



CORPORATE SOCIAL RESPONSIBILITY, AS PER COMPANIES ACT 2013



Corporate Social RESPONSIBILITY

The provisions relating to corporate social responsibility are contained in section 135 of the Companies Act, 2013 read with the Companies (Corporate Social Responsibility Policy) Rules, 2014, as follows:

1. Applicability

- (a) Section 135 applies to a company (including a foreign company) only if it satisfies one or more of the following criterion during any financial year.
 - (i) The net worth of the company is ₹ 500 crore or more.
 - (ii) The turnover of the company is ₹ 1,000 crore or more.
 - (iii) The net profit of the company is ₹ 5 crore or more.
- (b) Every company which ceases to fulfill the above criteria for 3 consecutive financial years shall not be required to -
 - (i) constitute CSR Committee; and
 - (ii) comply with the provisions contained in Section 135, till such time it meets the criteria specified above.

2. Constitution of CSR Committee

- (a) Every company to which section 135 is applicable, shall constitute a Corporate Social Responsibility Committee of the Board (CSR Committee).
- (b) The CSR Committee shall consist of 3 or more directors.
- (c) Out of the 3 directors, at least 1 director shall be an independent director.
- (d) An unlisted public company or a private company which is not required to appoint an independent director (as per Section 149 of the Companies Act, 2013), shall have its CSR Committee without any independent director.



- (e) A private company having only 2 directors on its Board, shall constitute its CSR Committee with 2 directors only.
- (f) In case of a foreign company, the CSR Committee shall comprise of at 2 two persons of which one person shall be a person resident in India authorised to accept on behalf of the foreign company service of notices and other documents, and the other person shall be nominated by the foreign company.

3. Duties of the CSR Committee

- (a) The CSR Committee shall formulate and recommend to the Board, a CSR Policy. CSR Policy shall indicate the activities to be undertaken by the company as specified in Schedule VII.
- (b) CSR Committee shall recommend the amount of expenditure to be incurred on the CSR activities to be undertaken by the company.
- (c) CSR Committee shall monitor the CSR Policy of the company from time to time.
- (d) The CSR Committee shall institute a transparent monitoring mechanism for implementation of the CSR projects or programs or activities undertaken by the company.

4. Duties of the Board

- (a) The Board shall, after taking into account the recommendations made by the CSR Committee, approve the CSR Policy for the company.
- (b) The Board shall ensure that the activities as are included in CSR Policy are undertaken by the company.
- (c) The Board shall ensure that the company spends in every financial year, at least 2% of the average net profits of the company made during the 3 immediately preceding financial years, in pursuance of its CSR Policy. 'Average net profit' shall be calculated in accordance with the provisions of section 198 of the Companies Act, 2013. The company shall give preference to the local area and area; around it where it operates, for spending the amount earmarked for CSR activities.

5. Disclosures in Board's report

The Board's report shall disclose -

- (a) the composition of the CSR Committee;
- (b) the contents of CSR Policy; and
- (c) the reasons for not spending the amount of 2% in pursuance of its CSR Policy (in case the company fails to spend such amount).



6. Definition of CSR

Rule 2 of the Companies (Corporate Social Responsibility Policy) Rules, 2014 defines CSR as follows:

'Corporate Social Responsibility (CSR)' means and includes but is not limited to -

- (i) Projects or programs relating to activities specified in Schedule VII to the Act; or
- (ii) Projects or programs relating to activities undertaken by the board of directors of a company (Board) in pursuance of recommendations of the CSR Committee of the Board as per declare CSR Policy of the company subject to the condition that such policy will cover subject enumerated in Schedule VII of the Act.

7. Activities not amounting to CSR

As per Rule 4 and Rule 6 of the Companies (Corporate Social Responsibility Policy) Rules, 2014 following shall not amount to CSR Activities for the purpose of Section 135:

- (a) The CSR projects or programs or activities undertaken outside India.
- (b) The CSR projects or programs or activities that benefit only the employees of the company and their families.
- (c) Contribution of any amount, directly or indirectly, to any political party under section 182 of the Companies Act, 2013.
- (d) Any activity undertaken in pursuance of normal course of business of a company.

8. Manner of implementing CSR Policy

Rule 4 of the Companies (Corporate Social Responsibility Policy) Rules, 2014 makes the following provision with respect to manner of implementation of CSR Policy:

- (a) The CSR activities shall be undertaken by the company, as per its stated CSR Policy.
- (b) A company may undertake CSR activities through a registered trust or a registered society or a company established by the company or its holding or subsidiary or associate company, subject to fulfillment of the following 2 conditions:
 - (i) If such trust, society or company is not established by the company or its holding or subsidiary or associate company, it shall have an established track record of 3 years in undertaking similar programs or projects.



- (ii) The company has specified the project or programs to be undertaken through these entities, the modalities of utilization of funds on such projects and programs and the monitoring and reporting mechanism.
- (c) A company may also collaborate with other companies for undertaking projects or programs or CSR activities in such a manner that the CSR Committees of respective companies are in a position to report separately on such projects or programs.
- (d) Companies may build CSR capacities of their own personnel as well as those of their Implementing agencies through Institutions with established track records of at least 3 financial years but such expenditure including expenditure on administrative overheads, shall not exceed 5% of total CSR expenditure of the company in one financial year.

9. CSR Reporting

Rule 8 of the Companies (Corporate Social Responsibility Policy) Rules, 2014, makes the following provisions with respect to CSR Reporting:

- (a) The Board's Report pertaining to any financial year commencing on or after the 1st day of April, 2014 shall include an annual report on CSR.
- (b) In case of a foreign company, the balance sheet filed under section 381 of the Companies Act, 2013 shall contain an Annexure regarding report on CSR.

10. Display of CSR policy on the website

The Board shall place the contents of CSR Policy on the company's website, if any, in such manner as may be prescribed.

As per Rule 9 of the Companies (Corporate Social Responsibility Policy) Rules, 2014 and Rule 6 of the Companies (Accounts) Rules, 2014, the CSR Policy and its contents shall be displayed on the company's website, if any, as per the particulars specified in the Annexure to the Companies (Corporate Social Responsibility Policy) Rules, 2014.

11. CSR Activities to be in accordance with Schedule VII

The Board shall ensure that activities included by a company in its CSR Policy fall within the purview of the activities included in Schedule VII.



Schedule VII contains such activities which may be undertaken by the companies in pursuance of their CSR Policy. The activities specified under Schedule VII are as under:

- (i) Eradicating hunger, poverty and malnutrition, promoting health care including preventive health care and sanitation and making available safe drinking water
- (ii) Promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly, and the differently abled and livelihood enhancement projects
- (iii) Promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups
- (iv) Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water
- (v) Protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional arts and handicrafts
- (vi) Measures for the benefit of armed forces veterans, war widows and their dependents
- (vii) Training to promote rural sports, nationally recognised sports, paralympic sports and Olympic sports contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women
- (ix) Contributions or funds provided to technology incubators located within academic institutions which are approved by the Central Government
- (x) Rural development projects.
- (xi) slum area development.
Explanation. For the purposes of this item, the term 'slum area' shall mean any area declared as such by the Central Government or any State Government or any other competent authority under any law for the time being in force.

Social Cost Benefit Analysis (SCBA)



Meaning:

In evaluation of investment proposals, the return on investment factor is considered dominant. However, since scarce resources are employed, the social impact of investment proposals should also be considered. Such analysis is called Social Cost Benefit Analysis (SCBA).



Features of Social Cost Benefit Analysis (SCBA)

- Market Prices used to measure costs and benefits in Project Analysis, do not represent social values due to imperfections in market. They have to be suitably adjusted to reflect social valuations.
- Monetary Cost Benefit Analysis fails to consider the external effects of a project, which may be positive like development of infrastructure, training of workers, or negative like pollution and imbalance in environment.
- Taxes and subsidies are monetary costs and gains, but these are only transfer payments from social point of view and therefore irrelevant. For the Society as a whole, taxes are merely transferred from the project in hand to Government and not involve Real Cost.
- SCBA is essential for measuring the re-distribution effect of benefits of a project as benefits going to poorer section are more important than one going to sections which are economically better off.
- Projects manufacturing life necessities like medicine, or creating infrastructure like electricity generation are more important than projects for manufacture of liquor and cigarettes.
- If savings are inadequate, money going into investment is regarded more valuable than money going into current consumption. There is a need for evaluating the proper use of the money used for investment.



- Relative valuation placed on future consumption compared to current consumption is different for the society. Also effect of perceived uncertainties may be different.
- There is a need for analysing the external effects that exist on the consumption side, e.g. a person getting inoculation against infectious disease will be conferring some benefit to society by preventing the spreading over of the disease.

Concept of Shadow Price:

Estimation of Shadow prices form the core of SCBA Methodology. A Shadow Price (which may or may not be equal to the Market Price) reflects the social evaluation of the input or output. It is also called Social Cost, and does not have an existence apart from its use in social evaluation.



Steps involved in Social Cost Benefit Analysis:

- Step-1 Determine the problem to be considered.
- Step-2 Ascertain alternative solutions/projects to the problem.
- Step-3 Estimate and analyse the social costs and benefits.
- Step-4 Appraise the estimated social costs and benefits.
- Step-5 Decide on the optimal solution.

Limitations of Social Cost Benefit Analysis:

- ✗ Dependability: Successful application of SCBA depends upon reasonable accuracy and dependability of the underlying forecasts as well as assessment of intangibles.
- ✗ Inconclusive: SCBA does not indicate whether given project evaluated on socio-economic considerations is the best choice to reach national goals or whether same resources if employed in another project would yield better results.
- ✗ Cost: SCBA involves very high costs, and is not suited for all projects.





- ✘ Intangibles: SCBA takes into consideration those aspects of social costs and benefits which can be quantified. Other aspects like happiness, satisfaction, aesthetic pleasure, better quality of life cannot be quantified.
- ✘ Subjective: Certain amount of redistribution benefits flow to different groups in certain proportions. Costs may not be borne by same people or not in proportion to benefits they receive. Policy makers place different weights on net benefits flowing to different sections of population, leading to a highly subjective analysis.
- ✘ Exclusion of many factors: Income generated in a region through Multiplier effects of direct expenditures on the project, Intangibles like increased pollution, destruction of wild life, scenic beauty, etc. are not analysed. Moreover, certain long run effects, e.g. effect on rainfall in an area due to heavy exploitation of forests for a paper mill, are not quantifiable.
- ✘ Uncertainty: Uncertainty about future outputs, inputs, timely execution, etc. is to be considered. Some expected Value Maximization is resorted to for incorporation of quantifiable uncertainties.



1. Govt. of Maharashtra is planning to close down the passenger boat service between West end and East end across the river, which were used by the villagers. It is estimated that the annual cost of boat operations are ₹1480000 including ₹80000 towards depreciation. The boats could be sold to neighbouring state for ₹400000. The service is used throughout the year (365 days), 600 single journeys each day. The single fare is ₹6. The service is losing money, a deficit met by taxation.

If the line is closed it is estimated that 500 journeys will be made by private buses at the same fare and 100 journeys will not be made at all. The bus fares exactly meet the bus operators extra costs. Bus journeys take 30 minutes longer than the boat journey. The average value of passenger's time is ₹4 per hour. Enumerate the social cost benefits associated with the proposal.





Social Cost:

Decrease in consumer satisfaction reflected by the opportunity costs of additional journey (annual) =
= $500 \times 0.5 \times ₹ 4.00 \times 365 = ₹ 365000$

Social Benefits:

- (i) Savings in operating costs by closing down the line (one time) ₹ 1400000
- (ii) Resale value of boat (one time) ₹ 400000

2. A ferry service operated privately is presently being used to cross a river. The ferry operator charges ₹6 per person and his cost per person is ₹4. Throughout the year, 50,000 persons use the ferry service. The government is considering construction of a bridge over the river. It is estimated that about 2,50,000 persons would use the bridge after construction, which is expected to cost ₹60 lakhs. Its annual maintenance would cost ₹20,000. It has an infinitely long life. Once the bridge is constructed, the ferry operator is expected to close down and sell the ferry boats for ₹2 lakh.

Define the social costs and benefits of constructing the bridge, assuming that the monetary figures given in the problem represent social values and the shadow price of investment is 1. Ignore redistribution effects.



The Social Costs and Benefits of constructing the Bridge may be defined as follows:

Costs

Construction Cost = $1 \times 60,00,000 = ₹ 60$ lakhs (one time cost)
Maintenance Cost = $1 \times 20,000 = ₹ 20,000$ (annual cost)

Benefits

Value of ferry boats released = ₹2 lakh (one time benefit)
Savings in the cost of ferry operation = ₹2 lakh ($50,000 \times 4$ - annual benefits)
Increase in Consumer satisfaction = ₹6 lakhs



This is equivalent to the willingness of the 2,00,000 additional persons who are expected to pay for the use of the Bridge. While the additional margin person is willing to pay almost ₹6.00 (the charge of ferry operator), the last person is willing to pay almost nothing (since there is no toll for the usage of the bridge). Therefore, the average willingness to pay of the additional users, assuming that the demand schedule is linear, is the average of ₹6 & nil. i.e. ₹3. So the willingness to pay of the 2,00,000 additional person is $2,00,000 \times ₹3 = ₹6,00,000$

GIST OF LANDMARK RULING OF SC/HC U/S 10 EXEMPTIONS

1. SHARE INCOME FROM FIRM [SECTION 10(2A)]

Sub-partnership - A sub-partnership, which is in receipt of share of profit of a partner in main partnership, has to be deemed to be a partner in main partnership for limited purpose of section 10(2A) and will be entitled to exemption under section 10(2A) - Radha Krishna jalan v. CIT [2007] 294 ITR 28/165 Taxman 538 (Gauhati).

2. INTEREST INCOME OF NON-RESIDENTS [SECTION 10(4)]

Interest on deposit of foreign currency not covered by declaration - The foreign currency, for which no declarations under section 13 of FEMA had been produced by the respondent-assessee but only exchange vouchers issued by the exchange centres outside the country were produced, even if deposited in the NRE account cannot be said to be moneys standing to the credit of the respondent in the NRE account in accordance with the FEMA and the rules made thereunder and the income by way of interest on such moneys would not be exempt from inclusion in the total income of the respondent under section 10(4)(ii) - CIT v. Purshottam Khatri [2006] 155 Taxman 399 (MP).

Interest on FDR - Interest earned on FDR made out of money deposited in NR(E) Account is exempt under section 10(4)(ii) - CIT v. Asandas Khatri [2006] 152 Taxman 635/283 ITR 346/201 CTR 160 (MP).

3. LEAVE TRAVEL CONCESSION [SECTION 10(5)]

Employer must preserve evidence about correctness of leave travel concession availed by employee - An employer, discharging his statutory obligation under section 192, is not only required to satisfy himself that payment made by him to his employees in respect of leave travel concession is not taxable, as envisaged under section 10(5), but also has to preserve evidence in relation thereto so as to demonstrate and establish to the satisfaction of officer to whom return prescribed under section 206 has been filed that he has not neglected to discharge his statutory obligation of deducting tax at source - C.E.S.C. Ltd v. ITO[2004] 134 Taxman 511 (Cal).



Validity of rule 2B - Provisions of rule 2B(a) making difference between air travel charges and railway first class AC charges exigible to tax under the Act, are not ultra vires provision of section 10(5) - K.P. Harihara Kumar v. Union of India [2004] 270 ITR 194/[2005] 142 Taxman 64 (Ker).

Employer's duty to preserve evidence about correctness of leave travel concession availed by employee - Assessee employer is under no statutory obligation to collect evidence to show that its employee(s) had actually utilized amount(s) paid towards leave travel concession(s)/conveyance allowance - CIT v. Larsen & Toubro Ltd [2009] 181 Taxman 71/313 ITR 1 (SC).

4. GRATUITY [SECTION 10(10)]

In cases not governed by section 10(10)(i) or 10(10)(ii), section 10(10)(iii) applies which excludes the gratuity amount up to rate of 15 days' wages for every year of completed service subject to a maximum in this regard. Therefore, the prescribed limit of gratuity which is to be excluded under section 10(10) is the same irrespective of whether it is paid under the 1972 Act or any other scheme and, therefore, the limit of 15 days wages for completed services, as prescribed under section 10(10)(iii), is not discriminatory and violative of article 14 - Gwalior Rayons Staff Association v. UOI [2006] 152 Taxman 520 (Ker.).

5. PENSION [SECTION 10(10A)]

Illustrations - In SAIL DSP VR Employees Association 1998 v. Union of India [2003] 128 Taxman 704/262 ITR 638 (Cal.), it was held that VRS of SAIL could not be said to be in conflict with the requirement of rule 2BA, inasmuch as clause (8) of the scheme clearly laid down that a retiring employee would not be eligible for employment in any of the plants, subsidiaries or joint ventures of the SAIL. This is in consonance with clause (v) of rule 2BA.

In the case of CIT v. Koodathil Kallyatan Ambujakshan [2008] 175 Taxman 113 (Bom.), the Court held that the amount received by the assessee under the optional early retirement scheme of RBI was eligible for exemption as the scheme impliedly satisfied all the conditions of rule 2BA. The Court held that:

The very object of enacting the provisions of section 10(10C) was to downsize the employees' strength so that unwanted personnel could seek voluntary retirement thereby enabling the public sector to achieve the true object for which it was established. This would indicate that the provisions of the section itself contemplates a scheme whereby there has to be downsizing on account of surplus or the like. The object is to make the public sector undertakings to play their role in national economy by improvement in their functioning in all possible ways. The provision is an incentive for unwanted personnel to seek voluntary retirement. The section therefore speaks of a scheme for voluntary retirement or termination of service. The section does not provide for any predicates. Normally, therefore, the scheme ought to be read as a scheme framed by the company or authority set out under section 10(10C). Under the rules a scheme framed must be in accordance with the requirements as set out therein. The scheme, therefore, must either expressly or impliedly, comply with the requirements. Merely because the scheme may not expressly set out that the posts will not be filled, it cannot result in the scheme not being a scheme falling under section 10(10C) read with rule 2BA, bearing in mind the procedural nature of the



rules. It will have to be read in harmonious construction with the substantive provisions of the Act so as not to render it ultra vires the provisions of the substantive provisions of the Act.

The judgment of Bombay High Court in Koodathil's case (supra) was approved by the Supreme Court in Chandra Ranganathan v. CIT [2010] 326 ITR 49/195 Taxman 418 wherein it was held that amount received by employees of RBI opting for Optional Early Retirement Scheme would qualify for deduction under section 10(10C) [see also Sunil Kumar Ganguly v. ITO [2010] 322 ITR 297 (Cal.)].

6. LEAVE ENCASHMENT [SECTION 10(10AA)]

Leave encashment while in service is not exempt - The words 'or otherwise' in section 10(10AA) must draw the restricted meaning qua the immediately preceding word 'superannuation' which signifies an employee's severance of relationship with his employer in terms of the contract of employment. Therefore, the words 'or otherwise' will not cover cases where the assessee continues to be under the employment of the same employer and receives leave encashment receipt. Such a receipt will not be exempt from tax – CIT v. Ram Rattan Lal Verma [2005] 145 Taxman 256 (All.)/ CIT v. Vijai Pal Singh [2005] 144 Taxman 504 (All)/CIT v. Ashok Kumar Dixit [2005] 273 ITR 126 (All.).

7. VOLUNTARY RETIREMENT, RECEIPTS ON [SECTION 10(10C)]

Terminal benefits - Terminal benefits cannot be brought within scope of 'amount received' under section 10(10C) - SAIL DSP VR Employees Association 1998 v. Union of India [2003] 128 Taxman 704/262 ITR 638 (Cal.).

Relief under section 89 - Assessee is eligible to claim simultaneous benefit under section 10(10C) as well as section 89(1) in respect of compensation received under voluntary retirement scheme - CIT v. G. V. Venugopal [2005] 193 CTR (Mad.) 661.

Emphasis is on amount receivable and not on manner/method/mode of payment- The emphasis in rule 2BA is on the amount receivable on account of voluntary scheme which should not exceed the limits prescribed therein. It is not the intention of the legislature that every VRS framed by the companies must provide that an employee availing benefit of VRS would be paid an amount either equivalent to (1) three months salary for each completed year of service; or (2) salary at the time of retirement multiplied by the balance months of service left before the date of his retirement on superannuation. On construction of rule 2BA, it is difficult to hold that other manners/methods/modes of payment of amount in the VRS framed by the companies are forbidden.

Rule 2BA does not provide at all that the amount representing the lower of the two limits specified in clause (vi) of rule 2BA should be allowed under the VRS. The words 'does not exceed the amount equivalent to' preceding the two limits specified in rule 2BA(vi) do not suggest at all that the lower of the two limits specified therein, is allowable. The amount receivable by an employee on account of his voluntary retirement can be either of the aforesaid two amounts. However, the amount which will qualify for exemption under section 10(10C) will be up to ₹ 5,00,000 only - Arunkumar T. Makwana v. ITO [2006] 156 Taxman 429 (Guj.).



8. PERQUISITES NOT PROVIDED BY WAY OF MONETARY PAYMENT [SECTION 10(10CC)]

Tax of employee - Tax paid by employer on salaries/remuneration of employees would constitute non-monetary benefits and, as such, same would be exempted under section 10(10CC) - DIT (International Taxation) v. Sedco Forex International Drilling Inc. [2012] 210 Taxman 25/25 taxmann.com 238 (Uttarakhand). Amounts paid directly by foreign employer to discharge employees' income-tax liability is exempt in hands of employees under section 10(10CC) - Yoshio Kubo v. CIT [2013] 36 taxmann.com 1/218 Taxman 164 (Delhi)

9. LIFE INSURANCE RECEIPTS [SECTION 10(10D)]

Keyman insurance policy - Where a company-employer had taken a Keyman Insurance Policy on one of its employees, and in the very next year assigned the policy in favour of the said employer, the character of the insurance policy changes and it gets converted into an ordinary policy. Contracting parties also change inasmuch as after the assignment which is accepted by the insurance company, the contract is now between the insurance company and the individual and not the company/employer which initially took the policy. Such company/employer no more remains the contracting parties. The law permits such an assignment. Even LIC accepted the assignment and the same is permissible. There is no prohibition as to the assignment or conversion under the Act. Once there is an assignment, it leads to conversion and the character of policy changes. The insurance company has itself clarified that on assignment, it does not remain a Keyman policy and gets converted into an ordinary policy. In these circumstances, it is not open to the revenue to still allege that the policy in question is Keyman policy and when it matures, the advantage drawn therefrom is taxable under section 10(10D)(b). The maturity proceeds will be governed by the provisions of section 10(10D) as applicable to ordinary policies – CIT v. Rajan Nanda [2012] 205 Taxman 138/18 taxmann.com 98 (Delhi).

10. HOUSE RENT ALLOWANCE [SECTION 10(13A)]

Allowance paid to employer in occupation of own premises is not exempt - The house rent allowance paid to an assessee who is not in occupation of rented premises but his own, is not for reimbursing or meeting any amount paid or paid away or any amount that has gone out of his coffer as rent and, therefore, is not exempt from tax liability under section 10(13A) – Patil Vijaykumar v. Union of India [1985] 151 ITR 48(Ker.), All India Lakshmi Commercial Bank Officers' Union v. Union of India[1984] 150 ITR 1 (Delhi), M. Krishna Murthy v. CIT [1985] 152 ITR 163 (AP), CIT v. P.D. Singhania [2006] 156 Taxman 504 (All.).

11. INTEREST INCOME [SECTION 10(15)]

Approval granted by RBI under FERA cannot be equated with approval by Government of India - To claim tax exemption under section 10(15)(iv), the applicant must have in its possession, either the approval granted by the ECD Division, Department of Economic Affairs, Ministry of Finance, on the basis of which he is required to approach the RBI for approval under the FERA or the approval granted by department of revenue



depending upon the applicability of particular item of section 10(15)(iv). The approval granted by the RBI cannot be equated with the approval by the Government of India - Yu Bo Investment Co. (P.) Ltd., In re [2004] 139 Taxman 277/267 ITR 734 (AAR - New Delhi).

Interest on terminal benefits - Under the Income-tax Act, if any income is liable to be taxed, it is not open for High Court to issue a direction to employer (Government of India)/income-tax department not to levy income-tax on interest earned by assesseees (employees) on their retirement/terminal benefits - R.K. Srivastava v. Union of India [2004] 141 Taxman 84 (Delhi).

12. AIRCRAFT, PAYMENT TO ACQUIRE AIRCRAFT ON LEASE [SECTION 10(15A)]

Application for approval of lease agreement - Rejection of application for approval of agreement by Central Government without a speaking order is not justified - AFT Trust-Sub 1 v. Chairman, CBDT [2004] 192 CTR (Delhi) 406.

Conditions precedent - An agreement to acquire an aircraft on lease in future after 1-4-2007 would not meet requirement of section 10(15A) - GO Airlines (P.) Ltd. v. Union of India [2012] 24 taxmann.com 306/209 Taxman 329 (Delhi).

13. SCHOLARSHIP [SECTION 10(16)]

Scholarship granted by employer to son of employee could not be treated as perquisite but would be exempt under section 10(16) - CIT v. B.L. Garg [2006] 155 Taxman 189 (All).

14. RULERS' PALACE [SECTION 10(19A)]

Let out palace - Where Ruler continues to occupy palace, whether by actually utilizing it or by keeping it vacant, it shall be, for purpose of section 10(19A), deemed to be in his occupation; however, he will not be entitled to exemption under section 10(19A) in respect of annual value of part of palace, possession of which he has parted with in favour of tenants - CIT v. Maharao Bhim Singh [2014] 45 taxmann.com 350 (Raj.).

15. Local Authority [Section 10(20)]

The status of the U.P. State Road Transport Corporation is not 'local authority' and as such the income derived by it from house property, capital gains, the business of supply of goods and services was not exempt to the extent provided in section 10(20) - U.P. State Road Transport Corpn. v. CIT [2006] 156 Taxman 501 (All.).

Agricultural Produce Marketing Committee is not a local authority for purposes of section 10(20) -Agricultural Produce Marketing Committee v. CIT [2006] 156 Taxman 286 (Delhi).

Industrial Area Development Authority - Income of assessee-Industrial Area Development Authority constituted under Bihar Industrial Area Development Authority Act, 1974 to provide for planned development of



industrial area, for promotion of industries and matters appurtenant thereto, is not exempt under section 10(20) - Adityapur Industrial Area Development Authority v. UOI [2006] 153 Taxman 107 (SC)

H.P. Marketing Board - H.P. Marketing Board is not a local authority within meaning of section 10(20) - CIT v. H.P. Marketing Board [2011] 203 Taxman 159/15 taxmann.com 211 (HP).

U.P. Jal Nigam - U.P. Jal Nigam created under section 3 of U.P. Water Supply and Sewerage Act, 1975 is a local authority for purpose of section 10(20) - U.P. Jal Nigam v. CIT [2011] 338 ITR 248 (All.).

Capitation fees - Amount received as capitation fee by educational institution is not exempt - P.S. Govindasamy Naidu & Sons v. Asstt. CIT [2010] 324 ITR 44 (Mad.).

16. **CHARITABLE TRUSTS/INSTITUTIONS [SECTION 10(23C)]**

Income must be applied only in India - Application of the income is required to be applied in India for the purposes of section 10(23C)(vi) read with the third proviso thereof. The words 'in India' have necessarily to be read into the third proviso to make it workable and to keep it in conformity with the application of the Act. The revenue had rightly noted that the Act applies to the whole of India. It is not extra-territorial in operation. If a contrary view is taken, the revenue would be given powers to apply the provisions of the Act even outside India - something that is not even postulated by the Parliament. - American Hotel & Lodging Association Educational Institute v. CBDT [2007] 158 Taxman 146 (Delhi).

Foundation set up by ICAI - Where assessee-foundation was set up by Institute of Chartered Accountants of India (ICAI) with main objective to make it an academy for imparting, spreading and promoting knowledge, learning, education and understanding in various fields related to profession of accountancy, it was entitled to grant of exemption, and merely because it undertook research projects at instance of Government/local bodies and received remuneration for such projects, essential character of assessee-foundation could not be said to have been converted into one which carried on commerce or business activity or rendered any service in relation to trade, commerce or business, so as to reject assessee's claim for exemption - ICAI Accounting Research Foundation v. DGIT [2009] 183 Taxman 462 (Delhi).

Activity of holding classes by ICAI - Activity of Institute of Chartered Accountants of India in holding classes for students and members and charging fees for classes and materials supplied, cannot be said to be business activity and not a charitable activity - DIT (Exemptions) v. Institute of Chartered Accountants of India [2011] 202 Taxman 138/14 taxmann.com 5 (Delhi).

Illustrations - Where a registered society which is imparting formal education by running an institute of information technology is conferred the status of a deemed university by UGC, and, in order to comply with guidelines issued by UGC as a pre-condition for granting deemed university status introduces courses with objectives of 'greater interface with society through extra-mural extension and field action related programmes', these are not objectives independent of education but are an aid to education and hence such institute is to be treated as fulfilling all requirements of section 10(23C)(vi) - Jaypee Institute of Information Technology Society v. Director General of Income-tax (Exemptions) [2009] 185 Taxman 110 (Delhi).



Where it was not disputed that the petitioner-society ran educational institutions and it was not for the purpose of making profit, merely because the object of the society was also to serve the church and the nation would not mean that the educational institution was not existing solely for educational purpose - *Ewing Christian College Society v. Chief CIT* [2009] 318 ITR 160 (All.).

Where assessee was not only providing traditional education but also preparing students by providing guidelines to get admission in professional institutions to pursue their higher studies, assessee was to be held as a charitable institution which was engaged wholly for purposes of education, especially when no material had been brought to prove that there was any element of personal profit - *City Montessori School (Regd.) v. Union of India* [2009] 315 ITR 48 (All.).

Consolidated application covering three years cannot be rejected outright - Where the assessee which was granted exemption under section 10(23C)(vi) prior to the assessment year 2004-05 applied for exemption for the assessment years 2004-05, 2005-06 and 2006-07 by filing a consolidated application, and the Commissioner rejected claim of assessee holding that it had filed a consolidated application for exemption in respect of three assessment years which had to be decided as a whole and if application was allowed, it would amount to granting approval from assessment year 2005-06 onwards including assessment year 2007-08, for which application under section 10(23C)(vi) was beyond period of limitation as prescribed by proviso (XIV) added to section 10(23C) by the Finance Act, 2006 with effect from 1-6-2006, it was held that the order of the Commissioner was liable to be set aside 'since it was passed in a mechanical manner without application of judicious mind which is expected from a quasi-judicial authority', and was also not in conformity with the CBDT Circular 14 of 2006 (which was binding on the Commissioner) and the guidelines prescribed in rule 2CA. The Commissioner was directed to consider the case of the assessee afresh, since 'no bar has ever been created either by the statute or by the instructions/circulars that such type of consolidated applications could not have been dealt with in parts in respect of each assessment year/financial year while adjudicating' - *Ajanta Educational Centre v. Chief CIT* [2010] 187 Taxman 75 (Punj. & Har.).

Condonation of delay in late filing of application - The Act nowhere provides any provisions for condonation of delay in presenting application under section 10(23C)(vi) for grant of exemption. In absence of such a provision any application made under section 10(23C)(vi) beyond the statutory period of limitation cannot be entertained by the appropriate authority by condoning the delay in presenting such application - *Roland Educational & Charitable Trust v. Chief CIT* [2009] 309 ITR 50 (Ori.).

Even if application for grant of approval for exemption has been filed by an educational institution belatedly it should be considered on merits; there is no clear statutory bar preventing such condonation - *Padmashree Krutarth Acharya Institute of Engineering & Technology v. Chief CIT* [2009] 309 ITR 13 (Ori.).

Wholly or substantially financed by Government, connotation of - Words 'wholly or substantially financed by Government' cannot be confined only to annual grants as apart from providing annual grant, if Government grants land, invests money in building and infrastructure and also runs educational institutions all these factors have to be taken into consideration to decide whether institution is wholly or substantially financed by Government in order to become eligible to claim exemption under section 10(23C)(iiiab). Thus, the contention of



the revenue that the grant which was given by Government in a particular year was to be taken into consideration to decide whether the institution was wholly or substantially financed by the Government was without any substance – CIT v. Indian Institute of Management [2014] 49 taxmann.com 136/ 226 Taxman 301 (Kar.)

17. EDUCATIONAL INSTITUTIONS [SECTION 10(23C)(vi)]

Conditions precedent - To decide entitlement of an institution for exemption under section 10(23C)(vi), test of predominant object of its activity has to be applied by posing question whether it exists solely for education and not to earn profit and merely because profits have resulted from activity of imparting education would not result in change of character of an institution that it exists solely for educational purpose - Pinegrove International Charitable Trust v. Union of India [2010] 188 Taxman 402/327 ITR 73 (Punj. & Har.).

If after meeting expenditure, a surplus results incidentally from an activity lawfully carried on by educational institution, institution would not cease to be one which is existing solely for educational purposes where object is not to make profit; if trust exists solely for educational purposes and conducts an educational institution, fact that it has other objects would not disentitle it to exemption so long as activity carried out by it in that assessment year was that of running an educational institution and not for profit - Vanita Vishram Trust v. Chief CIT [2010] 192 Taxman 389/327 ITR 121 (Bom.).

In case of an educational institution, capital expenditure incurred wholly and exclusively for achieving its objects is entitled to exemption and would not constitute part of total income - Pinegrove International Charitable Trust v. Union of India [2010] 188 Taxman 402/327 ITR 73 (Punj. & Har.).

Merely because an educational institution accumulates income, it does not go out of consideration of section 10(23C)(vi); it goes out only if application of income is for purposes other than education - Maa Saraswati Educational Trust v. Union of India [2010] 194 Taxman 84 (HP).

It is obligatory on part of prescribed authority, while considering application for grant of exemption, to decide whether expenditure incurred as capital investment is on object of education or not; advancement of loans to employees of institution cannot be regarded as mis-application of funds; likewise, it would be a relevant factor if any institution had enjoyed exemption for last $2\frac{1}{2}$ decades - Kashatriya Sabha Maharana Partap Bhawan v. Union of India [2010] 194 Taxman 442 (Punj. & Har.).

While granting approval under section 10(23C)(vi), CBDT can impose condition like assessee must apply seventy five per cent of its total income for educational purposes in India; however, where an institute applies for initial approval for first time, authority must provide an opportunity to institute to comply with monitoring conditions which have been stipulated for first time by third proviso to section 10(23C) and must allow a reasonable period to do so in event of Assessing Officer coming to conclusion that there is any shortfall in compliance - American Hotel & Lodging Educational Institute v. CBDT[2010] 192 Taxman 275 (Bom.).



Application for exemption filed after prescribed period is not maintainable - Sant Baba Sunder Singh Canadian Charitable Trust v. CBDT [2010] 195 Taxman 88 (Punj. & Har.).

In view of the twelfth proviso to section 10(23C)(vi), money advanced to another educational institution cannot be treated as application of income to the objects for which the assessee-society was established; such a transaction would only mean that the funds of the assessee-society had not been utilized solely for the purposes of education; and the society would, therefore, be disentitled from being granted approval by the prescribed authority under section 10(23C)(vi) - New Noble Educational Society v. Chief CIT [2011] 201 Taxman 33/12 taxmann.com 267 (AP).

Computation of prescribed limit - For purposes of exemption of income under section 10(23C)(iiiad), limit of aggregate annual receipts of ₹ 1 crore should be computed for each educational institution of assessee-trust - CIT v. Children's Education Society [2013] 34 taxmann.com 285 (Kar.)

Sale proceeds of land and bonds was not an annual receipt therefore, same had to be excluded while considering monetary limit prescribed under section 10(23C)(iiiad). - CIT v. Madrasa E-Bakhiyath-Us-Salihath Arabic College [2014] 50 taxmann.com 81/226 Taxman 372 (Mad.).

Application for approval - Where subsequent to rejection of application for grant of certificate under section 10(23C)(vi), assessee-society amended its objects, assessee should make a fresh application before authorities along with amended objects of society - Om Prakash Shiksha Prasar Samiti v. Chief CIT [2014] 42 taxmann.com 574 (SC).

Where assessee, a society, was running a degree college and it made an application for approval under section 10(23C)(vi), said application could not be rejected merely on ground that it was not filed by educational institution itself - Neeraj Janhitkari Gramin Sewa Sansthan v. Chief CIT [2013] 36 taxmann.com 105/218 Taxman 61 (All.)

Where for assessment year 2012-13, assessee's application for approval as charitable institution was filed on 28-3-2012 though it should have been filed only after 30-4-2012, in view of fact that, said application reached competent authority for consideration in May 2012, it could not be rejected as premature - Lokmanya Shiksha Samiti v. ITO [2013] 39 taxmann.com 15/219 Taxman 109 (MP).

Where subsequent to rejection of application for grant of certificate under section 10(23C)(vi), assessee-society amended its objects, assessee should make a fresh application before authorities along with amended objects of society. - Om Prakash Shiksha Prasar Samiti v. Chief CIT [2014] 42 taxmann.com 574/222 Taxman 40 (Mag.) (SC).

Education/educational institution, connotation of - There is nothing to indicate that section W(23Q)(iiiad) requires the educational institutions referred to therein to impart education in any particular subject or in any manner whatsoever. So much so, the term 'education' should enjoy a wide connotation covering all kinds of coaching and training carried on in a systematic manner leading to personality development of an individual. In the case of seminary, students on completion of their studies are made priests who head the churches as religious leaders practising and propagating religion as a profession. So much so, religious teaching in the



seminary is also education and seminary is, therefore an 'educational institution' entitled to exemption under section 10(23C)(iiiad) – CIT v. St. Mary's Malankara Seminary [2012] 19 taxmann.com 175/ 206 Taxman 429 (Ker.).

Holding of classes is not mandatory for an institution to qualify and to be treated as an educational institution under section 10(23C)(vi) - Council for the Indian School Certificate Examinations v. DGIT [2012] 20 taxmann.com 505/206 Taxman 466 (Delhi).

Illustrations - Where a registered society which is imparting formal education by running an institute of information technology is conferred the status of a deemed university by UGC, and, in order to comply with guidelines issued by UGC as a pre-condition for granting deemed university status introduces courses with objectives of 'greater interface with society through extra-mural extension and field action related programmes', these are not objectives independent of education but are an aid to education and hence such institute is to be treated as fulfilling all requirements of section 10(23C)(vi) - Jaypee Institute of Information Technology Society v. Director General of Income-tax (Exemptions) [2009] 185 Taxman 110 (Delhi).

Where it was not disputed that the petitioner-society ran educational institutions and it was not for the purpose of making profit, merely because the object of the society was also to serve the church and the nation would not mean that the educational institution was not existing solely for educational purpose - Ewing Christian College Society v. Chief CIT [2009] 318 ITR 160 (All.).

Where assessee was not only providing traditional education but also preparing students by providing guidelines to get admission in professional institutions to pursue their higher studies, assessee was to be held as a charitable institution which was engaged wholly for purposes of education, especially when no material had been brought to prove that there was any element of personal profit - City Montessori School (Regd) v. Union of India [2009] 315 ITR 48 (All.).

18. HOSPITALS [SECTION 10(23C)(via)]

Conditions precedent - Philanthropy is not restricted to give free treatment only to extremely poor, but it would also be philanthropy to give treatment at a concessional rate to those who though not extremely poor cannot afford to pay full and normal charges - Breach Candy Hospital Trust v. Chief CIT [2010] 192 Taxman 98/322 ITR 246 (Bom.).

Maternity hospital - Maternity hospital is entitled to exemption under section 10(23C)(iii ae) - Nehru Prasutika Aspatal Samiti v. CIT [2014] 41 taxmann.com 283 (All.).

Hospital running a chemist shop - Application for approval under section 10(23C)(via) cannot be rejected merely on ground that a chemist shop was being run in hospital premises - Baun Foundation Trust v. Chief CIT [2012] 251 CTR (Bom.) 237.

19. SCHEDULED TRIBES [SECTION 10(26)]

'Residing' does not mean permanent residence relatable to concept of 'domicile' - Crucial expression 'residing in any area specified' occurring under section 10(26), cannot be given a narrow and restricted



meaning to imply that members of a scheduled tribe migrating from their place of origin, which happens to fall in one of areas specified in that clause, to another area although once again falling within areas specified in that clause, would not get benefit of exemption under section 10(26). The expression 'residing in any area specified', occurring under section 10(26) is used by the Parliament synonymously with the expression 'in relation to any area specified' under the said clause. The expression 'residing in any area specified' is not meant to be restrictive of the benefit provided under the said clause in the case of members of the scheduled tribes, who otherwise fall within the scope of the said section but migrating to one of the places specified in the said sub-section but only descriptive of the limited number of scheduled tribes, which are residents of the areas specified under section 10(26). Therefore, it cannot be said that a Government servant or employee of a State loses benefit of section 10(26) on mere accident of his being posted out of his place of origin, though within areas specified under section 10(26). –Pradip Kr. Taye v. Union of India [2010] 189 Taxman 483/320 ITR 29 (Gau.) (FB).

'Residing' does not mean permanent residence relatable to concept of 'domicile' - The word 'residing' occurring in section 10(26) cannot be given restricted interpretation confining the benefit to exemption only to the local members of the Scheduled Tribes. It cannot be held that the word 'residing' connotes permanent residence relatable to the concept of 'domicile'. The benefit of exemption is given to the members of the Scheduled Tribe for economic advancement of the tribal areas vis-a-vis financial benefit to the individuals. Therefore, a very casual or passing presence of a person would be incompatible with the legislative intent.

A member of a Scheduled Tribe notified in any tribal areas as mentioned in the Table to paragraph 20 of the Sixth Schedule will be entitled to the benefit of exemption under section 10(26) provided - (a) he is residing in any other tribal area as described in the Table to paragraph 20; (b) the income which accrues to him must arise from any source in such area; (c) the tribe to which he belongs is also recognised as a Scheduled tribe in the other tribal area where he is residing in connection with his avocation - Smt. Dipti Doley Basumatary v. Union of India [2007] 163 Taxman 246/290 ITR 498 (Gauhati).

Benefit of clause (26) of section 10 will be available to the members of scheduled tribe only residing 'in any areas' specified in the said section. The members of the scheduled tribe residing in other part of the country other than the one and specified under section 10(26) are not entitled to the benefit of section 10(26). - Amal Shyam v. Union of India [2013] 359 ITR 440 (Tripura).

20. SCHEDULED TRIBES/CASTES, CENTRAL/STATE FINANCIAL BODIES [SECTION 10(26B)]

Income of assessee, State Forest Corporation, which was primarily formed with object to ameliorate suffering of tribal population of State of Arunachal Pradesh and for ushering concept of developmental activities in State, was entitled to exemption under section 10(26B)- Arunachal Pradesh Forest Corporation Ltd v. Asstt. CIT (2007) 162 Taxman 277 (Gau.).

21. WHERE INCOME OF FIRM IS EXEMPT UNDER SECTION 10(34), (35) AND (38)



A partner of firm is entitled to claim exemption under clause (2A) of section 10 on share of profit of firm which even includes income exempted under clauses (34), (35) and (38) of section 10- Vidya Investment & Trading Co. (P.) Ltd v. Union of India [2014] 43 taxmann.com 1 /223 Taxman 199 (Kar.)

Compliance of section 11(5) - Any institution, which obtains sanction under section 10(23C)(vi) as an institution established for charitable purposes, is also required to comply with section 11(5) as per third proviso to section 10(23C) - Little Angels Educational Society v. ITO [2011] 336 ITR 413 (AP).

Fact that petitioner-society was not recognized by any university or Board or fact that it was not awarding its own degrees or certificates was of no relevance for deciding an application under section 10(23C)(vi) -Delhi Music Society v. Director General of Income-tax [2012] 204 Taxman 231/17 taxmann.com 49 (Delhi).

Exemption under section 10(23C) does not depend upon books of account but it depends upon relevant provisions of Act – CIT v. Sweta Kalyan Samiti [2013] 39 taxmann.com 21/219 Taxman 115 (Mag.) (All.).

Mere possibility that society in future might pursue non-charitable activities, would not constitute grounds to reject approval under section 10(23C)(vi) - C.P. Vidya Niketan Inter College Shikshan Society v. UOI [2013] 40 taxmann.com 76 (All.)

For purpose of section 10(23C)(vi), failure of assessee-educational institution to provide admissions strictly in accordance with prescribed rules, regulations and statute could not lead to its losing character as an entity existing solely for purpose of education - Chief CIT v. Geetanjali University Trust [2013] 31 taxmann.com 304/ 214 Taxman 11 (Raj.).

22. COMPENSATION ON COMPULSORY ACQUISITION OF AGRICULTURAL LAND [SECTION 10(37)]

Where land was cultivated through labourers - Assessee could be allowed exemption under section 10(37), even if agricultural land was not cultivated by assessee himself but through hired labourer or other family member – CIT v. Jasubhai Somabhai Patel [2014] 47 taxmann.com 406/225 Taxman 158 (Guj.).

Where assessee was staying away from agricultural land - Merely because assessee was staying away from agricultural land or was pursuing some other business, it would not be sufficient to hold that land was not used for agricultural purposes – CIT v. Amrutbhai S. Patel [2014] 41 taxmann.com 430/221 Taxman 69 (Mag.)(Guj.).

23. INCOME ARISING FROM TRANSFER OF EQUITY SHARES/UNITS [SECTION 10(38)]

Set off of loss - Loss arising on sale of capital asset covered under section 10(38) would not be available for set off – Kishorebhai Bhikhabhai Virani v. Asstt. CIT [2014] 367 ITR 261 (Guj.).



RULES REGARDING CENVAT CREDIT

Cenvat: Under Cenvat (Central Value Added Tax) scheme, the credit of the excise duty/ additional duty of customs paid on the inputs and capital goods and service tax paid on input services is allowed to be utilised for the payment of excise duty on the final products or service tax on output services in order to avoid the cascading effect of the duty/ tax.

Eligible Credits: Manufacturer/ service provider can take credit for the following duties and taxes paid by him:

- (i) Basic Excise Duty (BED) levied on excisable goods, and Additional Duty equivalent to BED levied on imported goods;
- (ii) Special Excise Duty (SED) levied on excisable goods and Additional Duty equal to SED levied on imported goods;
- (iii) The additional duty of excise levied on goods of special importance like sugar and tobacco. Duty in respect of imported goods is also eligible for credit;
- (iv) The National Calamity Contingent duty leviable on certain excisable goods and imported goods;

Case Study: In the case of CCEx. v. Prag Bosimi Synthetics Ltd. [2013] 295 ELT 682 (Gau.), it was held that National Calamity Contingent (NCC) duty is a duty of excise only. While Cenvat credit of NCC duty can be utilised under the Cenvat Credit Rules only towards payment of such NCC duty, Cenvat credit obtained of other duties can be utilised for payment of NCC duty on final product.

- (v) The Education Cess on excisable and imported goods;
- (vi) The additional duty of excise levied on Pan Masala and certain tobacco products;
- (vii) Service tax leviable on taxable service;
- (viii) The Education Cess on taxable service;
- (ix) The additional duty leviable on specified goods under section 3 of the Customs Tariff Act;
- (x) The Secondary and Higher Education Cess leviable on excisable goods;
- (xi) The Secondary and Higher Education Cess on taxable service;
- (xii) Duty paid by job worker.

Utilisation of Cenvat Credit: The CENVAT credit may be utilized for payment of-

- a) any duty of excise on any final product; or
- b) an amount equal to CENVAT credit taken on inputs if such inputs are removed as such or after being partially processed; or
- c) an amount equal to the CENVAT credit taken on capital goods if such capital goods are removed as such; or
- d) an amount under sub rule (2) of rule 16 of Central Excise Rules, 2002; or



- e) Service tax on any output service. Cenvat cannot be used for the service tax payable under reverse charge.

Conditions for allowing CENVAT credit:

- (1) The CENVAT credit in respect of inputs may be taken immediately on receipt of the inputs in the factory of the manufacturer or in the premises of the provider of output service. The manufacturer or the output service provider cannot take Cenvat credit after six months of the date of issue of any documents specified in Rule 9(1) of Cenvat Credit Rules.
- (2) The CENVAT credit in respect of capital goods received in a factory or in the premises of the provider of output service at any point of time in a given financial year shall be taken only for an amount not exceeding fifty per cent. of the duty paid on such capital goods in the same financial year. The balance of CENVAT credit may be taken in any financial year subsequent to the financial year in which the capital goods were received in the factory of the manufacturer, or in the premises of the provider of output service, if the capital goods, other than components, spares and accessories, refractories and refractory materials, moulds and dies and goods falling under heading 6805, grinding wheels and the like, and parts thereof falling under heading 6804 of the First Schedule to the Excise Tariff Act, are in the possession of the manufacturer of final products, or provider of output service in such subsequent years.
- (3) The CENVAT credit in respect of the capital goods shall be allowed to a manufacturer, provider of output service even if the capital goods are acquired by him on lease, hire purchase or loan agreement, from a financing company.
- (4) The CENVAT credit in respect of capital goods shall not be allowed in respect of that part of the value of capital goods which represents the amount of duty on such capital goods, which the manufacturer or provider of output service claims as depreciation under section 32 of the Income-tax Act, 1961.

Example: If capital goods are purchased for ₹ 22,47,200 (inclusive of excise duty ₹ 2,47,200) and depreciation is claimed on entire ₹ 22,47,200, then no credit is available. However, if the manufacturer claim depreciation on ₹ 20,00,000 (net cost), cenvat credit of ₹ 2,47,200 shall be admissible.

Case Study: In the case of CCEx. v. Satish Industries [2013] 298 ELT 188 (Bom.), the assessee availed 100% Cenvat credit on capital goods in the year of purchase, i.e. in the first year itself. However, only 50% of the Cenvat credit so availed was utilised by him in the first year. Revenue contended that assessee was entitled to avail 50% of the credit of duty paid on capital goods in the first financial year and balance 50% credit was available in subsequent financial year. The High Court held that if 50% Cenvat credit on



capital goods pertaining to subsequent financial year, wrongly availed in the first year, then no prejudice was caused to the Revenue and thus, the same could be upheld.

- (5) (a) The CENVAT credit shall be allowed even if any inputs or capital goods as such or after being partially processed are sent to a job worker for further processing, testing, repair, re-conditioning, or for the manufacture of intermediate goods necessary for the manufacture of final products or any other purpose, and it is established from the records, challans or memos or any other document produced by the manufacturer or provider of output service taking the CENVAT credit that the goods are received back in the factory within one hundred and eighty days of their being sent to a job worker and if the inputs or the capital goods are not received back within one hundred eighty days, the manufacturer or provider of output service shall pay an amount equivalent to the CENVAT credit attributable to the inputs or capital goods by debiting the CENVAT credit or otherwise, but the manufacturer or provider of output service can take the CENVAT credit again when the inputs or capital goods are received back in his factory or in the premises of the provider of output service.
- (b) The CENVAT credit shall also be allowed in respect of jigs, fixtures, moulds and dies sent by a manufacturer of final products to,-
- (i) another manufacturer for the production of goods; or
 - (ii) a job worker for the production of goods on his behalf, according to his specifications.
- (6) The Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, having jurisdiction over the factory of the manufacturer of the final products who has sent the input or partially processed inputs outside his factory to a job-worker may, by an order, which shall be valid for a financial year, in respect of removal of such input or partially processed input, and subject to such conditions as he may impose in the interest of revenue including the manner in which duty, if leviable, is to be paid, allow final products to be cleared from the premises of the job-worker.
- (7) The CENVAT credit in respect of input service shall be allowed, on or after the day which payment is made of the value of input service and the service tax paid or payable as is indicated in invoice, bill or, as the case may be, challan referred to in rule 9. The manufacturer or the output service provider cannot take Cenvat credit after six months of the date of issue of any documents specified in Rule 9(1) of Cenvat Credit Rules.



SIX SIGMA



Six Sigma is a set of techniques and tools for process improvement. The term "Six Sigma" was coined by Bill Smith, an engineer with Motorola. Jack Welch made it central to his business strategy at General Electric in 1995. Today, it is used in many industrial sectors. Six Sigma has replaced TQM as the key strategy for quality improvement

Sigma:

- Sigma is a Greek symbol represented by " σ ".
- This symbol used in statistics to represent standard deviation from mean value, an indicator of the degree of variation in a set of a process.
- Sigma measures how far a given process deviates from perfection. Higher sigma capability, better performance

Six Sigma

- Six Sigma – A quality improvement philosophy that focuses on eliminating defects through reduction of variation in a process
- Defect – A measurable outcome that is not within acceptable (specification) limits.

Each Six Sigma project carried out within an organization follows a defined sequence of steps and has specific value targets, for example: reduce process cycle time, reduce pollution, reduce costs, increase customer satisfaction, and increase profits.

TQM Versus Six Sigma

TQM	Six Sigma
A management philosophy of quality improvement.	A philosophy that focuses on defect reduction and cost reduction.
Encourages involvement of all employees.	Relies on a selected group of highly- trained employees.
Senior management provides direct support.	Senior management is held accountable for results.



Why do we call Six Sigma as Six Sigma and not Four or Five Sigma?

Sigma is a statistical term that measures process deviation from process mean or target. Mean is also referred as average in common language. The figure of six was arrived statistically by looking at the current average maturity of most business enterprises.

Why Six Sigma?

The goal of Six Sigma is to increase profits by eliminating variability, defects and waste that undermine customer loyalty.

The Current business environment now demands and rewards innovation more than ever before due to:

- Customer Expectations
- Technological Change
- Global Competition
- Market Fragmentation

Companies Using Six Sigma

Six Sigma is in use in virtually all industries around the world. Some of companies can be listed as:

- Motorola
- Ericsson
- General Electric
- Sony
- Ford Motor Co.
- CITI bank

Six Sigma Methodologies

BPMS

- Business Process Management System

DMAIC

- Six Sigma Improvement Methodology

DMADV

- Creating new process which will perform at Six Sigma

Business Process Management System

- BPM strategies emphasize on process improvement and automation to derive performance
- Combining BPM strategies with sigma six is most powerful way to improve performance
- Both strategies are not mutually exclusive but some companies produced dramatic results by combining them.

What is DMAIC?

(Define, Measure, Analyse, Improve, Control)



- A logical and structured approach to problem solving and process improvement.
- An iterative process (continuous improvement).
- A quality tool which focus on change management style.

Phases

Phases of Six Sigma are:

- Define specific goals to achieve outcomes, consistent with customers demand and business strategy
- Measure reduction of defects
- Analyze problems, cause and effects must be considered
- Improve process on bases of measurements and analysis
- Control process to minimize defects

What is DMADV?





Acronym for:

- Define the project
- Measure the opportunity
- Analyze the process options
- Design the process
- Verify the performance

Benefits of Six Sigma

- Generates sustained success
- Sets performance goal for everyone
- Enhances value for customers
- Accelerates rate of improvement
- Promotes learning across boundaries
- Executes strategic change

Key Roles for Six Sigma

Six Sigma identifies several key roles for its successful implementation:

- Executive leadership
- Champions
- Master Black Belts (Identify projects & functions)
- Black Belts (Identify non value added activities)
- Green Belts (works on small projects)





ACCOUNTING FOR GOVERNMENT GRANT (ACCOUNTING STANDARD - 12)



Some Important Points Relating to Methods of Accounting

Fixed Assets

- Grants related to fixed assets should be presented in the balance sheet by showing the grant as a deduction from the gross value of the assets concerned in arriving at their book value.
- Where the grant related to a specific fixed asset equals the whole, or virtually the whole, of the cost of the asset, the asset should be written at their nominal value.

Example:

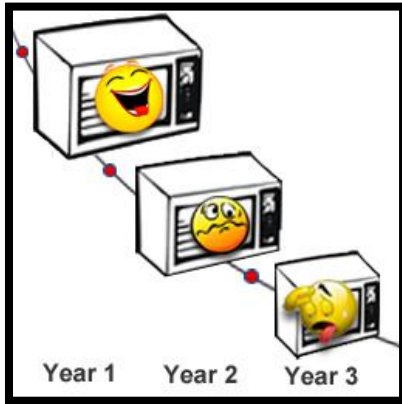
An asset with ₹ 20 lakhs fair value is supplied by Govt. at —

- (i) Concessional rate of ₹6 lakhs, or
- (ii) Free of cost

Particulars	Debit ₹ in lakhs	Credit ₹ in lakhs
(i) Fixed Asset A/c Dr. To, Bank A/c (If it is depreciable fixed asset depreciation will be charged on ₹6 lakhs)	6	6
(ii) Fixed Asset A/c Dr. To, Profit and Loss A/c (Asset will be shown at this nominal value in the books till remains with the organization. When it is scrapped/ disposed it will be written off to profit and loss account)	20	20



Depreciable Fixed Assets



- A. Grant is shown as deduction from the gross value of asset in arriving at its book value. When the grant is equal to the cost of assets, the asset should be shown in balance sheet at nominal value.
- B. If grants are treated as deferred income. The deferred income is recognised in profit and loss account on a systematic and rational basis over the useful life of assets. Such allocation to income is made over the periods and in proportions in which depreciation on related assets is charged.

Non-Depreciable Fixed Assets



- Grant is shown as deduction from the gross value of asset in arriving at its book value. When the grant is equal to the cost of assets, the assets should be shown in balance sheet at nominal value;
 - If the conditions attached to grants are fulfilled (i.e. grants received after fulfillment of the conditions attached to grants). Grants are credited to capital reserve account; or
 - If condition attached to grants is yet to be fulfilled
- Grants are credited to income over the same period over which the cost of meeting such conditions is charged to income.
- Unapportioned deferred income is disclosed in the balance sheet as "Deferred Govt. Grants".



Example:

A fixed asset purchased for ₹45 lakhs. Government grant received towards it ₹18 lakhs. Show the accounting if it is non-depreciable asset or if it is a depreciable asset with ₹9 lakhs residual value and 4 years life. Assume Straight Line Method of depreciation.

Answer:

Particulars	Debit ₹ in lakhs	Credit ₹ in lakhs
Non-depreciable Fixed Assets		
If there is no obligation attached which requires expenditures to be incurred then		
Bank A/c Dr. To, Fixed Assets A/c or, Capital Reserve A/c	18	18
If there is an obligation to incur expenses says over 4 years		
Bank A/c Dr. To, Deferred Govt. Grant A/c (then this deferred Government Grant will be written off to Profit & Loss A/c in 4 years i.e. ₹4.5 lakhs every year)	18	18
Depreciable Fixed Assets:		
(i) Credit the grant to fixed assets		
Bank A/c Dr. To, Fixed Assets A/c (the book value is reduced to ₹27 lakhs; the estimated scrap value is ₹9 lakhs and life is 4 years hence, depreciation to be charged on this asset every year will be ₹4.5 lakhs)	18	18
(ii) Credit the grant as deferred income		
Bank A/c Dr. To, Deferred Govt. Grant A/c (The book value of asset is ₹45 lakhs, residual value is ₹9 lakhs and life is 4 years, hence depreciation to be charged on ₹9 lakhs per annum for 4 years)	18	18
The grant has to be recognised in profit and loss account over the life of asset in proportion to depreciation. Depreciation is ₹9 lakhs per annum for 4 years hence grant to be written off will be ₹4.5 lakhs per annum for a year. It comes to 25% per annum of grant amount by straight line method.		
Deferred Govt. Grant A/c Dr. To, Profit and Loss A/c (The amount of grant has to be fully allocated over the life of asset in proportion to the amount of depreciation charged)	4.5	4.5



Which items are to be considered for computing Cash flow from Operating, Investing and Financing Activities (AS – 3)?



Cash flows are inflows and outflows of cash and cash equivalents.

- Cash comprises cash on hand and demand deposits with banks.
- Cash equivalents are short-term, highly liquid, investments that are readily convertible into known amounts of cash and which are subject to insignificant risk of changes in value.

The Standard prescribes presentation of information under three main segments, namely, operating, investing and financing activities.

Cash flow from Operating Activities

Cash flows from Operating activities are the principal revenue producing activities of the enterprise and other activities that are not investing or financing activities. It is a key indicator to judge the ability of the entity, to maintain its operating capability, to pay dividends, to repay loans, and to make new investments without recourse to external source of financing.

How to determine Operating Cash flow?

First we have to reckon the nature of business of the entity, as also the nature of underlying transactions if any. In the case of an entity, whose primary business relates to money lending and investments, cash flows attributable to receipt of interest or dividends, and payment of interest, would be classified under operating activities.

	Classification for	
	Entities whose main activity is financing	Others (trading, manufacturing entities)
Interest received	Operating activity	Investing activity
Interest Paid	Operating activity	Financing activity
Dividend received	Operating activity	Investing activity
Dividends paid	Financing Activity	Financing activity

Examples of cash flow from operating activities are:

- | |
|--|
| <ul style="list-style-type: none"> • Cash receipts from sale of goods and services • Cash receipts in the form of royalty, fees, commissions and other revenue |
|--|



<ul style="list-style-type: none"> • Cash payments to suppliers for goods & services
<ul style="list-style-type: none"> • Cash payments to and on behalf of employees
<ul style="list-style-type: none"> • Refund of, or payments towards, taxes will form part of operating activities, unless they can be specifically identified with financing and investing activities.

In case of Operating Activities there are two methods of presentation —

- Direct Method or
- Indirect Method.

Direct Method — It is a method, wherein major classes of gross cash receipts and gross cash payments are disclosed.

Under this method, information may be obtained either

- from accounting records
- or by adjusting sales, cost of sales, and other items in the statements of profit and loss.

Indirect Method — In this, the reported amount of net profit or loss is adjusted for the following:

- Effects of transactions of a non-cash nature
- Any deferrals or accruals of past or future operating cash receipts or payments
- Changes in current assets and liabilities (other than cash & cash equivalents)
- Items of income or expense associated with investing or financing cash flows.

Presentation of direct and indirect method is illustrated in the following table:

Direct method	₹	Indirect method	₹
Cash flows from operating activities:		Cash flows from operating activities:	
Cash sales	XXX	Net profit before taxation and extraordinary items	XXX
Collection from customers	XXX	Adjustments (non-cash and non- operating items)	
Cash payments to suppliers	(XXX)	Depreciation	XXX
To employees	(XXX)	Foreign exchange loss	XXX
Cash from operations	XXX	Interest income	(XXX)
Income taxes paid	(XXX)	Dividend income	(XXX)
Cash-flow before extraordinary items	XXX	Interest expense	XXX
Extraordinary item	XXX	Operating profit before working capital changes	XXX
Net cash from operating activities	XXX	Increase in sundry debtors	(XXX)
		Decrease in inventories	XXX
		Decrease in sundry creditors	(XXX)
		Cash generated from operations	XXX
		Income taxes paid	(XXX)
		Cash flow before extraordinary items	XXX
		Extraordinary item	XXX
		Net cash from operating activities	XXX



Cash flow from Investing Activities

Investing activities are acquisition and disposal of long term assets and other investments not included in cash equivalents. A separate disclosure of cash flows arising from investing activities is important because it reflects the extent to which an entity incurs expenditure towards - or realises cash by disposal of - such resources, which are intended to generate future income and cash flows.

Examples of cash flows arising from investing activities are:

Cash receipts
• from disposal of fixed assets including intangibles (related accounting entries in P&L does not affect this classification)
• from sale of investments, interest in JV, etc
• from repayment of "loans and advances" made to third parties (for entities whose primary business is other than financing)
Cash payments
• for acquisition of fixed assets including intangibles, or towards self constructed assets
• towards acquisition of shares, debt instruments and interest in JV, etc
• towards advances or loans to third parties

Cash flow from Financing Activities

Financing activities are activities that result in changes in the size and composition of owners' capital (including preference share capital) and borrowings of the enterprise. A separate disclosure of cash flows arising from financing activities is important because it is useful in predicting the claims on future cash flows by those who provide capital or loan funds to the reporting entity.

Examples of cash flows arising from financing activities are:

Cash receipts
• from issue of shares or other equity instruments
• from issue of debentures, loans, notes, bonds, mortgages and other short or long term borrowings
Cash payments
• to owners of equity, to acquire or redeem equity, namely, buy back
• repayments of amounts borrowed
• towards dividends distributed

Treatment of some selected items

(i) Foreign Currency cash flows

Cash flows arising from transaction in a foreign currency should be recorded in an enterprise's reporting currency and by applying to the foreign currency amount, the exchange rate between the reporting currency and foreign currency at the date of cash flow (or an average rate that closely approximates to the actual rate).

"Unrealised gains or losses arising from changes in foreign exchange rates are not cash flows.



(ii) Extraordinary items

Cash flows associated with the extraordinary items should be classified as arising from operating, investing or financing activities as appropriate and separately disclosed.

(iii) Taxes on income

Cash flows arising from taxes on income should be separately disclosed and should be classified as cash flows from operating activities unless they can be specifically identified with financing and investing activities.

(iv) Non- cash transactions

Investing and financing transactions that do not require the use of cash or cash equivalents should be excluded from a cash flow statement. Such transactions should be disclosed elsewhere in the financial statements in a way that provides all the relevant information about these investing and financing activities.

Examples of noncash transactions are:

- Acquisition of assets by assuming directly related liabilities;
- Acquisition of an enterprise by means of Issuing of shares; and
- Conversion of debt into equity.

