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The Institute of
Chartered Accountants of India
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WESTERN INDIA CHARTERED ACCOUNTANTS NEWSLETTER



HAPPY REPUBLIC DAY,
MAKARSANKRANTI &
PONGAL



<http://wirc-icai.org>



Seminar on Issues in Service Tax vis-a-vis latest amendments held on 1st December, 2012



CA. Sunit Mahale, CA. Rahul Lotlikar, CA. Narendra Soni, Faculty, CA. Jigar Gogri

Other Speakers



CA. Yash Arya



CA. Punit Gupta



CA. Jinit Shah

Seminar on Investment Analysis for Important Industries - Capital Market Perspective held on 15th December, 2012



CA. Narendra Mehta, CA. Nalin Shah, Shri Ruchit Mehta, Faculty

Other Speakers



Shri Daljeet Kohli



Shri Ramesh Sadhwani



CA. Amit Jain

Seminar on Consolidation & Development in CA Practice held on 22nd December, 2012



CA. Meera Doshi, CA. Ashwin Dedhia, Faculty, CA. Viral Chheda, CA. Milind Joshi

Other Speakers



CA. Jeenendra Bhandari



CA. Ashok Pradhan



CA. Abhay Kamat

Workshop & Networking Meet on Debt Restructuring held on 22nd December, 2012



CA. Vipul Agrawal, Shri S. Ravichandran, Faculty, CA. Pankaj Majithia, CA. Siddhant Maheshwari

Other Speakers



Shri Omprakash Jain



Shri Vivek Mittal



Shri Shashi Kalloor

Lecture Meeting on Doing Business in India held on 26th December, 2012



CA. Dhiraj Soni, CA. Paresh Parekh, Faculty, CA. Ajit Thakkar

S. Vaidyanathan Iyer Memorial Lecture Meeting held on 28th December, 2012



CA. Kishore Joshi, CA. Prakash Pathak, Faculty, CA. Kamal Naulakha



As we bid farewell to 2012 – the year that was dotted with scams, corruption, crimes against women, inflation and a slowing economy – we look with hope toward 2013 as a year in which we move towards a better India in every sense of the word. The 'Nirbhaya' case in Delhi is a reminder how far India still needs to progress where the safety of women is concerned. We hope that the Government takes a stand and strengthens the laws to dissuade future crimes against women. This is a must for us as a civilised society.

The Indian economy is slowly recovering due to measures such as policy changes, implementation of regulation, passing of FDI legislations, mega project clearances and anticipated interest rate reduction. The economy is poised to grow at an accelerated growth trajectory which is seen reflected in a study by Grant Thornton which shows increased optimism levels among Indian businesses who remain well ahead of the global average in terms of optimism with a balance of 71% compared to 4% globally. Increased revenue is the key indicator for increased optimism of 85% among Indian businesses followed by employment opportunities 84% and profitability 71%. Clearly, several other factors, including policy pronouncements and the hope of a lowering of interest rates in the near future, also played their part in making Indian business leaders optimistic.

GDP is likely to clock a growth rate of 6.8% during 2013 as policy environment improves, investment conditions revive and inflationary pressures abate. The year 2013 is likely to see a resurgence in the industrial activity and modest upturn in the services sector which would support revival in growth levels. Critical factors to kick start growth and ramp up investments would be easing of interest rates. The Reserve Bank of India has signalled its intent to support growth and expectations are that the Bank may cut policy rates in January. Easing of policy rates will be conducive to investment in the domestic economy.

The long awaited Companies Bill 2012 was passed in the Lok Sabha in the recently concluded winter session of Parliament, whereby it is expected that the amended provisions in the said Bill will promote improved corporate governance and enable for Corporate Social Responsibility (CSR) to be implemented in a larger measure, thus paving the way for equitable and sustainable growth in the country. Although the changed provisions has made it mandatory for specified companies to spend 2% of the average profit in the immediately preceding years towards CSR, but the intent is to spread the message of "inclusive growth" and thus encourage and persuade more of altruism and philanthropic work to be taken up. This new provision on CSR will not only create opportunities for the Chartered Accountants, but the CAs can play an important role in helping the corporates to create schemes and strategies and also provide support in effective implementation of the CSR, so that the benefits reach the intended weaker sections of the society.

WIRC has always been fervent in its endeavour to facilitate Members to update themselves to enrich and enlarge their professional horizon and this is clearly manifested by the high calibre seminars and conferences it organises. These quality conferences such as the All Gujarat Women CA Conference and the All Gujarat CA Conference in Surat, the Regional Convention on International Taxation in Vasai, the Sub-Regional Conference in Pune, Regional Tax Convention in Nashik, the CPE Regional Convention in Nagpur, the WIRC Knowledge Enclave at Rajkot and the successful CA Students Festival in Mumbai are all testimony to constant efforts of the WIRC in ideating and organising only the best programmes for its Members and Students.

This month, WIRC is hosting ICAI International Conference on "Accountancy Profession : Enablers of Economic Growth", on 23rd, 24th and 25th January, 2013 at NCPA, Mumbai. This is a prestigious event of the Institute, which has come to Mumbai after a gap of five years. This high profile international conference will have an ensemble of esteemed international and national level faculties and speakers from the academia and industry. Members are requested to take advantage of this great opportunity and participate actively in large numbers in this conference. The details of this conference has been published elsewhere in this issue.

We have also planned sporting events for Members and Students with the Inter Firm Cricket Tournament in January and Annual Indoor Sports events in February. The illustrious M. L. D'Souza Trophy Cricket Match between WIRC XI and Income Tax XI, will also be held during this month at the Police Gymkhana. I request Members and Students to come in large numbers to cheer "Team WIRC", at this cricket match.

During the year, WIRC had unleashed two major initiatives viz., Networking Forum, mainly to facilitate greater interaction and capacity building of CA members and firms. Members and students are requested to visit www.wirc-icai.org.in and take advantage of this unique initiative. Similarly, Video Profiling was set in motion as platform for freshly qualified CAs and members to create their video CVs, to enable them to showcase their technical knowledge and skills and also their latent communication skills to potential recruiters. Members and Students are requested to visit WIRC website and take advantage of this distinctive initiative.

We will soon welcome the new Council with the elections having just concluded in a very smooth and satisfying manner with a good response from all. I take this opportunity to congratulate all the elected members both at the Central as well as the Regional Councils. The New Year, as always brings us renewed vigour and hope, so also the festivals gives us reason to smile and this month there will be a chain of festivals like Makar Sankranti, in the west and Pongal in the south, followed by the national event, when we as a nation will celebrate the 63rd Republic Day on 26th January, in full patriotic fervour.

In the year 2013, let us decide to reach higher and be stronger by reminiscing the words of Swami Vivekananda, "**Throw away all weakness. Tell your body that it is strong, tell your mind that it is strong, and have unbounded faith and hope in yourself.**"

With warm regards

CA. Durgesh Kabra

Place : Mumbai

Date : 9th January, 2013



OFFICE BEARERS

CA. Durgesh Kabra, Chairman CA. Jay Chhaira, Vice-Chairman
CA. Anil Bhandari, Secretary CA. Dinesh Gandhi, Treasurer

EDITORIAL BOARD

Editor: CA. Durgesh Kabra Joint Editor: CA. Anil Bhandari

Members

CA. Sanjeev Lalan • CA. Shrinivas Joshi • CA. Mangesh Kinare • CA. Neel Majithia

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For Seminar registration, enquiry contact 3980 2923 / 2922. Cheques should be drawn in favour of "WIRCOF ICAI" and sent to WIRC Office, ICAI Bhawan, Cuffe Parade • R. No. 580, Aayakar Bhawan, Churchgate • RVG Extension Counter, Andheri (W) • Mulund Reading Room, Mulund (W) • Dadar Reading Room, Dadar (E)

DATE	PROGRAMME	TIME	VENUE	FEES	CPE	PG. NO.
19/1/2013	Seminar on Non-Banking Financial Companies – Audit and Taxation	10.00 a.m. to 6.00 p.m.	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	1000	06	6
23/1/2013 24 & 25/1/2013	International Conference "Accountancy Profession: Enablers of Economic Growth"	3.00 p.m. to 6.00 p.m. 9.30 a.m. to 5.30 p.m.	Jamshedji Bhabha Auditorium, NCPA, Nariman Point	2000/ 2500/ 3000/	14	5
2/2/2013	Seminar on Amalgamations	10.00 a.m. to 6.00 p.m.	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	1000	06	6
9/2/2013	Seminar on Internal Auditing in BFSI	10.00 a.m. to 6.00 p.m.	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	1000	06	6
16/2/2013	Seminar on Standards on Auditing	10.00 a.m. to 6.00 p.m.	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	1000	06	6
23/2/2013	Seminar on Recent updates in International Tax	10.00 a.m. to 6.00 p.m.	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	1000	06	6
2/3/2013	Seminar on Survey & Search under IT Act	10.00 a.m. to 6.00 p.m.	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	1000	06	6
9/3/2013	Seminar on Audit & Compliances Applicable to Stock Brokers & Depository Participants	10.00 a.m. to 6.00 p.m.	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	1000	06	7
16/3/2013	Seminar on Statutory Audit of Bank Branches	10.00 a.m. to 6.00 p.m.	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	1000	06	7
SPORTS						
18/1/2013	M.L. D'Souza Rotating Trophy Cricket Match	5.00 p.m.	Police Gymkhana Ground, Mumbai	-	-	7
2/2/2013	Annual Indoor Sports 2013	9.30 a.m.	Goregaon Sports Club, Link Road, Goregaon (W)	400	-	7

For Online Event Registration & Payment visit www.wirc-icai.org

Residential Refresher Course at Pune on 1st to 3rd February, 2013.
For further details contact CA. Mehul Savla, M. 9892488281

13th Residential Refresher Course at Goa on 15th to 17th February, 2013.
For further details contact CA. Manish Pasad, M. 9821343255

02
CPE HRS

Lecture Meeting on Capital Market

DAY & DATE	WEDNESDAY, 30TH JANUARY, 2013
Venue	W. H. Hall, 4th Floor, IMC, Churchgate
Time	6.00 p.m. to 8.00 p.m.
Fees	Free
Co-ordinators	
CA. Milind Joshi	9930033939
CA. Mehul Sheth	9820297310
TOPIC & SPEAKER	
Capital Market behaviour by in 2013 - CA. S. P. Tulsian	

02
CPE HRS

Lecture Meeting on Image Impact – It Matters

DAY & DATE	THURSDAY, 14TH FEBRUARY, 2013
Venue	J.S. Lodha Auditorium, ICAI Bhawan Cuffe Parade
Time	6.00 p.m. to 8.00 p.m.
Fees	Free
Co-ordinators	
CA. Hrishikesh Wandrekar	9892919239
CA. Y. R. Desai	9820448365
TOPIC & SPEAKER	
Image Impact – It Matters Ms. Savieta R. Batra	

Classroom Training for IPCC Students

Venue : Thakur House, 90 Feet Station Road, Next to ESIC Hospital, Kandivali (E), Mumbai - 400 101.

Time : 6.00 p.m. to 9.00 p.m.
(Year of Examination Nov. - 2013 / May - 2014)

Fees : For Both Groups ` 16500/- • For Group (I) ` 11000/-
For Group (II) ` 8000/-

Proposed date of Commencement 20-12-2012	Proposed date of Completion 31-08-2013
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Days of Learning : All Seven Days
Subjects Offered : All Seven

GROUP-I	GROUP-II
1) Acc. (I)	5) Acc. (II)
2) Costing & FM	6) Auditing
3) Law	7) IT & St. Mgt.
4) Taxation	

Members are requested to advise CA Students to join this Classroom Training Programme.

Faculties: Various renowned and highly experienced drawn from colleges, CA Profession & Other Institutions

Mock Exams: At the end of the training, a Mock Exam in all subjects on the line of Institute Exams will be conducted.

Course Co-ordinator: CA. Shakuntala Chhangani - MCOM, FCA

Important Note: Admission First Come First Serve Basis | Limited Seats

Documents to be Attached: Copy of ICAI Registration letter • Two Stamp Size photograph for Identity Card

For Registration & Other Details Please Contact - 3980 2923



14
CPE HRS

International Conference “Accountancy Profession: Enablers of Economic Growth”

DAYS & DATES WEDNESDAY 23RD, THURSDAY 24TH & FRIDAY 25TH, JANUARY, 2013

Venue	Jamshedji Bhabha Auditorium, NCPA, Nariman Point, Mumbai
Time	3.30 p.m. to 7.30 p.m. (23/1/2013) 9.30 a.m. to 5.30 pm. (24 & 25/1/2013) (Registration 2.30 p.m. to 3.30 p.m.)
Fees	` 2,000/- ACA, ` 2,500/- FCA, ` 3,000/- Non-Members & ` 3,000/- on Spot Registration (inclusive of course material, breakfast & lunch)



The global economy, trade and financial flows are dependent on a complex underpinning infrastructure that comprises a range of key agreements, standards, systems, checks, balances and governance frameworks. The accountancy function continues to play a strategic role of providing value added services to the stakeholders and takes key leadership roles to guide their organisations, as creators, enablers, preservers, and reporters of sustainable value, through the process of embedding sustainability deep within an economy and as its roots linked to the financial information.

The Institute of Chartered Accountants of India (ICAI), recognising its role and responsibilities has been instrumental in providing quality education and continuous professional education to its members. As part of the continuous professional development of the members, ICAI is organising two and a half days International Conference on the theme “*Accountancy Profession: Enablers of Economic Growth*” from January 23 - 25, 2013 at Mumbai.

Programme Structure

Day - 1 23rd January, 2013

Inaugural Session

Panel Discussion:

Moving towards Next Decade: Embracing change & Seizing Opportunities • ICAI Awards for Excellence in Financial Reporting



Day - 2 24th January, 2013

Special address

Session - I : Moving towards Global Convergence: Issues and Challenges

IFRS Implementation: Key Learnings from Indian Inc. • IFRS Implementation - Consolidating the Financial Reporting Supply Chain • Auditing - Mitigating Risk & Uncertainty • Reforms in Government Accounting and Public Finance - Meeting Aspiration

Panel Discussion : Navigating through Maze; Roadmap for Growth

Keynote address: Banking Sector - Anchoring Growth; Disciplined Approach

Session - II: Country Perspective: Professionalism as a Tool to Economic Growth

Corporate Governance: Thematic Issues: a) Making CSRA Business Goal b) Developing the Board to Improve the Quality of Corporate Governance c) Corporate Governance in a Globalising World: Convergence or Divergence • Integrated Reporting: Towards Better Governance Framework

Session - III: India 2020: Diversified Demands; Meeting Aspirations

India 2020: Diversified Demands; Meeting Aspirations

Panel Discussion: ICAI Global: Diversified Demands; Meeting Aspirations • Strengthening Public Governance Mechanism - Meeting Aspirations

Day - 3 25th January, 2013

Session - I: Meeting Expectations- Contours of Emerging Economic Order : Profession Panorama

Keynote Address on session theme • XBRL and Cloud Computing: Ushering the New Era of Professionalism • Gauging Professional Dynamics in an Emerging Economy: An Accountant's Perspective • Financial Management in the Emerging Financial Conundrum

Session - II: Financial Sector - Anchoring Growth; Disciplined Approach

Emerging Competition Regime • Value Creation: Synchronising the Accounting Standards Globally • Insurance Sector - Maintaining Resilience to Risk and Shock • Pension Fund - Fulcrum of Economic Growth

Session - III: Governance & Sustainability

Strategy for Sustainability – 360° Business Approach • Sustainability Framework - Empowering Corporate Governance • Corporate Defence Management - Role redefinition for Chartered Accountants

Session IV: Panel Discussion:

Shaping the Future - Educate, Engage, Empower

For Registration and other details please contact:

The Institute of Chartered Accountants of India
ICAI Bhawan 27, Cuffe Parade, Colaba, Mumbai-400 005 • Email ID: koshy@cai.in

Cheque should be in favour of “Secretary, ICAI-International Conference 2013 Payable at Mumbai

Organised by International Affairs Committee of ICAI • Hosted by WIRC of ICAI



06
CPE HRS

Seminar on Non-Banking Financial Companies – Audit and Taxation

DAY & DATE	SATURDAY, 19TH JANUARY, 2013	
Venue	J.S.Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	10.00 a.m. to 6.00 p.m. (Registration & Breakfast 9.00 a.m. to 10.00 a.m.)	
Fees	` 1,000/- (inclusive of course material, breakfast & lunch) (Please add ` 100/- towards CA Benevolent Fund)	
Chief Co-ordinator	CA. Bhailal Patel	9825033927 (Regional Council Member)
Co-ordinators	CA. Vinay Mulye	9820140710
	CA. Ankit Sanghvi	9820689003
	CA. Arun Prithwani	9820917280

For more details visit www.wirc-icai.org

06
CPE HRS

Seminar on Amalgamations

DAY & DATE	SATURDAY, 2ND FEBRUARY, 2013	
Venue	J.S.Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	10.00 a.m. to 6.00 p.m. (Registration & Breakfast 9.00 a.m. to 10.00 a.m.)	
Fees	` 1,000/- (inclusive of course material, breakfast & lunch) (Please add ` 100/- towards CA Benevolent Fund)	
Chief Co-ordinator	CA. Rajesh Shah	9825041142 (Regional Council Member)
Co-ordinators	CA. Hemal Selarkha	9323492258
	CA. Amogh Pandit	8108132425
	CA. Ramesh Mishra	9820419606

For more details visit www.wirc-icai.org

06
CPE HRS

Seminar on Recent updates in International Tax

DAY & DATE	SATURDAY, 23RD FEBRUARY, 2013	
Venue	J.S.Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	10.00 a.m. to 6.00 p.m. (Registration & Breakfast 9.00 a.m. to 10.00 a.m.)	
Fees	` 1,000/- (inclusive of course material, breakfast & lunch) (Please add ` 100/- towards CA Benevolent Fund)	
Chief Co-ordinator	CA. Dinesh Gandhi	9822547432 (Regional Council Member)
Co-ordinators	CA. Nehal Turakhia	9833991898
	CA. Ankit Kapadia	9867876373
	CA. Vipul Agrawal	9821359804

TOPICS	SPEAKERS
Article 5 & 7 - Controversies & Case Studies	CA. Anand Vyas
Article 12 - Issues & Challenges	CA. Nilesh Kapadia
Article 10, 11 & 13 - Recent Decisions & Update	CA. Shabbir Motorwala
Article 14, 15, 16 & 17 - Issues & Challenges	Eminent Faculty

06
CPE HRS

Seminar on Internal Auditing in BFSI

DAY & DATE	SATURDAY, 9TH FEBRUARY, 2013	
Venue	J.S.Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	10.00 a.m. to 6.00 p.m. (Registration & Breakfast 9.00 a.m. to 10.00 a.m.)	
Fees	` 1,000/- (inclusive of course material, breakfast & lunch) (Please add ` 100/- towards CA Benevolent Fund)	
Chief Co-ordinator	CA. Bhailal Patel	9825033927 (Regional Council Member)
Co-ordinators	CA. Anil Thakrar	9821069878
	CA. Sunit Mahale	9819966674
	CA. Praveen Shenoy	8655070738

For more details visit www.wirc-icai.org

06
CPE HRS

Seminar on Standards on Auditing

DAY & DATE	SATURDAY, 16TH FEBRUARY, 2013	
Venue	J.S.Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	10.00 a.m. to 6.00 p.m. (Registration & Breakfast 9.00 a.m. to 10.00 a.m.)	
Fees	` 1,000/- (inclusive of course material, breakfast & lunch) (Please add ` 100/- towards CA Benevolent Fund)	
Chief Co-ordinator	CA. Rajesh Shah	9825041142 (Regional Council Member)
Co-ordinators	CA. Bakul Bhatia	9004017351
	CA. Poonam Joshi	9167513531
	CA. Ajay Kejriwal	9869160029

For more details visit www.wirc-icai.org

06
CPE HRS

Seminar on Survey & Search under IT Act

DAY & DATE	SATURDAY, 2ND MARCH, 2013	
Venue	J.S.Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	10.00 a.m. to 6.00 p.m. (Registration & Breakfast 9.00 a.m. to 10.00 a.m.)	
Fees	` 1,000/- (inclusive of course material, breakfast & lunch) (Please add ` 100/- towards CA Benevolent Fund)	
Chief Co-ordinator	CA. Bhailal Patel	9825033927 (Regional Council Member)
Co-ordinators	CA. Aalok Mehta	9892001645
	CA. Viral Chheda	9833594045
	CA. Bipeen Mundada	9869148660

TOPICS

Historical and Legislative Background provisions governing initiation of Search & Seizure

Implementation of Search and Seizure action (execution of warrant, panchnama, prohibitory orders, recording of statement, valuation of jewellery, stock, etc.

Other aspects of implementation of search and duties of assessee – presence of CA – period and timing of action, etc.) Retraction of statement Search Assessment – Provisions governing search assessments, Penalty with respect to search assessment, Appeals arising out of search assessment



**06
CPE HRS**

**Seminar on Audit & Compliances
Applicable to Stock Brokers &
Depository Participants**

DAY & DATE SATURDAY, 9TH MARCH, 2013

Venue	J.S.Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	10.00 a.m. to 6.00 p.m. (Registration & Breakfast 9.00 a.m. to 10.00 a.m.)	
Fees	` 1,000/- (inclusive of course material, breakfast & lunch) (Please add ` 100/- towards CA Benevolent Fund)	
Chief Co-ordinator	CA. Dinesh Gandhi	9822547432 (Regional Council Member)
Co-ordinators	CA. Kinjal Shah	9892100844
	CA. Anjari Bihani	9819416535
	CA. Jignesh Nagda	9930506033

TOPICS	SPEAKERS
Industry overview and expectations	Eminent Faculty
Audit Issues – Regulatory, Statutory and Tax	CA. Fenil Sanghavi
Internal & Concurrent Audit – Issues and Challenges	Eminent Faculty
Risk Management – The role of Systems and IT and Audit Challenges	CA. Bhavesh Vora

**06
CPE HRS**

**Seminar on Statutory Audit of
Bank Branches**

DAY & DATE SATURDAY, 16TH MARCH, 2013

Venue	J.S.Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	10.00 a.m. to 6.00 p.m. (Registration & Breakfast 9.00 a.m. to 10.00 a.m.)	
Fees	` 1,000/- (inclusive of course material, breakfast & lunch) (Please add ` 100/- towards CA Benevolent Fund)	
Chief Co-ordinator	CA. Rajesh Shah	9825041142 (Regional Council Member)
Co-ordinators	CA. Nikhil Damle	9820170436
	CA. Mahesh Mistry	9870275751
	CA. Mandar Dixit	9833372921

TOPICS	SPEAKERS
Audit of Advances Funded & Non-Funded (including reporting of Advances under LFAR)	Eminent Faculties
Audit Report, Audit Certification and Ghosh Jilani Report	
LFAR (excluding Advances, but including Income Leakages and House Keeping)	
Income Recognition, Asset Classification & Provisioning (NPA)	

**M.L. D'Souza
Rotating Trophy Cricket Match**

WIRC is pleased to announce the M.L. D'Souza Cricket Match between Chartered Accountants XI and Commissioner of Income Tax XI. Dignitaries and officials from Income Tax Department will participate in this match. Chief Commissioner & many senior personalities from the Income Tax Department will grace the occasion

DAY & DATE: FRIDAY, 18TH JANUARY, 2013
Venue : Police Gymkhana Ground, Mumbai
Time : 5.00 p.m. to 10.00 p.m.

Co-ordinators
CA . Rakesh Upadhyaya
9821094698

CA . Deven Gabhawala
9821714679



**ALL ARE CORDIALLY INVITED
TO CHEER OUR TEAM**



ANNUAL INDOOR SPORTS 2013

DAY & DATE SATURDAY, 2ND FEBRUARY, 2013

Venue	Goregaon Sports Club, Link Road, Goregaon (W)	
Time	9.30 a.m. to 5.30 p.m. (Registration 9.00 a.m. to 9.30 a.m.)	
Fees	` 400/- for First Game (Including Lunch) ` 100/- for Every Additional Game	
Co-ordinators	CA. Ashok Manghnani	9820395195
	CA. Mahesh Chhabria	9967024223
	CA. M. Kalahasthi	9200906759
	CA. Mandar Date	9819487770

Members are Invited to Participate In Annual Indoor Sports Meet of 2013 of WIRC. Badminton (Singles & Doubles), Table Tennis (Singles & Doubles). Carrom (Singles & Doubles), Chess, will be played. Please send in your entries at the earliest.

**SEPARATE FACILITIES
FOR LADIES & GENTS MEMBERS**

FORTHCOMING STUDY CIRCLE MEETINGS



Date & Day	Time	Subjects	Speaker(s)	Venue	Organised by / Convenor / Tel. No.
19/1/2013 Saturday	6.00 p.m.	Lecture meeting on Discussion on GN (2006 and 2012) on Real estate revenue recognition	CA. Aniruddha Godbole	SNDT Dome, Ghatkopar (W)	Ghatkopar CPE Study Circle CA. Manish Pasad M: 9821343255
19/1/2013 Saturday	3.45 p.m.	• Tax Accounting Standard – Updates • Issue in Taxation of Intangible Goods, Leasing Transition & Works Contract	CA. Sachin Mohe CA. Ashish V Kedia	Direct -I -Plex , Next to Andheri Subway, Old Nagardas Road, Andheri (E)	J. B. Nagar CPE Study Circle CA. Manish Dedhia M: 9930883146
20/01/2013 Sunday	9.30 a.m.	Case Studies – Sec. 14A Penalty Proceedings under Income Tax Act	CA. Sanjay R Parikh Adv. Ajay Singh	Sarvoday A/C Hall, L. T. Road, Opp. Diamond Talkies, Borivali (W)	Borivali (Central) CPE Study Circle CA. Dushyant Bhatt M: 9820019436
20/01/2013 Sunday	8.45 a.m.	SME listing – Requisites & Issues SME Listing Preparation for IPOs	Mr. Ravi Tyagi Shri B. Madhuprasad	Kohinoor Continental, J. B. Nagar, Andheri (E)	J. B. Nagar CPE Study Circle CA. Manish Dedhia M: 9930883146
20/1/2013 Sunday	9.30 a.m.	Case Studies – Sec. 14A Penalty Proceedings	CA. Sanjay R Parikh Adv. Ajay Singh	Sarvoday Hall, L. T. Road, Opp. Diamond Talkies, Borivali (W)	Borivali (Central) CPE Study Circle CA. Manish Sheth M: 9769536260
20/1/2013 Sunday	9.15 a.m.	Tax Accounting Standards	CA. Paresh Vakharia	N.M. College Class Room	Vile Parle CPE Study Circle CA. Gautam Shah M: 9930448872
20/1/2013 Sunday	10.00 a.m.	Seminar on Service Tax and Related Issue	Eminent Faculty	Hotel Sankalp (Now ZAIIKA), 1st Floor, Near Maxus Mall, 150 ft Road, Bhayander (W)	Bhayander CPE Study Circle CA. Deepak Bansal M: 9320981019
21/1/2013 Monday	6.00 p.m.	Understanding Cloud Computing	CA. Suresh Ramani	Chitalia Hall, Federation House, Anandilal Podar Marg, Near Metro Cinema, Above Dark Temptations	Churchgate CPE Study Circle CA. Rajendra Somani M: 9820423612
27/1/2013 Sunday	9.30 a.m.	Formation and Taxation of Charitable Trusts FCRA Provisions for Charitable Trusts	CA. Vimal Punamiya CA. Anil Sathe	St. Francis Institute of Management and Research Assembly Hall, Ground Floor, S.V.P. Road, Borivali (W)	Borivali (Central) CPE Study Circle CA. Dushyant Bhatt M: 9820019436
27/1/2013 Sunday	9.30 a.m.	Financial Instruments	Eminent Faculty	SIMSRS, Vidyavihar, Mumbai	Chembur CPE Study Circle CA. Asha Hariharan M: 9820207586
3/2/2013 Sunday	8.45 a.m.	Recent Amendments in Companies Act	CA. Jayesh Thakur Eminent Faculty	Kohinoor Continental, J. B. Nagar, Andheri (E)	J. B. Nagar CPE Study Circle CA. Manish Dedhia M: 9930883146
3/2/2013 Sunday	9.15 a.m.	Will- Probate	Adv. Ms. Rashmi Oza	N.M. College Class Room	Vile Parle CPE Study Circle CA. Dr. Gautam Shah M: 9930448872
9/2/2013 Saturday	6.00 p.m.	Lecture meeting on Recent Important Judgments under Income Tax Act	CA. Shailesh Doshi	SNDT Dome, Ghatkopar (W)	Ghatkopar CPE Study Circle CA. Manish Pasad M: 9821343255
9/2/2013 Saturday	5.30 p.m.	Understanding Derivative Transactions Taxation of Shares & Securities- Including Derivative Transactions	CA. Kinjal Shah CA. Nihar Jambusaria	Sarvoday A/C Hall, L. T. Road, Opp. Diamond Talkies, Borivali (W)	Borivali (Central) CPE Study Circle CA. Dushyant Bhatt M: 9820019436
10/2/2013 Sunday	9.30 a.m.	Tax Accounting Standards - Challenges on the Horizon for Taxpayers and Tax Advisers Domestic Transfer Pricing	CA. Jayesh Thakur CA. Jignesh R. Bhagdev	1st Floor, Seminar Room (Mayor Hall), All India Institute of Local Self Government, C. D. Barfiwala Marg, Andheri (W)	Andheri (West) CPE Study Circle CA. Vidyadhar Khandekar M: 9820970166
17/2/2013 Sunday	10.00 a.m.	Seminar on Taxation on Builders and Developer	Eminent Faculty	Hotel Sankalp (Now ZAIIKA), 1st Floor, Near Maxus Mall, 150 ft Road, Bhayander (W)	Bhayander CPE Study Circle CA. Deepak Bansal M: 9320981019
24/3/2013 Sunday	10.00 a.m.	Seminar on Budget	Eminent Faculty	Hotel Sankalp (Now ZAIIKA), 1st Floor, Near Maxus Mall, 150 ft Road, Bhayander (W)	Bhayander CPE Study Circle CA. Deepak Bansal M: 9320981019

Note: All Convenors are requested to send their forthcoming programmes only on e-mail wircevents1@gmail.com at the end of the preceding month for the period starting 20th of next month.

FORTHCOMING BRANCH MEETINGS



Date	Time	Subjects	Speakers	Venue
NAGPUR				
19/01/2013	9.00 a.m.	Seminar on Companies Bill (Amendment Special)	Eminent Speakers	Hotel Centre Point
26/01/2013	9.30 a.m.	Indoor Sports		YMCA Hall
27/01/2013	9.00 a.m.	Cricket Match with Income Tax Department		Ambedkar College Ground
29/01/2013	9.00 a.m.	WICASA Election-2013-14		ICAI Bhavan



E-Sahayataa

E-Sahayataa is a grievance redressal mechanism hosted on ICAI website. Members and students are requested to visit www.icai.org to log in their grievances.

Introduction of Inter Active Voice Response System (IVRS) at ICAI Bhavan, Cuffe Parade, Mumbai (24 x 7)

We are pleased to inform all the Members, Students and other stakeholders that Inter Active Voice Response System (IVRS) has been introduced at Western Regional Office, ICAI Bhavan, Cuffe Parade, Mumbai for automated response on telephonic calls. To avail this facility, it is requested to call on landline telephone number 022-39893989 during regular office hours on all working days between 10.00 am and 5.30 pm, if the telephone operator is busy, then the call will be directed to the automated response (IVRS) and also after office hours and on holidays. Thus, this IVRS is available 24 x 7.

Attention :Members

All those members who have not paid their membership fees and certificate of practice fees, (if applicable) for 2012-13, till 30th September, 2012, can now apply for retrospective restoration of their membership and certificate of practice from 1st October, 2012 in Form 9, along with the relevant fees and restoration fees of ₹ 1,200/-, till 31st March, 2013. Form 9 is available on www.icai.org

Pre-Budget Meeting and ICAI Memorandum: ICAI has been working on the Pre-Budget Memorandum, 2012 for both direct tax and indirect taxes while considering the suggestions of our membership at large, which will be submitted to the Ministry of Finance after completion. Full text of the memorandum will also be hosted on the ICAI website.

Suggestions on Draft Rule 11UA of Income-tax Rules, 1962

Accepted: ICAI suggestions have found favour with the Government, which were submitted in response to the CBDT's request on the Draft Rule 11UA for determination of fair market value for the purpose of Section 56(2)(viib) of Income-tax Act, 1961. It may be noted that ICAI had also suggested that the Rule 11UA may be amended to allow an accountant also to determine the fair-market value of unquoted equity shares as per discounted cash flow method. Consequently, the Board has recognised an accountant for the purpose of valuation of fairmarket value of shares as per discounted cash flow method while amending the Rule *vide* Notification No. 52, dated 29-11-2012. **Suggestions on Final Report on Tax Accounting Standards Submitted:** ICAI has submitted preliminary inputs in response to the request for comments, when a committee constituted by the CBDT for formulating Accounting Standards for the purposes of notification under Section 145(2) of the Act, submitted the final report and made that public for comments and suggestions. ICAI has once again submitted that

prescription of Tax Accounting Standards is not necessary and, if those Standards are to be notified at all, they should be notified under Section 295 rather than Section 145 and should be renamed as Tax Computational Standards instead. Recognition of CA Qualification for Pursuing PhD: Amity University, Uttar Pradesh, has recognised CA qualification equivalent to post graduate course in Commerce for registration to PhD Programme. Now, in total, 96 institutions (90 Universities and 6 IIMs) have recognised the CA qualification for pursuing PhD programme.

Initiatives for Students

IPCC e-Lectures Anytime/Anywhere Learning: ICAI has taken initiatives to make available e-lectures for Intermediate (IPC) course with an objective to provide good quality education uniformly across the country. The IPCC e-Learning would be launched/inaugurated in the mid of January, 2013. Intermediate (IPC) students would be able to learn according to their own choice of time and place, using these online e-learning modules contributed by leading faculty members across the country. These multimedia e-lectures are practically like a teacher writing on the blackboard giving oral explanations. ICAI would encourage students to make good use of this online resource to have a better understanding of the subjects and prepare better for the forthcoming examinations.

WORK DISPOSAL POSITION

The position of disposal of various matters relating to members and students of WIRC as on 31/12/2012

PARTICULARS	DATE
Members Section	
Sole Proprietary Firm Registration	18/12/2012
Partnership Firm Registration – Constitution	26/12/2012
Reconstitution	07/12/2012
Grant of Certificate of Practice	10/12/2012
Fellow Admission	24/12/2012
Change of Address	27/12/2012
New Enrolment	13/12/2012
Restoration of Membership	19/12/2012
Permission for other engagement	27/12/2012
Articles Section	
IPCC Registration with Articles	21/12/2012
Final + Articles Registration	14/12/2012
Industrial Training Registrations	10/12/2012
Re-registration of articles	10/12/2012
Termination of articles	10/12/2012
Completion of articles	28/12/2012
Permission to study for other courses	28/12/2012
Supplementary Registration of articles	28/12/2012
Change of Address	31/12/2012

DIRECT TAX

(Contributed by CA. Haresh P. Kenia & CA. Deepak Lala)

SECTION 255 OF INCOME TAX ACT, 1961 – PROCEDURE OF APPELLATE TRIBUNAL – PRACTICE NOTE FOR HEARING APPEALS & APPLICATIONS FIXED BEFORE ITAT NAGPUR E-BENCH {211 TAXMANN 16 (ST.)}

Circular No. F.1-AD (E-Bench)/AT/2012 dated 9/11/2012

The appeals and applications fixed before the ITAT, Nagpur Bench will be heard through Video Conferencing by the members of the ITAT sitting at ITAT, Mumbai. The President, ITAT will nominate from time to time the Members hearing the cases through Video Conferencing system. This system of hearing through Video Conferencing will be referred to as 'e-Bench'. For the purposes of e-Bench, detailed regulations alongwith Do's, Don'ts and Forms for use under these regulations are framed and is available at above citation.

DTAA OF INDIA WITH MACAO SPECIAL ADMINISTRATIVE REGION OF PEOPLE'S REPUBLIC OF CHINA {211 TAXMANN 22 (ST.)}

Notification No. 43/2012 [F.No. 503/04/2009-FT&TR-II]/SO 2427(E) dated 10/10/2012

The Central Government has notified that all the provisions of Agreement between the Government of Republic of India and the Government of the Macao Special Administrative Region of the People's Republic of China for the exchange of information with respect to taxes shall be given effect to in Union of India w.e.f. 16th day of April, 2012.

INCOME TAX (FIFTEENTH AMENDMENT) RULES, 2012 – AMENDMENT IN RULES 11U AND 11UA {211 TAXMANN 32 (ST.)}

Notification No. 52/2012 [F. No. 142/19/2012-SO(TPL)]/SO 2805[E] dated 29/11/2012

With reference to deemed income u/s 56 due to property received without consideration or at less than fair market value; rules 11U and 11UA were framed. Now, some amendments in definition of "accountant", "balance-sheet", "valuation date" and procedure for calculation of fair market value of unquoted equity shares have been made as per above notification.

RAJIV GANDHI EQUITY SAVINGS SCHEME (RGESS) – {211 TAXMANN 34 (ST.)}

Notification No. 51/2012 [F. No. 142/35/2012-SO(TPL)]/SO 2777[E] dated 23/11/2012

The Central Government has framed the details of "Rajiv Gandhi Equity Savings Scheme" (RGESS). The complete details are available at above citation.

MAHARASHTRA VAT (Contributed by CA. C. B. Thakar)

MVAT Act, 2002

The Commissioner of Sales Tax has issued Notification dated 19/10/2012 under section 35(3), whereby power of section 35 is delegated to two more Joint Commissioners of Sales Tax, Issue Based Audit.

The Commissioner of Sales Tax has also issued Notification dated 5/11/2012 under section 10(4) of the MVAT Act, whereby amendment is effected in earlier Notification.

CORPORATE LAWS

(Contributed by CA. Jayesh Thakur)

Amendment to SEBI Fraudulent and Unfair Trade Practices Regulations

www.sebi.gov.in

The SEBI has issued Notification No. LAD-NFO/GN/2012-13/25/5455 dated 11/12/2012 amending the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 inserting the clause relating to mis-selling of units of a mutual fund scheme treating as covered by the regulations. The amendment defines "mis-selling" to mean sale of units of a mutual fund scheme by any person, directly or indirectly, by making a false or misleading statement, or concealing or omitting material facts of the scheme, or concealing the associated risk factors of the scheme, or not taking reasonable care to ensure suitability of the scheme to the buyer. One may refer to the above citation for further details.

Filing of balance sheet and profit & loss account in XBRL format – date extended

www.mca.gov.in

The MCA has issued General Circular No. 39/2012 on 12/12/2012 stating that the time limit to file financial statements in the XBRL mode without any additional fee/penalty has been extended up to 15 January, 2013 or within 30 days from the date of Annual General Meeting of the company whichever is later. One may refer to the above citation for further details.

Oversight Inspection of Market intermediaries

www.sebi.gov.in

The SEBI has issued Circular No. CIR/MIRSD/13/2012 dated 7/12/2012 stating that after consultation with stock exchanges and the associations of stock brokers, a policy would be formulated for annual inspection of members in various segments and follow-up action thereon. The policy shall also cover various kinds of risks posed to the investors and market at large on account of the activities/business conduct of their members. The stock exchange or the clearing corporation, as the case may be, shall conduct inspection of their members in various segments in terms of the above policy and in case of members who hold multiple memberships of the exchanges, the stock exchanges shall establish an information sharing mechanism with one another on the important outcome of inspection in order to improve the effectiveness of supervision. One may refer to the above citation for further details.

Checklist for NBFCs, NBFC-MFIs, NBFC-Factors and CICs

www.rbi.gov.in

The RBI has issued Circular No. DNBS.CC.PD.No. 312/03.10.01/2012-13 dated 7/12/2012 releasing the checklist for NBFCs, Non Banking Financial Company-Micro Finance Institutions (NBFC-MFIs), Non Banking Financial Company-Factoring Institutions (NBFC-Factors) and Core Investment Companies (CICs). These are in relation to the applications for seeking certificate of registration (COR) from the RBI and the list of documents mentioned therein that is required to be submitted. In order to expedite the process of obtaining registration from the RBI as NBFCs, the checklist of documents to be submitted along with the application form have been reviewed by the RBI and made more exhaustive. The RBI has stated that as the businesses of the various types of NBFCs vary, the documentation required for registration will also vary. The RBI has provided the following requirements to be taken care of:

- The application forms will remain the same for all NBFCs until changed in the online COSMOS application, except in the case of CIC-ND-SIs where a separate application form has been prescribed.



- Five checklists have been uploaded onto the RBI website, namely, a) documents required for registration as NBFCs b) documents required for registration of NBFC-MFI – New Companies and c) documents required for registration of NBFC-MFI (Existing NBFCs) d) documents required for registration of NBFC – Factors and e) documents required for registration as CIC-ND-SI.
- While converting from an already registered NBFC to that of NBFC-MFI or NBFC-Factors, for the present, the concerned NBFC need not fill out the application form as provided in the RBI website. The application for conversion may be made on company's letterhead accompanied by the original COR and all the documents as given in the checklist. The Bank will after scrutiny of the documents convert the status to NBFC-MFI or NBFC-Factors, as the case may be, by making a suitable remark on the COR. As stated above, this arrangement will be in place until the application form for NBFC-MFI and NBFC-Factors is changed in the COSMOS online application.

The RBI has also stated that one may note that the checklists mentioned are indicative and not exhaustive. The RBI can, if necessary, call for any further documents to satisfy themselves on the eligibility for obtaining registration as NBFC. In the event of the RBI calling for further documents in addition to those mentioned in the checklist, the applicant company must respond within a stipulated time of one month failing which the application/request for conversion along with all the documents will be returned to the company for submission afresh with the required information/documents. One may refer to the above citation for further details.

Core Investment Companies – Overseas Investment (Reserve Bank) Directions, 2012

www.rbi.gov.in

The RBI has issued Circular No. DNBS (PD) CC.No. 311/03.10.001/2012-13 dated 6/12/2012 releasing the above directions and referred to the NBFC (Opening of Branch/Subsidiary/Joint Venture/Representative Office or Undertaking Investment Abroad by NBFCs) Directions, 2011 which have specified general and specific conditions for overseas investment by NBFCs. The applicability of these Directions for Core Investment Companies (CICs) has been examined and in view of their unique nature of business (investment only for holding purpose), certain modifications have been found necessary to be made in the Directions. The RBI observes that CICs invest primarily in group companies, in different sectors of the economy. Being holding companies they need to invest in both financial and non-financial activities. It has therefore been decided to issue a separate set of Directions to CICs with regard to their overseas investments. All CICs investing in joint ventures/subsidiaries/representative offices overseas in financial sector will require prior approval from the Bank. The approval will be subject to the CIC fulfilling the conditions enumerated in the enclosed Directions issued by Reserve Bank in exercise of powers under Sections 45JA, 45K and 45L of the RBI Act, 1934. Should CICs currently exempted from registration, desire to make overseas investments in financial sector, they would require a COR from the RBI and shall have to comply with all the regulations applicable to registered CICs. However, exempted CICs do not require to be registered with RBI for making investment in non-financial sector. One may refer to the above citation for further details.

Filing of Cost Audit Report and Compliance Report in the XBRL mode – date extended

www.mca.gov.in

The MCA has issued General Circular No. 43/2012 on 26/10/2012 stating that all cost auditors and the companies concerned are allowed to file their Cost Audit Reports and Compliance Reports for the year 2011-12 [including the overdue reports relating to any previous year(s)] with the

Central Government in the XBRL mode, without any penalty, within 180 days from the close of the company's financial year to which the report relates or by 31 January, 2013, whichever is later. One may refer to the above citation for further details.

Amendment to Companies (DIN) Rules, 2006

www.mca.gov.in

The MCA has issued Notification No. F. No. 5/80/2012-CLV dated 24/12/2012 issuing the revised new Form DIN-1 (Application for allotment of Directors Identification Number DIN). Also, in Form DIN-4, the verification portion is replaced with a new version. Both these amendments are effective from 25 December, 2012. One may refer to the above citation for further details.

Amendments to Companies Rules and Forms

www.mca.gov.in

The MCA has issued Notification No. F. No. 5/80/2012-CLV dated 24/12/2012 revising and reissuing new Form 18 (Notice of situation or change of situation of registered office). The revised form shall be effective from 25 December, 2012. One may refer to the above citation for further details.

Filing of Form 68 for rectification of mistakes in Form 1, Form 1A and Form 44

www.mca.gov.in

The MCA has issued General Circular No. 42/2012 dated 21/12/2012 stating that under Rule 20G(1) of Companies (Central Government's) General Rules and Forms (Second Amendment), 2010, filing of an application for rectification of mistakes can be made while filing Form No.1, Form No. 1A and Form No. 44 electronically, on the Ministry's website. Such applications are to be made to the Registrar of Companies in Form No. 68 and are required to be accompanied by a fee of ` 1000 in case of Forms No.1, Form 1A and ` 10,000 for Form 44. Rule 20G(2) permits filing of an application in Form No. 68 to be filed with the Registrar within a period of three hundred and sixty five days from the date of approval of the aforesaid forms by the Registrar concerned. Based on requests received from time to time by the MCA to extend the facilities for rectification of mistakes as above companies incorporated prior to the year 2009 and to other companies which could not avail of this facility earlier, it has been decided to allow such companies to rectify mistakes in Forms 1, 1A and 44 by filing Form 68 on payment of fee stipulated above. Form 68 (electronic mode) may be filed for rectification of mistakes in the forms referred above within a period of 180 days from the effective date. One may refer to the above citation for further details.

New form for appointment of cost auditor (Form 23C)

www.mca.gov.in

The MCA has issued Notification No. G.S.R. 906(E) dated 19/12/2012 substituting the Form 23C (relating to Application to the Central Government for appointment of cost auditor). One may refer to the above citation for further details.

SERVICE TAX (Contributed by CA. Rajiv Luthia)

SYNOPSIS OF NOTIFICATIONS, CIRCULARS & LETTERS

CBEC *vide* Notification No. 49/2012-ST dated 24 December, 2012 has amended Mega Exemption Notification No. 25/2012-ST dated 20 June, 2012 whereby the exemption from levy of service tax is extended to services of life insurance business provided under following schemes:



- (a) Janashree Bima Yojana (JBY)
- (b) Aam Aadmi Bima Yojana (AABY)

GUJARAT VAT (Contributed by CA. Kishor R. Gheewala)

Extension of Time Limit

Vide Public Circular No. GUJKA/VAT-17-C/2012-13/Otw.140/121 dated 15 December, 2012, last date for obtaining VAT audit report has been extended from 31 December, 2012 to 31 January, 2013.

Vide Public Circular No. GUJKA/VAT-15/2012-13/Otw.139/120 dated 14 December, 2012, last date for submitting annual return by dealers liable for VAT Audit has been extended from 31 December, 2012 to 31 January, 2013.

FEMA (Contributed by CA. Manoj Shah, CA. Hinesh Doshi)

Trade Credits for Import into India

A.P. (DIR Series) Circular No. 58 dated 14 December, 2012

FBI had revised the all-in-cost ceiling for trade credits for imports into India *vide* A. P. (DIR Series) Circular No. 44 dated 15 November, 2011 which was applicable upto 31 March, 2012. This said limit was further extended till 30 September, 2012 *vide* A.P. (DIR Series) Circular No. 100 dated 30 March, 2012. It has now been decided to continue the said all-in-cost ceiling till 31 March, 2013 subject to review thereafter.

A.P. (DIR Series) Circular No. 59 dated 14 December, 2012

Presently, the companies in the infrastructure sector are allowed to avail of trade credit up to a maximum period of 5 years for import of capital goods as classified by Director General of Foreign Trade (DGFT) subject to following:-

- (i) The trade credit shall be *ab initio* contracted for a period not less than 15 months and should not be in the nature of short-term roll overs; and
- (ii) AD banks are not permitted to issue Letters of Credit / guarantees / Letter of Undertaking / Letter of Comfort in favour of overseas supplier, bank and financial institution for the extended period beyond 3 years.

On review, it has been decided to further relax the condition of '*ab initio*' buyers' credit for 15 months to 6 months for existing trade credits only. However, the condition regarding '*ab initio*' buyers' credit for 15 months shall continue for future trade credit.

External Commercial Borrowings (ECB) Policy

Review of all-in-cost ceiling

A.P. (DIR Series) Circular No. 60 dated 14 December, 2012

FBI had revised the all-in-cost ceiling for ECBs *vide* A.P. (DIR Series) Circular No. 51 dated 23 November, 2011 which was applicable upto 31 March, 2012. This said limit was further extended till 30 September, 2012 *vide* A.P. (DIR Series) Circular No. 99 dated 30 March, 2012. It has now been decided to continue the said all-in-cost ceiling till 31 March, 2013 subject to review thereafter.

ECB for the low cost affordable housing projects

A.P. (DIR Series) Circular No. 61 dated 17 December, 2012

In view of the announcement made in the Union Budget for the Year 2012-13, RBI has allowed ECB for low cost affordable housing projects as

a permissible end-use, under the approval route. ECB can be availed of by developers/builders for low cost affordable housing projects. Housing Finance Companies (HFCs)/National Housing Bank (NHB) can also avail of ECB for financing prospective owners of low cost affordable housing units.

For detailed guidelines on raising ECB for low cost affordable housing scheme, refer RBI Circular available at –

<http://www.rbi.org.in/Scripts/NotificationUser.aspx?id=7757&Mode=0>

For the financial year 2012-13, an aggregate limit of USD 1 billion is fixed for ECB under the low cost affordable housing scheme which includes ECBs to be raised by developers/builders and NHB/specified HFCs subject to annual review.

The developers / builders / HFCs / NHB will not be permitted to raise Foreign Currency Convertible Bonds (FCCBs) under this scheme.

To give effect to aforesaid amendment, consequential amendments are made to the Foreign Exchange Management (Borrowing or lending in Foreign Exchange) Regulations, 2000 [Notification No. FEMA 3/2000-RB dated 3 May, 2000] *vide* Notification No. FEMA 246/2012-RB dated 27 November, 2012.

ECB for Micro Finance Institutions (MFIs) and Non-Government Organisations (NGOs) – engaged in micro finance activities under Automatic Route

A.P. (DIR Series) Circular No. 63 dated 20 December, 2012

FBI had, *vide* A. P. (DIR Series) Circular No. 59 dated 19 December, 2011 allowed MFIs and NGOs engaged in micro finance activities to raise ECB up to USD 10 million or equivalent during a financial year for permitted end-uses, under the Automatic Route, subject to review after one year.

It has now been decided that the extant guidelines as specified in above referred circular will continue to be applicable until further review.

Furthermore, ECB by MFIs/NGOs should be fully hedged and designated AD has to ensure at the time of drawdown that the forex exposure of the borrower is fully hedged.

Foreign Direct Investment (FDI) in Assets Reconstruction Companies (ARCs)

Press Release dated 31 December, 2012

Presently, FDI in ARCs is allowed up to 49% and investment by the Foreign Institutional Investors (FIIs) in Security Receipts (SRs) issued by ARCs is allowed up to 49% of each tranche of scheme of SRs. The Government of India has now, in consultation with the stakeholders and the sector regulators reviewed the ceilings of FDI and the Foreign Institutional Investors (FII) as under:

- (i) The ceiling for FDI in ARCs has been increased from 49% to 74% subject to the condition that no sponsor may hold more than 50% of the shareholding in an ARC either by way of FDI or by routing through an FII. The foreign investment in ARCs would need to comply with the FDI policy in terms of entry route conditionality and sectoral caps.
- (ii) The foreign investment limit of 74% in ARC would be a combined limit of FDI and FII. Hence, the prohibition on investment by FII in ARCs will be removed. The total shareholding of an individual FII shall not exceed 10% of the total paid-up capital.
- (iii) The limit of FII investment in SRs may be enhanced from 49% to 74%. Further, the individual limit of 10% for investment of a single FII in each tranche of SRs issued by ARCs may be dispensed with. Such investment should be within the FII limit on corporate bonds prescribed from time to time, and sectoral caps under the extant FDI regulations should be complied with.



DIRECT TAX

**(Contributed by CA. Paras K. Savla,
CA. Deepak Tikekar)**

Ss. 2(47), 48 & 112(1) Listing of shares is necessary for concessional rate of tax.

Since, the shares had been transferred to the applicants in the public offer, by 5 January, 2006, before they were actually listed on the stock exchanges on 6 January, 2006, they were not 'listed securities' at the time of sale by the assessee and consequently, the transaction would not be eligible for payment of capital gain tax at the lower rate of 10 per cent.

Uday Punj vs. CIT (2012) 253 CTR(Del) 22.

S. 4 Principle of mutuality not applicable to income received from non-member.

Interest on fixed deposits with member banks of assessee club was not exempt on the principle of mutuality and the same constitutes taxable income.

CIT vs. Secunderabad Club (2012) 254 CTR(AP) 163.

S. 5 Interest income to be taxed on spread-over basis.

Interest income representing the difference between the purchase price of debentures and the redemption price after six years was rightly taxed on spread-over basis and not in the year of allotment of debentures itself.

Rakesh Shantilal Mardia vs. Dy. CIT (2012) 254 CTR(SC) 338.

Ss. 5 & 263 Revenue to be taxed on spread-over basis.

As per agreement, Rl Ltd. had only the right to use the network during the tenure of 20 years and the agreement was a lease agreement only and, therefore, the assessee had in terms of AS-19 correctly spread the entire fee of ₹ 3,037 crores over the period of 20 years and to pay tax thereon over the entire period.

CIT vs. Reliance Communication Infrastructure Ltd. (2012) 254 CTR(Bom) 251

S. 10(23C)(vi) Fee collected whether constitute profit.

If fee collected by assessee-educational institution under head "Placement and training" is within the scope of law as has been prescribed by the State Government and income so earned is utilised for educational purpose, assessee is eligible to be granted exemption u/s 10(23C)(vi).

Orissa Trust of Technical Education & Training vs. Chief CIT & ANR (2012) 254 CTR(Ori) 269.

S. 11(1)(a) Application of income in India.

Words "in India" appearing in s. 11(1)(a) and the words "outside India" appearing in s. 11(1)(c) qualify the verb "applied" appearing in these provisions and not the words "such purposes" and, therefore, the amount spent by the assessee-trust in Germany cannot be considered as application of the income of the trust in India for charitable purposes.

Provision for doubtful debts is application of income.

While computing the income available to the trust for application to charitable purposes in India in accordance with s. 11(1)(a), the provisions for doubtful debts must be deducted.

One-time membership fee is not income.

Finding recorded by the Tribunal that the members who paid the one-time admission fee to the assessee-trust were aware that it can be spent by the assessee only for the purposes of acquiring a capital asset and, therefore, the amount must be held to be a corpus donation not taxable as income being a finding of fact, no substantial question of law arises for consideration.

Annual fee from members without *quid pro quo* not taxable as business.

Annual subscription fee received by the assessee-trust from its members as a recurring receipt merely to keep the membership alive on yearly basis and not as a "*quid pro quo*" for any specific services rendered to them is not assessable u/s 28(iii).

Director of Income-Tax (Exemption) vs. National Association of Software & Services Companies (2012) 253 CTR(Del) 33.

Ss. 17(2)(iii) & 17(2)(iv) Income Tax Rules, 1962, r. 3 In the absence of clause in lease deed, repair expenses do not constitute perquisite.

Provisions of r. 3 which elaborates various contingencies in relation to perquisite of rent-free accommodation rules out the intention to treat expenses in relation to improvement, repairs or renovations as falling within the meaning of "perquisite" and, therefore, expenses incurred by the assessee's employer towards repairs and renovations of the leasehold residential accommodation occupied by him cannot be included in his taxable income as perquisite; in the absence of any recital in the lease deed spelling out any obligation on the assessee to carry out repairs and renovations, s. 17(2)(iv) cannot be applied.

Scott R. Bayman vs. CIT (2012) 253 CTR(Del) 233.

S. 32(1)(ii) S. 37(1) Non-compete fee is capital expenditure not entitled to depreciation.

Payment of non-compete fee to a joint venture partner for keeping him out of the market for seven years constituted capital expenditure.

Payment of non-compete fee does not amount to intangible asset and therefore depreciation is not allowable in respect thereof.

Sharp Business System vs. CIT (2012) 254 CTR(Del) 234.

S. 36(1)(iii) Interest is deductible where there is common control of two businesses

Board of directors of the assessee company controlling the ferro alloys plant as well as the newly set up sugar plant being common and the funds for the two plants also being common and the marketing of the final products of both the plants having been carried out under the supervision and control of the same set of executives at the head office, both the plants were in the same fold of business and, therefore, interest paid by the assessee on borrowings used to set up the new division is allowable as deduction u/s 36(1)(iii).

CIT vs. Monnet Industries Ltd (2012) 254 CTR(SC) 109.

Ss. 36(1)(iii) & 43(1), Explan. 8 Interest on loan deductible even though underlying asset not put to use.

Interest paid in respect of borrowings utilised for acquisition of capital assets which were not put to use in the relevant year is allowable as deduction u/s 36(1)(iii)

Vardhman Polytex Ltd. vs. CIT (2012) 254 CTR(SC) 102.



Ss. 37(1) & 40A(9) Contribution vs. Reimbursement.

Interpretation of s. 40A(9) clearly brings out a dichotomy between 'contribution' and 'reimbursement'; impugned judgments are set aside and the Tribunal is directed to consider the matter *de novo* by giving a clear bifurcation between the payments made by the assessee company to the school and the educational society promoted by it for the welfare of its employee's children and the payments made to other schools, and thereafter apply s. 40A(9).

Sandur Manganese & Iron Ores Ltd vs. CIT (2012) 253 CTR (SC) 6.

S. 37(1) Capital vs. Revenue Expenditure.

Assessee having merely granted a licence and permission to a person under an agreement to conduct and manage its restaurant business, the settlement charges paid by the assessee to the conductor pursuant to the terms of the consent decree following the disputes between the parties were payment for resolving the disputes and removing the hindrance occurring in the management and running of the restaurant and, therefore, payment of the said settlement charges and the legal expenses were allowable as deduction.

CIT vs. Airlines Hotel (P) Ltd (2012) 253 CTR (Bom) 78.

S. 37(1) Capital vs. Revenue Expenditure.

Expenditure on project abandoned due to adverse soil and other adverse conditions at the proposed site can be treated to be a revenue expenditure actually and not a capital expenditure.

CIT vs. Tata Robins Fraser Ltd. (2012) 253 CTR (Jharkhand) 228.

S. 37(1) Capital vs. Revenue Expenditure.

Expenditure on development of software constitutes revenue expenditure.

CIT vs. Shri Renuga Textiles Mills Ltd. (2012) 254 CTR (Mad) 423.

Ss. 41(1) & 260A Remission or cessation of liability.

There being outstanding liability and in the subsequent year amount was written back into the P & L a/c, there was no remission or cessation of liability in question during A.Y. 2002-03.

CIT vs. Enam Securities (P) Ltd. (2012) 253 CTR (Bom) 256.

S. 45 Short term vs. long term capital loss.

Loss suffered by the assessee on the sale of the non-convertible portion of partly convertible debentures is to be treated as short-term capital loss.

JCT Ltd. vs. CIT (2012) 254 CTR (Cal) 429.

S. 54EC Investment within six months.

Assessee having failed to invest its long-term capital gain in REC Bonds before the expiry of six months period for the reason that such Bonds were not available during the said period of six months and even thereafter till the extended date of 31 December, 2006, except for a brief period, and made the investment in the Bonds on 31 January, 2007, i.e. within nine days of their being available once again from 22 January, 2007, benefit of s. 54EC cannot be denied to the assessee; s. 54EC having given to the assessee a choice of investing either in the Bonds of Rural Electrification Corp'n. Ltd. or in the Bonds of the National Highways Authority of India, the Revenue cannot insist that the assessee ought to have invested in the Bonds of the National Highways Authority of India.

CIT vs. Cello Plast (2012) 253 CTR (Bom) 247.

Ss. 69 & 69A Unexplained investment.

Property, jewellery, etc., declared by assessee's wife in her WT return prior to search and seizure proceedings could not be added in the hands of assessee; assessee's wife having explained about her salary, savings and property received under Will of her father-in-law, no addition for the same could be made in the hands of assessee.

S.K. Bahadur vs. Union of India (2012) 253 CTR (Del) 449.

Ss. 69 & 142A Unexplained investment and reference to DVO.

AO is first required to reject the books of account before making a reference to the Valuation Officer u/s 142A; AO having not mentioned at any stage that the assessee's books of account are defective or that the cost of construction as shown in the books of account is not the true cost of construction, there was no occasion for the AO to make reference to the Valuation Officer; report made by the Valuation Officer pursuant to such invalid reference could not have been made the basis of the addition u/s 69.

Goodluck Automobiles (P) Ltd. vs. Assistant CIT (2012) 254 CTR (Guj) 1.

Ss. 69 & 133A No power to examine person on oath during survey.

Sec. 133A does not empower any IT authority to examine any person on oath and, therefore, any admission made in a statement recorded during survey cannot, by itself, be made the basis for addition.

CIT vs. S. Khader Khan Son (2012) 254 CTR (SC) 228.

S. 80HHC Deduction available for export of telecasting rights.

Deduction u/s 80HHC is allowable on transfer of telecasting rights of TV serial for exploitation outside India.

CIT vs. Faquir Chand (HUF) (2012) 254 CTR (SC) 107.

S. 80-IA Deduction available only for manufacturing activity and not for trading activity.

Assessee company mainly engaged in the business of manufacture of yarn not having maintained a separate account in respect of the raw material sold by it during the relevant year, AO was justified in preparing separate trading accounts in respect of manufacturing and trading activities of the assessee for the purposes of quantifying deduction u/s 80-IA.

Arisudana Spinning Mills Ltd. vs. CIT (2012) 254 CTR (SC) 226.

S. 80-IB Blending amount to manufacture.

Blending of rectified spirit to produce IMFL and bottling it amounts to manufacture for the purpose of claiming deduction u/s 80-IB

CIT vs. Vinbros & Co. (2012) 254 CTR (SC) 110.

S. 80-IB(10) Meaning of new housing project.

Deduction u/s 80-IB(10) in respect of construction of additional building on existing plot of 2.36 acres, under a new housing project, approval for which was obtained separately, was allowable in the facts and circumstance of the case.

CIT vs. Vandana Properties (2012) 254 CTR (Bom) 258.

S. 80P(2)(a)(i) Interest on deposit out of non-SLR funds entitled to deduction.

Interest on deposits made out of non-SLR funds is attributable to the business of banking; deduction u/s 80P(2)(a)(i) is available in respect of such interest income.

CIT vs. Kangra Central Co-Operative Bank Ltd. (2012) 254 CTR (HP) 306.



Ss. 119(2)(a), 234B & 234C Waiver of interest.

While imposing conditions for waiver of interest u/ss. 234A/234B/234C, Chief CIT/Director General of IT in exercise of discretion conferred by CBDT Order F.No. 400/29/2002-IT(B), dated 26 June, 2006, cannot create new class/classes of cases or classes of income independent of para 2 of said Order; Order of Chief CIT refusing to waive interest u/ss. 234B/234C being based on relevant material, the exercise of discretion cannot be said to be irrational or arbitrary so as to warrant interference in writ jurisdiction.

De Souza Hotels(P) Ltd. & Anr vs. Chief CIT (2012) 253 CTR(Bom) 541.

S. 145 Valuation of stock.

Closing stock of incentive sugar has to be valued at levy price and not at cost price.

CIT vs. Bannari Amman Sugars Ltd (2012) 254 CTR(SC) 91.

S. 147 Indian Evidence Act, 1872; S. 114(e) Reopening of assessment and change of opinion.

In case an issue or query is raised by the AO and answered by the assessee in the original assessment proceedings, and the AO does not make any addition, it has to be accepted that the issue has been examined and, therefore, reassessment on the said issue would be invalid; however, if new facts, material or information comes to the knowledge of the AO which was not on record and available at the time of assessment, the principle of "change of opinion" does not apply; once there has been a full and true disclosure of all material and primary facts at the time of original assessment u/s 143(3), and the assessment is reopened in respect of a matter covered by the disclosure, it is a case of change of opinion and the assessment proceedings cannot be validly reopened even within four years.

CIT vs. Usha International Ltd. (2012) 253 CTR(Del)(FB) 113.

Ss. 147, proviso & 149(1)(a) Reopening and subsequent Supreme Court decision.

Once limitation period of four years provided u/ss. 147/149(1)(a) expires then the question of reopening by the department does not arise; subsequent reversal of the legal position by the judgment of the Supreme Court does not authorise the Department to reopen the assessment, which stood closed on the basis of the law, as it stood at the relevant time.

Dy. CIT & Ors vs. Simplex Concrete Piles (India) Ltd. (2012) 254 CTR(SC) 221.

S. 154 Mistake apparent from record and debatable issue.

Questions as to whether the assessee is under compulsion to claim current year's depreciation for A.Y 2000-01 even when it has opted not to claim it and whether the amendment made to s. 32 for A.Y 2002-03 has a prospective effect or retrospective effect vis-à-vis claim for current year's depreciation are debatable issues which do not fall in the category of mistake apparent from record and, therefore, assessment for A.Y 2000-01 could not be rectified u/s 154 by allowing the current year's depreciation which was not claimed by the assessee.

CIT vs. Historic Resort Hotels (2012) 253 CTR(Raj) 608.

S. 194H Discount whether commission?

Discount given to the licensed stamp vendors on purchase of stamps in bulk quantity is in the nature of cash discount and the impugned transaction is a sale and consequently, s. 194H is not attracted.

CIT & Ors. vs. Ahmedabad Stamp Vendors Association (2012) 254 CTR(SC) 111.

S. 234B Interest payable by assessee and MAT credit.

Interest u/s 234B is chargeable after set off of MAT credit brought forward by the assessee.

CIT vs. Sage Metals Ltd. (2012) 254 CTR(SC) 455.

S. 234D Section applicable retrospectively.

Sec. 234D is to be applied retrospectively even to the period prior to A.Y. 2004-05 particularly in view of insertion of Explan. 2 by the Finance Act, 2012, which is declaratory of the law; s. 234D is applicable to any proceeding which is completed on or after 1 June, 2003, irrespective of the assessment year to which it pertains.

CIT vs. Indian Oil Corporation Ltd. (2012) 254 CTR(Bom) 113.

S. 271(1)(c) Penalty and bona fide error.

Assessee having claimed deduction of provision towards payment of gratuity in its return even though the tax audit report which was filed along with the return unequivocally stated that the provision for payment of gratuity was not allowable as deduction u/s 40A(7), it was bona fide and an inadvertent error, and not a case of intended concealment of income of furnishing of inaccurate particulars and, therefore, imposition of penalty u/s 271(1)(c) was not justified.

Pricewaterhousecoopers(P) Ltd. vs. CIT (2012) 253 CTR(SC) 1.

**INTERNATIONAL TAXATION
(Contributed by CA. Hinesh Doshi,
CA. Vishal Gada, CA. Dolly Waghela)**

Yash Raj Films (P) vs. ITO (28 taxmann.com 247) (Mum ITAT) Dated: 20 December, 2012

Facts

The assessee is engaged in the business of production of films, the shooting of which is often done outside India. Its production unit goes abroad and the services required in connection with the work of shooting abroad are availed from the various overseas service providers.

During the year under consideration, the assessee had paid a total amount of ₹ 18,77,84,736/- to five such overseas service providers for the services availed in connection with the shooting of different films which mainly included arranging for extras, security, locations the accommodation of cast and crew, necessary permissions from local authorities, makeup of the stars, insurance cover, etc.

The AO held that these services provided by the concerned overseas service providers were in the nature of technical services and the payments made by the assessee for such services being in the nature of the fees for technical services within the meaning given in Explanation 2 to section 9(1) (vii), the amounts so paid were chargeable to tax in the hands of the concerned overseas service providers in India.

The AO held that the assessee, therefore, was liable to deduct tax at source from the said payments as required by the provisions of section 195 and since the assessee had failed to do so, he held the assessee to be in default under section 201 of the Act and also levied interest under section 201(1A).

Issues

Whether logistics services for film shooting abroad are fees for technical services?



Held

The ITAT held that merely because some managerial skill is required to render the services, it would not make the services to be managerial services as envisaged in Explanation 2 to section 9(1)(vii).

Similarly, the requirement of knowledge of local laws on the part of the service providers to render the services such as obtaining the permissions for shooting from the local authorities or for arranging insurance of the crew members and shooting equipments would not change the basic nature of the services which otherwise are commercial services.

The said services rendered outside India by the overseas service providers in connection with making logistic arrangement are in the nature of commercial services and the amount received by them from the assessee for such services constitutes their business profit which is not chargeable to tax in India in the absence of any PE in India of the said service providers.

The ITAT held that the assessee, therefore, was not liable to deduct tax at source from the said payments and the AO was not justified in treating the assessee as in default under section 201.

WNSNA Inc vs. ADIT (ITA No. 8621 of 2010) (Mum ITAT)

Facts

The assessee, a company incorporated in the US, provided marketing, management and sales support services to WNS Global Services Private Limited ('WNS India'). The assessee entered into agreement with WNS India for providing marketing and sales services, *inter alia*, identifying customers and establishing contacts, soliciting inquiries from the customers, meeting with such customers and marketing the business of WNS India. The assessee also undertook to appoint advertising agencies to prepare, plan and execute advertising of WNS India's business in newspapers, magazines, etc.

It received fees for provision of marketing and management services outside India amounting to ` 36,88,13,733 – and provision of marketing and management services in India amounting to ` 4,14,47,491. The assessee filed its return declaring total income of ` 2,38,78,407 – by *inter alia* treating the sum of ` 4,14,47,491 – being the consideration for the provision of marketing and management services in India as falling under Article 7 of the India-US Tax Treaty ('Treaty').

The AO held the entire fees received to be in the nature of 'Fees for Technical Services' ('FTS') under the Treaty.

Further, for transmitting the data from the unit of the WNS India to the customers located outside India, WNS India availed the services of the domestic as well as International telecom operators. The assessee paid these international telecom connectivity charges to the International telecom operators for the services utilised by WNS India outside India and the same was reimbursed by WNS India to the assessee. Thus, the assessee has received reimbursement of international telecom connectivity charges i.e., leased line charges from WNS India. The AO held such receipt to be in the nature of royalty under Article 12 of the Treaty.

Issues

Whether payment received towards marketing and management services is in the nature of FTS?

Whether such leased line charges received are in the nature of royalty under Article 12 of the Treaty?

Held

On marketing and management services

The Tribunal, relying on the decision in the assessee's own case for AY 2004-05, held that rendering of marketing and management service in India cannot be said to making available of any technical knowledge or skill as per Article 12(4)(b) of the India-US Tax Treaty and hence the same cannot be held as FTStaxable in India.

The Tribunal further held that rendering of such services outside India would not be taxable in India even though there is existence of Service PE of the provider in India if such PE is not involved in earning of the said income.

On leased line charges

The Departmental representative harped on the argument that due to retrospective amendment in section 9(1) (vi) of the act, particularly explanation 5, such payment would be taxable as royalty.

With respect to applicability of retrospective amendment *vis-à-vis* the Tax Treaty, the Tribunal held as under:

The crux of sub-section (2) to section 90 is that where a tax treaty has been entered into with another country, then the provisions of the Act shall apply only if they are more beneficial to the assessee. Provisions of sections 4 and 5 are subject to the contrary provision, if any, in a tax treaty.

Such provisions of a DTAA shall prevail over the Act and work as an exception to or modification of sections 4 and 5. (*CIT vs. P.V.A.L. Kulandagan Chettiar [(2004) 267 ITR 654 (SC)]*).

Any amendment carried out to the provisions of the Act with retrospective effect shall no doubt have the effect of altering the provisions of the Act but will not *per se* have the effect of automatically altering the analogous provision of the Treaty.

Provisions which directly recognises the provisions of domestic law such as allowability of expenses as per Article 7 to the PE. Any amendment to such provisions of the Act shall govern the provisions of Treaty too.

If a particular term has not been defined in the Treaty but the same has been defined in the Act and further there is a retrospective amendment to that term under the Act, it is this amended definition of the term as per the Act, which shall apply in the Treaty as well.

If however a particular term has been specifically defined in the Treaty, the amendment to the definition of such term under the Act would have no bearing on the interpretation of such term in the context of the Convention. A country who is party to a Treaty cannot unilaterally alter its provisions. Any amendment to Treaty can be made bilaterally by means of deliberations between the two countries who signed it.

If there is no amendment to the provision of the Treaty but there is some amendment adverse to the assessee in the Act, then the beneficial provisions to the assessee shall prevail.

Attention is also brought to Article 23 – "Elimination of double taxation" of the tax treaties like one in Mauritius Treaty which explains that if there is some provision in the Treaty contrary to the domestic law, then it is the provision of the Treaty which shall prevail. (Article 23(1) reads as – "The laws in force in either of the Contracting States shall continue to govern the taxation of income in the respective Contracting States except where provision to the contrary are made in this Convention".)



On Reimbursement of Leased Line Charges *vis-à-vis* Royalty, the Tribunal held as under:

Reimbursement charges paid to WNS Inc. are in form of payment to intermediary. The ultimate recipient of these charges is MCI WorldCom, the service provider. If the said amount is to be considered as Royalty, then the same can be considered only in hands of owner or lessor of the leased lines and not WNS Inc.

The Tribunal held that by no stretch of imagination an intermediary, who makes payment to the owner of equipment on behalf of some person and then gets reimbursed for the said payment, can be considered as an owner or lessor, etc., of the equipment so as to be considered under section 9(1)(vi) of the Act.

Accordingly, such reimbursement cannot be treated as Royalty if no profit element is part of such reimbursements.

DEPUTY COMMISSIONER OF INCOME TAX Vs. M/s. POOMPUHAR SHIPPING CORPORATION LTD (2012-TII-229-ITAT-MAD-INTL) Dated: 9 November, 2012

Facts

Assessee is a shipping corporation. During assessment, AO noticed that the assessee had not deducted TDS for dry docking expenses and charter hire payment made to Chinese shipyards. The said payments were made to persons outside India without deducting TDS as required u/s 40(a) (ia).

On appeal, CIT (A) decided the issue in favour of the assessee.

Issues

Whether when the assessee makes payments towards fees for technical services rendered outside India, any TDS obligation arises in such a case?

Held

It was observed by the Tribunal that dry dock expenses were paid by the assessee to the Chinese shipyard for carrying out maintenance and repairs to the ship to make it seaworthy. The ships were sent by the assessee outside India (i.e. to Chinese shipyards) for maintenance and repairs on work contract basis. The Chinese ship yard had no PE in India, therefore the entire amount of dry dock expenses paid to Chinese shipyard companies was not taxable in India. Accordingly, the appeal of the Revenue is dismissed.

M/s. A P MOLLER MAERSK A/S. vs. DEPUTY DIRECTOR OF INCOME TAX (2012-TII-243-ITAT-MUM-INTL) Dated: 14 December, 2012

Facts

The assessee, a non-resident company incorporated in Denmark, is engaged in the business of shipping, chartering and related businesses. The assessee received certain amount from group companies on account of shared cost of global tracking system. The assessee claimed this income to be linked to the shipping income as per Article 9 of the DTAA. The Assessing Officer, however, held that the amount was taxable as Royalty / Fees for technical services as per section 9(1)(vi) and 9(1)(vii) of the Act as well as Article 13(4) of the DTAA.

In appeal, the CIT (A), following the order passed by the Tribunal in assessee's own case for the preceding year, held that such amount is profit derived from operation of ships in international traffic and hence not taxable in India as per Article 9(1) of DTAA.

The assessee had received interest on income tax refund u/s 244A, which was treated as income from operation of ships under Article 9(4)(a) of the India-Denmark DTAA and hence immune from taxation.

During assessment, AO held that such income falls under Article 12(6) of the DTAA. In appeal, the CIT (A) upheld the assessment order on this point.

Both the Revenue and the assessee appealed to the Tribunal.

Issues

Whether shared cost received by the assessee, engaged in the business of shipping, from group companies for operating Global Tracking System will be considered as income from operation of ship so as to come within the purview of the Article on shipping?

Whether interest received on refund of tax can be considered as income from operation of ships?

Whether the same should be governed by the article relating to interest?

Held

Tribunal held that, such income is a profit derived from operation of ships covered under Article 9(1) of the DTAA and same cannot be treated as Royalty / Fees for technical services.

Tribunal held that, interest on income tax refund is liable to tax under Article 12 of the DTAA between India and Denmark and such interest cannot be considered as business income covered under Article 9(4) of DTAA between India and Denmark.

PLATINUM INVESTMENT MANAGEMENT LTD vs. DDIT (2012-TII-216-ITAT-MUM-INTL) Dated: 5 December, 2012

Facts

The assessee was a sub-account of the Foreign Institutional Investor ('FII'), M/s. Platinum Investment Management Ltd., of Australia, registered under the Securities and Exchange Board of India (FII) Regulations, 1995. The assessee is involved in purchase and sale of securities in India and trading in derivatives. The assessee has filed its return of income and shown short term capital gain arising on sale of shares, short term capital gain and loss arising from transactions in derivatives.

The Assessing Officer treated the derivatives loss as business loss instead of capital loss.

In appeal, the CIT (A) also treated the derivatives loss as business loss instead of capital loss.

Aggrieved, the assessee appealed before the Tribunal.

Issues

Whether when there are two special provisions in an enactment, the special provisions will prevail over the general provisions.

Whether in case of FIIs, income from transfer of securities has to be considered as capital gains in terms of section 115AD.

Whether section 43 relating to speculative transactions has any application in the case of FIIs— whether income arising from transactions in derivatives by an FII can be considered as business profit or loss.

Held

The Tribunal held that if there are two conflicting provisions in an enactment, the special provisions will prevail and the subject-matter covered in such a special provision shall stand excluded from the scope of the general provision.



The Tribunal held that income arising from the transfer of securities of the FIIs has been included under sec. 115AD(1)(b) to be categorised as short-term or long-term capital gain. In such a situation, it is impermissible to consider such income as falling under the head "Profits and gains of business or profession". Such income arising from the transfer of securities shall be charged to tax under the head "capital gains" alone.

Sec. 43(5) defining 'speculative transaction' is relevant only in the context of income under the head 'Profits and gains of business or profession'. So sec. 43(5) has no application for income arising from transactions in derivatives by an FI.

DIRECTOR OF INCOME TAX AND ANOTHER vs. M/s. PRIDE FORAMER SA (2012-TII-75-HC-UKHAND-INTL) Dated: 11 December, 2012

Facts

Assessee concern is a French company having a PE in India. It had paid remuneration to employees; however it had not deducted tax at the time of paying the same. As a result of this, AO held the assessee responsible to pay the amount of such tax not deducted, together with interest thereon.

The AO as well as the CIT (A) duly noticed that none of those employees worked in India for a period or periods exceeding, in aggregate, 183 days during the relevant year and never disputed that the remuneration, thus paid, was not deducted in computing the profits of the PE, which was chargeable to tax in India. Despite that, they held that non deduction of remuneration in computing profits of the said PE of the assessee, would not help, in as much as, the work, in respect whereof such remuneration was paid, was directly associated with the business or performance of the PE.

Issues

Whether when the salary is earned because of work done at or for the Indian PE, the salary paid by the assessee and earned by the expatriates will be treated as taxable in India.

Held

The HC held that, for a non-resident, his salary income must be within Section 9(1) (ii). It was observed that none of those employees worked in India for a period or periods exceeding, in aggregate, 183 days during the relevant year. The Government of India has acknowledged and accepted that if the conditions, as referred to in Article 16 of the DTAA between India and France, are fulfilled; the same shall be exempted from the levy of tax from salaries and wages.

INCOME TAX OFFICER vs. SHRI RAMESH KUMAR GOENKA (2012-TII-241-ITAT-MUM-INTL) Dated: 14 December, 2012

Facts

Assessee is a tax-resident of Dubai. He had earned capital gains on shares in India. The Revenue held that the gains were taxable in India only. Regarding this assessee's counsel contended that in the previous AY, case involving similar issue, had been upheld by the Tribunal. DR also agreed that the facts and circumstances of the instant year were similar to those of the preceding year considered and decided by the Tribunal.

Issues

Whether the expression 'liable to tax' in the context of India-UAE DTAA means the assessee has to be necessarily liable to tax in that contracting state?

Whether when a resident of Dubai makes capital gains in India, such income is exempt as per the DTAA provisions?

Held

Tribunal held that the expression "liable to tax" as employed in Article 4(1) of the Indo-UAE DTAA does not necessarily imply that the person should actually be liable to tax in that contracting State.

Tribunal held that, the assessee was entitled to take the benefits of Article 13(3) of the DTAA and treated such income exempt from tax in India.

**SERVICE TAX
(Contributed by CA. A. R. Krishnan,
CA. Girish Raman)**

Banking and Other Financial Services

Under ss. 21 & 21A of the RBI Act, 1934, RBI has the right to transact Government business in India and u/s. 45 of the said Act, it has a right to appoint Nationalised banks/SBI as its agent for such purposes. The appellant bank was appointed as such an agent for a consideration. It was held that, if RBI had undertaken transaction of Government business, it would have been exempted under Notification no. 22/2006 dated 13.4.2006 which exempts taxable services rendered by RBI; therefore, since the appellant is an 'agent' of RBI, it steps into the shoes of RBI, and hence the benefit of exemption available to RBI would also be available to its agent viz., the appellant bank [*Canara Bank vs. CST (2012) 28 STR369 (Tri.-Ahmd.)*].

Business Auxiliary Service

Where distributors purchased lottery tickets at a discounted price from the promoter/organiser of the lottery and sold them to retailer sharing the discount with them who in turn sold the tickets to the ultimate consumers who are the purchasers, the High Court held that the discount/commission received by the distributors as well as the retailers for marketing the lottery tickets is nothing but consideration for service rendered to the promoter or organiser of lottery and is liable for service tax u/s. 65(19)(ii) read with the Explanation introduced by the Finance Act, 2008 as being 'service in relation to promotion or marketing of a service provided by the client'. Further, it was also held that the Explanation is not unconstitutional [*P. Muraleedharan vs. UOI (2012) 28 STR344 (Ker.)*].

Construction of Residential Complex

- The explanation added w.e.f. 1.7.2010 in clause 65(105)(zzzh) of Finance Act, 1994 which had sought to tax sale of under construction flats is not retrospective in nature [*CCE vs. Amar Nath Aggarwal Builders P.Ltd. (2012) 28 STR364 (Tri.-Del.)*].
- Construction of 15 independent residential units in a compound would not amount to construction of a residential complex i.e. construction of building / buildings with more than 12 residential units and hence no service tax would be payable on such construction services under the category of 'Construction of Complex Services' [*A. S. Skarwar vs. CCE (2012) 28 STR479 (Tri.-Del.)*].

Electricity Transmission

Activities of the appellant, a electricity transmission company, like installation of electricity meters and testing the same were held to be services relating to the transmission and distribution of electricity and hence exempt from service tax vide Notification No. 45/2010-ST dated 20.7.2010 [*Paschimanchal Vidyut Vitran Nigam Ltd. vs. CCE (2012) 28 STR 412 (Tri.-Del.)*].



Import of Service

No service tax would be payable for services received from foreign service provider for the period prior to 18.4.2006 even if the service provider has a liaison office in India [*Mitsui & Co. Ltd. vs. CCST (2012) 28 STR491 (Tri.-Kolkata)*].

Insurance Services

The following services of the Kerala State Insurance Department was held to be taxable/non-taxable by the Court:

- (i) Providing life insurance coverage to the employees of the state Government under rule 22A of Part I of Kerala Service Rules, is part of a 'statutory obligation' and hence not a 'taxable service' so as to attract service tax liability.
- (ii) General insurance provided in case of assets owned by the State Government is not liable for service tax as no service is being extended to anybody else, but to self.
- (iii) General insurance extended to commercial institutions/ individuals including Government companies are liable for service tax as no statutory duty is involved, unless it is exempted u/s. 93 of the Act. [*Kerala State Insurance Department vs. Union of India (2012) 28 STR 337 (Ker.)*].

Mining Service

The activity of beneficiation / washing of raw coal at washery is liable for service tax under the category of 'Mining services' introduced w.e.f 1.6.2007 and not under the category of 'Business Auxiliary Services' prior to 1.6.2007 [*Spectrum Coal & Power Ltd. vs. CCE(2012) 28 STR510 (Tri.-Del.)*].

Sale vs. Service

Supply of imported as well as indigenous designs and drawings which were assessed as goods liable to customs duty / excise duty, cannot be made liable to service tax [*Mitsui & Co. Ltd. vs. CCST (2012) 28 STR491 (Tri.-Kolkata)*].

Storage and Warehousing service

- On the question whether 'terminal charges' charged by an assessee, owning an air cargo terminal, from airlines for providing the facility for x-raying, security check, completion of custom-formalities and short duration safe custody of goods and passenger baggage for transit to the plane within a cut-off period of 48 hours from the arrival of the cargo/baggage is liable for service tax under the category 'Storage and warehousing service', the High Court held as follows:
 - (i) Where standard rates are charged based on quantity, volume, nature of handling, etc. irrespective of the time taken within the cut-off period of 48 hours then such charges are not liable for service tax under the category 'Storage and warehousing services'.
 - (ii) Where additional charges are levied over the standard rates for handling and clearance of goods within 48 hours, then such additional charges can be treated as attributable to storage & warehousing and service tax can be levied.

[*Kerala State Indl. Enterprises Ltd. vs. CCE, C&ST (2012) 28 STR574 (Ker.)*].
- The appellant, under a contract with its client drew crude oil from subsea wells, processed it in a 'floating production unit' (FPU) and transported it to fleets. It engaged a foreign company for provision

of operations personnel, maintenance, spare parts, supplies and all other resources necessary for operation at FPU. The department contended that the foreign company provided 'storage and warehousing' services to the appellant and hence the appellant liable for service tax as a recipient of services. On facts, the Tribunal held that the foreign company cannot be treated as 'storage and warehouse keeper' providing storage services [*Aban Loyd Chiles Offshore Ltd. vs. CST (2012) 28 STR622 (Tri.-Chennai)*].

Tour Operator Service

The appellant arranged 'package tours' in the State of Andhra Pradesh and charged abated rate of service tax on the net amount i.e. gross collection less the value of 'supplementary services' viz., train fare, Tirumala Tirupathi Devasthanam darshan ticket charges, Ramoji Film City entry fee, hill transportation charges and waterfleeet charges contending that such charges could not be taxed since 'tour' means a 'journey' from one place to another and any consideration received for such journey is liable and not the above charges. It also contended that these are in the nature of 'reimbursements' not includable in taxable value. The Tribunal dismissed the contention holding that the phrase 'in relation to a tour' in the definition of taxable service in the context of 'tour operators' is wide enough to cover such 'supplementary services' and the amounts collected from tourists for supplementary services rendered by the appellant cannot be termed as 'reimbursements' as the amounts collected are towards the service provided by the appellant and not towards expenditure incurred on behalf of the client [*Andhra Pradesh Tourism Devl. Corpn. Ltd. vs. CCE (2012) 28 STR 595 (Tri.-Bang.) relying on Touraids (I) Travels Services vs. Commissioner (2008) 12 STR452 (Tri.)*].

Works Contract Service

The appellant had an on-going works contract as on 1.6.2007 (the date on which service tax on "Works contract services" were introduced) and had paid service tax on payments received prior to 1.6.2007 *inter alia* under the category of "Construction services". As per rule 3(3) of Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007 introduced w.e.f. 1.6.2007 an assessee could pay tax @2% on the gross contract value provided he opted for the composition scheme before service tax is paid in respect of the works contract. Since, the appellant had already paid tax and could not have opted for the composition scheme it was held that the appellant would not be entitled to avail the benefits of the Composition Scheme. Further, it was also held that Circular No. 98/1/2008-S.T. dated 4.1.2008 interpreting rule 3(3) *ibid* are neither discriminatory in nature nor is it contrary to the Act or statutory rules [*Nagarjuna Construction Company Ltd. vs. Government of India (2012) 28 STR561 (S.C.)*]

CENVAT Credit

- The Tribunal relying on judgment in case of *Shree Rajasthan Syntex Ltd. vs. CCE (2011) 24 STR 670 (Tri.-Del.)* held that the appellant is entitled to utilise CENVAT Credit for payment of service tax on commission paid to an overseas agents under the reverse charge [*Indian Acrylic Ltd. vs. CCE (2012) 28 STR354 (Tri.-Del.)*].
- CENVAT Credit cannot be disallowed on the ground that the assessee did not maintain separate accounts of CENVAT Credit used for payment of excise duty on final product manufactured and service tax paid on output service since there is no such provision in CENVAT Credit Rules, 2004 [*Jyoti Structures Ltd. vs. CCE (2012) 28 STR 380 (Tri.-Mumbai)*].
- Where goods are exported on FOB/CIF basis, CENVAT credit of service tax paid on outward transportation from factory to port of



shipment is admissible [*Oriental Containers Ltd. vs. CCE(2012) 28 STR 397 (Tri.-Mumbai)*].

- CENVAT Credit of service tax paid on GTA service used for transporting raw material from the place of supplier to job workers' premises without bringing them into the assessee's premises is allowable [*CCE vs. KEC International Ltd. (2012) 28 STR 399 (Tri.-Del.)*].
- CENVAT Credit availed on consultancy engineering services used for modernisation of the power plant used for manufacturing paper (dutiable product) cannot be denied merely on the ground that the modernisation was done using technology that resulted in earning carbon credits/ Certified Emission Reduction Sale (CERS) income which is not liable to excise duty/service tax [*Shree Bhawani Paper Mills Ltd. vs. CCE(2012) 28 STR 409 (Tri.-Del.)*].
- CENVAT Credit of service tax paid on insurance of vehicles registered in the name of director of company was allowed subject to verification that vehicle was figuring as asset in the balance sheet of the company and its expenditure were met by the company [*Valco Industries Ltd. vs. CCE(2012) 28 STR 457 (Tri.-Del.)*].
- CENVAT Credit of input services received in a factory can be taken on the basis of bill addressed to the headquarters (H.Q.) without the H.Q. obtaining registration as Input Service Distributor [*Valco Industries Ltd. vs. CCE(2012) 28 STR 457 (Tri.-Del.)*].
- CENVAT Credit of mobile services used by director would be allowable subject to reduction of CENVAT credit attributable to factory located in exempted area [*Valco Industries Ltd. vs. CCE(2012) 28 STR 457 (Tri.-Del.)*].
- Invoices raised in the 'brand name' or 'earlier name' of the company would be eligible documents for claiming CENVAT Credit in view of proviso to Rule 9(2) of CENVAT Credit Rules, 2004 [*Valco Industries Ltd. vs. CCE(2012) 28 STR 457 (Tri.-Del.)*].
- The Tribunal relying on judgment in case of *Well Known Polyesters Limited vs. CCE(2012) 25 STR 411* (Tribunal) held that the appellant after obtaining service tax registration would be eligible to avail CENVAT Credit of input service tax paid prior to obtaining such registration. It further held that refund of such credit could also be claimed if it remains unutilised [*C. Metric Solution Pvt. Ltd. vs. CCE(2012) 28 STR 460 (Tri.-Ahmd.)*].
- CENVAT Credit availed by an exporter on clearing, commission on export sales, material handling, terminal handling, bank commission and aviation charges would be allowable since these services are availed in the course of business of manufacturing [*JSW Steel Ltd. vs. CCE(2012) 28 STR 557 (Tri.-Mumbai)*].
- CENVAT Credit availed on insurance of vehicles, finished goods in godown located inside and outside factory, finished goods in transit, cash in box/counters, cash in transit and personal insurance of cashier would be allowed since it is necessary to make the assessee risk free for carrying out its manufacturing operations and other activities related thereto [*DSCL Sugar vs. CCE(2012) 28 STR 559 (Tri.-Del.)*].
- The Tribunal relying on judgment in case of *Spenta International Ltd. vs. Commissioner (2007) 216 ELT 133* (Tri.-LB) held that eligibility of CENVAT Credit on capital goods is to be determined with reference to the taxability of the output service on the date of receipt of such capital goods. Thus, CENVAT Credit on capital goods received on 5.5.2005 for providing 'construction services', which subsequently became taxable w.e.f. 16.6.2005, cannot be allowed [*CCE vs. Aneri Construction (2012) 28 STR 578 (Tri.-Ahmd.)*].

- Where the appellant, a manufacturer of excisable goods, had short paid service tax under reverse charge on services received from overseas marketing agents prior to 18.4.2006 but took credit of the tax actually paid, the Tribunal held that –

- Prior to 18/4/2006, no service tax is payable by the service recipient for services received from abroad as the provisions of rule 2(1)(d)(iv) were *ultra vires* the provisions of Finance Act, 1994, and hence the demand of the service tax short paid is not sustainable.
- As per rule 9(1) of CENVAT Credit Rules, 2004, the criterion for availing CENVAT Credit is with reference to the date of the invoice (which must be after 10/9/2004) and not the date on which service is provided. Hence the department's contention for denying credit on the ground that the services pertained to a period prior to 10.9.2004 is not sustainable [*H.R. International vs. CCE(2012) 28 STR 580 (Tri.-Del.)*].

Demand

The Tribunal relying on judgment in case of *Unison Metals Ltd. vs. Commissioner (2006) 4 STR 491* (Tri.-LB) held that where the appellant had already paid the service tax amount collected from the customers to the revenue through CENVAT Credit, no service tax needs to be deposited once again in cash in case of proceedings u/s. 73A [*Sangam India Ltd. vs. CCE(2012) 28 STR 627 (Tri.-Del.)*].

Limitation

- Extended period of limitation could not be invoked where there was ample correspondence with the department on the issue under consideration and several Tribunal decisions in favour of the appellant during the relevant period. [*Universal Enterprises vs. CCE(2012) 28 STR 466 (Tri.-Del.)*].
- On facts, where it was found that there was continuous correspondence with the department on the issue and conflicting interpretation of statutory provisions and notifications, the extended period of limitation cannot be invoked [*Andhra Pradesh Tourism Devl. Corpn. Ltd. vs. CCE(2012) 28 STR 595 (Tri.-Bang.)*].

Penalty

- Where, the appellant on being pointed out by the department during the course of investigation paid service tax along with interest on GTA service and overseas commission, the Tribunal waived penalty u/s 78 of the Act as the appellant is entitled to take credit of the same and no extra benefit was earned on account of suppression [*India Trimmings Pvt. Ltd. vs. CCE(2012) 28 STR 401 (Tri.-Chennai)*].
- The Tribunal relying on judgment in case of *Commissioner vs. Motorworld (2012) 27 STR 225* (Ker.) deleted the penalty u/s. 76 since the show cause notice issued post amendment in section 78 w.e.f. 10.5.2008 which provided for non-imposition of penalty under section 76 if penalty under section 78 is imposed [*Jivant Enterprise vs. CST(2012) 28 STR 582 (Tri.-Ahmd.)*].

Refund

- Where the appellant had paid service tax along with interest on reverse charge basis on overseas payments made prior to 18.4.2006 (though not liable); took CENVAT Credit of the tax paid but claimed refund of the interest, the Tribunal rejected the refund claim relying on judgment in case of *CCE vs. SKF India Ltd. (2009) 239 ELT 385* (S.C.) on the ground that when the appellant had admitted the service tax liability by not claiming refund and taking credit of the same, interest on delayed payment is payable by the appellant and cannot



be refunded [*Skoda Auto India Pvt. Ltd. vs. CCE(2012) 28 STR391 (Tri.-Mumbai)*].

- The appellant, a merchant exporter, had applied for refund of service tax paid (as payer of freight) on GTA service used for export of food items under n/n. 17/2009-ST, though service tax on such transportation was exempt vide n/n. 33/2004-ST. The department denied refund on the ground that the services were exempt. The Tribunal held that there is no provision barring payment of service tax on an exempt service like s. 5A(1A) of Central Excise Act, 1944 which bars payment of excise duty on an exempt product. Hence the refund claim of the appellant cannot be denied [*Crown Products Pvt. Ltd. vs. CCE(2012) 28 STR406 (Tri.-Mumbai)*].
- The refund of CENVAT Credit on inputs/input services used for manufacture of goods exported under Rule 5 of CENVAT Credit Rules, 2004 r/w Notification No. 5/2006-C.E. (N.T.) and section 11B of the Central Excise Act, 1944, must be claimed within one year from the date on which final products are cleared for exports [*CCE vs. GTN Engineering (I) Ltd. (2012) 28 STR426 (Mad.)*].
- ? Refund of service tax paid on input services used for export of goods was held to be allowable on the basis of certified copies of invoices instead of original invoices, in view of Board's Circular No. 112/6/2009 – ST dated 12-3-2009 [*CCE vs. Gokul Refoils & Solvents Ltd. (2012) 28 STR488 (Tri. –Ahmd.)*].

- Refund of service tax paid on fumigation charges i.e. specialised cleaning charges incurred for containers carrying agricultural products for export was disallowed in absence of written agreement between the buyer and seller [*CCE vs. Gokul Refoils & Solvents Ltd. (2012) 28 STR488 (Tri. –Ahmd.)*].
- For claiming refund of service tax paid on scientific testing services used in export of goods, there is no need to establish correlation between the samples tested and consignment exported under Notification No. 17/2009 dated 7/7/2009 [*Trident Ltd. vs. CCE(2012) 28 STR505 (Tri. –Del.)*].
- For claiming refund of service tax paid on transportation service vide Notification No. 17/2009 dated 7.7.2009, it is sufficient that the goods were exported through the Inland Container Depot (ICD) concerned and it is not material that the receipt issued for the said service could not be correlated with the consignments exported [*Trident Ltd. vs. CCE (2012) 28 STR505 (Tri. –Del.)*].
- Refund of amount deposited during investigation as payment under protest – unjust enrichment not possible when demand dropped since it is refund of deposit towards duty and not refund of duty [*CCE vs. Krypton Industries (2012) 28 STR555 (Tri. –Kolkata)*].



“Sub-Regional Conference 2012 on the theme Taxation” held on 22nd & 23rd December, 2012 at Pune



CA. Dinesh Gandhi, Treasurer, WIRC, CA. R.K. Panda, ITAT Member, Chief Guest, CA. Jagdeesh Dhongde, CA. Mohan Gujar, CA. Sanjay Pawar, Chairman, Pune Branch, CA. Pramod Joshi, CA. Narendra Agarwal

Members Regional Convention on International Taxation held on 21st & 22nd December, 2012 at Vasai



CA. Unmesh Narvekar, CA. Ramananda Gupta, CA. Shweta Jain, Chairperson, Vasai Branch, Prof. Roy Rohatgi, Session Chairman, CA. Dinesh Gandhi, Treasurer, WIRC, CA. Kishor Vaishnav, CA. Haresh Mehta

Regional Tax Convention held on 15th & 16th December, 2012 at Nashik



Shri J. M. Sahay Chief Guest Hon CCIT lighting the lamp at the Regional Tax Convention held on 15/12/2012. (L-R) : CA. Ujwal Navsarikar, CA. Vikrant Kulkarni, Chairman, Nashik Branch, CA. Sanjeev Mutha, Faculty, Adv. Ajay Singh, Faculty, CA. Mahendra Sanghavi, CA. Pratul Bardiya, CA. Ulhas Borse, CA. Brijesh Surana.

CPE Regional Convention held on 1st December, 2012 at Nagpur



Shri Ajay Sancheti, Hon'ble Member of Rajya Sabha inaugurating the Convention by lighting the auspicious lamp. (L-R) : CA. Kapil Bahri, Faculty, CA. Rashmin Sanghavi, Faculty, CA. Makarand Joshi, RCM, CA. Ashwini Agrawal, CA. Swapnil Agrawal, CA. R. S. Temurnikar, CA. Satish Sarda, CA. Kirti Agrawal

Seminar on Emerging Areas in Corporate Finance held on 1st December, 2012



Adv. Umesh Shetty



Shri Pankaj Wadhwan



CA. B.L. Maheshwari



Shri Ravi Tyagi



Shri Amar Mainkar



Shri Shishir Jain

Seminar on Cross Border Reorganisation held on 29th December, 2012



CA. Jiger Saiya, CA. Yashodhan Pradhan, Faculty, CA. Maulik Mehta

Other Speakers



CA. Zulfiqar Shivji



CA. Mehul Bheda



CA. Ritu Shaktawat

CA Students Festival held on 30th December, 2012



Vasai : Members Regional Convention on International Taxation held on 21 & 22/12/12. (L-R) : CA. Waman Kale, Faculty, CA. Shweta Jain, Branch Chairperson, CA. T.P. Ostwal, Session Chairman, CA. Vaishali Mane, Faculty



Vapi : Group Photograph taken during the GD on the Latest Development of Income Tax held on 11/12/12.



Kolhapur : CA. Shivraj Magar addressing the GMCS Batch starting from 26/12/2012

WIRC Students Conference held on 15th December, 2012 at Jamnagar



CA. Jaydeep Narendra Shah, President ICAI inaugurating of WIRC Students Conference held on 15/12/2012. (L-R) : CA. Anand Raichura, CA. Mahesh Sarda, CCM, CA. Umesh Ravani, Chairman, Jamnagar Branch, CA. Kirit Bheda



Amravati : CA. Jaydeep N. Shah, President ICAI, Inaugurating Branch Building held on 9/12/2012. (L-R) : CA. H.B. Heda, CA. R.R. Khandelwal, CA. Prakash Warde, CA. Sanjay Lakhota, Branch Chairman, CA. Vijay Jadhao, CA. Vishnukant Soni, CA. Nilesh Lathiya, CA. P.C. Agrawal



Aurangabad : Study Circle Meeting Jointly with Income Tax & Tax Practitioners Association held on 07/12/2012. (L-R) : CA. Nikhil Gramle, Branch Chairman, Shri Gauram Sancheti, Ms. Ekta Bishnoi, ITO, Shri O. P. Kakraliya, CIT, CA. Vijay Rathi



Bharuch : Two Days Workshop on Enabling Service Tax Practice held on 21 & 22/12/2012



Jamnagar : CA. Jaydeep Narendra Shah, President ICAI inaugurating New Branch Premises on 15/12/2012. (L-R) : CA. Umesh Ravani, Branch Chairman, CA. Mahesh Sarda, CCM & Other Members



Nagpur : Seminar on MVAT Audit-2012 held on 22/12/2012. (L-R) : CA. Rajendra Bhutada, Faculty, CA. Ashwini Agrawal, CA. Makarand Joshi, RCM, CA. Swapnil Agrawal, CA. R.S. Temurnikar, CA. Umesh Sharma, Faculty, CA. Mayur Zanwar, Faculty, CA. Kirti Agrawal



Nashik : Industrial visit at Mahindra & Mahindra Company held on 26/12/2012. (L-R) : CA. Ulhas Borse, CA Ujwal Navsarikar, CA. Prashant Dhage, Mr. Amay Joshi, Ms. Asha Sabharwal, Admin officer, M & M & Others



Pune : Mrs. Arnavaz Damania, Chief Guest lighting lamp at the "Women CAs Conference" held on 2/12/2012



Rajkot : CA. Jaydeep Shah, President, ICAI, Inaugurating of Rajkot Branch Directory at WIRC Knowledge Conclave-2012 held on 15 & 16/12/2012. (L-R) : CA. Sagar Mehta, CA. Mahesh Sarda, CCM, CA. Sharad Anada, Branch Chairman, CA. Abhishek Doshi



Surat : All Gujarat CA Tax Conference held on 25/12/2012. (L-R) : CA. Prashant Sharma, CA. Vijay Jagani, Shri Aditya Vikram, CIT-Surat, Chief Guest, CA. P. C. Choudhary, Branch Chairman, CA. Rajiv Chanda, CA. Hemant Jariwala, CA. Mukesh Kabra, CA. Pragnesh Jagasheth, CA. Sapnesh Sheth



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CA. Jaydeep Shah, President, ICAI & CA. Pradeep Agarwal, Chairman, Baroda Branch, performing Pooja Ceremony of ICAI Bhawan - Baroda Phase-II



CA. Jaydeep Shah, President, ICAI, CA. Bhavna Doshi, Chairperson, Research Committee, ICAI, Shri V. N. Kaul, Chief Guest, Former C&AG of India, CA. Subodh Agrawal, Vice President, ICAI, CA. Durgesh Kabra, Chairman, WIRC & Other Jury Members

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