

The Institute of
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WESTERN INDIA CHARTERED ACCOUNTANTS NEWSLETTER

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Campus Placement Orientation Programme held on 27th August, 2013 at Mumbai



CA. Priti Savla, Treasurer, WIRC, CA. Shardul Shah, RCM, CA. Neel Majithia, Secretary, WIRC, CA. Sunil Patodia, RCM, CA. Mangesh Kinare, Chairman, WIRC, Shri Jayant Kumar Banthia, Chief Secretary, Govt. of Maharashtra, CA. Vijay Kumar Gupta, Chairman, CMII-ICAI, CA. Prafulla Chhajed, Vice Chairman, CMII-ICAI, CA. Dilip Apte, RCM, CA. S. G. Mundada, RCM, CA. Sandeep Jain, RCM, CA. Mahesh Madkholkar, RCM, CA. Sushrut Chitale, RCM

Flag Hoisting Ceremony on 15th August, 2013 at ICAI Tower, BKC, Mumbai



Conference on Real Estate Transactions held on 24th August, 2013



CA. Tarun Ghia, CCM & Faculty, CA. Yashesh Jakhelia, CA. Mahendra Turakhia, CA. Sunil Patodia, RCM, CA. Sanjeev Vora

National Conferences for Members



CA. Mangesh Kinare, Chairman, WIRC Lighting the Lamp at the National CPE Conference held on 16-17/8/2013 at Goa. (L-R): CA. Kedar Kenkre, CA. Yeshwant Kamat, CA. Kiran Kharangate, CA. Sushrut Chitale, RCM, CA. Anup R. S. Borkar, Branch Chairman, CA. Parag Raval, Vice Chairman, WIRC, CA. Naveen Daivajna

Students' Conferences



Group photograph of Organising team and Paper writers of Two Day Sub Regional Conference for CA students held on 10-11/8/2013 at Jamnagar.

National Conference on Emerging Paradigm for Accounting: Special Thrust on Professional Service and its Quality held on 24th-25th August, 2013



CA. Rajiv Singh, Faculty, CA. Priti Savla, Treasurer, WIRC, CA. Mangesh Kinare, Chairman, WIRC, CA. Shyam Lal Agarwal, CCM & Faculty, CA. Shardul Shah, RCM, CA. C. V. Sajan, Faculty, CA. Durgesh Kabra, Past Chairman, WIRC, CA. Anil Bhandari, RCM

Study Course on Financial Records & Audit Techniques for Officers of Service Tax held on 28th August, 2013



CA. Mangesh Kinare, Chairman, WIRC, Shri R. Sekar, Commissioner Service Tax-II, Mumbai, Shri V. S. Krishnan, Chief Commissioner, Central Excise & Service Tax, CA. Pankaj Jain, CCM, CA. A. R. Krishnan, Faculty, CA. Shardul Shah, RCM

Seminar on Corporate Taxation held on 24th August, 2013



CA. Mehul Sheth, CA. Vishnu Agarwal, RCM, CA. Arun Saripalli, Faculty, CA. Vijay Kumar Gupta, Chairman, CMII, CA. Prafulla Chhajed, Vice Chairman, CMII, CA. Dilip Apte, RCM, CA. Mahavir Jain



CA. Subodh Kumar Agrawal, President, ICAI addressing at the National Conference on Taxation-2013 at Surat. (L-R): CA. Balkishan Agarwal, CA. Hardik Shah, RCM, CA. Jay Chharia, CCM, CA. Vijay Jagani, Branch Chairman, CA. K. Raghu, Vice President, ICAI, CA. Mangesh Kinare, Chairman, WIRC, CA. Hemant Jariwala, CA. Hardik Patel



CA. Jay Chharia, CCM, CA. Mangesh Kinare, Chairman WIRC, CA. Parag Raval, Vice Chairman, WIRC, CA. Neel Majithia, Secretary, WIRC, CA. Priti Savla, Treasurer, WIRC and Regional Council Members along with Nashik Branch Managing Committee Members during Inauguration of Students' Regional Conference at Nashik.



CHAIRMAN'S COMMUNICATION

All that is real in me is God; all that is real in God is I. The gulf between God and me is thus bridged. Thus by knowing God, we find that the kingdom of heaven is within us

–Swami Vivekananda



Respected Seniors & Dear Friends,

Last month, changes in two major Acts impacted our profession – the Companies Act and the Co-operative Societies Act in Maharashtra. The month started with the Maharashtra Assembly passing the new MCS Act and it ended with the Parliament giving birth to the new Companies Act, 2013.

The new Companies Act has changed many provisions of the earlier Act and has created certain revolutionary provisions like compulsory CSR for certain companies, appointment of at least one woman director, introduction of electronic voting and so on. Certain provisions are directly affecting our profession and are apparently posing challenges to the fraternity as well. However, as mentioned by ICAI President in his recent communication, Members will get an opportunity to address these issues by giving their valuable comments on the draft Rules that will be put up before them soon. It will be our duty as citizens and as members of the fraternity to study and comment on the new draft Rules. We, at WIRC, will be forming a study group to make an in-depth study of the new Act and draft Rules and will send the report to the Council.

The Maharashtra Co-operative Societies Act has also seen changes in provisions regarding audit. Members would be pleased to know that stringent provisions in the earlier Bill regarding experience of auditors – which were affecting young CAs and new partnership firms – have been relaxed. Audit fees also, will not be decided at the AGM or by the Board, but shall now be 'as prescribed'. I thank all my colleagues in Co-operative Societies (Maharashtra) Committee for their dedicated efforts in pursuing these issues with the Co-operative Department. I am happy to inform you, that in recognition of our efforts, the Maharashtra Co-operative Department has asked WIRC to join hands with them to prepare a co-operative audit manual.

The Sales Tax Department in Maharashtra has come out with a new Form 704 for MVAT Audit which does not have major changes compared to the earlier Form. The relevant changes in clauses and corresponding audit procedures will be reflected in our publication 'Guide to MVAT Audit', the revised edition of which will be compiled and released soon.

Upholding our mission of taking up professional development activities to further benefit society at large, WIRC has formed a sub-group to study various Government Incentive Schemes. At the first meeting on 26th August, it was decided to study various schemes, compile a comprehensive publication on the subject and make suggestions to the Government based on industry feedback.

Last month, I visited Goa, Navi Mumbai, Pimpri-Chinchwad, Jalgaon, Latur and Solapur Branches of WIRC and interacted with Members and Students there. We have compiled the suggestions and feedback received on our President's Action Plan, through my interactions with various Branches and industry meets. These suggestions are hosted on the WIRC website and I request Members to give their inputs as well.

Today, many CAs are still not life members of CABF. A branch wise list of such Members has been sent to respective Branches. I appeal to Members to co-operate with the Branch Committee Members and become life members of CABF and also contribute generously to augment the CABF.

The last month saw National Conferences at Surat and Goa, Regional Convention at Aurangabad and Regional as well as Sub-Regional Students Conferences at Nasik and Jamnagar respectively. All these programmes were very successful. We also hosted a programme on commercial literacy for service tax officials, organised by Indirect Tax Committee of ICAI. A more comprehensive programme for these officials will be held in this month as well.

The rapid weakening of the rupee against the dollar coupled with the falling economic growth is causing a lot of worry at all levels. We had a very thought provoking lecture meeting on this subject addressed by Dr. CA. V. M. Govilkar recently where he explained various internal and external factors affecting Indian economy. The views expressed by outgoing RBI Governor Dr. D. Subbarao at the 10th Nani Palkhivala Memorial Lecture on the current economic scenario are worth reading, as they are most relevant to us as our profession is intricately linked to the economy. We hope that the new RBI Governor, with his excellent academic background, will be able to direct the economy to the path of recovery.

The tax audit season has started with e-filing of tax audit report being made compulsory. The introduction of new utilities intermittently by the Income-tax Department is posing a lot of problems to Members. As mentioned in my last communication, we have formed a help desk on WIRC website with a list of relevant FAQs. Members can also put issues not set in FAQs in the query box on our website and a panel of experts will address the same.

It is with pride that I inform you that our WIRC Reference Manual 2013-14 was released by Shri Jayant Kumar Banthia, Chief Secretary, Government of Maharashtra on 27th August, 2013. The mammoth efforts taken by the entire team can be seen in this excellent publication and I thank all the contributors for their selfless dedication. We know that the Manual holds a pride of place for our Members, who use it as a handy guide for discharging their professional work.

We are in the midst of celebrating the Ganesh festival. Lord Ganesha is Buddhidhata (God of Knowledge) and Vighnaharta (Remover of Obstacles). Let us pray that He continues to shower upon us the knowledge and wisdom to grow in our profession as well as to remove all obstacles from our paths.

With Best Wishes,

CA. Mangesh Kinare

OFFICE BEARERS

CA. Mangesh Kinare, Chairman **CA. Parag Raval**, Vice-Chairman
CA. Neel Majithia, Secretary **CA. Priti Savla**, Treasurer

EDITORIAL BOARD

Editor: **CA. Mangesh Kinare** Joint Editor: **CA. Neel Majithia**

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CA. Anil Bhandari • CA. Shruti Shah • CA. Sushrut Chitale

- Page 04** Forthcoming Events
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06
CPE HRS

Seminar on NBFC, HFC, CHIT FUNDS, MFI, CIS

DAY & DATE SATURDAY, 21ST SEPTEMBER, 2013

Venue	Khimji Kunverji Vikamsey Auditorium, ICAI Tower, Near Standard Chartered Bank, Bandra-Kurla Complex, Mumbai	
Time	9.30 a.m. to 5.30 p.m.	
Fees	₹ 1,500/-	
Programme Chairman	CA. Jay Ajit Chhaira	9825196241
	Vice Chairman, CFM & IP	

TOPICS	SPEAKERS
Welcome Address	Shri N. S. Vishwanathan PCGM, RBI
First Technical Session Overview of non financial activities regulatory framework , NBFC, Chit, HFC, collective investment schemes, Nidhi cos. , money lending	CA. Amit Kabra
Second Technical Session NBFC- Loan Documentation	CA. Tarun Ghia
Third Technical Session Deemed NBFCs and how to address such cases	CA. Jayesh Thakur
Fourth Technical Session Audit, documentation and reporting in case of NBFCs	CA. Paresh Clerk
Panel Discussion	CA. Bhavesh Vora CA. Jayant Thakur

For Registration: Secretary, Committee on Financial Markets & Investors' Protection, ICAI, Email-id: cf mip@icai.in; 08800047231; 0120-3045945

The cheque should be drawn in favour of "The Secretary, The Institute of Chartered Accountants of India", and cheque should be sent to: The Committee on Financial Markets and Investors' Protection "ICAI Bhawan", A-29, Sector 62 Noida-201309

Organised by
Committee on Financial Markets & Investors Protection of ICAI

06
CPE HRS

Seminar on Debt Restructuring & Securitisation

DAY & DATE SATURDAY, 21ST SEPTEMBER, 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	₹ 1,200/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)	
Chief Co-ordinators	CA. Julfesh Shah	9823096540
	CA. Sandeep Jain	9819788099
	(Regional Council Members)	

TOPICS	SPEAKERS
Debt Restructuring – The Need of the Hour	Shri Omprakash Jain
Compromise & One Time Settlement	Eminent Faculty
DRT Mechanism – Law & Practice	Adv. Mukesh Jain
Law & Procedure of Securitisation & Reconstruction of Financial Assets	CA. Pankaj Majithia

06
CPE HRS

Seminar on Interpretation of Important Tax Treaties vis-a-vis Articles in DTAA with Case Studies

DAY & DATE SATURDAY, 5TH OCTOBER, 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	₹ 1,200/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)	
Chief Co-ordinators	CA. Neel Majithia	9820327660
	CA. Shruti Shah	9892407988
	CA. Hardik Shah	9825510422
	(Regional Council Members)	

TOPICS	SPEAKERS
Overview of Tax Treaties and its application	CA. Rajesh Patil
Articles – 13 & 14 Capital Gains & Independent Personal Services	CA. Jiger Saiya
Articles – 15, 16, 17 Dependent Personal Services, Directors, Artists & Sportsmen	CA. Shreyas Shah*
Article – 5 Permanent Establishment & Article – 7 Business Profits	CA. Radhakrishna Rawal
Articles – 11 & 12 Interest, Royalties & FTS	CA. Rishi Kapadia

*Subject to confirmation

06
CPE HRS

Seminar on Relevant Provisions of Amended Maharashtra Co-operative Societies Act

After 97th Constitutional Amendment, the Maharashtra Co-op. Soc. Act (MCS Act) has undergone many changes. The seminar intends to cover changes which are relevant with respect to Audit, Reporting requirements & Auditors Responsibilities.

DAY & DATE SATURDAY, 5TH OCTOBER, 2013

Venue	Khimji Kunverji Vikamsey Auditorium, ICAI Tower, Near Standard Chartered Bank, Bandra-Kurla Complex, Mumbai	
Time	10.00 a.m. to 6.00 p.m. (Registration & Breakfast 9.00 a.m. to 10.00 a.m.)	
Fees	₹ 1,200/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)	
Chief Co-ordinators	CA. Girish Kulkarni	9225306814
	CA. Sushrut Chitale	9821112904
	(Regional Council Members)	

TOPICS	SPEAKERS
Membership, Elections & Decision Making in Societies	CA. Ramesh Prabhu
Maintenance of Records, Registers, Accounts & Filing of Returns	CA. Mohan Sanzgiri
Audit of Co-operative Societies, Reporting Requirements, Enhanced Responsibilities of Auditors	CA. Sachin Ambekar
Impact of Amendments on functioning of different classes of societies	Shri Vidyadhar Anaskar

06
CPE HRS

Seminar on Manifesting Companies Act, 2013 - Important Provisions

DAY & DATE	SATURDAY, 19TH OCTOBER, 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	₹ 1,200/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)	
Chief Co-ordinators	CA. Parag Raval 9824339200	CA. Sushrut Chitale 9821112904 (Regional Council Members)
Co-ordinators	CA. Amol Kamat 9823018763	CA. Sunil Dedhia 9820780040 CA. Aalok Mehta 9892001645

TOPICS	SPEAKERS
Keynote Address High Impact Areas, Story so far and Broad Comparison between current <i>vis-à-vis</i> proposed provisions	CA. Anand Bathiya
New Regulatory Bodies (NCLT, NFRA, SFIO, etc.) CSR and Regulations relating to the Foreign Companies and their Indian Subsidiaries, New Concepts – Small Companies/Dormant Companies/One Person Company	CA. Anand Bathiya
One Person Company, Penalties/Prosecution, Class Action, New Requirements relating to Corporate Governance, Independent Directors, New Concepts in Mergers and Amalgamations, Key Managerial Personnel and Officer in default, Certain related issues	CA. Anand Banka
Administration and Governance (Small Companies, Dormant Companies, Foreign Companies, Directors, Members, Remuneration to Directors etc.,	CA. Chintan Patel

02
CPE HRS

Lecture Meeting on Dealing with Ethical Dilemmas

DAY & DATE	THURSDAY, 3RD OCTOBER, 2013	
Venue	J.S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	6.00 p.m. to 8.00 p.m.	
Chief Co-ordinators	CA. Shardul Shah 9820287625	CA. Dilip Apte 9930314856 (Regional Council Members)
Co-ordinators	CA. Nikhil Damle 9820170436	CA. Vikas Vishwasrao 9892915272

TOPIC	SPEAKER
Dealing with Ethical Dilemmas	Bhakti Rasamitra Swami

09
CPE HRS

Workshop on Valuation

DAYS & DATES	FRIDAY, 11TH & SATURDAY, 12TH OCTOBER, 2013	
Venue	J.S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	5.00 p.m. to 8.00 p.m. Friday 10.00 a.m. to 6.00 p.m. Saturday	
Fees	₹ 1,500/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)	
Chief Co-ordinators	CA. Priti Savla 9321426883	CA. Vishnu Agarwal 9324544607 CA. Priyam Shah 9824096112 (Regional Council Members)

TOPICS	SPEAKERS
11th October, 2013 Overview of Valuations and Case studies	CA. Sujal Shah
12th October, 2013 DCF method of Valuation including Case Study Information Review and Documentation Valuation of Intangibles	CA. Parag Ved CA. Pinkesh Billimoria CA. Amish Mehta

06
CPE HRS

Seminar on Doing Business in Maharashtra

The State level conference on "Doing Business in Maharashtra" intends to create awareness amongst the participants about the State's industrial policy as also various incentives like subsidies. This programme also aims at creating awareness amongst chartered accountants about emerging professional opportunities in related areas.

DAY & DATE	SATURDAY, 19TH OCTOBER, 2013	
Venue	Khimji Kunverji Vikamsey Auditorium, ICAI Tower, Near Standard Chartered Bank, BKC, Mumbai	
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-ordinators	CA. Sunil Patodia 9820344085	CA. Sushrut Chitale 9821112904 (Regional Council Members)
Co-ordinators	CA. Dattatray Pawar 9967835454	CA. Mukund Mall 9322224142 CA. Anjari Bihani 9819416535

TOPICS	SPEAKERS
Inaugural session Maharashtra Industrial Policy: Vision and Implementation Role of MIDC: Catalyst for Industrial Development Doing Business With MIDC – Successfully Maharashtra's Industrial Development – Opportunities for CAs	Eminent Faculty

Supported by MIDC



Mark your Calendar for

28th REGIONAL CONFERENCE OF WIRC

7th & 8th December, 2013 at Hotel The Lalit Intercontinental, Andheri (E)

Time 9.00 a.m. to 6.00 p.m.

Register before 25th November, 2013 & avail early bird discount.

Fees for Registration upto 25th November, 2013 ₹ 3,500/-

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CPE HRS

06
CPE HRS

Seminar on Value Addition through Management Accounting

DAY & DATE SATURDAY, 16TH NOVEMBER, 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	₹ 1,200/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)
Chief Co-ordinators	CA. Shardul Shah 9820287625 CA. Dhiraj Khandelwal 9867642684 CA. Sarvesh Joshi 9822022292 (Regional Council Members)
Co-ordinators	CA. Aniket Kulkarni 9821690559 CA. Rahul Nagda 9821552234 CA. Prachi Kulkarni 9819179198 CA. Medha Parekh 9819055331

TOPICS	SPEAKERS
Strategic Management	CA. Nimesh Kampani
Role of a CFO in an organisation (A Controller & Value Creator)	CA. Darshan Sheth
Value of Advice (Fund Management)	Shri Abizer Petiwalla
Funding Infrastructure Development (Current & Future Scenario)	Shri Amit Garg

12
CPE HRS

Workshop on Increasing your Efficiency and Productivity through Mission Control

DAY & DATE SATURDAY, 26TH & SUNDAY, 27TH
OCTOBER, 2013

Venue	Seminar Hall, ICAI Tower, Near Standard Chartered Bank, Bandra-Kurla Complex, Mumbai
Time	10.00 a.m. to 6.00 p.m. (Registration & Breakfast 9.00 a.m. to 10.00 a.m.)
Fees	₹ 6,500/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)
Chief Co-ordinators	CA. Neel Majithia 9820327660 CA. Anil Bhandari 9821037605 (Regional Council Members)

TOPICS
Discover Everything There Is To Do and Handle • Language and its impact on productivity • Understand Impact of Power, Freedom and Peace of Mind in your life • Concerns-This module provides you with a way to explore why you do what you do by looking at your concerns. You will understand how Mission Control defines concern, Individual Concerns • Incompletion and Completion - This module provides an opportunity to explore how Incompletions and Completions affect you. You will look at how each thing that is Incomplete or Complete affects your productivity on a daily basis • Someday and Now - This module defines Someday and Now in a way that empowers you to organize all the things you have to do and handle so you can manage and deal with them effectively • Occasion - This module defines Occasion and Calendar of Occasions • The Mission Control Infrastructure -Tools and Standard Work Practices - CA. Manan J. Vasa , Certified Mission Control Trainer

24
CPE HRS

Intensive Study Course on Internal Audit

DAYS & DATES	MON	TUE	WED	THU	FRI
	14/10	15/10	16/10	17/10	18/10
	21/10	22/10	23/10	2013	

Venue	Seminar Hall of All India local Self Govt. Bldg., Juhu Lane, Andheri (W)				
Time	4.45 p.m. to 8.00 p.m.				
Fees	₹ 3,600/- (inclusive of course material & refreshment (Please add ₹ 100/- towards CA Benevolent Fund)				
Chief Co-ordinators	CA. Sandeep Jain	9819788099			
	CA. Anil Bhandari	9821037605			
	CA. Dhiraj Khandelwal	9867642684 (Regional Council Members)			
Co-ordinators	CA. Haridas Bhat	9820089427			9820070768
	CA. Hetvi Sheth	9930006422			9820070768
	CA. B. L. Maheshwari	9820070768			9869201186
	CA. Amar Bafna	9869201186			

TOPICS	SPEAKERS
14/10/2013 Monday - Keynote Address Internal Control Framework- Theory & Practice	Eminent Personality CA. Deepjee Singal
15/10/2013 Tuesday Relevance of Internal Audit Evolution of Internal Audit	CA. Porus Doctor CA. Baskar
16/10/2013 Wednesday Concepts of Risks Enterprise Risk Management	CA. Jyotin Mehta CA. Dipak Ghose
17/10/2013 Thursday Risk Based Internal Audit Internal Audit-Standards, Relevance of Regulatory Framework	CA. Hardik Dhruva Eminent Faculty
18/10/2013 Friday Use of Technology in Internal Audit Case Study-Banking	Eminent Faculty CA. Smita Gune
21/10/2013 Monday Case Study-Manufacturing Case-Study-Migration Audit	CA. Satish Shenoy Eminent Faculty
22/10/2013 Tuesday Case Study-Functional Audit Report Writing	Eminent Faculty CA. Purav Gala
23/10/2013 Wednesday Importance of Soft Skills for Internal Auditor Emerging Opportunities for Practicing CA	CA. Narayan Mantri CA. Rajkumar Adukia

Jointly with J.B. Nagar CPE Study Circle

06
CPE HRS

Seminar on Venture Capital & Fund Raising for SMEs

DAY & DATE SATURDAY, 9TH NOVEMBER, 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	₹ 1,200/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CABF)	
Chief Co-ordinators	CA. Dilip Apte	9930314856
	CA. Sunil Patodia	9820344085
	CA. Subodh Kedia	9879267750 (Regional Council Members)
Co-ordinators	CA. Suneet Mahale	9819966674
	CA. Ketan Mamania	9820343953
	CA. Ankit Anjaria	9930001614
	CA. Sneha Jalan	9022978099

TOPICS TO BE COVERED

Overview of Indian Venture Capital Scenario • Role & Responsibilities of CAs in Venture • Capital Fund Raising & thereafter • Term Sheet Negotiation, Diligence & Documentation • Valuation aspects in Venture Capital Funding

For more details visit www.wirc-icai.org

12
CPE HRS

Workshop on Transfer Pricing

DAYS & DATES		FRIDAY, 25TH & SATURDAY, 26TH OCTOBER, 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	₹ 2,400/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)		
Chief Co-ordinators	CA. Neel Majithia	9820327660	
	CA. Abhishek Nagori	9426075397	
	CA. Shruti Shah	9892407988	
	<i>(Regional Council Members)</i>		
Co-ordinators	CA. Mandar Bhatte	9821470745	
	CA. Kunal Parikh	9892429993	
	CA. Vipul Agrawal	9821359804	

TOPICS TO BE COVERED

25th October, 2013 - Overview of Transfer Pricing Regulations in India (Both Domestic and International Transactions) • Meaning of Associated Enterprises (In relation to both domestic and international transactions) • FAR Analysis – A Comparative Study • Method of Computation – Comparable Uncontrolled Price Method • Method of Computation – Resale Price Method (RPM) and Cost Plus Method (CPM) • Method of Computation – Transactional Net Margin Method (TNMM) and Profit Split Method (PSM)

26th October, 2013 - Documentation for Arriving at Transfer Price – A Practical Insight • Industry Benchmarking for Select Industries • Use of Database – CMIE and others • Drafting of Audit Report / Study Report

For more details visit www.wirc-icai.org

New Members Meet and Felicitation of Rank Holders

DAY & DATE		THURSDAY, 17TH OCTOBER, 2013	
Venue	Khimji Kunverji Vikamsey Auditorium, ICAI Tower, Near Standard Chartered Bank, BKC, Mumbai		
Time	3.30 p.m. to 7.30 p.m.		
Chief Co-ordinators	CA. Priti Savla	9321426883	
	CA. Mahesh Madkholkar	9820075966	
	CA. Satyanarayan Mundada	9422080814	
	<i>(Regional Council Members)</i>		
Chief Guests	CA. Jayant Gokhale, Past Chairman, WIRC & Past CCM		
	CA. Sunil Goyal, Past Chairman, WIRC		
Students who have secured rank in May 2013 examination of CPT, IPCC, PCC & Final CA from the Western Region shall be felicitated.			

DAYS & DATES

WEDNESDAY, 2ND; THURSDAY, 3RD &
FRIDAY, 4TH, OCTOBER, 2013

Venue	Khimji Kunverji Vikamsey Auditorium, ICAI Tower, Near Standard Chartered Bank, BKC		
Time	9.30 a.m. to 5.30 p.m.		
Fees	₹ 750/- (inclusive of course material & refreshment)		
Chief Co-ordinators	CA. Mahesh Madkholkar	9820075966	
	CA. Satyanarayan Mundada	9422080814	
	<i>(Regional Council Members)</i>		
Student Co-ordinators	Mr. Sumit Rathi	8898242257	
	Mr. Swapnil Surolia	9022232197	
	Mr. Vishwas Mishra	9167778313	

TOPIC	SPEAKER
Forex Derivatives & Valuation for CA final	Smt. Archana Khetan

DAYS & DATES

SUNDAY, 6TH & MONDAY, 7TH
OCTOBER, 2013

Venue	K. C. College Auditorium, Churchgate, Mumbai		
Time	9.30 a.m. to 2.30 p.m.		
Fees	₹ 500/- (inclusive of course material & refreshment)		
Chief Co-ordinators	CA. Mahesh Madkholkar	9820075966	
	CA. Vishnu Agarwal		
	<i>(Regional Council Members)</i>		
Student Co-ordinators	Mr. Sumit Rathi	8898242257	
	Mr. Swapnil Surolia	9022232197	
	Mr. Vishwas Mishra	9167778313	

TOPIC	SPEAKER
Indirect Tax for CA final	CA. Yashwant Mangal

DAYS & DATES

SUNDAY, 6TH; MONDAY, 7TH &
TUESDAY, 8TH, OCTOBER, 2013

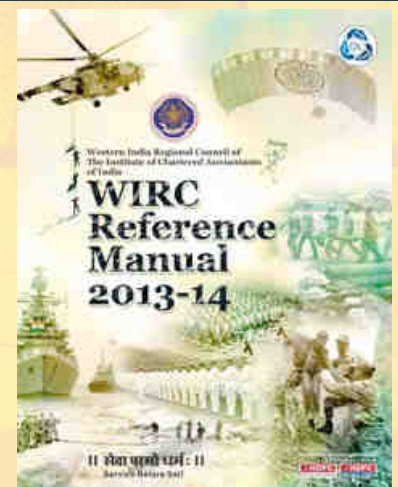
Venue	K. C. College Auditorium, Churchgate, Mumbai		
Time	4.00 p.m. to 7.00 p.m.		
Fees	₹ 1,200/- (inclusive of course material & refreshment)		
Chief Co-ordinators	CA. Mahesh Madkholkar	9820075966	
	CA. Girish Kulkarni	9225306814	
	<i>(Regional Council Members)</i>		
Student Co-ordinators	Mr. Sumit Rathi	8898242257	
	Mr. Swapnil Surolia	9022232197	
	Mr. Vishwas Mishra	9167778313	

TOPIC	SPEAKER
Costing for CA Final	CA. Dani Khandelwal



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FORTHCOMING Study Circle MEETINGS

Date & Day	Time	Subjects	Speaker(s)	Venue	Organised by / Convener / Tel. No.
22/9/2013 Sunday	9.30 a.m.	Issues in Tax Audit & Revised Guidance Note	CA. Usha Prajapati	Mysore Association Conference Hall, 2nd Floor, Bhaudaji Road, Matunga	Matunga CPE Study Circle CA. Atul Shahade M: 9821116850
2/10/2013 Wednesday	6.30 p.m.	New Companies Bill	CA. Vikas Jain	Hotel Woodland, Nadiad	Nadiad CPE Study Circle CA. Prakash Shah M: 9426387696
5/10/2013 Saturday	5:30 p.m.	Peer review Corporate governance	Eminent Speaker Eminent Speaker	May Fair Banquet Hall, Near Prabhodhan Thakre Auditorium, Borivali (W)	Borivali (Central) CPE Study Circle CA. Dushyant Bhatt M: 8655016163
6/10/2013 Sunday	9.30 a.m.	Taxation & Registration of Charitable Trusts	CA. Vipin Batavia	SIMR, Vidyavihar	Chembur CPE Study Circle CA. Vrushali Thakkar M: 9867934666
6/10/2013 Sunday	9.30 a.m.	Analysis of AS 11 and AS 30, Understanding the Forex Fluctuation Hedging	CA. Keyur Dave	Mulund College AC Auditorium, Near Mulund Railway Station, Mulund (W)	Mulund CPE Study Circle CA. Sachin P. Maher M: 9869028560
6/10/2013 Sunday	9.30 a.m.	New Provisions in The Companies Act	CA. Nihar Jambusaria	Mysore Association Conference Hall, 2nd Floor, Bhaudaji Road, Matunga	Matunga CPE Study Circle CA. Atul Shahade M: 9821116850
6/10/2013 Sunday	8.45 a.m.	Out Bound Investment-Tax Strategy & Planning Taxation of Non Resident	CA. Jatin Kanabar CA. N. C. Hegde	Hotel Kohinoor, Andheri Kurla Road, J. B. Nagar, Andheri (E)	J. B. Nagar CPE Study Circle CA. Kamal Dhanuka M: 9867215281
6/10/2013 Sunday	10.00 a.m.	Seminar on Personality Development	Eminent Speaker	Hara Krishna Tampil Ac Hall, Bhaktivedanta Swami Marg, Shristi Mira Road East Thane	Bhayander CPE Study Circle CA. Deepak Bansal M: 9320981019
6/10/2013 Sunday	9:45 a.m.	Study Group Mtg. on Practical issues under Direct Tax	CA. Nilesh Vasa	Vrundas Veg, Gulmohar Road, Behind Ajanta Talkies, Borivali (W)	Borivali (Central) CPE Study Circle CA. Dushyant Bhatt M: 8655016163
20/10/2013 Sunday	9.30 a.m.	Voluntary Compliance Encouragement Scheme under Service Tax Issue Based Reverse Charge Mechanism	CA. Ankit Chande CA. Pradip Shah	Mulund College AC Auditorium, Near Mulund Railway Station, Mulund (W)	Mulund CPE Study Circle CA. Sachin P. Maher M: 9869028560
20/10/2013 Sunday	9:30 a.m.	Case Studies under MVAT Issues under Mvat Audit and Vat assessments	CA. Dushyant Bhatt CA. Dilip Phadke	May Fair Banquet Hall, Near Prabhodhan Thakre Auditorium, Borivali (W)	Borivali (Central) CPE Study Circle CA. Dushyant Bhatt M: 8655016163

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



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- ✚ Valuation of Flats, Shops, Galas, Bungalows, Land & Building and Plant & Machinery, Vehicles etc.
- ✚ Lenders' Independent Engineers (LIE)
- ✚ Techno Economic Feasibility and Viability Studies (TEV).
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REQUIRED A CHARTERED ACCOUNTANT / INTER CA

A Public Limited listed manufacturing company having a turnover of around Rs. 250 crores requires a Chartered Accountant having 5 to 8 years of post qualification experience or an Inter CA (who has given up CA) with 8 to 10 years of experience for its Head Office based in Mumbai.

Extensive experience in Direct & Indirect Tax and Accounting is a must. Knowledge of SAP would be an added advantage.

Salary will be commensurate with Experience.

Interested candidates may email their resumes to AcsFinJobs@gmail.com mentioning 'Taxation & Accounts' in the subject line.

E-SAHAYATAA

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

APPLICATION FOR FACULTIES FOR TAKING LECTURES FOR GMCS COURSE AT MUMBAI

WIRC of ICAI invites applications from members of the Institute who are experienced and interested in taking lectures for General Management and Communication skills course at Mumbai. Interested members may send their resume by e-mail to wirc@icaai.in

INTER ACTIVE VOICE RESPONSE SYSTEM (IVRS) AT CUFFE PARADE, MUMBAI

Members and students are hereby informed the Inter Active Voice Response System (IVRS) at the Institute's office at Cuffe Parade, Mumbai is functional 24*7 for automated response on telephone calls. To avail of this facility, it is requested to call on landline telephone No: 022-39893989 during regular office hours on all working days between 10.00am and 5.30pm, 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.

KIND ATTENTION- Members facing difficulty in registering themselves as "Tax professionals" in the e-filing portal

As the members are aware, e-filing of Tax Audit Reports has been made mandatory from the AY 2013-14 onwards vide Notification No. 34/2013 dated 01-05-2013. In order to e-file Tax Audit Report a Chartered Accountant requires to register himself in the e-filing portal as a "Tax professional".

The Direct Taxes Committee of ICAI has been intimated that issues are being faced by the members in registering themselves in e-filing portal due to mismatch of their date of birth and/or name. This mismatch may be on account of various reasons like wrong date of birth in PAN, wrong date of birth in ICAI records, different name in the PAN *vis-a-vis* ICAI records etc. If the name mentioned in ICAI records is different than members name mentioned in PAN card due to change of name, post marriage or punching error etc., the procedure for change of name in ICAI records or PAN card, as the case may be, is required to be followed. The detailed announcement is available on website of ICAI or directly by visiting: <http://220.227.161.86/30652dtc20622.pdf>

As per the decision of the Council taken at its 324th meeting held in March, 2013, it is notified for information of students and the public at large that the examination in the following papers effective from November 2014 examination and onwards shall be held as per the revised syllabus, as specified by the Council in terms of its authority as vested in Regulation 28E(3) and 31(iii) in respect of Intermediate (IPC)/Accounting Technician Examination and Final Examination respectively. The detailed announcement is available on website of ICAI or directly by visiting <http://220.227.161.86/30545bos20300.pdf>

The Institute of Chartered Accountants of India (ICAI) 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 a 2 day International Conference on "Accountancy Profession: Emerging Frontiers of Future Growth" on November 22-23, 2013 at Science City Auditorium, Kolkata.

The Council of ICAI, at its 326th meeting held from 27th to 29th July 2013 considered the issue relating to application of Standards on Auditing (SA) 700, Forming An Opinion And Reporting on Financial Statements to such cases where the format of the auditor's report is prescribed under the relevant law or the regulation thereunder and are *per se* not in line with the requirements of SA 700. The Council noted that in many cases such prescribed auditor's report were required to be filed online in a preset form and, hence, it was not possible for the auditors to make necessary changes in these reports to bring them in line with the SA 700. Similarly, many a times, even where the auditor's report were to be submitted in a physical

form and not filed online, the concerned regulatory/government agencies may not accept such audit reports which contained any changes made by the auditors to the prescribed formats to bring them in line with SA 700.

In view of the above, the Council decided that while the matter was being taken up by the Institute with the relevant regulatory authorities/ Government agencies, etc., to change the prescribed formats for bringing the same in line with the requirements of SA 700, the members may, in the situations described in paragraph 1 above, submit the auditor's report in the format/s prescribed under the relevant law or regulation until announcement of necessary change is made by the appropriate authority. In such cases the members would not be viewed as having not complied with the provisions of SA 700.

The detailed announcement is available on website of ICAI or directly by visiting <http://220.227.161.86/30640aasb-sa700.pdf>

Exposure Draft of the proposed Accounting Standards for Local Bodies (ASLB) 31, 'Intangible Assets' has been issued on 21-08-2013 and is hosted on website of ICAI for members to give their comments. The draft can be accessed directly at: <http://220.227.161.86/30627edia-aslb.pdf>

Special Examination for Members of Foreign Accounting Bodies with whom the ICAI had entered into Mutual Recognition Agreement (MRA) / Memorandum of Understanding (MoU). Candidates are also requested to go through the Announcement relating to Special Examinations for candidates under Mutual Recognition Agreement (MRAs) / Memorandum of Understanding (MoU) with Foreign Accounting Bodies hosted on the website of the ICAI at <http://220.227.161.86/22255announcement.pdf>

Guidance Note on Report under section 115JC of the Income-tax Act, 1961 has been issued by ICAI on 22-08-2013. Members can obtain the Guidance Book for download on website of ICAI or by directly visiting the following link: <http://220.227.161.86/30633dtc20564.pdf>

The Board of Studies is pleased to introduce Online e-Learning facility for the Common Proficiency Course (CPC), Intermediate (IPC) course and Final Course with an objective to provide good quality education uniformly across the country. Students are advised to make good use of these Online e-Learning resource to gain better understanding of the subjects of study. The e-Learning facility is designed to supplement the study materials and facilitate better preparation for your forthcoming examinations. The CPT e-Learning is available in Bilingual Mode - English and Hindi medium. For more details visit the website of the Learning Management System of Board of Studies of ICAI on <http://studentslms.icaai.org>

Members are required to visit the Proposed Optional Placement Scheme for selection of Articled Assistants by CA Firms prepared by the Board of Studies of ICAI on <http://bosapp.icaai.org>

The Board of Studies of the institute has great pleasure in introducing an optional Articles Placement Scheme for selection of Articled Assistants by CA Firms. The scheme has been evolved to provide an opportunity to the firms of Chartered Accountants having vacancies for Articled Assistants to interact with the candidates who have either (a) Passed Group-I or both Groups of the IPCC examination, or (b) have been admitted under the Direct Entry Scheme and are eligible for undergoing articled training for selection as articled assistants in the CA Firms. This scheme at the same time assists eligible students to get placement in CA Firms for their articles training. No Fee is to be charged from the participating CA Firms and Students registering on the Portal.

APPEAL TO ACTIVELY SUPPORT AND CONTRIBUTE GENEROUSLY TO CHARTERED ACCOUNTANTS BENEVOLENT FUND (CABF)

The objective of CABF is to provide financial assistance for maintenance, education, any other purpose to necessitate persons such as Member of the Institute, wife & children of the Member, Widow and children of deceased members, relatives or others or dependents of Member. Contributions to CABF are exempted under Section 80(G) of the Income-tax Act, 1961.

For Work Disposal Status along with discrepancy details log on to www.wirc-icaai.org

DIRECT TAX

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

SECTION 245 OF THE INCOME-TAX ACT, 1961 – REFUNDS – SET OFF OF REFUNDS AGAINST TAX REMAINING PAYABLE – PAST ADJUSTMENT OF REFUNDS AGAINST ARREARS WHERE PROCEDURE UNDER SECTION 245 WAS NOT FOLLOWED {216 TAXMANN 281(ST.)}&

SECTION 244A OF THE INCOME TAX ACT, 1961 – REFUNDS – PAYMENT OF INTEREST WHEN ASSESSEE IS NOT AT FAULT {216 TAXMANN 282(ST.)}

INSTRUCTION NO. 7/2013 [F.NO. 312/54/2013-OT] DATED 15-7-2013

INSTRUCTION NO. 6/2013 [F.NO. 312/53/2013-OT] DATED 10-7-2013

Hon'ble Delhi High Court *vide* its judgment in case of Court on its Own Motion v. UOI and Others in W.P.(C) 2659/2012, dated 14.03.2013 [2013] 31 taxmann.com 31 (Delhi) has issued seven "Mandam uses" for necessary action by the Income Tax Department. One Mandamus is on past adjustments of refunds against the arrears; in particular, where procedure prescribed under Section 245 of the Income-tax Act, 1961 has not been followed. In view of the direction of the Hon'ble Court, it has been conveyed that the exercise desired by the Hon'ble High Court in respect of cases where returns have been processed by the CPC, Bengaluru and refunds have been fully or partly adjusted against the past arrears while passing or communicating the order under Section 143(1) of the Act, without following the procedure under Section 245 of the Act, be carried out by 31st August, 2013 positively.

"31. In the affidavit filed on 29th January, 2013, the respondents have stated as under:

"Where an assessee makes a mistake in the claim of TDS in the e-return and the return is processed and a demand is raised and subsequently, the assessee rectifies the mistake in the claim and files an online rectification application, the same is processed and on any excess TDS is refunded, the interest under section 244A is granted as per the I.T. Act after excluding the period of delay attributable to the assessee in terms of sub-section (2) of section 244A of the Income-tax Act, 1961."

32. An assessee can be certainly denied interest if delay is attributable to him in terms of sub-section (2) to section 244A. However, when the delay is not attributable to the assessee but due to the fault of the Revenue, then interest should be paid under the said section. False or wrong uploading of past arrears and failure to follow the mandate before adjustment is made under section 245 of the Act, cannot be attributed and treated as fault of the assessee. These are lapses on the part of the Assessing Officer i.e. the Revenue. Interest cannot be denied to the assessee when the twin conditions are satisfied and in favour of the assessee. However, even in such cases Assessing Officer may deny interest for reasons to be recorded in writing if the assessee was in fault and responsible for the delay. This is the fourth mandamus which we have issued."

In view of the direction of the Hon'ble Court, it is conveyed that in no case should interest u/s 244A of the Act be denied to the assessee where the assessee is not at fault. The observation of the Hon'ble High Court in Para 32 above be strictly kept in mind while dealing with such matters.

SECTION 261 OF INCOME-TAX ACT, 1961 – SUPREME COURT – APPEALS TO – INSTRUCTION REGARDING STANDARD OPERATING PROCEDURE FOR APPEALS / SLP FILED BY THE ASSESSEES IN THE SUPREME COURT AND RELATED MATTERS {216 TAXMANN 283(ST.)}

INSTRUCTION NO 8/2013 [F.NO.279/MISC/M-33/2013-ITJ], DATED 16-7-2013

SECTION 10A READ WITH SECTIONS 10AA & 10B OF THE INCOME-TAX ACT, 1961 – FREE TRADE ZONE – CLARIFICATION ON ISSUES RELATING TO APPLICABILITY OF CHAPTER IV OF THE ACT AND SET OFF AND CARRY FORWARD OF BUSINESS LOSSES {216 TAXMANN 288 (ST.)}

CIRCULAR NO 7/DV/2013 [F.NO.279/MISC/M-116/2012-ITJ], DATED 16-7-2013

It has been brought to the notice of the Board that the provisions of 10A/10AA/10B/10BA of the Income-tax Act, with regard to applicability of Chapter IV of the Act and set off and carry forward of losses, are being interpreted differently by the Officers of the Department as well as by different High Courts. The two sections 10A and 10B of the Act were initially placed on statute in 1981 and 1988 respectively, and continued with some modifications and amendments till 31.03.2001. The effect of the substitution of sections 10A and 10B of the Act has been elaborated in Circular No. 794 dated 9.8.2000 which clearly provides that the new provisions provide for deduction in respect of profits and gains derived by an undertaking from export of articles or things or computer software. Sub-section (6) of sections 10A and 10B were amended by Finance Act, 2003 with retrospective effect from 1-4-2001. Circular No. 7/2003, dated 5-9-2003 explains the amendments brought by Finance Act, 2003. It is evident that irrespective of their continued placement in Chapter III, sections 10A and 10B as substituted by Finance Act, 2000 provide for deduction of the profits and gains derived from the export of articles or things or computer software for a period of 10 consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such article or thing or computer software. The deduction is to be allowed from the total income of the assessee. The term 'total income' has been defined in section 2 (45) of the I.T. Act and it means the total amount of income referred to in section 5, computed in the manner laid down in the Income-tax Act.

INCOME TAX (TENTH AMENDMENT) RULES, 2013 – INSERTION OF RULES 6AAF, 6AAG, 6AAH AND FORM NOS. 3CQ & 3CR {216 TAXMANN 291 (ST.)}

NOTIFICATION 54/2013 [F.NO.142/29/2012-TPL/SO 2166E], DATED 15-7-2013

The detailed rules with respect to Guidelines for approval of skill development project under section 35CCD (Rule 6AAF), conditions subject to which a skill development project is to be notified under section 35CCD (Rule 6AAG) and meaning of expressions used in Rule 6AAF and 6AAG (Rule 6AAH) have been issued. Further, Form No 3CQ being the Application Form for approval under section 35CCD(1) and Form No 3CR being the Form for notification of skill development project under section 35CCD(1) has also been prescribed.

SECTION 119 OF THE INCOME-TAX ACT, 1961 – EXTENSION OF DUE DATE FOR FILING RETURNS OF INCOME REQUIRED TO BE FURNISHED BY 31-7-2013 TO 31-10-2013 IN RESPECT OF ASSESSEES RESIDING OR ASSESSED IN STATE OF UTTARAKHAND {216 TAXMANN 300 (ST.)}

ORDER [F. NO. 225/117/2013/ITA.II], DATED 23-7-2013

Considering the large-scale devastation due to recent natural calamity in the State of Uttarakhand, the Central Board of Direct Taxes, in exercise of powers conferred under section 119 of the Income-tax Act, 1961, hereby extends the 'due-date' for filing Returns of income required to be furnished by 31st July, 2013 to 31st October, 2013, in respect of income-tax assessee's residing or assessed in the State of Uttarakhand.

SECTION 119 OF THE INCOME TAX ACT, 1961 – EXTENSION OF DUE DATE FOR FILING RETURNS OF INCOME FROM 31-7-2013 TO 5-8-2013 {216 TAXMANN 321 (ST.)}

ORDER [F. NO. 225/117/2013/ITA.II], DATED 31-7-2013

The Central Board of Direct Taxes, in exercise of powers conferred under section 119 of the Income-tax Act, 1961, hereby extends the 'due date' for filing Returns of Income from 31-7-2013 to 5-8-2013.

INCOME TAX (ELEVENTH AMENDMENT) RULES, 2013 – AMENDMENT IN RULE 21AB AND INSERTION OF FORM 10F {216 TAXMANN 303 (ST.)}

NOTIFICATION 57/2013 [F.NO.142/16/2013-TPL/SO 2331E], DATED 1-8-2013

In exercise of the powers conferred by section 90 and section 90A read with section 295 of the Income-tax Act, 1961, the Central Board of Direct Taxes has amended Rule 21AB and inserted Form 10F.

INCOME TAX (TWELFTH AMENDMENT) RULES, 2013 – SUBSTITUTION OF RULE 37BB AND FORM NOS 15CA & 15CB {216 TAXMANN 323 (ST.)}

NOTIFICATION 58/2013 [F.NO.149/119/2012-TPL/SO 2363E], DATED 5-8-2013

In exercise of the powers conferred by sub-section (6) of section 195 read with section 295 of the Income-tax Act, 1961, the Central Board of Direct Taxes has substituted Rule 37BB with respect to the Furnishing of Information by the person responsible for making payment to a non-resident, not being a company, or to a foreign company. Further, Form 15CA w.r.t. Information to be furnished for payments to a non-resident not being a company, or to a foreign company and Form 15CB w.r.t. Certificate of an Accountant has also been substituted.

INCOME TAX (THIRTEENTH AMENDMENT) RULES, 2013 – SUBSTITUTION OF RULE 12C AND FORM NO 64 {216 TAXMANN 334 (ST.)}

NOTIFICATION 59/2013 [F.NO.142/17/2013-TPL/SO 2364E], DATED 05-08-2013

In exercise of the powers conferred by sub-section (2) of section 115U read with section 295 of the Income-tax Act, 1961, the Central Board of Direct Taxes has substituted Rule 12C with respect to the Furnishing of Statement under section 115U(2) by Venture capital company or Venture Capital Fund. Further, Form 64 w.r.t. Statement of income paid or credited by Venture capital company or Venture Capital Fund has also been substituted.

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

MVAT ACT, 2002

Notifications

The Government of Maharashtra has issued notification dated 7/8/2013 to amend Rule 6 of MVAT Rules, 2005 whereby the eligibility requirement for appointment of Tribunal Member is changed.

The Commissioner of Sales Tax has also issued notification dated 1/7/2013 by which it is provided the TDS return in Form 424 be filed electronically.

Profession Tax Act, 1975

The Commissioner of Sales Tax has issued notification dated 21/6/2013 by which the territorial jurisdiction and delegation of powers under Profession Tax Act is provided.

Circulars

The Commissioner of Sales Tax has issued Circular no. 10A of 2013 dated 30/8/2013 by which the Administrative Instruction of the department in respect of Assessment / Audit Plan for 2006-07 to 2010-2011 are given.

CORPORATE LAWS (Contributed by CA. Jayesh Thakur)

Investment by Qualified Foreign Investors (QFIs) insted “to be listed” Indian Corporate Debt Securities

www.sebi.gov.in

The SEBI has issued Circular No. CIR/IMD/FIIC/13/2013 dated 13/8/2013 currently QFIs were allowed to invest in listed/to be listed Indian corporate debt securities through public issues and units of debt schemes of Indian mutual funds. Now, with a view to align the eligibility criteria for investment in debt securities between SEBI and RBI, and to bring QFI and FII at par for investment in “to be listed” debt securities, QFIs to be allowed to invest in “to be listed” corporate debt securities directly from the issuer. In the circumstance that the debt issue cannot be listed within 15 days of issue for any reason whatsoever, the holding of the QFI shall be sold off only to domestic participants/investors until the securities are listed.

Decisions taken at SEBI board meeting held on 12 August 2013

www.sebi.gov.in

The SEBI has issued Press Release No. PR No. 73/2013 dated 12/8/2013 in relation to decisions taken to make the following amendments:

- Amendment to SEBI (Prohibition of Fraudulent and Unfair Trade Practices (“FUTP) relating to Securities Market) Regulations, 2003 -

Illegal mobilization of money by unregistered Collective Investment Schemes. SEBI has approved to declare illegal mobilization of funds without obtaining a certificate under the SEBI (Collective Investment Schemes) Regulations, 1999 as a FUTP and amend the SEBI (Prohibition of FUTP relating to Securities Market) Regulations, 2003, accordingly. This amendment has been made to impose deterrent adjudication penalties on unregistered CIS entities mobilising money.

- Clarificatory amendment to the SEBI (Prohibition of FUTP relating to Securities Markets) Regulations, 2003. SEBI has approved to bring a clarificatory amendment to the SEBI (Prohibition of FUTP relating to Securities Market) Regulations, 2003 in order to clarify that the list under regulation 4(2) is not exhaustive and the general provisions of regulation 3 will override.
- Securities Laws (Amendment) Ordinance, 2013. SEBI took note of the provisions of the Securities Laws (Amendment) Ordinance, 2013 promulgated by President of India on July 18, 2013 and discussed the follow-up actions on the part of SEBI.
- Independent consultant. SEBI had engaged an independent consultant to revisit the structural and organizational issues, re-prioritise areas of focus and to look at the technological and manpower needs of SEBI. The consultant submitted its recommendations, which included greater focus on mobilizing household savings into capital market assets, enhanced focus on supervisory functions, oversight of listed companies, re-organisation of functional departments, increase in manpower, IT strategy for organisational efficiency and improving training and performance management system. SEBI has accepted the recommendations and agreed on the implementation plan for the same.

Amendment to SEBI buyback regulations

www.sebi.gov.in

The SEBI has issued Notification No. LAD-NRO/GN/2013-14/16/6348 on 8/8/2013 amending the SEBI (Buy-back of Securities) Regulations, 1998 as per following:

- A company may not buy-back its shares or other specified securities exceeding fifteen per cent or more of the paid-up capital and free reserves of the company from the open market
- A company shall not make any offer of buy-back within a period of one year reckoned from the date of closure of the preceding offer of buy-back
- The company shall ensure that at least 50% of the amount earmarked for buy-back is utilised for buying-back shares or other specified securities
- The buy-back offer shall open not later than seven working days from the date of public announcement and shall close within six months from the date of opening of the offer
- Detailed amendment made in relation to buy-back of physical shares or other specified securities
- Amendment made in relation to keeping 25% of the proposed buyback offer amount in an escrow account and in case companies falter on some account, there will be a penalty and that could be of a maximum 2.5% on the funds lying in the escrow account. Detailed regulations relating to manner and mode of utilisation of escrow account made
- The company shall not raise further capital for a period of one year from the closure of buy-back offer, except in discharge of its subsisting obligations.

SEBI Circular for Application for change in category of Alternative Investment Fund (AIF)

www.sebi.gov.in

The SEBI has issued Circular No. CIR/IMD/DF/12/2013 on 7/8/2013 stating that currently an AIF which has been granted registration under

a particular category cannot change its category subsequent to registration except with the approval of SEBI. It is now provided that only AIFs which have not made any investment under the category in which they were registered earlier shall be allowed to make application for change in category. Any AIF proposing to change its category shall make an application to SEBI with application fees of ₹ 1 lakh. The application shall include rationale for the proposed change and no registration fees shall apply for such applications. If the AIF has received commitments/raised funds prior to application for change in category, it shall be required to send letters/emails to all its investors providing them the option to withdraw their commitments/funds raised without any penalties/charges. Any fees collected from investors seeking to withdraw commitments/funds shall be returned to them. Partial withdrawal may be allowed subject to compliance with the minimum investment amount required under the AIF Regulations. The AIF shall not make any investment other than in liquid funds/bank deposits until approval for change in category is granted by SEBI and on approval of the request from SEBI, the AIF shall send a copy of the revised placement memorandum and other relevant information to all its investors.

SEBI has also issued circular No. CIR/IMD/DF/10/2013 dated 29/7/2013 operational, prudential and reporting norms for AIFs.

SEBI Mutual Fund Amendment Regulations

www.sebi.gov.in

The SEBI has issued Notification No. LAD-NRO/GN/2013-14/18/6384 on 19/8/2013 amending the SEBI (Mutual Funds) Regulations, 1996 whereby it is now provided that an asset management company may become a proprietary trading member for carrying out trades in the debt segment of a recognised stock exchange, on behalf of a mutual fund. Also, in a case where a sponsor or its associates hold 50 per cent or more of the voting rights of the share capital of the custodian, such custodian may act as custodian for a mutual fund constituted by the same sponsor or any of its associates or subsidiary company if:

- the sponsor has a net worth of at least twenty thousand crore rupees at all points of time;
- 50 per cent or more of the directors of the custodian are those who do not represent the interest of the sponsor or its associates;
- the custodian and the asset management company of a mutual fund are not subsidiaries of each other;
- no person is a director of both the custodian and the asset management company of a mutual fund; and
- the custodian and the asset management company of a mutual fund sign an undertaking that they will act independently of each other in their dealings with the scheme

HUF or its karta cannot be a partner/designated partner in LLP

The MCA has issued General Circular No. 13/2013 on 29/7/2013 after noticing that some Hindu Undivided Families (HUFs)/Kartas of such families are applying to become partner/Designated partner (DP) in LLPs and a question has arisen whether an HUF or a karta can be allowed to do so. After examining the matter, it is now clarified that in terms of section 5 of the LLP Act, 2008, only an individual or body corporate may be a partner in an LLP. An HUF cannot be treated as a body corporate for the purposes of LLP Act, 2008 and hence an HUF or its karta cannot become a partner/designated partner in an LLP.

Clarification on SEBI (Investment Advisers) Regulations, 2013

The SEBI has issued Press Release 77/2013 on 29/8/2013 stating that in terms of the SEBI (Investment Advisers) Regulations, 2013, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from the SEBI or he is specifically exempt. It is also provided that a person acting as an investment adviser immediately before the commencement of these regulations may continue to do so for a period of six months from such commencement or, if it has made an application for a certificate within

the said period of six months, till the disposal of such application. SEBI has advised that all persons acting as an investment adviser before the commencement of these Regulations are advised to make their application for grant of registration before October 21, 2013 to continue to do so and shall comply with the requirement of obtaining a certificate of registration for acting as investment adviser under the IA regulations. Such persons seeking registration under these Regulations may file their registration application with the concerned Regional Office/Local Office of the SEBI for grant of registration.

Discussion Paper on Revision of Clause 41 of Equity Listing Agreement

The SEBI has issued Press Release No. 75/2013 dated 20/8/2013 in relation to revision of clause 41 of the equity listing agreement which provides the framework for preparation, authentication and submission of financial results by listed companies. Based on the requests/suggestions/recommendations received from various market participants, some of the provisions of clause 41 have been revised. It is proposed to replace the existing clause 41 of the equity listing agreement for which comments from all stakeholders are sought by 13/9/2013. Broadly, the revision entails *inter alia* Format for Finance Companies, Disclosure of half yearly (every six months) consolidated financial statements, Mandatory disclosure of Book Value of equity shares half yearly, Mandatory submission of statement of cash flow half yearly, Mandatory disclosure of details of the discontinued operations as part of the notes to the financial results, etc.

SERVICE TAX

(Contributed by CA. Rajiv Luthia)

SYNOPSIS OF NOTIFICATIONS, CIRCULARS & LETTERS

- **Commissioner of Service Tax-I, Mumbai vide Trade Notice No. 06/13-14 ST-I dated 5th August, 2013** amended to the Trade Notice No. 04/2013 ST-I dated 27th May, 2013 by inserting Para 5A, which provides that the applicant is required to give information in following format along with declaration filed in VCES-I form:

Sr. No.	Period Covered in declaration	Whether return filed for the period given in Col. (2)
(1)	(2)	(3) Yes / No

If the return has been filed then further information along with the copies of returns is to be submitted as given below:

Sr. No.	Period	Date of Filing	Electronically/ Manually
(1)	(2)	(3)	(4)

- **CBEC vide Order No. 170/5/2013-ST dated 8th August, 2013** has issued following clarifications on various issues related to Voluntary Encouragement Compliance Scheme

1. REJECTION OF DECLARATION BASED ON ROVING INFORMATION

It is clarified that any roving information sought by the department from the potential taxpayer regarding the business activities without seeking any documents (such as accounts, financial statements etc.) or calling for his presence even by quoting Section 14 of the CE Act, would not attract the provisions of section 106(2)(a) related to rejection of declaration.

2. FILING OF DECLARATION BY A BRANCH

An assessee can avail the benefit under VCES in respect of its branch/unit upon which no show cause notice has been issued, even when such a notice has been issued upon some other branch/unit of the assessee, provided that each of the branches/units are separately registered under service tax.

3. WRONG UTILISATION OF CENVAT CREDIT

A person can make a declaration under VCES if he has wrongly utilised CENVAT credit for making payment of service tax. Wrong utilisation of CENVAT credit amounts to non-payment of service tax and such amount is covered under the definition of "tax dues".

4. INQUIRY, INVESTIGATION OR AUDIT INITIATED AFTER 1ST MARCH, 2013

There is no bar on the person from declaring his tax dues under VCES, if an inquiry, investigation or audit is initiated after 1st March, 2013 (the cut-off date).

5. SCN ISSUED FOR THE PERIOD PRIOR TO OCTOBER, 2007

Issuance of a show cause notice or order of determination on any issue for the period prior to October, 2007 on a person, does not make him ineligible to declare his tax dues for the period covered under VCES on the similar issue. The 2nd proviso to section 106(1) shall not be attracted in such cases.

6. AUDIT CONCLUDED BEFORE 1ST MARCH, 2013

Where an audit has been conducted and the "Audit Para" is issued to the assessee, he can declare his tax dues under VCES on such issues which have not been covered by the said "Audit Para".

7. IMMUNITY FROM PENALTY FOR NON FILING OF RETURN

An assessee who has paid his service tax liability but has not filed return cannot make a declaration under VCES to avoid the payment of penalty for non-filing of return. Such a case does not come within the ambit of the scheme. However, penalty for non-filing of return can be waived in deserving cases and the assessee can seek relief under Rule 7C of STR, 1994 by making payment of late filing fees as prescribed.

8. TAX PAID BEFORE ENACTMENT OF VCES

Any amount of tax dues paid before the scheme was notified or before its enactment i.e. 10th May, 2013, shall be adjudicated as per the provisions of Chapter V of the Finance Act, 1994 and no immunity under the scheme shall be granted on such amount paid prior to enactment of VCES.

9. CHANGE IN PROVISIONS OF LAW

An assessee under dispute with the department on an issue in the erstwhile provision of the law for the part of the period covered under VCES, cannot avail the benefit of the scheme for the remaining period or the subsequent period under the amended provisions of the law on the similar issue. The 2nd proviso to section 106(1) shall be attracted in such cases.

10. RECTIFICATION/REVISION OF DECLARATION

The declarant is expected to file his declaration under VCES correctly. However, if by mistake there is an error in his declaration, which is suo motu discovered by him, he can approach the designated authority and admit the incorrectness in his declaration. The designated authority after taking into account all the facts of the case may consider the amended declaration. However, the said amendment shall be furnished before the last date of filing declaration i.e. 31st December, 2013.

11. PAYMENT OF TAX BEFORE RECEIPT OF ACKNOWLEDGEMENT

If the acknowledgement in VCES-2 has not been issued by the designated authority within seven working days from the date of filing declaration, the declarant can start making payment under VCES. It is further clarified that the declarant can pay the tax dues even before the issue of acknowledgement. The payment of tax dues and the issue of acknowledgement are not linked to each other.

12. OPPORTUNITY OF BEING HEARD FOR REJECTION OF DECLARATION

The declarant shall be given an opportunity of being heard when the designated authority intends to reject his declaration u/s 106(2). The order for rejection shall be passed only upon recording the reasons for the same and following the principles of natural justice.

It is clarified that the designated authority, if he has the reasons to believe that the declaration is covered by section 106(2), shall issue a notice within 30 days of filing of declaration. For the declarations filed before this circular being issued, the 30 days shall be counted from the date of this circular i.e. 8th August, 2013.

13. APPEAL AGAINST REJECTION OF DECLARATION

The VCES does not provide for a statutory provision to file an appeal against the order for rejection of declaration passed by the designated authority u/s 106(2) of the Finance Act, 2013.

14. ADJUSTMENT OF TAX ALREADY PAID ON REJECTION OF DECLARATION

If the declaration gets rejected u/s 106(2), the declarant shall be allowed to adjust the amount already paid under VCES against the liability determined by the department on such rejection.

15. DECLARATION BEING SUBSTANTIALLY FALSE

The proceedings u/s 111 of the Finance Act, 2013 shall be initiated in accordance with the principles of natural justice. The Commissioner after considering the overall facts of the case, takes a judicious view as to whether the declaration is "substantially false". For illustration : A declarant making a declaration of ₹ 25 Lacs as his tax dues, but if the commissioner has specific information that the actual tax dues are ₹ 50 lakhs, then such declaration would fall within the meaning of "substantially false declaration".

16. DISQUALIFICATION ON NON PAYMENT OF 50% OF TAX DUES

The declarant would not be eligible to the benefit of the VCES scheme if he does not satisfy the condition laid in section 107(3) i.e. payment of atleast 50% of the tax dues on or before 31st December, 2013.

17. AVAILMENT OF CENVAT CREDIT

The VCES does not restrict the availment of CENVAT credit on the inputs/input services used for providing output services and utilising the same for payment of any tax liability outside VCES. The VCES rules only prescribe that the payment under VCES shall be made in cash and not by utilising CENVAT credit. The admissibility of the CENVAT credit shall continue to be governed by the provisions of the CENVAT Credit Rules, 2004.

The VCES does not restrict availment of CENVAT credit of the amount paid under VCES, to the service recipient under a supplementary invoice. Also, the CENVAT credit shall be eligible to the service recipient who pays his tax dues under VCES under reverse charge mechanism.

It has been clarified that admissibility of such CENVAT shall be governed by the provisions of Rule 9(1)(bb) and Rule 9(1)(e) of the CCR, 2004 i.e. eligibility of CENVAT credit based on supplementary invoice except where the additional amount of tax is recoverable from the provider by reason of fraud, collusion etc., or a challan evidencing payment of service tax by the service recipient, respectively.

18. HOW TO DETERMINE CONCLUSION OF AUDIT

The point of initiation of audit and its culmination have been clarified so as to give the meaning to the words pendency of the audit for invoking section 106(2). For the purpose of VCES, the initiation of audit shall be the date of visit of the auditors to the unit of the tax payer.

The culmination of audit shall be determined in any of the following manner:

- (i) Closure of audit file if no discrepancy is found in audit;
- (ii) Closure of audit para by the Monitoring Committee Meeting (MCM);
- (iii) Approval of audit para by MCM and payment of amount involved therein by the party in terms of the provisions of the Finance Act, 1994;
- (iv) Approval of audit para by MCM, and issuance of SCN, if party does not agree to the para so raised.

The pendency of audit as on 1st March, 2013 means that an audit has been initiated before 1st March, 2013 but has not been culminated as on 1st March, 2013.

- Commissioner of Service tax-I, Mumbai *vide* its letter dated 21st August, 2013 notified designated authorities for implementation of VCES scheme in Mumbai:

1. For Service tax Commissionerate I:
Shri Rajiv Garg - Deputy Commissioner (Tech.)

New Central Excise Building, 115, M. K. Road, Churchgate, Mumbai – 400 020
Tel. No. 2203 4421

2. For Service tax Commissionerate II:
Shri N. K. Mishra - Assistant Commissioner (Tech)
New Central Excise Building, 115, M. K. Road, Churchgate, Mumbai – 400 020
Tel. No. 2209 1599

- In view of difficulties faced by the assessee in uploading the offline utilities of half yearly Service tax return in Form ST-3 for the period from 1st October, 2012 to 31st March, 2013, the CBEC *vide* Order No. 04/2013-ST dated 30th August, 2013 has further extended the due date from 31st August, 2013 to 10th September, 2013.

GUJARAT VAT

(Contributed by CA. Kishor R. Gheewala)

Charkhas Notified

As per Entry 13 of schedule I, Charkha and other implements and spare parts thereof meant for use in the production of handspun yarn, as may be specified by the State Government by notification in the Official Gazette are exempt from tax since 1-4-2006. *Vide* Notification No. (GHN-9) VAT-2013-SCH-I(13)-(6)-TH dated 1st July, 2013, eleven items have now been specified for this purpose for the first time.

Instructions for Assessment Records

Vide Circular No. VAVEK/VAHIVAT/2013-14/OTW 921, No.1266 dated 5/7/2013, instructions are issued to mention & maintain all relevant particulars including name of officer, office name and address, outward no., date, acknowledgement of service of order etc. in the assessment file records.

Instructions for securities

Vide Circular No. VAVEK/VAHIVAT/2013-14/OTW 941, No.1267 dated 6/7/2013, instructions are issued to pass a detailed, reasoned order only, while demanding security from the dealer u/s. 28(3), & that to after affording reasonable opportunity of being heard to the dealer.

Commodity Code

Vide Circular No. VAVEK/GUJKA/VAT-181/2012-13/OTW 138-119, No.1267 dated 6/12/2012, Commodity Codes for different commodities are published.

FEMA

(Contributed by CA. Manoj Shah & CA. Hinesh Doshi)

Import of Gold by Nominated Banks /Agencies/ Entities

A.P. (DIR Series) Circular No.15 dated July 22, 2013 and Press Release no. 148 dated July 22, 2013

In consultation with Government of India (GOI), it has been decided to rationalise the import of gold in any form/purity including import of gold coins/dore into the country. Accordingly, the following instructions have been issued:

- a. It shall be incumbent on all nominated banks/nominated agencies to ensure that at least one fifth of every lot of import of gold (in any form/purity including import of gold coins/dore) is exclusively made available for the purpose of export. Such imports shall be linked to financing of exporters by the nominated agencies (i.e. average of last three years or any one year whichever is higher). Further, they shall make available gold in any form for domestic use only to entities engaged in jewellery business/bullion dealers supplying gold to jewellers.
- b. They shall be required to retain 20 per cent of the imported quantity in the customs bonded warehouse
- c. They shall be permitted to undertake fresh imports of gold only after the exports have taken place to the extent of at least 75 per cent of gold remaining in the customs bonded warehouse.

- d. Any import of gold under any type of scheme, shall follow the 20/80 principle set out at (a) and (b) above. The extant instructions, as regards import of gold on consignment basis, LC restrictions etc. stand withdrawn.

Entities/units in the SEZ and EoUs, Premier and Star trading houses are permitted to import gold exclusively for the purpose of exports only. Non-Resident Deposits – Comprehensive Single Return (NRD-CSR): Submission under XBRL.

Compounding of Contraventions under Foreign Exchange Management Act, 1999 (FEMA)

A.P. (DIR Series) Circular No. 20 dated August 12, 2013

The applications for compounding of contraventions of FEMA which are submitted without obtaining proper approvals or permission from the concerned authorities are returned to the applicants. In case such applications are returned or applications returned for any other reason, the application fees of ₹ 5,000/- received along with such application is also returned.

In order to expedite the refund of compounding fees in such cases, RBI has decided to credit such fees to the applicant's account through NEFT. The applicants shall furnish their mandate and details of their bank account in the prescribed format along with the application and other documents.

Further the prescribed formats for details relating to Foreign Direct Investment, External Commercial Borrowings, Overseas Direct Investment and Branch Office / Liaison Office required to be submitted along with the compounding application have also been modified to include the details of income-tax PAN and the activity as per NIC codes – 1987. The application without these details will be treated as incomplete.

The applicants may also note to bring to the notice of the compounding authority change, if any, in the address/contact details of the applicant during the pendency of the compounding application with RBI.

Please refer Circular as available on RBI website for further detail:
<http://rbidocs.rbi.org.in/rdocs/Notification/PDFs/CIRAPDIR120813F.pdf>

Review of Foreign Direct Investment (FDI) Policy

1. **Definition of the term "control", for calculation of total foreign investment i.e. direct and indirect foreign investment, in Indian companies**

Press Release dated August 1, 2013 issued by the GOI and Press Note No. 4 (2013) dated August 22, 2013 issued by Department of Industrial Policy & Promotion (DIPP)

The Cabinet Committee on Economic Affairs has, on August 1, 2013 approved the proposal of the DIPP for amendment to the existing definition of the term "control" in the FDI Policy to bring it in line with the definition of "control" as per the Substantial Acquisition of Shares and Takeovers (SAST) Regulations, 2011 and the definition of proposed in the Companies Bill, 2012. The revised definition of 'control' covers 'control' exercisable *inter-alia* through management and policy decisions, shareholding, management rights, shareholder agreements.

Consequently, to give effect to the above decision the DIPP has, *vide* Press Note No. 4 (2013) dated August 22, 2013 amended the definition of "control" as given in paragraph 2.1.7 of Circular 1 of 2013 - Consolidated FDI Policy. The revised definition of the term "control" is as under:

" 'Control' shall include the right to appoint a majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management right or shareholders agreements or voting agreements."

2. **FDI in Multi-Branded Retail Trading (MBRT)**

Press Release dated August 1, 2013 issued by the GOI and Press Note No. 5 (2013) dated August 22, 2013 issued by Department of Industrial Policy & Promotion (DIPP)

The Union Cabinet has, on August 1, 2013 approved the proposal for amendment in the existing FDI policy in MBRT in paragraph 6.2.16.5(1) (iii), (iv) and (vi) of Circular 1 of 2013 - Consolidated FDI Policy.

Consequently, to give effect to the above decision the DIPP has, *vide* Press Note No. 5 (2013) dated August 22, 2013 amended paragraph

6.2.16.5(1)(iii), (iv) and (vi) of Circular 1 of 2013 - Consolidated FDI Policy.

For detail of present and revised position of FDI in MBRT, refer Press Note No. 5 (2013) issued by DIPP as available at following link on DIPP website:

http://dipp.nic.in/English/acts_rules/Press_Notes/pn5_2013.pdf

3. Review of Foreign Direct Investment (FDI) caps and routes in various sectors

Press Release dated August 1, 2013 issued by the GOI and Press Note No. 6 (2013) dated August 22, 2013 issued by Department of Industrial Policy & Promotion (DIPP)

The Union Cabinet has, on August 1, 2013 approved the proposal for review of FDI caps and routes in various sectors and decided to amend the provisions relating to the FDI caps and routes in various sectors as contained in paragraph 6.2 of the Circular 1 of 2013 - Consolidated FDI Policy.

Consequently, to give effect to the above decision the DIPP has, *vide* Press Note No. 6 (2013) dated August 22, 2013 amended paragraph 6.2 of the Circular 1 of 2013 - Consolidated FDI Policy containing FDI caps and routes in various sectors.

For detail of present and revised position of FDI caps and routes in various sectors, refer Press Note No. 6 (2013) issued by DIPP as available at following link on DIPP website:

http://dipp.nic.in/English/acts_rules/Press_Notes/pn6_2013.pdf

Amendments to the Foreign Exchange Management (Deposit) Regulations, 2000 [Notification No. FEMA 5/2000 - RB dated May 3, 2000]

Notification No. FEMA.280/2013-RB dated July 10, 2013 – the Foreign Exchange Management (Deposit) (Second Amendment) Regulations, 2013 – Amendment in Regulation 5

RBI has amended the Regulation 5 of Notification No. FEMA 5/2000 - RB to allow a Non-Resident including a Non-resident Indian (NRI) to open a single non-interest bearing Rupee account with the Authorised Dealers in India without the prior RBI approval, for limited purpose of purchase of shares on the recognized stock exchanges in accordance with Regulations 10D of Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000.

Measures to rationalise Foreign Exchange Outflows by Resident Indians

Keeping in view the current macroeconomic situation, the RBI has taken the following measures to moderate outflows:

1. Rationalisation of Overseas Direct Investments (ODI)

Press Release No. 2013-2014/323 dated August 14, 2013, A.P. (DIR Series) Circular No. 23 dated August 14, 2013 and Notification No. 283/2013-RB dated August 14, 2013

RBI has now reduced the limit of 400% of the net worth of the Indian Party to 100% of its net worth under the Automatic Route as on the date of the last audited balance sheet. This reduced limit would also apply to remittances made under the ODI scheme by Indian companies for setting up unincorporated entities outside India in the energy and natural resources sectors. Any ODI in excess of 100% of the net worth will be considered under the Approval Route by the RBI.

This reduction in limit, however, would not apply to ODI by Navaratna Public Sector Undertakings (PSUs), ONGC Videsh Limited (OVL) and Oil India Ltd (OIL) in overseas unincorporated entities and the overseas incorporated entities in the oil sector (i.e., for exploration and drilling for oil and natural gas, etc.).

The above provisions shall come into effect with immediate effect and would apply to all fresh ODI proposals on a prospective basis but would not apply to the existing JV/WOS set up under the extant regulations.

Consequently, the RBI has issued a Notification No. 283/2013-RB dated August 14, 2013 to amend the Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2000 [Notification No. FEMA 120/2004 - RB dated July 7, 2004] to give effect to the above amendments.

2. Reduction of limit from USD 200,000 to USD 75,000 under Liberalised Remittance Scheme (LRS) for Resident Individuals

(i) Press Release No. 2013-2014/323 dated August 14, 2013, A.P. (DIR Series) Circular No. 24 dated August 14, 2013 and Notification No. 282/2013-RB dated August 14, 2013

RBI has reduced the existing limit of USD 200,000 per financial year under LRS to USD 75,000 per financial year (April - March) with immediate effect. Accordingly, AD Category - I banks may now allow remittance up to USD 75,000 per financial year, under LRS, for any permitted current or capital account transaction or a combination of both. The limit for gift in Rupees by Resident Individuals to NRI close relatives and loans in Rupees by resident individuals to NRI close relatives shall accordingly stand modified to USD 75,000 per financial year.

Further, LRS should no longer be used for:

- (a) acquisition of immovable property, directly or indirectly, outside India. Therefore, AD Category-I banks may henceforth not allow any remittances under the LRS Scheme for acquisition of immovable property outside India.
- (b) making remittances for any prohibited or illegal activities such as margin trading, lottery etc., as hitherto.

Consequently, the RBI has issued a notification no.282/2013-RB dated August 14, 2013 to amend the Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000 [Notification No. FEMA 1/2000 - RB dated May 3, 2000] to give effect to the above amendments.

(ii) Press Release No. 2013-2014/323 dated August 14, 2013, A.P. (DIR Series) Circular No. 24 dated August 14, 2013 and Notification No. 263/2013-RB dated August 5, 2013

Resident individuals have now been allowed to set up JV / WOS outside India for *bona fide* business activities outside India within the limit of USD 75,000 with effect from August 5, 2013 and subject to the terms and conditions stipulated in Notification No. FEMA 263/RB-2013 dated August 5, 2013 issued by RBI.

Investments by Non-resident Indians (NRIs) under Portfolio Investment Scheme (PIS)

A. P. (DIR Series) Circular No. 29 dated August 20, 2013 and Notification No. FEMA.261/2013-RB dated July 30, 2013

RBI has made following change in Investments by NRIs under PIS:

- (i) To allot Unique Code number only to Link office of the AD Category - I bank; and
- (ii) To dispense with the allotment of Unique Code number to each branch designated by that AD Category - I bank administering the Scheme. Accordingly, henceforth in accordance with the policy approved by the Board, AD Category - I bank shall be free to permit its branches to administer the PIS for NRIs subject to specified conditions.

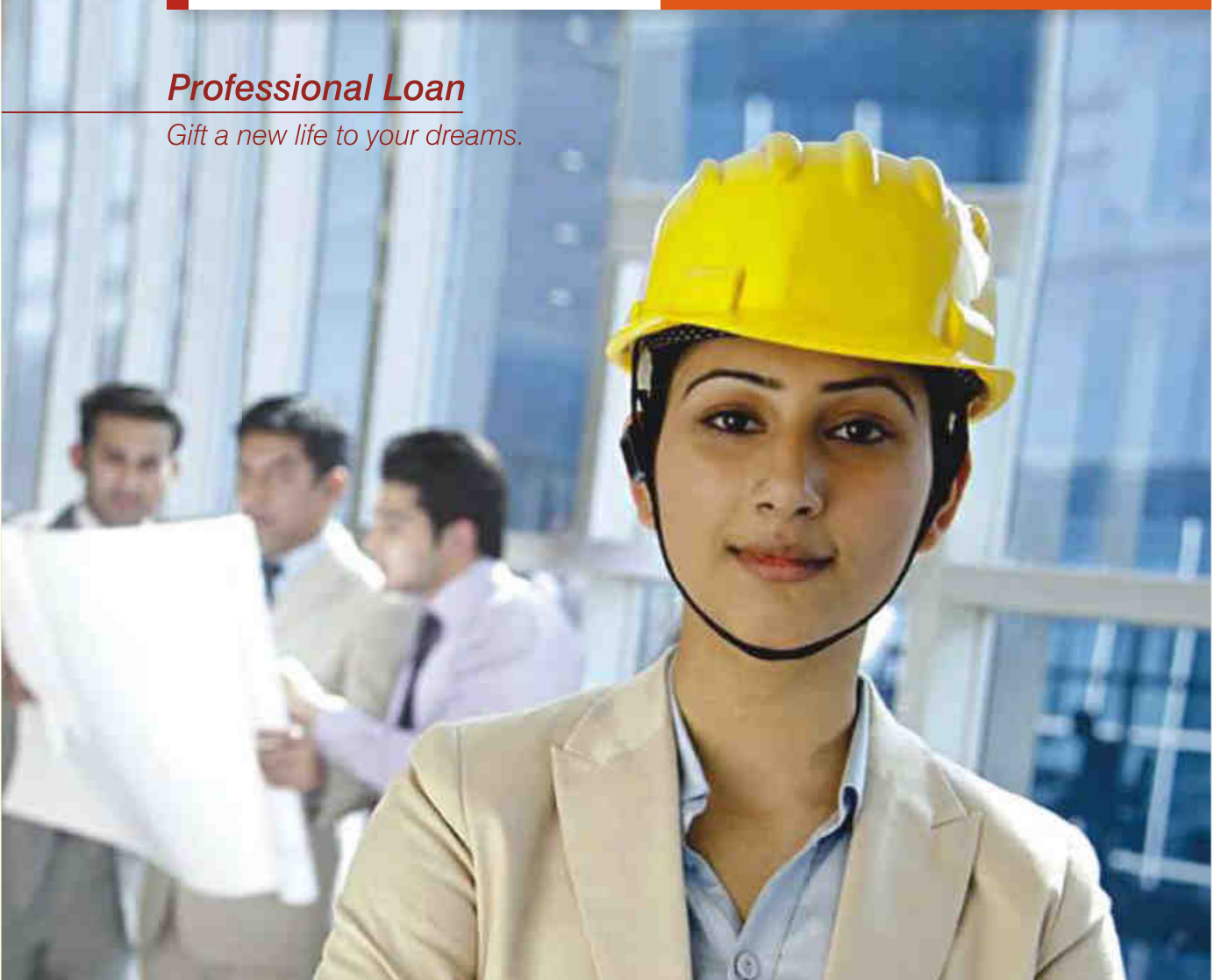
Refer circular available on RBI website at:

<http://rbi.org.in/Scripts/NotificationUser.aspx?Id=8325&Mode=0>

Consequently, the RBI has issued a Notification No. 261/2013-RB dated July 30, 2013 to amend the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 [Notification No. FEMA 20/2000-RB dated May 3, 2000] to give effect to the above amendments.

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DIRECT TAX

(Contributed by CA. Paras K. Savla & CA. Deepak Tikekar)

Ss. 2 (47)(v) & 50C The Ready Reckoner Value to be considered at the time of execution of agreement

Where the sale proceeds were claimed to have been received in the financial year 2005-06, the deed of conveyance was executed in the financial year 2006-07 and the registration of the deed of conveyance took place in the financial year 2007-08, the AO was justified in taking stamp duty valuation for the asst. yr. 2006-07 as per s.50C; amendment of s. 50C in 2009 just made the legislative intention of taking stamp duty valuation more clear.

Bagri Impex (P) Ltd. vs. Asst. CITORS (2013) 259 CTR (Cal.) 553

S. 4. TDR premium by members to society exempt on principle of mutuality

Transferable Development Rights premium paid by members to housing co-operative society for utilising extra FSI is exempt in the hands of society on the principle of mutuality.

CIT vs. Jai Hind Co-operative Housing Society Ltd (2013) 259 CTR (Bom.) 501

Ss. 4 & 45 Unequal distribution on partition is not taxable

When a dispute between two groups of HS Ltd. was settled amicably as a result of which assessee as a member of one group received certain property and an amount in cash to settle inequalities in partition, the amount so received could not be taxed as capital gains.

CIT vs. Ashwini Chopra (2013) 259 CTR (P&H) 558

Ss. 4 & 69 Payment to estranged wife not taxable

Tribunal having found that the impugned payments made by the assessee to his estranged wife R were based on the deed of settlement whereby assessee and R had separated and that there was no evidence or material for the presumption raised by the AO that there was some unwritten understanding between the assessee and R, and deleted the addition made by the AO, finding of the Tribunal is a pure finding of fact and no substantial question of law arises.

CIT vs. Suresh Nanda (2013) 260 CTR (Del.) 140

Ss. 10(23C)(vi), 12A & 12AA(3) Sections 10 & 11-12 are independent

Registration u/s 12A could not be cancelled merely on the ground of disallowance of exemption u/s 10(23C)(vi)

CIT & Anr vs. Society of Advanced Management Studies (2013) 260 CTR (All) 199

S. 10A Exemption section and not deduction section

Sec.10A provides for an exemption and not merely a deduction even after the amendment by the Finance Act, 2000, as it has been retained in Chapter III of the Act notwithstanding the change in the language of sub-s. (1) thereof and therefore, current losses as well as brought forward losses of the non-EPZ unit cannot be deducted or reduced from the profits of EPZ unit for computing the deduction under s. 10A.

CIT vs. Tei Technologies (P) Ltd. (2013) 259 CTR (Del.) 186

Ss. 14A & 263 Disallowance and Revisionary Power

Assessee did not give one to one co-relation between the funds available and the funds deployed and the AO having not applied s. 14A, CIT was justified in exercising jurisdiction under s. 263.

CIT vs. RKBK Fiscal Services (P) Ltd. (2013) 259 CTR (Cal.) 275

Ss. 17(1) & 192 Last drawn pay will be basis for calculating compensation

In case the deceased had income only from the salary, the presumption would be that the employer has deducted TDS under s.192 (1) from the salary, salary shown in the last pay certificate was therefore to be taken into account for calculating the compensation payable to the dependants of the deceased.

Vimal Kanwar & Ors vs. Kishore Dan & Ors (2013) 259 CTR (SC) 420

Ss. 28(I), 32AB & 56 Business income vs. Income from other sources

Assessee having deposited certain funds with bank as margin money in order to obtain bank guarantee required by the State Government of Sikkim for the purpose of enabling the assessee to carry on the business of printing lottery tickets and for conducting lotteries on behalf of the State Government of Sikkim, interest earned on such margin money was inextricably linked with assessee's business hence constituted business income eligible for relief under s.32AB.

CIT vs. K & Co (2013) 259 CTR (Del) 398

S. 40(a)(ia) Payment before due date u/s 139(1) eligible for deduction

Expression "said due date" occurring in cl. (A) of proviso to s.40(a)(ia) refers to the due date of filing of return u/s 139 (1) and not the date on which TDS

should have been paid; assessee having deducted TDS in March, 2007 and paid the same in April, 2007 i.e. before the date on which return u/s 139(1) was to be filed, s. 40(a)(ia) could not be invoked to disallow the payments in the relevant year.

CIT vs. Rajinder Kumar (2013) 260 CTR (Del.) 113

S. 54F Investment in new house before due date u/s 139(4) eligible for exemption

Assessee having paid substantial amount for purchase of house within extended period of filing the return, exemption under s. 54F was allowable.

CIT vs. Jagtar Singh Chawla (2013) 259 CTR (P&H) 388

Ss. 80 HH & 80-I Computation of deduction

Expenses which do not relate to an industrial undertaking/unit under consideration and they relate to other units or to the head office of the assessee, cannot be taken into consideration while computing the deduction under ss. 80HH and 80-I; Tribunal was not justified in confirming the allocation of R & D expenses incurred by the head office among the four manufacturing units on the presumption that the expenditure so incurred is for the benefit of these manufacturing units, when in fact such research conducted had no connection with the business of the said units, nor any benefit is received by them from the said research.

Zandu Pharmaceuticals Works Ltd vs. CIT (2013) 259 CTR (Bom.) 253

S. 80-IB(10) Date of approval is relevant

Approval having been granted on 28th March, 2005, the assessee was entitled to deduction under s. 80-IB(10) from the asst. yr. 2005-06, notwithstanding the fact that the sanction letter was communicated to the assessee on 4th April, 2005 and it ends on 3rd April, 2007.

CIT & Anr vs. Akshay Eminence Developers (P) Ltd. (2013) 259 CTR (Kar.) 266

S. 80-I Meaning of the term 'Manufacture'

Cutting of jumbo rolls of photographic films into smaller marketable sizes constitutes manufacture for the purpose of deduction under s. 80-I.

India Cine Agencies vs. Deputy Commissioner of Income Tax (2013) 259 CTR (SC) 274

Ss. 87, 88E & 115JB Rebate available against MAT

Rebate under s. 88E is equally applicable to tax as computed under s.115JB as under the normal provisions of the Act.

CIT vs. MBL & Co. Ltd. (2013) 259 CTR (Del.) 505

S. 147 Reassessment cannot be of lesser income than income originally assessed

Income assessed by way of reassessment cannot be less than the income originally assessed; income voluntarily offered for taxation by assessee cannot be claimed and allowed to be exempt in reassessment proceedings.

CIT vs. Jaihind Co-operative Housing Society Ltd. (2013) 259 CTR (Bom.) 498

Ss. 194C, 197 & 204 Certificate for lower deduction and jurisdiction

AO of the contractors having issued certificate under s. 197(2) to the principal officer of assessee at Mumbai for deduction of tax at source at a rate lower than one prescribed under s. 194C, merely because the assessee has got separate TAN for its Bahadurgarh unit will not render the certificate as redundant.

CIT vs. Parle Biscuit (P) Ltd. (2013) 259 CTR (P&H) 565

S. 271 (1)(c) Penalty and different head of income

Profit on sale of stock options was declared as long-term gains by assessee but same was assessed as short-term capital gains and the issue being debatable at the time when the assessee filed his return, penalty under s. 271(1)(c) was not leviable.

CIT vs. Jaswinder Singh Ahuja High Court of Delhi (2013) 259 CTR (Del.) 213

S. 271(1)(c) Penalty and different head of income

AO having assessed the premium received on redemption of debentures under the head 'Income from other sources' which was disclosed by the assessee under the head 'Capital gains' and the Tribunal having deleted the levy of penalty under s.271(1)(c) on the ground that there is only a change of head of income which is not shown to be perverse, no substantial question of law arises.

CIT vs. Bennett Coleman & Co Ltd (2013) 259 CTR (Bom.) 383



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RECENT JUDGMENTS

S. 271(1)(c) No concealment where income disclosed

Assessee having not offered to tax amount of the awards received by her but disclosed the same in the statement of affairs filed along with the return which was accepted by the AO, and later voluntarily offered the amount for tax when the assessment was reopened, it cannot be said that there was any concealment and, therefore, penalty under s. 271(1)(c) is not leviable.

CIT vs. Ms. Sania Mirza (2013) 259 CTR (AP) 386

S. 271(1)(c) Invoking of 50C and penalty

Revenue having failed to produce any evidence to the effect that the assessee has actually received more amount than that shown by it on the sale of property, penalty u/s 271(1)(c) cannot be levied simply because the AO has worked out the capital gain by taking into account deemed sale consideration by invoking s. 50C(1) instead of actual sale consideration shown by the assessee.

CIT vs. Madan Theatres Ltd. (2013) 260 CTR (Cal.) 75

S. 281 & Sch. II, r. 93 Secured creditor to have priority over income tax dues

Income-tax dues from the assessee under the IT Act, 1961 have no priority over the secured debt in terms of the State Financial Corporations Act, 1951; order of the TRO attaching property mortgaged in favour of the petitioner corporation is quashed.

Karnataka State Industrial Investment Development Corporation Ltd vs. CIT (2013) 259 CTR (Kar.) 485

Also-Axis Bank Ltd vs. CIT (2013) 259 CTR (P&H) 492

Wealth Tax Act, 1957, Sch. III, Rules 9, 11 & 21

Shares held in promoters' quota for a lock-in period could be valued by adopting the methodology under r.11 of Sch. III to the WT Act, 1957.

CIT vs. Thirupathy Kumar Khemka & Ors (2013) 259 CTR (Mad.) 260

INTERNATIONAL TAXATION

(Contributed by

CA. Hinesh Doshi, CA. Vishal Gada & CA. Dolly Waghela)

ACIT vs Robert Arthur Keltz (35 Taxmann.com 424) (Delhi Tribunal) dated 24th May, 2013

Facts

The taxpayer, an employee of United Technologies International Operation, USA, was on deputation to the Indian Liaison Office and qualified as Not Ordinarily Resident of India for the Assessment Year (AY) 2007-08. The taxpayer exercised certain stock options (which were granted to him in January 2004 and vested in January 2007).

While filing the tax return, the taxpayer offered to tax the proportionate amount of ESOP perquisites earned in India, i.e. proportionate to the number of days of his assignment in India.

During the assessment proceedings, the Assessing Officer (AO) rejected the proportionate mechanism and taxed the entire amount of ESOP perquisites in the hands of the taxpayer.

Issue

Whether proportionate value of ESOP perquisite, pertaining to the period when the taxpayer had not rendered any India specific job or activity, accrues or arises or deemed to accrue or arise to him in India and whether the same should be taxed in his hands?

Held

The Hon'ble ITAT, upheld the view of the CIT (A) who had relied on the CBDT Circular issued under erstwhile FBT regime, OECD guidance on treatment of stock options and favourable Delhi ITAT rulings in the case of Mr. Eric Morquexer and Ellis 'D' Rozario. The principle laid down by these rulings is that only proportionate salary would be taxable in India, if a part of activity done by the taxpayer has no relation to any India specific job or activity.

The Hon'ble ITAT concluded that since the taxpayer had not rendered service connected with any activity in India prior to start date of his Indian assignment, only such proportion of ESOP perquisite as is relatable to the service rendered by the taxpayer in India is taxable in India.

Maruti Suzuki India Limited vs. ACIT (ITA No. 5237/ Del/2011) (Delhi ITAT) dated 2nd August, 2013

Facts

MSIL, incorporated in February 1981 as a 100 per cent Government of India (GOI) owned entity, is a manufacturer of passenger cars in India. MSIL entered into 'Technical Assistance and Licence Agreement' (Licence Agreement) with Suzuki Motor Corporation, Japan (SMC) first in 1982 when it was an independent 100 per cent GOI owned entity. The License Agreement granted MSIL the exclusive right to manufacture specific models of Suzuki cars by using licensed technology, know-how and the 'Suzuki' trademark owned by SMC. Based thereon, MSIL used the co-branded trademark 'Maruti-Suzuki' on its products starting 1982. Further, MSIL in 1992 and various other subsequent dates, entered into similar licence agreements with SMC for other models of passenger cars, even as SMC acquired interest in MSIL during these years (54.12 per cent shares by March 2003).

MSIL paid lump sum royalty as well as running royalty to SMC under the Licence Agreements.

In its TP documentation for Financial Year (FY) 2004-05, the taxpayer selected Transactional Net Margin Method (TNMM) as the most appropriate method and Operating Profit/ Sales (OP/ Sales) as the Profit Level Indicator (PLI) to benchmark its various international transactions, including the payment of royalty to SMC under the Licence Agreements. The OP/ Sales of the taxpayer was computed at 11.19 per cent vis-à-vis the OP/Sales of the comparables at 4.04 per cent, thereby concluding that the taxpayer's international transactions with AEs during FY 2004-05 are at Arm's Length Price (ALP).

The TPO disagreed with the conclusion drawn in the TP documentation and made an adjustment amounting to INR 15,412 million, in relation to the AMP expenses incurred by the taxpayer, using the Bright Line Test. Further, the TPO made an adjustment in relation to payment of royalty to the extent of INR 981.41 million. The TPO made this adjustment by bifurcating the composite royalty payment made by MSIL under the Licence Agreement between 'use of technology' and 'use of brand name' with reference to the proportionate expenditures incurred by SMC on Research & Development (R&D) and on brand promotion as per its consolidated financial statement. The TPO did not dispute the portion of royalty relating to technology.

The TPO held that a payment for use of SMC's brand name is not warranted when the same has been promoted by the taxpayer itself in the Indian market. The TPO also observed that the processes of piggybacking of the 'Maruti' trademark by the 'Suzuki' trademark and co-branding as 'Maruti-Suzuki' resulted in impairment of 'Maruti' brand value because 'Maruti' was a stronger brand in the Indian markets.

Issue

Whether the action of TPO of disallowing payment of brand royalty by splitting royalty paid towards technical assistance and use of brand name correct?

Whether the TPO's action was correct in making an adjustment towards AMP expenses incurred by the taxpayer?

Held

It was an independent decision of MSIL to use co-brand trade mark 'Maruti-Suzuki' and at the time of entering into this agreement taxpayer was an independent 100 per cent Government of India owned entity.

The Licence Agreement entered into between the Government of India and SMC in 1982 specifically provided for the use of co-brand trade name/ logo of the taxpayer and Suzuki whereas SMC acquired the controlling interest in MSIL in 2003. Therefore, there could not be application of any influence to manipulate royalty payments and erode the Indian tax base. As the terms and conditions of the agreement have remained unchanged since then, the Licence Agreement can be said to be at arm's length for FY 2004-05. Reliance was placed on the Mumbai Tribunal judgment in the case of SC Enviro Agro India Ltd.

The royalty paid by the taxpayer to SMC was under a single / indivisible contract which provided taxpayer the exclusive right and licence to manufacture and sell the licensed product. Reliance was placed on Supreme Court judgment in the case of Vodafone International Holdings BV wherein the Court held that it is not open to revenue authorities to split an agreement when the parties to the agreement themselves have not contemplated a split.

The Tribunal concluded that the primary intent of the licence is transfer of technology and not trademark usage.

Rejected the tax department's contention that SMC exercised control over MSIL even before acquiring majority interest in 2003 (i.e. 1982 and 1992) and clarified that if there is no change in facts and circumstances of different years, different view cannot be taken.

Decision to use 'Suzuki' brand name was taken in order to advance the taxpayer's own commercial interest. 'Suzuki' brand is an international renowned global brand and cannot be considered to be a weak brand.

Thus, TPO's conclusion that a portion of royalty paid to SMC was attributable to use of brand name is not sustainable.

Special Bench's decision in LG India's case has to be applied to determine arm's length price of the AMP expenses incurred by the taxpayer.

Expenditure incurred in connection with sales not to be brought within the ambit of AMP expenses.

Matter remitted to the TPO to decide the rate of AMP expenses by applying proper comparables after hearing the taxpayer, following precedence laid down in LG India's case and in light of the additional grounds and additional evidences as admitted by the Tribunal.

ACIT, Circle 48 (1), New Delhi vs Shri Raj Jain (ITA No.1636/Del/2011) dated 31st July, 2013

Facts

The assessee is a non-resident and he was working in Whirlpool China and salary was accrued and arose in the China only and during the relevant financial year, the assessee was out of India for 236 days. The return of income was filed by the assessee on 26/7/2006 in which his salary income declared as taxable income in India. Hence, the assessee pleaded that assessee was a non-resident during the relevant financial year & not liable to be taxed in India.

The AO did not accept the assessee's contention and stated that the TDS on salary income was deducted by the Indian company i.e. Whirlpool India Ltd. and not by the Whirlpool China Ltd. and the Form No. 16 clearly shows that the assessee was on pay roll of an Indian company and hence his salary income was chargeable to tax in view of provisions of section 9(I)(i) even though the status of the assessee was Non-Resident the salary certificate issued by Whirlpool India Ltd shows the status of the assessee as Regional Head- Marketing & Production which substantiates the fact that the assessee went to China on official visits only & revised return for nil income was also not filed by the assessee.

Hence, the aggrieved assessee filed an appeal before the CIT (A).

The CIT (A) granted the relief to the assessee by stating that according to section 6 of the Act, he is non-resident as he being citizen of India has remained out of India for more than 182 days during the previous year relevant to A.Y. under appeal. Accordingly, income earned and received outside India is not taxable in the case of non-resident.

Issues

Whether if the assessee was already employed by the Indian branch when he went to China, he is covered by Explanation (a) of section 6(1)? and whether his residential status is affected due to that?

Whether when the TDS on salary income was deducted and Form 16 was issued by the Indian company, and assessee is a citizen of India, non-resident in the relevant assessment year, employed abroad, the assessee is assumed to be working for the Indian company?

Whether, in such case, the fact that the assessee is a non-resident in the relevant assessment year should be ignored and his salary income should be taxable in India?

Held

The Tribunal held that the requirement of the Explanation is not leaving India for employment but it is leaving India for the purposes of employment outside India. For the purpose of the Explanation, an individual need not be an unemployed person who leaves India for employment outside India. Therefore, the fact that the assessee was already an employee at the time of leaving India is hardly material or relevant and hence he is covered by Explanation (a) of section 6(1). The contention that he was already employed in the Whirlpool India prior to the leaving India for working with Whirlpool China shall not affect the residential status of the assessee.

It further stated that as the salary of the assessee was credited in HSBC Hong Kong during the relevant period the assessee is undoubtedly an employee

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Prosecution Director

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3. **Website:** www.actuariesindia.org

Contact Person: Gururaj Nayak, Head – Operations at gururaj@actuariesindia.org – contact through e-mail only.



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Relevant details:

- 1) **Location:** Mumbai preferably. Other locations can be considered.
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- 3) **Qualification and Experience required:** The Actuaries Act, 2006 and related provisions, particularly on Discipline matters bear close similarity to provisions of Institute of Chartered Accountants Act and hence, it is desirable that the PD should have experience of similar functions directly or indirectly. Subject to such experience, professional qualification of ICAI, ICSI and Law are desirable.
- 4) **Period of appointment:** One year renewable contract.
- 5) **Likely work load and possible period of engagement:** The PD will work out of his/her office or home, though occasional visits to the IAI Office in Mumbai may be required. It is unlikely that the work load would be significant in terms of number of hours required per day, may be say about some 3 to 4 hours per working week.
- 6) **Compensation:** Consulting fee - negotiable.
- 7) **Travel and other expenses:** All travel and related incidentals required to perform the role shall be borne by IAI.
- 8) **Admin support:** IAI has a nodal officer handling Disciplinary matters and besides other admin support can be extended as required.
- 9) **Time frame for selection:** As early as possible.
- 10) **Process of selection:** Interview - telephonic and/or in person.
- 11) **Last date for application:** Latest by 30th September, 2013

of Whirlpool China and not of the Indian company. The assessee is a non-resident; hence the salary income is not taxable in India according to section 5. The TDS on salary income was wrongly deducted in India and so the issue of TDS deducted by the Indian company is not relevant. As for Form 16, the Tribunal upheld the explanation given by CIT.

The residential status of the assessee cannot be ignored in any case. Considering these facts in view, Tribunal upheld the order of the CIT (A) that salary income of the assessee accrued and arose during the employment in China and is not taxable in India. In the result, the appeal of the revenue is dismissed.

Income Tax Officer vs Satish Beharilal Raheja (2013-TII-142-ITAT-Mum-INTL) dated 14th August, 2013

Facts

The assessee, a tax resident of Switzerland had long-term and short-term capital gain from sale of mutual funds. He claimed that in terms of Article 13(6) of the India-Switzerland tax treaty, the capital gain on sale of units of mutual funds was taxable only in Switzerland and not in India. According to the assessee, the capital gains had arisen on account of sale of mutual fund units, and not on account of alienation of shares.

The AO held that the non-resident assessee had invested in Indian capital market and in Indian shares through selective investment routes known as mutual funds. The capital gain was basically attributable to gains in of companies in which mutual funds had made investments. Therefore, effectively the gain was from alienation of shares of Indian companies. Therefore, the provisions of Article 13(5) (b) were applicable and the capital gains were taxable in India. In appeal, the CIT (A) accepted the assessee's contention holding that mutual funds were clearly distinct and separate from shares of Indian companies. Aggrieved Revenue filed an appeal before Tribunal.

Issue

Whether capital gains from transfer of units can be said to be arising from transfer of shares of companies?

Whether in absence of any specific provision under the Act to deem the unit as shares, units could not be considered as shares of companies & whether in such cases, Article 13(6) and not Article 13(5) will apply?

Whether therefore such capital gains cannot be taxed in India?

Held

The Tribunal held that, in case of the assessee the units of mutual funds are different from shares of Indian companies and have been given different treatment in the Income tax Act. The Tribunal relied on the judgment of Supreme Court in case of Apollo Tyres in which it has been held that units of UTI are not shares of companies.

The Tribunal held that the Apollo Tyres judgment had been rendered in the context of Explanation to section 73, therefore is also applicable to the present situation which involves the interpretation as to whether units can be considered as shares. The Tribunal further held that, in the absence of any specific provision under the Act to deem the unit as shares, it could not be considered as shares of companies and, therefore, the provisions of Article 13(5) (b) cannot be applied in case of units.

The Tribunal agreed with the findings of CIT(A) that provisions of Article 13(6) are applicable in case of units as per which the capital gain cannot be taxed in India.

Income Tax Officer vs M/s Pipavav Shipyard Ltd. (2013-TII-137-ITAT-Mum-INTL) dated 7th August, 2013

Facts

The assessee is a company, engaged in ship-building activities. The assessee had taken financial assistance from Japan Bank for International co-operation (JBIC) in connection with the ship breaking project and had booked an amount of ` 122.65 lakh towards the consultancy charges payable to Overseas Shipbuilding cooperation Centre and the agency appointed and approved by JBIC.

The AO noted that the assessee had not deducted tax at the time of payment of the said sum.

Issue

Whether in respect of consultancy charges, the assessee had neither made the payment nor claimed any revenue expenditure, the assessee could be

held liable for deduction of tax at source only on the basis of entry in the books of account?

Whether when the department has not produced any material to controvert the claim of the assessee that it had no PE in India nor any business connection in India, the income on account of consultancy fee even if paid is not taxable in India?

Whether there was any requirement to deduct tax at source?

Whether any penalty can be levied for the alleged non-deduction?

Held

The Tribunal held, the actual payment of the amount was dependent on certain regulatory compliances and approvals which were ultimately not received. The payment had also not been made. Therefore in such a situation no income on account of such payment could be said to have been accrued to the non-resident. Therefore only on the basis of entry in the books of account, the assessee could not be held liable for deduction of tax at source.

The said company had also no PE in India nor had any business connection in India. There is neither material placed on record before Tribunal to controvert the claim of the assessee that the assessee had no PE in India nor any business connection in India. The income on this account even if paid is not taxable in India.

Tribunal held that the assessee was not liable to deduct tax and thus upheld the order of CIT (A) cancelling the order of AO u/ss 201(1) and 201(1A). The penalty levied by the AO, therefore, cannot survive. Tribunal accordingly confirms the order of CIT (A) cancelling the penalty.



Group Photograph taken during the Residential Refresher Course at Saputara on 09/08/2013 to 11/8/2013. (L-R): CA. Vandana Dodhia, CA. Dushyant Bhatt, CA. Nihar Jambusaria, CCM, CA. Giriraj Khandelwal, CA. Kinjal Shah & Other Members



Pune: CA. S. B. Zaware, CCM Lighting the lamp at the Inauguration of Full Day Seminar on Chanakya's Arthashastra - Realities And Opportunities For CAs organized Jointly With Pimpri Chinchwad Branch of WIRC



Vasai: Group photograph taken during the 6th RRC at Bali (Indonesia). Seen in picture CA. Ramanand Gupta, Branch Chairman, CA. Umesh Mestry, CA. Dayaram Paliwal and other participants

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Ahmedabad: Seminar on Overview of New Companies Bill on 17/8/2013. Chief Guest Shri S. N. Misra, ROC Gujarat along with Senior advocate Saurbh Soparkar, CA. Purushottam Khandelwal, Branch Chairman, CA. Aniket Talati, CA. Amrish Patel, CA. Vikash Jain, CA. Satyendra Jha



Aurangabad: CA. Rajkumar Kothari addressing at the Seminar on Package Scheme of Incentives-2013. (L-R): CA. Renuka Deshpande, CA. Ashish Zavar, Faculty, Shri S.G. Rajput, Faculty, Shri Sanjay Bhonekar, Shri Milind Kank, Shri Ajeet Mulay



Gandhidham: Certificate Course on Concurrent Audit of Banks on 17/8/2013. Seen in picture CA. Priti Savla, Treasurer, WIRC, CA. Dhananjay Gokhale, Faculty, CA. Govind Batra, Faculty, CA. Sanjay Mehta, Branch Chairman & Participants Members



Kolhapur: Students Seminar on Tax Audit & E-filing. (L-R): CA. Satish Dakare, CA. C.V. Deshpande, Faculty, CA. Pranav Moghe, Faculty, CA. Nitin Hargude



Navi Mumbai: Group photograph taken during the branch visit with WIRC Office Bearers & Branch Committee members & other members on 17/8/2013



Amravati: Group Photograph taken during the Elocution Contest on 15/8/2013



Bharuch: Seminar on Indirect Taxes on 3/8/2013. (L-R): CA. Anand Mundra, CA. Prasit Parekh, Branch Chairman, CMA. Ashok Naval, Faculty, CA. Parag Raval, Vice Chairman, WIRC



Jalgaon: All Maharashtra Direct Tax Convention on 25/8/2013. (L-R): CA. Girish Kulkarni, RCM, CA. Parag Raval, Vice Chairman, WIRC, CA. Mangesh Kinare, Chairman, WIRC, Shri Sudhirji Meshram, Vice Chancellor, North Maharashtra University, CA. Parikshit Bhadade, Branch Chairman, CA. Julfesh Shah, RCM, CA. Kaushal Mundada



Nagpur: CA. Jaydeep Shah, Past President, ICAI lighting the lamp at the National Seminar on Direct Tax held on 3/8/2013. (L-R): CA. Kirti Agrawal, CA. Suren Duragkar, CA. Kirit Kalyani, CA. Sanjay Agrawal, CCM, CA. Dhinal Shah, CCM, CA. Ashwini Agrawal, CA. Swapnil Agrawal, Branch Chairman, CA. Julfesh Shah, RCM, CA. Swapnil Ghatge, CA. Umang Agrawal, CA. Sandeep Jotwani



Pimpri Chinchwad: Group photograph taken during the branch visit with WIRC Office Bearers & Branch Committee members

Seminar on Tax Audit and Documentation held on 3rd August, 2013



CA. Neha Patel, CA. Shruti Shah, RCM, CA. Ketan Ved, Faculty, CA. Rajen Gada

Other Speakers



CA. Mehul Sheth



CA. Ameet Patel

Seminar on Intellectual Property Rights held on 10th August, 2013



CA. Anand Sakle, CA. Shardul Shah, RCM, CA. Rajesh Haldipur, Faculty, CA. Jigar Gogri

Other Speakers



Adv. Subraminian Vutha



CA. Vijay Mathur



CA. Anil Sathe

Seminar on Service Tax on Cross Border Transactions held on 17th August, 2013



CA. Y. R. Desai, CA. Sunil Patodia, RCM, CA. Naresh Sheth, Faculty, CA. Sachin Holmukhe

Other Speakers



CA. Rajiv Luthia



CA. Abhishek Rastogi



CA. Vinod Awtani

Seminar on System Audit held on 24th August, 2013



CA. Amogh Pandit, CA. Prasad Pendse, Faculty, CA. Gaurav Save, CA. Anil Bhandari, RCM

Other Speakers



CA. Sunder Krishnan



CA. Shailendra Kothavale



Shri Prasad Gupte

Direct Tax for CA Final Students held on 26th - 30th August, 2013



Mr. Sumit Rathi, CA. Mahesh Madkholkar, Chairman, WICASA, Dr. Girish Ahuja, Faculty, CA. Bharat Oza

Accounting Standards on 26th to 30th August, 2013



Shri Parveen Sharma



Group photograph taken during the Debate Competition on 31st August, 2013

Half Day Seminar on Service Tax Voluntary Compliance Encouragement Scheme 2013 held on 9th August, 2013



CA. Parag Mehta, Faculty, CA. Manish Gadia, Faculty, CA. Viral Chheda



Group photograph taken during the 1st Mega Students Residential Seminar on 24th - 25th August, 2013 at Matheran

Release of WIRC Reference Manual 2013-14 on 27th August, 2013



CA. Sushrut Chitale, RCM, CA. Sunil Patodia, RCM, CA. Ketan Saiya, CA. Dilip Apte, RCM, CA. Abhay Kamat, CA. Mangesh Kinare, Chairman, WIRC, CA. Sandeep Jain, RCM, Shri Jayant Kumar Banthia, Chief Secretary, Maharashtra, CA. Mahesh Madkholkar, RCM, CA. Vijay Kumar Gupta, Chairman, CMII-ICAI, CA. Prafulla Chhajed, Vice Chairman, CMII-ICAI, CA. Shardul Shah, RCM, CA. Satyanarayan Mundada, RCM, CA. Priti Savla, Treasurer, WIRC, CA. Vijay Shetty, CA. Neel Majithia, Secretary, WIRC

Regional CPE Convention held on 9th & 10th August, 2013 at Aurangabad



CA. Sarvesh Joshi, RCM, CA. Parag Raval, Vice Chairman, WIRC, CA. Girish Kulkarni, RCM, CA. Neel Majithia, Secretary, WIRC, CA. Prafulla Chhajed, CCM, CA. Rajkumar Kothari, Branch Chairman, CA. Mangesh Kinare, Chairman, WIRC, CA. Arunbhai Gujrathi, Chief Guest, CA. Pankaj Kalantri, CA. Satyanarayan Mundada, RCM, CA. Renuka Deshpande, CA. Vijay Rathi, CA. Sunil Patodia, RCM

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