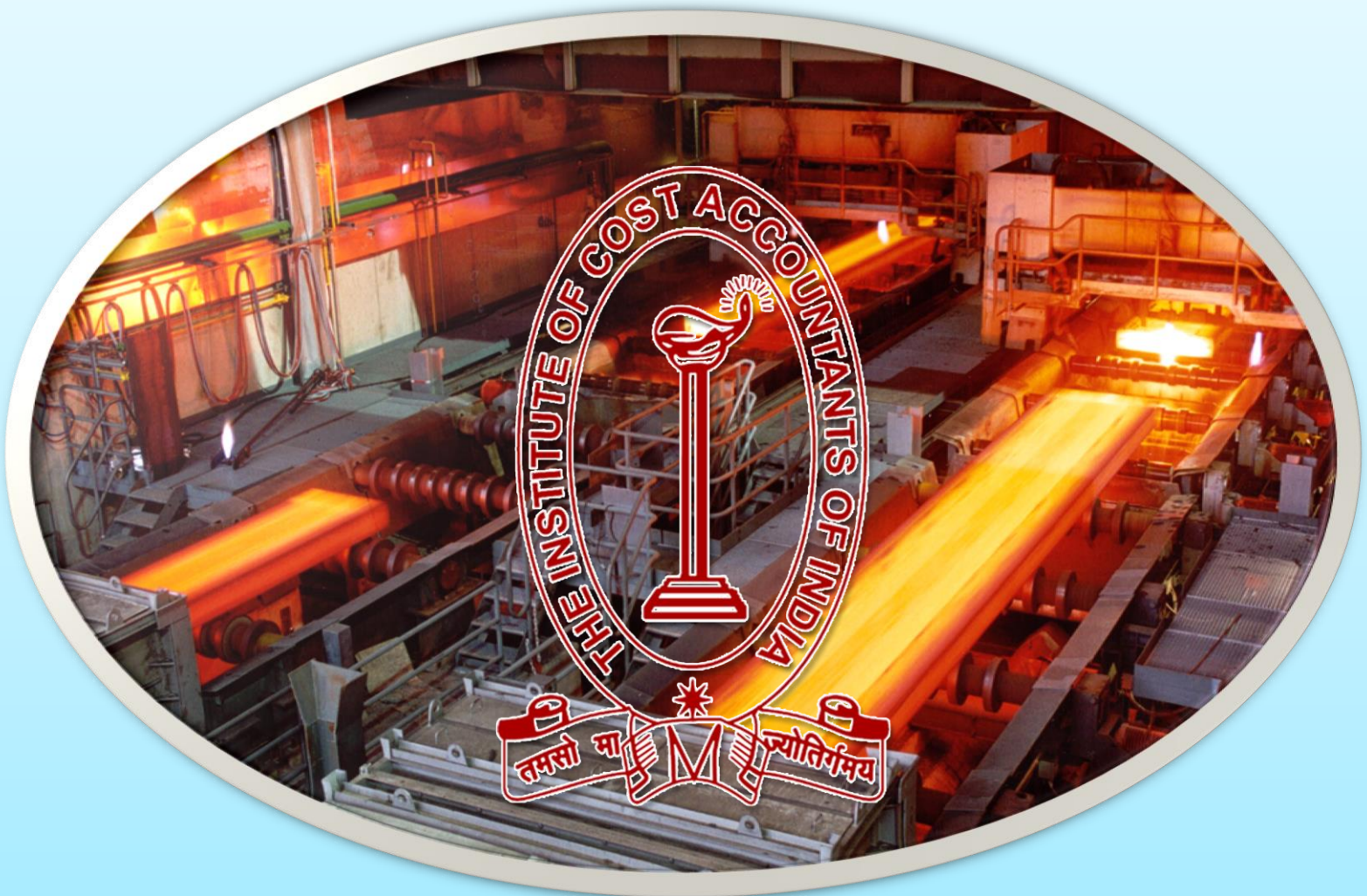


AUGUST - 2016

***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
(Statutory body under an Act of Parliament)**

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

I congratulate the Chairman and Members of the Committee on 'Members in Industry' of the Institute for their efforts in bringing out this e-bulletin for members in industry. I believe that this is a very important step in the direction of capacity building of the members of the Institute.

The global competitiveness is a challenge for everyone. The availability and expertise of professionals is the backbone of any development initiative taken by the Industry and Government. The dedication with which our professionals add value to the industry and society is not quantifiable but I find very often that a country, exposed to global competition, would be able to survive only with its adaptability to face the professional challenges.

Members of CMA profession are providing their valuable services at different levels in varied sectors of economy. The stakeholders rely on the work of these professionals. The more senior they become, the greater will be their ability and opportunity to influence events, practices and attitudes. Members in such position are expected to encourage an ethics-based culture in their employing organisation in order to nurture the sustainability. In order to enhance their skill and build capacity, the Institute is taking necessary steps and bringing out this e-bulletin is one of them. The bulletin with professional updates, informative articles and relevant technical inputs is expected to be of immense use of these members.

I hereby compliment the efforts of CMA H Padmanabhan, CCM and Former Chairman of the Committee for giving this e-bulletin a proper shape and also for his inputs to make it enriching for the members.

I appreciate this initiative of Members in Industry committee and hope that this will be a continued exercise. I also urge the readers of this e bulletin to send their constructive suggestions to further improve the content of future editions. I wish Committee on Members in Industry success in all of their endeavors.


(CMA Sanjay Gupta)

23rd August 2016

Chairman's Communique



CMA P V BHATTAD

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

*From the desk of
Members in Industry Committee ICAI*

Dear Professional Colleague,

Greetings!

I feel elated in reaching you through this E Bulletin as the Chairman of the Members in Industry - Training & Placement (MII&TP). The concept of MII&TP, the new initiatives of the current Council has had a very fabulous beginning in 2015-16 in its maiden year. I wish to place on record the enthusiasm and initiatives shown by CMA H Padmanabhan the Chairman of MII&TP (2015-16) and the high standard set by him for us to follow and excel. I am also thankful to the Council for handing such an important task to me. I am sure with the support of all the members, my Colleagues in the Council and the

executives of MII&TP we will be able to move further in achieving the goals.

This communication reaches you at an important time, when the final qualified students of June 2016 Examination are eagerly waiting for the Campus Placement Program of the Institute scheduled during the month of October, 2016. In order to prepare our future torch bearers in a professional way, 15 days Pre-Placement orientation program is also planned in the month of September, 2016 at different locations across the country. I request all our members to continue their support in terms of taking part in the Orientation Program as a resource person and convince your corporate colleagues in visiting our campus placement Program for finding their future managers. Please send your feedback and suggestions to:

placement@icmai.in or

membersinindustry@icmai.in

Now, I would like to list some of the important aspects, we pledge to address during the current year:

Chairman's Communique

Bringing more and more relevant topics to the forum through MII – T&P monthly E Bulletin and Webinars: Once again, I request all the members to share their views/ideas and innovation through this forum.

Members in Industry corner will be created in the web site wherein the members in industry can exchange their views in an open for all.

Once again, I request all the members to share their professional views and pass the batons to the young CMAs- the future of our great profession.

With Warm Regards,

A handwritten signature in blue ink, appearing to read 'P V Bhattad', with a horizontal line underneath.

CMA P V BHATTAD

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

ADJUDICATING AUTHORITIES AND APPELLATE AUTHORITIES UNDER INSOLVENCY AND BANKRUPTCY CODE, 2016

CMA DR. M. GOVINDARAJAN



CMA Dr. M. GOVINDARAJAN

Introduction

The 'Insolvency and Bankruptcy Code, 2016' ('Code' for short) was enacted and got the assent of the President on 28th May, 2016. It is an act to consolidate and amend the laws relating to re-organization and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximization of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the order of priority of payment of Government dues and to establish an Insolvency and Bankruptcy Board of India ('Board' for short) and for matters connected therewith or incidental thereto.

Insolvency resolution and liquidation for corporate persons

The Code deals with insolvency resolution and liquidation for corporate persons in Part II. Section 3(7) of the Code defines the term 'corporate person' as a company as defined in Section 2(2) of the Companies Act, 2013, a LLP defines in Section 2(1)(n) of LLP Act, 2008 or any other person incorporated with limited liability under any law for the time being in force but shall not include any financial service provider.

The Code provides that the initiation of corporate insolvency resolution process may be done by financial creditors, operational creditors and corporate applicant.

Adjudicating Authority

Section 5(1) of the Code defines the term 'Adjudicating Authority' as National Company Law Tribunal constituted under Section 408 of the Companies Act, 2013.

Section 60 (1) of the Code provides that the Adjudicating Authority, in relation to insolvency resolution and liquidation for corporate persons including corporate debtors and personal guarantors thereof shall be the National Company Law Tribunal having territorial jurisdiction over the place where the registered office of the corporate person is located.

Section 60(2) of the Code provides that without prejudice to Section 60(1) and notwithstanding anything contrary contained in this Code, where a separate insolvency resolution process or liquidation proceeding of a corporate debtor is pending before a National Company Law Tribunal, an application relating to the insolvency resolution or bankruptcy of a personal guarantor of such corporate debtor shall be filed before such National Company Law Tribunal.

Section 60(3) provides that an insolvency resolution process or bankruptcy proceedings of a personal guarantor of the corporate debtor pending in any court or tribunal shall

stand transferred to the Adjudicating Authority dealing with insolvency resolution process or liquidation proceeding of such corporate debtor.

The National Company Law Tribunal shall be vested all the powers of the Debts Recovery Tribunal. The National Company Law Tribunal shall have jurisdiction to entertain or dispose of-

- Any application or proceeding by or against the corporate debtor or corporate person;

- Any claim made by or against the corporate debtor or corporate person including claims by or against any of its subsidiaries situated in India; and
- Any question of priorities or any question of law or facts, arising out of or in relation to the insolvency resolution or liquidator proceedings of the corporate debtor or corporate person under this code.

Section 60 (6) provides that notwithstanding anything contained in the Limitation Act, 1963 or in any other law for the time being in force, computing the period of limitation specified for any suit or application by or against a corporate debtor for which an order of moratorium has been made the period during which such moratorium is in place shall be excluded.

Appeals and Appellate Authority

Section 61(1) provides that any person aggrieved by the order of the Adjudicating Authority may prefer an appeal to the National Company Law Appellate Tribunal. Every appeal shall be filed within 30 days before the National Company Law Appellate Tribunal. The National Company Law Appellate Tribunal may allow an appeal to be filed after the expiry of the said period of 30 days if it is satisfied that there was sufficient cause for not filing the appeal but such period shall not exceed 15 days.

An appeal against an order approving a resolution plan may be filed on the following grounds-

- the approval resolution plan is in contravention of the provisions of any law for the time being in force;
- there has been material irregularity in exercise of the powers by the resolution professional during the corporate insolvency resolution period;
- the debts owed to operational creditors of the corporate debtor have not been provided for in the resolution plan in the manner specified by the Board;
- the insolvency resolution process costs have not been provided for repayment in priority to all other debts; or

- the resolution plan does not comply with any other criteria specified by the Board.

An appeal against a liquidation order passed may be filed on grounds of material irregularity or fraud committed in relation to such a liquidation order.

Appeal to Supreme Court

Section 62 provides that any person aggrieved by an order of the National Company Law Appellate Tribunal may file an appeal to the Supreme court on a question of law arising out of such order under this Code within 45 days from the date of receipt of such order. The Supreme Court may, if it is satisfied that a person was prevented by sufficient cause from filing an appeal within 45 days, allow the appeal to be filed within a further period not exceeding 15 days.

Expeditious disposal of applications

Section 64 provides that where an application is not disposed of or an order is not passed within the period specified in this Code, the NCLT or the NCLAT, as the case may be, shall record the reasons for not doing so within the period so specified. The President of the NCLT or the Chairperson of the NCLAT, as the case may be, may, after taking into account the reasons so recorded, extend the period specified in the Act but not exceeding 10 days. No injunction shall be granted by any court, tribunal or authority in respect of any action taken, or to be taken in pursuance of any power conferred on the NCLT or the NCLAT under this code.

Insolvency resolution and bankruptcy for individuals and partnership firms

The Code deals with the insolvency resolution and bankruptcy for individuals and partnership firms in Part III. Section 80 provides that a debtor, who is unable to pay debt and fulfils the conditions, shall be entitled to make an application for a fresh start for discharge of his qualifying debt. A debtor may apply, either personally or through a resolution professional, for a fresh start in respect of his qualifying debts to the Adjudicating Authority if-

- the gross annual income of the debtor does not exceed Rs.60,000/-;
- the aggregate value of the assets of the debtor does not exceed Rs.25,000/-;
- the aggregate value of the qualifying debts does not exceed Rs.35,000/-;
- he is not an undischarged bankrupt;
- he does not own a dwelling unit, irrespective of whether it is encumbered or not;
- a fresh start process, insolvency resolution process or bankruptcy process is not subsisting against him; and
- no previous fresh start order has been made in relation to him in the preceding 12 months of the date of the application for fresh start.

Adjudicating Authority

Section 79(1) of the Code defines 'Adjudicating Authority' as the Debt Recovery Tribunal constituted under Section 3 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

Section 179 (1) provides that the Adjudicating Authority, in relation to insolvency matters of individual and firms shall be the Debts Recovery Tribunal having territorial jurisdiction over the place where the individual debtor actually and voluntarily resides or carries on business or personally works for gain and can entertain an application under the Code regarding such person.

Section 179 (2) provides that the Debts Recovery Tribunal shall, notwithstanding anything contained in any other law for the time being in force, have jurisdiction to entertain or dispose of-

- any suit or proceeding by or against the individual debtor;
- any claim made by or against the individual debtor;
- any question of priorities or any question whether of law or facts

arising out of or in relation to insolvency and bankruptcy of the individual debtor or firm under this Code.

Section 179 (3) provides that notwithstanding anything contained in the Limitation Act, 1963 or in any other law for the time being in force, in

computing the period of limitation specified for any suit or application in the name and on behalf of a debtor for which an order or moratorium has been made, the period during which such moratorium is in place shall be excluded.

Appeal to Debts Recovery Appellate Tribunal

Section 181 provides that an appeal from an order of the Debts Recovery Tribunal shall be filed within 30 days before the Debts Recovery Appellate Tribunal. If the Appellate Tribunal may, if it is satisfied that a person was prevented by sufficient cause from filing an appeal within 30 days allow the appeal to be filed within a further period not exceeding 15 days.

Appeal to Supreme Court

Section 182 provides that an appeal from an order of the Debts Recovery Appellate Tribunal on a question of law under this Code shall be filed within 45 days before the Supreme Court. The Supreme Court may, if it is satisfied that a person was prevented by sufficient cause from filing an appeal within 45 days, allow the appeal to be filed within a further period not exceeding 15 days.

Expedition disposal of application

Section 183 provides that where an application is not disposed of or order is not passed within the period specified in this Code, the Debts Recovery Tribunal or the Debts Recovery Appellate Tribunal, as the case may be, shall record the reasons for not doing so within the period so specified. The Chairperson of the Debts Recovery Appellate Tribunal, after taking into account the reasons recorded, extend the period specified in this Code, but not exceeding 10 days.

Opportunities for Cost Accountants

Since the Companies Act, 2013 allows a Cost Accountant to appear before the NCLT and NCLAT the Code is an additional area for the members. Before Debts Recovery Tribunal and its Appellate Tribunal only Advocates can appear. Being a Tribunal, the professionals such as Cost Accountant may be permitted as that of other Tribunals such as NCLT, CESTAT etc., The Institute is to take action in this regard to cause Cost Accountants to appear before DRT and DRAT.



CMA.R.Veeraraghavan FCMA

The World of business has a common domain, An Accountant and that every business defines the role of Accountants in its own way.

When I say business, please see that as inclusive of a space in Governance and charity. The brand accountant is quite popular, even more than a labour skilled or unskilled at work place. In a owner managed business this is more prominent and this person identified as an accountant is next only to the owner when its comes to finances of the concern .In addition he plays a diverse role ranging from administration of resources liaison with third parties , government, collecting agent and what not apart from being a book keeper himself.

Is the Brand accountant certified , evidently not, the world over accountants in business are primarily graduates-though not necessary, but preferably in commerce. Professional institutes have started recognising the role of brand accountants in business, who are not certified and started

tier two category- institutes and courses, for them, often branded as Accounting technicians.

Brand accountant does not signify that he is a functional expert in accountancy or he does the job of book-keeping and finalisation of accounts it is more often than not -projecting owner s requirement for a person in the matter of administration and finance he is like a board member of a proprietary , micro small businesses, he arranges everything for the business under the brand accountant.

Moving forward Accountants in business is a great talent pool apart from the brand significance specially in medium enterprise segment where Accountants often act as decision supporter for the business . In this segment the Accountants are often certified in the sense they may be part-professionally qualified et al.

In larger enterprises and in the middle echelons of such enterprises often you find certified accountants placed and play a definitive role as per standard operating procedure in force. They may have a team of non-certified accountants at their disposal as well.

The importance of certification is recognised where ownership is dispersed, compliances increase and more core functional focus is required, where accountability is key word to

watch. This segment is filled with branded cum certified accountants or experts.

IFAC-International federation of accountants an umbrella organisation of over 175 professional accountancy institutes worldwide, claims of the 3 million certified accountants across the globe more than half of them are accountants working from inside the organisations. IFAC has a wing called the PAIB which engages this segment.

Institutes across the globe are developing accounting technician course and certifying the uncertified.

Technology and evolving business needs has changed the outlook of accountants and there are apprehensions on the future relevance of the roles of accountants itself. Lot of thought process is going in the segment that governs, as how to sustain the Accountancy profession. Core accounting and audit has already come under the grip of technology, accountants are struggling to diversify their roles in business partnering and individually enhance their employability and relevance by acquiring additional certification and training.

The professional accountancy institutes have all along towing the line that professional accountants means practitioners and all their resources have been geared to address on enhancing their image, in the process they neglected the real area of certified segment, that is working from inside the industry.

They were not at fault altogether, since most institutes run on the elected body of representatives and most of the representatives are from the practice segment, since internal accountant find it hard to play dual roles (one from within the organisation and one being active for the profession) the profession moved more in the practice segment hitting hard the internal accountants, without adequate support from the professional institutes.

IFAC and the institutes have now started recognising the folly and are trying to reach out and readjust the goal post, this calls for real representation in governance from persons within the industry.

In essence the strength of the accounting profession to sustain the environmental assault through technology, lack of focus and support from institutions, depleting compliance zones, need for meeting delivery expectations from stakeholders, will largely depend on how each individual member of fraternity adjust to changing times and the profession sells itself for the future. Least to say that more introspection is needed on what skills are actually delivered and what the industry needs and where are our competitors and what is the requirement of our customers. Currently the profession focus is on three to five pillars-Accounting, finance, management, strategy and compliances do we need a relook. Unless this is done the future of the profession transforming seems bleak.



“I want a CMA”

CMA Zitendra Rao

Introduction

Here is the look out of a person who perhaps cannot talk of the fundamentals taught in the B Schools. Who could be that person? Taking a long breath I can say confidently that he is none other than the FARMER of this country. Yes, with Agribusiness sector occupying the economic space and agriculture being the back bone for this; I cannot register any objection to my thought process which emphasizes that the FARMER is screaming “I want a CMA”

Connectivity of CMA to Agriculture Sector

The wishful thinking of Government is that the income of farmers is to be doubled by 2022 and they appear to have a strategy in this regard. Society looks at CMA for “Measuring–Managing–Monitoring–Controlling–Reducing” the costs. Society has many stakeholders which include Government as well. Government extends support in the form of providing infrastructure such as Irrigation facilities and Market Yard facilities besides providing at subsidized rates the Electricity, Fertilisers and Pesticides. This expenditure come both under planned and Non Planned quota of the Budget. Evaluation and determining the effectiveness of the expenditure is main concern which includes quantification. This is the point where CMA has a role to act as CONNECTOR.

The profits of the farmer mainly depend upon appropriate monsoon which sets the productivity in order. The other Dimension is Market Price for the produce. It appears that Marketing aspects at times drive the cropping pattern also. Government of India is appearing to be focusing at better “Futures Markets” for agricultural Commodities. They opine that this mechanism would help the Farmers to secure fair price for their Products. In addition - more structured approach would certainly bring in “Cost Discipline” which is the need of the hour. The Government has the responsibility of giving a minimum support price to the Farmer (say cultivator of Sugar cane) and also bound to ensure that the end customer of the PRODUCE (i.e., public at large) is not burdened with higher prices (of SUGAR) . The SIMPLE BALANCE is nothing but a CMA with all his or her Management accounting Tools.

I had the opportunity to interact with the Farmers on Chilli cultivation. Interestingly the cost of cultivation per acre would be to the tune of Rs.1.20 lacs excluding the lease costs of the land. Perhaps next year also the costs will be in the same range. The Market price for the produce is the key aspect to decide upon the profitability aspect. The Market price and the Input costs are apparently not in direct proportion and this is the biggest risk factor.

For Ex: Depending upon the movement of Iron Ore prices - the prices of Ingots/TMT Bars and other value added products of Iron and steel would automatically go up or at times go down. In case of agriculture - both the Market Price of the end produce and its input costs are *mutually exclusive*. Thus the Risk Profiling is also the need of the hour. Agriculture being a non conventional sector – there appears to be no significant studies on this front except leaving the things to the Nature’s Mercy. CMA as an Out of Box Thinker can perhaps collate his thoughts and win the hearts of Farming Community.

We have been hearing the terms BOM-BOQ-Stages-Activities in our day to day costing. Package of Practices (POP) is the term that is associated with the Agriculture which one has to get familiarized with-out going into too much of technicalities. One learned CMA said that he compiled the cost data of paddy for certain districts and termed it as ***Paddy Sheet***. Every Finance Executive of an Agro Business entity (presuming them to be the CMAs by heart) should chalk out the Cost Sheets for their respective agricultural produce effectively.

Usage of fertilizers/Pesticides and strain the water table undergoes with not so advanced water management techniques; create damage to the soil conditions which also in turn impacts the productivity in the long run. If anyone aims at improvement – it can come with an attached COST. Thus the Cost benefit analysis is the need of the hour which is the domain of a CMA.

Corporates engaging themselves in Agribusiness should think that their boundary is simply not the four walls of the factory but that of the farmers' fields as well. The entities should have a Training Budget to educate the farmers to improve the Water table. I am of the view that the Government can think of including this training as one of the specific eligible CSR activity under the Companies Act 2013. Government can also announce awards to the farmers for their efforts in improving the Water Table. A CMA with Human face whether in service or in practice can be a better monitor of these activities ensuring WIN-WIN situation to all the stakeholders.

There is a hue and cry by a set of economists that subsidies are to be nullified for the agriculture sector. I have seen experts arguing in favor of withdrawal of exemption to agricultural Income from the clutches of Income Tax. At times exceptional Subsidies and as well the loan waivers been announced by the Government can disturb the rhythm of the Financial or fiscal discipline. The only way to arrest this is to measure and monitor the ***actual Burn*** the farmer suffered and replenish the loss. As also discussed elsewhere in this write up, the usage of fertilizers and pesticides can create lot of havoc to the ecological balance. This needs to be measured for the cause of sustainability. A perfect solution lies with a corporate entity which has its focus at Sustainability studies. CMAs with their analytical and creative mind-set can be very helpful to such corporates.

Water is the main input in Agriculture. If the irrigation projects are given importance - the farmer will pay less for the water. If the ground water has to be tapped - the Farmer has to spend for the Electricity Bill. But with the low rain fall conditions prevailing - the Ground water levels are also becoming ZERO eventually and this is a cause of concern. Ultimately the availability of Water has become a critical issue. In this way - the agricultural produce has good amount of direct costs incurred by the FARMER by himself. In an Indirect way even the Government takes up irrigation projects in support of Agriculture. I was hearing to the lecture of an Expert in this regard . He was mentioning that the Benefit Cost Ratio (BCR) of these projects should be more than "1". He has been highlighting that at times the projects taken up may be costing Rs.4 to 5 lacs per acre and worried about the BCR. A CMA should think of an appropriate costing model to measure and monitor this BCR that enables the nation to overcome its concern.

Lastly...

Roughly we have around 6 lakh villages in our Country. How will it be the scenario if the Central Government appoints village level COST COUNSELORS mainly to compile the cost data of the major sector of our country "AGRICULTURE". The country will have Gigabytes of data with the help of Technology which can be a powerful Database for the effective Decision making.

The cost parameters differ from location to location and state to state. This is also the time that CMAs working in Agro Based Industries take the support of our Trainee Cost Accountants to collect the cost parameters of various crops across their area of operations. In the process we can think of a new domain taking its birth viz., FARM COSTING.

I heard an expert saying "We have read farm Accounting, not farm costing. If CMAs put little of individual effort at remote corner of country, the word costing shall create a vibration among the general public and CMAs can create an identity".

I met an Agri-Business Professional and she opined "The penetration of Digital India programme into the deepest of the rurals is very important in order to uplift the Indian Agricultural scenario on par with the developed world countries. Keeping in mind such tremendous up-scaling of Indian Agriculture, any further researches or studies in agricultural field should be conducted with world wide perspective". We the CMAs are known as Global Professionals. So let us do our might.

In Telugu there is a saying "Koti Vidyalu Kootikorake" meaning "all the one crore skills that we acquire are to overcome the hungry". It is the FARMER whom we call with love and affection as ANNA DATA (Donor of Food) who manufactures(!) the Food. And he is praying at god "I want a CMA".

--18:78--

ECONOMY UPDATES

CMA Dr. M. GOVINDARAJAN

SERVICE TAX

CIRCULAR No. 196/06/2016-ST, dated 27.07.2016 – Instructions regarding provisional attachment of property under Section 73 of Finance Act, 1994

In a recent case, the Allahabad High Court held that it was mandatory for the authority to issue a notice giving 15 days time to reply before attaching a property. The Hon'ble High Court further observed that since proceedings under [Section 73](#) of the [Act](#) had been initiated and a show cause notice had already been issued to the petitioner, action for attachment could only have been initiated by the Commissioner and should not have been initiated by the Deputy Commissioner. The Court also directed that a certified copy of the order be sent to the Central Board of Excise & Customs, Department of Revenue, Ministry of Finance with specific instructions to issue a circular to all officers ensuring that the powers under [Rule 3](#) should be exercised with utmost care and caution and should not be exercised frivolously.

The Board instructed that the present situation has resulted only on account of non-compliance with respect to both. Chief Commissioners are requested to issue standing orders with respect to the observations of the Hon'ble Allahabad High Court and to also emphasize that non-compliance with legal provisions or administrative instructions will leave officers with no defence in legal proceedings arising out of such non-compliance.

Circular No. 197/07/2016-ST, dated 12.08.2016 – Service Tax on freight forwarders on transportation of goods from India

The Board instructed as below-

- The freight forwarders may deal with the exporters as an agent of an airline/carrier/ocean liner, as one who merely acts as a sort of booking agent with no responsibility for the actual transportation. It must be noted that in such cases the freight forwarder bears no liability with respect to transportation and any legal proceedings will have to be instituted by

the exporters, against the airline/carrier/ocean liner. The freight forwarder merely charges the rate prescribed by the airline/carrier/ocean liner and cannot vary it unless authorized by them. In such cases the freight forwarder may be considered to be an intermediary under [rule 2\(f\)](#) read with [rule 9](#) of [POPS](#) since he is merely facilitating the provision of the service of transportation but not providing it on his own account. When the freight forwarder acts as an agent of an air line/carrier/ocean liner, the service of transportation is provided by the air line/carrier/ocean-liner and the freight forwarder is merely an agent and the service of the freight forwarder will be subjected to tax while the service of actual transportation will not be liable for service tax under [Rule 10](#) of [POPS](#);

- The freight forwarders may also act as a principal who is providing the service of transportation of goods, where the destination is outside India. In such cases the freight forwarders are negotiating the terms of freight with the airline/carrier/ocean liner as well as the actual rate with the exporter. The invoice is raised by the freight forwarder on the exporter. In such cases where the freight forwarder is undertaking all the legal responsibility for the transportation of the goods and undertakes all the attendant risks, he is providing the service of transportation of goods, from a place in India to a place outside India. He is bearing all the risks and liability for transportation. In such cases they are not covered under the category of intermediary, which by definition excludes a person who provides a service on his account.

It follows therefore that a freight forwarder, when acting as a principal, will not be liable to pay service tax when the destination of the goods is from a place in India to a place outside India. Keeping this in mind, field formations may deal with cases purely on the basis of the facts of the case, the terms of contract between the entities concerned, the provisions of the [Finance Act, 1994](#), the [POPS Rules 2012](#) and other rules.

CENTRAL EXCISE

Notification No. 31/2016 (CE-NT), dated 04.07.2016 - Amendment of notification no. 17/2004-CE (NT) dated 04.09.2004 for supply of exempted bunker fuel to the specified Indian Ships / Vessels from the warehouse.

Notification No. 32/2016 (CE-NT), dated 11.07.2016 - Seeks to further amend notification No. 35/2001-Central Excise (NT) dated 26.06.2001 so as to exempt mandatory physical verification of manufacturing premises in respect of manufacturers of readymade garments and made up articles of textiles.

Notification No. 33/2016 (CE-NT), dated 22.07.2016 - Seeks to notify the tariff values for articles of jewellery or parts of articles of jewellery or both, falling under heading 7113 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986)

Notification No. 26/2016 (CE), dated 26.07.2016 - Seeks to amend notification No. 12/2012-Central Excise so as to prescribe 1% excise duty (without input and capital goods credit) on parts of articles of jewellery falling under heading 7113 of the Central Excise Tariff Act, 1985 (5 of 1986), and to prescribe a criteria for classification of an articles of jewellery or part of articles of jewellery or both as that of a particular precious metal.

Notification No. 27/2016 (CE), dated 26.07.2016 - Seeks to partially exempt Central Excise duty on articles of jewellery falling under heading 7113 of the Central Excise Tariff Act, 1985 (5 of 1986) manufactured by: (a) re-conversion of jewellery given by the retail customer, or (b) mounting of precious stone given by the retail customer.

Notification No. 28/2016 (CE), dated 26.07.2016 - Seeks to amend notification No. 8/2003-Central Excise dated 1st March, 2003, so as to increase the SSI Exemption limit and the SSI Eligibility limit for articles of jewellery or parts of articles of jewellery or both, falling under heading 7113 of the Central Excise Tariff Act, 1985 (5 of 1986).

Notification No. 29/2016 (CE), dated 26.07.2016 - Seeks to amend notification No. 17/2011-Central Excise, dated the 1st March, 2011, so as to exclude

handicrafts falling under heading 7113 of the Central Excise Tariff Act, 1985 (5 of 1986), from the purview of excise duty exemption for "handicrafts".

Notification No.34/2016 (CE – NT), dated 26.07.2016 - Seeks to notify the Articles of Jewellery (Collection of Duty) Rules, 2016, applicable to articles of jewellery or parts of articles of jewellery or both falling under heading 7113 of the Central Excise Tariff Act, 1985 (5 of 1986).

Notification No.35/2016 (CE-NT), dated 26.07.2016 - Seeks to amend the Central Excise Rules, 2002 in relation to articles of jewellery or parts of articles of jewellery or both, falling under heading 7113 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986).

Notification No. 36/2016 (CE-NT), dated 26.07.2016 - Seeks to amend the CENVAT Credit Rules, 2004 in relation to articles of jewellery or parts of articles of jewellery or both, falling under heading 7113 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986).

Notification No. 37/2016 (CE – NT), dated 26.07.2016 - Seeks to provide a modified format for quarterly return, ER-8, for return of excisable goods cleared at the Central Excise duty rate of 1% [including articles of jewellery or parts of articles of jewellery or both, falling under heading 7113] or 2%.

Notification No. 38/2016 (CE-NT), dated 26.07.2016 - Seeks to amend notification No. 35/2001-Central Excise (N.T.) dated the 26th June, 2001 in respect of jewellery.

Notification No. 39/2016 (CE-NT), dated 26.07.2016 - Seeks to amend notification No. 17/2006-Central Excise (N.T) dated the 1st August, 2006 so as to exempt a manufacturer or principal manufacturer of articles of jewellery or parts of articles of jewellery or both, falling under heading 7113 of the Central Excise Tariff Act, 1985 (5 of 1986) from filing of annual return.

Notification No. 40/2016 (CE-NT), dated 26.07.2016 - Seeks to amend notification No. 36/2001-Central Excise (N.T.) dated 26th June, 2001, so as to exempt a manufacturer or principal manufacturer of articles of jewellery or parts of articles of jewellery or both, falling under heading 7113 of the Central Excise Tariff Act, 1985 (5 of 1986) from taking central excise registration up to the full exemption limit.

Notification No. 41/2016 (CE-NT), dated 29.07.2016 - Corrigendum - Notification No. 26/2016-CE, dated the 26th July, 2016

Notification N o. 30/2016 (CE), dated 10.08.2016 - Seeks to further amend notification No.12/2012-Central Excise, dated 17.03.2012 so as to withdraw the excise duty exemption on ethanol produced from molasses generated in the sugar season 2015-16 (i.e. 1st October, 2015 to 30th September 2016), for supply to the public sector OMCs for blending with petrol.

Notification No. 41/2016 (CE-NT), dated 10.08.2016 - Seeks to amend CENVAT Credit Rules, 2004 so as to withdraw the facility to avail of CENVAT credit of duty paid on molasses generated in the sugar season 2015-16 (i.e. 1st October, 2015 to 30th September 2016) which is used for producing ethanol for supply to public sector OMCs for blending with petrol by omitting rule 6 (6) (ix) of the CENVAT Credit Rules, 2004.

Notification No. 42/2016 (CE-NT), dated 11.08.2016 - Specification of 17th August, 2016 as the date on which clause (v) of rule 5 and rule 6 of Central Excise (Amendment) Rules, 2016 notified by Notification No. 8/2016- Central Excise (NT) dated 1st March, 2016, shall come into force

Circulars

No. 1040/28/2016-CX, dated 26.07.2016 - Clarification on computation of exemption and eligibility and exemption limits and other related issues for small scale industries [SSI] exemption under Notification No. 8/2003-CE dated 1st March 2003 in respect manufacturer or principal manufacturer of articles of jewellery or parts of articles of jewellery or both.

No. 1041/29/2016-CX, dated 26.07.2016 - This circular gives guidelines for Excise Audit of Manufacturers / Principal Manufacturers of articles of jewellery or parts of articles of jewellery.

No. 1042/30/2016-CX, dated 26.07.2016 - Export related procedural simplifications excise duty on articles of jewellery falling under heading 7113 – regarding.

No. 1043/31/2016-CX, dated 26.07.2016 - General procedures regarding excise duty on articles of

jewellery or parts of articles of jewellery or both falling under heading 7113.

No. 1044/32/2016-CX, dated 26.07.2016 - Guidelines for issue of summons, visits, search, seizure, arrest and prosecution regarding manufacturers or principal manufacturers of articles of jewellery or parts of articles of jewellery or both- regarding.

No. 1045/33/2016-CX, dated 26.07.2016 - Taxability of stock on February 29, 2016 - Excise duty imposition on articles of jewellery in the Budget 2016-17 – regarding.

CUSTOMS

Notification 36/2016(ADD), dated 02.08.2016 - Seeks to extend the levy of anti-dumping duty imposed vide notification No.81/2011-Customs, dated the 24th August, 2011 on imports of Polytetrafluoroethylene (PTFE) originating in, or exported from, People's Republic of China for a further period of one year i.e. upto and inclusive of 23rd August, 2017.

Notification No. 37/2016(ADD), dated 04.08.2016 - Seeks to amend notification No. 50/2011-Customs, dated 22.06.2011 to extend ADD on sewing machine needles originating in or exported from China PR.

Notification No. 38/2016(ADD), dated 04.08.2016 - Seeks to amend notification No. 103/2011-Customs, dated 23.11.2011 to extend ADD on Opal Glass Ware originating in or exported from China PR & UAE.

Notification No. 2/2016 (Safeguard), dated 05.08.2016 - Seeks to amend notification No. 1/2016-Customs(SG) dated 29.03.2016 to prescribe import prices on CIF basis at or above which safeguard duty on subject goods will not be applicable.

Notification 39/2016 (ADD), dated 08.08.2016 - Seeks to extend the levy of anti-dumping duty on imports of Sodium Nitrite, originating in, or exported from People's Republic of China, (imposed vide notification No.46/2014-Customs(ADD), dated 8th December, 2014) for a period of one year i.e. up to and inclusive of the 16th August, 2017.

Notification No. 40/2016 (ADD), dated 08.08.2016 - Seeks to further amend notification No. 53/2011-Customs dated 01st July, 2011 so as to provide deeper tariff concessions in respect of specified goods imported from Malaysia under the India-Malaysia Comprehensive Economic Cooperation Agreement (IMCECA) w.e.f. 30.06.2016.

Notification No. 41/2016 (ADD), dated 08.08.2016 - Seeks to finalize the provisional assessments in respect of imports of PVC Flex Film, originating in or exported from China PR by M/s Haining Tianfu Warp Knitting Co. Ltd., People's Republic of China (Producer) and M/s Manna, Korea RP (Exporter), at rate of anti-dumping duty imposed vide Notification No. 82/2011-Customs (ADD) dated 25th August, 2011 [and extended vide Notification No. 43/2015-Customs (ADD) dated 18th August, 2015]

Notification No. 42/2016 (ADD), dated 08.08.2016 - Seeks to impose anti-dumping duty on the imports of PVC Flex Film originating in or exported from the People's Republic of China for a period of five years.

Notification 43/2016 (ADD), dated 08.08.2016 - Seeks to impose anti-dumping duty on the imports of Viscose Staple Fibre excluding Bamboo Fibre originating in or exported from People's Republic of China and Indonesia for a period of five years.

Notification No. 44/2016 (ADD), dated 08.08.2016 - Seeks to levy provisional anti-dumping duty on Hot-rolled products of alloy or non-alloy steel imported from China, Japan, Korea RP, Russia, Brazil and Indonesia

Notification NO. 45/2016-Cus, dated 13.08.2016 - Exemption for import of fabrics under Special Advance Authorization Scheme under para 4.04A of FTP 2015-20 for manufacture and export of garments.

Circular No. 37/2016-Customs, dated 13.08.2016 - Special Advance Authorization under para 4.04A of FTP 2015-20 in combination with All Industry Rates (AIRs) of Duty Drawback.

INCOME TAX

Notification No. 65/2016, dated 5.08.2016 - Central Government notified the Micro Units Development & Refinance Agency Limited (MUDRA) u/s 194A.

Notification No. 66/2016, dated 05.08.2016 - An e-Return Intermediary shall now also include, Company Secretary or Cost Accountant with Chartered Accountants and Advocates - Amendment in Notification No. S.O. 1281(E) dated the 27th July, 2007 .

Notification No. 68/2016, dated 10.08.2016 - Agreement for Avoidance of double taxation and prevention of fiscal evasion with foreign countries - Republic of Mauritius.

Notification No. 70/2016, dated 16.08.2016, dated 12.08.2016 - Income Declaration Scheme, (Second Amendment) Rules, 2016. A new Form 3 is substituted for the old form.

COMPANY LAW

Notification No. GSR 791 (E), dated 12.08.2016 - Companies (Share Capital and Debentures) Fourth Amendment Rules, 2016

Circular No. 9/2016 , dated 03.08.2016 - Issuance of rupee bonds to overseas investors by Indian companies Clarification regarding applicability of provisions of Chapter III of the Companies Act, 2013. It is, accordingly, clarified that unless otherwise provided in the circular/ directions/ regulations issued by Reserve Bank of India. provisions of [Chapter III](#) of the [Act](#) and [rule 18](#) of [Companies \(Share Capital and Debenture\) Rules, 2014](#) would not apply to issue of rupee denominated bonds made exclusively to persons resident outside India in accordance with applicable sectoral regulatory provisions as stated above. Necessary changes in [Companies \(Share Capital and Debenture\) Rules, 2014](#) in this regard are being made.

FTP

Notification No.18/2015-20, dated 01.08.2016 - Amendment in Sl. No. 57, Chapter 10 of Schedule 2 of ITC (HS) regarding conditions for export of Basmati Rice

Notification No. 19/2015-20, dated 04.08.2016 - Import/export policy for Human Biological Samples for commercial purposes: amendment Schedule – 1 (Import Policy) and Schedule – 2 (Export Policy) of ITC (HS), 2012

Notification No. 20/2015-20, dated 04.08.2016 - Continuation of Minimum Import Price (MIP) on 66 HS Codes of Iron and Steel under Chapter 72 of ITC (HS), 2012 – Schedule – 1 (Import Policy): amendment in import Policy Conditions.

Notification No. 21/2015-20, dated 11.08.2016 - Special Advance Authorisation Scheme for export of Articles of Apparel and Clothing Accessories. Amendments in [FTP 2015-2020](#)

Notification No. 22/2015-20, dated 12.08.2016 - C.I.F. value of Import of consumer electronic items at any one time by any person through port or otherwise for personal use is enhanced to Rs.50,000.

Notification No. 23/2015-20, dated 13.08.2016 - Removal of mandatory warehousing requirements for EOUs, STPIs, EHTPs etc. - amendment in paras 6.01, 6.13, 6.19 and 6.28 of FTP 2015-2020