WIRC BULLETIN

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Vol. 41 No. 1 **Rs. 5/-** ***For Members only*** **January 2013**

From the Desk of Chairman

Dear Professional colleagues,

India experienced considerable growth in GDP during last five years except 2012 and is likely expected to continue its growth momentum and grow with a CAGR of 7.5% over the next five years. The opportunities for doing business in India are immense with a large domestic market along with low cost manufacturing, cheaper work force, etc. Industries have immeasurable opportunities in the organized retail sector, healthcare sector, education, residential housing, banking, and financial sector in India.

Lucintel's research indicates that the economic performance of India slowed down in 2011 and the slowdown is likely to continue through 2012 as well; however, both the government and central bank have already taken steps to increase domestic consumption. The international scenario is likely to have a negative impact on the overall economic performance in 2012. With the government of India stepping up disinvestment, the fiscal deficit is likely to fall in 2012-2013. Reforms initiated by the government, especially direct cash transfers, could be the game changer for the poor and help economy goes back on growth trajectory. The year 2014 is a general election year which may put back the government to have populist and political reforms and the new government may continue or modify the reform process.

MCA has finally uploaded Cost Audit Report and Cost Accounting Compliance Report XBRL Validation Tool to the website and long-awaited submissions of reports to MCA in XBRL mode started from 5th Dec-2012. Thanks to Ex CCM CMA Ashwin Dalwadi, his Micro vista Team and The ICAI H.O. (Kolkata) that the conversion utility is made available online on 'icwai.org', to members of the institute without any charge. The MCA had a few teething problems early in its uploading, but most of the concerned people in the corporate are of the opinion that they did a good job overall. Now it is the responsibility of CMA Professionals to execute effective audit trials and submit the required quality data to MCA and to the management of company as well. Recent Cost Audit order dated 06-Dec-2012 has covered almost all the CETA Chapter Heading and the entire manufacturing companies turnover exceeding 20 Crores are covered under mandatory Cost Accounting Compliances commencing from financial year 2013-14 and onwards, one more challenge for CMA Professional in the long run. We have adequate time now and should bring many training and development programs for members in practice and members in employment to meet out challenges ahead successfully. At WIRC the program schedule for the same will be announced shortly.

WORK ON YOUR REPUTATION UNTIL IT IS ESTABLISHED....
ONCE IT IS ESTABLISHED, IT WILL WORK FOR YOU.

The autumn breeze passes through the green bought of the trees and leaves rustle and they make a dreamland of light and shade. Autumn is cool and beautiful. In India it is the time of festivity; it is a time of enjoyment, to have fun and to make life beautiful with a new beginning. I wish on the eve of the New Year to you and to your family members a very happy autumn season to bring colours and joy in your life.

With Warm Regards,

CMA SHRENIK S. SHAH

Time is not measured by the passing of the years but by what one does, what one feels, and what one achieves.

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Life is like a game of cards. The hand you are dealt is determinism, the way you play it is free will.

– Pandit Jawaharlal Nehru

WIRC Wishes all its Members a very Happy & Prosperous New Year 2013

The Institute of Cost Accountants of India

(Statutory body under an Act of Parliament)

54TH NATIONAL COST CONVENTION-2013

Venue : Gujarat University Convention and Exhibition Center, Ahmedabad

Theme : India's Cost Competitiveness - Imperatives for CMAs

on 18-19 January, 2013 at Ahmedabad

DELEGATE FEE

Corporate Delegates	₹ 5,500/-	Student	₹ 2,000/-
Members	₹ 4,500/-	Spouse	₹ 2,000/-
Cost Accountant-in-Practice/Academicians	₹ 3,000/-	Foreign Delegates	US$ 200/-

CEP Credit : 6 Hours

Dear Sir/Madam,

The business dynamics today is creating huge churning in the corporate world with each company striving for achieving its objective of sustained growth by unlocking business value and unleashing sweeping efforts and initiatives for bringing about excellence in all spheres of corporate functioning.

Competitiveness in operations and performance is the sole mantra which helps build great companies. It calls for a concerted and focused approach to developing business strategies which can be leveraged to deliver enhanced stakeholders value. It is the result of dedicated pursuit wherein the business is structured and managed in a way so as to bring about all round efficiencies and a culture of result orientation in economic, social and environmental dimensions of corporate activities.

The key objective of the companies is sustained growth which calls for a focused approach to Cost Management leading to all round efficiency in operations through appropriate leveraging of value drivers. The CMAs are the key professional resource for facilitating efficient management of scarce resources and providing a structure for continuous monitoring of the flow of cost information within the enterprise.

The survival and growth of the companies in this highly dynamic and volatile corporate world mandates a pragmatic and innovative approach to the management. Companies which assume leadership in Cost Management will be the winners of tomorrow. This poses as challenge for the CMAs to emerge as effective support for the companies in their efforts to steer through the highly competitive business environment.

Corporate competitiveness is essential for building world class organizations. Therefore, this year the Institute is organizing 54th National Cost Convention on the theme 'India's Cost Competitiveness - Imperatives for CMAs at Gujarat University Convention and Exhibition Center, Ahmedabad during 18-19 January 2013 in association with Western India Regional Council and Ahmedabad Chapter of Cost Accountants.

The Technical sessions will deliberate on the following themes - Cost Competitiveness - Key to Enterprise Survival and Growth, Building Enterprise competitiveness through enhancing professional skills set, Coping with the tardy growth of the economy, Analysing concern areas and the role of CMAs, Energising Infrastructure: Strategic options and action agenda, Availability of Adequate Power: Sine qua non for sustained economic development and Not everything is healthy in the HEALTH sector - imperatives for CMAs.

Looking forward for your co-operation and active participation and wishing you a very prosperous & eventful New Y ear 2013.

Thanking you,

With best regards,

CMA Shrenik S. Shah
Co-Chairman
Convention Committee

CMA Suresh Chandra Mohanty
Chairman
Convention Committee

54TH NATIONAL COST CONVENTION-2013

Programme Schedule

Day 1	18th January 2013 (Friday)	Day 2	19th January 2013 (Saturday)
08.30 a.m. to 09.20 a.m.	Registration	09.30 a.m. to 11.00 a.m.	Technical Session III : Energising Infrastructure - Strategic options and action agenda
09.30 a.m. to 11.00 a.m.	Inaugural Session		
11.00 a.m. to 11.30 a.m.	Tea Break	11.00 a.m. to 11.30 a.m.	Tea Break
11.30 a.m. to 01.00 p.m.	Plenary Session : Cost Competitiveness - Key to Enterprise survival and growth	11.30 a.m. to 01.00 p.m.	Technical Session IV: Availability of Adequate Power - Sine qua non for sustained economic development
01.00 p.m. to 02.00 p.m.	Lunch Break	01.00 a.m. to 02.00 p.m.	Lunch Break
02.00 p.m. to 03.30 p.m.	Technical Session I : Building Enterprise Competitiveness through enhancing professional skills set	02.00 p.m. to 03.30 p.m.	Technical Session V : Not everything is healthy in the Health sector: imperatives for CMAs
03.30 p.m. to 04.00 p.m.	Tea Break		
04.00 p.m. to 05.30 p.m.	Technical Session II : Coping with the tardy growth of the economy-Analysing concern areas and the role of CMAs	03.30 p.m. to 04.30 p.m.	Valedictory Session
07.30 p.m. to 10.00 p.m.	Cultural Programme followed by Conference Dinner		

Sponsorship Details

Platinum Sponsor (₹ 10,00,000)

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Display on the Convention Backdrop as Platinum Sponsor and all other prominent places Sponsor Logo in badges and in all NCC Material

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Sponsor For Cultural Event (₹ 1,00,000)

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Note: One special full page (Coloured) advertisement in the Souvenir for all above mentioned categories.

Other Sponsorship

Banner/ Stall/ Publicity Material on request - ₹ 50,000

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory body under an Act of Parliament)

54th NATIONAL COST CONVENTION-2013

Theme : India's Cost Competitiveness - Imperatives for CMAs

DELEGATES REGISTRATION FORM

The Chairman,
Delegates Committee,
National Cost Convention- 2013
The Institute of Cost Accountants of India
CMA Bhawan, 3, Institutional Area, Lodhi Road,
New Delhi-110003

Dear Sir,

Please register the following delegates for attending the 54 National Cost Convention -2013 held on 18th and 19th January, 2013 at Ahmedabad. The particulars of the delegates are as under:

Name of The Delegates & Membership No.	Designation	Address of the Delegate	Tel. No. / E-mail

Payment Particulars

A/c payee Cheque/ Demand Draft bearing No. ..... dated ..... drawn in favour of "**ICAI- National Cost Convention 2013**" payable at New Delhi is enclosed.

Details for NEFT Payment : Account Name - ICAI-National Cost Convention-2013

State Bank of India, Lodhi Road Branch, New Delhi- 110003
Current A/C No. - 32642074215 IFS Code - SBIN0060321
PAN No. - AAATT9744L ServiceT ax No. - AAATT9744LSD005

Contact Detail : Institute of Cost Accountants of India, CMA Bhawan, 3, Institutional Area, Lodhi Road, New Delhi- 110003
Tel. : 011-24622156-58 Fax : 011-43583642 E-mail : ncc2013@icwai.org

For enquiry and further details, please contact at:

The Institute of Cost Accountants of India, CMA Bhawan 12, Sudder Street, Kolkata-700 016
Phone : 033-22521031-34-35, Fax No : 033-22527993, E-mail : ncc2013@icwai.org, Website : www.icwai.org

Delhi Office, CMA Bhawan, 3, Institutional Area, Lodhi Road, New Delhi- 110003
Phone : 011-24622156-58 Fax : 011-43583642

Western Indian Regional Council of ICAI,
Rohit Chambers, 4th Floor, Janmabhoomi Marg, Fort Mumbai - 400 001
Phone : 022-22043406 / 3416, 22841138

Ahmedabad Chapter of Cost Accountants, 402-403, Shopper's Plaza-III, 4th Floor, Opp. Municipal Market, C.G. Road, Navrangpura, Ahmedabad-380009. Phone : 079-26403616

Landmark Decision of Hon'ble High Court w.r.t. Service Tax - Even applicable in the Era of Negative List of Services

By CMA Ashok Nawal, *Past Chairman and Treasurer of WIRC of ICAI*
E-mail: nawal@bizsolindia.com • Mobile: +91 98901 65001

Last month there are two landmark decisions which in relating to:

A. Definition of Input Services & Entitlement of Cenvat on various services including commission paid to foreign agents for exports (Commissioner of Central Excise, Ahmedabad II v/s Cadila Healthcare Ltd. AIT 2012-356 -HC - Ahmedabad-GUJ)

B. Valuation of service tax - whether reimbursement of expenditure are includable in taxable value or not? (INTERCONTINENTAL CONSULTANTS AND TECHNOCRATS PVT LTD Vs UNION OF INDIA & ANR - 2012-TIOL-966-HC-DEL-ST.

Both the cases will have long term impact on entitlement of CENVAT Credit as well as determination of value of services of service providers. Therefore attempt has been made to elaborate the same since ratio of both the judgments will have the applicability even in the Era of Negative List of Services, i.e. New Era of Service Tax after 1st July, 2012.

Definition of Input services and Entitlement of Cenvat Credit thereon

The definition of Input services prior to 01.04.2008 was

Input services mean any service;

(i) Used by a provider of taxable service for providing an output service, or

(ii) Used by the manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products from the place of removal.

And includes services used in relation to setting up, modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premise, advertisement or sales promotion, market research, storage up to the place of removal, procurement of inputs, activities relating to business, such as accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, and security, inward transportation of input or capital goods and outward transportation up to the place of removal.

The said definition had the broader meaning but lots of disputes were raised w.r.t. entitlement of Cenvat on the services which are post manufacturing & post clearance. It was held w.r.t. entitlement of Cenvat Credit on GTA for outward transport was raised and Hon'ble CESTAT was of the opinion in the case of M/s. Gujarath Ambuja Cement 2007(212) E.L.T. 410 (Tri-Delhi) that, main clause in Input Service definition in Cenvat Credit Rule 2004 requiring use in or in relation to clearance of final product from the place of removal for credit. Post-sale transport of manufactured goods is not an input service in manufacture. The statute dealing with the tax on manufacture and hence, extending the credit beyond the duty paid removal of final products contrary to the scheme of the rules.

Hon'ble CESTAT Bangalore in the case of M/s. India Cement 2007 (216) E.L.T. 81 has disagreed with the view taken in the case of M/s. Gujarath Ambuja Cement and therefore, matter has been referred to the larger bench.

However, Hon'ble Punjab & Haryana High Court have not accepted the view of Hon'ble CESTAT in case of M/s. Ambuja Cement Vs. UOI 2009 (236) E.L.T. 431 (P & H) wherein it was held that, Credit admissible if ownership of goods remain with seller till delivery at customer's doorstep-Transit insurance borne by appellant and property in goods not transferred to buyer till delivery. Freight charges forming part of value of excisable goods and borne by appellant as sale on FOR destination basis. Outward transportation upto place of removal defined as input service during material period &all three conditions in circular satisfied. Hence Credit admissible.

Thereafter said ratio has been relied upon in following decisions

- 2009 (15) STR 23 (Tribunal Larger Bench)
- 2009 (16) STR 136 (Allahabad High Court)
- 2009 (16) STR 411 (Tribunal Bombay/Mumbai) = 2012 (277) ELT 181 (Tribunal Bombay/Mumbai)
- 2010 (17) STR 193 (Tribunal Bombay/Mumbai)
- 2010 (18) STR 73 (Tribunal Madras/Chennai) = 2010 (257) ELT 151 (Tribunal Madras/Chennai)
- 2010 (18) STR 210 (Tribunal Calcutta/ Kolkata)
- 2010 (18) STR 222 (Tribunal Bombay/Mumbai)
- 2010 (19) STR 49 (Tribunal Delhi)
- 2010 (19) STR 340 (Tribunal Delhi)
- 2010 (19) STR 518 (Tribunal Bombay/Mumbai)
- 2010 (20) STR 31 (Tribunal Ahmedabad)
- 2010 (257) ELT 151 (Tribunal Madras/Chennai) = 2010 (18) STR 73 (Tribunal Madras/Chennai)
- 2011 (22) STR 396 (Tribunal Madras/Chennai)
- 2012 (277) ELT 181 (Tribunal Bombay/Mumbai) = 2009 (16) STR 411 (Tribunal Bombay/Mumbai)

Thereafter, definition of input services were changed and from the place of removal was substituted with up to place of removal w.e.f. 01.04.2008

Input Services has been defined in Rule 2 (l) of the Cenvat Credit Rules, 2004 as,

(l) "Input service" means any service, -

(i) used by a provider of output service for providing an output service; or

(ii) used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products upto the place of removal, and includes services used in relation to modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security,

business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal; but excludes,-

A) service portion in the execution of a works contract and construction services including service listed under clause (b) of section 66E of the Finance Act (hereinafter referred as specified services) in so far as they are used for -

(a) construction or execution of works contract of a building or a civil structure or a part? thereof; or

(b) laying of foundation or making of structures for support of capital goods, except for the provision of one or more of the specified services; or";

B) services provided by way of renting of a motor vehicle, in so far as they relate to a motor vehicle which is not a capital goods; or

BA) service of general insurance business, servicing, repair and maintenance , in so far as they relate to a motor vehicle which is not a capital goods, except when used by -

(a) a manufacturer of a motor vehicle in respect of a motor vehicle manufactured by such person ; or

(b) an insurance company in respect of a motor vehicle insured or reinsured by such person; or";

C) such as those provided in relation to outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as Leave or Home Travel Concession, when such services are used primarily for personal use or consumption of any employee

While issue of services availed for Outward transportation & Cenvat Credit thereon was resolved, number of services were under dispute for entitlement of Cenvat which were mainly either classified into

a) Prior to manufacture

b) Whether relates to manufacturing activity or otherwise

c) Post manufacture & clearance

Definition of Input services can be divided into three parts

i. used by a provider of output service for providing an output service; or and / or used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products upto the place of removal

ii. inclusive definition - services used in relation to modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal

iii. Exclusive definition - (A) service portion in the execution of a works contract and construction services including service listed under clause (b) of section 66E of the Finance Act (hereinafter referred as specified services) in so far as they are used for -

(a) construction or execution of works contract of a building or a civil structure or a part? thereof; or

(b) laying of foundation or making of structures for support of capital goods, except for the provision of one or more of the specified services; or";

B) services provided by way of renting of a motor vehicle, in so far as they relate to a motor vehicle which is not a capital goods; or

BA) service of general insurance business, servicing, repair and maintenance , in so far as they relate to a motor vehicle which is not a capital goods, except when used by -

(a) a manufacturer of a motor vehicle in respect of a motor vehicle manufactured by such person ; or

(b) an insurance company in respect of a motor vehicle insured or reinsured by such person; or";

C) such as those provided in relation to outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as Leave or Home Travel Concession, when such services are used primarily for personal use or consumption of any employee

Specific activities and activity w.r.t. business were discussed & debated in number of cases therefore disputes were raised by the Department w.r.t. definition input services and entitlement of Cenvat Credit thereon.

It has been held by Hon'ble Larger Bench in case of ABB LTD. Versus COMMISSIONER OF C. EX. & S.T., BANGALORE, 2009 (15) S.T.R. 23 (Tri. - LB); wherein it was stated that the definition of "input service" has to be interpreted in the light of the requirements of business and it cannot be read restrictively so as to confine only upto the factory or upto the depot of manufacturers.and the said decision has been upheld by the Hon'ble High Court of Karnataka (2011 (23) S.T.R. 97 (Kar.))

Moreover, it has been also held in case of Commissioner of C. Ex. & Customs v. Parth Poly Wooven Pvt. Ltd., 2012(25) S.T.R. 4(Guj.), wherein the court has, bearing in mind various judicial pronouncements on the question of interpretation, held that the definition of 'input service' which is coined in the phraseologyof "means and includes" is wide in its expression and includes a large number of services used by the manufacturer. Such services may have been used either directly or indirectly. To qualify for input service, such service should have been used for the manufacture of the final products or in relation to manufacture of final product or even in the clearance of the final product from the place of removal. The expression 'in relation to manufacture' is wider than 'for the purpose of manufacture'.

Further, the decision of the Karnataka High Court in the case of Commr. Of **C. Ex., Bangalore-III v. StanzenToyotetsu India(P) Ltd., 2011(23)S.T.R. 444(Kar.),** wherein the court in the context of the definition of 'input service' as contained in rule 2(l) of the Rules held that test is whether the services utilised by the assessee are for the manufacture of final product. Such services may be utilised directly or indirectly. The services mentioned in the section are only illustrative and not exhaustive. Therefore, when a particular service not mentioned in the definition clause, is utilised by the assessee/manufacturer and service tax paid on such service is claimed as CENVAT credit, the question is as to what are the ingredients that are to be satisfied for availing such credit. If the credit is availed by the manufacturer, then the said service should have been utilised by the manufacturer directly or indirectly in or in relation to the manufacture of final product or used in relation to activities relating to business. If any one of these two tests is satisfied, then such a service falls within the definition of "input service" and the manufacturer is eligible to avail CENVAT credit of the service tax paid on such service.

(v) The decision of Karnataka High Court in the case of **Commr. Of C.Ex. & Service Tax, LTU, Bangalore v. Micro Labs Ltd.,**

2011(24)S.T.R. 272 (Kar) was cited for a similar proposition of law. Reliance was also placed upon the decision of this court in the case of Commissioner of Central Excise v. Excel Crop Care Ltd., 2008(12) S.T.R. 436(Guj.) as well as on an unreported decision of this court in the case of Commissioner of Central Excise v. M/s Ambalal Sarabhai Enterprises Ltd., rendered on 21.4.2011 in Tax Appeal No.433/2010. The decision of the Karnataka High Court in the case of Toyota Kirloskar Motors Pvt. Ltd. v. C.C.E., LTU, Bangalore, 2011(24) S.T.R. 645(Kar) was cited wherein the court held that in the definition of the word "input service", the legislature has used both the words 'means' as well as 'includes' but not 'means and includes'. Therefore, insofar as clauses (i) and (ii) of the definition are concerned, the word used is 'means' and therefore, it is exhaustive. Therefore, after specifically referring to the output service and the input service rendered directly or indirectly in the manufacture of final products and clearance of final products, the inclusive definition sets out various services and further enlarges the scope by saying that all activities relating to business constitutes input service.

The significance of "service received in relation to activity relating to business in the "includes" portion of the said definition would become apparent if it is borne in mind that service tax is a consumption based tax to be borne by the consumer and which cannot be a charge on the business. In this regard, the learned counsel placed reliance upon the following observations of the Supreme Court in the case of All-India Federation of Tax Practitioners and ors v. Union of India, (2007) 7 SCC 527:

"6. At this stage we may refer to the concept of "Value Added Tax (VAT) which is a general tax that applies, in principle, to all commercial activities involving production of goods and provision of services. VAT is a consumption tax as it is borne by the consumer. In the light of what is stated above, it is clear that service tax is a VAT which in turn is destination based consumption tax in the sense that it is on commercial activities and is not a charge on the business but on the consumer..."

Hon'ble High Court of Gujarat in the case of Parth Poly Wooven Pvt. Ltd. (supra) has, after referring to various decisions on the question of interpretation of the said rule as well as interpretation of statutory provisions, held that to qualify for input service, such service should have been used for the manufacture of the final products or in relation to the manufacture of final product or even in the clearance of the final product from the place of removal.

Hon'ble High Court laid down the ratio that if any specific service has to considered as input service when such services are pre-requisite for pre-manufacturing stage & in relation to manufacture and clearance upto the place of removal then cenvat credit is allowed.

Similarly, sub-rule (5) of rule 6 of the Rules specifically provides that credit shall be allowed in respect of the services mentioned therein unless such service is used in the manufacture of exempted goods. The present case undisputedly does not relate to the manufacture of exempted goods.

The question that next arises for consideration is as to whether the provisions of sub-rule (5) of rule 6 of the Rules can be taken into consideration while construing the import of the term 'input service'. It is well settled as a canon of construction that no provision or word in a statute has to be read in isolation. In fact, the statute has to be read as a whole. A statute is an edict of the legislature. It is incumbent on the court to avoid the construction if possible on the language which would render a part of the statute devoid of any meaning or application. In the interpretation of statutes, the courts always presume that the legislature inserted every part thereof for a purpose and the legislative intention is that every part of the statute should have an effect. **(V. Jaggannadha Rao V. State of A.P.,** (2001) 10 SCC 401).

Thus, for the purpose of determining the intention of the legislative or the rule making authority, the statute has to be read as a whole. The above principles would also be applicable to subordinate legislation. Therefore, for the purpose of understanding the scope of the definition of 'input service' it is permissible to look to the provisions of sub-rule (5) of rule 6 which gives an insight of the intention of the rule making body. Sub-rule (5) of rule 6 gives a clear indication that the rule making body intended the services mentioned therein to be input service. Otherwise, there was no necessity for specifically providing that CENVAT credit would be admissible in respect of the services specified therein. If the services mentioned in sub-rule (5) of rule 6 of the Rules are not considered to be 'input services' it would not be possible to reconcile rule 2(l) and sub-rule (5) of rule 6 of the Rules, inasmuch as the rules contemplate entitlement to CENVAT credit on service tax paid on input service. If the services mentioned in sub-rule (5) are not considered as 'input services' one fails to understand how the said provision can be given effect to. It may be noted that rule 3 of the Rules makes provision for CENVAT credit, and, interalia, provides that a manufacturer or producer of final products or a provider of taxable service shall be allowed to take CENVAT credit of the duties, service tax leviable under section 66 of the Finance Act and cesses enumerated thereunder, paid on (ii) any input service received by the manufacturer of final product or by the provider of output services on or after the 10th day of September, 2004. Thus, CENVAT credit is admissible on service tax paid on any input service. If the services mentioned in sub-rule (5) of rule 6 of the Rules are not in the nature of input service, the provisions of sub-rule (5) would be in conflict with the provisions of rule 3 of the Rules which certainly cannot be the intention of the rule making body.

The inclusive part of the definition of 'input service' specifically includes services used in relation to renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, activities relating to business, such as accounting, computer networking etc. Thus, the services rendered by interior decorator, commercial and industrial construction services would squarely fall within the inclusive definition of 'input service'. Such services would, therefore, fall within the ambit of 'input service' as defined under rule 2(l) of the Rules.

Nature o f Services	Observations	Entitlement of Cenvat
Technical Testing and Analysis services	It is in relation to pre-manufacturing & manufacturing	Yes
Courier service	It is in relation to pre-manufacturing & manufacturing.	Yes
Clearing and forwarding service	the clearing and forwarding agent is an agent of the principal. The goods stored by him after clearance from the factory would therefore, be stored on behalf of the principal, and as such the place where such goods are stored by the C & F agent would fall within the purview of sub-clause (iii) of clause (c) of section 4(3) of the Act and as such would be the place of removal.	Yes

Nature o f Services	Observations	Entitlement of Cenvat
Management and Consultancy service	Inclusive definition	Yes
Interior Decorator service,	Inclusive definition for modernization & renovation	Yes
Construction service,	Now specifically excluded,	prior to amendment it was allowed. After amendment w.e.f 01.04.2011 it is in exclusive definition.
Technical Inspection and Certification,	It is in relation to manufacturing and clearance upto the place of removal	Yes
Repairs and maintenance service,	It is in relation to manufacturing and clearance upto the place of removal and also covered in inclusive definition	Yes
Commercial construction service,	Now specifically excluded,	prior to amendment it was allowed. After amendment w.e.f 01.04.2011 it is in exclusive definition.

One of the issue before Hon'ble High Court was whether Commission paid to Foreign Agent are in nature of sale promotion and therefore whether it is covered in definition of input services. Hon'ble High Court held the service rendered by a commission agent is a service received in relation to the assessee's activity relating to business, it may be noted that the includes part of the definition of 'input service' includes "activities relating to the business, such as accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, and security". The words "activities relating to business" are followed by the words "such as". Therefore, the words "such as" must be given some meaning. In **Royal Hatcheries (P) Ltd. v. State of A.P.,** 1994 Supp (1) SCC 429, the Supreme Court held that the words "such as" indicate that what are mentioned thereafter are only illustrative and not exhaustive. Thus, the activities that follow the words "such as" are illustrative of the activities relating to business which are included in the definition of input service and are not exhaustive. Therefore, activities relating to business could also be other than the activities mentioned in the sub-rule. However, that does not mean that every activity related to the business of the assessee would fall within the inclusive part of the definition. For an activity related to the business, it has to be an activity which is analogous to the activities mentioned after the words "such as". What follows the words "such as" is "accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, and security". Thus, what is required to be examined is as to whether the service rendered by commission agents can be said to be an activity which is analogous to any of the said activities. The activity of commission agent, therefore, should bear some similarity to the illustrative activities. In the opinion of this court, none of the illustrative activities, viz., "accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, and security" is in any manner similar to the services rendered by commission agents nor are the same in any manner related to such services. Under the circumstances, though the business activities mentioned in the definition are not exhaustive, the service rendered by the commission agents not being analogous to the activities mentioned in the definition, would not fall within the ambit of the expression "activities relating to business". Consequently, CENVAT credit would not be admissible in respect of the commission paid to foreign agents.

In view of the same the Hon'ble HC could not concur with the contrary view taken by the Punjab and Haryana High Court in Commissioner of Central Excise, Ludhiana v. Ambika Overseas has upheld the Order of Hon'ble Tribunal where it was held that; the activities in respect of which cenvat had been filed, were pre-removal activities and the same could not be held to be post-removal. It was further observed that canvassing Central Excise Appeal No. 43 of 2011 and procuring orders were in relation to 'sales promotion' and wouldfall under sales promotion activities. These activities were, thus, included in the definition of input services and the assessee was entitled to benefit of cenvat credit of service tax. It would be advantageous to notice here the findings recorded by the Tribunal in para 6 of its order which are to the following effect: "I have carefully considered the submissions from both sides. The canvassing and procuring orders are activities preceding removal of the goods by the manufacturers. Without the firm order, the respondents were not expected to remove the goods to a foreign destination.

Therefore, the submission of the learned DR that these activities are post-removal activities cannot be accepted. Further, the definition of the 'input services' includes services used in relation to 'sales promotion' and these activities can rightly be described as sales promotion activities. Sales promotion activities undertaken at given point of time also aims at sales of goods which are to be manufactured and cleared on future. Any advertisement given as a long term impact cannot be treated as post clearance activities and, therefore, sales promotion has been specifically included in the definition of input services. As regards the other contention that the documents on which the respondent has taken the credit is not the prescribed document, it is to be noted that the respondent is not a service provider per se. They are basically the service recipients. They are required to pay service tax as a deemed service provider. Under these Central Excise Appeal No. 43 of 2011 circumstances, the respondents have paid service tax using TR-6 challans and taken credit treating the said documents as documents covered by Rule 9(1) of the Cenvat Credit Rules, 2004. There is nothing irregular about it."

Honble High Court has dismissed the Appeal filed by the Department stating that no substantial question of law arises.

Though there are number of cases of Hon'ble Tribunal are in favour of assessee, Central Excise Department will issue demand notices disallowing cenvat credit based on judgement of Hon'ble High Court of Gujarat in case of CCE, Ahmedabad Vs.M/s Cadila Healthcare Ltd.

To avoid the disputes it is advisable to claim exemption as stated in Notification No. 42/2012-S.T., dated 29-6-2012. Or otherwise claim refund under Notification No. 41/2012-S.T., dated 29-6-2012

1. Valuation of service tax - whether reimbursement of expenditure are includable in taxable value or not? (INTERCONTINENTAL CONSULTANTS AND TECHNOCRATS

PVT LTD Vs UNION OF INDIA & ANR - 2012-TIOL-966-HC-DEL-ST.

Reimbursement of expenditure whether to be included in value of taxable service was always a question of debate since Rule 5 of Service Tax (Determination of Value) Rules 2006, clearly specified that

5. Inclusion in or exclusion from value of certain expenditure or costs

(1) Where any expenditure or costs are incurred by the service provider in the course of providing taxable service, all such expenditure or costs shall be treated as consideration for the taxable service provided or to be provided and shall be included in the value for the purpose of charging service tax on the said service.

(2) Subject to the provisions of sub-rule (1), the expenditure or costs incurred by the service provider as a pure agent of the recipient of service, shall be excluded from the value of the taxable service if all the following conditions are satisfied, namely: -

the service provider acts as a pure agent of the recipient of service when he makes payment to third party for the goods or services procured;

the recipient of service receives and uses the goods or services so procured by the service provider in his capacity as pure agent of the recipient of service;

the recipient of service is liable to make payment to the third party;

the recipient of service authorities the service provider to make payment on his beahfl;

the recipient of service knows that the goods and services for which payment has been made by the service provider shall be provided by the third party;

the payment made by the service provider on behalf of the recipient of service has been separately indicated in the invoice issued by the service provider to the recipient of service;

the service provider recovers from the recipient of service only such amount as has been paid by him to the third party; and

the goods or services procured by the service provider from the third party as a pure agent of the recipient of service are in addition to the services he provides on his own account.

Explanation 1 : For the purposes of sub-rule (2), "pure agent" means a person who -

enters into a contractual agreement with the recipient of service to act as his pure agent to incur expenditure or costs in the course of providing taxable service;

neither intends to hold nor holds any title to the goods or services so procured or provided as pure agent of the recipient of service;

does not use such goods or services so procured; and

receives only the actual amount incurred to procure such goods or services.

Explanation 2 : For the removal of doubts it is clarified that the value of the taxable service is the total amount of consideration consisting of all components of the taxable service and it is immaterial that the details of individual components of the total consideration is indicated separately in the invoice.

Illustration 1 : X contracts with Y, a real estate agent to sell his house and thereupon Y gives an advertisement in television. Y billed X including charges for Television advertisement and paid service tax on the total consideration billed. In such a case, consideration for the service provided is what X pays to Y. Y does not act as an agent behalf of X when obtaining the television advertisement even if the cost of television advertisement is mentioned separately in the invoice issued by X. Advertising service is an input service for the estate agent in order to enable or facilitate him to perform his services as an estate agent.

Illustration 2 : In the course of providing a taxable service, a service provider incurs costs such as traveling expenses, postage, telephone, etc., and may indicate these items separately on the invoice issued to the recipient of service. In such a case, the service provider is not acting as an agent of the recipient of service but procures such inputs or input service on his own account for providing the taxable service. Such expenses do not become reimbursable expenditure merely because they are indicated separately in the invoice issued by the service provider to the recipient of service.

Illustration 3 : A contracts with B, an architect for building a house. During the course of providing the taxable service, B incurs expenses such as telephone charges, air travel tickets, hotel accommodation, etc., to enable him to effectively perform the provision of services to A. In such a case, in whatever form B recovers such expenditure from A, whether as a separately itemised expense or as part of an inclusive overall fee, service tax is payable on the total amount charged by B. Value of the taxable service for charging service tax is what A pays to B.

Illustration 4 : Company X provides a taxable service of rent-a-cab by providing chauffeur-driven cars for overseas visitors. The chauffeur is given a lump sum amount to cover his food and overnight accommodation and any other incidental expenses such as parking fees by the Company X during the tour. At the end of the tour, the chauffeur returns the balance of the amount with a statement of his expenses and the relevant bills. Company X charges these amounts from the recipients of service. The cost incurred by the chauffeur and billed to the recipient of service constitutes part of gross amount charged for the provision of services by the company X."

Hon'ble Larger Bench has held in case of SRI BHAGAVATHY TRADERS Versus COMMISSIONER OF CENTRAL EXCISE, COCHIN, 2011 (24) S.T.R. 290 (Tri. - LB)

Quote

Having analyzed the various decisions cited on behalf of the assessee and on behalf of the department, it would be appropriate to consider the scope of the term "reimbursements" in the context of money realized by a service provider. A person selling the goods to another cannot treat cost of raw materials or the cost of labour or other cost components for inputs services, which went into the manufacture of the said goods as reimbursements. If the buyer enters into a contract for supply of raw materials after negotiating prices from the supplier for the raw materials and the raw materials are received by the manufacturer and the manufacturer pays the amounts to the supplier of raw materials and recovers the same from the buyer, it can certainly be considered as reimbursements. It is to be noted that in such a case, the manufacturer has no role about choosing the source of the materials procured or the price at which the materials procured and the manufacturer is not under any legal or contractual obligation to pay the amount to the supplier. However, if the manufacturer procures raw materials from a source of his choice at a price negotiated between him and supplier of the raw materials and uses the material for manufacture of the final products which he sells, the question of his collecting the cost of raw materials as reimbursement does not arise. The concept of reimbursement will arise only when the person actually paying was under no obligation to pay the amount and he pays the amount on behalf of the buyer of the goods and recovers the said amount from the buyer of the goods.

6.2 Similar is the situation in the transaction between a service provider and the service recipient. Only when the service recipient has an obligation legal or contractual to pay certain amount to any third party and the said amount is paid by the service provider on behalf of the service recipient, the question of reimbursing the expenses incurred on behalf of the recipient shall arise. For example, when rent for premises is sought to be claimed as reimbursement, it has to be seen whether there is an agreement between the landlord of the premises and the service recipient and, therefore, the service recipient is under obligation for paying the rent to the landlord and that the service provider has paid the said amount on behalf of the recipient. The claim for reimbursement of salary to staff, similarly has to be considered as to whether the staff were actually employed by the service recipient at agreed wages and the service recipient was under obligation to pay the salary and it was out of expediency, the provider paid the same and sought reimbursement from the service recipient.

6.3 The various Circulars of the Board relied upon by the learned Advocate for the assessee clearly referred to amounts payable on behalf of the service recipient. For example, the Customs House Agent paying the Customs duty to the Customs Department, paying the charges levied by the Port Trust to the Prot Trust, paying the fee for testing to the Testing Organization are clearly on behalf of the importer/exporter and the same are recoverable by the CHA as reimbursement, that too on actual basis. These Circulars cannot be held to be in support of the claim of the assessee that they can split part of the amount as reimbursable expenses and the rest as towards service charges.

6.4 The claim for reimbursement towards rent for premises, telephone charges, stationery charges, etc. amounts to a claim by the service provider that they can render such services in vacuum. What are costs for inputs services and inputs used in rendering services cannot be treated as reimbursable costs. There is no justification or legal authority to artificially split the cost towards providing services partly as cost of services and the rest as reimbursable expenses.

Unquote

Honble Larger Bench clearly directed that, on the concept of reimbursable expenses, we do not find any conflict in the decisions rendered by the Co-ordinate Benches. Therefore, we return the file to the Referral Bench for decision on merits after looking into account the relevant facts of the case. Therefore issue remained open with Division Benches based on the facts of the case.

It is important to note the decisions as given below

In the case of Naresh Kumar & Co. Pvt. Ltd., the Tribunal after taking into account the provisions of Section 67 of the Act and the provisions of Service Tax (Determination of Value) Rules, 2006, came to the conclusion that the claim for deduction from the gross value of taxable services was not justified.

Decision of the Tribunal in the case of Agrawal Colour Advance Photo System [2010 (19) S.T.R. 181], relied upon by the department, after considering the provisions of Section 67 and the Service Tax Valuation Rules in the context of exemption Notification No. 12/2003-S.T. and Notification No. 1/2006 dated 1-3-2006 held that the gross amount charged would include the value of the goods and materials supplied or provided or used and the value of inputs services used for providing the taxable services. It was also held that though with effect from 18-4-2006, a new Section 67 read with Service Tax Rules, 2006 came into effect, yet the main provision still remains and provides when the provision of service is for a consideration in money, the assessable value shall be gross amount charged by the services provider for such service provided by him.

The Tribunal in the case of Harveen & Co. [2011-TIOL-848-CESTAT-DEL] following the decision in the case of Naresh & Co. has held that if the godown is taken on rent by the service provider for discharging his obligation under the contract, rent for godown will form part of the value even if it is reimbursed separately by the client.

Whereas M/s. INTERCONTINENTAL CONSULTANTS AND TECHNOCRATS PVT LTD has challaned the constitutional validity of Rule 5 Inclusion in or exclusion from value of certain expenditure or costs before Hon'ble Delhi High Court.

Section 67 of the Act as it stood before being substituted by the Finance Act, 2006, w. e. f. 01.05.2006 was as under:

"67. Valuation of taxable services for charging service tax

For the purposes of this Chapter, the value of any taxable service shall be the gross amount charged by the service provider for such provided or to be provided by him.

Explanation 1.- For the removal of doubts, it is hereby declared that the value of a taxable service, as the case may be, includes,-

a) the aggregate of commission or brokerage charges by a broker on the sale or purchase of securities including the commission or brokerage paid by the stock-broker to any sub-broker.

b) the adjustments made by the telegraph authority from any deposits made by the subscriber at the time of application for telephone connection or pager or facsimile or telegraph or telex or for leased circuit;

c) the amount of premium charged by the insurer from the policy holder;

d) the commission received by the air travel agent from the airline;

e) the commission, fee or any other sum received by an actuary, or intermediary or insurance intermediary or insurance agent from the insurer;

f) the reimbursement received by the authorized service station from manufacturer for carrying out any service of nay motor car, light motor vehicle or two wheeled motor vehicle manufactured by such manufacturer; and

g) the commission or any amount received by the rail travel agent from the Railways or the customer,

But does not include-

i) initial deposit made by the subscriber at the time of application for telephone connection or pager or facsimile (FAX) or telephone or telex or for leased circuit;

ii) the cost of unexposed photography film, unrecorded magnetic tape or such other storage devices, if any, sold to the client during the course of providing the service;

iii) the cost of parts or accessories, or consumable such as lubricants and coolants, if any, sold to the customer during the course of service or repair of motor cars, light motor vehicle or two wheeled motor vehicles;

iv) the airfare collected by air travel agent in respect of service provided by him;

v) the rail fare collected by rail travel agent in respect of service provided by him;

vi) the cost of parts or other material, if any, sold to the customer during the course of providing maintenance or repair service;

vii) the cost of parts or other material, if any, sold to the customer during the course of providing erection, commissioning or installation service; and

viii) interest on loan.

Explanation 2 - Where the gross amount charged by a service provider is inclusive of service tax payable, the value of taxable service shall be such amount as with the addition of tax payable, is equal to the gross amount charged.

Explanation 3.- For the removal of doubts, it is hereby declared that the gross amount charged for the taxable service shall include any amount received towards the taxable service before, during or after provision of such service."

The new Section 67 which came into effect from 01.05.2006 is shorter and it is as follows: -

"67. Valuation of taxable services for charging service tax

(1) Subject to the provisions of this Chapter, where service tax is chargeable on any taxable service with reference to its value, then such value shall, -

(i) in a case where the provision of service is for a consideration in money, be the gross amount charged by the service provider for such service provided or to be provided by him;

(ii) in a case where the provision of service is for a consideration not wholly or partly consisting of money, be such amount in money as, with the addition of service tax charged, is equivalent to the consideration;

(iii) in a case where the provision of service is for a consideration which is not ascertainable, be the amount as may be determined in the prescribed manner.

(2) Where the gross amount charged by a service provider, for the service provided or to be provided is inclusive of service tax payable, the value of such taxable service shall be such amount as, with the addition of tax payable, is equal to the gross amount charged.

(3) The gross amount charged for the taxable service shall include any amount received towards the taxable service before, during or after provision of such service.

(4) Subject to the provisions of sub-sections (1), (2) and (3), the value shall be determined in such manner as may be prescribed.

Explanation: For the purpose of this section, -

(a) "consideration" includes any amount that is payable for the taxable services provided or to be provided;

(b) "money" includes any currency, cheque, promissory note, letter of credit, draft, pay order, travelers cheque, money order, postal remittance and other similar instruments but does not include currency that is held for its numismatic value;

(c) "gross amount charged" includes payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes or debit notes and book adjustment, and any amount credited or debited, as the case may be, to any account, whether called "Suspense account" or by any other name, in the books of accounts of a person liable to pay service tax, where the transaction of taxable service is with any associated enterprise."

In view of the same Hon'ble High Court held

Quote

10. The contention of the petitioner that Rule 5(1) of the Rules, in as much as it provides that all expenditure or costs incurred by the service provider in the course of providing the taxable service shall be treated as consideration for the taxable service and shall be included in the value for the purpose of charging service tax goes beyond the mandate of Section 67 merits acceptance. Section 67 as it stood both before 01.05.2006 and after has been set out hereinabove. This section quantifies the charge of service tax provided in Section 66, which is the charging section. Section 67, both before and after 01.05.2006 authorises the determination of the value of the taxable service for the purpose of charging service tax under Section 66 as the gross amount charged by the service provider for such service provided or to be provided by him, in a case where the consideration for the service is money. The underlined words i.e. "for such service" are important in the setting of Section 66 and 67. The charge of service tax under Section 66 is on the value of taxable services. The taxable services are listed in Section 65(105). The service provided by the petitioner falls under clause (g). It is only the value of such service that is to say, the value of the service rendered by the petitioner to NHAI, which is that of a consulting engineer, that can be brought to charge and nothing more. The quantification of the value of the service can therefore never exceed the gross amount charged by the service provider for the service provided by him. Even if the rule has been made under Section 94 of the Act which provides for delegated legislation and authorises the Central Government to make rules by notification in the official gazette, such rules can only be made "for carrying out the provisions of this Chapter" i.e. Chapter V of the Act which provides for the levy, quantification and collection of the service tax. The power to make rules can never exceed or go beyond the section which provides for the charge or collection of the service tax.

11. In the aforesaid backdrop of the basic features of any legislation on tax, we have no hesitation in ruling that Rule 5 (1) which provides for inclusion of the expenditure or costs incurred by the service provider in the course of providing the taxable service in the value for the purpose of charging service tax is ultra vires Section 66 and 67 and travels much beyond the scope of those sections. To that extent it has to be struck down as bad in law. The expenditure or costs incurred by the service provider in the course of providing the taxable service can never be considered as the gross amount charged by the service provider "for such service" provided by him. The illustration 3 given below the Rule amplifies what is meant by sub-rule (1). In the illustration given, the architect who renders the service incurs expenses such as telephone charges, air travel tickets, hotel accommodation, etc. to enable him to effectively perform the services. The illustration, therefore, says that these expenses are to be included in the value of the taxable service. The illustration clearly shows how the boundaries of Section 67 are breached by the Rule. Apart from travelling beyond the scope and mandate of the Section, the Rule may also result in double taxation. If the expenses on air travel tickets are already subject to service tax and is included in the bill, to charge service tax again on the expense would certainly amount to double taxation. It is true that there can be double taxation, but it is equally true that it should be clearly provided for and intended; at any rate, double taxation cannot be enforced by implication. A Constitution Bench of the Supreme court in Jain Brothers v. Union of India, (1970) 77 ITR 107 observed as follows, expounding the principles relating to double taxation: -

"It is not disputed that there can be double taxation if the legislature has distinctly enacted it. It is only when there are general words of taxation and they have to be interpreted, they cannot be so interpreted as to tax the subject twice over to the same tax (vide Channell J. in Stevens v. Durban-Roodepoort Gold Mining Co. Ltd.). The Constitution does not contain any prohibition against double taxation even if it be assumed that such a taxation is involved in the case of a firm and its partners after the amendment of section 23(5) by the Act of 1956. Nor is there any other enactment which interdicts such taxation. It is true that section 3 is the general charging section. Even if section 23(5) provides for the machinery for

collection and recovery of the tax, once the legislature has, in clear terms, indicated that the income of the firm can be taxed in accordance with the Finance Act of 1956 as also the income in the hands of the partners, the distinction between a charging and a machinery section is of no consequence. Both the sections have to be read together and construed harmoniously. It is significant that similar provisions have also been enacted in the Act of 1961. Sections 182 and 183 correspond substantially to section 23(5) except that the old section did not have a provision similar to sub-section (4) of section 182. After 1956, therefore, so far as registered firms are concerned the tax payable by the firm itself has to be assessed and the share of each partner in the income of the firm has to be included in his total income and assessed to tax accordingly. If any double taxation is involved the legislature itself has, in express words, sanctioned it. It is not open to any one thereafter to invoke the general principles that the subject cannot be taxed twice over."

12. There is ample authority for the proposition that the rules cannot override or overreach the provisions of the main enactment. In Central Bank of India v. Their Workmen, AIR 1960 SC 12, a Constitution Bench of the Supreme Court was concerned with the Banking Companies Act, 1949. Section 10 of the Act prohibit the grant of industrial bonus to bank employees in as much as such bonus is remuneration which takes the form of a share in the profits of the banking company. Rule 5 of the Banking Companies Rules, 1949, which were statutory rules, required a banking company to send periodically to the principle office of the Reserve Bank a statement in Form-I showing the remuneration paid during the previous calendar year to officers of the company. In a footnote to the Form, it was stated that remuneration includes salary, house allowance, dearness allowance, bonus, fees and allowances to Directors, etc. The contention was that Rule 5 enlarged the meaning and content of Section 10. The contention was repelled but not on the ground that the rule can validly enlarge the content of the Section, but on the ground that the Section itself used the word "remuneration" in the widest sense. It was however acknowledged by the Court that the Rule cannot go beyond the statute. The relevant observations are: -

"We do not say that a statutory rule can enlarge the meaning of S.10; if a rule goes beyond what the Section contemplates, the rule must yield to the statute. We have, however, pointed out earlier that S.10 itself uses the word "remuneration" in the widest sense, and R.5 and Form-I are to that extent in consonance with the Section."

It has not been suggested in the present case that the words "consideration in money" or "the gross amount charged" themselves have been used in section 67 in the widest sense of including the amounts collected by the service provider for his travel, hotel stay, transportation and other out of pocket expenses. These words have been defined in the Explanation below the section and it is significant that the out of pocket expenses such as travel, hotel stay, transportation etc. have not been included in those expressions.

13. In Babaji Kondaji Garad v. Nasik Merchants Co-operative Bank Ltd., (1984) 2 SCC 50, the Supreme Court (Three-Judge Bench) observed as under: -

"Now if there is any conflict between a statute and the subordinate legislation, it does not require elaborate reasoning to firmly state that the statute prevails over subordinate legislation and the bye-law, if not in conformity with the statute in order to give effect to the statutory provision the Rule or bye-law has to be ignored. The statutory provision has precedence and must be complied with."

14. A learned single Judge of this Court in Devi Datt v. Union of India, AIR 1985 Delhi 195 held that though the language of Rule 102 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955 was wider in its ambit and covered the properties comprised in the compensation bill and entrusted to a managing officer for management, "but obviously the said rule has to be construed in the light of the parent Section and it cannot be construed as enlarging the scope of Section 19 itself. It is a well settled canon of construction that the Rules made under a statute must be treated exactly as if they were in the Act and are of the same effect as if contained in the Act. There is another principle equally fundamental to the rules of construction, namely, that the Rules shall be consistent with the provisions of the Act. Hence, Rule 102 has to be construed in conformity with the scope and ambit of Section 19 and it must be ignored to the extent it appears to be inconsistent with provisions of Section 19". In making these observations, the learned single Judge referred to and followed the judgment of the Supreme Court in State of Uttar Pradesh v. Babu Ram Upadhyay, AIR 1961 SC 751.

15. In the tax jurisprudence the position is no different and it has been held in CIT v. S.Chenniappa Mudaliar, (1969) 74 ITR 41 that if a rule clearly comes into conflict with the main enactment or if there is any repugnancy between the substantive provisions of the Act and the Rules made therein, it is the rule which must give way to the provisions of the Act. In Bimal Chandra Banerjee v. State of M.P. and Ors., (1971) 81 ITR 105, Hegde J. was examining the provisions of the M.P. Excise Act, 1915. The legislature levied excise duty only on those articles which came within the scope of Section 25 of that Act. The rule-making authority, which was the State Government, purported to levy duty on articles which did not fall within the scope of the Section. Holding this act of the State Government to be ultra vires the Section, it was observed as under: -

"No tax can be imposed by any bye-law or rule or regulation unless the statute under which the subordinate legislation is made specially authorises the imposition even if it is assumed that the power to tax can be delegated to the executive. The basis of the statutory power conferred by the statute cannot be transgressed by the rule making authority. A rule making authority has no plenary power. It has to act within the limits of the power granted to it.

16. In CIT, Andhra Pradesh v. Taj Mahal Hotel, (1971) 82 ITR 44 = (2002-TIOL-642-SC-IT)it was held by the Supreme Court that

"the Rules were meant only for the purpose of carrying out the provisions of the Act and they could not take away what was conferred by the Act or whittle down its effect."

17. In Commissioners of Customs and Excise v. Cure and Deeley Ltd., (1961) 3 WLR 788 (QB) the facts were these. Section 33(1) of the Finance Act, 1940 of the United Kingdom enacted that the Commissioners might make regulations providing for any method for which provision appeared to them to be necessary for the purpose of giving effect to the provisions of the Act and of enabling them to discharge the functions. The Commissioners framed Regulation 12 of the Purchase Tax Regulations, 1945. It stated that if any person failed to furnish a return as required by the regulation or furnished an incomplete return, then the Commissioners could determine the amount of tax appearing to them to be due from such person, and demand payment thereof. Such amount determined by the Commissioners was to be deemed to be the proper tax due from such person and the tax had to be paid within 7 days of the demand. The

regulations did not provide for any appeal or for taking up the decision of the Commissioners to any Court of law. The validity of the regulation came up for consideration before the Court. Sachs J., observed as follows: -

"To my mind a Court is bound before reaching a decision on the question whether a regulation is intra vires to examine the nature, objects, and scheme of the piece of legislation as a whole, and in the light of that examination to consider exactly what is the area over which powers are given by the section under which the competent authority is purporting to act."

It was ultimately held by the Court that Regulation 12 was ultra vires on three grounds. One of the grounds, which is relevant for our purpose, was that the regulation rendered the subject liable to pay such tax as the Commissioner believed to be due whereas the charging Section imposed a liability to pay such tax as in law was due.

18. Section 66 levies service tax at a particular rate on the value of taxable services. Section 67 (1) makes the provisions of the section subject to the provisions of Chapter V, which includes Section 66. This is a clear mandate that the value of taxable services for charging service tax has to be in consonance with Section 66 which levies a tax only on the taxable service and nothing else. There is thus in built mechanism to ensure that only the taxable service shall be evaluated under the provisions of 67. Clause (i) of sub-section (1) of Section 67 provides that the value of the taxable service shall be the gross amount charged by the service provider "for such service". Reading Section 66 and Section 67 (1) (i) together and harmoniously, it seems clear to us that in the valuation of the taxable service, nothing more and nothing less than the consideration paid as quid pro quo for the service can be brought to charge. Sub-section (4) of Section 67 which enables the determination of the value of the taxable service "in such manner as may be prescribed" is expressly made subject to the provisions of sub-section (1). The thread which runs through Sections 66, 67 and Section 94, which empowers the Central Government to make rules for carrying out the provisions of Chapter V of the Act is manifest, in the sense that only the service actually provided by the service provider can be valued and assessed to service tax. We are, therefore, undoubtedly of the opinion that Rule 5 (1) of the Rules runs counter and is repugnant to Sections 66 and 67 of the Act and to that extent it is ultra vires. It purports to tax not what is due from the service provider under the charging Section, but it seeks to extract something more from him by including in the valuation of the taxable service the other expenditure and costs which are incurred by the service provider "in the course of providing taxable service". What is brought to charge under the relevant Sections is only the consideration for the taxable service. By including the expenditure and costs, Rule 5(1) goes far beyond the charging provisions and cannot be upheld. It is no answer to say that under sub-section (4) of Section 94 of the Act, every rule framed by the Central Government shall be laid before each House of Parliament and that the House has the power to modify the rule. As pointed out by the Supreme Court in Hukam Chand v. Union of India, AIR 1972 SC 2427: -

"The fact that the rules framed under the Act have to be laid before each House of Parliament would not confer validity on a rule if it is made not in conformity with Section 40 of the Act."

Thus Section 94 (4) does not add any greater force to the Rules than what they ordinarily have as species of subordinate legislation.

Unquote

Though in number of decisions of Hon'ble Tribunal it has been held that reimbursement of expenses should be included in value of taxable services but Hon'ble Larger Bench left question open to the Division Benches based on the facts and there is no any other decision except Delhi High Court where constitutional validity of Rule 5 (1) of said Rule were challenged and Hon'ble High Court has also held that it is unconstitutional.

In view of the same reimbursement of expense cannot be included in value of taxable services. However, considering the experience earlier Government always brought the retrospective amendment and can change the provisions of law.

Therefore, it will be very difficult at this stage to decide whether such reimbursement of expenses should be included or otherwise for determination of value of taxable services. If service availer is availing Cenvat Credit then it is better to pay & avoid the litigation. But law as stands now no reimbursement of expenses shall be included till the law amended. Even though law amended retrospectively then no liability of interest & penalty will arise.

Conclusion -

1. Eligibility of Cenvat Credit on input service to be determined considering following:

a. Prior to manufacture

b. Whether relates to manufacturing activity or otherwise

c. Post manufacture & clearance

d. Specific inclusion

e. Specific exclusion.

Activity of Service	If Yes	Cevat Eligibility
Prior to manufacture	Yes	Yes
Whether relates to manufacturing activity	Yes	Yes
Post manufacture & clearance	Yes	No
Specific inclusion in definition of Input service	Yes	Yes
Specific exclusion in definition of Input service	Yes	No

2. Whether re-imbursement of expenditure to be included in value of taxable service, If service availer is availing Cenvat Credit then it is better to pay & avoid the litigation. But law as stands now no reimbursement of expenses shall be included till the law amended. Even though law amended retrospectively then no liability of interest & penalty will arise. ■

OBITUARY

CMA P. G. Muzumdar (M/9048) from Nagpur, **CMA D. N. Vaze (M/6333)** from Mumbai and **CMA Manoj Prabhakar Shukla** (M/29333) from Nashik passed away. **Mr. Shamsher Chand,** Office Assistant of Kalyan-Ambernath Chapter expired on 1st January 2013.

May the departed souls rest in eternal peace.

Empanelment of Resource Persons

WIRC invites application from academicians, professionals for empanelment as resource persons/ subject expert for the development of Academic Publications.

Subjects – New Syllabus - 2012

Foundation

- Fundamentals of Economics and Management
- Fundamentals of Accounting
- Fundamentals of Laws and Ethics
- Fundamentals of Business Mathematics and Statistics

Intermediate

Group I

- Financial Accounting
- Laws, Ethics and Governance
- Direct Taxation
- Cost Accounting & Financial Management

Group II

- Operation Management and Information Systems
- Cost and Management Accountancy
- Indirect Taxation
- Company Accounts & Audit

Final

Group-III

- Corporate Laws & Compliance
- Advanced Financial Management
- Business Strategy & Strategic Cost Management
- Tax Management & Practice

Group-IV

- Strategic Performance Management
- Corporate Financial Reporting
- Cost and Management Audit
- Financial Analysis & Business Valuation

Requirements:

- Good Communication Skills
- Experience in Teaching
- Willingness to work on any Publication

Members interested can mail Profile mentioning subject of interest, to Chairman WIRC at

admin@icwai-wirc.org

before 28th February 2013

Navi Mumbai Chapter

Announces annual Seminar on Taxation of Services- A New Paradigm

Saturday, 2nd February 2013,
at Navi Mumbai Sports Association,
Sector-1A, Vashi, Navi Mumbai 400 703

Chief Guest	:	**CA Shashikant Shanbag,** *Director Galaxy Surfactants Ltd.*
Guest of Honour:		**CMA Shrenik Shah,** *Chairman WIRC of ICAI*
Speakers	:	**CMA S. S. Gupta,** *Author of book on Service Tax*
		CMA V. S. Datey, *Author of books on Indirect Taxation*
Email	:	seminar@nmcca.in
Website	:	www.nmcca.in
Contact	:	**CMA Vivek Bhalerao,** *Chairman - 9967170329*
		CMA M.K. Narayanaswamy, *Vice Chairman - 9821086523*
		CMA Amit Sarker, *Secretary - 9920252216*

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Inside Quarter Page	Rs. 1,500/-
Banner for the full session	Rs. 15,000/-
Sponsorship for the programme	Rs. 25,000/-

Brochure available at the Chapter's Website : www.nmcca.in

How safe are investors under the new Companies Bill 2012?

***CMA Jagdish Ahuja**,
ahuja.jag@gmail.com

After several abortive attempts to pass through, finally there is light at the end of the tunnel in a way that the new Companies Bill, 2012 has been finally approved by Lok Sabha on 18th Dec 2012. However, it has still to pass through the hurdle of Rajya Sabha which is likely some time during Feb 2013.

A million dollar question "How safe are investors?" has always remained a real cause of concern for our regulators. The year 2009 Satyam debacle is still fresh in our memories and we must know what steps are being taken by regulators for investor protection. The regulators seem to be seriously deliberating on the issues of investors shying away from the stock market and mutual funds. Today, a small investor prefers to park his hard earned savings in avenues such as Gold, Real Estate, Bank FDs, etc. which offers him a safe and attractive return on investment. In comparative terms, stock markets have grossly failed to revitalize investor's confidence. The recent RS 4,156 Cr. IPO from Bharti Infratel which got listed at a discount of 9% to the issue price of RS 220 per share has further sparked a terror amongst small investors who are now wondering if it is safe to invest in initial public offerings.

With the passing of much awaited Companies bill 2012 in Lok Sabha, there seems to be some cheers for investors. There are several investor friendly measures announced in this bill discussed herein below which on passing of the Bill in Rajya Sabha (likely during Feb 2013), may prove to be a New Year gift to investors.

1. The Bill envisages provision of Class Action Suit which is a boon to minority shareholders. Recently, a leading US based Fund named The Children Investment Fund (TCI) converted its legal case with Coal India Ltd (CIL). to a class action suit. As a result, about 650,000 shareholders will now have a stake in the TCI legal battle against the Central Government (CG), the largest shareholder and director of Coal India. The TCI holds 7.3% stake in CIL and claimed over RS 212,250 Cr. from Government of India on behalf of CIL shareholders as compensation. Such class action suits are recognised under the Companies Bill 2012 for the first time.
2. As per the newly introduced provision in the Bill, investors will get an exit option if companies misuse funds or use funds for purposes other than approved purposes. Accordingly, if any company wishes to deploy funds for objects other than those covered in the memorandum of association or wish to alter terms of a contract referred to in the prospectus the same can be achieved by passing a Special Resolution in shareholders meeting and also by giving exit option to dissenting shareholders. The existing Companies Act does not offer such protection to dissenting shareholders. This provision is expected to benefit all categories of investors including retail investors, domestic institutions, FIIS, etc.
3. The Bill prescribes stringent penalties for Auditors if found involved in frauds which provisions are lacking in the existing Companies Act 1956. This is expected to make the auditors more accountable and vigilant. The small investors, who very often rely on auditors remarks before making any investment in companies, would stand to gain. Moreover, the provision of compulsory rotation of auditors after every five year is also expected to deter frauds similar to Satyam Computer fiasco which went unnoticed for years by Auditors.

Conclusion: The other investor friendly measures in the Bill which are likely to benefit investors at large are whistleblower protection, more powers to SFIO to tackle corporate frauds & wrong doings by the companies, introduction of one-man company, etc. All Investors are now eagerly awaiting the passing of new company law in Rajya Sabha post which it will become Act and replace the existing Companies Act, 1956. The regulators seem to have left no stone unturned to restore the confidence of small investors in the stock market. I wish all the readers a very happy and prosperous New Year 2013 and sincerely hope that it will bring many more cheers for all of us including the small investors.

**Jagdish is Mumbai based company secretary in practice and can be reached at ahuja.jag@gmail.com*

CEP REPORT

On 11th December 2012 WIRC organized a Workshop on XBRL at Thane SMF Centre & at Borivali SMF Centres respectively. CMA Ashwin Dalwadi, Past Chairman WIRC was the faculty for the programme.

Large number of members attended the program.

Taxation as a Precursor to Economic Growth

By

K. R. Bhargava

(Author is former Chief Commissioner of Customs and can be reached at kuldiprbhargava@gmail.com)

While addressing probationers of 63rd batch of Indian Customs and Central Excise Service at the Parliament House Hon'ble Finance Minister of India said, 'Taxation should be a precursor to economic growth'. 'Precursor' in Latin means "one who runs in front". Meaning thereby, taxation should be a forerunner to economic growth of the country. This would mean Taxation should be in the driver's seat to drive the economy to significant growth. The Minister's statement seems reasonably sound and correct when viewed in the context of recent past. Just to elaborate the point, i will mention some examples below:

1. The Finance Minister of India announced two economic stimuli to revive the economy when it was hit by worldwide recession in recent past and these stimuli were nothing but concessions in duties and taxes.

2. Besides the example given above, we know that taxes have been used in past to put national, regional economy on rail by the Central Government. Just to quote examples, i may quote that exemption given to goods manufactured in KUTCH, Himachal Pradesh, North East, Jammu and Kashmir etc. under Central Excise Exemption notifications like 32/99, 33/99, 20/07, 56/02, 57/02/,50/03, 39/01 etc. from excise duty also aimed at economic development of these regions. Similarly small scale exemption notification 8/03 CE dated 1.3.2003 aims to support small scale industry by levying lower rate of duty to enable them to compete with large units.

3. In pre Reforms Era, smuggling of gold and silver adversely affected foreign exchange reserves of the country and encouraged other organized economic offences besides cross border money laundering. With the dawn of economic reforms in the country, lowering of non tariff restrictions and imposition of reasonable customs duties cross border smuggling of these commodities stands almost prevented giving much relief to the government. In this context, taxation has been used to create a favourable environment for well being of the economy.

4. And further with the opening of global economy, lowering of tariff and non tariff barriers, duties like anti-dumping and safe-guard are new tools to protect the domestic economies from external economic aggressions.

5. And further to support the statement of the Minister, we may note that Service Tax which is of recent origin in this country has been used as a tool by the Central Government to mobilize additional revenue for overall economic and social development of the nation.

6. And adding to the above, Drawback of customs and excise duties and service tax paid in relation to export goods under Section 75 of the Customs Act has been a policy tool to promote exports and in line with the export policy of government since long. And same is the case in relation to rebate of excise duty paid on exported goods manufactured in India. The accepted guiding principle world over is that taxes are not to be exported.

7. And we may also note and appreciate that whereas reasonable tax rates help in tax compliance and lead to economic growth, unreasonably higher tax rates encourage tax evasion, create unhealthy competition among players and promote black money, parallel economy, corruption, money-laundering etc. It has also been experienced that complex tariff and multiple rates on commodities depending on various factors encourage evasion and non- compliance and make administration difficult. Textile fabrics and Yarns of different type of fibres have been good examples to prove this point. The grant of exemption to textile fabrics from Additional Duty of Excise was also a policy tool to develop textile industry in the country and to check rampant evasion prevailing in the industry at that time.

8. And besides the all above, excise regime has undergone tremendous change in the last two decades and tax payers have seen huge decontrol of rules, procedures and record keeping ensuring less intervention of excise officers and minimum cost of tax payment with an intention that taxation should not be retarding factor towards economic growth. On customs side also, there has been significant initiatives in the same direction.

And hence keeping the above in view, we may conclude that Minister's advice/reminder to the future Commissioners, CBEC Members in the beginning of their career is a good effort to mould them for right jobs so that Indian economy is able to meet the challenges likely to be faced with global economic competition becoming more and more severe. We may, however, note that whatever is stated above is in relation to taxation as a policy to economic growth. However, realization of objectives sought, depends much upon the ways policy is implemented by the taxmen in the field. And often though theoretically taxmen know the intention of law but when it comes to application, it is really difficult many times to see things happening. For instance:

A manufacturer falling in the jurisdiction of Vadodara Central Excise Zone exports a product on payment of excise duty under claim for rebate with full knowledge of jurisdictional excise authorities but Maritime Commissioner refuses to sanction rebate on the ground that product exported is non excisable. Money blocked on this account every month is approximately Rs 30cr and unpaid bill is around Rs 200 cr; obviously, it affects liquidity, increases interest cost and weakens the company financially and thereby, reduces the capacity to carry on business or to expand business. In the given facts and circumstances, we can conclude that Taxation has not been a precursor to economic growth in this case. How? It is well understood that taxes are not to be exported. If excise has been paid on export goods and there is evidence to demonstrate that there is no reason not to grant rebate. Para 8.4 of Chapter 8 of CBEC'S Excise Manual of Supplementary Instructions, 2005 reads as under:

"After satisfying himself that the goods cleared for export under the relevant ARE. 1 applications mentioned in the claim were actually exported, as evident by the original and duplicate copies of ARE.1 duly certified by the Customs and the goods are of "duty paid " character as certified on the triplicate copy of ARE.1received from the jurisdictional Superintendent of Central Excise, the rebate sanctioning authority will sanction the rebate in part or full".

In terms of these provisions, Maritime Commissioner is not expected to travel beyond these provisions but he seems over obsessed with revenue. This obsession among revenue officials at all levels is very common; to some extent, it is good but this should not lead to unreasonable, unjust and illegal orders causing undue financial hardship or disruption to genuine business. This is one example; there can be many to prove 'over obsession'. Central government should run appropriate training programmes to remove "over-obsession with revenue" and to teach the concepts of "revenue interest" and "Public Interest" in their right perspective. Emphasis, in pursuit to revenue targets, needs to be laid on sound methodologies, judicious approach on the principles of natural justice with efficiency for achieving objectives rather than on the philosophy that "everything is fair in love and war." A cardinal principle to learn for decision making officers after following the necessary process with an open mind in a logical manner can be, -"to be in other man's shoes and then ask your conscience whether action proposed/ initiated and consequences thereof on the affected person pinch justly or action proposed is proportionate to the cause of action". If reply is positive; there is no harm in going forward but if it is negative, there is need to make amends in the proposed action keeping in mind various views expressed on the subject. My seniors used to say," You are there because of business and business is not because of you". In brief, you should not create obstructions to genuine business but you should address their reasonable grievances and help them to grow by taking initiatives that reduce their transaction cost and enhance their competitiveness in global market. In a competitive global environment, efficiency in operations, willingness to listen to the other side and problem solving approach of taxmen supported by modern technologies help economies to grow. And, many times bonafide/ genuine firms do contravene rules knowingly and unknowingly and in such situation, these certainly deserve punishment but this has to be proportionate to the gravity of contravention and process of delivery of justice should be fast. And it is important to add that criminals/flyby night operators also creep in the business favourable environment to make fast money by abusing the system, taxmen need to prevent them from their nefarious activities in the interest of genuine businesses, economy and community in general. It is in this overall context, Minister desired that "Taxation should be a precursor to economic growth".

And lastly, as it takes two hands to clap and a political philosopher said, "People get the government which they deserve". Awareness and knowledge on the part of taxpayers is very important. They have to be knowledgeable and demanding in terms of their genuine business needs and best international practices to create a system/environment that enables them to grow and compete well in the international market. Their participation in rule and procedure making is very important and luckily, tax administration in India is already in this mould to large extent. ■

WIRC, MUMBAI ORAL COACHING CLASSES JANUARY-JUNE 2013 BATCH

The following learning centers were inaugurated on Wednesday, 2nd January 2013

Name of the Learning Centre	...	**Inaugurated by**
Sydenham College, Churchgate	...	CMA Debashish Mitra
N.M. College, Vile Parle (W)	...	CMA M.S. Chandani
M.L. Dahanukar College, Vile Parle (E)	...	CMA Vijay Jasuja
St. Francis Institute of Management and Research, Borivali (W).	...	CMA P. A. Sawant
R.J. College, Ghatkopar (W)	...	Dr. S. P. Desai
Mulund College, Mulund (W)	...	CMA Ashish Thatte

CHAPTER NEWS

PIMPRI-CHINCHWAD-AKURDI

CEP SEMINAR ON FILING OF COST AUDIT REPORT AND COMPLIANCE REPORT IN XBRL FORMAT

Chapter of the ICAI organized a seminar on "Filing of Cost Audit Report and Compliance Report in XBRL format" on Friday, Dec 14th 2012 at Chapter Office, Akurdi.

At the outset, CMA Jayant K Hampiholi welcomed all the members to the seminar and gave a brief introduction of CMA Abhijeet Deshmukh who was the Guest Speaker.

The session conducted by CMA Abhijeet Deshmukh was educational and informative. It covered in length the various practical difficulties encountered in Filing of Cost Audit and Compliance Report in XBRL. The entire aspect of Report Filing was covered in great detail.

After the technical session, CMA L D Pawar, Chairman of PCA Chapter gave a brief overview of the progress made by Chapter to the members. He thanked the attendees and CMA Deshmukh for taking valuable time out of their busy schedule to attend the seminar.

The Chapter took the opportunity to felicitate the Guest Speaker, CMA Abhijeet Deshmukh with a bouquet and memento. The seminar was attended by members of the Institute and participants from the industry.

PUNE

A. CEP ON Discussion on Para 11- RECONCILIATION OF **INDIRECT TAXES (for the company as a whole) of Cost Audit Report Rules.**

Pune Chapter of Cost Accountants - PCCA organized a CEP on "Discussion on Para 11- RECONCILIATION OF INDIRECT TAXES (for the company as a whole) of Cost Audit Report Rules "on 11th December, 2012.

CMA Sanjay Bhargave, CCM ICAI and CMA Ashok Nawal, Treasurer WIRC addressed the large audience on this very important subject.

CMA Amit Shahane, introduced and welcomed the speaker and the audience.

The Speakers were felicitated by CMA Amit Shahane

The programme was well received by the members. This was followed by a discussion with the speakers.

The CEP ended with a vote of thanks by CMA Pramod Dube, Chairman, PCCA.

B. CEP ON Service Tax Using Reverse Charge Mechanism

Pune Chapter of Cost Accountants - PCCA - organized a CEP on Service Tax Using Reverse Charge Mechanism on 15th December 2012. CMA Sanjay Bhargave, CCM ICAI and CMA Narhar Nimkar, Past Chairman, PCCA addressed the large audience on this very important subject.

CMA Chaitanya Mohrir, Chairman, Professional Development Committee, PCCA introduced and welcomed the Speaker and the audience. Mr.Shrirang Abhyankar, Hon. Director, PCCA felicitated the Speakers.

Members who were present in large numbers appreciated this CEP as an value add. They also got their queries answered by the Speakers to their satisfaction.

The CEP ended with a vote of thanks by CMA Amit Shahane, Member, Managing Committee, PCCA.

C. Webcast on "Filing of Cost Audit Report and Compliance Report in XBRL format" by ICAI

The Institute of Cost Accountants of India in association with Ministry of Corporate Affairs organizes a Webcast on "Filing of Cost Audit Report and Compliance Report in XBRL format" on Monday, December 17, 2012. Pune Chapter of Cost Accountants arranged the same for its members.

NAVI MUMBAI

Inauguration of Coaching Class

The Institute of Cost Accountants of India Navi Mumbai Chapter has inaugurated their Oral Coaching for Foundation & Intermediate courses at K B Patil College, Vashi on Sunday on 30th Dec 2012.

CMA Pratyush Chaterjee welcomed the students and members of the chapter. The oral coaching at Modern College was inaugurated at the hands of CMA Vivek Bhalerao, Chairman of the chapter,CMA Amit Sarkar - Secretary of the chapter, CMA M.K. Narayanaswamy - Vice Chairman of the chapter, Prof. Tapase, of Modern College, and CMA Prof V. Narayanan Sr. member of the chapter.

CMA Debasish Mitra, Regional Council member and senior member of the chapter was also present at the inauguration.

CMA Rajeev Chaterjee, Managing committee member of the chapter proposed the vote of thanks.

CEP on "Project Finance and Role of CMAs" on 16th Dec 2012

Mr. Kamal Tak, Vice President (Project Finance) of a large public sector bank of India was invited to give a presentation titled "Project Finance and Role of CMAs". CMA Debasish Mitra, Regional Council Member and a senior member of the chapter welcomed the audience and introduced the speaker. The speaker covered the topic elaborately with snippets making the program very interactive and educative. He detailed what is Project Financing, how project financing differs from corporate finance, Mr Kamal Tak shared some live example and discussed how different projects like Power, Road, Cement develops, and also how banks appraise different projects while financing the same.

He elaborated different types of project structure like BOOT (Build, Operate, Own, and Transfer) BOOL (Build, Operate, Own, and Lease) and their modalities. He also discussed the role of LIE (Lender's Independent Engineers) LIA (Lender's Insurance Advisors) and LLC (Lender's Legal Council) to monitor the project finance. He also discussed about different risk factors in project financing and the way how same can be mitigated.

On the whole, the program was very well received by large numbers of members presented at CEP. CMA V. Narayanan, senior member of the chapter proposed the vote of thanks.

Congratulations

Prof. (Dr.) PARESH SHAH, FCMA, (M/7386.) Ph.D. (Finance), and academicals writing author of Oxford University Press and Wiley-India was awarded with following National Awards at Indian International Centre, New Delhi on 8 December, 2012 through the hand of Mr. Anden Konyak, Cabinet Rank & Deputy Commissioner Zunheboto, Govt. of Nagaland.

a. **BHARAT EXCELLENCE AWARD,** for Outstanding Post Doctorate Research in Finance and Accounts area; and

b. **RASHTRYA JEWEL AWARD,** for conglomerating the traditional accounting concept with plus and minus logic of accounts.

CMA Pramod Dube, Chairman PCCA felicitating CMA Ashok Nawal, Treasurer-WIRC, during the CEP organised by Pune Chapter on 11th December 2012.

CMA Pramod Dube, Chairman PCCA felicitating CMA Sanjay Bhargave, CCM ICAI during the CEP organised by Pune Chapter on 15th December 2012.

CMA Sanjay Bhargave, CCM ICAI interacting with the audience during the CEP organised by Pune Chapter on 15th December 2012.

Audience at CEP during the CEP organised by Pune Chapter on 11th December 2012.

BEST CHAPTER AWARD 2012

In Regional Council & Chapters Meet held at New Delhi on 30th December 2012, following Chapter under WIRC received "Best Chapter Award" for the year 2012.

Category : C

INDORE DEWAS

Category C - Indore Dewas Chapter - CMA Shrenik Shah Chairman WIRC receiving the award on behalf of Chapter in Regional Council & Chapters Meet held at New Delhi on 30th December 2012

Category : D

VAPI-DAMAN-SILVASSA

Category D - Vapi-Daman-Silvassa Chapter - CMA B.F. Modi, Chairman of the Chapter receiving the award in Regional Council & Chapters Meet held at New Delhi on 30th December 2012

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CMA Shrenik S Shah Chairman WIRC delivering speech of convocation during RCA convocation held at Jamnagar - RIL Training programme conducted by WIRC.

Mr. S. S. Saini of RIL, CMA Shrenik S Shah Chairman WIRC and recipient of degree during RCA convocation held at Jamnagar - RIL Training Prog. conducted by WIRC.

Mr. Bansal of RIL, CMA P. D. Modh, Coordinator of RCA and a recipient of degree during RCA convocation held at Jamnagar, RIL Training Prog. conducted by WIRC.

Mr. Kamal Tak, Vice President (Project Finance) making presentation on "Project Finance and role of CMAs" during CEP organized by Navi Mumbai Chapter on 16-12-2012

CMA Ashwin Dalwadi delivering lecture during seminar on XBRL organized by WIRC on 11th December 2012 at Borivli SMF Centre.

View of Participants during seminar on XBRL organisd by WIRC on 11th December 2012 at Borivli SMF Centre

To

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