



TUTICORIN BRANCH OF SOUTHERN INDIA REGIONAL COUNCIL THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(SETUP BY AN ACT OF PARLIAMENT)

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NEWS LETTER

Thoughts of Chairman



Students from various places in and around pearl city are marching towards the Tuticorin branch of SIRC of ICAI for enriching themselves with the value education going on in full

swing at the institute . An appreciable percentage of students are attending these seminars and so I really thank. People who are beside of this value education which is imparted to all .

The main impact of these value education are that the students and the members come to know whats happening in our country. But whether the students know whats happening outside India ???

The hot topic that's going on in newspapers around the world is all about the RECESSION . World economy is going down ... People are losing their food earning jobs ... Now the point is that the immediate impact is on Asian countries especially on INDIA ... do you know why ?????

Its all because of the so-called BRAIN DRAIN...!!!

Whats brain drain ? The answer is here ...

Indian education system is counted amongst the best in the world. The land of Aryabhata has given many intelligent minds to the world.

The Indian system of education follows a smooth hierarchy from basics to perfection. The school drop outs in India are very less as compared to other parts of the world. There remains a huge uneducated population that sometimes nullifies the effect of the good things that the intelligent minds of India do!

After completing their education in India, people often leave for foreign countries in search of better

working environment and pay package on account of unemployment. This concept of taking education in a country but earning for another is known as brain drain. Asian countries have been a victim of such concept since the west opened up job opportunities for eastern countries. They get cheap and hardworking labour in this manner!!

Unemployment in India has been an overused excuse by the one's who are responsible for such brain drain and also by the ones who are desperately trying to contribute to the same. The opportunities inside the country suddenly seem small and worthless in front of the starry image of the west. More than anything else, better lifestyle and a developed country name to flaunt, has lead people into migrating their working areas from their native place to a western country. But the question remains is it really so starry as it seems? Are there seriously no "good" job opportunities in India? Well, had this question come a decade earlier the answer would have been a tragic yes, but today when many multi national companies are desperately trying to establish a branch in India, the verity differs!

So according to me going to foreign countries to earn can be beneficial for your native land only in case you are sending back money in foreign currency and adding to the countries funds and also going with an intention of returning.

People today neglect both ideas and settle over there . That's the biggest loss for our country than the loss through share market. Recent news shows that Indians who went abroad to earn their bugs are thrown out and are returning back . So as a result they get preference over the Indians educated here when it comes to employment here . It again creates big trouble .

So lets all put forth the oath as to learn for the country , work for the country and Live for the country ...

An English man once visited India after India attained 50 years of independence to see how the country is going on . He travelled from Kashmir to Kanyakumari for a period of 45 days . While he was about to board the flight to return to his country , a press person asked his opinion upon Indians and their ruling This was the answer he gave "INDIANS , IN THIS 50 YEARS OF INDEPENDENCE , HAVE BECOME EDUCATED FOOLS "!!! Will he get the opportunity to tell so, if there had been no migrants to other countries from India for earning ????? So the problem and solution is given . Its high time better we to put it into practice now.

The patriotism should not be lost to personal fervor.

MOMENT TO CHERISH :

When the recession was at peak all over the world , a survey was conducted by an

American organization to see which countries are the worst affected in the world as a result of recession . It took for that organization a month to prepare the report . The most happy thing in that report is that its only INDIA that's least affected due to recession and USA , JAPAN , CHINA , SRILANKA are the countries that goes in top of the affected list . Do you all know the reason ?

Its all because Indians have a appreciable habit of what is called SAVINGS which is absent in other countries . Due to recession people lost their jobs and hence no earning which made people in other countries starve . Survey shows that Indian economy is affected only to the extent of 2%.... So the practice taught to us by our ancestors made us feel proud now . Let us all thank them . Let us all try to follow all other good things taught to us by them ... Let us all feel proud to be an Indian

ICAI - NSS WAS LAUNCHED AT TUTICORIN BRANCH OF SIRC OF ICAI ON 3 3/03/2009 AT HOLY CROSSPRIMARY SCHOOL, TUTICORIN BY DR. X. ROSARY MARY, DIRECTOR OF YOUTH WELFARE, MS UNIVERSITY, TIRUNELVELI
CA STUDENTS PERFORMED THE AWARENESS PROGRAMME ON "PERSONAL CLEANLINESS AND HYGIENE PRACTICES.



UNCANNED (UNBRANDED) SOFTWARE INDIRECT TAXATION

CA V.Sundararajan

Meaning

Unbranded software means customized software i.e., tailor made software. Software is developed as per customer's specification.

Unbranded software is 'Goods'

In the case of Tata Consultancy Service vs. State of Andhra Pradesh (2004) 137 STC 620 (SC) S.B. Sinha J a member of constitution bench expressed a opinion that unbranded software can be goods. But the majority opinion in the said judgment held that as they were not dealing with the unbranded software when it is marketed/ sold as goods and are not expressing any opinion on that issue.

Subsequently in the case of Bharat Sanchar Nigam Ltd., and another vs. Union of India and others (2006) 145 STC 91 the Supreme court categorically affirmed the opinion of Sinha J.

Madras High Court in the case of Infosys Technologies Ltd. Vs. SPL.C.C.T. & C.T.O. 2008-09 (14) TNCTJ 313 followed the view that unbranded software is goods.

Central Excise

- o Unbranded software is "excisable goods" under the headings 8523 80 20.
- o However it is exempt under notification no. 6/2006- CE dated 01.03.2006

Customs Duty

There is no customs duty on import of unbranded software.

VAT

Many states are imposing VAT on sale of unbranded software.

CST

Being unbranded software held as goods, dealers are eligible to make purchase of goods using "C" Form and avail the concessional rate of tax for using preparation of uncanned software. Infosys Technologies Ltd. Vs. SPL.C.C.T. & C.T.O. 2008-09 (14) TNCTJ 313 (Madras High Court).

Service Tax

Information technology software (both branded and unbranded software) service is taxable service w.e.f. 16.05.2008.

VAT vis a vis Service Tax

Many software companies are collecting both VAT and service tax on gross amount as abundant caution.

In imagic creative Pvt Ltd., vs. CCT(2008) 12 STT 392 (SC) it has been held that service tax and VAT are mutually exclusive.

In Bharat Sanchar Nigam Ltd., and another vs. Union of India and others (2006) 145 STC 91 the Supreme court held that various aspects of transaction can be taxed separately, but sales tax can not be imposed on service portion and service tax can not be imposed on value of goods.

In view of the above observations, once the software is treated as goods and liable to VAT, the question of attracting service tax does not arise.

