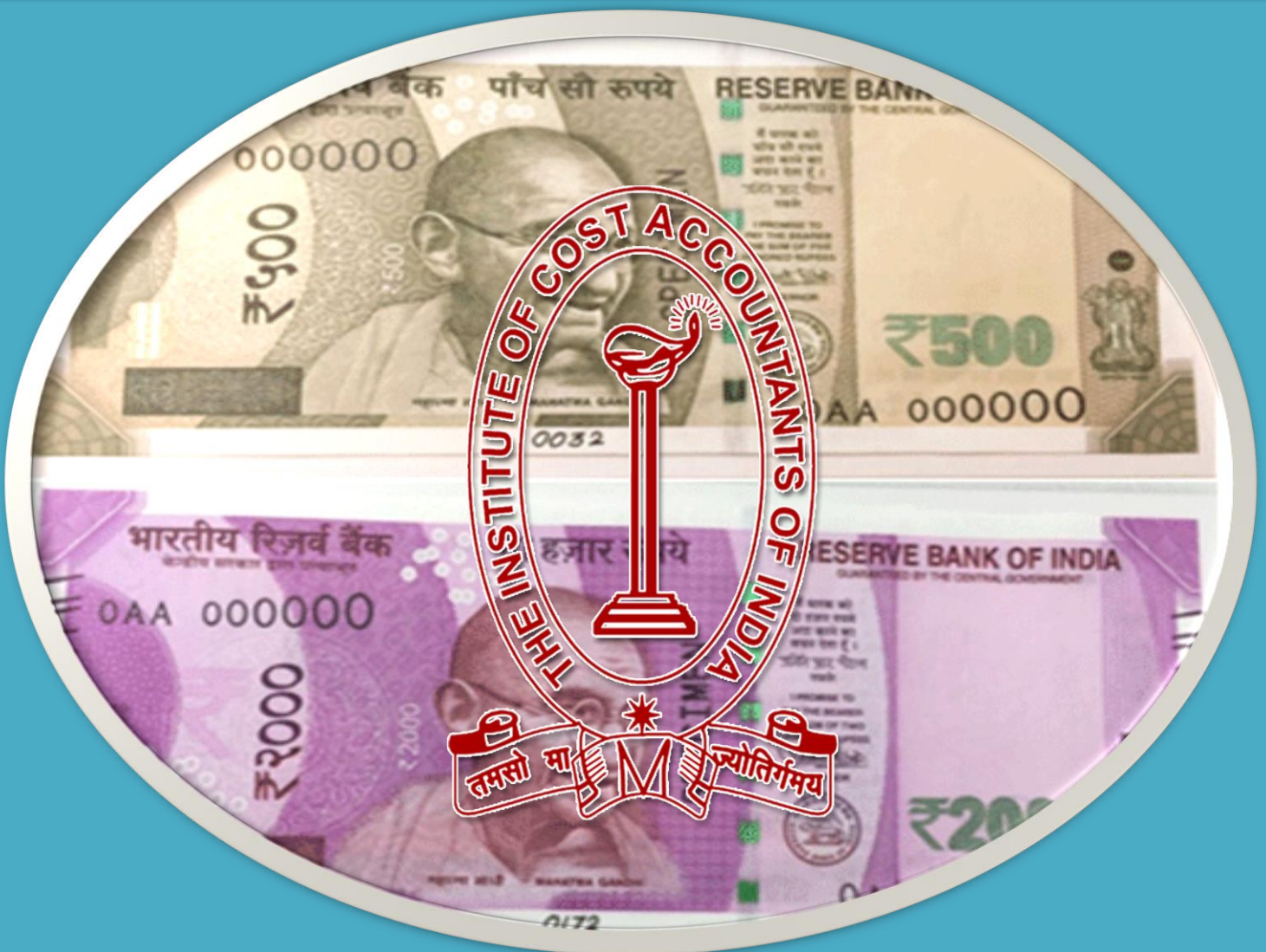


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e-Bulletin

Published by

**Members in Industry - Training & Placement
Institute of Cost Accountants of India**



Behind every successful business decision, there is always a CMA

Institute of Cost Accountants of India

The Institute of Cost Accountants of India

(Statutory body under an Act of Parliament)



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA (erstwhile The Institute of Cost and Works Accountants of India) was first established in 1944 as a registered company under the Companies Act with the objects of promoting, regulating and developing the profession of Cost Accountancy.

On 28 May 1959, the Institute was established by a special Act of Parliament, namely, the Cost and Works Accountants Act 1959 as a statutory professional body for the regulation of the profession of cost and management accountancy.

It has since been continuously contributing to the growth of the industrial and economic climate of the country.

The Institute of Cost Accountants of India is the only recognised statutory professional organisation and licensing body in India specialising exclusively in Cost and Management Accountancy

MISSION STATEMENT

The CMA Professionals would ethically drive enterprises globally by creating value to stakeholders in the socio-economic context through competencies drawn from the integration of strategy, management and accounting.

VISION STATEMENT

The Institute of Cost Accountants of India would be the preferred source of resources and professionals for the financial leadership of enterprises globally

IDEALS THE INSTITUTE STANDS FOR

- to develop the Cost and Management Accountancy profession
- to develop the body of members and properly equip them for functions
- to ensure sound professional ethics
- to keep abreast of new developments

Behind every successful business decision, there is always a CMA

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MESSAGE

Friends, I am extremely happy to note that the Members of the Institute are contributing their bit to the success of demonetization initiative taken by the Government by offering help and assistance to the common man standing in the queues for exchange, deposit or withdrawal of money. It is a very important endeavor and Institute is wholeheartedly supporting this.

Friends, as Professional Accountants you would have taken so many initiatives in your respective organisation or work place for the betterment of various processes or procedures. I request you to share those initiatives with the Committee so that the same can be circulated to the members through this e-bulletin. These initiatives could be in the areas of cost management, finance & budgeting, internal control, supply chain management, customer care, CSR, corporate reporting etc. This action will motivate other members to take up new initiatives at their work place which ultimately contribute to the effective growth of organisations.

Another point I want to emphasise is the concept of sustainable success through good governance. As you would agree that the key objective of all organizations is to achieve sustainable success and this cannot be achieved by merely protecting stakeholders' interests, or a compliance exercise to satisfy the requirements of regulators, instead good governance can build sustainable value in organizations and society. Sustainable success is a combination of the economic, environmental, and social performance of an organization that determines overall stakeholder value and allows the organization to succeed and prosper in the long term. We all should have this focus in our mind while giving our effort and time to the cause of organisational success.

I request members to send feedback which helps us improve the quality of the e-bulletin. I wish you all a happy reading and good time.

(CMA Manas Kumar Thakur)

25th November 2016

Chairman's Communique



CMA P V BHATTAD

Chairman, Members in Industry –
Training and Placement, ICAI
Immediate Past President, ICAI

*From the desk of
Members in Industry Committee ICAI*

I am pleased to offer the latest version of the e-bulletin. I hope that this initiative of the Committee for Members in Service is achieving its objective and I urge the members to write to us about their experience, expectation and also give constructive suggestions to further improve our performance.

Professional accountants in various sectors undertake numerous roles in leadership, management, operations, management control and in stakeholder communication.

In performing these roles, they are involved in activities and decisions that influence their organization's ability to create and preserve value over time. Delivering continuing value is the key to business resilience and requires long term thinking on a broader range of matters. Professional accountants need to consider how, through their work and position, they can contribute to business resilience and influence organizations to integrate sustainability matters into organizational strategy, finance, operations, and communications.

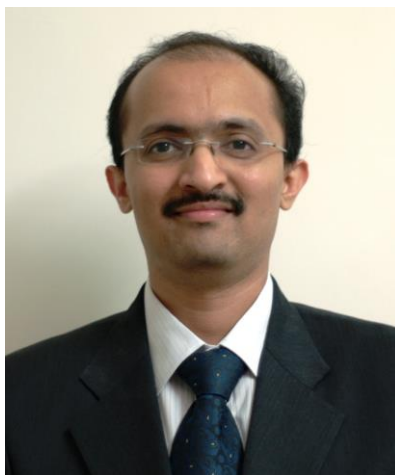
Friends, the Committee for Members in Service of the Institute is committed to help the members by way of organizing webinars, programs, publishing bulletins and conducting interaction with experts on emerging issues which are of prime importance for the members. I urge the members to submit articles on important issues to the committee so that the same can be published in the e-bulletin for the information of other members.

I wish the members success in all of their endeavors.

A handwritten signature in blue ink, which appears to read 'P V Bhattad', written over a horizontal line.

25th November 2016

Message from Chairman Professional Development, Banking & Insurance (PD) Committee



CMA AMIT ANAND APTE

Dear Professional Colleagues,

At the outset, I am very grateful to the President and my colleagues in the council for the confidence they have shown in me by bestowing the Chairmanship of the Professional Development, Banking & Insurance (PDB&I) Committee. The PDB&I Committee has tirelessly worked to create and pass on the opportunities available for the Members in Cost Audit, Internal Audit, Stock Audit and other areas. The directorate has very recently also brought out Banking sector specific Guidance Notes to facilitate the members of the profession for requisite capacity building and understanding the technicalities of the banking sector and their role in such.

From the month of August 2016 we have sent more than 300 representation letters to various organizations for inclusion of cost accountants for providing professional services in the area of Accounts, Internal Audit, Concurrent Audit, Taxation, Stock audit and other assignments. We have also made personal calls and wherever possible visited the concerned office to make a representation. Based on our representations many organizations have included Cost Accountants by issuing corrigendum / addendum to their EOIs / Tender Documents. To name a few, we have achieved this success in IIT-Guwahati, NBCC, Rajasthan State Mines & Minerals Limited, Software Technology Parks of India, Bharat Heavy Electricals Limited, Urban Development & Housing Department, State Urban Development Agency, Government of Jharkhand etc. A complete list of Organizations who Considered CMAs for Professional Services is available at PD Portal and is updated regularly.

Commissioner of Sugar, Maharashtra has floated Tender inviting Expression of Interest (EOI) for empanelment of Cost Accountants / Firms of Cost Accountants for Cost Audit in Cooperative Sugar factories in Maharashtra. On similar lines we are taking it up with various state governments for audit of cooperative Sugar Factories in respective states.

Based on our representation, The Reserve Bank of India (RBI) has issued a Corrigendum and Included the Cost Accountants in the Tender Notice for Tax consultant.

PD Directorate regularly reviews the daily newspapers and various websites to find out the matters relating to profession, more particular relating to Tenders / Expression of Interest (EOI) and recruitments. Where Cost Accountants are recognized, those are hosted on the Institute website for information of members, otherwise representation letters are prepared and sent to the Companies / Organizations to consider Cost Accountants in their Tenders / EOI / Recruitment Advertisements. We are also helped by inputs from some of our vigilant members who bring such disparities to our notice.

Representation letters were sent to the Chief Ministers of all the states for inclusion of Cost Accountants in Real Estate Act 2016 as well.

We have made a representation to Ministry of Finance, Department of Expenditure in connection with the Revision of Manual on Policies and Procedures for Purchase of Goods. For this, PD Directorate thoroughly reviewed the Trade Policy documents and prepared a table of justification in support of our representation.

We have sent a Representation letter to Transport Department of Maharashtra Government as they have constituted a committee to look into the auto / taxi fares. We have represented to take the services of Cost Accountants for fixation of auto / taxi fares. Follow up in this matter is being done by our member in Mumbai.

I recently met Shri H.B. Masani, Secretary General, Audit Bureau of Circulations (ABC) and gave him a detailed presentation on the benefits and improvement which Cost Accountants can bring to improve the ABC certification process. Based on that meeting, I am hopeful for Inclusion of Cost Accountants in the panel of Auditors maintained by ABC.

The suggestions on the consultation paper on amendment / clarifications to the SEBI (investment Advisers) Regulations, 2013 were prepared and sent to SEBI.

The Banking sector has enormous potential for the Cost Accountants which was bolstered in light of the advise of the Indian Banks Association (IBA) vide its letter No C&I/Cir/2015-16/1217, dated August 12, 2015 to its member Banks for consideration of Cost Accountants / Firms of Cost Accountants for Stock Audit and Risk Based Internal Audit and other Banking operations.

A panel consisting of list of eligible Cost Accountant Firms has been formed based on applications received. We are pleased to inform that the Institute received more than 300 applications. We are in the process of getting these empaneled with the RBI / IBA. In the meanwhile we will be hosting the empaneled Cost Accountants / Firm of Cost Accountants on the Institutes website.

To give essential knowledge to our Members, we have brought out following Guidance Notes and Monographs on the Banking Sector as Institute publication:

1. The Guidance Note on the Concurrent Audit of Commercial Banks;
2. Monograph on Internal Audit of Treasury Functions of Commercial Banks;
and
3. Monograph on Risk Based Internal Audit of Commercial Banks.

A lot of good work on these guidance notes was done by my predecessor. We have tried our best to continue the good work. On similar lines we are also coming up with guidance notes on Insurance sector as also revised editions of some of our earlier publications.

A Seminar on Accelerating Make in India Initiatives- Role of CMAs was organized in association with NIRC & Ajmer-Bhilwara, Jaipur, Jodhpur, Kota and Udaipur Chapters of the Institute in hotel Park Paradise, Bikaner, Rajasthan on 13th September, 2016. The Seminar witnessed august presence of Shri Arjun Ram Meghwal ji, Union Minister of State for finance and Corporate Affairs as Chief Guest. The PD Directorate worked really hard to make this Seminar a grand success. Their efforts paid dividend as the Seminar received an overwhelming response from Cost Accountants and other professionals of Rajasthan and its neighboring states.

Department of Fertilizers, Government of India requested Institute to give Empanelment of Practicing Cost Accountants/ Firm of Cost Accountants to verify the

reasonableness of MRPs of P&K fertilizers fixed by the companies by Scrutinizing / Analyzing the cost data. The PDB&I Department invited Expression of Interest from the Practicing Cost Accountants / Firm of Cost Accountants. The applications so received were sent to the Department of Fertilizers for their perusal. The Ministry has empanelled more than 65 Practicing Cost Accountants and Cost Data of fertilizers companies is likely to be sent by the Ministry, very soon.

Besides regularly updating the PD Portal on latest professional information, opportunities available for CMAs to apply against the tenders floated by the companies for internal audit work, cost audit and other services, we regularly send mails to the Members on various developments.

Further, as a part of an initiative for the Capacity Building of Members in practice, we wish to maintain a database for all the members in practice. As members are aware that the Institute, on a regular basis receives application for "Expression of Interest" for empanelment as Auditor / Consultant from various Corporate, Government departments and agencies. In view of this, members are requested to update their details in the application format that is shortly being hosted on the Institute Website so as to enable us to forward their profile, as and when required, to the concerned corporate and government departments / agencies.

I also welcome suggestions from the Members for the development of profession on Professional Development Directorate's id's pd@icmai.in; pd.director@icmai.in. You may mark a copy to me on my email id amit@levare.co.in. Any anomalies that come to the notice of our members regarding any opportunity may also be immediately pointed out on the same email ids. It is our endeavor to immediately take it up.

I once again thank all my colleagues in the council and staff for their wholehearted support to the PD Committee in its endeavors in the growth of our noble profession.

With warm regards.

CMA Amit Anand Apte
Chairman, Professional Development, Banking & Insurance Committee
The Institute of Cost Accountants of India
Date: 27th November 2016

APPEARANCE BEFORE 'GST' AUTHORITIES BY PRACTISING COST ACCOUNTANT CMA DR. M. GOVINDARAJAN



CMA Dr. M. GOVINDARAJAN

Model Goods and Services Tax Act, 2016 ('Act' for short) provides for quasi judicial proceedings as detailed below-

- Adjudication under Chapter XIV ;
- Appeals under CGST under Chapter XVIII;
- Appeals and Revision under CGST under Chapter XVIII;
- Appeal before Appellate Tribunal Chapter XVIII; and
- Advance Ruling under Chapter XIX;
- Appellate authority in advance ruling under Chapter XIX.

Appearance by authorized representative

Section 86 of the Act provides the list of persons who can appear before-

- A GST officer appointed under this Act; or
- The First Appellate Authority; or
- The Appellate Tribunal

in connection with any proceedings otherwise than when required under this Act to appear personally for examination on oath or affirmation, subject to the other provisions of this section, appear by authorized representative.

Section 98(4) provides that the Authority for Advance Ruling shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority and after providing an opportunity of being heard to the applicant or the authorized representative of the applicant, pronounce its advance ruling on the question specified in the application. The explanation to this section provides that 'authorized representative shall have the meaning assigned to it in Section 86.

Section 86(2)© provides that for the purposes of Section 86 'authorized representative' means a person authorized by the person to appear on his behalf being any Chartered Accountant, a **Cost Accountant** or a Company Secretary, who holds valid certificate of practice and who has not been described from practice.

Adjudication

GST is payable by the taxable person by self assessment basis. If the tax is-

- not paid; or
- short paid; or
- erroneously refunded; or
- input tax credit wrongly availed or utilized; or
- suppression of fact, fraud with intent to evade duty

the Proper Officer shall issue a show cause notice to the taxable person requiring him to show cause why he should not pay the tax with interest and penalty cannot be imposed on him. If the proper officer on receipt of communication from the taxable person shall, after giving a reasonable opportunity to the taxable person, determine the tax and interest and impose penalty not exceeding 10% of tax or Rs.10,000/- whichever is higher. The said order shall be issued within three years from the date of the notice. If the taxable person does not pay the tax with intention to evade the payment of tax, the proper officer shall issue order within a

period of five years from the due date or the actual date whichever is earlier, for the period of annual return for the period to which the tax is not paid.

Appeal before First Appellate Authority & Tribunal

Any person aggrieved against the order of the adjudicating authority, may file an appeal before the First Appellate Authority ('FAA' for short). The Act provides separate procedure for filing before First Appellate Authority i.e., appeal procedure for CGST and appeal procedure for SGST. The appeal shall be filed within three months from the date of receipt of order against which appeal is filed. If the FAA is satisfied that the appellant is prevented from filing appeal in time, he may condone the delay for a further period of one month.

Procedure for CGST

The taxable person may file appeal before the FAA. The Commissioner may, of his own motion, call for the records of any proceedings for the purpose of satisfying himself as to the legality or propriety of the decision or the order of the adjudicating authority direct any officer, subordinate to him, to apply to the FAA for the determination of such points arising out of the decision of the order as may be specified by the Commissioner, in his order. The FAA has to take the application as an appeal.

The appellant is to deposit 10% of the amount in dispute arising from the order, in relation to which the appeal has been filed. The FAA shall give opportunity to the appellant, if he so desires. The FAA may give adjournment at the request of the party and the FAA will not grant more than three adjournments. After considering the submissions of both the parties and available records submitted before the FAA the FAA may pass an order either confirming or modifying or cancelling the order of the adjudicating authority. If the order intends to enhance the tax then a show cause notice is to be issued to the taxable person and to decide after giving a reasonable opportunity to him.

The aggrieved party or the Department may file an appeal against the order of FAA before the Tribunal within 3 months from the date of receipt of the order against appeal is filed. The Tribunal may condone the delay if it is satisfied

that the appellant is prevented from submitting the appeal in time. The Tribunal may admit or permit in filing the memorandum of cross objections, verified in the prescribed manner, against any part of the order appealed against and such memorandum shall be disposed of by the Tribunal, as if it were an appeal.

The Tribunal, if sufficient cause is shown, at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing. No adjournment shall be granted more than three times to a party during hearing of the appeal. The Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders as it thinks fit, confirming, modifying or annulling the decision or order or may refer the case back to the First Appellate Authority or to the Original Authority, with such directions, as it may think fit, for a fresh adjudication or decision, after taking additional evidence, if necessary. The Tribunal shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed.

Procedure for SGST

The assessee, if aggrieved by the order of Adjudicating authority may file appeal before the First Appellate Authority ('FAA') within three months from the date of communication of the order of the adjudicating authority. If the FAA is satisfied that the appellant was prevented from filing appeal within the limitation period he may condone the delay for a further period of one month.

No appeal shall be filed unless the appellant has deposited-

- in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
- a sum equal to 10% of the remaining amount in dispute arising from the said order, in relation to which the appeal has been filed.

The Department is having right to apply to the First Appellate Authority for ordering a higher amount of pre deposit, not exceeding 50% of the amount in dispute, in a case which is considered by the Commissioner of GST to be a 'serious case'.

The First Appellate Authority shall give an opportunity to the appellant of being heard, if the appellant so desires. The FAA may give adjournment at the request of the party and the FAA will not grant more than three adjournments. After considering the submissions of both the parties and available records submitted before the FAA the FAA may pass an order either confirming or modifying or cancelling the order of the adjudicating authority. If the order intends to enhance the tax then a show cause notice is to be issued to the taxable person and to decide after giving a reasonable opportunity to him.

Revision

The Commissioner may on his own motion or upon information received by him, call for and examine the record of any proceeding under this Act and if he considers that any decision or order passed under this Act by any other subordinate to him is erroneous in so far as it is prejudicial to the interest of the revenue, he may, if necessary, stay the operation of such decision or order for such period as he deems fit and after giving the person concerned an opportunity of being heard and after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, including enhancing or modifying or annulling the said decision or order.

Appeal before Tribunal

The appeal against the order of the First Appellate Authority may be filed before the Appellate Tribunal constituted for this purpose. The Tribunal shall not entertain an appeal where the tax or input credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order is less than Rs.1 lakh. Every appeal shall be filed within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal. If the Tribunal satisfied that the appellant is prevented from filing appeal in time, the Tribunal may condone the delay.

No appeal shall be filed unless the appellant has deposited-

- In full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and

-
- A sum equal to 10% of the remaining amount in dispute arising from the said order, in relation to which the appeal has been filed.

On receipt of notice of appeal, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such an order or part thereof, file, within 45 days of the receipt of notice, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order appealed against and such memorandum shall be disposed of by the Tribunal, as if it were an appeal. The Tribunal, if sufficient cause is shown, at any stage of hearing of an appeal, grants time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing.

The Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders as it thinks fit, confirming, modifying or annulling the decision or order or may refer the case back to the First Appellate Authority or to the Original Authority, with such directions, as it may think fit, for a fresh adjudication or decision, after taking additional evidence, if necessary. The Tribunal shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed. The copy of the order shall be sent to the First Appellate Authority or to the Original Adjudicating Authority, the appellant, the jurisdictional Commissioner of CGST and the jurisdictional Commissioner of SGST.

Advance Ruling

Section 97(2) provides the list of questions on which the advance ruling sought as detailed below-

- Classification of any goods and/or services under the Act;
- Applicability of a notification issued under provisions of the Act having a bearing on the rate of tax;
- The principles to be adopted for the purposes of determination of value of the goods and/or services under the provisions of the Act;
- Admissibility of input tax credit of tax paid or deemed to have been paid;

- Admissibility of input tax credit of tax paid or deemed to have been paid;
- Determination of the liability to pay tax on any goods and/or services under the Act;
- Whether the applicant is required to be registered under the Act;
- Whether any particular thing done by the applicant with respect to any goods and/or services amounts to or results in a supply of goods and/or services, within the meaning of that term.

The Authority for advance ruling shall be located in each State. The Authority shall comprise-

- one member from CGST; and
- one member from SGST

to be appointed respectively by the Central Government and the State Government. The educational qualifications, eligibility conditions, method and the process of appointment of the members shall be prescribed the rules.

The Act provides the following procedure in getting advance ruling from the Authority-

- An applicant desirous of obtaining an advance ruling may make an application in such form and in such manner as may be prescribed, stating the question on which the advance ruling is sought;
- On receipt of the application, the Authority shall send a copy to the Officers as may be prescribed and if necessary call upon him to furnish the relevant records;
- Where any records have been called for by the Authority shall be returned as soon as practicable;
- Then the Authority shall examine the application;
- The Authority may call for records, if required;
- The applicant or authorized representative of the applicant may be given an hearing in this regard;
- The Authority, by order, shall admit or reject the application;
- The Authority shall not admit the applicant where the question raise in the application is-

- Already pending in the applicant's case before any First Appellate Authority, the Appellate Tribunal or any Court;
- The same as in a matter already decided by the First Appellate Authority, the Appellate Tribunal or any Court;
- The same as in a matter already pending in any proceedings in the applicant's case under any of the provisions of the Act;
- The same in a matter in the applicant's case already decided by the adjudicating authority or assessing authority, whichever is applicable;
- No application shall be rejected unless the opportunity has been given to the applicant of being heard;
- If the application is rejected the Authority shall give reasons for such rejection in the order;
- A copy of the order as above shall be sent to the applicant and to the prescribed officers;
- If the application is admitted, the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority and after giving an opportunity of being heard to the parties concerned, pronounce its advance ruling on the question specified in the application;
- The Authority have power to regulate its own procedure in all matters arising out of the exercise of the powers under the Act;
- The Authority shall have the powers of a Civil Court under CPC for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records;
- If the members of the Authority differ on any question they shall state the point or points on which they differ and make a reference to the Appellate Authority for hearing and decision on such question;
- The Authority or the Appellate Authority shall pronounce its advance ruling within 90 days of the receipt of the application;

- Where the members of the Appellate Authority differ on any point or points referred to above it shall be deemed that no advance ruling can be issued in respect of the question covered by the reference application;
- A copy of the advance ruling duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and the jurisdictional CGST/SGST officer.

Section 99 provides that-

- the prescribed or jurisdictional CGST/SGST officer; or
- an applicant

aggrieved by any advance ruling may file appeal to the Appellate Authority. The appeal shall be filed before the Authority within 90 days from the date on which the ruling is communicated to the concerned party. The appeal shall be filed in the prescribed form and verified in the prescribed manner.

The Appellate authority may, after giving the parties, an opportunity of being heard, pass such order as it thins fit, confirming or modifying the ruling appealed against. The order shall be passed within a period of 90 days from the date of filing. The Appellate Authority has power to regulate its own procedure in all matters arising out of the exercise of the powers under the Act. The Appellate Authority shall have the powers of a Civil Court under CPC for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records.

Where the members of the Appellate Authority differ on any point or points referred to in the appeal, it shall be deemed that no advance ruling can be issued in respect of the question covered under the appeal. A copy of the advance ruling made by the Appellate Authority signed by the Members and certified in the prescribed manner shall be sent to the applicant, the prescribed or the jurisdiction CGST/SGST officer and to the Authority.

Demonitizing the economy or sanitizing economic value

CMA.R.Veeraraghavan FCMA

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CMA.R.Veeraraghavan

What is paper currency ? It is a simple promissory note issued by the central bank in denominations with a guarantee to refund the face value on production. Loosely also termed as bank notes.

Which means it is a negotiable instrument that carries the guarantee of the central Government.

When the currency is floated for circulation it is the primary and ultimate responsibility of the central bank to ensure that it is not counterfeited and protected from fakes. Unfortunately this responsibility currently rests on the holder in due course who neither is technically aware of such a thing , nor in a position to prevent it,

This means whether central bank intends to absolve its primary and ultimate responsibility of holding out a promise on an instrument at the hands of holder in due course, for monies in circulation, simply because he is unaware of the origin of such currency that incidentally lands in his hands. Very dicey subject to detail in here.

Central banks cannot reveal those secrets in the promissory notes that makes its print unique nor can we expect every citizen to be capable and have the time to check all the money he or she receives during the course of his daily life. Counterfeits are done by the intelligent and they are tapping weakness in the system. How come holder in due course be responsible and denied the promise in the note.

When the title of the promissory note is maligned at origin either because of lack of control and monitoring by the central bank and its paraphernalia should the holder in due course be penalized for such an instrument landing in his or her hands. Big question left unanswered.

The simple money theory in economics suggests that anything that is acceptable as a medium of exchange by a section or whole of the population is recognized money. Thus it would appear a promissory note that is fake in the hands of holder in due course has value in favour of him or her against the said promise held out whether duly printed or not. These notes at times may pass various screening tests and remain in circulation and hence apparently it would remain as a promise of the central bank itself.

Weeding counterfeits is a continuous process, yet punitive denial of value to the holder in due course is unreasonable so long as paper currency is warranted in the global governance.

Section 26

26. Legal tender character of notes.—

(1) Subject to the provisions of sub-section (2), every bank note shall be legal tender at any place in 1[India] in payment, or on account for the amount expressed therein, and shall be guaranteed by the 2[Central Government].

(2) On recommendation of the Central Board the 2[Central Government] may, by notification in the Gazette of India, declare that, with effect from such date as may be specified in the notification, any series of bank notes of any denomination shall cease to be legal tender 3[save at such office or agency of the Bank and to such extent as may be specified in the notification]. 4[***]

Section 26(1) clearly suggest that bank notes are guaranteed by the central government. Practically except for fakes/counterfeits such guarantee remain in force not withstanding section 26(2), because if that is not the case then the credibility of guarantee by central government will come in question and hence the notes are exchanged with new ones. Fakes have different analogy to deal with.

Even all black money are not illegal considering certain amount of cash is always held in individuals for exigencies the threshold is dicey to decide and currently there is no restriction to hold cash by individuals and institutions. This promotes cash economy.

The current government is in sanitizing mode and it is a welcome development despite pitfalls. The earnestness is a paradigm to be appreciated, though it would be a longway to go.

As the saying goes if the thief does not himself reform , no system can reform him. But all attempts to cleanse will paralyze the tappers intention and make it difficult to indulge activities which go against nation building.

Our Institute should create a voluntary talent pool that will aid and advise the government in such tremoundous job undertaken by them .

CMAs would do good in suggesting ways for cleansing a system from the polluted stream by putting selfless thought process and identify and suggest improvements specially that which reaches out the common man and his life has enhanced value.

“Model GST Law, 2016 – An Overview”

CMA SRIDHAR V. R & CMA KESAVAN P.K



CMA SRIDHAR V. R



CMA KESAVAN P.K

Introduction:

The expansion for GST is the Goods and Service Tax. GST is the biggest tax reform proposed in the Tax structure of our country after Independence. The biggest reform in the Indian Economy and history of Indirect Taxes structure through 122nd Constitution Amendment Bill. By bringing the Bill into Act, the fortune of the Country's business will change. GST will be a motto – “One Country, One Market and One Tax. With introduction of the GST there shall be ease in doing business. This article attempts to explain an overview analysis on GST by understanding the proposed forthcoming regulations.

Salient Features of GST:

- 6) It contains 25 Chapters; 162 Sections (CGST and SGST); Four Schedules; GST Valuation Rules, 2016 (Comprises 8 Rules); Integrated Goods and Service Tax (IGST) comprise 11 chapters, 33 sections. Chapter on Settlement Commission is common for all (CGST, SGST and IGST)

- 1)
- 2) GST would be a destination based tax as against the present concept of origin based tax.
- 3) GST would apply to all goods and services except Alcohol for human consumption, Electricity and Real Estate. GST on petroleum products would be applicable from a date to be recommended by the GST Council. Tobacco and tobacco products would be subject to GST. In addition, the Central would continue to levy Central Excise duty.
- 4) State taxes that would be subsumed in the GST are: State VAT, CST, Purchase Tax, Luxury Tax, Entry Tax, Entertainment Tax (not levied by local bodies), Taxes on advertisements, Taxes on lotteries, betting and gambling, States cesses and surcharges insofar as they relate to supply of goods or services.
- 5) Exports would be zero-rated

Impact on inflation:

Under the proposed GST, effective tax rate on goods (comprising around 70-75 per cent of the CPI basket) will decline. A significant proportion (35-40 per cent) of goods (predominantly agriculture products) is not subject to tax and we expect a status quo in future. At present, services-oriented components constitute ~25-30 per cent of the CPI basket with a major share belonging to housing, transport and communication sector .. Service tax is not imposed on certain (12 per cent of the CPI basket) services and these services are expected remain exempt under GST regime. A hike in tax rate on services is unlikely to have any material direct impact on CPI. Thus, the overall transition to GST will not have a significant impact on inflation

Impact of GST on common man:

The impact of GST on the prices of goods and services will largely depend on the item in question. It will also depend upon the respective State governments and their intervention with respect to controlling prices of essential commodities. Milk, for example, which is likely to see a spike in prices after GST is implemented, can still be sold at cheaper rates, if the state government offers a subsidy on it. Whether the GST will be beneficial for the poor or not only time can tell. Prices of vegetables and fruits are likely to rise under the GST regime and services such as eating at restaurants will get more expensive. What will likely get cheaper are items such as clothes, as cascading taxes at various stages of manufacturing would no longer apply to them.

Advantages of GST:

- 1) There will not be any double taxation i.e. tax on tax.
- 2) Traders and Manufacturers shall be relieved from the cumbersome procedure in issuance of statutory forms such as C-forms, F-forms and way-bills etc.
- 3) Improved competitiveness
- 4) Better controls on leakage
- 5) Consolidation of tax base
- 6) For the consumer - Reduction of prices and Single and Transparent tax proportionate to the value of goods and services.

Disadvantages of GST:

The disadvantages feared by manufacturing states such as Tamil Nadu, Gujarat and Maharashtra, is that they will lose a major chunk of revenue earned from taxes on manufacturing. Since the tax structure will be uniform in the entire nation, States that traditionally attract investments may now lose some since manufacturers may turn to other States as well.

Challenges in Implementation of GST:

1. Lack of adaptation
2. Lack of trained staff
3. Double registration can increase compliances and cost
4. Lack of clear mechanism to control tax evasion
5. Hard to estimate the exact impact of GST

Present system of Indirect Taxes:

Let us first understand the various indirect taxes that are presently being levied by the Central & State Governments

Ref.	Tax	Levy by	Nature (Levied on) -	Can be Set-off against	Covered by GST
1	Central Excise	Centre	Manufacture	1,2	Yes
2	Service Tax	Centre	Providing services	1,2	Yes
3	Customs	Centre	Import	-	No
4	CVD* under Customs	Centre	Additional Import duty (compensating Excise)	1,2	Yes
5	SAD* under Customs	Centre	Additional Import duty (compensating Sales Tax)	1,2	Yes
6	CST	Centre	Inter-State sales	-	Yes
7	VAT	State	Sales within a state	7	Yes

(*CVD – Countervailing Duty; SAD – Special Additional Duty)

- The GST shall subsume all the above taxes, except the Basic Customs Duty that will continue to be charged even after the introduction of GST.
- India shall adopt a Dual GST model, meaning that the GST would be administered both by the Central and the State Governments.

Conditions for availing Input Tax Credit (ITC):

As per Clause 16(11) of Model GST Law, 2016, registered Taxable person shall not be entitled to the credit of any input tax in respect of any supply of goods, and/or services to him unless the following conditions are satisfied.

- a) He is in possession of a tax invoice, debit note, supplementary invoice or such other taxpaying document as may be prescribed, issued by a supplier registered under this Act or the IGST Act;
- b) He has received the goods and/or services;
- c) The tax charged in respect of such supply has been actually paid to the credit of the appropriate Government, either in cash or through utilization of ITC admissible in respect of the said supply and
- d) He has furnished the return under section 27.

ITC is not eligible on the following:

- a) Input credit on the advance given to vendor is not eligible
- b) Purchase made from supplier of goods and/or services who have opted under 'Composite Levy' Scheme.
- c) Goods and/or services are used for primarily for personal use or consumption of any employee
- d) Depreciation claimed under Income Tax Act, 1961 on the tax component
- e) Goods and/or services acquired by the principal in execution of Works Contract, which results into construction of immovable property other than Plant & Machinery.

Role of CMA in GST;

- Strategic Consultancy or Advisory services
- IT & ERP Systems
- Audit, Assurances & Legal/Procedural Compliances
- Tax Planning
- Assisting in Transitional
- Book/Record Keeping
- Representation / Appellate work

Need of the Hour:

- Pricing, Costing, Margins
- Supply-chain management
- Change in IT systems
- Treatment of Tax incentives
- Treatment of excluded sectors
- Transaction issues
- Tax compliance

Returns – Tax payers need to file following returns:

- GSTR-1 Outward Supplies made by the Taxpayer (Monthly)
- GSTR-2 Inward supplies/purchases received (Monthly)
- GSTR-3 GST Return (Monthly)
- GSTR-4 Quarterly Return for compounding dealer (Quarterly)
- GSTR-5 Return for Non Resident Taxpayers (Annual)
- GSTR-6 Return for Input Service Distributor (Monthly)

Hence minimum returns to be filed for any assessee **will be 36 in a year** as compared to 16 till now. It will bring the opportunity to CMAs to help taxpayers in compiling and filing the returns on time.

Matching of ITC -Tax Credit reconciliations

The ITC will be allowed only when the data is matched with the respective data filled up by suppliers or customers. Hence the reconciliation of Input tax credit as per our filling and as per other parties filling need to be matched. Tax credit will not be allowed if the data is not matching. Such mismatched transaction will have to be rectified in the span of 2 months. CMAs can help to identify such transactions and can inform the respective buyer /seller to amend their filling accordingly. This reconciliation will be big opportunity for professionals to undertake outsourcing assignments.

Time limit for availing Cenvat Credit:

As per Clause 16(15) of Model GST Law, A taxable person shall not be entitled to take ITC in respect of any invoice for supply of goods and/or service, after the filing of the return under section 27 for the month of September following the end of financial year to which such invoice pertains or filing of the relevant annual return, whichever is earlier.

Conclusion:

GST, by its design, encourage the system to be transparent. There is an inbuilt system of Input Tax Credit i.e. the tax paid at earlier stage of the production distribution chain will be set off at the final stage of sale of goods and services. Thus it is expected that tax evasion would be largely reduced. The above mentioned are some of select major highlights of Model GST law, 2016. The actual laws is yet to come. Lot more rules, notifications, clarifications, exemptions lists are yet to come. Let us all hope that the final GST law will replace the existing complications and we will be in a real good tax regime.

References:

1. The GST of IT- The Hindu eBooks publications
2. Subhasish Paul, "Model GST Law 2016 – Areas of Concern", The Management Accountant Journal, October 2016, pp60-68
3. Ashok B Nawal, "Role of CMA in GST", ppt

World Trade Organization-A Birds Eye View-I

CMA Ram Ganesh



World Trade Organization-A Birds Eye View-I

Objective of the article

The main objective of this article is to enlighten the CMAs on the working of World Trade Organization (hereinafter 'WTO'), the ultimate regulator of International trade. As Management Accountants we are exposed to various global practices and thus it is indispensable to have a high-quality acquaintance with WTO. The working, processes, structure and dispute settlement mechanisms of WTO are very complicate in practice. Article on WTO is an effort to make it reach to the members the different functions of WTO through this monthly edition of E-Bulletin. The snapshot of the contents of the first edition is as follows;

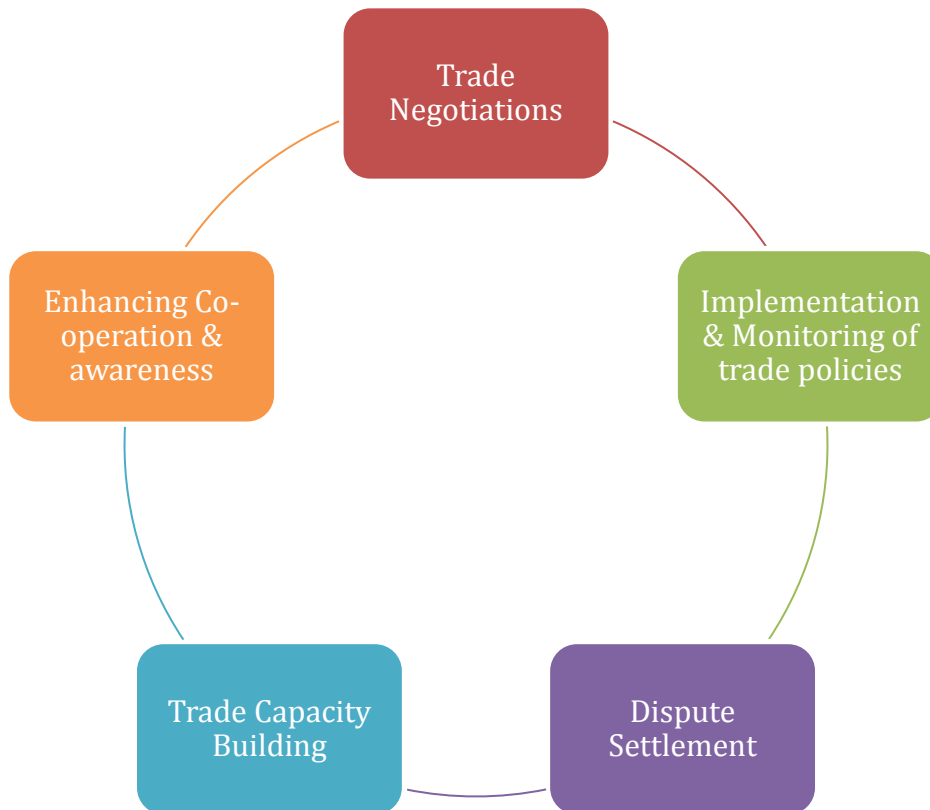
1. A Brief Introduction
2. Origin of WTO & Brief History
3. Analysis on the functions of WTO
4. Principles of WTO

WTO-An Introduction

The WTO is an International Organisation that deals with trade between nations with global rules which ensures that the trade flows are smooth, predictable and free from complicated impediments.

WTO is a global forum which facilitates the governments to shape their trade policies barrier free and supportive so as to render maximum benefit to the consumers paving way for simplification of International Commerce. The system in which WTO is working is focused on the overall economic development and compliance of trade rules for hassle-free negotiation process and dispute settlement mechanism. WTO is a member driven forum which moves through various settlement and trade agreements covering the goods, services and intellectual properties of various nations. WTO agreements are of paramount importance such that the conditions in the agreement require the foreign trade policies of the governments of various countries to be in line with it.

WTO employs a 5 tier system for the implementation of its objectives viz:-



Origin of WTO & Brief History

WTO officially commenced on January 1 1995 under the Marrakesh Agreement which was signed by 124 nations in Morocco marking the culmination of the 12 year long Uruguay Round. The agreement developed out of GATT (General Agreement on Tariffs and Trade) It was in the Uruguay Round that the lengthiest negotiation happened and the trading system extended Intellectual properties. WTO came into force because of the following reasons;

- a. GATT which was the agreement which was regulating the trades prior to WTO could not resolve major problems existed in the areas of agriculture and textiles since

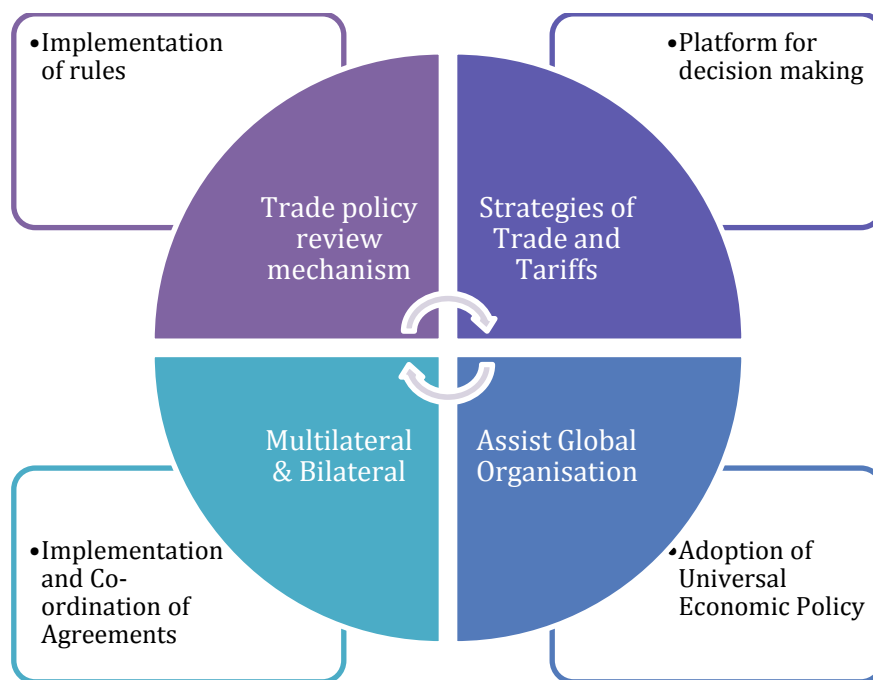
many nations could open its markets in other countries due to many legal impediments in GATT.

- b. When time passed, the Intellectual Properties gained much importance, which was not covered under the GATT.
- c. Though GATT was successfully implemented near 5 decades, it did not have an efficient system for resolving the disputes.
- d. The differentiation of or the methodology to extend facilities to the Developing countries was not present in the GATT, since it had faced the criticisms that it favoured only the Industrial countries.

Having analysed the above facts, and since it was indispensable then, for an authoritative body to regulate trade between nations, WTO had its birth at Geneva, Switzerland.

Functions of WTO- An Analysis

WTO took birth on the 1st January 1995 after the Marakkesh Agreement on a great expectation that it would change the features of the global economy by integrating the trade liberalization with the commercial relations of various nations. Accordingly, WTO had a pivotal responsibility towards its members to operate in an non discriminatory trading platform such that the exports will be treated equally and fairly in the other countries. Though WTO is not an agency of UNO, it gained international status like IMF and IBRD, which further enhanced its role to promote equality and sustainability. The major functions of WTO are as follows;



Apart from the above functions, WTO propagate and review the policies of trade of each nations to assist for the development of low income, least developed and transitioning countries in line with

the principles of WTO through technical training and co-operation. Though this international forum is member driven and rule based, the retention on farm subsidies protectionism to the agricultural domestic sector that developing countries request and the conflict between free trade on industrial services and goods as well as the international liberation on agricultural products fair trades remain one among the major obstacles.

Principles of WTO

Though the advent of WTO put an official end to the GATT, the basic principles on which WTO is working has been derived from its predecessor. WTO establishes a comprehensive and globally accepted framework for fair trade policies with a view to achieve coherence in global economic policy. Following are basic principles of WTO.



*Most Favoured Nation is a status of treatment accorded by one state to another in international trade. A country that has been MFN status may not be treated less advantageously than any other country with MFN status by the promising country. It extends reciprocal relationships which gives a nation a privilege for both unilateral and bilateral relationships.

*National Treatment is an International principle where foreign and local goods are treated equally. It is an integral part of all WTO agreements and applies in particular when a product or service or intellectual property has entered the market.

Conclusion

This article encompassed the basic feature and objective of WTO and the principles on which it performs its function. Many major steps are being taken by WTO to keep up the principles and compliances in momentum. The Dispute Settlement Mechanism, The Ministerial Conference and the structure of WTO will be elaborated in the next month edition of E-Bulletin.

Independent Director – coercion or salubrious

CS Dharmesh Vankar



Introduction

In this era of globalisation, especially in terms of technology and infrastructural change, many people are impacted. Like teenagers rely more on social media, i.e., whatsapp or facebook etc. for making friends or many people prefer for online shopping instead of visiting local market or places due to easy and convenient access, eye-catching discounts, etc.

Meaning of Independent director

The dictionary meaning of Independent word is that “one is not influenced or controlled by others in matters of opinion or refusing to be under obligation to others or you can say that person possesses a competency – to be financially independent or independent in terms of knowledge”. In layman language, we believe that person is independent, if he/she is financially stable.

Let's move towards the subject

Independent Director means who is independent and who is authorised / responsible for efficient functioning of the Company, who is supposed to look after important matters of the Company in independent way by keeping in mind the overall development of the Company along with interest of all stakeholders of the Company and the economy as whole.

As per the Companies Act, 2013, an “**Independent Director**” in relation to a Company, means a director other than a managing director or a whole-time director or a nominee director. An independent director is a person who is not related to the promoters or other members of the Company.

Applicability of independent director

Following class of Companies are required to appoint independent director on their board:

- Every Listed Company
- Public Companies
 - Having paid up share capital of Rs. 10 crore or more;
 - Having turnover of Rs. 100 crore or more;

- Which have, in aggregate, outstanding loans, debentures and deposits, exceeding Rs. 50 crore or more;

Strength of independent director in the Company depends on case to case.

Role of independent director

Independent Director has a crucial role in Corporate Governance. Independent director plays vital role in determining the levels of remuneration among executive directors, key managerial personnel and senior management and their appointment too, wherever necessary.

Independent director has a strong influence on audit committee as the composition of audit committees mainly consist of independent directors. However having independent directors on the Board haven't proved to be a sure-shot method to deter companies from malpractices, increasing instances of institutional activism and the rise of proxy advisory firms may force greater accountability from independent directors. In a recent case, when board of major cement company ACC proposed to increase the payment of technological know-how fees to its parent firm, Holcim (Switzerland), but independent directors of both the companies, i.e., ACC & Ambuja cements, rejected such proposal on the grounds that interest of minority shareholders should not be affected due to increase in royalty payments.

Conditions to be met by independent director

- ☐ **Declaration:** He is required to give a declaration that he fulfils the criteria of independence provided for in the law, at the first board meeting in which he participates as an independent director and thereafter at first Board meeting in every financial year or whenever there is any change in the circumstances that may affect his independence.
- ☐ **Qualification:** An independent director shall possess **appropriate** (appropriate say CS/CA/CWA OR engineer having vast experience etc.) education, skills, experience and knowledge in one or more fields of finance, law, management, sales, marketing, administration, research, corporate governance, technical operations or other disciplines related to the Company's business.
- ☐ **Remuneration:** He shall not be entitled to any remuneration, other than sitting fee, reimbursement of expenses for participation in Board meeting and profit related commission as approved by the Company. He is not entitled to any stock option.
- ☐ **Tenure:** He shall hold office for a term up to five consecutive years on the Board of a Company, but shall be eligible for re-appointment on passing of special resolution. He shall not hold office for more than two consecutive terms, but such independent director shall be eligible for appointment after the expiration of three years of ceasing to become an independent director. However, he shall not, during the said period of

three years, be appointed in or be associated with the Company in any other capacity, either directly or indirectly.

- ❑ *Liability*: He shall be liable, only in respect of such acts of omission or commission by a Company which had occurred with his knowledge, attributable through Board processes, and with consent or connivance or where he had not acted diligently.
- ❑ *Duties*: The duties include constructive attendance in all board/general meetings, reporting unethical practices, fraud and violation of law, retaining any confidential information pertaining to company as confidential, ensuring the concerns relating to management are placed before the board and be recorded in the minutes of board meeting.

Independent director needs to work as moderator and arbitrator in the best interest of the Company as a whole in situations of conflict between the management and shareholders' interest. In short, there is a significant onus on them to assist in safeguarding the legitimate interest of the company and its stakeholders.

- ❑ *Retirement by rotation*: He will not be liable to retire by rotation.
- ❑ *Vacancy*: Any intermittent vacancy of an independent director shall be filled up by the Board at the earliest but not later than immediate next Board meeting or three months from the date of such vacancy, whichever is later.
- ❑ *Procedure for appointment*: Appointment of independent director shall first be considered in the meeting of the Board of directors and later on approved by the Company by way of ordinary resolution in general meeting. However, the second tenure of five consecutive years shall be by way of special resolution passed in general meeting. The explanatory statement shall indicate the justification for choosing the appointee for appointment as independent director.

Why Company should have independent director?

Before answering above question, I would like to throw light on different forms of business – proprietorship and Company. In proprietorship, the whole business is conducted by one sole individual. So in above case there is no complexity involved in running business at all, but this is not possible in case of company. In Company there are lots of complex functions, rules and regulations which are required to be complied to avoid legal and monetary penalty. So for better functioning of the Company there should be **efficient** Board (efficient board

means constitution of Board in such a way that affairs of the Company be easily managed)

Independent director is a highly qualified as well as experienced person of field on which a Company and its stakeholders can rely upon. It will be for sure helpful to the Company. Even if independent director have experience of different field which is altogether different from the Company's function, then still it can prove beneficial to the Company. Example: if Company is engaged in manufacturing of synthetic while independent director have experience of international marketing field, then it will surely help the Company in exploring the new market for the Company's product and which is ultimately helpful for boosting Company's stability – financial as well as market.

Some Corporate appoint independent director out of compulsion merely for compliance purpose and think them as burdensome on the Company but it's not valid at all. Corporate should have to gulp up the spirit behind the law for enacting independent director's appointment in Company. There is one saying – *“Change your attitude, change your destiny.”* Keeping in mind this saying, if corporate change their mind and see the things in positive way, it will be win-win situation for them by appointing independent director on the Board.

Conclusion: It is evident that independent director is hidden diamond for the Company. Company just need to polish it as per its requirement. Company shouldn't have to worry about cost in terms of fees of independent director but should have a faith that fees given to independent director is only penny while knowledge/services received from the independent director is in pound.

In Short, **“law should prevail over attitude, not attitude prevail over law.”**

References:

- Section 149, 177 & 178 of the Companies Act, 2013
- Companies (Appointment and Qualification of Directors) Rules, 2014
- SEBI (LODR) Regulations, 2015
- Business Standard – Dec.14, 2012

ECONOMY UPDATES

NOVEMBER - 2016

CMA Dr. M. GOVINDARAJAN



UPDATES

SERVICE TAX

Notification No. 46/2016-ST, dated 09.11.2016 - Seeks to amend Place of Provision of Services Rules, 2012 so as to amend the place of provision of 'online information and database access or retrieval services' with effect from 01.12.2016.

Notification No.47/2016-ST, dated 09.11.2016 - Seeks to amend notification No. 25/2012-ST dated 20th June , 2016 so as to withdraw exemption from service tax for services provided by a person in non-taxable territory to Government, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.

Notification No. 48/2016-ST, dated 09.11.2016 - Seeks to amend Service Tax Rules, 1994 so as to prescribe that the person located in non-taxable territory providing online information and database access or retrieval services to 'non-assesse online recipient', as defined therein, is liable to pay service tax and the procedure for payment of service tax.

Notification No. 49/2016-ST, dated 09.11.2016 - Seeks to amend notification No. 30/2012- ST, dated the 20th June, 2016 so as to put compliance liability of service tax payment and procedure on to the service provider located in the non-taxable territory with respect to online information and database access or retrieval services provided in the taxable territory to 'non-assesse online recipient'.

No. 345/226/2013-TRU,(Pt-1) GSR (1060) (E) (ST), dated 10.11.2016 - Corrigendum to Notification 38/2016-ST, dated 30.08.2016

Circular No.202/12/2016, dated 09.11.2016 - Withdrawal of exemption from service tax on cross border B2C OIDAR services provided online/electronically from a non-taxable territory to consumers in taxable territory in India-reg.

CENTRAL EXCISE

Circular No. 1050/38/2016-CX, dated 08.11.2016 – The Board informed that the Combined Annual Return for the year 2015 – 16 need not be required which is required to be filed on or before 30.11.2016.

CUSTOMS

Notification No.127/2016-Customs (NT), dated 20.10.2016 – Rate of exchange of conversion of foreign currency with effect from 21.10.2016

Notification No. 130/2016-Customs (NT), dated 25.10.2016 – Rescinded Notification No. 66/1996-Cus, dated 02.09.1996 giving exemption to imports by Ford Foundation.

Notification No. 131/2016-Customs (NT), dated 31.10.2016 - All Industry Rates (AIRs) Drawback effective from 15.11.2016

Notification No. 132/2016-Customs (NT), dated 31.10.2016 - Amends Customs, Central Excise Duties and Service Tax Drawback Rules effective from 15.11.2016 – Rule 8(1) is omitted.

Notification No. 133/2016-Customs (NT), dated 31.10.2016 - Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver.

Notification No. 134/2016-Customs (NT), dated 02.11.2016 - Deferred Payment of Import Duty Rules, 2016.

Notification No.135/2016-Customs (NT), dated 02.11.2016 - Deferred Payment of Import Duty Rules, 2016 - The Central Government permits the Importers certified under Authorized Economic Operator programme as AEO (Tier-Two) and AEO (Tier-Three) to make deferred payment of import duty.

Notification No. 136/2016-Customs (NT), dated 03.11.2016 - Rate of exchange of conversion of the foreign currency with effect from 04th November, 2016.

Notification No. 137/2016 – Customs (NT), dated 15.11.2016 - Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver

Notification No. 51/2016 (ADD), dated 02.11.2016 - Seeks to levy provisional anti-dumping duty on 'Wire Rod of Alloy or Non-Alloy Steel' originating in or exported from China PR.

Notification No. 52/2016 (ADD), dated 09.11.2016 - Seeks to levy anti-dumping duty at modified rates on 4, 4 Diamino Stilbene 2, 2 Disulphonic Acid (DASDA) originating in or exported from People's Republic of China up to and inclusive of 22nd January, 2019

Circular No.47/2016 – Customs, dated 20.10.2016 - Rebate of State Levies on Export of Garments – Implementation by CBEC

Circular No. 48/2016-Customs, dated 26.10.2016 – The procedure for clearance of import metal scrap is furnished in this circular.

Circular No.49/2016 – Customs, dated 27.10.2016 – Transferability of goods imported/procured by debiting duty in SFIS scrips– reg.

Circular No. 50/2016 – Customs, dated 31.10.2016 - All Industry Rates of Drawback and other Drawback related changes -reg.

Circular No. 44/2016, dated 01.11.2016 - Procedure for transshipment of imported goods to SEZ Units -Reg.

Circular No. 93/2016, dated 01.11.2016 - Issuance of Manual Cheque for Drawback in case Amount Not Deposited in Exporter's Account due to errors- reg.

Circular No. 146/2016, dated 03.11.2016 - Implementation of Document Management System (DMS) at Nhava-Sheva-(I,II,III,IV& V) Commissionerate, Mumbai Customs Zone-II-Start of Centre at Punjab Conware CFS- regarding.

Circular No. 145/2016, dated 04.11.2016 - Procedure for clearance of Unaccompanied Baggage in the Indian Customs. EDI System (ICES 1.5 System) at the Unaccompanied Baggage Centre (Speedy CFS), JNCH

Circular No. 32/2016, dated 07.11.2016 - Rationalization of procedures in handling exporters obligations under EPCG authorizations – Reg.

Circular No. 44/2016, dated 09.11.2016 - Online Transmission and Processing of Chapter 3 Reward Scheme License/Scrips (SEIS) issued by the DGFT -reg.

Circular No.51/2016, dated 09.11.2016 - Rebate of State Levies on Export of Garments-revised rates regarding.

Circular No.45/2016, dated 10.11.2016 - Classification of combination or sets of Salwar-Kameez, dupatta set, Choli Ghagra(set) etc. for the purpose of claiming drawback.

Circular No. 52/2016, dated 15.11.2016 – Deferred payment of customs duty – reg.

INCOME TAX

Notification No. 93/2016, dated 14.10.2016 - Reconstruction or splitting up has been made to transfer any assets of the demerged company to the resulting company Agreement and Share Purchase Agreement

Notification No. 94/2016, dated 17.10.2016 - Income-tax (28th Amendment), Rules, 2016 - Special Provisions Relating to Tax on Distributed income of Domestic Company for Buy-Back of Shares

Notification NO.95/2016, dated 19.10.2016 - The Central Government hereby specifies Director, Vigilance and Anti-Corruption Bureau, Kerala for the purposes of Section 138 (1)(a) (ii).

Notification No. 65/2016 – SO. 3285(E), dated 24.10.2016 - Section 35AC - Eligible projects or schemes - recommendations of the National Committee for Promotion of Social and Economic Welfare.

Notification No. 66/2016 – SO 3286 (E), dated 24.10.2016 - Section 35AC - Eligible projects or schemes - recommendations of the National Committee for Promotion of Social and Economic Welfare

Notification No. F.No. 370142/21/2016-TPL, dated 24.10.2016 - Draft Rules for prescribing the method of valuation of fair market value in respect of the trust or the institution-Chapter XII-EB of the Income-tax Act, 1961

Notification No.F.No. Q 23016/6/2015-Ad.IC(AAR), dated 24.10.2016 - Authority for Advance Rulings (Procedure for Appointment as Chairman and Vice-Chairman) (Amendment) Rules, 2016.

Notification No.100/2016, dated 25.10.2016 -Authority under the Prohibition of Benami Property Transactions Act, 1988 for each State.

Notification No. 97/2016, dated 25.10.2016 - Central Government notifies the Adjudicating Authority and Appellate Tribunal for the purpose of the Prohibition of Benami Property Transactions Act, 1988 (45 of 1988). With effect from 01.11.2016 the Adjudicating Authority under Prevention of Money Laundering Act, 2002 will be the Adjudicating Authority for this Act and the ITAT is the Appellate Tribunal for the purposes of Appeal under this Act.

Notification No.98/2016, dated 25.10.2016 – The Central Government notifies 01.11.2016 as the effective date for the amendment to Benami Transactions (Prohibition) Act, 1988.

Notification No. 99/2016, dated 25.10.2016 – The Central Government makes the ‘Prohibition of Benami Transactions Rules, 2016 which comes into effect from 01.11.2016.

Notification No.101/2016, dated 27.10.2016 - Section 10(46) of the Income-tax Act, 1961 – Central Government notifies Bihar Electricity Regulatory Commission, a body constituted by the State Government of Bihar, in respect of the specified income arising to that Commission;

Notification No. 102/2016, dated 28.10.2016 - Agreement between the Government of the Republic of India and the Government of Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes

Notification No. 103/2016, dated 07.11.2016 - Income-tax (29th Amendment) Rules, 2016 – proviso is inserted after Rule 5(1) - in case of a domestic company which has exercised option under [sub-section \(4\) of section 115BA](#), the allowance under [clause \(ii\) of sub-section \(1\) of section 32](#) in respect of depreciation of any block of assets entitled to more than forty per cent. shall be restricted to forty per cent. on the written down value of such block of assets.”

Notification No.104/2016, dated 15.11.2016 - income-tax (30th Amendment) Rules, 2016 – Substitute of Serial No. 10, which provides that PAN no. should be furnished in case of cash deposit of Rs.50,000/- during any day or aggregating more than Rs.2.5 lakhs during the period from 09.11.2016 to 30.12.2016.

Circular No. F.No. 279/Misc/M-77/2011-ITJ, dated 18.10.2016 - Modifications to the Instruction No. 6/2016 for engagement of Special Public Prosecutors (SPPs) to re present the Income Tax Department before Courts of Session and its subordinate courts- Reg.

Circular No. F.No. 225/195/2016/1TA.II, dated 18.10.2016 - Due date for filing Income-tax return and reports of audit extended for taxpayers in the state of Jammu & Kashmir is 31.12.2016.

Circular No. F.No.279/Misc/M-75/2011-ITJ (Part II), dated 18.10.2016 - Modifications to the Instruction No. 7/2016 for engagement of Standing Counsels to represent the Income-tax Department before High Courts and other judicial forums- Reg.

Circular No.36/2016, dated 25.10.2016 - Taxability of the compensation received by the land owners for the land acquired under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('RFCTLAAR Act')-reg.

Circular No. 37/2016, dated 02.11.2016 - Chapter VI-A deduction on enhanced profits- the Board has accepted the settled position that the disallowances made under sections [32](#),[40\(a\)\(ia\)](#), [40A\(3\)](#), [43B](#), etc. of the [Act](#) and other specific disallowances, related to the business activity against which the [Chapter VI-A](#) deduction has been claimed, result in enhancement of the profits of the eligible business, and that deduction under [Chapter VI-A](#) is admissible on the profits so enhanced by the disallowance.

Order under Section 119 of the Act, dated 25.10.2016 - in instances where a valid return-of-income having 'claim of refund' for Assessment Years 2014-2015, 2013-2014 and 2012-2013 was filed either under [section 139](#) or [142\(1\)](#) of the [Act](#) and in which the time for sending intimation under [sub-section \(1\) of section 143](#) has lapsed, the Central Board of Direct Taxes ('CBDT'), by virtue of its powers under [section 119](#) of the [Act](#), hereby relaxes the time-frame prescribed in second proviso to [sub-section \(1\) of section 143](#) and directs that such returns-of-income shall now be processed by **31.03.2017**. Further, intimation of processing and consequential refund, if any, shall be issued expeditiously as per the prevailing norms and existing provisions of the Act.

Press release – dated 25.10.2016 - CBDT issues second round of Certificates of Appreciation to tax payers for their contribution towards Nation building

Press release, dated 26.10.2016 - Notification of Revised Double Taxation Avoidance Agreement (DTAA) between India and Republic of Korea – regarding.

Press release, dated 09.11.2016 - Notification of Protocol amending the Double Taxation Amending Convention (DTAC) between India and Japan

COMPANY LAW

Notification No.F.No. 01/16/2013 CL –V(Pt-1), dated 07.11.2016 - Companies (Registration Offices and Fees) Second Amendment Rules, 2016.

Circular No. 12/2016, dated 27.10.2016 - Relaxation of additional Fees and extension of last date of in filing AOC-4, AOC-4 (XBRL), AOC-4 (CFS) and MGT-7 e-forms under the Companies Act, 2013-regarding

FOREIGN TRADE POLICY

Public Notice 39/2015-2020, dated 20.10.2016 - Inclusion of Inland Container Depots located at Kalinganagar and Tumb Village (Taluka Umbergaon, District Valsad) as a Port of Registration under Para 4.37 of Hand Book of Procedures (2015-2020)

Public Notice 40/2015-2020, dated 25.10.2016 - Corrigendum to Public Notice No.38/ (2015-2020) dated 6th October, 2016 - The wordings HMS -I & HMS - II as appearing in Public Notice No.38/ (2015-2020) dated 6th October, 2016 are replaced by un-shredded Metallic Waste and Scrap.

Public Notice 41/2015-2020, dated 02.11.2016 - Amendments in Standard Input Output Norms (SION) of Product group: Food products

Public Notice 42/2015-2020, dated 08.11.2016 - Amendments in Standard Input Output Norms (SION) - reg

Public Notice 43/2015-2020, dated 11.11.2016 - Inclusion of new Regional Office of DGFT at Vijayawada, Andhra Pradesh in Appendix-1 A of Foreign Trade Policy, 2015-20.

SPECIAL ECONOMIC ZONE

Instruction No. 86, dated 31.10.2016 - Amendment to Instruction No. 9 regarding Procedure for Reimbursement of Duty (ROD) in lieu of drawback for supply of goods to SEZ Developers against Indian Rupees

GOODS AND SERVICE TAX

Four tier rate structure

The GST Council, in the meeting held on 03.11.2016 finalized the GST tax rate structure. The Council has opted for a four tier rate structure of 5%, 12%, 18% and 28%. The

essential items like food grains will have a zero rate. According to the decision, 150 essential items in the consumer price index basket will attract zero tax.

5% tax – For mass consumption goods like butter, ghee;

12% tax – It is one of the standard rate;

18% tax – It is another standard rate;

28% tax – Luxury goods will attract this tax;

0% tax – 50% of Consumer Price Index basket items, food grains like rice and wheat, spices

The above tax rate must be approved by the Parliament in the Winter Session which is going to be held on 19.11.2016. A committee of officers/Secretaries will finalize the exact tax rate on each item and bring it to the slab closet to the current tax.

Cess

The Council recommended the collection of Cess to compensate State for their revenue loss. The proceeds from this cess and the clean energy cess will jointly constitute the pool from which States would be compensated for any revenue loss. This cess would have a sunset clause of five years.

“Every Coin has two sides”

CSR Provisions –

Obligation or Opportunity in the context of corporate thinking

CS Dharmesh Vankar



With the introduction of Corporate Social Responsibility provisions, many corporate consider this provision to be a burden on them. Many of them believe that the business set up by them is for the betterment of their own and their successors and when the Society's welfare comes into picture, they say that govt. has already taken steps by establishing various trusts/NGOs/ Societies and by formulating various plans and policies like The Mahatma Gandhi National Rural Employment Guarantee Act, Kissan Vikas Yojana, etc. Companies are of further view that they have to earmark resources like fund, people, and mind for complying CSR provisions and in this cut throat competition, where Costing is too important, why to bear *unnecessary* burden of expenses but there are certain benefits also, but most important benefit is ***“Branding cum marketing of Company”***.

Here the journey of CSR begins:

Social responsibility – what does this word means? Social responsibility means one has to grow not by damaging others but by helping or serving others. A balance must exist between economic welfare of one and social welfare of others too. For achieving one objective, other one shouldn't be ignored.

If we are talking about social responsibility in the context of an individual, then it comes from his family background, education, his or her mental perception and most important, his motive. If one wants to do social help, then one can do it, without any hesitation or show off as I have seen lots of gentle people who're helping others hidden and silently without making any excuses.

Further, if we are talking about social responsibility in the context of corporate bodies, here comes the issue. Corporate are of view that why to focus on non-profitable activities as they are money/ business minded. But one shouldn't forget that they're also part of society. If you're living in society, getting something from society, then it becomes your duty cum obligation to share something in return to the society. *It's like double entry system, one credit then one should always be debit.*

What is Corporate Social Responsibility?

Before proceed to further, let's understood the word CSR.

Business Dictionary defines CSR as "A company's sense of responsibility towards the community and environment (both ecological and social) in which it operates. Companies express this citizenship (1) through their waste and pollution reduction processes, (2) by contributing educational and social programs and (3) by earning adequate returns on the employed resources.

A broader definition expands from a focus on stakeholders to include philanthropy and volunteering

As per Section 135 of the Companies Act, 2013, Every Company having

- Net worth of Rs.500 Cr. Or more; or
- Turnover of Rs.1000 Cr. Or more; or
- Net profit of Rs.5 Cr. Or more;

During any financial year shall have to follow CSR provisions like constitution of CSR Committee, to spend at least 2% of its avg. net profits made during 3 preceding financial years on the activities referred to in Schedule VII of the Companies Act, 2013.

Following are some of the activities referred to in Sch. VII of the Companies Act, 2013

- Promotion of education
- Eradication extreme hunger and poverty
- Promoting gender equality and empowering women
- Employment enhancing vocational skills
- Reducing child mortality and improving maternal health
- Ensuring environmental sustainability

Just look at the activities mentioned in Sch. VII of the Companies Act, 2013 for Corporate Social responsibilities activities, it is of much required for developing or under developed Country and up to certain extent for developed country too. Still there are lots of people in India, who are living below poverty line, who haven't get sufficient and good food, there are lots of children who wants to study but due to their financial conditions, they're not afford the education, in today's highly inflationary economic conditions.

If the Company follow its CSR provisions as strategy then it will ultimately creates goodwill as well as helpful to maintain the goodwill of the Company in the market. Why Big groups of India are too successful and known as reputed companies of India? Because they run their businesses with the people, through the people and for the people. The Big groups carrying out their CSR provisions voluntarily since long time. The CSR activities can result in the betterment of both i.e. the Company itself and the society. So Company can by its better CSR implication, enhance its image like Tata in the mind of the people and this will be indirectly beneficial to the Company.

Suppose Company is running a school as a part of its CSR provisions, and if this helps some bright & poor students to get high professional qualifications, then it will automatically help the Company. The same is the case if the Company is following its CSR provisions through NGOs or trusts, i.e., renovation of school buildings, providing food to hungry & needy people, helping people at the time of natural calamities like flood, earthquake etc.

There might be chances that sometimes Company will face crisis or cash crunch during some time but if Company follows its philosophy i.e. to benefit the Company along with benefit of the society at large then there are definite chances that Company will survive in long term and be profitable in future too. If Company is good at maintaining its **good** image in the mind of society then such Company will never be faced employee breakdown and employee will be ever delighted to work in the premises and it will ultimately be helpful to the Company and society at large.

Further, if Company is sticking to its motive of social cause, then it will surely enhance its image in the minds of Government too which will help him to attract various incentives and packages, concessions, reliefs from taxes, dues, penalty etc.

In addition to, as the Company's image is built up in the minds of people, it will be easy for the Corporate to get sufficient credit or funding at reasonable rate of interest and in time as financial institutions might also think that they're also helping the society indirectly.

Corporate success and social welfare are interdependent. A business needs a healthy, educated workforce, sustainable resources and adept government to compete effectively. For society to thrive, profitable and competitive businesses must be developed and supported to create income, wealth, tax revenues and philanthropy. CSR acknowledges trade-offs between short-term profitability and social or environmental goals, but emphasizes the opportunities for competitive advantage from building a social value proposition into corporate strategy.

Corporate Social Responsibility provision will aid to achieve Company's mission statement and it's also forming part of applied ethics by Corporate.

Most consumers agree that while achieving business targets, companies should do CSR at the same time. Most consumers believe companies doing charity will receive a positive response.

Conclusion: CSR provision is not a burden, but its opportunity ("बस नजरिये की है बात") for enhancing image of the company in the minds of people cum society which will ultimately beneficial to the all stakeholders like employee, Government, Creditors, Shareholders and the Company itself.

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