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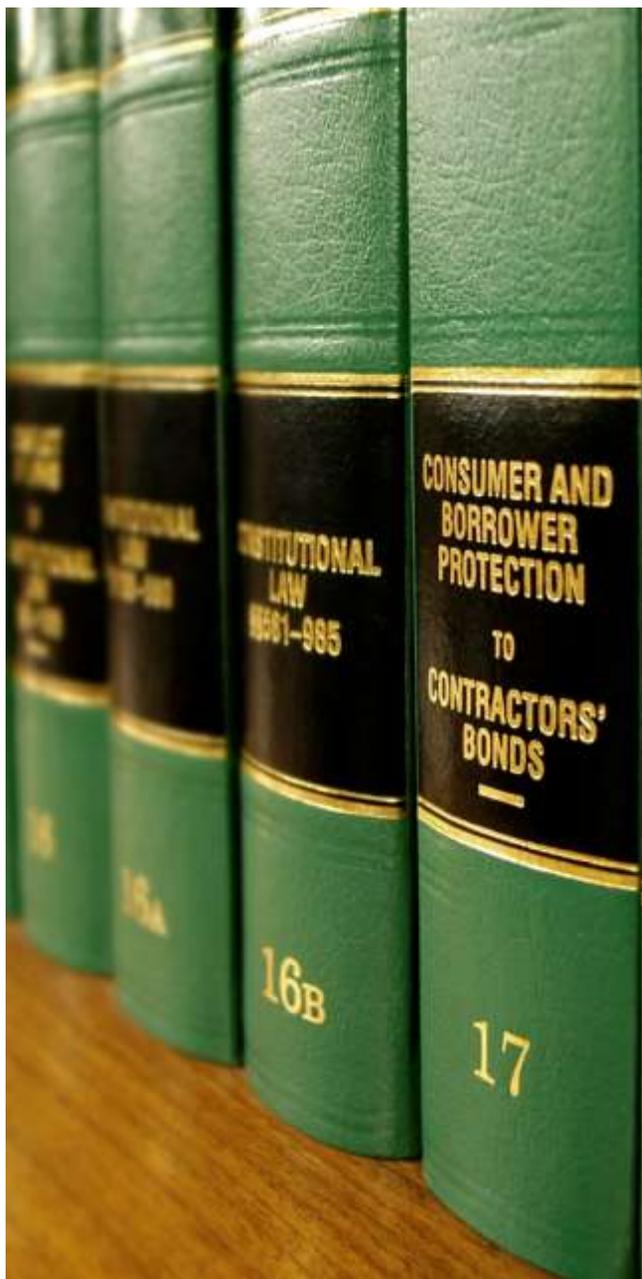
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Direct Tax

CASE LAWS



Case Law -I

Companies with more than 10 times of turnover of assessee couldn't be selected as comparables

Facts

- The Assessee was engaged in rendering Information Technology Enabled Services to its Associated Enterprise (AE).
- During AY 2007-08, department had made an addition of Rs. 2.82 crores to the total income of the appellant on account of adjustment in the arm's length price of the medical transcription service transaction entered into by the assessee with its AE.
- The assessee contended that the department had ignored the fact that since the assessee is availing tax holiday u/s. 10A of the Act, there is no intention to shift the profit base out of India, which is one of the basic intention of the introduction of transfer pricing provisions
- Department disregarded the economic analysis undertaken by the assessee and conducted a fresh economic analysis in connection with the impugned international transaction.
- In determining the arm's length margin price, the department used only financial year 2006-07 data, which was not available to the assessee at the time of complying with the transfer pricing documentation requirements.
- Department rejected certain comparables of the assessee based on the reasons listed below –
 - Companies having diminishing revenue trends
 - Companies selected under turnover more than 1 crore filter
 - Different accounting year
 - Use of consolidated financial information
- Post above rejection, the TPO accepted certain companies using unreasonable comparability criteria, without giving the assessee any opportunity of being heard in certain cases and accepting some companies without communicating the reasons thereof.
- The TPO had selected total 28 comparables out of which, the assessee was requesting for exclusion of 13 comparables on various grounds.

Decision

The assessee presented its grounds for inclusion/exclusion of comparable by the TPO.

One of the grounds on the basis of which assessee was requesting exclusion of 3 companies was on account of turnover.

It was submitted that assessee's turnover from the ITES was INR 22.64 Crores whereas the turnover of each of these three companies is more than 10 times of the assessee's turnover and therefore, these companies should be excluded from the list of final comparable. It was held that the 3 companies were not comparable to the assessee company since these companies are having turnover in excess of 10 times of the turnover of the assessee. The AO/TPO was accordingly directed to remove these companies from the final list of comparables.

Acusis Software India (P.) Ltd. v. Income-tax Officer, Bangalore (ITAT – Bangalore Bench)

Sum paid for Clinical trial and R&D constituted 'FTS' under India-Malaysia treaty

Facts

- The assessee was a research driven company formed in India with a mandate of R&D and manufacturing of therapeutic product based on stem cells. It had a subsidiary SRM in Malaysia. SRM was engaged in development and manufacturing of product based on stem cells. Research activities which were not being carried out in India were done at SRM.
- A Product Development Agreement (PDA) was entered into between the assessee and Cipla wherein a sum of Rs. 37 crore was paid to the assessee for carrying out research activity at all its units as well as at SRM. The assessee in turn agreed to grant Cipla exclusive right to purchase all its products. Accordingly, SRM carried out clinic trial and R & D on behalf of assessee and expenses incurred towards the same were reimbursed to it by assessee. Assessee did not deduct tax at source on such reimbursement.
- The Assessing Officer (AO) held such payment to be fees for technical services (FTS) chargeable to tax in India. He further held that assessee was liable for default under section 201(I) and 201(IA) as it did not deduct tax under section 195.
- On appeal, the Commissioner(Appeals) upheld the Assessing Officer's order concluding that said payment was FTS under article 13 of Indo-Malaysian DTAA ('The DTAA').

Decision

As per the MOU between the parties, the cost of R & D as well as clinical trials undertaken by the assessee and its Malaysian subsidiary was to be borne by Cipla and in turn outcome of the R & D as well as clinical trials will be belonging to Cipla. Thus, the outcome product of the R & D as well as clinical trials would not belong to the assessee or its subsidiary but Cipla had the right over the same. Therefore, Cipla has right to acquire the outcome in the shape of technical information, technology documentation, know-how and/process involved in all clinical R&D.

Though the assessee has reimbursed the expenses to its subsidiary however in case the payment is considered as taxable under FTS then the element of profit becomes irrelevant as the gross payment becomes taxable. The definition of FTS as per Indo-Malaysia DTAA provides that the term 'fees for technical services' means payment of any kind in consideration for the rendering of any managerial, technical or consultancy services including the provision of services by technical or other personnel but does not include payments for services mentioned in article 14 and article 15 of this agreement. Thus, it is clear that DTAA between the two countries in question has no clause of make available and the term FTS means payment of any kind in consideration for rendering of managerial, technical or consultancy services/provision for services by technical or other personnel.

Conducting clinical trials & R&D is clearly a service which is technical in nature, therefore providing the outcome of the research to Cipla through the assessee clearly falls under the ambit of the term FTS as per Article 13 of the DTAA.

In view of the above discussion it was confirmed by the ITAT that the payment in question is FTS and, consequently, the assessee was liable to deduct tax at source under section 195.

Stempeutics Research (P.) Ltd. v. Joint Director of Income-tax, (International Taxation) (ITAT Bangalore)

Case Law 2

High Court of Bombay

CIT vs Asian Paints (India) Ltd.

Where expenditure was incurred by assessee-company on corporate advertisement to maintain its corporate image which resulted in increased sale of products, such expenditure was allowed as revenue expenditure.

Facts

- The assessee had incurred expenditure on advertisement on television. The said expenditure not only related to individual products manufactured by it but also towards corporate advertisement.
- The Assessing Officer ("AO") disallowed the expenditure claimed towards corporate advertisement on the ground that the same was on capital account as corporate advertisement helped in building the company's brand value. The benefit of such build-up of brand value would endure over a period of years and hence should be capitalised.
- The Tribunal allowed the assessee's appeal on the basis of the fact that the expenditure was revenue in nature, even if the same was incurred for promotion of a corporate brand, as it facilitated the business of the assessee and resulted in increased sales and profitability.
- The learned Counsel for the Revenue, urged that any expenditure incurred to create/improve a brand would be on capital account. This was in view of the enduring benefit available to assessee in relation to its brand.

It was particularly submitted that amounts received on sale of brand is on capital account and should not be taxed as Revenue receipts. As also, amount paid to purchase a brand is regarded as capital expenditure. Therefore, the expenditure incurred on brand advertisement cannot be allowed as Revenue expenditure.

Decision

1. Similar issue had arisen in the case of *CIT v. Jeffrey Manners & Co. Ltd.* wherein the Court was considering a question whether the expenses incurred by the assessee therein for making advertisement films was to be treated as a capital or revenue expenditure. This Court had opined that the correct test to be applied in respect of expenditure incurred for making advertisement films was that when the same was incurred in respect of an ongoing business of the assessee, it was to be treated as revenue expenditure. On the other hand, when the expenditure was incurred in respect of a brand which is to be used in a business which is yet to be commenced, it was capital expenditure. Accordingly, the expenditure on corporate advertisement films in respect of ongoing business is in the nature of maintaining the brand and corporate image and it is not for creation of a brand

1. Further, the test of continuing benefit urged by the Revenue was considered by the Apex Court in *Empire Jute Co. Ltd. v. CIT* to hold that it was not a conclusive test in all cases since such expenditure was always on capital account.
2. The Court observed that what was to be examined was the nature of advantage obtained in the commercial sense by incurring the expenditure. If the expenditure consisted of merely facilitating the assessee to carry on business more profitably leaving the fixed capital untouched, it would be on revenue account. The entire expenditure, has to be looked at from a businessman's point of view.
3. Since the expenditure was on account of corporate advertisement and was incurred essentially to maintain the corporate image and not create a corporate image, the case went in favour of the assessee and the contention of the AO was dismissed.

Case Law 3

High Court of Madras

CBDT vs Regen Infrastructure & Services Private Limited

Application seeking condonation of delay of one day in filing return cannot be rejected particularly when assessee had encountered certain hardship or difficulty in uploading his return, due to a technical snags in the website of the Income-tax Department due to the last hour rush of filing of Returns

Facts of the Case

The Assessee moved an application before the Central Board of Direct Taxes ("CBDT"), seeking condonation of delay of one day in filing the Return of income as general life had been disturbed due to the floods. That application had been rejected by the CBDT, stating that there were no floods in the State of Tamil Nadu and hence the Assessee could have easily filed its Return in the normal period or at least by the end of the extended timeline.

Decision of the Court

The statute has conferred discretion in the hands of the CBDT to admit any claim which is made beyond the period specified for doing so and once the discretion is conferred by a statute upon an authority, such a discretion is required to be exercised on sound lines.

One of the important factors to be considered while dealing with an application seeking condonation of delay is to understand whether grave and irreparable injury or hardship will be caused to the person, if the application seeking the condonation of delay is rejected by the CBDT.

In the instant case, there is no dispute or denial of the fact that the Return of Income filed assessee had been uploaded sometime past 00.00 hours. However, one can take judicial notice of the fact that uploading of Return requires not only an effort but also consumes time. If the Assessee has encountered certain hardship or difficulty in uploading his return, as alleged by him due to a technical snags in the website of the Income Tax Department due to the last hour rush of filing of Returns, the delay deserves to be condoned.

The Board has not exercised its discretion properly in the matter and in keeping with the legal principles relevant for such consideration. Hence the net result is that the delay in filing the Return of Income by the assessee for the assessment year beyond the due date stands condoned and the assessing officer shall process the Return of Income of the assessee for the relevant Assessment Year strictly in accordance with law.

NOTIFICATION

Press Release

Clarifications With Respect To Gold Jewellery Under Income Tax Law

In order to remove any doubt about current position of Income Tax Law with respect to gold jewellery, category wise clarification was issued via Press Release dated 1st December, 2016.

- There is no limit on holding of gold jewellery or ornaments by anybody provided it is acquired from explained sources of income including inheritance
- Jewellery and ornaments to the extent of 500 gms for married lady, 250 gms. for unmarried lady and 100 gm for male member will not be seized, even if prima facie, it does not seem to be matching with the income record of the assessee.
- Officer conducting search has discretion not to seize even higher quantity of gold jewellery based on factors including family customs and traditions.
- Vide circular dated 11-5-1994, instructions have been issued in the matter of search and seizure of gold jewellery.

Refer the link to read the full notification.

<http://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/555/Taxation-Laws-Second-Amendment-Bill-2016-1-12-2016.pdf>

Indirect Tax

CASE LAWS



Decision of Tribunal on the issue of limitation

This is the second round of litigation regarding the CENVAT Credit availed on the output telephone services along with the issue of valuation on account of sim-card. In earlier round of litigation, the Tribunal asked the Adjudicating Authority to consider the issue of limitation but the Adjudicating Authority did not comply with direction of the Tribunal and have not considered the issue of limitation and relied on his own earlier order. Therefore the issue of limitation is required to be decided by this Tribunal. As submitted by the appellant that the CENVAT Credit returns were filed regularly, received by Revenue and in the knowledge of the Department, therefore the show cause notice issued stating invoking extended period of limitation is impugned in nature. Further the issue of valuation on sim-card was also being disputed and the same was decided by the Apex Court in *Ideal Mobile Communication Ltd [2011 (8) TMI – Supreme Court of India]*, hence extended period of limitation is not invocable during the impugned period.

Demand set aside - decided in favor of appellant

(2016(11) TMI 1005 – CESTAT NEW DELHI [M/s Bharti Hexacom Ltd. Vs CCE, Jaipur])

Mobile Phone Chargers (MBC) to be taxed separately and not to be treated as the part of Mobile Phones

In this case the issue is regarding the taxability of Mobile Phone Chargers (MBC) sold along with the mobile phones should be charged with separate rate of tax placing its reliance upon *State of Punjab and others –versus- Nokia India Private Limited (2015) 77 VST 427 (SC)*, where it was held that the Mobile Battery Chargers (MBC) should be treated as the accessories of the Mobile phones and not be treated as a part of the Mobile Phones thus should be taxed separately irrespective of their packing in the common package with Mobile Phones. Further the said binding precedent from the Apex Court is binding on all Courts/authorities in the Country and is not based only on particular entry for tax rate under any particular State. Thus the court is not convinced to entertain this contention of the assessee.

Indirect Tax

CASE LAWS



However, the other issues of the assessment has been left open to be raised before the appellate authorities under the Act, as the petitioner has an alternative remedy against the impugned assessment orders and therefore they have been left free to agitate those points before such appellate authorities - petition dismissed.

(2016 (11) TMI 1198 - KARNATAKA HIGH COURT [M/s. ABM Tele Mobiles India Pvt. Ltd., M/s. Global Tech Solutions, M/s. Myrachana Distributors Pvt. Ltd., M/s. Narendra Agencies, M/s. S & S Co., M/s. Pinnacle Solutions, M/s. Vijayalakshmi Enterprises, M/s. Gupta's Shoppe, M/s. Global Tech Solutions, M/s. Bharthis Distributors, M/s. Fairdeal Consumer Durables Private Limited, M/s. LG Electronics India Private Limited Versus The Assistant Commissioner of Commercial Taxes Audit, The Commissioner of Commercial Taxes, The State of Karnataka])

Adjudicating Authority to pass appropriate order following the principles of natural justice

The appellant request for the inspection of electronic devices was rejected by the adjudication authority. After rejecting the request of inspection of electronic devices, the adjudicating authority has fixed the matter for early hearing. The appellant held that *the examination of ACER brand laptop is vital* and requested to allow the examination of data supplied with the data contained in ACER brand laptop and relied upon in the show cause notice in the presence of computer expert undertaking to bear the cost if any. Herd both the parties, it was held that the examination of laptop is vital for the adjudication of the case and the directions were given to the adjudicating authority to allow the appellant to examine the ACER brand laptop and all the records pertaining to that electronic devices shall be provided to the appellant for consideration. After providing the above details, the adjudicating authority is directed to pass the appropriate order in accordance with the law after following the principles of natural justice.

[2016 (12) TMI 225 - CESTAT NEW DELHI (M/s. Baba Strip & Tubes Ltd. Versus Additional Director General (Adjn) New Delhi)]

Indirect Tax

CASE LAWS



Taxability of excess baggage charges collected separately by airlines from passengers; Matter referred to Third member

Supreme Court affirms CESTAT majority view stating that the extra charges collected by airlines on excess baggage forms the integral part of the main service that is "transporting passenger by air" and should not be taxable separately as "transportation of goods by air". The same was agreed by the Third Member with Member (Judicial) view, where it was held that carrying of baggage is incidental to passenger transportation services and shall be classifiable u/s 65(105)(zzn) of Finance Act. Further no separate contract was found stating the transportation of extra baggage's and particularly no proof of transport of nonrelated goods. Extended limitation period was also revoked absent suppression as the airlines had duly disclosed the receipts from passengers towards excess baggage in their books of account, maintained in ordinary course of business; Penalties too were deleted as there was no deliberate defiance of service tax provisions or non-compliance.

[Order No. M/2026/14/CSTB/C-I] (CESTAT, Mumbai) (Kingfisher Airlines Ltd & Another vs Commissioner of Service Tax, Mumbai)]

Notifications

Notification

Notification No. 142 /2016-Customs (N.T.)

In exercise of the powers conferred by section 157 of the Customs Act,1962 (52 of 1962), the Central Board of Excise and Customs hereby makes the following regulations, further to amend the Courier Imports and Exports (Clearance) Regulations, 1998, namely:-

1. (1) These regulations may be called the Courier Imports and Exports (Clearance) Amendment Regulations, 2016.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Courier Imports and Exports (Clearance) Regulations, 1998 (hereinafter referred to as the said regulations), in the sub-regulation (1) of regulation 6, after the words, brackets and letters "Form Courier Shipping Bill-II (CSB-II)", the words and letters "Courier Shipping Bill CSB-V," shall be inserted.
3. In the said regulations, in the sub-regulation (3) of regulation 6, after the words, brackets and letters "Form Courier Shipping Bill-II (CSB-II)", the words and letters "Courier Shipping Bill CSB-V" shall be inserted.
4. In the said regulations, after the sub-regulation (3) of regulation 6, for the proviso, the following proviso shall be substituted, namely:-
"Provided that for the goods specified in Appendix 3C of the Foreign Trade Policy (2015-20), such entry shall be made in the Form Courier Shipping Bill CSB-V."

Legal & Regulatory NOTIFICATION

MINISTRY OF CORPORATE AFFAIRS

Companies (Registration Offices and Fees) Second Amendment Rules, 2016

(MCA Notification dated November 7, 2016)

The Ministry of Corporate Affairs vide its notification dated November 7, 2016 has made certain amendments in the Companies (Registration Office and Fees) Rules, 2014 and issued the Companies (Registration Office and Fees) Second Amendment Rules, 2016. The amendment in the principal rules comes into force on the date of their publication in official gazette, i.e. November 7, 2016. As per the said amendment, the Company Secretary, in whole time practice and Cost Accountant, in whole-time practice have also been empowered to certify Form AOC-4 (Filing of financial statements with the Registrar of Companies).

http://www.mca.gov.in/Ministry/pdf/CompaniesRegistrationOffices2ndamdRules_08112016.pdf

AMENDMENT OF SCHEDULE II TO THE COMPANIES ACT, 2013

(MCA Notification dated November 17, 2016)

The Ministry of Corporate Affairs vide its notification dated November 17, 2016 has made further [amendments to Schedule II of the Companies Act, 2013](#) and has clarified that the relevant Ind AS shall apply for computation of amortisation amount over the useful life of intangible assets. However, where a company is not required to comply with the Ind AS, it shall comply with relevant Accounting Standards under Companies (Accounting Standards) Rules, 2006.

Further, this notification shall be applicable for accounting period commencing on or after 1 April, 2016.

http://www.mca.gov.in/Ministry/pdf/Noti_18112016.pdf

MCA DESIGNATES COURT OF DISTRICT AND SESSIONS JUDGE, SHILLONG AS SPECIAL COURT

(MCA Notification dated November 17, 2016)

The Ministry of Corporate affairs vide its notification dated November 17, 2016, with the concurrence of the Chief Justice of the High Court of Meghalaya, designated the Court of District and Sessions Judge, Shillong as Special Court for the purposes of providing speedy trial of offences punishable with imprisonment of two years or more under the Companies Act, 2013. It shall have jurisdiction over state of Meghalaya.

http://www.mca.gov.in/Ministry/pdf/Noti_SplCourt_18112016.pdf

IBBI Regulations for Insolvency Professionals Agencies and Model Bye-Laws and Governing Board of Insolvency Professional Agencies

(IBBI/2016-17/GN/REG001-02 dated November 21, 2016)

The Insolvency and Bankruptcy Board of India (IBBI), in exercise of its powers conferred under section 240 of the Insolvency and Bankruptcy Code, 2016 (Code), has notified the following regulations
Insolvency and Bankruptcy Board of India (Insolvency Professionals Agencies) Regulations, 2016;
Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016

Legal & Regulatory

NOTIFICATION

The above mentioned regulations inter alia provide for the eligibility norms to be a professional member of an insolvency professional agency and also the eligibility norms for an insolvency professional agency to be registered with the Insolvency Bankruptcy Board of India.

As per the regulations, a Company registered under section 8 of the Companies Act, 2013 with a minimum net worth and paid up share capital of Rs. 10 crores and Rs. 5 crores respectively, shall be eligible to be an Insolvency Professional Agency, wherein more than half of the directors of its Board shall be independent directors and not more than one fourth of the directors shall be insolvency professionals.

The byelaws of Section 8 Company (applying for registration as Insolvency Professional Agency) shall be in line with the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016.

Further, it shall have Membership Committee(s), Monitoring Committee, Grievance Redressal Committee(s), and Disciplinary Committee(s) for regulation and oversight of professional members with adequate infrastructure requirements as prescribed in the regulations.

http://www.ibbi.gov.in/Law/IPA%20REGULATIONS_professional_agencies.pdf

<http://www.ibbi.gov.in/Law/MODEL%20BYE-LAWS.pdf>

THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY PROFESSIONALS) REGULATIONS, 2016

(IBBI/2016-17/GN/REG002 dated November 21, 2016)

The Insolvency and Bankruptcy Board of India (IBBI), in exercise of its powers conferred under section 240 of the Insolvency and Bankruptcy Code, 2016 (Code), has notified the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.

These regulations inter alia provide for registration, regulation and oversight of insolvency professionals under the Code and the said regulations shall come into effect from 29th November, 2016.

http://www.mca.gov.in/Ministry/pdf/Notification_21112016_II.pdf

Thought LEADERSHIP

How A Coolie's Son Set Up A Rs 100 Crore Company – P C Mustafa



This is story of a man who failed in class 6th but went on to become an entrepreneur. P C Mustafa grew up in a small village of Kerala which had only one primary school. The village was so remote that it had no electricity and the high school being 4 kms away most of the students dropped out after primary school. Mustafa's father was a coolie and his mother was uneducated. He was never interested in studies and every day after school he would prefer helping his father rather than doing his homework.

Though being an average student Mustafa was good at maths but after failing in class 6 he lost interest in going to school and joined his father as a daily wage worker. His teacher didn't like his decision of dropping out and spoke to his father who agreed to give him second chance. Back in school he had to sit with his juniors and this humiliation made him work hard and to his teacher's surprise Mustafa topped in class 7th and later in class 10th.

After class 10 his father had no money for his further education so he went to Farooq College in Kozhikode which provided free meal for poor students. He was one among 15 students who were offered free stay and meal at the hostel because of which other students looked at him with disdain which upset him.

Coming from a village Mustafa was weak in English. This was a huge problem for him since all the lectures in college were delivered in English. A good friend of Mustafa came to his rescue as he would translate every lecture for him. After college Mustafa took engineering entrance exam and was ranked No 63 in the state. He got admission at the Regional Engineering College, now The National Institute of Technology Calicut and pursued degree in computer science. After graduation Mustafa worked for Manhattan Associates, Motorola and citi bank. After working for few years he developed interest in Business management and cracked CAT and got admitted at IIM-Bangalore.

While studying at IIM-Bangalore he started a idli and dosa batter supplying company ID Fresh along with his cousins with just Rs.25000 investment,2 grinding mixer and a sealing machine. After graduating from IIM in 2007, Mustafa officially joined as the CEO in charge of marketing and finance.

With just a sale of 10 packets per day to 100 packets a day ID fresh has reached cities like Chennai, Mangaluru, Mumbai, Pune, Hyderabad and Dubai. Today ID fresh produce around 50,000 kg in their plant with the total investment of around Rs 4 crore (Rs 40 million) and revenue of Rs 100 crore (Rs 1 billion). Employs only youngsters from rural areas. Mustafa make a point that the person who will be recruited has to be smart and honest from a rural area.

Advice to aspiring entrepreneurs in his own words:

If you have the passion to start something, do it immediately. Don't wait for tomorrow. I had the passion to be an entrepreneur, but it took me a few years make that decision. I still regret the delay. I wish I had started five years earlier. My words may sound like management jargon, but it is very important to maintain the quality of the product to be successful. The three things that worked for us were that we were in the **right city with the right product at the right time.**

Column

SPICE- ADDING NEW TASTE IN THE INCORPORATION OF COMPANIES

By
Somya Sharma



Introduction

The Ministry of Corporate Affairs continuously strives to not only improve the quality of services in the working but also to explore ways into different avenues to make the working easier and perfect. For this purpose, MCA has come up with completely new concept of E-Form INC-32 under SPICe scheme i.e Simplified Proforma for Incorporating Company Electronically vide MCA's notification dated October 1, 2016.

Spice scheme

MCA has introduced the concept of simplified integrated process for incorporating a company in E-form INC-32 which also requires filing of Memorandum of Association in E-form INC-33 and Articles of Association in E-form INC-34 along with E-form INC-32. Hence, through this initiative, MCA has simplified the procedure for incorporation by introducing filing of pre-drafted Memorandum and Articles of Association electronically, which would make it easier to incorporate the Companies. Earlier with effect from May 1, 2015, MCA came with an integrated process for incorporation by filing E-form INC-29. This was a major reform brought by MCA for incorporating a company which required filing of only one E-form i.e. INC-29 which was introduced to bring an ease in incorporation by integrating five forms into one as filed earlier (i.e. DIR-3 for application for obtaining DIN, INC-1 for approving the name of company, INC-7 for registration of company with MOA and AOA, INC-22 for registered office and Form DIR-12 for first directors of company). The said integrated form for incorporation in form INC-29 has been replaced by this Spice scheme, which integrates all these forms into one form with better governance.

Advantages of SPICe

- **Pre drafted MOA and AOA:** The Spice scheme provides pre drafted MOA in which the main objects of the company have to be mentioned & pre drafted AOA in which additional clauses can be added or existing clauses can be modified as per the requirement. Hence, the cumbersome task of drafting memorandum and articles of Association has become easier. Also it would give easy access to the MOA & AOA of the companies, to the authorities & the users.
- **No requirement of handwritten subscribers' & witness details in the MOA and AOA:** In the new electronic Memorandum and Article of Association of the company, the subscribers to the MOA and AOA are not required to write their and witness details in their respective handwriting. The digital signatures of subscribers and witness need to be affixed in the E-Form INC-33 and INC-34.
- **Extensive details required to be filled up in E-form INC-32:** E-form INC-32 under Spice scheme consolidates various forms i.e. application for DIN allotment, reservation of name, incorporation, MOA & AOA, PAN, TAN & registered office, which were required to be applied via individual forms earlier.

Hence it requires all the necessary details to be filled up at the time of filling incorporation application under Spice scheme.

Column

- **Speedy Incorporation:** It is a simplified form made for incorporating the company, which will definitely help in reducing time for incorporating the company as all the prerequisites for incorporating a company can be done through the integrated single form.

Mandatory Attachments in SPICe

Certain mandatory attachments to be annexed with the integrated incorporation application under Spice scheme are as follows:

Affidavit and declaration by first subscribers and directors.

Proofs of Office address (Conveyance/ Lease deed/ Rent Agreement etc. along with rent receipts).

A copy of the utility bills (not older than two months).

Conclusion

E-Form SPICe (INC-32) is a single application for reservation of name, incorporation of a new company and/or application for allotment of DIN & application of PAN & TAN. Once the E-Form is processed, company would be registered with MCA and a CIN (Corporate Identification Number) would be allocated to the company. Also DIN (Director Identification Number) of the proposed directors would be allotted but subject to the limit of three Directors.

MCA has taken a bold initiative in introducing an additional and much more progressive step towards the growth of the economy through the source of digitization which shall help "speedy incorporation services in line with global practices".

THOUGHTS WHICH INSPIRE US



“Patience is the ability to understand it is not always about you”

“Every thing you do or say will come back to you eventually it just may not be in a form you are expecting”

“It won't be easy , but it'll be worth it ”

“Be stubborn about your goals , and flexible about your methods.”

JOKES



The Teacher says to the class: Who ever stands up is stupid

Nobody stands up

Teacher: I said who ever stands up is STUPID!

Little Johnny stands up

Teacher: Johnny, do you really think that you are stupid?

Little Johnny: No Mrs, I just thought that maybe you are lonely being the only one standing.

INTERESTING FACTS



- ❖ Be stubborn about your goals , and flexible about your methods.
- ❖ In France, it is legal to marry a dead person
- ❖ Rhythm is the longest English word without a vowel.
- ❖ There are no words in the dictionary that rhyme with: orange, purple, and silver!



Birthdays of the Month

Ujjwal Kumar Pawra 10-December

Kriti Gupta 19-December

Shuchi Maitra 21-December

Surinder Singh 26-December

IBA wishes You a Happy Birthday and a great year ahead!!

December 2016

| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|--------|--|--|---|--|---|--|
| | | | | 1 | 2 | 3 |
| 4 | 5 Excise Duty Payment Service Tax Payment corporates | 6 Online Excise Duty Payment Service Tax Payment corporates | 7 Tax deducted/ collected for the month of November | 8 | 9 | 10 Filing of Excise Return Form ER-1 Form ER-2 |
| 11 | 12 | 13 | 14 | 15 3 RD Instalment for the Payment of Advance Tax | 16 | 17 |
| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| 25 | 26 | 27 | 28 | 29 | 30 Deposit of Tax Deducted/Collected during the month of November | 31 Revised Excise Return Form ER-1 Form ER-2 |
| | | | | | | |

About Us

IBA constitute a young team of path breaking professionals, who believe in creating value through innovation and creativity so as to provide ultimate client satisfaction. Clients benefit from our fresh thinking, constructive challenge and practical understanding of the issues they face. We aim to alloy a perfect blend of professionalism with high standards of service, in our pursuit of excellence.

Ten years into conception, IBA continues to offer wholesome service experience to boost highly valued client relationships by combining the technical and industry expertise at par with well-placed firms together with a personal commitment to optimise client service.

Our service lines are headed by experts from the varied fields of Financial Outsourcing, Assurance, Risk, Taxation, Regulatory, Mergers and Acquisition who ensure timely delivery of value added services to our clients.

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