



# WIRC BULLETIN

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Vol. 37 No. 3

Rs. 5/-

For Members only

March 2009

## Communique from Chairman



Dear Members,

This month of February was full of events including Mid Term Budget, revision in Foreign Trade Policy and number of RBI circulars and number of Press releases. The attempt has been to generate domestic demand and to facilitate industry to maintain the growth rate.

Government has declared 3 packages which includes, reduction in Excise duty, Reduction in Service Tax Rate, Reduction in Interest Rate for surging liquidity in the market and other fiscal and non fiscal measures. This will definitely help to generate the demand and industry will be able to stall slow down on account of global financial meltdown.

During the meeting with the Industry Associations, Secretary, Ministry of Commerce and Industry, Mr. G K Pillai has explained the numbers of action taken by the government especially in Infrastructure, Housing and Automobiles Sectors. He has also stressed on the need for simplification of the procedures so that the refund due to the exporters is expedited.

Special Economic Zone Rules 2006 has been amended so as to entitle Developers, Co-developers, Contractor and Subcontractors the benefit of DEPB and Drawback even though payment made in Indian Rupees, however exemption of Service Tax has been re-coined as "Exemption by way of Refund" which will add to the paper work to SEZ Developers. This perhaps can be an opportunity for Cost Accountants to help to obtain refund to the Developers.

RBI has included Cost Accountants, Chartered Accountants & Company Secretaries and provided an opportunity to do the "Due Diligence" for granting the loans / renewal of loans and loans against stocks.

President of ICWAI, Mr. Kunal Banerjee was invited by SEBI for discussion on conducting internal Audit

of the Stock Brokers. He also performed the Satyanarayana Pooja arranged by Staff of WIRC for successful wage settlement for the period 2007-2011.

Mr. C. V. Subramanian, our Member and CEO, iSmart Business Solutions Pvt. Ltd. has deliberated on ERP during CEP arranged by WIRC at Borivali around 40 Members & Students have participated in Program. WIRC is planning to arrange CEP Program at various places of Western & Eastern Suburbs and also at the places where Chapters can not arrange.

I congratulate Managing Committee Members of Surat South Gujarat Chapter of Cost Accountant for arranging First Regional Students Cost Conference. Students from Mumbai, Pune, Nasik, Aurangabad, Bhopal, Indore, Ahmedabad, Baroda have actively participated and demonstrated their professional skills and Talents. I congratulate all the students who are participated in the Conference.

Rate of inflation has come down to 3.03% and exports are sliding therefore it is need of the hour that all of us contribute by applying our Professional Skills which will help organization to become Lean and be able to compete. The time demands reduction in the margins and generation of more volumes which will make our economy More Stronger.

Elections of Lok Sabha has been declared and scheduled during April 2009 & May 2009. Let us exercise our right of Voting in the interest of our Profession.

With warm regards,

**Ashok B. Nawal**

### Quote

***"There is some self-interest behind every friendship. There is no Friendship without self-interests. This is a bitter truth."***

*— Chanakya quotes (Indian politician, strategist and writer, 350 BC-275 BC)*



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# J.P.Morgan

# STRATEGIC PLANNING FOR STPI / EOU UNITS - PATH TOWARDS SEZ

by **Ashok B. Nawal**, B.Com. FICWA

(Author is Chairman of WIRC-ICWAI & Managing Director of Bizsolindia Services Pvt. Ltd.)

Export of Software has been contributing to the substantial share of total exports of the country. The Information Technology and ITES are the key focus area and therefore Government including State Governments has introduced various schemes viz IT Parks and Software Technology Park of India (STPI) etc.

Income Tax Exemption Benefit has been extended to STPI units under Sec 10A/ 10B of Income Tax Act, 1961, where by profit of the unit in proportionate to export turnover is exempted for consecutive 10 years from the date of commencement / commercial production or up to 31st March 2010 (extended by 1 year i.e. 2009 to 2010 in last budget) whichever is earlier.

Special Economic Zone Act, 2005 and SEZ Rules, 2006 were notified on 10th February 2006 and there was lot of enthusiasm and hence number of proposal has been received including FDIs the details of which are given below,

In-principal Approval - 143

Formal Approval - 531

Notified SEZs - 270

Out of 270 notified SEZs more than 80% are IT and ITES SEZs.

Number of notified IT and ITES SEZs has become functional. However numbers of STPI Units are finding it difficult to start their new unit in SEZ on the reason of amended Sec 10 AA of Income Tax Act, 1961. Text of Sec 10AA is reproduced below,

## **Special provision in respect of newly established Units in Special Economic Zone.**

### **Quote**

*Sec 10AA*

- 1) Subject to the provisions of this section, in computing the total income of an assessee, being an entrepreneur as referred to in clause (i) of section 2 of the SEZ Act, 2005, from his Unit, who begins to manufacture or produce articles or things or from services for a period of five consecutive assessment year commencing on or after the 1st day of April, 2006, a deduction of
  - a) *Hundred percent of profits and gains derived from the export, of such articles or things or from services for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which the Unit begins to*

*manufacture or produce such articles or things or provide services, as the case may be, and fifty percent of such profits and gains for further five assessment years and thereafter;*

- b) *For the next five consecutive assessment years, so much of the amount not exceeding fifty percent of the profit as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credit to a reserve account (to be called the Special Economic Zone Re-investment Reserve Account) to be credited and utilised for the purposes of the business of the assessee in the manner laid down in sub-section (2)*
- 2) The deduction under clause (ii) of sub-section (1) shall be allowed only if the following conditions are fulfilled, namely:
    - (a) *The amount credited to the Special Economic Zone Re-investment Reserve Account is to be utilised*
      - (i) *For the purposes of acquiring machinery or plant which is first put to use before the expiry period of a period of three years following the previous year in which the reserve was created; and*
      - (ii) *Until the acquisition of the machinery or plant as aforesaid, for the purposes of the business of the undertaking other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India;*
    - (b) The particulars, as may be specified by the Central Board of Direct Taxes in this behalf, under clause (b) of sub-section (1B) of section 10A have been furnished by the assessee in respect of machinery or plant along with the return of income for the assessment year relevant to the previous year in which such plant or machinery was first put to use.
  - 3) Where any amount credited to the Special Economic Zone Re-investment Reserve Account under clause (ii) of sub-section (1),
    - (a) Has been utilised for any purpose other than those referred to in sub-section (2), the amount so utilised; or
    - (b) Has not been utilised before the expiry of the period specified in sub-clause (i) of clause (a) of sub-section (2), the amount not so utilised,

Shall be deemed to be the profits,

- (i) *In a case referred to in clause (a), in the year in which the amount was so utilised; or*
- (ii) *In a case referred to in clause (b), in the year immediately following the period of three years specified in sub-clause (i) of clause (a) of sub-section (2),*

And shall be charged to tax accordingly:

**Provided** that where in computing the total income of the Unit for any assessment year, its profits and gains had not been included by application of the provisions of sub-section (7B) of section 10A, the undertaking, being the Unit shall be entitled to deduction referred to in this sub-section only for the unexpired period of ten consecutive assessment years and thereafter it shall be eligible for deduction from income as provided in clause (ii) of sub-section (1).

Explanation - for the removal of doubts, it is hereby declared that an undertaking, being the Unit, which had already availed, before the commencement of the Special Economic Zones Act, 2005, the deductions referred to in section 10A for the ten consecutive assessment years, such Unit shall not be eligible for deduction from income under this section:

**Provided further** that where a Unit initially located in any free trade zone or export processing zone is subsequently located in a Special Economic Zone by reason of conversion of such free trade zone or export processing zone into a Special Economic Zone, the period of ten consecutive assessment years referred to above shall be reckoned from the assessment year relevant to the previous year in which the Unit began to manufacture, or produce or process such articles or things or services in such free trade zone or export processing zone:

**Provided also** that where a Unit initially located in any free trade zone or export processing zone is subsequently located in a Special Economic Zone and has completed the period of ten consecutive assessment years referred to above, it shall not be eligible for deduction from income as provided in clause (ii) of sub-section (1) with effect from the 1st day of April, 2006.

- 4) This section applied to any undertaking, being the Unit, which fulfils all the following conditions, namely:
  - (i) It has begun or begins to manufacture or produce articles or things or provide services during the previous year relevant to the assessment year commencing on or after the 1st day of April, 2006 in any Special Economic Zone;
  - (ii) It is not formed by splitting up, or the

reconstruction, of a business already in existence:

**Provided** that this condition shall not apply in respect of any undertaking, being the Unit, which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

- (iii) It is not formed by the transfer to a new business, of machinery of plant previously used for any purpose.

Explanation - the provisions of Explanations 1 and 2 to sub-section (3) of section 80-IA shall apply for the purposes of clause (iii) of sub-section as they apply for the purposes of clause (ii) of that sub-section.

- 5) Where any undertaking being the Unit which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another undertaking, being the Unit in a scheme of amalgamation or demerger,
  - (a) No deduction shall be admissible under this section to the amalgamation or the demerged Unit, being the company for the previous year in which the amalgamation or the demerger takes place; and
  - (b) The provision of this section shall, as they would have applied to the amalgamating or the demerged Unit being the company as if the amalgamation or demerger has not taken place.
- 6) Loss referred to in sub-section(1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the undertaking, being the Unit shall be allowed to be carried forward or set off.
- 7) For the purpose of sub-section (1), the profits derived from the export of articles or things services (including computer software) shall be the amount which bears to the profits of the business of the undertaking, being the Unit, the same proportion as the export turnover in respect of such articles or things or services bears to the total turnover of the business carried on by the assessee.
- 8) The provisions of sub-section (5) and (6) of section 10A shall apply to the articles or things or services referred to in sub-section (1) as if
  - a) For the figures, letters and word 1st April, 2001, the figures and word 1st April,2006 had been substituted;
  - b) For the word undertaking, the words undertaking, being the Unit had been substituted;
- 9) The provisions of sub-section (8) and subsection (10) of section 80-IA shall, so far as may be, apply in

relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

Explanation 1. For the purposes of this section,

- i) Export turnover means the consideration in respect of export by the undertaking, being the Unit of articles or things or services received in, or brought into, India by the assessee but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India or expenses, if any, incurred in foreign exchange in rendering of services (including computer software) outside India;
- ii) Export in relation to Special Economic Zones means taking goods or providing services out of India from a Special Economic Zone by land, sea, air, or by any other mode, whether physical or otherwise;
- iii) Manufacture shall have the same meaning as assigned to it in clause (r) of section 2 of the Special Economic Zone Act, 2005;
- iv) Relevant assessment year means assessment year falling within a period of fifteen consecutive assessment years referred to in this section;
- v) Special Economic Zone and Unit shall have the same meanings as assigned to them under clauses (za) and (zc) of section 2 of the Special Economic Zones Act, 2005.

Explanation 2. For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.

### Unquote

As a matter of fact, this should not have any concern since almost similar provisions were in existence under sec 10A/ 10B of Income Tax Act, 1961 and number of ratios applicable to such provision are well settled.

Survey of STPI / EOU units revealed a lot of confusion and the issues in the minds of STPI Units viz;

- a) If subsidiary is formed or new company is formed to set-up the business in SEZ it may/ may not be construed as Reconstruction / Split-up of Business
- b) New orders should be taken in SEZ Units or Orders has be procured in different names so as to entitled to such benefit
- c) Transfer of Old employees to New SEZ Units may be construed as Reconstruction / Split-up of Business.

- d) There can not be any common manpower or common services for Domestic / STPI / SEZ Units
- e) SEZ Units will not be entitled to the business for domestic market.
- f) Existing Computer Hardware can not to be transferred to New SEZ Unit.

Though above apprehension are not exhaustive but illustrative one and hence it is important to understand the basic object and restriction put for availment of exemption available under sec 10 AA of Income Tax Act, 1961.

### Object

Undoubtly there is specific object for granting the exemption for creating new infrastructure, putting new investment and creating the new employment opportunities. However the said object should not construed as limiting factor for setting up the new unit in SEZ.

Restrictive Clause under Sec 10AA for granting the exemption under IT Act, 1961,

- a) Unit begins to manufacture or provide services on or after 01.04.2006.
- b) SEZ Unit is not formed by Splitting-up or Reconstruction of business already in existence.
- c) However the provision of Sec 80IA has been made applicable resulting into transfer of used machinery in India upto 20% of Total Plant and Machinery.

Restrictions as mentioned above are similar to the provisions of Sec 80 IA, Sec 10 A and Sec 10B and other relevant provisions of Income Tax Act, 1961. Therefore there are number of well settled decision wherein ratios have been settled to define reconstruction / split-up of business.

Though numbers of decision are available, Honourable Tribunal has held in the case of M/s Chenab Information Technology Pvt Ltd Vs ITO,

that each case has to be evaluated on its own facts to determine whether it is a case of splitting up of existing business or not. Various factor such as nature of business in the new unit, interdependence of the unit and investments made in new unit, etc., are required to be carefully considered before arriving at any conclusion. Quantum of investment is also a useful factor in deciding the issue. The assessee would not make large investment in a new unit only to get exemption when there is no functional requirement of the same.

It is also interesting to note the findings in the case of ITO Vs Techdrive India Pvt Ltd wherein it was held that, the plant and equipment required to produce the computer software is subsidiary to the element of human skill, training and experience that are the main requirements

and the requirements of section 10B of the Act have to be understood in this context - section 10B does not provide for a positive requirement that the assessee who claims the exemption should own plant and machinery, it only provides for certain negative requirements - no express provision has been incorporated in section 10B to the effect that the assessee which claims the deduction/exemption should itself own the plant and machinery and should itself manufacture or produce the article or thing or the computer software with the help of the said plant and machinery.

It is important to note from the both cases that strategic planning is essential for setting up the unit in SEZ when the unit is already in existence.

### Judicial Ratios

Let us understand the issues of Reconstruction and Split-up. The meaning of Reconstruction was provided by Bombay High Court in the case of CIT Vs Gaekwar Form and Rubber Co. Ltd and Honourable Apex Court has approved the view of the High Court in the case of Textiles Machinery. The view of the Bombay High Court has been reproduced below,

"the underlying idea of a reconstruction evidently must be- and this is brought out by the section itself - of a 'business already in existence'. There must be a continuation of the activities and the business of the same industrial undertaking. The undertaking must continue to carry on the same business though in some altered or varied form. If the alteration and the changes are substantial, there would be little scope for describing what emerges as a reconstruction of a business. Reorganisation of the business on sounder lines or alteration in the mode or method or scope of the activities of the business or in its personnel or infusion of new blood in the management or control of the business which may even be by some changes in the constitution of persons interested in the undertaking would certainly be no more than reconstruction of the business if it is substantially the same business carried on by substantially same persons"

Similarly Honourable Supreme Court has approved the judicial interpretation of Reconstruction as under,

"What dose 'reconstruction' mean? To my mind it means, an undertaking of some definite kind is being carried on, and the conclusion is arrived at that it is not desirable to kill that undertaking, but that is the desirable to preserve it in the some form, and to do so, not by selling it to an outsider who shall carry it on - that would be mere sale - but in some altered form to continue the undertaking in such a manner as that the persons now carrying it on will substantially continue to carry it on. It involves, I think, that substantially the same business shall be carried on and substantially the same persons shall carry it on. But it dose not involve that all the assets shall pass to the new company or resuscitated company, or that all the shareholders of the old company shall be shareholders

in the new company or resuscitated company. Substantially the business and the persons interested must be the same."

Honourable Supreme Court endorses the view of Delhi High Court in the case of CIT Vs Ganga Suger Co-op Ltd. as under,

"We have given the matter our earnest consideration and are of the view that in the reconstruction of a business, as in the reconstruction of a company - there is an element of transfer of assets and of the some changes, however, partial or restricted it may be, of the ownership of the assets. The transfer, however, need not be of all the assets. It is nonetheless imperative that there should be continuity and preservation of the old undertaking though in an altered form. The concept of reconstruction of the business would not be attracted when a company which already running one industrial unit sets up another industrial unit. The new industrial unit would not lose its separate and independent identity even though it has been set up by a company which is already running an industrial unit before the setting up of the new unit."

To conclude reconstruction implies that the identity of the business should not lost and if the same person establishes new undertaking satisfying new investment, manufactures or services, earning of profit attributable to the new unit and separate book of accounts then not withstanding the fact that activities of such undertaking are the same, it would still qualify for the benefit of tax holiday. Substantial expansion or extension of the existing business resulting in formation of new and independent undertaking will qualify as tax holiday as new unit. Apex Court held in Textiles Machinery Corporation case, "The true test is not whether the new undertaking connotes expansion of the existing business of the assessee but whether it is all the same, a new and identifiable undertaking is separate and distinct from existing business."

The cases as mentioned above also decide the ratio for split-up of the existing business.

### Transfer of Old Machinery

As far as restriction of 20% of the total plant and machinery is concerned, old machinery / used machinery in India can be transferred. But always debate will arise of arriving at 20% value. Value can be arrived as one of the following methods,

- a) Original Cost.
- b) Written Down Value.
- c) Present Market Value.
- d) Replacement Value.

### Strategic Planning

Though Honourable Apex Court held in the case of M/s

Mysore Minerals Ltd. Vs CIT that the assessee may be justified in adopting the beneficial view on the ground that in the event of two views on an issue, the view favourable to the assessee should be preferred. Still ITO / CIT take the different view unfavourable to the assessee and the decision add to litigation.

In view of the above paras following issues have to be resolved with specific plans and corresponding actions,

- a) Transfer of Existing Manpower.
- b) Transfer of Old Machinery.
- c) Continuance of Old Orders in New SEZs.
- d) Allocation of Common Expenses.
- e) New Investment and phase of the new investment.
- f) Comparative Turnover of Existing and New Business.

It can be appreciated from the above, if well strategic planning is done considering the aspects mentioned above benefit under Sec. 10AA can not be denied on the ground of Reconstruction / Split-up or transfer of used machinery in India or Transfer of Human Resource. It will not out of place to emphasis the benefit of SEZ which are enumerated below,

### Benefits to SEZ Units

- No license is required for imports.
- Exemption from industrial licensing requirement for items reserved for SSI Sector.
- SEZ units may be set up for manufacturing, trading or service activities.
- SEZ units should be positive net foreign exchange earners within three years.
- Performance of the units to be monitored by a Committee headed by Development Commissioner.

### Fiscal Benefits

- SEZ units are eligible for a tax holiday as per the provision of the Income-tax Act as follows:

First Five Years - 100% exemption on export earning

Next Five Years - 50% exemption on export earning

Next Five Years - 50% exemption on export earning if 50% of Profit is ploughed back as capital investment in the next three years.

The important aspect is introduction of Section 10AA of Income Tax Act, 1961 subject to re-construction, splitting up of existing unit.

- SEZ Developer / Co-developer are entitled to avail a 100% tax holiday for consecutive 10 years out of 15 years.

- Exemption of Capital Gain on transfer of assets in case of shifting of Industrial Undertaking from Urban area to SEZ
- No Dividend Distribution Tax for Developer / Unit
- Exemption from Security Transaction Tax
- Indirect Tax benefits are common for SEZ Developer as well as SEZ Unit.
- Exemption from Custom/Excise Duty for Import/ Domestic procurement of goods for setting up units in the zone.
- Exemption from Customs duty on import of capital goods, raw materials, consumables spares etc.
- Exemption from Central Excise duty on procurement of capital goods, raw materials, consumable spares etc. from the domestic market.
- Exemption of Central Sales Tax, VAT on domestic purchases.
- Exemption of duty paid on furnace oil, procured from domestic oil companies to SEZ units.
- Service Tax is exempted.
- Supplies from DTA to SEZ units treated at par with physical exports. Domestic suppliers are entitled to claim DEPB and / or Drawback / DFRC / DEEC.

### FEMA Benefits

- 100% Foreign Direct Investment in manufacturing sector allowed through automatic route barring a few sectors.
- Facility to retain 100% foreign exchange receipts in EEFC Account.
- Facility to realise and repatriate export proceeds within 12 months.
- Overseas investment by SEZ units from EEFC account through automatic route.
- Release of foreign exchange of DTA units to buy goods from units in SEZs.
- Facility to setup branches of overseas banking units.
- No cap on foreign investment of reserved items for SSI.
- Profits allowed to be repatriated freely without any dividend balancing requirement.
- Off-shore Banking Unit can be set-up in SEZ.
- International Finance Service Centre can be set up in SEZ.

Needless to say, SEZs are going to be effective tool for speedy growth of the business with better viability.



[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, IN PART II, SECTION 3, SUB-SECTION (i)]

**GOVERNMENT OF INDIA**  
**MINISTRY OF FINANCE**  
 (Department of Revenue)

New Delhi, dated the 24th February, 2009

**Notification No. 8 /2009 - Service Tax**

G.S.R. (E). - In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the Finance Act), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts all the taxable services specified in sub-section 105 of section 65 of the Finance Act from so much of service tax leviable there on under section 66 of the Finance Act, as is in excess of the rate of ten per cent of the value of taxable services.

**(Unmesh Sharad Wagh)**

Under Secretary to the Government of India  
 [E No. 354/210/2008-TRU(part)]

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

**GOVERNMENT OF INDIA**  
**MINISTRY OF FINANCE**  
 (Department of Revenue)

New Delhi, the 3rd March, 2009.

**Notification No.9/2009-Service Tax**

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), and in supersession of the notification of the Government of India, Ministry of Finance ( Department of Revenue), No. 4/2004-ServiceTax, dated the 31st March, 2004, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section ( i ) dated the 31st March, 2004, vide, G.S.R.248(E), dated the 31st March, 2004, except as respects things done or omitted to be done before such supersession, the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable services specified in clause (105) of section 65 of the said Finance Act, which are provided in relation to the authorised operations in a Special Economic Zone, and received by a developer or units of a Special Economic Zone, whether or not the said taxable services are provided inside the Special Economic Zone, from the whole of the service tax leviable thereon under section 66 of the said Finance Act:

**Provided that-**

- (a) the developer or units of Special Economic Zone shall get the list of services specified in clause (105) of section 65 of the said Finance Act as are required in relation to the authorised operations in the Special Economic Zone, approved from the Approval Committee (hereinafter referred to as the specified services)
  - (b) the developer or units of Special Economic Zone claiming the exemption actually uses the specified services in relation to the authorised operations in the Special Economic Zone;
  - (c) the exemption claimed by the developer or units of Special Economic Zone shall be provided by way of refund of service tax paid on the specified services used in relation to the authorised operations in the Special Economic Zone;
  - (d) the developer or units of Special Economic Zone claiming the exemption has actually paid the service tax on the specified services;
  - (e) no CENVAT credit of service tax paid on the specified services used in relation to the authorised operations in the Special Economic Zone has been taken under the CENVAT Credit Rules, 2004;
  - (f) exemption or refund of service tax paid on the specified services used in relation to the authorised operations in the Special Economic Zone shall not be claimed except under this notification.
2. The exemption contained in this notification shall be subject to the following conditions, namely:-
- (a) the person liable to pay service tax under sub-section (1) or sub-section (2) of section 68 of the said Finance Act shall pay service tax as applicable on the specified services provided to the developer or units of Special Economic Zone and used in relation to the authorised operations in the Special Economic Zone, and such person shall not be eligible to claim exemption for the specified services:  
 Provided that where the developer or units of Special Economic Zone and the person liable to pay service tax under sub-section (2) of section 68 for the said services are the same person, then in such cases exemption for the specified services shall be claimed by that person;
  - (b) the developer or units of Special Economic Zone shall claim the exemption by filing a claim for refund of service tax paid on specified services;
  - (c) the developer or units of Special Economic Zone shall file the claim for refund to the jurisdictional Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be;
  - (d) the developer or units of Special Economic Zone who is not registered as an assessee under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder, or the said Finance Act or the rules made thereunder, shall, prior to filing a claim for refund of service tax under this notification, file a declaration in the Form annexed hereto with the respective jurisdictional Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be;
  - (e) the jurisdictional Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall, after due verification, allot a service tax code (STC) number to the developer or units of Special Economic Zone within seven days from the date of receipt of the said Form;

- (f) the claim for refund shall be filed, within six months or such extended period as the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall permit, from the date of actual payment of service tax by such developer or unit to service provider;
- (g) the refund claim shall be accompanied by the following documents, namely:-
- (i) a copy of the list of specified services required in relation to the authorised operations in the Special Economic Zone, as approved by the Approval Committee;
  - (ii) documents for having paid service tax;
  - (iii) a declaration by the Special Economic Zone developer or unit, claiming such exemption, to the effect that such service is received by him in relation to authorised operation in Special Economic Zone.
- (h) the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall, after satisfying himself that the said services have been actually used in relation to the authorised operations in the Special Economic Zone, refund the service tax paid on the specified services used in relation to the authorised operations in the Special Economic Zone;
- (i) where any refund of service tax paid on specified services is erroneously refunded for any reasons whatsoever, such service tax refunded shall be recoverable under the provisions of the said Finance Act and the rules made thereunder, as if it is a recovery of service tax erroneously refunded.
3. The exemption contained in this notification shall apply only in respect of service tax paid on the specified services on or after the date of publication of this notification in the Official Gazette.
4. Words and expressions used in this notification and defined in the Special Economic Zones Act, 2005 (28 of 2005) or the rules made thereunder, shall apply, so far as may be, in relation to refund of service tax under this notification as they apply in relation to a Special Economic Zone.

#### Form

1. Name of the developer or unit of Special Economic Zone:
2. Address of the registered office or head office:
3. Permanent Account Number (PAN):
4. Details of Bank Account:
  - (a) Name of the Bank:
  - (b) Name of the Branch:
  - (c) Account Number:
5. (a) Constitution of developer or unit of Special Economic Zone [Proprietorship /Partnership /Registered Private Limited Company /Registered Public Limited Company /Others (specify)]
  - (b) Name, address, telephone number and Email ID of proprietor /partner /director
6. Description of authorized operations as approved by the Approval Committee:

S. No.	Description of goods	Classification in case of excisable goods
(1)	(2)	(3)

7. Description of taxable services received by the exporter for use in relation to the authorised operations in the Special Economic Zone:

S. No.	Description of taxable service	Classification under the Finance Act, 1994	Name, STC and address of service provider	Invoice number and date
(1)	(2)	(3)	(4)	(5)

8. Name, designation and address of the authorized signatory / signatories:
9. I / We hereby declare that-
  - (i) the information given in this application form is true, correct and complete in every respect and that I am authorized to sign on behalf of the developer or units of Special Economic Zone;
  - (ii) no CENVAT credit of service tax paid on the specified services used in relation to the authorised operations in the Special Economic Zone shall be taken under the CENVAT Credit Rules, 2004;
  - (iii) I / we shall maintain records pertaining to the specified services used in relation to the authorised operations in the Special Economic Zone and shall make available, at the declared premises, at all reasonable time, such records for inspection and examination by the Central Excise Officer authorised in writing by the jurisdictional Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be.

(Signature of the applicant / authorized person with stamp)

Date:

Place:

[F.No.354/163/2006-TRU]  
(Unmesh Sharad Wagh)  
Under Secretary to the Government of India

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

**GOVERNMENT OF INDIA**  
**MINISTRY OF FINANCE**  
**(DEPARTMENT OF REVENUE)**

New Delhi, the 24th February 2009

**Notification No. 4/2009 - Central Excise**

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby directs that each of the notifications of the Government of India in the Ministry of Finance (Department of Revenue), specified in column (2) of the Table hereto annexed shall be amended or further amended, as the case may be, in the manner specified in the corresponding entry in column (3) of the said Table, namely :-

S. No.	Notification number and date	TABLE
		Amendments
(1)	(2)	(3)
1.	3/2006-Central Excise, dated the 1st March, 2006	In the said notification, in the Table, in column (4), for the entry "10%", wherever it occurs, the entry "8%" shall be substituted.
2.	4/2006-Central Excise, dated the 1st March, 2006	In the said notification, in the Table, in column (4), - (i) for the entry "10% or Rs.290 per tonne, whichever is higher", wherever it occurs, the entry "8% or Rs.230 per tonne, whichever is higher" shall be substituted; (ii) for the entry "10% of the value of such gold potassium cyanide excluding the value of gold used in the manufacture of such goods", wherever it occurs, the entry "8% of the value of such gold potassium cyanide excluding the value of gold used in the manufacture of such goods" shall be substituted; (iii) for the entry "10% of the value of material, if any, added and the amount charged for such manufacture", wherever it occurs, the entry "8% of the value of material, if any, added and the amount charged for such manufacture" shall be substituted.
3.	5/2006-Central Excise, dated the 1st March, 2006	In the said notification, in the Table, in column (4), for the entry "10%", wherever it occurs, the entry "8%" shall be substituted.
4.	6/2006-Central Excise, dated the 1st March, 2006	In the said notification, in the Table, in column (4), - (i) for the entry "10%", wherever it occurs, the entry "8%" shall be substituted; (ii) for the entry "10% + Rs.10,000 per chassis", wherever it occurs, the entry "8% +Rs.10,000 per chassis" shall be substituted.
5.	2/2008-Central Excise, dated the 1st March, 2008	In the said notification, in the Table, in column (3), - (i) for the entry "10%", wherever it occurs except, for the entry occurring against S. No. 14, 16 and 18, the entry "8%" shall be substituted; (ii) for the entry "10% + Rs.10,000 per chassis", wherever it occurs, the entry "8% +Rs.10,000 per chassis" shall be substituted.

[E No.354/210/2008-TRU (Part)]

[Unmesh Sharad Wagh]

Under Secretary to the Government of India

Note. -

- (1) The principal notification No.3/2006-Central Excise, dated the 1st March, 2006 was published in the Gazette of India, Extraordinary, part II, section 3, sub-section (i) vide number G.S.R.93 (E), dated the 1st March, 2006, and was last amended by notification No. 58/2008-Central Excise, dated the 7th December, 2008 published vide number G.S.R. 840(E), dated the 7th December 2008.
- (2) The principal notification No.4/2006-Central Excise, dated the 1st March, 2006 was published in the Gazette of India, Extraordinary, part II, section 3, sub-section (i) vide number G.S.R.94 (E), dated the 1st March, 2006, and was last amended by notification No. 64/2008-Central Excise, dated the 24th December, 2008 published vide number G.S.R. 887(E), dated the 24th December, 2008.
- (3) The principal notification No.5/2006-Central Excise, dated the 1st March, 2006 was published in the Gazette of India, Extraordinary, part II, section 3, sub-section (i) vide number G.S.R.95 (E), dated the 1st March, 2006, and was last amended by notification No. 58/2008-Central Excise, dated the 7th December, 2008 published vide number G.S.R. 840(E), dated the 7th December 2008.
- (4) The principal notification No.6/2006-Central Excise, dated the 1st March, 2006 was published in the Gazette of India, Extraordinary, part II, section 3, sub-section (i) vide number G.S.R.96 (E), dated the 1st March, 2006, and was last amended by notification No. 58/2008-Central Excise, dated the 7th December, 2008 published vide number G.S.R. 840(E), dated the 7th December 2008.
- (5) The principal notification No.2/2008-Central Excise, dated the 1st March, 2008 was published in the Gazette of India, Extraordinary, part II, section 3, sub-section (i) vide number G.S.R.130 (E), dated the 1st March, 2008, and was last amended by notification No. 58/2008-Central Excise, dated the 7th December, 2008 published vide number G.S.R. 840(E), dated the 7th December 2008.

**F.No.137/307/2007-CX.4 (Pt.)**

GOVERNMENT OF INDIA  
 Ministry of Finance  
 Department of Revenue  
 (Central Board of Excise & Customs)

New Delhi, dated the 24th February, 2009.

**Subject: Applicability of the provisions of the Export of Services Rules, 2005 in certain situations**

In terms of rule 3 (2) (a) of the Export of Services Rules 2005, a taxable service shall be treated as export of service if "such service is provided from India and used outside India" Instances have come to notice that certain activities, illustrations of which are given below, are denied the benefit of export of services and the refund of service tax under rule 5 of the Cenvat Credit Rules, 2004 [notification No. 5/2006-CE (NT) dated 14.03.2006] on the ground that these activities do not satisfy the condition 'used outside India',-

- (i) Call centres engaged by foreign companies who attend to calls from customers or prospective customers from all around the world including from India;
- (ii) Medical transcription where the case history of a patient as dictated by the doctor abroad is typed out in India and forwarded back to him;
- (iii) Indian agents who undertake marketing in India of goods of a foreign seller. In this case, the agent undertakes all activities within India and receives commission for his services from foreign seller in convertible foreign exchange;
- (iv) Foreign financial institution desiring transfer of remittances to India, engaging an Indian organisation to dispatch such remittances to the receiver in India. For this, the foreign financial institution pays commission to the Indian organisation in foreign exchange for the entire activity being undertaken in India.

The departmental officers seem to have taken a view in such cases that since the activities pertaining to provision of service are undertaken in India, it cannot be said that the use of the service has been outside India.

2. The matter has been examined. Sub-rule (1) of rule 3 of the Export of Services Rule, 2005 categorizes the services into three categories:

- (i) Category (I) [Rule 3(1)(i)] : For services (such as Architect service, General Insurance service, Construction service, Site Preparation service) that have some nexus with immovable property, it is provided that the provision of such service would be 'export' if they are provided in relation to an immovable property situated outside India.
- (ii) Category (II) [Rule 3(1)(ii)] : For services (such as Rent-a-Cab operator, Market Research Agency service, Survey and Exploration of Minerals service, Convention service, Security Agency service, Storage and Warehousing service) where the place of performance of service can be established, it is provided that provision of such services would be 'export' if they are performed (or even partly performed) outside India.
- (iii) Category (III) [Rule 3(1)(iii)] : For the remaining services (that would not fall under category I or II), which would generally include knowledge or technique based services, which are not linked to an identifiable immovable property or whose location of performance cannot be readily identifiable (such as, Banking and Other Financial services, Business Auxiliary services and Telecom services), it has been specified that they would be 'export',-
  - (a) If they are provided in relation to business or commerce to a recipient located outside India; and
  - (b) If they are provided in relation to activities other than business or commerce to a recipient located outside India at the time when such services are provided.

3. It is an accepted legal principle that the law has to be read harmoniously so as to avoid contradictions within a legislation. Keeping this principle in view, the meaning of the term 'used outside India' has to be understood in the context of the characteristics of a particular category of service as mentioned in sub-rule (1) of rule 3. For example, under Architect service (a Category I service [Rule 3(1)(i)]), even if an Indian architect prepares a design sitting in India for a property located in U.K. and hands it over to the owner of such property having his business and residence in India, it would have to be presumed that service has been used outside India. Similarly, if an Indian event manager (a Category II service [Rule 3(1)(ii)]) arranges a seminar for an Indian company in U.K. the service has to be treated to have been used outside India because the place of performance is U.K. even though the benefit of such a seminar may flow back to the employees serving the company in India. For the services that fall under Category III [Rule 3(1)(iii)], the relevant factor is the location of the service receiver and not the place of performance. In this context, the phrase 'used outside India' is to be interpreted to mean that the benefit of the service should accrue outside India. Thus, for Category III services [Rule 3(1)(iii)], it is possible that export of service may take place even when all the relevant activities take place in India so long as the benefits of these services accrue outside India. In all the illustrations mentioned in the opening paragraph, what is accruing outside India is the benefit in terms of promotion of business of a foreign company. Similar would be the treatment for other Category III [Rule 3(1)(iii)] services as well.

4. All pending cases may be disposed of accordingly. In case any difficulty is faced in implementing these instructions, the same may be brought to the notice of the undersigned. These instructions should be given wide publicity among trade and field officers.
5. Please acknowledge receipt.
6. Hindi version follows.

Yours faithfully,

(Gautam Bhattacharya)  
 Commissioner (Service Tax)  
 Tel: 23093027

Circular No. 883/3/2009-CX

**E.No.267/31/2008-CX-8**  
**GOVERNMENT OF INDIA**  
**Ministry of Finance**  
**Department of Revenue**  
**(Central Board of Excise & Customs)**

New Delhi, dated 26th February, 2009.

**Subject: Levy of cess on sugar manufactured out of cess paid raw material/ input- regarding**

The Sugar Cess Act, 1982 provides that "There shall be levied and collected as a cess, for the purposes of the Sugar Development Fund Act, 1982, a duty of excise on all sugar produced by any sugar factory in India" for the development of sugar industry. References have been received from some field formations that some manufacturers purchase sugar, on which central excise duty and sugar cess is paid by sugar manufacturers. Such manufacturers use the duty paid sugar to manufacture products like Pharmaceutical grade sugar and Bura sugar. All the products, namely sugar, pharmaceutical sugar and Bura sugar fall under the same tariff classification. The manufacturers have represented that both the raw material and final product fall under the same tariff heading, and as cess has been paid on raw material viz., sugar, they are not required to pay sugar cess on products as it amounts to double taxation.

2. The matter has been examined in consultation with the Ministry of Public Distribution and Consumer Affairs. The Ministry of Public Distribution and Consumer Affairs has now exempted the levy of cess on sugar, collected as a duty of excise, under subsection (1) of the Section 3 of Sugar Cess Act, 1982, on any sugar "manufactured from such other sugar" on which cess, leviable under sub section (1) of Section 3 of the said Act has been paid already. The copy of the Notification S.O.102 (E) published in Gazette of India on 7th January, 2009 is enclosed herewith. However, the said exemption is available for clearances made after the date of issue of notification and past cases, if any, are required to be decided based upon the law as in force during relevant time.
3. Trade and field formations may be suitably informed.
4. Hindi version will follow.
5. Receipt of this Circular may kindly be acknowledged.

Yours faithfully,

**(Rahul Nangare)**

Under Secretary to the Government of India.

Notification dated 07-01-2009

Circular No. 110/4/2009-ST.

**E No. 345/ 17 /2008-TRU**  
**Government of India**  
**Ministry of Finance**  
**Department of Revenue Tax Research Unit**

New Delhi, the 23rd February, 2009.

**Subject: Reference from Commissioner Nashik seeking clarification in respect of levy of service tax on Repair/renovation/widening of roads - Regarding.**

Representations have been received by the Board pointing out divergent practices being followed by field formations with regard to levy of service tax on maintenance and repair of roads.

2. Commercial or industrial construction service [section 65(105) (zzq)] specifically excludes construction or repairs of roads. However, management, maintenance or repair provided under a contract or an agreement in relation to properties, whether immovable or not, is leviable to service tax under section 65(105) (zzg) of the Finance Act, 1994. There is no specific exemption under this service for maintenance or repair of roads etc. Reading the definitions of these two taxable services in tandem leads to the conclusion that while construction of road is not a taxable service, management, maintenance or repair of roads are in the nature of taxable services, attracting service tax.
3. The next issue requiring resolution is the types of activities that can be called as 'construction of road' as against the activities which should fall under the category of maintenance or repair of roads. In this regard the technical literature on the subject indicate that the activities can be categorized as follows,-
  - (A) Maintenance or repair activities:
 

I. Resurfacing	II. Renovation	III. Strengthening	IV. Relaying	V. Filling of potholes
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  - (B) Construction Activities:
    - I. Laying of a new road
    - II. Widening of narrow road to broader road (such as conversion of a two lane road to a four lane road)
    - III. Changing road surface (graveled road to metalled road/ metalled road to blacktopped/ blacktopped to concrete etc)
4. The cases may be decided/ revenue should be protected based on the above classification. Suitable Trade and Public notices may be issued for information of the trade and field formations.
5. Receipt of this Circular may please be acknowledged.
6. Hindi Version will follow.

Yours faithfully,

**(Unmesh Sharad Wagh)**

Under Secretary (TRU)

## Role of Cost and Management Accountant in a Dynamic and Competitive Business Environment

by Dr. Netra Apte  
B.Com. , AICWA, MMS, Ph.D.

Forecasting and budgeting was really an enthusiastic and optimistic activity for last 5 years for most of the organizations in India. Optimistic picture of growth i.e. more than 8% of GDP (Gross Domestic Product) growth, increasing demand, increased purchasing power of people, ample job opportunities, strengthening of Rupee, availability of credit and so on. The stock market was largely giving double digit returns. There were many new entrants in the industry or existing organizations expanded capacities. The hunger for growth was so strong that many Indian companies took over foreign companies by borrowing loans in foreign currency.

Suddenly after August 2008, the picture started looking gloomy for the Indian industry along with the global scenario. GDP for October to December 2008 quarter dipped to 5.3%, the six years low. Purchasing power of people has decreased due to job cuts and pay cuts. For survival of an organization, cost has become a major aspect to serve the customer at affordable price. Banks are not offering loans at affordable rate for the industries. Rupee has weakened from Rs.39 to 50 per American dollar. In addition to it, uncertainty about who will be the leading party in coalition government and what policies would be adopted by the party is also a concern for the industry.

Thus the environment has become dynamic. With huge capacities of many players, environment is more competitive also. Hence it is useful to take review of how Indian industry has passed through the changed environment till now.

After liberalization in the Indian industry since 1991, the strategy of managing companies has also changed drastically, along with general environment in which the company operates. Liberalization policy was adopted as a step towards coping up with globalization. Indeed, there was a major change in the industrial environment as "license raj" was over and some of the barriers for business and trade were eliminated. It encouraged Indian entrepreneurs and business houses, and industrial growth started gaining momentum at much faster speed than earlier. The major changes that took place in the industrial environment were:

1. Major breakthrough in the Information technology industry
2. Changes in technology
3. Globalization
4. Liberalization policy adopted by Indian Government.
5. Process of change in the mindset of people in industry

As these changes were taking place, the repercussions of these changes could easily be seen on the operations of companies in India. Indian companies went through an era of protectionism to operate in much more competitive era, where they were required to become customer-driven through competitive products and services. Survival of the company itself became a major challenge and there was no other option left but to grow for survival.

To cope up with the pace of change, Indian industry also started to review and modify its style of working. As is known, the most important factor in any business is the revenue, which is generated from customers. Hence, winning a customer and retaining the customer are extremely important issues. Along with these, to fulfill the expectations of investors and creating value for the same are also vital factors. To achieve both, it needs a considerable change in working style of people, change in management thinking and style and change

in management information system to support the decision-making for management.

Hence, it is important to understand the changes that have taken place at the point of customer. Customer now is aware of the various products available in the market, best practices for customer serving by various companies, and the numerous choices that could fulfill the customer's need.

For companies it was inevitable to design various strategies and implement them effectively. A major factor in that is, all those efforts should reflect in terms of numbers in bottom line or profit generated or value added by the company. For a company it is a challenge to serve customers effectively and enjoy profit. It needs tremendous efficiency in each part of value chain and innovation in various functions. Flow of information or management information system is a critical aspect of the game. And hence role of Cost Management Accountant ( CMA) became crucial in the changed world.

Now let us see what was the job profile of a cost and management accountant in earlier days. Generally source for the information was financial information system. Many a times, it is designed for the purpose of fulfillment of legal requirements and maintenance of accounts. In some companies they do have integrated system which makes job of management accountant little easier. In earlier years, generally the major work of a management accountant was maintaining cost sheets, assessing the product profitability and departmental performance.

With changed environment, management accountant has to work in following areas also.

1. cost reduction and cost management
2. forecasts and budgets
3. Variance analysis
4. Key performance indicators which may be financial or non financial.

As a result of globalization there could be global stakeholders who would be demanding the competencies of a future CMA. Some of them could be:

1. Networked enterprises
2. Global consumers
3. Shared service providers
4. National and international regulators
5. Investors community across the globe.

Managing strategy and operation management are thus the two tracks which will be much sought after competency of the global enterprise.

The important changes occurred over a period of time in general in industry and in various organizations can be listed as follows.

1. Due to technology break through fixed portion of costs has increased compared to the variable costs.
2. With the speed of technology, fear of obsolescence has increased.
3. Tremendous growth in merger and acquisitions, in domestic and global market.
4. Due to globalization and development in information technology,

competition has become severe and opportunities also have increased at the same time.

5. Growth of service sector
6. With spread of application of technology, customers have become well informed and more demanding.
7. Competition has fastened the speed of change in status of a product to commodity.
8. In functional areas like production, marketing etc., functional managers also take part in functions listed above that is cost reduction and cost management, forecasting and variance analysis.
9. With the increased opportunities retention of competent employees also has become a challenge.

Management accounting has evolved from cost accounting. Techniques for cost management information also have evolved from conventional techniques like product costing, marginal costing, standard costing to strategic cost management techniques like Activity Based Costing, Life cycle costing, Target costing, Business process reengineering, Total cost management and value engineering. As management accountant should give all the necessary information required for decision making, understanding the business process and understanding customers has become key factor for the successful management accountant.

Due to the computerization and advanced information technology, earlier role of cost accountant needs to be enhanced, for satisfying changed needs of an organization in challenged business environment. After understanding the business, management accountant should be able to identify the business in one of the categories i.e. Manufacturing, service or project. After identifying that it is necessary to consider some questions from sales and revenue perspective:

1. Is it one time purchase product/ service or repetitive nature?
2. What after sales service is required?
3. Is extension of product or service is needed?
4. How cost can be controlled and reduced?
5. Who are major customers in terms of turnover? And who are major competitors?
6. Who are major customers in terms of profit generation?
7. What are the other means or alternatives for them to fulfill that need?
8. How much will it cost them for the other alternative?
9. What is the value chain of your major customers and competitors?
10. How your product or service is adding value to your customer?
11. What is the level of risk for obsolescence for your set up?

Management accountant should give information which can also be useful for strategic decision making. Strategic cost management tools and techniques can play vital role. Management accountant should take lead to co-ordinate the team of sales and production areas, to bridge the gap between customers' expectations and deliverables. As the goal of a business cannot be to satisfy any segment of customer at the cost of survival or growth of an organization. No organization can price its goods or services below cost for an indefinite period of time. And no company can set prices blindly at cost plus a markup without considering market. Cost management methods and techniques should be used to overcome the cost inefficiency, if any, to take advantage of the opportunity.

Let us see some examples of how strategic cost management techniques can contribute the organization.

- 1) Results of business process reengineering (B.P.R.) of a company from automobile sector.

	Parameters	Before B.P.R.	After B.P.R.
1	Lead Time	3.5 days	4.7 Hours
2	Non Value activities	68 Hours	10 Hours
3	Distance traveled by typical components	4809 Ft.	1240 Ft.
4	Productivity (Vehicles per man )	0.21	0.42
5	Free space	Nil	3500 Sq. Ft.

- 2) A company from industrial product segment used activity based costing for cost reduction. For the company, average conversion cost per Kg. was Rs. 25 /-. It was high due to lower capacity utilization. But when it was outsourced, the cost reduced to Rs. 15 per Kg. That is how, for production of 165 M.T., company saved Rs. 16.5 Lakh in a year.

Similarly companies in the segment of FMCG (Fast moving consumer goods) and other consumer products, Activity based costing is used in managing brand portfolio. Sectors like FMCG, need in-depth understanding of market, psychology of consumers and threat of transforming a product into commodity. In such case pricing becomes a critical issue.

As stated by Catherine Hayden<sup>2</sup>, in 'The Handbook of Strategic Expertise', 'The price a buyer is willing to pay is an expression of the value of the product.' The value is the sum of utility of the product itself, the image and information that are conveyed through the advertising and promotion of the product, the availability of the product through wholesale and retail distribution systems, and the services that goes with it. The price a business sets for its product is its estimates of what all this is worth to its selected buyer groups. In assessing the value to the buyer, one must understand the utility of product to the buyer, the buyer's price sensitivity, the degree of intrinsic buyer power, and the elasticity of demand. Thus understanding customer and revenue perspective is inevitable for a CMA to deliver his or her services in the best possible manner in dynamic and competitive environment.

Management accountant should understand the various aspects mentioned above and give inputs and shed light on various efficient ways. Thus, the role of CMA will become more critical and important as the competition and dynamism in environment will accelerate further.

### Reference and Bibliography:

1. The Management Accountant, January 2008, 'Repositioning the Management Accountant' by Mr. A.N. Raman.
2. 'The Handbook of Strategic Expertise' by Catherine Hayden, The Free Press, USA, Year 1986, Page no. 255
3. Blocher, Chen and Lin: 'Cost Management: A Strategic Emphasis' published by McGraw-Hill Higher Education, USA, 1999
4. James Reeve: 'Readings and Issues in Cost Management', published by South-Western college publishing, Canada, 2000

<sup>2</sup> "The Handbook of Strategic Expertise" by Catherine Hayden. The free press, USA, Year 1986, Page no. 255



## RESERVE BANK OF INDIA

www.rbi.org.in

RBI/2008-2009/379

February 10, 2009

DBOD.No. BP.BC.110/08.12.001/2008-09

The Chairman & Managing Directors /  
Chief Executive Officers of  
All Scheduled Commercial Banks  
(Excluding RRBs and LABs)

Dear Sir,

### **Lending under Consortium Arrangement/ Multiple Banking Arrangements**

Please refer to Paragraph 2(iii) of our circular RBI/2008-09/183/DBOD.No.BP.BC.46 /08.12 .001/2008-09 dated September 19, 2008 on the captioned subject.

2. In terms of Paragraph 2(iii) of the above circular, in order to strengthen the information sharing system among banks in respect of the borrowers enjoying credit facilities from multiple banks, the banks are required to obtain regular certification by a professional, preferably a Company Secretary, regarding compliance of various statutory prescriptions that are in vogue, as per specimen given in Annex III to the above circular.

3. In this context it is clarified that in addition to Company Secretaries, banks can also accept the certification by a Chartered Accountants & Cost Accountants. Further, on the basis of suggestions received from Indian Banks Association, Annex III - Part I & Part II (copy enclosed) has also been modified.

Yours faithfully,

(P. Vijaya Bhaskar)  
Chief General Manager.

Encl: As above.

### **DILIGENCE REPORT**

To,

The Manager,

\_\_\_\_\_ (Name of the Bank)

I/We have examined the registers, records, books and papers of \_\_\_\_\_ Limited having its registered

office at \_\_\_\_\_ as required to be maintained under the Companies Act, 1956 (the Act) and the rules made thereunder, the provisions contained in the Memorandum and Articles of Association of the Company, the provisions of various statutes, wherever applicable, as well as the provisions contained in the Listing Agreement/s, if any, entered into by the Company with the recognized stock exchange/s for the half year ended on..... . In my/our opinion and to the best of my/our information and according to the examination carried out by me/us and explanations furnished to me/us by the Company, its officers and agents. I/We report that in respect of the aforesaid period:

1. The management of the Company is carried out by the Board of Directors comprising of as listed in Annexure ....., and the Board was duly constituted. During the period under review the following changes that took place in the Board of Directors of the Company are listed in the Annexure ....., and such changes were carried out in due compliance with the provisions of the Companies Act, 1956.
2. The shareholding pattern of the company as on ----- was as detailed in Annexure.....: During the period under review the changes that took place in the shareholding pattern of the Company are detailed in Annexure.....:
3. The company has altered the following provisions of
  - (i) The Memorandum of Association during the period under review and has complied with the provisions of the Companies Act, 1956 for this purpose.
  - (ii) The Articles of Association during the period under review and has complied with the provisions of the Companies Act, 1956 for this purpose.
4. The company has entered into transactions with business entities in which directors of the company were interested as detailed in Annexure..... .
5. The company has advanced loans, given guarantees and provided securities amounting to Rs. \_\_\_\_\_ to its directors and/or persons or firms or companies in which directors were interested, and has complied with Section – 295 of the Companies Act, 1956.
6. The Company has made loans and investments; or given guarantees or provided securities to other business entities as detailed in Annexure ....and has complied with the provisions of the Companies Act, 1956.
7. The amount borrowed by the Company from its directors, members, financial institutions, banks and others were within the borrowing limits of the Company. Such borrowings were made by the Company in compliance with applicable laws. The break up of the Company's domestic borrowings were as detailed in Annexure ..... :
8. The Company has not defaulted in the repayment



## CHAPTER NEWS

### BHOPAL

A seminar on "Cost Audit" was organised by Chapter on 8th February, 2009. The key note speaker was Mr K.B. Chakravarti FICWA, Senior Practicing Cost Accountant. Mr V.Ravindran, General Manager Finance, BHEL, Bhopal was the Chief Guest. Topic of the seminar was "Practical aspects of Cost Audit of companies in accordance with Prevalent Practices". The duration of the course was four hours from 4 PM to 8PM. This was followed by a dinner and celebration on Bhopal Chapter being awarded the "Best Chapter" award at the recently concluded Golden Jubilee National Convention in Pune.

### KALYAN-AMBERNATH

#### Inauguration of New Batch

Mr. T. A. Vazirani, Regional Controller, WIMCO Ltd., Ambernath inaugurated the renovated Computer Lab on 7th February 2009. He explained the students the benefits of I.T. on the day of day activities.

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Chapter conducted Study circle meeting on 7th February 09 at 7.00 pm. Prof. Kailash Bhatia, Head of Commerce, Dept. Smt. C.H. College of Arts, Science & Commerce spoke on "How to Make Will and Why to Make will." Many students & members attended the meeting.

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Chapter organized a lecture on "Interim Budget" on 21/2/09. Mr. M. R. Dudani explained the provisions of Interim Budget.

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Chapter organized the Prize distribution function on 21/2/09 for the successful foundation course students who appeared for December 2008 exam. Out of 40 students 29 students passed the exam. Mr. Manoj Kasalkar & Mrs. Kasalkar of M.K. classes gave the prizes to meritorious students.

### PUNE

Inaugural Session of Oral Coaching for January to June 2009 Session was held on 12th January 2009 at the Laxminagar Branch. It was inaugurated at the hands of Mr. B. R. Fernandes, Ex- Chairman of Pune Chapter of Cost Accountants. Hon. Director Mr. Dr. R. W. Kulkarni welcomed all the students and addressed them on the present developments in the Institute. Mr. B. R. Fernandes, in his address to the students, gave several thought provoking ideas. He stressed on the importance of keeping on self updated with the latest developments in Cost & Management Accountancy profession. He told the students about the role of a Cost & Management Accountant in the corporate world and his vital importance in decision making. He also stressed the

importance of reading Business newspapers, Magazines and watch Business related channels on Television. At the end of his address, Mr. B. R. Fernandes wished all the students, a bright future in the field of Cost and Management Accountancy.

### SURAT-SOUTH GUJARAT

#### Students 1st Regional Conference (WIRC)

The Chapter organized the first ever 'Students Regional Conference' in the history of Western region with the theme 'Competencies for Management Accountant' on 15th February, 2009 at APMC Auditorium, Sardar Market, Surat. Mr. Chetan Shah President of The Southern Gujarat Chamber of Commerce and Industries was the Chief Guest and Mr. Ranjitsinghji, Chief Commissioner, Central Excise & Customs Surat-2 was the guest of honor. On this Occasion Mr. Kunal Banerjee President of ICWAI was Special Guest of honor. Mr. Ashok Nawal Chairman, WIRC, Mr. Amit Apte Secretary & Treasurer, WIRC, and other Regional Council Members of WIRC, Mr. G. N. Venkatraman Central Council Member were also present on this occasion. More than 140 Students from Pune, Goa, Bhopal, Aurangabad, Nashik- Ojhar, Indore-Devas, Ahmedabad, Baroda, Kalyan- Ambernath and WIRC-Mumbai along with 160 delegates from the local Surat-South Gujarat Chapter participated in the conference.

The Inaugural session was chaired by the Chairman Conference Committee Mr. Manubhai K. Desai, who welcomed the delegates to the students conference. Mr. Shailendra Saxena Chairman of the Chapter gave an over view of the activities of the Chapter. Mr. Chetan Shah the chief guest in his address asked the cost accountants to suggest and work for the ways and means to come out of the economic slowdown in the Indian Economy. Mr. Ranjitsinghji outlined the importance and association of Cost Accountants with the Central Excise department. Mr. Kunal Banerjee, President of the Institute discussed in detail the scope for Management Accountants in Current economic scenario, he also elaborated the manner in which Cost Accountants could render Value added Services. Mr. Ashok Nawal, Chairmen WIRC, congratulated the Chapter for taking the lead in forming Student Association and actively involving students in the activities of the Chapter. On this Occasion the Conference Souvenir was released by the worthy hands of dignitaries. The session was completed by the Vote of thanks being proposed by Mr. J. T. Parmar, Treasurer of the Chapter.

The next session was chaired by Mr. G. N. Venkatraman, Central Council Member. Mr. P. D. Modh, Member of the Ahmedabad Chapter and Mr. S. Rakecha from Surat were the speakers. In the beginning Mr. G. N. Venkatraman guided the students on career in ICWAI and also about CAT course. Students from Mumbai, Kalyan, Pune, Nashik, Aurangabad and Surat presented their papers on subjects of practical and academic relevance like SOX,

Whistle blower, Recession, CAS-4, Cenvat and IPO. The papers were well appreciated by all the students and the faculties. Mr. P.D. Modh at the end of the session gave useful tips to the students on how to prepare for ICWAI examinations. He gave golden rules to be followed by the students for passing out examinations. Post Lunch session was on Indirect taxes for members, Mr. S. M. Pareek, Chartered Accountant from Bharuch, Mr. Hemant Desai, Advocate and VAT expert from Surat and Mr. Ashok Nawal, Chairman WIRC were faculties. Mr. Ashok Nawal dealt with the important aspects of SEZ and opportunities for Management Accountants. Mr. Hemant Desai, expert on VAT deliberated on the latest changes made in the VAT legislation and the VAT audit an emerging area of practice for Cost Accountants. Mr. S. M Pareek sorted out the latest judicial pronouncements under Service tax legislation. The session was concluded by vote of thanks from Mr. Amish Parmar, Secretary of the Chapter.

On the occasion Quiz competition was also arranged by the Student Association members where students participated actively. Meritorious students were felicitated at the hands of Mr. Manubhai K. Desai Vice Chairman WIRC, Mr. Shailendra Saxena Chairman of the Chapter and Mr. G. N. Venkatraman, Central Council Member. Special remark had to be made at this juncture for Mr. Shekhar Bahuranani who secured First Rank in June, 2008 examination all over India in foundation Examination. The whole prize distribution function was coordinated by Mrs. Leena Painter. A Colorful Cultural Programme was organized by the Chapter, where Students from Nashik, Pune, Aurangabad, Mumbai and Surat-South Gujarat participated enthusiastically.

The proceedings for the day were co-ordinated and compeered by Mr. Kenish Mehta Joint secretary of the Chapter.

### **Report of CEP on ERP Conducted by WIRC on 1st March 2009**

WIRC had arranged a CEP programme on ERP in Vartak College, Borivali on 1st March 2009. Mr. C.V. Subramanian, CEO of iSmart Business Solutions Pvt. Ltd. was the speaker for CEP. Mr. Subramanian gave a lecture on implementation of ERP on Macro level. Since the speaker was from the IT field, the programme was more on practical aspect and was interactive. The members attended the programme in large numbers and gave a very positive feedback about the faculty and his speech. The members appreciated the initiative taken by WIRC to conduct CEP programmes in the suburbs of Mumbai.

## **COST REDUCTION – A REAL LIFE EXPERIENCE**

Rajesh Kapadia, AICWA

A multinational company having its head office at Mumbai was having its plant in Gujarat.

To accomodate its office staff coming from head office, Mumbai as well as its foreign visitors and other dignitaries who happened to visit the plant, company had taken a Guest House on rent.

Monthly rent of the Guest House was Rs.25,000/- and other monthly operating expenses were around Rs.15,000/- which included salary of one servant to look after the Guest House, house keeping expenses, electricity bill, telephone bill, other maintenance expenses etc.

Over a period of two years, it was observed by Costing Department situated at plant that maximum occupancy in the guest house was around 70 to 80 man days in a year.

Now, even a reasonably good hotel of the city in which the plant was situated would cost around Rs.1,000/- per person per day.

Meaning, for 80 man days occupancy, company would incur an expenditure of Rs.80,000/-p.a. as against Rs.4,80,000/- p.a. on Guest House.

So, after having discussed the issue with Head of HRD and after getting the approval of Chief Operating Officer and Chief Finance Officer, it was decided to do away with rented Guest House and to put up all the guests and visitors in Hotel.

Resultant saving for the company was Rs. 4,00,000/- p.a. which was equivalent to annual salary of one Deputy Manager of that company.

This is how by doing proper Cost Benefit Analysis, company could achieve Cost Reduction worth Rs. 4,00,000/- p.a.

### **FACULTY REQUIREMENT**

WIRC invite application from the Professional Members for part-time teaching and evaluation of C.C. Test Papers under Revised Syllabus. Those who are interested may mail their application to : [oral@icwai-wirc.org](mailto:oral@icwai-wirc.org)



Inauguration of oral coaching classes at Aurangabad Chapter on 9/1/09; seen in the picture Mr. P. V. Vaidya, Ms. Aboli Pathak, Mr. R. D. Khandalkar, Dr. M. A. Lokhande, Mr. K. H. Sonawala, Mr. A. R. Joshi, Mr. S. P. Bhangale and Mr. S. R. Pimple.



Mr. L. K. Soni, Vice Chairman, Mr. K. B. Chakravarty, Mr. V. Ravindran, GM Finance, BHEL Mr. Sanjeev Gawande, Secretary, Mr. B. L. Malganya, Treasurer of Bhopal Chapter holding "Best Chapter Award" under category C, amongst Western Region.



Mr. D. M. Bathija, Chairman of Kalyan Ambernath Chapter interacting with members during Study circle meeting on 7/2/09.



Inauguration of Oral coaching classes at Pune Chapter on 12/1/09



Mr. Ranjit Singhji, Central Excise Commissioner Surat-2 inaugurating "Students Regional Conference" at Surat



Mr. Kunal Banerjee, President ICWAI alongwith students during his visit to WIRC on 27/2/09.



Mr. Kunal Banerjee, President ICWAI performing Satyanarayana Pooja at WIRC on 27/2/09



Mrs. Raksha Vanjara, WIRC Staff alongwith her husband performing Satyanarayana Pooja at WIRC on 27/2/2009.



Mr. C.V. Subramanian, CEO, iSmart Business Solutions Pvt. Ltd interacting with participants during CEP on ERP held on 1/3/09 at Borivli.



View of Participants during CEP on ERP held on 1/3/09 at Borivli.

## CONTINUING EDUCATION PROGRAMMES

Date	Topic	Speaker
14th March 2009	IFRS & Indian Accounting Standards	Mr. Shashikant Choubey, AGM Finance & Accounts, Reliance Communications
28th March 2009	Discussion on Exposure Draft Cost Accounting Standards CAS 8 TO CAS 9	Mr. M. B. Ashtamker, PCA

Time : **3.00 p.m. to 6.00 p.m** Fees : **Rs. 250/- each** Venue : **WIRC Office, Mumbai**  
(2 CEP Credit hours will be provided)

Programme Co-ordinators

Ms. Aruna Soman: 98692 07020 • Mr. S.G. Narasimhan : 93240 88383 • Mr. Ashish Thatte: 98209 73559

For more details please contact: [seminar@icwai-wirc.org](mailto:seminar@icwai-wirc.org)

For online registration please visit: [www.icwai-wirc.org](http://www.icwai-wirc.org)



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Rohit Chambers, Janabhoomi Marg,  
Fort, Mumbai 400 001.

Tel.: 2204 3406 / 2204 3416 / 2284 1138

Fax : 2287 0763

E-mail : [bulletin@icwai-wirc.org](mailto:bulletin@icwai-wirc.org)

Website : [www.icwai-wirc.org](http://www.icwai-wirc.org)