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From the desk of Chairman Contd.....

participation in the relevant CPE programmes conducted by the branch. And I believe that our members in practice should also undergo all these specialization courses so that they can provide value addition to their own jobs.

It is becoming increasingly necessary for our Institute and our profession to open ourselves to the world and to work towards global acceptance of our profession. This is obviously a task that needs to be pursued over the long term, but every step taken carries with it the promise of the future. In this continued reference, we organized a two day workshop on IFRS. The learned faculties gave detailed deliberations and made the subject demystified.

A delegation met the hon'ble chief minister Sh. Ashok Gehlot and had discussion with him on various issues and challenges highlighting the importance of professionals in effective implementation of various Govt. policies and reforms and the overall economic development of the state.

The result of May examinations which came out in July show that the performance of students is improving. But, more is required to be done. A tenable hypothesis is that students are not practice oriented. I would like to emphasize that ours is, after all, a practical profession. And those who are not rigorously practice oriented are unlikely to succeed in the examinations which are also practical oriented. I would therefore like to request all the Principals/senior members to give their focused attention to providing more practical exposure to their articles. After all, academics are no good unless practice succeeds it.

Friends, I am open to suggestions from all our members, therefore, please feel free to give your valuable suggestions, come forward and join hands for the progress and prosperity of the profession. Looking for your support and cooperation,

With warm regards,

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Life is full of new mysteries in it and we are the ones who face them .So are the new laws and amendments coming up with time. Acquaintance with them and thorough knowledge of them is the need of the hour. and we must be well prepared in time. Our institute is taking the lead by organizing various workshops, seminars and study circle meetings to train us and guide us in regard to the new eras turning up. To attend them and take full use of these opportunities lies in our hand. As its always said by a famous saint **THE BIRD IS IN YOUR HANDS.**

Somebody asked a renowned priest that I have a bird in my pocket tell me whether its dead or alive. actually that man came there to test him and thought if he says dead I will let the bird free and if he says alive I will make it dead thus everybody will come to know that he fools.

The priest gave a small smile and replied the man "Sir, the bird is in your hand. Its your wish that it lives or die."

That man was spellbound.

My purpose of sharing this story is simple. Our life is the result of our choice. So always think twice before making it. As we have to face the consequences of our choice and friends believe me this is a science of karmic yoga.

The things that happen in our environment are not sudden as they seem to be, They are the result of our deeds and actions.

As **every action has an equal and opposite reaction**and that's a universal truth we cannot deny.

Friends this truth also works in our personal and professional life. Hence being serious about our life and career is essential. We cannot take it lightly otherwise it will do the same with us.

Now coming towards our branch activities for the month..**Quiz & Elocution Contest for CA students (16.7.10 & 17.7.10)**

Quiz Contest

This contest was held on 16th July 2010. Five teams of 2 CA students viz. A, B, C, D & E were formed and Team D was declared to be the winning team. Mr Ankit Garg, CA final student and Mr Rajat Agrawal, IPCC student were the participants of Team D. CA S S Dhaked was the Quiz Master.

Elocution Contest

This Contest was held on 17th July 2010. 29 students sent the entries , out of them 24 CA students participated . Sh. Madan Lal, Deputy Commissioner, VAT & GST was the Chief Guest. The following Students were declared winners :-

- 1) Ms Nidhi Maheshwari (IPCC) - Winner No. 1
- 2) Ms Garima Garg (CA final) - Winner No. 2
- 3) Mr. Vedit Dangayach (PCC) - Winner No. 3
- 4) Ms Aditi Sharda (PCC) - Winner No. 4

Shri B D Joshi , Retd. IAS , CA Sandeep Maheshwari and Shri S P Paliwal were the judges for the contest.

Seminar on Recent Amendments & Critical Issues in Service Tax (17.7.2010)

The Jaipur Branch organized a Seminar on Recent Amendments & Critical Issues in Service Tax on 17.7.2010 at ICAI Bhawan. Sh. R K Singh, Commissioner, Custom, Central Excise & Service Tax was the Chief Guest & Ms. Simmi Jain, Addl. Commissioner, Custom, Central Excise & Service Tax were the Guest of Honour. CA. Ashok Batra, New Delhi & Sh. S R Meena,

Deputy Commissioner, Custom, Central Excise & Service Tax were the speakers. CA. Ashok Sawa was the convenor of this programme.

Inauguration of GMCS Course Batch No. 60 (19.7.2010)

Batch No. 60 was started from 19.7.2010. CA. O P Agarwal was the chief guest in inauguration. He lighted the lamp and addressed the participants.

Study Circle Meeting on opportunities for CAs in Insurance Sector (24.7.2010)

The Jaipur Branch organized a Study Circle Meeting on Opportunities for CAs in Insurance Sector on 24.7.2010 at ICAI Bhawan. Sh. Tarun Singh was the eminent speaker.

Inauguration of GMCS Course Batch No. 61 (27.7.2010)

Batch No. 61 was started from 27.7.2010. Sh.O P Jain, Income Tax Commissioner was the Chief Guest in Inauguration function. He addressed the participants.

Study Circle Meeting on Real Estate Transactions in IT Laws

The Jaipur Branch organized a Study Circle Meeting on Real Estate Transactions in IT Laws on 31.7.2010 at ICAI Bhawan. CA. Anil Goyal was the eminent speaker. He discussed the various issues to be dealt with while dealing in real estate transaction.

Seminar on Critical Issues in Audit of Housing Finance Companies

The Jaipur Branch organized a Seminar on Critical Issues in Audit of Housing Finance Companies on 7.8.2010 at ICAI Bhawan. Sh. Lalit Kumar, Sh.S K Chada & Ms. Ruchi Singhal were the eminent speakers.

Two Days Workshop on IFRS (14 & 15 .8.2010)

The Institute of Chartered Accountants of India organized a Two Days Workshop at Hotel Ramada, Jaipur on 14-15 August 2010. The workshop was hosted by Jaipur Branch of CIRC of ICAI. Total nine technical sessions were there in the workshop including inaugural session. The workshop was inaugurated by CA. Vijay Garg, Central Council Member, ICAI by lighting the lamp. First of all CA. Vijay Garg, Central Council Member, ICAI welcomed all the participants and told about the importance of IFRS in the coming time. CA. C.L. Yadav and me were also there at the workshop and I gave the Vote of thanks on behalf of jpr branch. The whole workshop was convened by CA. Avdhesh Khandelwal. We had CA. Abhijit bandyopadhyay, Central council member, Kolkata, CA. Archana Bhutani from New Delhi on day 1 as the eminent speakers in the workshop. And on day 2 Dr.Sanjeev Singhal from New Delhi and CA. Yagnesh Desai from Mumbai were the main speakers on the subject.



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THE POWER OF XBRL

Compiled by **CA. GAJANAND GUPTA**
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INTRODUCTION

Imagine all the companies of India submitting their Journal entries daily to the Registrar of Companies, and the RoC then preparing the financial statements of the company at the end of the year!! Yes, in the world of Information technology this is actually possible. Somebody has rightly said, “The only constant in life is change”. This is the upcoming revolutionary change in the area of Financial Reporting, called “XBRL”.

XBRL (eXtensible Business Reporting Language) is a type of computer language based on XML (Extensible Mark-up Language). It was developed and promoted by “XBRL International” – a non-profit consortium of about 450 companies, government agencies and organizations. Now it is freely available all over the world.

XBRL is a type of language used to define the financial data. It defines the transaction amounts and related data so that computer can understand its type, its usage and its relation with other elements, thereby automatically providing the appropriate adjustments, treatments and then disclosing it in the financial statements. It uses “tags” for each element so that it could be converted into machine readable format. For example, if a data relating to an expense like salary is to be defined, it is written as <Salary>6000</Salary>, thereby making the use of tags. Here, 6000 represents a transaction.

XBRL has the ability to present the financial statements in various formats from all over the world. For example, they could be presented in accordance with Indian Accounting Standards (ASs) or just click and the financial statements are in accordance with US GAAP, or just click and the financial statements are in conformity to the IFRS. Thus, XBRL can be viewed as a far better analysis and presentation tool which will benefit both the company presenting the data and the various users.

WORKING OF XBRL

In XBRL each unique element is tagged according to a pre-defined set of rules, assigning properties to the data elements. It defines the various properties of each element like its balance – debit or credit; units like Rs., shares, numbers; the type of item – asset/ liability/ revenue/ cost, etc.

All the elements with their properties and

definitions are arranged in a file called “Taxonomy”. They are like dictionaries used by XBRL. Taxonomy also contains the relationships among the different data elements. Further, they also provide references to the various standards, laws and regulations on which they are based. They provide an easy and interactive way to work with XBRL data.



Various taxonomies have been developed by the world organizations like the US Financial Reporting Taxonomy Framework, the IFRS Taxonomy developed by the International Accounting Standards Committee Foundation (IASC), XBRL Taxonomy for Commercial and Industrial Companies developed by ICAI, etc. These taxonomies provide a ready framework for the organizations to work on and create XBRL compliant documents. Further, 'XBRL Tools' are required to create, edit and view the XBRL documents alongwith the taxonomy. These tools are like softwares which are distributed online by many organisations like Altova, Corefiling, etc.

BENEFITS OF XBRL

With the inherent technological benefits of speed, accuracy and reliability, it has many additional benefits. Some of these may be listed as below:-

- 1) **Cost Reduction** - XBRL can work as an efficient tool to reduce costs – both for the company presenting the financial and business information in XBRL format, and for the users of those statements. For the company it will play a vital role by doing away with the need to process the data again and again for preparing multiple reports. For example, a company needs to process data differently for filing returns to stock exchanges, registrars, investors, government, and public at large or for the analysis of management. With XBRL, all this is a matter of seconds if the information is coded in that format, thereby substantially reducing the costs to the company. Also, the online filing of various returns to registrars and other departments will become easier and a standard form could be used for that purpose. For the users of financial statements, it will

help by providing them an additional advantage of viewing the company's reports from different angles and compare the results of various enterprises efficiently and cost effectively.

- 2) **Fast and Reliable** – It helps in a great extent to speed up the preparation and communication of the financial data. Also, the government departments and agencies can monitor the current activities of the business concerns and can take faster actions. The use of networking technologies like the internet can help in the fast and reliable communication and utilization of the financial data. XBRL can also help in minimizing the errors while processing and preparing reports for different purposes. Although the errors at the data entry level cannot be completely discarded, but it could be minimized to a very low level.
- 3) **Increased Business Transparency** - Further, it provides a platform to increase the transparency of the business operations and helps to a great extent in minimizing the misrepresentations and frauds. Also, it provides reporting formats for new areas of concerns like the 'Sustainability Reporting' and 'Social Responsibility Reporting'. This will surely enhance the users knowledge about the way of business carried on by the enterprises, and thus will help them to take informed decisions.
- 4) **Better Analysis** - XBRL creates an interactive data. Detailed properties are given to each element thereby utilising the data as per the users' needs and requirements. By the use of various interactively available tools, the data of various entities can be compared and meaningful and correct decisions could be arrived at.
- 5) **Benefits to Investors** – XBRL allows a simple and easy understanding of the reports as they are tagged at the basic elemental level. Also, the investors will be benefited by timely reports made available to them in a XBRL format. It can be ensured that financial information is readily available to the capital markets, as the decisions of investors are substantially affected by the reportings of the companies.
- 6) **Extendable Features** - With XBRL's extendable features, the company specific

items can also be added, thereby providing a flexible framework to work upon. This will enable the utilization of XBRL documents in all types of organizations ranging from small proprietorship concerns to large multi-national companies.

- 7) **Internal Reporting** - It will also benefit the internal financial reporting as the data can be easily analysed and converted into desired reports for decision making. It could provide a better interface to work with decision making and analysis softwares like the 'Decision Support Systems (DSS)'.

Thus, XBRL can drastically change the way the business reports are presented around the world.

RECENT DEVELOPMENTS AROUND THE WORLD

XBRL is spreading rapidly across the world. The need for better presentation of financial statements paved the way to the development of XBRL in many countries like United States, Australia, Belgium, France, South Africa, Canada and many others. About 118 countries all over the world are working on it and most of them have decided to adopt it for their domestic companies. XBRL proves to be of great benefit in countries who have adopted International Financial Reporting Standards (IFRS) as it provides a very interactive framework while working with IFRS based taxonomies.

Many countries like China and Japan have already made it mandatory for their listed companies to file the financial statements in XBRL format. Apart from these, there are many other countries that have acknowledged the benefits of XBRL reporting and are working for the development of the taxonomies relevant to their specific economic conditions and regulatory framework.

The XBRL International group has framed countrywise jurisdictions to work upon the promotion and development of XBRL in their respective areas. Some jurisdictions are also established at the international bodies to promote the development of XBRL. The jurisdictions all over the world have achieved a mass group of memberships and their numbers are rapidly increasing. These jurisdictions also develop the taxonomies for different purposes based on the local regulations.

DEVELOPMENTS IN INDIA

XBRL is rapidly gaining popularity in India. With the efforts and the developments by ICAI, XBRL is

soon becoming a reality. ICAI has taken many initiatives for the promotion of XBRL ranging from the launch of the XBRL website – <http://www.xbrl.org/in> to the development of general purpose financial reporting XBRL Taxonomy for Commercial and Industrial Companies. ICAI has also issued an exposure draft of XBRL Banking Taxonomy covering the financial statements of banks. Also, ICAI has constituted a Group on XBRL comprising many bodies like SEBI, RBI, IRDA, NSE, BSE and others alongwith the framing of provisional “XBRL India” Jurisdiction to promote and develop it in India. This jurisdiction will greatly help India by providing the technical knowledge of well known international experts. It will also be beneficial by giving an opportunity to collaborate with other countries that have already developed and implemented such systems in their areas.

RBI has also launched the Basel II XBRL reporting system way back in October 2008 which recognizes and proves the need of XBRL filings in the changing scenario. Further, the BSE and NSE have already recommended XBRL reporting to the listed companies.

There is still a long way to go in converting all the financial reporting in XBRL format, still the development in India is remarkable.

HURDLES IN IMPLEMENTATION

As a new technological change, there may be many implementation difficulties. Also, the adaptation by accounting professionals and companies may prove to be initially cumbersome. Some of the points that might come in the way may be discussed as follows:-

- 1) **Cost Considerations** – The initial implementation of the XBRL and the development of financial statements in that format may prove to be a costly affair. But the ongoing maintenance cost of XBRL is very low. As far as the overall long term costs are considered it is cost effective.
- 2) **Security** – The security of data is the major risk factor. As all the data is electronically managed, there are more chances of data corruption, misutilisation by unauthorized users and virus attacks. These factors have to be seriously addressed.
- 3) **Technical Knowledge** – As XBRL is based on XML, a profound knowledge of its programming and tagging system is required to develop the financial data into XBRL format.

Although, the process is a bit easier by the use of user-friendly taxonomies, still an initial knowledge is required for correct recording of the data.

- 4) **Audit of Accounts** – The auditing of the financial statements will have to be more detailed as the audit trail will be lost in the digital environment. Also, the auditors have to upgrade their knowledge and find special techniques to scrutinize the financial data of XBRL format. Although XBRL provides many tools for data analysis, still a deep knowledge of their specifications is required for auditing purposes.
- 5) **Others** – Apart from the above issues, a standard format for financial reporting is required. As XBRL provides various ways of combining and presenting the data, only those taxonomies should be used which follows the current applicable laws and standards like The Companies Act, 1956 and the Accounting Standards (AS) issued by ICAI.

In spite of the above listed difficulties, the implementation of XBRL reporting system cannot be ruled out. It may result in low efficiency and effectiveness in the initial years, but the great benefits of XBRL in the long run nullifies the difficulties and costs involved.

CONCLUSION

XBRL is the need of the hour. It can very well overcome the limitations of traditional reporting systems, thereby mitigating to some extent the occurrence of financial crises in a country. By providing an opportunity of Environmental and Sustainability Reporting, new avenues are opened in the field of transparent reporting. Also, XBRL taxonomies are made differently keeping in view the different regulatory requirements of the countries thereby ensuring greater compliance and minimises the chance of errors. Further, by providing interfaces in different languages the taxonomies can be well utilised by people of different areas.

It is stretching out its arms all over the world and India is no exception. With the power of digital computing, XBRL can transform the way companies do business, grow and prosper. It will pave the way to realize the dream of a 'Developed India'.



AUDIT DOCUMENTATION

Compiled by **CA. S S Dhaked**
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Documentation is the essential aspect of the audit. It is the essence of the audit conducted by the auditor. In the audit, the auditor has to frame his opinion on the financial statement of the auditee whether it is Unqualified, qualified, Adverse or Disclaimer. The opinion should be properly documented and it should be based on proper documentation.

In the era of Peer Review and Quality review the documentation becomes most important aspect of the audit as in the Peer review audit and quality review audit it is checked that whether the auditor has performed his obligation according to the Accounting and Auditing Standards. So, the documentation should be made according to the standards of Peer review and quality review.

What is the difference between the Tax Audit U/s 44AB of Income tax and other statutory audit? The difference is that in case of other statutory audit the auditor is certifying the true and fair view of the financial statements while in case of Tax audit U/s 44AB of the Income tax Act, 1961 the auditor has to give true and correct information in form 3CD.

Whatever information is given by us in Form 3CD should be true and correct whether it is related to payment of specified person U/s 40A 2(b), Quantitative details, Loan or deposit accepted or repaid according to Section 269SS and 269T or any other information. If the information given in Form 3CD is not true and correct then it can be treated as professional misconduct.

Hence we should take care at the time of giving information in the form 3CD. In my opinion whatever details are provided in the Form 3CD should be properly documented and the information should be given on the basis of the documentation only. No detail in the form 3CD should be given without proper documentation.

It the time of EDP environment. The auditee is maintaining his books of account on computer system

and rarely auditees are maintaining their books of accounts manually. We have to conduct the audit in EDP environment and the role of documentation becomes more in such environment.



We have **SA 230 on Documentation** in which following details are outlined:

- (A) What is documentation?
- (B) Why is it necessary?
- (C) How is it done?
- (D) What type of documents is required to be prepared /maintained?

(A) What is documentation?

Documentation basically includes working papers. These include two kinds of working papers:

1. Prepared by auditor during the course of audit.
2. Obtained by him from the client and external parties.

Such papers are retained by him in connection with his audit.

During the process of audit, the auditor has to collect various evidences which form the basis of his opinion.

These evidences are in form of documents which also are the proof of due care taken by the auditor.

Such collection, preparation and retention of documents during the course of audit is called documentation.

(B) Why is it Necessary?

Audit is a process and that process is a well-defined methodology which includes distinct phases.

These phases can be classified as:

*Planning the audit.

*Conducting the audit.

*Reporting the finding/forming opinion.

The planning begins with process of obtaining the knowledge of client's business, his accounting policies, Internal Control Systems etc which should be documented by the auditor and audit plan should be made on the basis of abovementioned information obtained by the auditor.

On the basis of audit plan audit should be conducted. If there is any change required in the audit plan during the course of audit that should also be properly documented.

Whatever information is gathered by the auditor before or during the course of audit should be documented for the following reasons.

- *Serves as evidence that you have undertaken the above exercise.
- *To effectively communicate it to the junior staff.
- *For future reference.
- * For framing the opinion on financial statements.

(C) How is it done ?

Documentation is an art. All the essential documents prepared and obtained by the auditor should be kept in proper manner. The documents should be designed properly because it improves the audit quality.

They should be designed and prepared in such a way that the opinion can be made by the auditor on the basis of documents and auditor need not to refer the books of accounts every time for framing his opinion. Further the document should be prepared in such a manner that they can be used for future reference.

The audit documents should be kept by the auditor in either (i) Permanent Audit file or (ii) Current audit file according to the nature of document.

Though the documentation may vary from audit to audit depending upon the judgment of auditor and nature and size of business, there are certain documents which should invariably be maintained or prepared or obtained in all audits irrespective of circumstances and should be kept in the audit file. These documents are as under:

1. Appointment letter

The appointment letter by the auditee is the first document which should be available in the file. Normally appointment letter issued by the auditee is for the audit of a particular financial year. Hence, the auditor should take the appointment letter every year. Without appointment letter the auditor should not take up the audit.

2. Communication with previous auditor

If the auditor is appointed in place of previous auditor. Then it is the duty of Incoming auditor the he should communicate with the previous auditor. The communication should be in accordance with Chartered Accountant Regulation Act and guidelines issued by the ICAI. The Incoming auditor should not take up the audit without taking the NOC from the previous auditor. However, if sufficient time has been given by the Incoming auditor to previous auditor and still the previous auditor is not responding then he can take up the audit. All correspondence with the previous auditor or any other fact should be documented and kept in the file.

3. Engagement Letter

When the auditor agree to conduct the audit he should issue engagement letter to the Auditee describing the terms and condition of the contract between the client and

himself. The engagement letter should not be issued every year. However, there is change in the engagement terms then a fresh engagement letter should be issued by the auditor. The engagement letter should be sent to the auditee before the commencement of audit. The engagement letter should contain the following matters:

- (i) Objective of audit
- (ii) Management Responsibility regarding financial statement
- (iii) Scope of Audit
- (iv) Inherent limitations of audit like its test checking nature etc.
- (v) Access to books of accounts
- (vi) Fact that audit process is subject to peer review.]
- (vii) Request for acknowledging the letter of engagement
- (viii) Basis of fee etc.

4. Management Representation

As per SA 580 on Representation by Management auditor should obtain evidence from management in regard to the matters and areas where the auditor is not able to obtain sufficient appropriate evidences i.e. cash certificate, physical verification of stock etc. The representation should be given by the management in writing. The Management representation should be obtained every year. It may include the following matters

1. Management responsibility that the financial statement prepared according to the applicable financial reporting framework i.e. Indian GAAP.
2. Cash certificate
3. Bank Reconciliation certificate
4. Physical verification of stock
5. List of Relative of the concern
6. Detail about Internal control exercised in the entity
7. Certificate relating to the Loan or

deposit accepted or repaid in cash for more than Rs. 20000/-

8. Statement relating to the physical verification of fixed asset and any discrepancies found
9. Details related to any Contingent liability
10. Details about bad and doubtful debts i.e. Current assets are good and recoverable/adjustable
11. Management Representation letter should be signed by proprietor/ partner/ Director/ trustees, as the case may be

Audit Programme

After obtaining the knowledge of the auditee's business, nature and size of auditee's business, internal control and checks deployed in the auditee's business the auditor should form an Audit programme. Audit programme is the most important document because the entire audit is being conducted according to the audit programme.

The Audit programme should include the area of audit and extent of checking. Further it should also include the person who will conduct the audit and who will review the audit.

The audit programme should be flexible so that the same can be modified during the course of audit according to the need of audit.

5. Audit Note Book and Audit Working Paper

Audit Note book and working paper are very- very important documents for the audit because the audit note book and working paper are very useful in framing the opinion of the auditor on the financial statement of the auditee.

The audit note book and audit working paper should include following contents:

- (i) List of books of accounts maintained
- (ii) List of authorities and significant employees
- (iii) Summary of accounting system
- (iv) Instruction given by the senior audit staff
- (v) Details of Internal controls
- (vi) Statutory Provisions applicable on the auditee and there implementation by the auditee
- (vii) Quarry raised during the course of audit and their resolution. If there are unresolved quarry the reason for the same
- (viii) Trial balance etc.

6. Books of account kept by the auditee on computer System

Now a day the books of accounts are maintained by the auditee on computer system. The above fact should be documented by the auditor and should be kept in the audit file. After completing the audit the hard copy of the books of accounts should invariably be stamped by the auditor as in most of cases the auditee's are not keeping the hard copy by saying that all books of accounts are saved in computer system.

I mentioned about the Permanent audit file and Current audit file. Details of the documents which are required to be kept in the above files are as under:

Permanent Audit File

1. Legal Documents like, MOA, AOA, Partnership deed etc
2. Letter of Engagement
3. Communication with previous

auditor.

4. Copies of Previous Audit and Accounting reports
5. Summary of minutes of meeting
6. Details of Internal Control Systems
7. Significant ratios and trends
8. Accounting policies adopted by the auditee
9. PAN, TIN etc

Current Audit File

In this file the information relating the current period are stored. Such information are not relevant for coming years. It includes:

1. Correspondence for annual reappointment
2. Audit programme and plan
3. Audit Note book and working paper
4. Details of work done by the audit staff
5. Copies of communication with experts, other auditors and other parties
6. Management representation letter
7. Audit report
8. Copies of Sales tax Return/ challan/ assessment orders
9. Copies of Service tax return and challan, if any
10. Copy of Internal Audit Report, if any

At last, International Financial Reporting System (IFRS) is going to be implemented from 01.04.2011 and documentation will have utmost importance in IFRS. If we want to compete with big firms then certainly we have to improve our documentation quality as without proper documentation we will not be in a position to retain our own client.



PROVISIONS OF DTAA- A FRESHER'S GUIDE

Compiled by **CA. Naman Shrimal**
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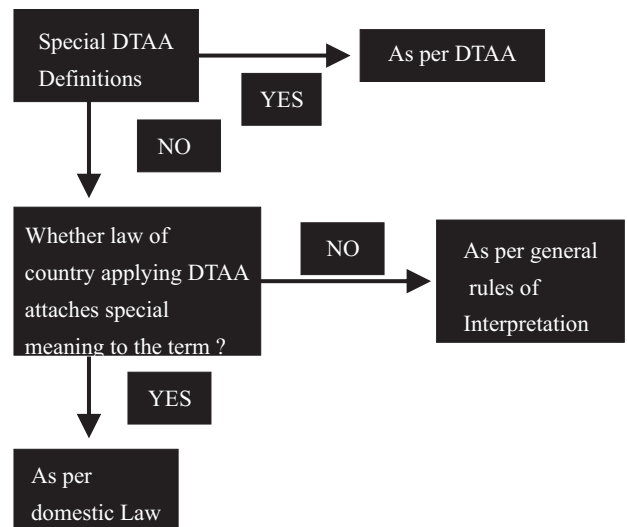
In my last article I gave a brief idea about the genesis of International Tax and DTAA. Now I am moving forward by explaining in brief different provisions of DTAA. In this issue I am discussing first five articles of DTAA. So let's go ahead.....



Article 1- Scope of the convention-Persons covered- This article along with Article 2 determines the scope of DTAA. A tax treaty does not apply to all the transactions between all the persons at all the times. A given treaty has a limited scope, in terms of taxes covered, taxpayers covered, territory covered etc.. It shall be noted that a Permanent Establishment is not person and hence, it does not enjoy benefits under a DTAA.

Article 2- Taxes Covered- This article lists the taxes which are covered by the scope of the agreement. The DTAA applies to taxes on income and capital. It comprises taxes assessed directly and also tax which are withheld at their "source". The DTAA engulfs in its scope only such taxes which are based on, or derived from Government fiscal sovereignty. All non-government taxes, dues, duties etc. are not covered. Also indirect taxes like, excise duty, sales tax, VAT, GST are not covered by the DTAA. Penalties and interest for late payment or non-payment of taxes are also not treated as taxes.

Article 3- General Definitions- This article defines several general terms /concepts that are necessary for the understanding and application of the DTAA. Commonly used terms defined under general definitions are tax, fiscal year, person, company, government, enterprise of the contracting/ other contracting states, competent authority, etc. Methodology for interpretation of a term can be depicted as below

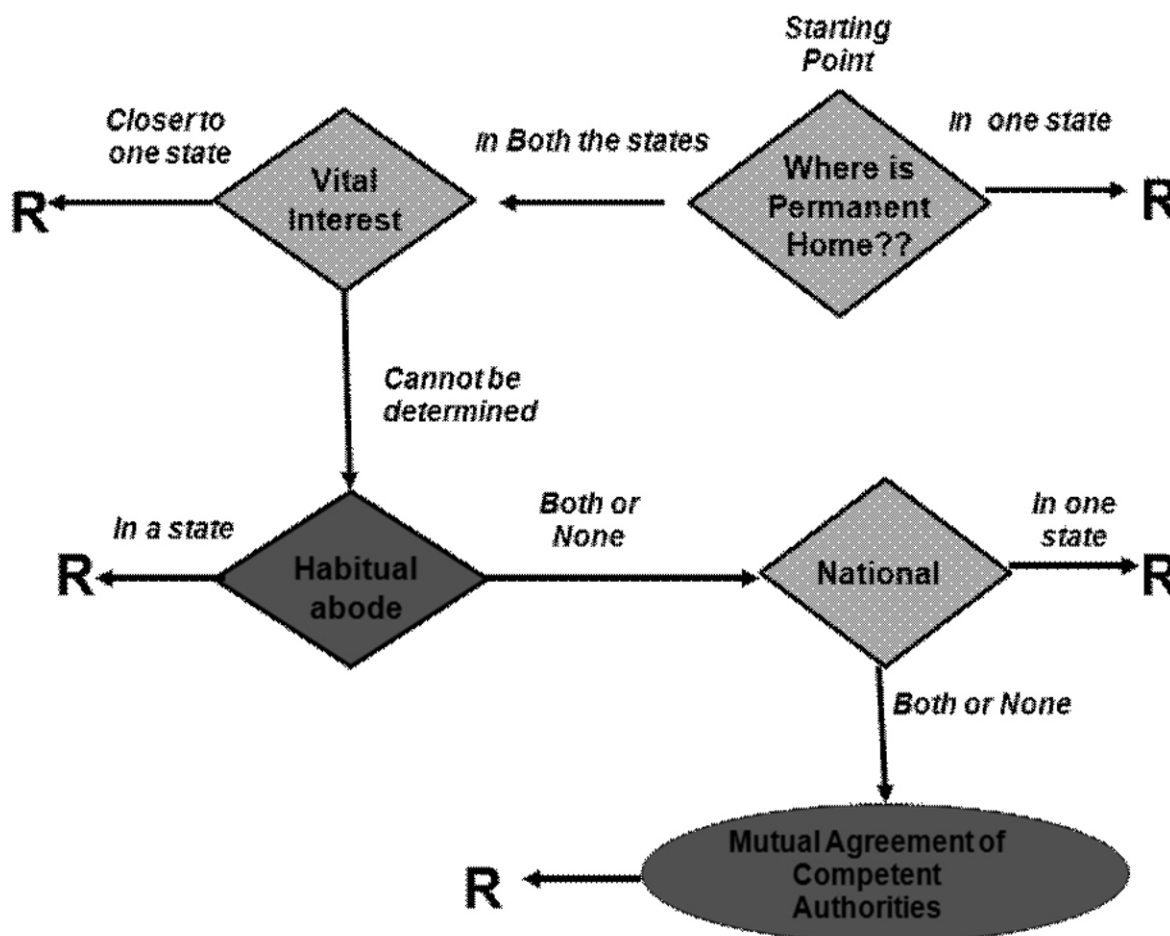


Article 4- Residence- The article has a significant importance as DTAA applies to persons who are residents of one or both of the countries. The article describes the conditions, when a person will be considered as Resident of a contracting state. It generally refers to a person who, under the law of that state, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of similar nature.

Important point to note is that the article refers to a situation whereby a person is taxable qua his residence and not qua his source of income.

Tiebreaker rule-

In case an **individual**, if by reason of earlier paragraph, becomes resident of both the state, then the following tiebreaker rule will be applied to determine his Tax residency.



1) In case of **Company**-In which its place of effective management (POEM) is situated. The Income tax act does not deal with the concept of POEM, but revised Direct Tax Code introduces this concept as follows-

- a) The place where Board of Directors (BOD)/Executive Director (ED) of the company make decisions;
- b) In a case where the board of directors routinely approve the commercial and strategic decisions made by the executive directors or officers of the company, the place where such executive directors or officers of the company perform their functions.

business of an enterprise is wholly or partly carried on. This is what is commonly referred as Basic Rule PE. The article provides a positive list of places which are prima facie construed as PE. These includes (not an exhaustive list)

- 1) a place of management
- 2) a branch
- 3) an office
- 4) a factory/workshop
- 5) a warehouse
- 6) a mine, quarry, oil/gas rig or other place of extraction of natural resources
- 7) sales outlet/order collection center

The article also encapsulates a negative list, which consist of places which are specifically exempted to be construed as a PE. The list includes –

- 1) use of facilities solely for storage of goods etc. for example warehouse

Article 5 – Permanent Establishment (PE)

PE means a fixed place of business through which the

- 2) maintenance of stock of goods solely for storage or display
- 3) maintenance of stock of goods solely for the purpose of processing by another enterprise
- 4) a fixed place maintained only for the purpose of purchasing goods etc. or collecting information
- 5) a fixed place maintained solely for the purpose of advertising, scientific research, supply of information or similar activities which have a preparatory or auxiliary character for the enterprise

Some general conditions

- a) PE exists only if place is there at the disposal of the enterprise i.e. formal legal right to use such place is not necessary, even if the occupation is illegal, the company should have the place at its disposal
- b) There has to be a business connection to construe a place as a PE. Mere presence at a place does not make the place as PE.
- c) As the nomenclature indicates, the place of business should have certain degree of permanence. A place, which is purely of temporary nature, would not constitute a PE. The term “permanence” should understand as continuing for an indefinite period and not something that would continue or last forever.
- d) The place of business must be fixed - i.e. there must be a certain degree of permanence. However movable place of business for e.g. a petroleum drilling rig may constitute a PE even if it is moved rather frequently from one location to another.
- e) A place of business could exist even if no employees are employed there. For e.g. any equipment such as server, telephone exchanges etc. which is installed and which can function without the presence of any employee could constitute a PE.

some kind of activities which together with establishment would constitute a PE

1) Agency PE- Even when an enterprise does not have its own establishment, it could have a PE through an agent provided certain test is satisfied. These tests are mentioned below

- a) Presence of an Agent- should be resident of source country
- b) Authority to conclude contract- Agent's action should bind the enterprise
- c) Habitual maintenance, and delivery, of merchandise – should not be on exceptional basis

2) Service PE- If an enterprise furnishes services (including consultancy services) through employees or other personnel engaged by it for furnishing such services, a PE would come into existence if such activities continue for specified period. (generally 6 months)

3) Construction PE – If an enterprise has a building site, a construction, assembly or installation project or supervisory activities in connection therewith, a PE would come into existence if such site, project or activities continue for more than specified period. (generally 6 months)



Specific types of PE-Article specifically includes

व्यक्तित्व विकास के सात सोपान

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प्रेरक वक्ता एवं जीवन-कौशल प्रशिक्षक

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व्यक्तित्व की विकास-यात्रा स्वयं के श्रृंगार और स्वयं के स्वीकार से प्रारम्भ होती है। ज्ञान का सर्वोच्च बिन्दु आत्म-ज्ञान है और आत्म-ज्ञान का पहला कदम आत्म-परिचय है। स्वयं को जानना सृष्टि को जानने से भी अधिक कठिन है। इस बात को स्पष्ट करने के लिए ही मेरी पंक्तियाँ हैं:-

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ईश्वर ने प्रत्येक व्यक्ति को विलक्षण बनाया है। स्वयं में मौजूद इस विलक्षणता को पहचानना, उसे अभिव्यक्त करना तथा अपनी इस विशिष्टता से अपने व्यक्तित्व को प्रभावशाली बनाना ही जीवन की सार्थकता है।

व्यक्तियों, वस्तुओं और परिस्थितियों का मूल्यांकन करने में निपुण व्यक्ति स्वयं का सही मूल्यांकन नहीं कर पाता। कैसी विडम्बना है कि प्रत्येक आदमी स्वयं को स्वतंत्र समझता है लेकिन आदमी की स्वयं की प्रसन्नता और अप्रसन्नता भी दूसरों की प्रतिक्रियाओं पर निर्भर है। दूसरों के शब्द और व्यवहार से ही हम प्रसन्न या अप्रसन्न होते रहते हैं। जीवन को प्रतियोगिता समझते हुये तथा दूसरों से स्वयं की निरन्तर तुलना करते हुये स्वयं के प्रति नकारात्मक दृष्टिकोण अपना लेते हैं। thou eɪ i fr; kfxrk gšexj thou i fr; kfxrk ugha gʂ

हमारे व्यक्तित्व का हमारी आत्म-छवि से गहरा संबंध है। हम अपने बारे में जो सोचते हैं, स्वयं के आईने में स्वयं की जो तस्वीर देखते हैं हम अपने जीवन में वैसे ही बन जाता है। इस सिद्धान्त को मैं अपने इन शब्दों में प्रकट करता रहता हूँ:-

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vi uh t; &ijkt; ds fy, [kn ftEenkj vknehA

आत्म-छवि से तात्पर्य है स्वयं के बारे में स्वयं की दृष्टि। स्वयं के प्रति हीन भावना व्यक्ति को निराशा के रसातल में पहुंचा देती है। किसी भी प्रतियोगिता में व्यक्ति का मुकाबला स्वयं से ही होता है। एडमण्ड हिलैरी और शेरपा तेनजिंग ने 29 मई 1953 को माउन्ट एवरेस्ट पर विजय प्राप्त की थी। विश्व के सर्वोच्च शिखर पर कदम रखने वाले वे दुनिया के पहले इन्सान थे। अपने पर्वतारोहण अभियान पर एडमण्ड हिलैरी की एक पुस्तक "हाई एडवेंचर" (High Adventure) 1955 में प्रकाशित हुई। उस पुस्तक का एक वाक्य है- It is not the Mountain we Conquer but ourselves -'ge i oɪr dks fot; ugha dʒrj vi us vki dks fot; dʒrs gʂ* यह एक अकेला वाक्य सुन्दर आत्म छवि और आत्म विश्वास को समझने की गीता है। अपनी सीमाओं की बजाय क्षमताओं पर ध्यान देना आवश्यक है।

व्यक्ति जीतने के लिए जन्म लेता है, लेकिन हीन-भावना, आत्म-दया (Self-Pity) की प्रकृति और स्वयं की प्रति नकारात्मक दृष्टि कोण के कारण सदा पराजित बना रहता है।

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नकारात्मक सोच अथवा निराशावादी व्यक्तियों की निकटता से हीन-भावना को पोषण मिलता है। कुछ व्यक्ति स्वभाव से दोष-दर्शी होते हैं। उन्हें हर बात में, हर व्यक्ति में दोष नजर आते हैं। ऐसे व्यक्तियों की संगति से व्यक्ति का मनोबल टूटता है। मस्तिष्क में असफल होने की तस्वीर बनने लगती है। व्यक्ति स्वयं की क्षमताओं पर शंका करने लगता है।

संसार का कोई भी व्यक्ति हमारी अनुमति के बिना हमें छोटेपन का अहसास नहीं करा सकता। आत्म-बल की कमी और मन में हीन भावना होने के कारण अपने प्रति निराशा जनक टिप्पणी को हम मौन में आत्म स्वीकृति देते हैं और इस प्रक्रिया में आत्म गौरव से दूर होते जाते हैं। अतः मस्तिष्क को निराशाजनक टिप्पणियों एवं निराशावादी व्यक्तियों से दूर रखना चाहिये। vkblVhu dk fopkj g\$fd eflr"d ea i gph , d xyr bui\ dh l ipuk dks l eklr djus ds fy, X; kjg ; k bl l s Hkh vf/kd l gh bui\ dh vko' ; drk gkrh gA

तुलनात्मक दृष्टि भी सुंदर आत्म-छवि में अवरोध उत्पल करती है। तुलना स्वयं को कमजोर बनाने के लिए नहीं अन्य व्यक्ति से सीखने के लिए की जानी चाहिये।

शारीरिक सीमाओं और अक्षमताओं के कारण भी सुंदर आत्म-छवि का प्रकाश मंद पड़ जाता है। दृढ़ संकल्प और आत्म-निश्चयी व्यक्ति शारीरिक एवं आयुगत चुनौतियों का पूरे आत्म बल से मुकाबला करते हैं। प्रसिद्ध भौतिक विज्ञानी एवं अंतरिक्षवेत्ता स्टीफन हाकिंग इसके ज्वलंत उदाहरण हैं। vi uh 'kkj hfjd xfrfof/k; ka dsfy, ijh rjg dEl; Wj vkfJr fu%kDr 0; fDr gkfdax dk thou ; g iækf.kr djrk g\$fd tksHkh vki ds ikl g\$svki pkgsrksml h l s ijh nfu; k cny l drsgA

आत्म-विश्वास में कमी से भी सुन्दर आत्म-छवि पर प्रतिकूल प्रभाव पड़ता है। vi uh {kerkvka ij Hkjk d k rFkk i frdny i fjfLFkfr; ka dks fcuk e\$ku NkM\$ /k\$ l l s xqtj nusdh ; kX; rk dk uke vkRe fo' okl gA

अतः आत्म-बल को सदैव ऊर्जा देने से आत्म-छवि का स्तर ऊँचा बनाये रखा जा सकता है। सफल व्यक्तियों की जीवनियां और प्रेरणादायक विचारों से मस्तिष्क को निरन्तर पोषित किया जाने पर आत्म-विश्वास को शक्ति मिलती रहती है। एक बार मोटीवेशनल स्पीच में एक श्रोता ने मुझसे प्रश्न

किया था कि क्या जोशीले भाषण से आप लोगों में जान डाल देते हैं? तो मेरा उत्तर था कि मैं जिन्दा लोगों में ही नहीं मुर्दों में भी जान डालता हूँ क्योंकि—

enkl og ugha g\$ftl ea l kl ugha gA
enkl og Hkh g\$ftl e\$ vkRe fo' okl ugha gA

सुन्दर आत्म-छवि के लिए इन बातों का ध्यान रखें—

- अनावश्यक तुलना से बचें।
- अपने शारीरिक दोषों को सही दृष्टिकोण से देखें।
- आत्म-दोष, आत्मग्लानी एवं अपराध बोध का वजन अपनी चेतना पर अधिक समय तक नहीं रखें, क्षमा मांगकर अथवा आंसुओं के प्रायश्चित से उससे मुक्त हो जावें।

— अचेतन की गुफा में पड़ी हुई अतीत की दुःखद घटनाओं, आलोचनाओं एवं नकारात्मक परिणामों से जितनी जल्दी हो सके मुक्त हो जावें। अतीत की इन घटनाओं का स्मरण कर मन को हर बार आहत करना बहुत दुःखदायी होता है।

अपने प्रति सुन्दर आत्म-छवि बनाये रखने से तात्पर्य आत्म-मुग्ध बने रहना अथवा अभिमानी बन जाना नहीं है। सुन्दर आत्म छवि का व्यक्ति स्वयं में ही गुण देखता है लेकिन अभिमानी व्यक्ति सिर्फ स्वयं में ही गुण देखता है। अभिमान और स्वाभिमान में बहुत बारीक किन्तु गहरा अंतर है। अभिमान व्यक्तित्व को सतह पर गिराता है लेकिन स्वाभिमान व्यक्तित्व को शिखर पर पहुंचाता है। सुन्दर आत्म-छवि से आत्म विश्वासी व्यक्तित्व और स्वाभिमान का मार्ग प्रशस्त होता है।

क्रमशः.....



INCOME TAX UPDATE

Compiled by **CA. Abhishek Sharma**

Section 10A:

Explanation 1 to Section 10A(9), which was inserted with effect from 01.04.2001, was not retrospective and it would be applicable only for those undertakings which had been set up after 01.04.2001. Assessee company had been treated as a newly established undertaking in free trade zone in accounting period relevant to assessment year 1997-98 and was enjoying deduction of its profits and gains under section 10A. On 31.03.1998, two promoters of company were holding 100 percent voting power in respect of shares held by them. However, during year under consideration, due to issue of new shares to NRIs, shareholding of promoters was reduced to 42.63 percent and voting power in respect of shares held by them was reduced to 51.42 percent. Revenue authorities held that since percentage of shares held by promoters had been reduced to less than 51 percent, it was established that beneficial interest in undertaking was transferred and, therefore, in view of Explanation 1 to section 10A(9), assessee was not entitled to deduction under section 10A. Explanation 1 to section 10A(9) was applicable to facts of case. Whether even otherwise when assessee company had issued shares without voting rights and as a result original promoters continued to hold shares of company carrying not less than 51 percent of voting power, it was clear that ownership of assessee company was not transferred by any means and therefore assessee company was entitled to deduction under section 10A(1).

ZYCUS INFOTECH (P.) LTD. V/S COMMISSIONER OF INCOME TAX [2010] 191 TAXMAN 13 (BOM.)

Section 36 (1) (iii):

Interest on borrowed capital (A.Y. 1989-90): Assessee claimed deduction under section 36(1)(iii) in respect of interest paid on a loan taken from bank. Assessing officer, noticing that assessee had used part of said loan for investment in shares of sister concern 'S', disallowed proportionate interest. On appeal, Commissioner (Appeals) sustained disallowance, but on second appeal, Tribunal following its orders in case

of assessee for earlier assessment years, deleted disallowance. Department filed an appeal against order of Tribunal wherein assessee contended that it was maintaining mixed pool of funds and when profits of its business far exceeded investment made in shares of "S" presumption was that investment was made out of profits of business and not out of borrowed fund. Alternatively, it contended that even if it was assumed that borrowed funds were utilized for investment in shares of 'S', such and investment being for purpose of its business, interest attributable to such investment was an allowable deduction in terms of section 36(1)(iii). However, those arguments were not raised before authorities below and fact remained that assessee did not produce relevant records either before Assessing Officer or before Commissioner (Appeals).

Having regard to aforesaid background, order of Tribunal could not be sustained and in interest of justice matter was to be remanded to Assessing Officer for reconsideration with liberty to assessee to produce relevant records and on that basis make aforesaid submission.

COMMISSIONER OF INCOME TAX, DELHI-III, V/S SAMTEL ELECTRON DEVICES LTD. [2010] 191 TAXMAN 20 {DELHI}

Section 263, read with Section 147:

Where an assessment has been reopened under section 147 in relation to a particular ground or in relation to certain specified ground and subsequent to passing of order of reassessment, jurisdiction under section 263 is sought to be exercised with reference to issues which did not form subject of reopening of assessment or order of reassessment, period of limitation provided for in section 263(2) would commence from date of order of assessment and not from date on which order of reassessment has been passed.

Where assessment is sought to be reopened only on



one or more specific grounds and reassessment is confined to one or more of those grounds, original order of assessment would continue to hold field, save and except for those grounds on which a reassessment has been made under section 143(3) read with section 147.

ASHOKA BUILDCON LTD. V/S ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE-2, NASHIK [2010] 191 TAXMAN 29 (BOM.)

Section 37(1):

When an assessee purchases spare parts for existing machineries, same cannot be treated as capital expenditure, but it has to be treated as revenue expenditure since these spare parts are purchased for maintenance of existing equipments.

Assessee, a cardiologist, had installed medical equipments for purpose of investigations concerning cardiac problems. As those machineries were old, they often went out of order and their spare parts were not readily available in India. "therefore in March 2001 when assessee visited USA, he purchased some second hand machines in order to dismantle same and use their spare parts for his old machines. Said machines reached Indian airport in August 2001. Assessee claimed deduction of such expenditure which was disallowed by revenue authorities on ground that claim if allowable would be considered in next assessment year. When spare parts of assessee's existing machines were not available in India. Assessee as a prudent doctor and Wiseman, had rightly purchased second hand machineries in USA in anticipation that such machineries were required to be used as spare parts in order to serve patients and, therefore, purchase of second hand machineries by assessee by paying cash in USA had to be taken as a transaction which had taken place during relevant assessment year and it could be considered as a transaction for future assessment year.

DR. ASWATH N. RAO V/S ASSTT. COMMISSIONER OF INCOME TAX [2010] 191 TAXMAN 136 (KAR.)

Section 43B:

Assessee claimed deduction of excise duty under

section 43B. Said amount was disallowed by Assessing Officer but allowed by Commissioner (Appeals) and was confirmed by Tribunal. Tribunal However went further to observe that as amount was also loaded on closing stock of year in question, opening stock of succeeding year would have to be reduced so as to avoid a double deduction. Assessee submitted that finding of Tribunal that amount had been loaded on closing stock was factually incorrect and, therefore, there was no need for deducting said sum from opening stock of succeeding year. This aspect of matter could be adequately addressed to by directing Assessing officer to verify as to whether said amount of excise duty paid during year had been loaded on closing stock or not. In case it was loaded then observations of Tribunal would stand and if not then there would be no need for reducing said amounts from opening stock of succeeding year.

JAY BHARAT MARUTI LTD. V/S COMMISSIONER OF INCOME TAX [2010] 191 TAXMAN 149 {DELHI}

Section 271(1)(C):

Clause (a) of Explanation 4 to section 271 (1) (C) replaced with effect from 01.04.2003 was clarificatory in nature and would apply to all assessment even prior to assessment year 2003-04. In view of Explanation 4(a) to section 271 (1) (c), penalty would be levied not only in a case where after addition of concealed income, a loss returned becomes positive income, but also in a case where addition of concealed income reduces returned loss and finally assessed income is also a loss or minus figure.

JOINT COMMISSIONER OF INCOME TAX, SURAT V/S SAHELI LEASING & INDUSTRIES LTD. [2010] 191 TAXMAN 165 (SC)

Section 68 (Cash Credits):

Assessee company was incorporated to deal in switchgears, residual current breakers, etc. As assessee wanted to run business as a public company, it invited share capital. On account of change in law under which limit for public limited company was raised, assessee could not achieve target of share capital. In course of assessment, AO made addition of certain amount

Compiled by **CA. Pramod Kumar Boob**
B.Com., FCA, ICWA

raised by assessee company from depositors.

On second appeal, Tribunal deleted a party of impugned addition. In view of fact that most of investments were for petty amounts belonging to depositor residing out of station, it was not possible for assessee to produce all those persons form confirmation that they had invested their money in shares of assessee company. Therefore, impugned addition sustained by Tribunal was also liable to be deleted.

**AGM PROTECTION DEVICES LTD. V/S
DEPUTY COMMISSIONER OF INCOME TAX
[2010] 191 TAXMAN 191 (DELHI).**

**Section 127:
(Power to transfer cases)**

Section 127(1) mandates that assessee must be given a reasonable opportunity of being heard while exercising power to transfer cases. Administrative convenience and coordinating effective investigation can be said to be reasons as envisaged in section 127(1).

**ANIL KUMAR KOTHARI V/S UNION OF
INDIA. [2010] 191 TAXMAN 203 (GAU.)**



My Dearmost Suputra Raghav,

Sada Khush raho!



I am well here and hoping you are in the same well there. I'm writing this letter slowly, because I know you cannot read fast. We don't live where we did when you left home. Your dad read in the newspaper that most accidents happen 30 miles from home, so we moved 30 Miles.

I won't be able to send the address as the last Chartered Accountant who stayed here took the house numbers with him for his new house so he would not have to change his address. Hopefully by next week we will be able to bring our earlier address plate here, so that our address will remain same too. This place is really nice. It even has a washing machine, situated right above the commode. I'm not sure it works. Last week I put in 3 shirts, pulled the chain and haven't seen them since.

The weather here isn't too bad. It rained only twice last week. The first time it rained for 3 days and second time for 4 days. The coat you wanted me to send you, your father said it would be a little too heavy to send in the mail with all the metal buttons, so we cut them off and put them in the pocket.

Your father has another job. He has 500 men under him. He is cutting the grass at the cemetery. Your sister had a baby this morning. I haven't found out whether it is a girl or a boy, so I don't know whether you are an Aunt or Uncle.

Your uncle, Ashok fell in a nearby well. Some men tried to pull him out, but he fought them off bravely and drowned. We cremated him and he burned for three days. Your best friend, Vinod, is no more. He died trying to fulfill his father's last wishes. His father had wished to be buried at sea after he died. And your friend died while in the process of digging a grave for his father.

There isn't much more news this time. Nothing much has happened.

Yours Lovingly,
Anita

P.S: Beta, I was going to send you some money but by the time I realized, I had already sealed off this letter.



Measurement

At cost or net realizable value whichever is lower. Net realizable value is the estimated selling price in the ordinary course of business less the estimated costs of completion and the estimated costs necessary to make the sale. Reversal (limited to the amount of the original write-down) is required for a subsequent increase in value of inventory previously written down. Inventories of producers and dealers of agricultural and forest products and minerals and mineral products and for broker-dealers' inventories of commodities allowed at net realizable value even if above cost.

Cost formulae

☛ **Inventories acquired on deferred settlement terms**

IAS 2 specifically requires that where inventory is acquired on deferred settlement terms, the excess over the normal price is to be accounted as interest over the period of financing.

☛ **Inventories of a service provider**

IAS-2 includes provisions relating to the work-in-progress of a service provider. Under IAS-2 such WIP consists primarily of the Labour and other costs of personnel directly engaged in providing the service, including supervisory personnel, and attributable overheads. Labour and other costs relating to sales and general administrative personnel are not included but are recognized as expenses in the period in which they are incurred. Service providers generally accumulate costs in respect of each service for which a separate selling price will be charged. Therefore, each such service is treated as a separate item.

AS 2 does not apply to the measurement of

inventories of commodity traders or brokers.

Cash Flow statement

☛ **Applicability**

No exemption.

Format and content of cash flow statement

The cash flow statement may be prepared using either the direct method (cash flows derived from aggregating cash receipts and payments associated with operating activities) or the indirect method (cash flows derived from adjusting net income for transactions of a non-cash nature such as depreciation). The latter is more common in practice. The cash flow should be classified into operating, investing and financing cash flow.

☛ **Cash flow associated with extraordinary items**

Separate disclosure is prohibited. The concept of extra-ordinary items has been made redundant under IFRS.

☛ **Disclosure of Interest paid and received**

Operating in case of financing entity. For other entities, interest paid should be disclosed as operating or financing. Interest received is usually disclosed as investing cash flow.

☛ **Disclosure of dividend paid**

Operating or financing

☛ **Disclosure of dividend received**

Operating in case of financing entity. Operating or investing in case of other entity

☛ **Disclosure of taxes paid**

Operating – unless specific identification with financing or investing activity

☛ **Hedging transactions**



Cash flows from a contract that is accounted for as a hedge of an identifiable position should be classified in the same manner as the cash flows of the position being hedged.

☛ **Foreign currency transaction**

Cash flows denominated in a foreign currency and cash flows of a foreign subsidiary should be translated into the parent's reporting currency using the exchange rate at the date of the cash flow or an appropriate weighted average rate i.e. that used for income statement purposes. Under the indirect method, unrealized gains and losses for the period on cash and cash equivalents balances denominated in a foreign currency, should be reported as a reconciling item in the cash flow statement, separate from operating, investing and financing activities.

☛ **Payments by lessee relating to finance lease.**

IAS 7 requires additional disclosure of cash payments by a lessee relating to finance lease under financing activities.

☛ **Additional disclosures in CFS**

IAS 7 deals with issues relating to disclosure in cash flow statement in CFS like undistributed profits of associate and minority interests, foreign exchange cash flows of foreign subsidiary.

☛ **Acquisition of subsidiaries**

IAS 7 requires further disclosure on cash and cash equivalents of acquired subsidiary and all other assets acquired

☛ **Other disclosures**

IAS 7 also encourages disclosure of the following items:

- The amount of un drawn borrowing facilities that may be available for future operating activities and to settle capital commitments, indicating any restrictions on the use of the facilities

The aggregate amount of cash flows that represent increases in operating capacity separately from those cash flows that are required to maintain operating capacity

The aggregate amounts of the cash flows from operating, investing, and financing activities related to interests in joint ventures reported using proportionate consolidation

The amount of the cash flows arising from the operating, investing, and financing activities of each reported industry and geographical segment.

Accounting policies, changes in accounting estimates and errors, Change in accounting policies

An entity shall account for a change in accounting policy resulting from the initial application of a Standard or an Interpretation in accordance with the specific transitional provisions, if any, in that Standard or Interpretation; and when an entity changes an accounting policy upon initial application of a Standard or an Interpretation that does not include specific transitional provisions applying to that change, or changes an accounting policy voluntarily, it shall apply the change retrospectively. Comparative information is restated, and the amount of the adjustment relating to prior periods is adjusted against the opening balance of retained earnings of the earliest year presented. An exemption applies when it is impracticable to change comparative information

☛ **Prior Period Items**

An entity shall correct material prior period errors retrospectively in the first set of financial statements authorized for issue after their discovery by restating the comparative amounts for the prior period(s) presented in which the error occurred; or if the error occurred before the earliest prior period presented, restating the opening balances of assets, liabilities

and equity for the earliest prior period presented.

☛ Definition of prior period items

The definition of prior period items is much broader under IAS 8 as compared to AS 5 since IAS 8 covers all the items in financial statements. As per IAS 8 prior period items are defined as:

Prior period errors are omissions from, and misstatements in, the entity's financial statements for one or more prior periods arising from a failure to use, or misuse of, reliable information that was available when financial statements for those periods were authorized for issue; and could reasonably be expected to have been obtained and taken into account in the preparation and presentation of those financial statements.

☛ Change in accounting estimate

Changes in accounting estimates are accounted for prospectively in the income statement when identified. Change in method of depreciation is regarded as a change in accounting estimate and hence the effect is given prospectively.

☛ Additional disclosure

IAS 8 requires disclosure of an impending change in accounting policy when an entity has yet to implement a new Standard or Interpretation that has been issued but not yet come into effect. In addition, it requires disclosure of known or reasonably estimable information relevant to assessing the possible impact that application of the new Standard or Interpretation will have on the entity's financial statements in the period of initial application

Events occurring after Balance-sheet date

☛ Authorization date for issue of financial statements

The date of authorization for issue of financial statements should be specifically mentioned in the financial statements itself as required by IAS 10

☛ Proposed dividend

If dividends to holders of equity instruments are proposed or declared after the balance sheet date, an entity should not recognize those dividends as a liability at the balance sheet date. Proposed dividend is a non-adjusting event. Entity to disclose the amount of dividends that were proposed or declared after the balance sheet date but before the financial statements were authorized for issue.

Income Taxes

☛ Approach

IAS 12 *Income Taxes* requires entities to account for taxation using the balance sheet liability method, which focuses on temporary differences in accounting for the expected future tax consequences of events. Temporary differences are differences between the tax bases of assets or liabilities and their book values that will result in taxable or tax deductible amounts in future years. The taxation recognized in income comprises the current tax and the change in deferred tax assets and liabilities of the entity except to the extent that tax arises from transaction or event which is recognized, in the same or the different period directly in equity or a business combination

☛ Exceptions

No deferred tax in respect of:

- Non deductible goodwill
- Initial recognition of an asset/liability other than in a business combination and affects neither accounting profit nor taxable profit at the time of the transaction

☛ Recognition of Deferred tax assets

Deferred tax assets should be recognized to the extent that it is probable that future taxable profits will be available to offset the deductible temporary differences or carry forward of unused tax losses and unused tax credits. To the extent that it is no

longer probable that sufficient taxable profit will be available, the carrying amount of a deferred tax asset should be reduced. When realization is based on future taxable profits, those need to be demonstrated with convincing evidence. However, unlike Indian GAAP, taxable profits need not be determined with virtual certainty. When an entity has a history of tax losses, the entity recognizes a DTA only to the extent that the entity has sufficient taxable temporary differences or there is convincing other evidence that sufficient taxable profits will be available.

☛ **Recognition of deferred tax on Investment made in subsidiaries, branches, associates and joint ventures (undistributed profits)**

An entity should recognize a deferred tax liability for all taxable temporary differences associated with investments in subsidiaries, branches and associates, and interests in joint ventures, except to the extent that the parent, investor or venture is able to control the timing of the reversal of the temporary difference; and it is probable that the temporary difference will not reverse in the foreseeable future.

☛ **Recognition of deferred tax on items taken directly to equity**

Deferred tax should be charged or credited directly to equity if the tax relates to items that are credited or charged, in the same or a different period, directly to equity. E.g. Revaluation of PPE

☛ **Deferred tax arising on business combination**

Deferred tax is provided on difference between fair value of assets recorded in books and tax base of those assets unless tax base is also stepped up to fair value.

Deferred tax asset on previously unrecognized tax losses of acquirer is recognized on acquisition if recognition criteria are met, and the credit is taken to the income statement.

Deferred tax asset on carry forward tax losses of acquire is recognized on acquisition if recognition criteria are met, and the credit is taken to goodwill

☛ **Recognition of deferred tax on elimination of intra-group transactions**

Deferred tax should be recognized on temporary differences that arise from the elimination of profits and losses resulting from intra-group transactions.

☛ **Recognition of deferred tax on foreign non-monetary assets / liabilities when the tax reporting currency is not the functional currency**

Deferred tax is recognized on the temporary difference which arise when the non-monetary assets and liabilities of an entity are measured in its functional currency but the taxable profit or tax loss (and, hence, the tax base of its non-monetary assets and liabilities) is determined in a different currency

☛ **Presentation and Disclosure**

DTA & DTL should be presented as separate line items in the balance sheet. Offset of DTA and DTL is permitted only when the entity has a legally enforceable right to offset current tax assets and current tax liabilities and tax is levied by the same tax authority, which allows tax netting. If an entity presents a classified balance sheet, it should not report deferred tax assets and liabilities as current assets and liabilities.

Reconciliation of actual and expected tax expense is required. The same is computed by applying the applicable tax rates to accounting profit, disclosing also the basis on which the applicable tax rates are computed.



Compiled by **CA. A R KHANDELWAL**
FCA

MEANING OF BUYBACK :

Buyback of securities means purchase of its own shares by the company. The company generally buyback its shares for the following reasons :

- (a) To enhance the value of its shares
- (b) To return surplus cash to its shareholders .
- (c) To achieve desired capital structure.

Private and Unlisted Public limited companies can buyback its shares if they comply with provisions of the Companies Act and the rules and regulations of the Private Limited Company and Unlisted Public Limited Companies (Buyback of Securities) Rules,1999.

The details of the rules and regulations are as follows:

1.Sources from which buy-back can be made

As per provisions of section 77A of the Companies Act 1956, the buy-back of shares and securities can be made out of:-

- i.Its free reserves, or
- ii.The securities premium account, or
- iii.The proceeds of any issue of shares or other specified securities other than proceeds of an earlier issue of the same kind of shares or same kind of specified securities which are proposed to be bought back.

2.Terms and conditions to be complied before buy-back

The following terms and conditions are required to be fulfilled by a company in order to become eligible to buy-back its own securities:-

- a) There must be a provision in the Articles of Association authorizing the company to buy-back its own shares; otherwise the Articles must be amended by a special resolution to incorporate a suitable

provision.

- b) A special resolution must also be passed in a general meeting of the company authorizing the board of directors to buy-back the shares or other specified securities of the company up to 25% of the total paid up capital and free reserves provided that the buy-back of equity shares in any financial year shall not exceed 25% of its total paid-up equity capital in that financial year.

- c) The maximum quantum of buy-back can be up to 10% of the total paid up capital and free reserves by the authority of the board by means of resolution of the board meeting.

- d) After the buy-back, the debt of the company namely the amount of secured and unsecured debts shall not be more than twice the paid up capital and free reserves.

- e) The entire share and other specified securities involved for buy-back must be fully paid-up.

- f) The buy-back of the share or other specified securities, if listed in any stock exchange, must be carried out in accordance with the regulations framed by the securities and Exchange board of India.

- g) The buy-back of shares or other specified securities, if any of the private company and unlisted public company shall be made as per the guidelines issued by the government.

- h) The explanatory statement sent to members along with the notice for passing the special resolution referred to in clause (b) above shall contain all relevant information.



3.Mode of buy-back

The buy-back may be made as follows:-

- a) From the existing security holders on a proportionate basis through the private offer.
- b) By purchasing the securities issued to employees of the company under a scheme of stock option or sweat equity.

4. Filling of declaration with the Registrar of Companies and SEBI

As soon as a company has passed the board/special resolution for buy-back and before making the buy-back, the company shall file with the registrar of companies in the prescribed form 4A attached with the e-form 62 declaration of solvency duly verified by an affidavit to the effect that the board of director has made a full enquiry into the affairs of a company as a result of which they have formed an opinion that it is capable of meeting its liabilities and will not be rendered insolvent within one year of the date of declaration. The declaration of solvency shall be accompanied with an affidavit. The declaration must be approved by the board and signed by at least two directors one of whom shall be the managing director of the company, if any.

In case of listed companies, copy of declaration of solvency is required to be filed with SEBI also.

5. Pre buy back activities

Company cannot give any specific offer to a particular member for buy-back of shares, it is required to give letter of offer to all the existing members, therefore, and there should not be any specific name in the resolution or explanatory statement.

Company is required to take further action in that matter after passing the board/special resolution:-

- 1) Filling of e-form 23 with the concerning registrar of companies.
- 2) Preparation and approval of the board for letter of offer for buy-back of shares.
- 3) Fixing the record date for buy-back offer.
- 4) Filling of offer letter with the concerned registrar of companies along with the declaration of solvency attached with the e-form 62 before dispatching of the same to the members.
- 5) Dispatch the letter of offer to all member within 21 days from the after filling with the registrar.
- 6) Maintain a register for letter of offer dispatched.
- 7) The letter of offer shall be open for exercise for not less than 15 days and not more than 30 days from the date of dispatch of letter of offer.
- 8) After verification of opinion, finalize the buy-back of share within 14 days from the date of the closure of letter of offer. If the option has been exercised by the member for higher number of shares than the offer has been made, then it shall be accepted by the company proportionately. If company has not rejected any application within 21 days from the closure of letter of offer it will be deemed to have been accepted.
- 9) Open immediately a separate bank account and deposit the entire amount in that account.
- 10) Make payment of consideration within 7 days from the finalizing of the buy-back.
- 11) Maintain a register for buy-back of share and make entries for destroying of the shares bought back.

12) Destroy all the share certificates within 7 days, in presence of a practicing company secretary, from the completion of buy-back.

13) Submit a certificate, obtained from two directors of the company and a company secretary in whole time practice for completion and destruction of shares, with the registrar.

14) File a return of buy-back in e-form 4C with the registrar.

15) If buy-back has been out of free reserves, a sum equal to the nominal value of securities bought back shall be credited in capital buy-back reserve account. This account can be utilized for issue of fully paid-up bonus shares.

16) Payment for buy-back shall be made in cash only.

17) The company shall appoint a compliance officer for compliance with the buy-back regulations.

6. Circumstances where buy-back is not allowed to a company

No company shall directly or indirectly purchase/buy-back its own shares,-

a) Through any subsidiary company or its own subsidiaries, if any;

b) Through any investment company or companies;

c) If the company commits a defaults in the repayment of deposit or payment of interest, redemption of debentures or preference shares or payment of dividend to any shareholder or repayment of term loans or payment of interest to any financial institution which is existing;

d) Where a company has not complied with the provision of section:-

i) 159 regarding non filling of annual return;

ii) 207 regarding failure to pay dividend within 30 days of declaration; and

iii) 211 regarding disclosure of true and fair view in the balance sheet.

7. Penalty

If a company makes a default in complying with the provisions of the section or rules or regulations made by the central government, the company and every officer, who is in default, shall be punishable with imprisonment up to two years or fine up to Rs. 50000 or with both.

CONCLUSION :

Buy back is a system which enables the Company to go back to its shareholders and offer to purchase from them the shares that they hold. The decision to buyback reflects managements view that the Company 's future prospects are good and hence investing in its own shares is the best alternative. It also signals undervaluation of the company's shares in relation to its intrinsic value. Only financially sound companies should resort to buyback.

