) is meant for taxing a partnership firm on its dissolution and distribution of assets. It cannot be applied for taxing a partner for the reason that he has received an amount which is much more than the amount standing to his credit in the books of account of the firm.

4. *Amount spent for obtaining ISO 9001 certificate is a revenue expenditure:*

In CIT v. Infosys Technologies Ltd (2012) 349 ITR 582 (Karn) the assessee incurred about Rs.12 lakhs towards obtaining ISO certificate and claimed the same as revenue expenditure. The claim of the assessee was negated by the Assessing Officer. The court relied on CIT v. Perot Systems TSI (India) Ltd (2012) 349 ITR 563 (Del) to hold that the ISO certificate granted is after the inspection of procedures followed, the quality maintained in the production of products by the assessee. The certificate would only certify the quality maintained in the manufacturing process and guarantees the same and does not confer any benefit of enduring

credibility. Accordingly, the court held that the decision of the tribunal upholding the claim of the assessee does not call for any interference.

5. *Amount advanced as interest-free to sister concern and write off as bad debt:*

In CIT v. Epsilon Advertisers (P) Ltd (2012) 80 DTR (Kar) 366 the assessee engaged in consultancy service advanced Rs.5.34 crores to its sister concern to tide over its financial position. It was written off subsequently as bad debt for the reason that it could not be recovered. The court held that the assessee was not engaged in money lending business nor is it a financial institution to claim the amount advanced as bad debt occurring in the regular course of business. There was no systematic banking activity carried on by the assessee except an inter-corporate deposit and the said interest-free loan to sister concern. The court accordingly held that the disallowance of bad debt made by the Assessing Officer as tenable in law.

6. *Waiver of loan by Central Government granted for acquisition of assets and reduction in cost of assets for the purpose of depreciation:*

In Steel Authority of India Ltd v. CIT (2012) 80 DTR (Del) 345 the assessee took a loan sanctioned by Government of India out of Steel Development Fund. A sum of Rs.5277 crores was outstanding as at 31st March, 1999 and a sum of Rs.5073 crores was waived by the Government during the financial year 1999-2000. The assessee reduced the amount from the value of assets in the books of account but the claim of depreciation was made under section 32 without any reduction in asset values. The Court held that the assessee's case is caught within the mischief of section 43(1) itself and it is not necessary to examine the impact of the Explanation 10 to section 43(1) inserted w.e.f. 1st April, 1999. The waiver of loan hence was held as deductible from the block value of assets for computing the value of depreciation. ■

INVESTOR AWARENESS PROGRAMME

January 3, 2013 - Chennai

Resource Persons



Shri. A.K. Narayanan
Chennai



Shri. C. Palaniappan
Chennai



Shri. Senthil Velan
Chennai

WORKSHOP ON ENABLING SERVICE TAX PRACTICE

January 4 & 5, 2013 - Chennai

Resource Persons



CA. V. Prasanna Krishnan
Chennai



CA. Shaikh Abdul Samad Ahmad
Chennai



CA. N.K. Bharath Kumar
Chennai



CA. V. Vijay Anand
Chennai



CA. P. Sankaran
Chennai



CA. J. Purushothaman
Chennai

CPE SEMINAR ON INSURANCE

January 19, 2013 - Chennai

Resource Persons



CA. P. S. Prabhakar
Chennai



CA. R. Srivatsan
Chennai



Shri. T. Ravi Seshadri
Bangalore



CA. A.R. Parthasarathy
Chennai

INVESTOR AWARENESS PROGRAMME

January 25, 2013 - Chennai

Resource Persons



Shri. Regi Thomas
Chennai



Shri. V. Nagappan
Chennai



Shri. Vivek Karva
Chennai

CPE PROGRAMME ON CORPORATE GOVERNANCE - ROLE OF CHARTERED ACCOUNTANTS

January 5, 2013 - Chennai



Shri Ajit Kumar Patnaik, Deputy Comptroller and Auditor General (Commercial) - cum - Chairman, Audit Board with CA. R. Bupathy, Past President-ICAI

PRACTICAL WORKSHOP ON XBRL

January 19, 2013 - Chennai



CA. P. Selvamoorthy
Chennai

BLOOD DONATION CAMP

January 18 & 19, 2013 - Chennai



Donors at the Blood Donation Camp organised by SIRC of ICAI

CPE STUDY CIRCLE MEETINGS

Resource Persons

2.01.2013



CA. Abraham Zachariah
Chennai

9.01.2013



CA. N.R. Sridharan
Chennai

16.01.2013



CA. Ramanujam Raghavan
Chennai

23.01.2013



CA. Madhu Sudhana Rao
Chennai

30.01.2013



CA. S. Sudhakar
Chennai

SHRI ASHOK KUMBHAT MEMORIAL LECTURE

January 26, 2013 - Chennai



CA. Harish Salve, Senior Advocate, Hon'ble Supreme Court, offering floral tributes to Shri Ashok Kumbhat along with CA. K. Viswanath, Chairman, SIRC of ICAI, CA. G.V. Raman and family members of Shri Ashok Kumbhat on the occasion of Shri Ashok Kumbhat Memorial Lecture.

REPUBLIC DAY CELEBRATIONS

January 26, 2013 - Chennai



CA. K. Viswanath, Chairman, SIRC unfurling the tricolour Indian Flag on the occasion of Republic Day at SIRC premises, Chennai

NATIONAL SEMINAR ON TAX AWARENESS

January 28, 2013 - Ernakulam



CA. Jaydeep Narendra Shah, President, ICAI inaugurating the National Seminar at Ernakulam in the presence of CA. K. Viswanath, Chairman, SIRC, Members of SIRC of ICAI and other dignitaries of Ernakulam Branch of SIRC of ICAI.

CPE SEMINAR ON COMPANIES BILL - 2012

January 30, 2013 - Chennai

Resource Persons



Shri B. Ravi
Chennai



CA. N. Nityananda
Bangalore



CA. S. Ramakrishnan
Chennai



CA. P. S. Kumar
Chennai



Shri S. Dhanapal
Chennai

UNVEILING THE BUST OF CA. G.P. KAPADIA

January 31, 2013 - Chennai



Padma Bhushan Shri. Nandan Nilekani, Chairman, Unique Identification Authority of India unveiling the bust of CA. G.P. Kapadia, First President of ICAI in the presence of Shri Mani Sankar Aiyar, Hon'ble Member of Parliament, CA. K. Viswanath, Chairman, SIRC of ICAI, other Dignitaries and Central and Regional Council Members.

V. SANKAR AIYAR MEMORIAL LECTURE

January 31, 2013 - Chennai



Padma Bhushan Shri. Nandan Nilekani, Chairman, Unique Identification Authority of India offering floral tributes to CA. V Sankar Aiyar along with Shri Mani Sankar Aiyar, Hon'ble Member of Parliament, CA. K. Viswanath, Chairman, SIRC of ICAI, other Dignitaries and Central and Regional Council Members on the occasion of V Sankar Aiyar Memorial Lecture.