



The Institute of
Chartered Accountants of India
(Set up by an Act of Parliament)

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Western India Chartered Accountants Newsletter

JUNE 2014 | Vol. 40 | No. 06

*Monsoon
at WIRC
means it's
Raining Music*

AGILITY

“ The quality of intellectual acuity and the ability to think and draw conclusions quickly.

The intellectually agile person has the capability to foresee and to turn events advantageously.... A skill very much visible in CAs.”



Log on to <http://wirc-icai.org>
for more information & updates



New Members Meet & Felicitation of Rank Holders held on 9th May, 2014



CA. Mangesh Kinare, Imm. Past Chairman, WIRC, CA. Shruti Shah, Secretary, WIRC, CA. Anil Bhandari, Chairman, WIRC, CA. V. C. Darak, Past Chairman, WIRC & Chief Guest, CA. S. G. Mundada, Chairman, WICASA, CA. Mahesh Madkholkar, RCM, CA. Shardul Shah, RCM, CA. Priti Savla, RCM, CA. Sandeep Jain, RCM & Rank Holders

Seminar on Audit Aspects Relating to Co-operative Banks & Societies held on 3rd & 4th May, 2014



CA. Ankit Sanghvi, CA. Dinesh Gandhi, CA. Girish Kulkarni, Treasurer, WIRC, CA. D. A. Chougule, Faculty, CA. Sunil Patodia, RCM, CA. Ramesh Prabhu, Faculty, CA. Sushrut Chitale, RCM, CA. Aniket Kulkarni

Other Speakers



CA. Abhay Mate



CA. Sudhir Pandit



CA. Uday Karve



Shri Suresh Pawar

Seminar on Service Tax Procedural Aspects held on 10th May, 2014



CA. Shruti Shah, Secretary, WIRC, CA. Vikas Vishwasrao, CA. S. G. Mundada, RCM, CA. Manish Gadia, Faculty, CA. Shantesh Warty

Other Speakers



CA. Pritam Mahure



CA. Kevin Shah



CA. Narendra Soni



Photograph taken during the Nandurbar CPE Chapter Inauguration Function. **Sitting Members (L-R):** CA. Prakash Pathak, CA. G. B. Modi, CA. Anil Gujrathi, Chairman, Dhule Branch, CA. Girish Kulkarni, Treasurer, WIRC, CA. K. S. Sharma, CA. L. B. Jain, CA. Krushna Gandhi. **Standing Members (L-R):** CA. Shiram Deshpande, CA. Amit Agrawal, CA. Sandeep Rathi, CA. Sharad Pasari, CA. Chetan Agrawal, CA. Vatan Agrawal, CA. Narendra Chhajed, CA. Manish Lunawat, CA. Ajay Sarda, CA. Sagar Lathi, Shri Kasar, Shri Hasmani, CA. Rajaram Kulkarni



Dear Colleagues,

This is what I call a dream run. Detailed planning, exceptional campaign management and above all great execution. It demonstrated the core values of Integrity, Perseverance and Passion. While I said in my last communication

that coalition government is the order of the day, the stunning victory of our Hon'ble Prime Minister Shri Narendra Modiji has changed the colours in the Parliament and for the first time in 30 years a single party government has been elected. Our heartiest congratulations to Modiji and the people of our country for a thoughtful and decisive mandate.

The whole country is now waiting with great hopes that Modiji will take India back on the growth track through economic reforms, specifically by supporting infrastructure, manufacturing, allied industries and creating job opportunities.

Quick decision making and agility in implementation will be required to see India grow. Agility is not only our theme for this Newsletter but also a characteristic easily identifiable with CAs. It is the ability to quickly grasp and incorporate new ideas and concepts with confidence. Inculcating this quality is necessary to pursue the path to endless growth.

I am constantly inspired by the enthusiasm of our Members and Students during my interactions with them across the Region. I truly believe that this enthusiasm and dedication is the reason why we are so successful – professionally, personally and socially. This aspect of our Members was further seen during the various WIRC Committee Meetings held in the first week of May, which were attended by several co-opted Members from across the Region and Mumbai.

There were focused discussions during the Committee Meetings and we have outlined specific initiatives for Members and Students for the next three months, which I am sure will add to

our professional excellence. I appreciate the input of the co-opted Members and thank them on behalf of all Members.

Apart from this, our Region has also seen some very successful events this month. The WIRC Rank Holders Felicitation took place in ICAI Tower at BKC. This is one programme which evokes emotions in all and especially in the hearts of the proud parents. All Rank holder students and young Members were captivated by the address of the Chief Guest, CA V. C. Darak, past Chairman of WIRC. I am confident that his guidance will go a long way in providing the right direction to all such Students and Members.

I was amongst the few privileged who had the honour of attending the WIRC's 1st Women RRC organised in Goa. It was a great success with over 70 Women Members in attendance and one could truly experience the exceptional qualities of women in roles across organisation and management. We are grateful to the Chief Guest, CA C.S. Nanda, CCM and Chairman of Women Members Empowerment Committee of ICAI for gracing the occasion. Members attending the RRC appreciated the knowledge fest and the different topics discussed during this 3 day event.

The National Seminar on "Multi-State Co-operative Society" and "Companies Act" was very well received by the Members. The interest in understanding the new Companies Act is very high and WIRC will continue to hold many such seminars in the near future.

WIRC in its quest to maintain interaction with various departments conducted yet another training programme for Service Tax officials. The programme was attended by Mr. R. Sekar, Commissioner of Service Tax, who appreciated the efforts of the Institute and its Members.

The International Study Tour to Europe starting from the fashion capital of Paris and ending at the highest point in Europe–Jungfrauoch, was a learning experience in itself. The infrastructure and engineering marvel at Jungfrauoch, approximately 12,000 ft. above sea level and which is more than 100 years old is truly an example of thinking above and beyond.

We at WIRC are excited that more than 6,000 Students took advantage of its initiative to hold CPT mock tests across the region which will help the Students better prepare for their exams.

Team WIRC and all its Members are looking forward to WIRC's event 'Mile Sur Mera Tumhara' on 1st of July, our CA Foundation Day. I earnestly request all Members and their families to participate enthusiastically and help make the show a great success. I would also like to encourage them to participate in the various events during the Foundation Week.

We should always remember, "If you are agile, you are fast and you spot more opportunities. If you spot more opportunities, your achievement rate goes up, you become successful and you're considered lucky. However, the reality is that if you demonstrate core values such as **integrity, perseverance, agility** and **passion** you will make your own luck"

With best regards,

CA. Anil Bhandari

OFFICE BEARERS

CA. Anil Bhandari
Chairman

CA. Julfesh Shah
Vice Chairman

CA. Shruti Shah
Secretary

CA. Girish Kulkarni
Treasurer

EDITORIAL BOARD

Editor:
CA. Anil Bhandari

Joint Editor:
CA. Shruti Shah

MEMBERS

CA. Mangesh Kinare | CA. Priyam Shah
CA. Hardik Shah | CA. Neel Majithia
CA. Sanjeev Maheshwari

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Forthcoming Events

06
CPE HRS

Seminar on Companies Act, 2013—A Comparative Analysis & Issues

Corporate Laws

DAY & DATE SATURDAY, 21ST JUNE, 2014

Venue	Hotel Sea Princess, Juhu Tara Road, Juhu, Mumbai	
Time	10.00 a.m. to 6.00 p.m. (Registration & breakfast 9.30 a.m. to 10.00 a.m.)	
Fees	₹ 2,000/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)	
Chief Co-ordinators	CA. Dhiraaj Khandelwal	9867642684
	CA. Sarvesh Joshi	9822022292
	CA. Vishnu Agarwal	9833310916
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Hrishikesh Wandrekar	9892919239
	CA. Deepika Agarwal	9920178906
	CA. Rupal Haria	9322219029

For more details visit www.wirc-icai.org

06
CPE HRS

Seminar on Service Tax on Construction Industry

Indirect Tax

DAY & DATE SATURDAY, 28TH JUNE, 2014

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 9.30 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. Mahesh Madkholkar	9820075966
	CA. Subodh Kedia	9879267750
	CA. Dilip Apte	9930314856
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Gaurav Save	9969001607
	CA. Akshay Patil	8879385263
	CA. Samir Mhatre	9987311092

For more details visit www.wirc-icai.org

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CPE HRS

7-Day Intensive Workshop on IFRS

Accounts & Audit

DAYS & DATES MONDAY, 30TH JUNE TO SUNDAY, 6TH JULY, 2014

Venue	ICAI Tower, Behind Standard Chartered Bank, Near MCA Ground, BKC, Mumbai	
Time	9.00 a.m. to 5.30 p.m. (Registration 8.30 a.m. to 9.00 a.m.)	
Fees	₹ 10,000/- for all sessions (inclusive of course material & refreshment & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)	
Chief Co-ordinators	CA. Parag Raval	9824339200
	CA. Shruti Shah	9892407988
	CA. Dilip Apte	9930314856
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Anand Sakie	9869770564
	CA. Bipeen Mundade	9223290561
	CA. Swati Bhatkar	9967537989
	CA. Viral Chheda	9833594045

To register online for event visit <http://wirc-icai.org/onlineevents.aspx>

06
CPE HRS

Training & Certification on QuickBooks Online – Cloud based Accounting application

IT

DAY & DATE SATURDAY, 21ST JUNE, 2014

Venue	IT Lab, 3rd Floor, ICAI Tower, Near Standard Chartered Bank, BKC, Mumbai	
Time	10.00 a.m. to 6.00 p.m. (Registration & breakfast 9.30 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. Neel Majithia	9820327660
	CA. Sunil Patodia	9820344085
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Suhas Gharat	9820420675
	CA. Devang Doshi	9967923276
	CA. Mehul Sheth	9820297310

TOPICS & SPEAKERS

Basics of Cloud Computing and its benefits to Accountants • Introduction about Pro-advisor Program and Global Certification • Introduction to QBO and Accountant case study • QBO Features and Benefits Part 1 (Hands on) • QBO Features and Benefits Part 2 Contd. (Hands on) • Online Assessment and Certification – CA. Varun Nirmal, Shri Nagmani & Shri Venkat Yamana

12
CPE HRS

Seminar on PE and Attribution of Profits to PE

International Tax

DAYS & DATES SATURDAY, 5TH & SUNDAY, 6TH JULY, 2014

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 9.30 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. Shruti Shah	9892407988
	CA. Priyam Shah	9824096112
	CA. Sandeep Jain	9819788099
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Ankit Anjaria	9930001614
	CA. Vikram Joshi	9821733286
	CA. Arun Prithwani	9820917280

For more details visit www.wirc-icai.org

06
CPE HRS

Seminar on Forensic & Digital Investigations in an IT Environment

IT

DAY & DATE SATURDAY, 12TH JULY, 2014

Venue	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	10.00 a.m. to 6.00 p.m. (Registration & breakfast 9.30 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. Abhishek Nagori	9426075397
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Milind Joshi	9930033939
	CA. Gaurav Parwani	9323674628
	CA. Ritesh Hibare	9773418343

For more details visit www.wirc-icai.org

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JUNE 2014

Western India Chartered Accountants Newsletter



15
CPE HRS

Intensive Workshop on Companies Act 2013 (from SME Perspective)

Corporate Laws

Most of the provisions of The Companies Act, 2013 have been notified and many of them have been made effective from 1st April, 2014. Hence it is very much necessary to understand the concepts and provisions of the New Act as the preparations for the proper compliance of the Act will have to be initiated in the current year. This intensive workshop intends to give indepth insight to various provisions of the Act which will be relevant from the perspective of small and medium enterprises (SME) companies forming the client base of majority of Chartered Accountants.

DAYS & DATES	MONDAY	WEDNESDAY	FRIDAY
	7/7/14	2/7/14 9/7/14	4/7/14 11/7/14
Venue	Mayor Hall, Juhu Lane, Andheri (W)		
Time	4.30 p.m. to 7.30 p.m.		
Fees	₹ 2,500/- (inclusive of course material, & refreshment) (Please add ₹ 100/- towards CA Benevolent Fund)		
Chief Co-ordinators	CA. Sushrut Chitale 9821112904 CA. Shruti Shah 9892407988 CA. Julfesh Shah 9823096540 CA. Parag Raval 9824339200 (Regional Council Members)		
Co-ordinators	CA. Shantesh Warty 9819947969 CA. Santosh Karambele 9004495456 CA. Y. R. Desai 9820448365		

TOPICS & SPEAKERS

Wednesday, 2nd July, 2014

Introduction to New Concepts, Key Definitions, Applicability, Incorporation of Companies, Drafting MOA/AOA, Issue of shares & securities, Impact on Private Limited companies – **CA. Abhay Arolkar**

Friday, 4th July, 2014

Appointment and Qualifications of Directors, Board Meetings, Compliance procedures, Annual Returns, Registration of charges, AGM – **Eminent Faculty**

Monday, 7th July, 2014

Related Party Transactions, Corporate Governance, Acceptance of Loans and Deposits, Guarantees, Lending and Investments. Frauds and Management Responsibility – **CS. Anand Amdekar**

Wednesday, 9th July, 2014

Issues relating to Accounts and Financial Statements, Components of Financial Statements, Voluntary Revision of Financial Statements, Re-opening of Accounts, Depreciation, Dividend and Managerial Remuneration, Consolidation of Accounts etc. – **CA. Manish Sampat**

Friday, 11th July, 2014

Provisions relating to Audit and Auditors – Rotation of Audit, Ceiling on Audits etc., Mandatory Internal Audit, Reporting on Frauds and Auditor's responsibility, Auditor's focus areas – compliances and responsibilities – **Eminent Faculty**

Jointly with Andheri (W) CPE Study Circle

06
CPE HRS

Seminar on E-filing Returns under Various Acts

Direct Tax

DAY & DATE	SATURDAY, 12TH JULY, 2014	
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 9.30 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. Shruti Shah 9892407988 CA. Julfesh Shah 9823096540 CA. Sarvesh Joshi 9822022292 (Regional Council Members)	
Co-ordinators	CA. Nikhilesh Soman 9867183643 CA. Purva Mittal 8655046341 CA. Anand Kothekar 9820425551	

For more details visit www.wirc-icai.org

06
CPE HRS

Seminar on Companies Act, 2013

Corporate Laws

Description – A majority of sections of the Companies Act, 2013 have been notified. Many of these have come in to effect from 1st April 2014. There are still certain sections which are yet to be notified. This one day seminar focuses on the notified provisions of the Companies Act, 2013 which are relevant for practicing chartered accountants.

Objective of the programme – To provide a platform for members to understand key changes brought about by the Companies Act, 2013 in respect of key areas affecting clients on a regular basis.

Who can attend – Members who practice in company law, as well as members who practice in areas of audit, taxation, etc., who advise corporate clients on their routine company law matters.

DAY & DATE	SATURDAY, 19TH JULY, 2014	
Venue	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	10.00 a.m. to 6.00 p.m. (Registration & breakfast 9.30 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. Sushrut Chitale 9821112904 CA. Parag Raval 9824339200 CA. Sarvesh Joshi 9822022292 CA. Priti Savla 9321426883 (Regional Council Members)	
Co-ordinators	CA. Nikhil Damle 9820170436 CA. Neha Patel 9833678901 CA. Kinjal Maru 9619362898	

TOPICS

Incorporation of Companies, OPC, & changes in share capital

Provisions relating to Directors, Board committees, and Board meetings

Accounts & Audit (including depreciation, small companies, dormant companies, inactive companies)

Acceptance of Deposits, declaration & payment of dividends, related party transactions, managerial remuneration, CSR

06
CPE HRS

Seminar on Tax Audit & Documentation

Direct Tax

DAY & DATE	SATURDAY, 2ND AUGUST, 2014	
Venue	Conference Hall, 6th Floor, ICAI Tower, Near Standard Chartered Bank, BKC, Mumbai	
Time	10.00 a.m. to 6.00 p.m. (Registration & breakfast 9.30 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. Sandeep Jain 9819788099 CA. Priyam Shah 9824096112 CA. Vishnu Agarwal 9833310916 (Regional Council Members)	
Co-ordinators	CA. Abhijit Totade 9819659159 CA. Dhara Shah 9998965684 CA. Akshay Tambe 9892701496	

TOPICS

Issues in the Clauses of Tax Audit

Standards on Auditing vis-à-vis Tax Audit

Documentation for Tax Audit & Peer Review

Various other legal issues in Tax Audit

SPEAKERS

CA. Sanjeev Lalan

CA. Abhay Kamat

CA. Abhay Arolkar

CA. Atul Suraiya



Forthcoming Events



Workshop on Project Finance

Finance

Description – Finance is the life blood of business. Getting the capital structure right and having the right sources of finance is important for ensuring the success of an enterprise. Thus knowing about the various sources of finance and understanding the process of arranging funds from these sources becomes crucial. With an increased exposure of the banking sector to MSME units, possibility of debt funding to such units has increased. A business plan backed by appropriate feasibility study improves the chances of such businesses getting appropriately financed.

Objective of the programme – This one day workshop aims to equip participants with basic knowledge of project finance and educates them on elements and various aspects of preparation of a detailed feasibility report.

Who can attend – This workshop is designed for members; • Who aspire to make a beginning in the field of project finance • Who work in firms involved in debt syndication.

Recommended reading – Working knowledge of excel • Sessions would be conducted in a workshop mode. Participants are expected to carry their own laptop computers • A case study shall be emailed to the registered participants one day before the programme.

DAY & DATE SATURDAY, 19TH JULY, 2014

Venue	Conference Hall, 6th Floor, ICAI Tower, Near Standard Chartered Bank, BKC, Mumbai	
Time	10.00 a.m. to 6.00 p.m. (Registration & breakfast 9.30 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. Dhiraj Khandelwal	9867642684
	CA. Girish Kulkarni	9225306814
	CA. Satyanarayan Mundada	9422080814
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Aniket Kulkarni	9821690559
	CA. Vikram Joshi	9821733286
	CA. Prashant Koyande	9892331890

TOPICS	SPEAKERS
Sources of Finance	Eminent Personality
Concept of working capital & its significance in debt financing	} CA. Amit Godse
Preparing a detailed Project Report (Assessment of Technical & Economic Feasibility)	
Case study on preparing an excel model to submit with the project report	
Credit appraisal – a banker's perspective	Eminent Personality



Seminar on Foreign Trade Policy and Works Contract

Indirect Tax

DAY & DATE SATURDAY, 26TH JULY, 2014

Venue	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	10.00 a.m. to 6.00 p.m. (Registration & breakfast 9.30 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. Vishnu Agarwal	9833310916
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Lalit Bajaj	9867692321
	CA. Ronak Dharnidharka	9987249694
	CA. Nitesh Kothari	9833860870
	CA. Abhishek Baheti	8097674460

TOPICS
Introduction, Valuation option – under VAT/Service tax • Key notes while dealing with Works Contract • Schemes available under Foreign Trade Policy • Relevant notification issued under the Customs/Excise Act



Seminar on Auditing Standards

Accounts & Audit

DAY & DATE SATURDAY, 2ND AUGUST, 2014

Venue	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	10.00 a.m. to 6.00 p.m. (Registration & breakfast 9.30 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. Sushrut Chitale	9821112904
	CA. Parag Raval	9824339200
	CA. Mahesh Madholkar	9820075966
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Suneet Mahale	9819966674
	CA. Reema Jethwa	9619602083
	CA. Parita Shah	9820717644

TOPICS	SPEAKERS
Standards on general principles and responsibilities (SA 200 – 299) • Standards on Audit evidence (SA 500 – 599) • Standards on Audit conclusions and reporting (SA 700 – 799) • Standards on Quality Control (SQCs) – Eminent Faculties	



The Institute of Chartered Accountants of India
(Setup by an Act of Parliament)



Convocation - 2014

**Mumbai - 19th August 2014, Tuesday • Ahmedabad - 25th August 2014, Monday
Pune - 26th August 2014, Tuesday**

Further details about the Venue and Timing of the Convocation Programme is available at www.wirc-icai.org.

Foundation Day Celebration 1st July, 2014
9th Year
Mile Sur Mera Tumhara
 A Cultural Evening Full of Entertainment Performance by Members & their Family Members

ENTRY FREE

Celebrating 75 Years

 R. D. Barman

Date	Time	Venue
Tuesday, 1st July, 2014	6.00 p.m. to 10.00 p.m.	Bhaidas Hall, Near Mithibai College, Juhu Scheme, Vile Parle (West), Mumbai - 400 056

Followed by Dinner

Chief Co-ordinators	Co-ordinators
CA. Shruti Shah 9892407988	CA. Vijay Bhatt 9820210728
CA. Julfesh Shah 9823096540	CA. S. Padmanabhan 9987579214
CA. Priti Savla 9321426883	CA. Manori Shah 9820190092

FLAG HOISTING CEREMONY
Tuesday, 1st July, 2014
 Institute's Premises, ICAI Tower, BKC, Mumbai
Time: 9.30 a.m.

06 CPE HRS **Seminar on Information Technology** *Technology*

DAY & DATE	SATURDAY, 9TH AUGUST, 2014	
Venue	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	10.00 a.m. to 6.00 p.m. (Registration & breakfast 9.30 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 CA. Abhishek Nagori CA. Hardik Shah (Regional Council Members)	9820287625 9426075397 9825510422
Co-ordinators	CA. Kinjal Shah CA. Jignesh Nagda CA. Mayank Ahuja	9892100844 9930506033 9833557109

TOPICS	SPEAKERS
Cloud Computing	CA. Atul Bheda
Social Media for CA	CA. Ameet Patel
Business Apps for CA	CA. Ashwin Dedhia
Cloud Accounting Software—Quick Books	CA. Varun Nirmal

Senior Citizen (Above 60 years) Members get together & free health check-up)

Date : Sunday, 6th July, 2014 **Time :** 10.00 a.m. to 1.00 p.m.
Venue : ICAI Towers, BKC (Followed by lunch)

- Free test include CBC, H. Creatinine & Urine Routine
- Lecture Meeting on Diabetes & Hyper Tension
- Prevention & Treatment by lifestyle & Dietary Modification

Dr. Bharat Shah, Dr. Mita Shah, Dr. Zamrud Patel

06 CPE HRS **Seminar on Business Income** *Direct Tax*

DAY & DATE	SATURDAY, 16TH AUGUST, 2014	
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 9.30 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. Dhiraj Khandelwal CA. Subodh Kedia CA. Hardik Shah (Regional Council Members)	9867642684 9879267750 9825510422
Co-ordinators	CA. Prachi Kulkarni CA. Kunal Parikh CA. Mukund Mall	9819179198 9892429993 9322224142

TOPICS	SPEAKERS
Concept of computation of profits & gains of Business or profession – provisions relating to charging, including MAT (Sections 2(24), 28, 29, 41 & 115 JB)	Adv. Nitesh Joshi
Deductions u/s.36 and amounts not deductible or deductible conditionally (Sections 40, 40A & 43B)	CA. Reepal Tralshawala
Issues relating to capital expenditure & depreciation	CA. Mahesh Sardar
Deeming Fiction under the head Income from Business & Profession (including taxation on presumptive basis, section 43CA etc.)	Eminent Faculty



Forthcoming Events

45
CPE HRS

Intensive Study Course on Income-tax

Direct Tax

DAYS & DATES	MONDAY	WEDNESDAY	FRIDAY
	30/6/14	2/7/14	4/7/14
	7/7/14	9/7/14	11/7/14
	14/7/14	16/7/14	18/7/14
	21/7/14	23/7/14	
	4/8/14	6/8/14	8/8/14
	11/8/14		

Venue	Khimji Kunverji Vikamsey Auditorium, ICAI Tower, Near Standard Chartered Bank, BKC, Mumbai	
Time	5.30 p.m. to 8.30 p.m.	
Fees	₹ 5,000/- (inclusive of course material & refreshment) Please add ₹ 100/- towards CA Benevolent Fund)	
Chief Co-ordinators	CA. Neel Majithia CA. Priti Savla (Regional Council Members)	9820327660 9321426883
Co-ordinators	CA. Vikas Vishwasrao CA. Aalok Mehta CA. Vinit Gada CA. Nilesh Saiya	9892915272 9892001645 8655840598 9820995512

TOPICS & SPEAKERS

30th June, 2014 – Basic tenets of Taxation, Interpretation of Taxing Statutes, Basis of Charge & Charge of Income-tax, Scope of Total Income – **Eminent Faculty**

2nd July, 2014 – Concept of Residence, Income deemed to be received or deemed to accrue or arise in India, Concept of accrual under Income-tax Act, Relevance of Method of Accounting – **CA. Anish Thacker**

4th July, 2014 – Principles governing computation of income under different heads other than business income and capital gains – claim of deductions under various heads, Expenditure relating to income not includible in total income, sections 93 & 94, Rebates for Individuals – **Eminent Faculty**

7th July, 2014 – Important Issues and Principles governing computation of income from Capital Gains – Important Issues – **CA. Rajesh Kothari**

9th July, 2014 – Principles and issues concerning computation of Business Income, Computation of income on Presumptive basis – **CA. Umesh Gala**

11th July, 2014 – Set-off and carry forward of losses, Cash Credit, Unexplained Investments, Unexplained Moneys, Investments not fully disclosed, unexplained expenditure, amounts borrowed on hundi and Clubbing of Income – **CA. Sanjay Parikh**

14th July, 2014 – Important deductions under chapter VIA available to entities carrying on business, with special ref. to Sections 80A, 80AB, 80C & 80D and Sections 10A, 10AA & 10B – **Eminent Faculty**

16th July, 2014 – Special provi. relating to certain incomes of Non Residents including intro to - transfer pricing, APA, Double Taxation Relief – **CA. Kiran Nisar**

18th July, 2014 – Procedure for levy and collection of tax and appeals, DRP, revision, rectification – Law and practical aspects, Powers of I.T. Authorities – **Eminent Faculty**

21st July, 2014 – Taxation of Not for Profit Organisations – **CA. Tushar Doctor**

23rd July, 2014 – Provisions relating to Tax deduction at source, Interest and Recovery proceedings – **CA. Atul Suraiya**

4th August, 2014 – Liability in special cases – Legal Representatives, Representative Assessee, Discretionary & Non-Discretionary Trusts, Succession to Business or Profession, Partition of HUF – **Eminent Faculty**

6th August, 2014 – Penalties and Representations in Penalty Proceedings including introduction to prosecution under IT Act – **Eminent Faculty**

8th August, 2014 – Powers of gathering information, survey, search and seizure and special provisions for assessment of search cases – **Eminent Faculty**

11th August, 2014 – Tax audit, and practical aspects of tax practice – **CA. Sanjeev Lalan**

06
CPE HRS

Seminar on E-filing

Direct Tax

DAY & DATE	SATURDAY, 16TH AUGUST, 2014	
Venue	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	10.00 a.m. to 6.00 p.m. (Registration & breakfast 9.30 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. Shruti Shah CA. Satyanarayan Mundada CA. Mahesh Madkholkar (Regional Council Members)	9892407988 9422080814 9820075966
Co-ordinators	CA. Nidhi Mewada CA. Rupin Phadke CA. Rupesh Gunjal	9619602084 9867350959 9987641644

Interactive meeting with officials of Traces, CPC & ROC on respective e-filing issues

12
CPE HRS

3rd Workshop on Increasing your Efficiency and Productivity through Mission Control

Others

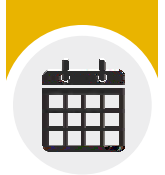
DAYS & DATES	SATURDAY, 28TH & SUNDAY, 29TH JUNE, 2014	
Venue	Conference Hall, 6th Floor, ICAI Tower, Near Standard Chartered Bank, BKC, Mumbai	
Time	10.00 a.m. to 6.00 p.m. (Registration & breakfast 9.30 a.m. to 10.00 a.m.)	
Fees	₹ 7,500/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)	
Chief Co-ordinators	CA. Neel Majithia CA. Sunil Patodia (Regional Council Members)	9820327660 9820344085

TOPICS & SPEAKERS

• Save 3 hours every day for the rest of your life! • Hit your targets unquestionably with fun, ease and grace – beat your deadlines! • Work with power, freedom and peace of mind – make your stress, demands on your time and work overload disappear! • Have your arms around the totality of everything you have to do in your life – take charge of your life! • Stay calm, focused and productive even when you are interrupted and distracted! • Achieve intended outcomes in your meetings in half the time – stop aimless boring ineffective meetings! • Manage the existence of all your promises – honour your word! • Create an existence system to capture thoughts, ideas, and information before you forget them – execute your best thinking and realize your plans! • Take projects that always mattered to you where time, clarity and resources were reasons that stopped you! • Convert everything you “have to do” in to accomplishments – connect everything you are doing to your passion, a purpose! – **CA. Manan Vasa, Shri Vivek Chopra, Ms. Sangeeta Chopra, Ms. Ami Mandavia**

Note:

- 1) No Spot Registration.
- 2) Seats limited to 40 participants only.
- 3) Participants are requested to bring their laptop & Internet Data Card.
- 4) Participants will be sent a Pre-Workshop Assignment 7 days before the workshop on their registered email address.



Students' Programme

Date & Day	Time	Subject(s)	Speaker(s)	Venue	Fee ₹
20/06/2014 Friday	10.00 a.m. to 1.00 p.m.	Blood Group & HB Checking Camp	—	ICAI Tower, Near Standard Chartered Bank, Opp. MCA, BKC, Bandra (E)	—
21/06/2014 Saturday	10.00 a.m. to 1.00 p.m.	Importance of Articleship & English Speaking Course	CA. Kishore Pishori	ICAI Tower, Near Standard Chartered Bank, Opp. MCA, BKC, Bandra (E)	Free
22/06/2014 Sunday	10.00 a.m. to 6.00 p.m.	Full Day Seminar on e-filing returns in Income-tax, Service-tax, VAT, LBT & TDS	Eminent Faculty	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	350/-
28/06/2014 Saturday	10.00 a.m. to 1.00 p.m.	Importance of Articleship & English Speaking Course	CA. Kishore Pishori	Thakur House, Station Road, Kandivali (E)	Free
05/07/2014 Saturday	10.00 a.m. to 1.00 p.m.	Importance of Articleship & English Speaking Course	CA. Kishore Joshi	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	Free
13/07/2014 Sunday	10.00 a.m. to 6.00 p.m.	Full Day Seminar on Tax Audit	Eminent Faculty	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	350/-
Chief Co-ordinators: CA. Shruti Shah – 9892407988 (Regional Council Members) CA. Satyanarayan Mundada – 9422080814 CA. Mahesh Madkholkar – 9820075966					

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

ICAI Tower, Plot No. C-40, 'G' Block, Opp. MCA Ground, (Adj. to Standard Chartered Bank) Bandra-Kurla Complex, Bandra (East), Mumbai - 400 051. Telephone Board: +91 (22) 3367 1400 / 3367 1500

Forthcoming Branch Meetings



Date	Time	Subject(s)	Speaker(s)	Venue
NAGPUR				
19, 26/06/2014	6.30 p.m.	Indirect Taxes (State), Indirect Taxes (Centre), Allied Laws	Eminent Speaker	ICAI Bhavan
20/06/2014	4.00 p.m.	Lecture Meeting on Use of RTI	Eminent Speaker	ICAI Bhavan
21/06/2014	9.00 a.m.	Investor Awareness Programme	Eminent Speaker	ICAI Bhavan
28/06/2014	9.00 a.m.	Full Day Seminar on Taxation of Charitable Trusts 1) Overview & Formation of Charitable Trusts 2) Regulatory Aspects of Charitable Organisation 3) Accounting & Auditing issues of Charitable Organisation 4) Taxation of Charitable Trusts 5) Receipts of Donations / Grants by Charitable Trusts vis-à-vis FCRA	Eminent Speaker Eminent Speaker CA. Zoeb Anwar CA. Anil Dani CA. Anil Dani	ICAI Bhavan
30/06/2014	6.00 p.m.	Ek Shaam CA ke Naam	—	IMA Hall
SURAT				
21-22/06/2014	9.30 a.m.	National Conference on Taxation – 2014	Eminent Speakers	Convention Hall, Veer Narmad South Gujarat University, Surat
VAPI				
27-29/06/2014	9.30 a.m.	5th RRC at Saputara	Eminent Personalities	Shilpi Resort, Saputara
VASAI				
29/06/2014	9.30 a.m.	Seminar on Taxation of Construction	Eminent Speakers	Amruta Building, Indralok Phase-II, New Golden Nest Road, Bhayandar (East)



Forthcoming Study Circle Meetings

Date & Day	Time	Subject(s)	Speaker(s)	Venue	Organised by / Convenor / Tel. No.
17/06/2014 Tuesday		Use of Information Technology Tools for CAs	CA. Vikas Manohar	Conference Hall, ICAI Bhawan	Baroda CPE Study Circle CA. Arpan Dodhia M: 9898383530
20/06/2014 Friday	5.00 p.m.	Loans and Advances	Eminent Faculty	Harilal Shah Memorial Hall, 3rd Floor, Shoppers Plaza, Opp. Municipal Market, C. G. Road, Navrangpura, Ahmedabad	Gandhigram CPE Study Circle CA. Ketan Mistry M: 9033011178
20/06/2014 Friday	5.30 p.m.	Overview of Standards of Auditing with special emphasis on "Audit Conclusion on Reporting – SA 700, 705, 706"	CA. Nayan Kothari	Hotel Kanak, Opp. Gujarat college, Ellisbridge, Ahmedabad	Ellisbridge CPE Study Circle CA. Kartik Dave M: 9427525676
21/06/2014 Saturday	5.30 p.m.	Professionalise your Professional Practice	CA. Mitesh Katira	4th Floor, New SNTD, Bhuriben, Cama Lane, Ghatkopar (W)	Ghatkopar CPE Study Circle CA. Hemang Shah M: 9223273189
21/06/2014 Saturday	5.30 p.m.	Study Group Meet on Discussion for provisions of Companies Act, 2013 for Small and Medium Enterprises	CA. Avinash Rawani	Vrundas Veg., Near Ajanta Talkies, Borivali (W)	Borivali (Central) CPE Study Circle CA. Giriraj Khandelwal M: 9820344999
22/06/2014 Sunday	9.00 a.m.	Issues relating to Co-op. Societies	Mr. Vinod Sampat	Mysore Association, 2nd Floor, Bhaudaji Road, Matunga Central	Matunga CPE Study Circle CA. Atul Shahade M: 9821116850
22/06/2014 Sunday	9.30 a.m.	Provisions of FEMA-PART-2 (1) Investments in Immovable Properties – Non-Residents-India and Residents – Overseas (2) Inbound-Outbound Investments for Business	CA. Gaurang Gandhi CA. Amit Purohit	Bhatia Wadi, Opp. Veer Savarkar Udyan, T.P.S. Road, Borivali (W)	Borivali (Central) CPE Study Circle CA. Giriraj Khandelwal M: 9820344999
22/06/2014 Sunday	10.00 a.m.	Seminars for Recent Changes under Companies Act	Eminent Speaker	Hotel Sankalp (Now ZAIKA), 1st Floor, Near Maxus Mall, 150 Ft. Road, Bhayandar (W)	Bhayander CPE Study Circle CA. Deepak Bansal M: 9320981019
23/06/2014 Monday	6.00 p.m.	Acceptances of Deposits (Sec 73), Registration of Charges (Sec 87)	CA. Chirag Shah	H. K. College Auditorium, Ahmedabd	Navjivan CPE Study Circle CA. Rajiv Ravani M: 9825024929
27/06/2014 Friday	5.00 p.m.	Directors Appointment and Qualification	CS. Hurkut	Harilal Shah Memorial Hall, 3Rd Floor, Shoppers Plaza, Opp. Municipal Market, C. G. Road, Navrangpura, Ahmedabad	Gandhigram CPE Study Circle CA. Ketan Mistry M: 9033011178
28/06/2014 Saturday	7.30 a.m.	Basics of NRI Taxation and Expat Taxation	CA. Nihar Jambusaria	Hotel Aurora Towers, Camp, Pune	Pune Camp CPE Study Circle CA. Yogesh Poddar M: 9860565562
28/06/2014 Saturday	3.00 p.m.	Women's Wing Programme Power of personal appearance Tips on dressing as per body shape	Ms. Farida Dahee	Shree Shakambhari Corporate Park, Plot No.156-5B, Chakravarti Ashok Complex, J. B. Nagar Andheri (E)	J. B. Nagar CPE Study Circle CA. Anil Sharma M: 9870708060
28/06/2014 Saturday	5.30 p.m.	Formation & Taxation of Charitable Trust Commonly Found Mistakes in Financial Statements	Shri Suhas Kulkarni CA. Nilesh Vikamsey	TMA Hall, Near Dwarka Hotel, Wagle Estate, Thane (W)	Thane Midtown CPE Study Circle CA. Vijay Jain M: 9869010681
28/06/2014 Saturday	7.00 p.m.	Points Requiring Immediate Attention by Corporates in view of Companies Act, 2013	CA. Jayant Thakur		Goregaon CPE Study Circle CA. Vipul M. Somaiya M: 9223418790
29/06/2014 Sunday	9.15 a.m.	Excel as Audit Tool	CA. Pramod Chinchkar	Shiv Samarth School, AC Hall at Ground Floor, Ram Maruti Road, Thane (W)	Thane CPE Study Circle CA. Shekhar Kulkarni M: 9821256333
29/06/2014 Sunday	9.00 a.m.	Discussion about new forms & E-filing of Forms with MCA	CA. Avinash Rawani	Conference Hall, Thakur Polytechnic College, 90 Feet Road, Thakur Complex, Kandivali (E)	Borivali Kandivali (E) CPE Study Circle CA. Sunil Agarwal M: 9987030555
29/06/2014 Sunday	9.30 a.m.	E-Filing under ROC Filing of ITR for AY 2014-15 E-Filing of Income Tax & Wealth tax return (Free for Students)	CS. Sanjay Dholakia CA. Pradeep Chandwani CA. Zarna Chandwani	Bhatia Wadi, Opp. Veer Savarkar Udyan, T.P.S. Road, Borivali (W)	Borivali (Central) CPE Study Circle CA. Giriraj Khandelwal M: 9820344999
05/07/2014 Saturday	5.15 p.m.	Cloud Computing	Eminent Speaker	Shiv Samarth School, AC Hall at Ground Floor, Ram Maruti Road, Thane (W)	Thane CPE Study Circle CA. Shekhar Kulkarni M: 9821256333
05/07/2014 Saturday	5.00 p.m.	Provisions related to Deposits and Registration of Charges	CA Chirag Shah	Harilal Shah Memorial Hall, 3rd Floor, Shoppers Plaza, Opp. Municipal Market, C. G. Road, Navrangpura, Ahmedabad	Gandhigram CPE Study Circle CA. Ketan Mistry M: 9033011178
12/07/2014 Saturday	5.00 p.m.	Various Procedure and Filing of Forms	CS. Chirag Shah	Harilal Shah Memorial Hall, 3rd Floor, Shoppers Plaza, Opp. Municipal Market, C. G. Road, Navrangpura, Ahmedabad	Gandhigram CPE Study Circle CA. Ketan Mistry M: 9033011178
19/07/2014 Saturday	5.00 p.m.	New Charges specific to Private Limited Companies	CS. M. C. Gupta	Harilal Shah Memorial Hall, 3rd Floor, Shoppers Plaza, Opp. Municipal Market, C. G. Road, Navrangpura, Ahmedabad	Gandhigram CPE Study Circle CA. Ketan Mistry M: 9033011178



GRIEVANCE REDRESSAL MECHANISM ON ADMINISTRATIVE MATTERS

- E-SAHAYATAA is a time bound grievance redressal mechanism hosted on ICAI website for administrative matters. Members and students are requested to visit www.icaai.org to log in their grievances. In this context, members and students are requested to log in their grievances to "correct activity", which has been listed under the E-Sahayataa, so as to avoid delay in resolving such matters/receiving appropriate replies.
- In addition to the above, this year, the Grievance Committee of WIRC of ICAI under the Chairmanship of CA. Hardik Shah has restarted the Grievance Cell, wherein members and students can send their grievances related to administrative matters, to the dedicated e-mail ID wircgrievance@icaai.in. This grievance cell will further ensure that all such e-mails received will be directed/forwarded to the designated/appropriate officials on daily basis on all working days and also will strive to ensure the solution within a reasonable time.

INTER-ACTIVE VOICE RESPONSE SYSTEM (IVRS) AT BKC, MUMBAI

Members and students are hereby informed the Inter-active Voice Response System (IVRS) at the Institute's office at BKC, 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: 022-3367 1400/1500 during regular office hours on all working days between 10.00 a.m. and 5.30 p.m., 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.

APPLICATION FROM CAs FOR TAKING LECTURES

Chartered Accountants with Academic Background who are interested for taking lectures for Coaching Classes/Revisionary Classes/Crash Courses which are being organised by WIRC & WICASA are requested to write to wirc@icaai.in along with their details.

SIXTY THIRD ANNUAL GENERAL MEETING OF WIRC OF ICAI

NOTICE is hereby given that the Sixty Third Annual General Meeting of the Western India Regional Council of The Institute of Chartered Accountants of India, will be held on Friday, 27th June, 2014 at 9.30 a.m. at Khimji Kunverji Vikamsey Auditorium, ICAI Tower, Near Standard Chartered Bank, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051 to transact the following business:

- To receive the Sixty Third Annual Report of the Western India Regional Council of ICAI.
- To receive the Audited financial statements of WIRC of ICAI for the year ended 31st March, 2014 and
- To transact any other business with the permission of the Chair.

BY ORDER OF THE
WESTERN INDIA REGIONAL COUNCIL OF ICAI

CA. Shruti Shah
Secretary

Date: 27th May, 2014

Notes:

1. The 63rd Annual Report of WIRC of ICAI and Annual Financial Statements for 2013-14 are hosted on <http://www.wirc-icaai.org>. The hard copies of the same shall be supplied to members on request received in writing. Members requiring any further information / details etc. in respect of the above should send a written request addressed to the Secretary, Western India Regional Council of ICAI by 21st June, 2014.

STUDY GROUP ON SERVICE TAX

WIRC of ICAI is planning to form a Study Group on Service Tax. The Study Group will deliberate on issues commonly arising in service tax and prepare a discussion paper on the same. Members of the Group can be from Practice or industry but having reasonable exposure to service tax. The membership of the Group will be restricted to 40. Interested members should mail to wircvents@icaai.in. The Convenor of the Group will be CA. Mangesh Kinare, Imm. Past Chairman of WIRC.

FOR THE ATTENTION OF THE STUDENTS

INFORMATION REGARDING THE ELECTION OF THE STUDENTS REPRESENTATIVES TO THE MANAGING COMMITTEE OF WICASA FOR 2014-15

ELECTION for the 12 students representatives would be held from 8.00 am to 12.00 noon on Sunday, 29th June, 2014 at the ICAI Tower, Plot No: C-40, G Block, Bandra Kurla Complex, Bandra (E), Mumbai- 400 051.

The detailed announcement regarding the aforesaid Elections as well as for eligibility criteria for students are hosted on the WIRC website. Students are advised to visit the WIRC website: www.wirc-icaai.org for the detailed announcement and for obtaining the nomination form for the said election.

NOTICE REGARDING THE 49th ANNUAL GENERAL MEETING OF WICASA

NOTICE is hereby given that the 49th Annual General Meeting of the Students of Western India Chartered Accountants Student Association (WICASA) will be held on Sunday, 29th June, 2014 at 7.00 p.m. at Khimji Kunverji Vikamsey Auditorium, ICAI Tower, G Block, Plot No. C-40, Bandra Kurla Complex, Bandra (E), Mumbai-400 051 to transact the following agenda:

- To note and adopt the financial statement of the WICASA for the financial year ended 31st March, 2014.
- To declare the names of twelve students representatives who have been elected to the Managing Committee of WICASA for the year 2014-15.
- Any other matters with the permission of the Chair.

Place : Mumbai
Date : 8th May, 2014

CA. Satyanarayan Mundada
Chairman-WICASA

CONTRIBUTION TO THE CHARTERED ACCOUNTANTS BENEVOLENT FUND (CABF)

Members are requested to contribute to the Chartered Accountants Benevolent Fund (CABF) which is set to provide financial assistance to the dependants of the deceased members and to support the members who are suffering from critical illness. Contributions to CABF are exempted under Section 80(G) of the Income-tax Act, 1961.

EXECUTIVE HEALTH CHECK UP FACILITY AT GLOBAL HOSPITAL, PAREL, MUMBAI-400 012

WIRC of ICAI has tied up with Global Hospital, 35-Dr. E. Borges Road, Hospital Avenue, Opp. Shirodkar High School, Parel, Mumbai-400 012 for Executive Health Check up facility for members and students and their dependents and the detailed announcement in this regard is hosted on the WIRC website www.wirc-icaai.org. Members and students are requested to avail this facility. The contact details of the representatives at Global Hospital are as given below:

Ms. Archana Tiwari – Mob: 8879688641
E-mail Id: archana.tiwari@globalhospitalsindia.com
Mr. Anand Chavda – Mob: 9320088166
E-mail Id : anand.chavda@globalhospitalsindia.com

Study Group Meeting on BFSI & Capital Market

Date : Saturday, 28th June, 2014 **Time** : 9.30 a.m. - 1.30 p.m.

Venue : ICAI Towers, BKC **CPE** : 4 hours

Annual Fees : ₹ 1,000/- per annum

ROUNDTABLE DISCUSSION (MODERATOR – CA. MANOJ ALIMCHANDANI)

Credit Rating – Intricacies and Critical Issues – **CA. Revati Kasture**

Technical Analysis in Capital Markets – Part 2 – Techniques & Methodology – **CA. Manish Chokshi**



DIRECT TAX

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

Double Taxation Agreement (DTAA) – Sri Lanka [222 TAXMANN (st) 49]

The agreement between the Government of the Republic of India and the Government of the Democratic Socialist Republic of Sri Lanka for the avoidance of double taxation & prevention of fiscal evasion with respect to taxes on income signed in India on the 22nd January, 2013. The Central Government *vide* Notification No. 23/2014 dated 28/3/2014, in exercise of the power confirmed by Section 90 of the Income-tax Act, notifies the provision of DTAA which will be given effect to in the Union of India from the 1st day of April, 2014.

Section 79 – Losses – Carry Forward and set off of in case of certain companies. [222 TAXMANN (st.) 69]

A letter (F.No.279/MISC./M-171/2013-ITJ) dated 11/4/2014 issued with regard to department's objections to merger/amalgamation/demerger/reconstruction scheme of companies to file with MCA.

The department in the recent case of proposed amalgamation noted that the scheme of amalgamation designed seeking amalgamation with retrospective dates so as to claim set off of losses of loss making companies against the profit of profit making companies of the group and thus impacting adversely the much needed public revenue. This fact of proposed amalgamation was not brought to the notice of Income Tax Department either by the Ministry of Corporate Affairs (MCA) or Registrar of Companies (ROC). The Department had to file an intervention application opposing such amalgamation before the High Court which was rejected on the ground that the department had no locus standi in the matter and that Regional Director, MCA has been delegated power in this regard.

Accordingly, MCA issued the Circular No. 1/2014 dated 15/1/2014 to Regional Directors which lays down that while furnishing any report regarding reconstruction or amalgamation of companies under the Companies Act, comments and inputs from the Income Tax Department may invariably be obtained so as to ensure that the proposed scheme of reconstruction or amalgamation has been designed in such a way as to defraud the Revenue and consequently being prejudicial to public interest. It has further been said that the Regional Directors would invite specific comments from the Income Tax Department within 15 days of receipt of notice before filing response to the Court. It is emphasised that this is the only opportunity with the Department to object to the scheme of amalgamation if the same is found prejudicial to the interest of Revenue and therefore, it is desired that the comments/objections of the Department are sent by the concerned CIT to Regional Director, MCA for incorporating them in its response to the Court, immediately after receiving information about any scheme of amalgamation or reconstruction etc.

Section 139 – Return of Income – Extension of facility to taxpayers to verify the reasons of tax credit mismatch & furnishing of rectification request with correct particular of TDS / Tax claims. [222 TAXMANN (st.) 17]

The CBDT *vide* press note No. 402/92/2006-MC, dated 17/4/2014, desires the taxpayer to verify if the demand in their case is due to tax credit mismatch on account of such incorrect particulars and submit rectification requests with correct particulars of TDS/tax claims for correction of these demands. The rectification requests have to be submitted to the jurisdictional assessing officer in case the return was processed by such officer, or the taxpayer is informed by CPC, Bengaluru that such rectification is to be carried out by jurisdictional assessing officer. In all other cases of processing by CPC, Bengaluru, an online rectification request can be made by logging into e-filing website <http://incometaxindiaefiling.gov.in> as per the procedure given in detail in its Help Menu.

The object of issuing press note was that CBDT has noted that many taxpayers are committing mistakes while furnishing their tax credit claims in the return of income. Such mistakes include quoting of invalid/

incorrect TAN; quoting of only one TAN against more than one TAN tax credit; furnishing information in wrong TDS schedules in the Return Form; furnishing wrong challan particulars in respect of Advance Tax, Self-assessment tax payments etc. As a result of these mistakes, the tax credit cannot be allowed to the taxpayers while processing returns despite the tax credit being there in 26AS statement.

Section 32 – Depreciation – Clarification on treatment of expenditure incurred for development of Roads/Highways in BOT Agreements. [222 TAXMANN (st.) 71]

The CBDT *vide* Circular No. 9/2014 (F.No. 225/182/2013/ITA.II), dated 23/4/2014, clarifies that the cost of construction on development of infrastructure facility of roads/highways under BOT projects may be amortised & claimed as allowable business expenditure under the Act. The CBDT further clarifies as under –

The amortisation allowable may be computed at the rate which ensures that the whole of the cost incurred in creation of infrastructural facility of road/highway is amortised evenly over the period of concessionaire agreement after excluding the time taken for creation of such facility.

In the case where an assessee has claimed any deduction out of initial cost of development of infrastructure facility of roads/highways under BOT projects in earlier year, the total deduction so claimed for the Assessment Year prior to the Assessment Year under consideration may be deducted from the initial cost of infrastructure facility of roads/highways and the cost 'so reduced' shall be amortised equally over the remaining period of toll concessionaire agreement.

This circular applicable only to those infrastructure projects for development of Roads/Highways on BOT basis where ownership is not with the assessee under the concessionaire agreement.

This clarification is issued on realisation of the board that the dispute has arisen as to whether the expenditure incurred on development and construction of infrastructural facilities like Roads/Highways on Build-Operate-Transfer (BOT) basis with right to collect toll is entitled for depreciation under section 32(1)(ii) of the Act or the same can be amortised by treating it as an allowable business expenditure under the relevant provisions of the Income-tax Act, 1961 ('Act').

One may refer to the above circular for detailed reasoning for the allowability of such expenditure as a business expenditure under the Act.

Section 143 – Assessment – Standard Operating Procedure (SOP) for verification and correction of demand available or uploaded by AOS in CPC Demand Portal. [222 TAXMANN (st.)81]

The CBDT has issued the Instruction No. 4/2014 (F.No. 225/151/2014, ITA.II) dated 7/4/2014 providing the steps to be followed by the Assessing Officer to verify & Clean outstanding demand.

The CBDT has issued the Central Action Plan for the first quarter of F.Y. 2014-15 wherein all Assessing Officers are required to verify & clean outstanding demand by 30th April, 2014 (correction of demand).

The CBDT gives instruction to be followed by Assessing Officer in this regard –

- Categorisation of demand in CPC Financial Accounting System.
- Steps for Verification and Confirmation of Demand.
- Handling different scenarios during Verification and Confirmation of demand. (like demand or tax has been paid, demand due to TDS mismatch, demand already reduced & duplicate demand)

The CBDT has instructed all Chief Commissioner and Commissioners to monitor the action taken by the Assessing Officer as per this instruction and report the progress in their Monthly DOs.

One may refer to the above detailed instruction and for the format of the indemnity bond to be furnished by the tax payer wherever required.

CORPORATE LAWS (Contributed by CA. Rahul Joglekar)

MCA General Circular No. 10/ 2014 dated 7th May, 2014 – Certification of E-forms/non e-forms under the Companies Act, 2013 by the Practicing Professionals

Under the Companies Act, 2013, professionals i.e. members of ICAI, ICSI and ICAI have been allowed to authenticate various e-forms required to be filed with ROC. MCA has clarified in this circular the manner in which instances of filing of documents, applications containing false or misleading information or omission of material fact etc. shall be handled. For a complete text of the circular including the process aforesaid is please refer the link: http://www.mca.gov.in/Ministry/pdf/General_Circular_10_2014.pdf

MCA General Circular No. 11/ 2014 dated 12th May, 2014 and 13/2014 dated 23rd May, 2014 – One time opportunity for extension of period of Reservation of Name

MCA has clarified that where reserved names for the purpose of Company incorporation with 60 days prescribed validity expiring during the period when services for incorporation of companies were not available on the MCA21 portal to stakeholders from 1st April, 2014 to 28th April, 2014 because of the deployment requirement for new E-forms, the validity of the reserved names was extended till 31st May, 2014 and further extended till 7th June, 2014. For a complete text of the circular aforesaid is please refer the links: http://www.mca.gov.in/Ministry/pdf/General_Circular_11_2014.pdf and <http://www.mca.gov.in/Ministry/pdf/General%20Circular%202013-2014.pdf>

MCA General Circular No. 12/ 2014 dated 22nd May, 2014 – Applicability of PAN requirements for Foreign Nationals

MCA has clarified that the PAN details are mandatory only for those foreign nationals who are required to possess "PAN" in terms of provisions of the Income-tax Act, 1961 on the date of application for incorporation. Where the intending Director who is a Foreign National is not required to compulsorily possess PAN, it will be sufficient for such a person to furnish his/her passport number, along with undertaking stating that provisions of mandatory applicability of PAN are not applicable to the person concerned. Format of the undertaking is given in the circular. For complete text of the circular please refer to the link: <http://www.mca.gov.in/Ministry/pdf/General%20circular%20no12-2014.pdf>

SEBI notification No. – LAD-NRO/GN/2014-15/01 dated 6th May, 2014 – Issue of SEBI (Mutual Funds) (Amendment) Regulations, 2014.

SEBI has made certain changes to the SEBI (Mutual Funds) Regulations 1996 *vide* the aforesaid notification. The amendments mainly deal with investment by the sponsor or asset management company of not less than 1% of the amount raised in the new fund offer or fifty lakh rupees, whichever is less, in the growth option of the scheme and such investment shall not be redeemed unless the scheme is wound up. For complete text of this notification, please refer to the link: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1399529863919.pdf

SEBI Circular No. – CIR/IMD/DF/10/2014 dated 22nd May, 2014 – Circular on Mutual Funds

SEBI has released a circular covering certain aspects of mutual fund operations. The limit of cash transactions in mutual funds has been increased from the existing limit of ₹ 20,000/- per investor, per mutual fund, per financial year to ₹ 50,000/- per investor, per mutual fund, per financial year subject to certain safeguards. In addition, certain relaxations have been given to investment / trading in Securities by Employees of Asset Management Companies and Trustees of Mutual Funds in respect of liquid schemes. For complete text of the circular please refer to the link: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1400751529272.pdf

SEBI Circular No. – CIR/MRD/DP/15/2014 dated 15th May, 2014 – Risk management framework for Foreign Portfolio Investors (FPI) under the SEBI (Foreign Portfolio Investors) Regulations, 2014

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The SEBI regulations on Foreign Portfolio Investors were notified on January 7, 2014 and shall commence with effect from 1st June, 2014. SEBI has given directive measures regarding trading and risk management of FPI trades to effect smooth transition to the FPI regime to stock exchanges and clearing corporations. The complete directive measures can be referred on the SEBI website at the link: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1400154572524.pdf

CENTRAL EXCISE (Contributed by CA. Jayesh Gogri)

Circular

Classification of rice par-boiling machinery

Classification of rice par-boiling machinery with dryer has been a subject matter of dispute since long. Board *vide* Circular No. 924/14/2010-CX dated 19/5/2010 analysed various parameters of Central Excise Laws including HSN, the industry practice and usage of the machine and concluded that rice par-boiling machinery is a composite machinery and can be considered to be a grain dampening machine and accordingly, it should be classified under Tariff ID 8437 attracting NIL rate of Duty as against Tariff ID 8419 attracting Central Excise Duty @ 12%.

However, Delhi Tribunal in case of *Jyoti Sales Corporation vs. Commissioner of C. Ex., Panchkula 2011 (272) ELT 689 (Tri.-Del.)*, had held that rice par-boiling machinery, in the case on hand, had an independent function from that of rice mill and therefore, was classifiable under Tariff ID 8419 of the Central Excise Tariff Act, 1944 and not under Tariff ID 8437.

Now, in view of the said decision, Board has rescinded earlier Circular of 2010 and has directed that classification of rice par-boiling machinery should be guided by Note 2 to Chapter 84 since rice par-boiling machinery and dryer are self-contained machinery and are not grain dampening machine. Therefore, it is clarified that rice par-boiling machinery and dryer should be classified under Tariff ID 8419 and the field formations are directed to protect the interest of revenue with respect to past clearances.

(Circular No. 982 / 06 / 2014 – CX dated 15/5/2014)

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

Update of GVAT Act, 2003

Earlier Years' E-Filing

Vide Public Circular No. 1268 date 5/4/2014, VAVEK/ ADM./ 2014-15/ otw.32, procedure for E-filing of belated returns for F.Ys. 2008-09 to 2010-11 has been prescribed. The power of permitting such E-Filing is now delegated to Deputy Commissioners instead of Joint Commissioners. The permission will be given after verifying payment of prescribed penalty. Scrutiny of such uploaded E>Returns will have to be completed within 60 days.

No Penalty in Revision

In case of *M/s. Kunal Structure India Pvt. Ltd.* (Revision Application No. 121 of 2013), Hon'ble GVAT Tribunal has, *vide* its decision date 19/3/2014, after reviewing Hon'ble Supreme Court's Decision in case of *Shree Balaji Rice Mills vs. State of Karnataka, 140 STC 267 (SC)*, held that penalty cannot be imposed for the First Time in Revision as unlike provisions in Karnataka law, GVAT Law does not give such powers to Revisioning Authority.

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

Reporting of Cross Border Wire Transfers

A.P. (DIR Series) Circular No.125 dated April 25, 2014 and A.P. (DIR Series) Circular No.126 dated April 25, 2014

Government of India (GOI) *vide* Notification No. 12 of 2013 dated August 27, 2013 made amendments to Prevention of Money Laundering (PML) rules, thereby requiring every reporting entity to maintain record of all the transactions including record of all cross border wire transfers of more than ₹ 5 lakh or its equivalent in foreign currency. FIU-IND had advised that the information of all such transactions may be furnished to Director, FIU-IND by 15th of the succeeding month.

In this regard RBI has advised all authorised persons including Indian Agents under MTSS to report cross border wire transfers in "Transaction Based reporting format" already developed by FIU-IND.

The format along with sample data filled in as an illustration is available in the 'Downloads' section of the FIU-IND website (<http://fiuindia.gov.in>).

Reporting mechanism for transfer of Equity shares/fully and mandatorily convertible preference shares/fully and mandatorily convertible debentures

A.P. (DIR Series) Circular No.127 dated May 2, 2014

In order to rationalise the existing procedure, RBI has decided that where a Non Resident [including a Non-Resident Indian (NRI)], who has acquired and continues to hold control in an Indian company in accordance with SEBI (Substantial Acquisition of Shares and Takeover) Regulations, acquires shares of that company on a stock exchange in India through a registered broker, the investee company would have to file form FC-TRS with the AD Category-I bank within 60 days from the date of receipt of the amount of consideration.

Further, in order to facilitate operational convenience, RBI has decided that the AD Category-I bank may approach the Regional Office concerned of RBI, Foreign Exchange Department to regularise the delay in submission if any, of form FC-TRS, beyond the prescribed period of 60 days which earlier required approval from RBI, Central Office and in all other cases, Form FC-TRS shall continue to be scrutinised at AD bank level as per the extant practice.

External Commercial Borrowings (ECB)

1. ECB Policy – Re-schedulement of ECB – Simplification of Procedure

A.P. (DIR Series) Circular No. 128 dated May 9, 2014

Currently, AD-Category banks are permitted to approve changes/modifications in the drawdown/repayment schedule of ECBs already availed. However, any elongation/rollover in the repayment on expiry of the original maturity of the ECB requires prior approval of the RBI.

The same has been simplified and powers have been delegated to the designated AD Category-I bank by RBI to allow re-schedulement of ECB due to changes in drawdown schedule and/or repayment schedule subject to following conditions:

- i. Changes if any, in all-in-cost (AIC) is only on account of average maturity period (AMP) due to re-schedulement of ECB. Post re-schedulement, AIC and AMP are in line with applicable guidelines. There should not be any increase in rate of interest and no additional cost should be involved.
- ii. The re-schedulement is allowed only once, before the maturity of the ECB.
- iii. If the lender is an overseas branch of domestic bank, prudential norms applicable must be complied with.
- iv. Changes should be reported to DSIM through revised Form 83.
- v. ECB should be in compliance with all applicable guidelines related to eligible borrower, recognised lender, AIC, AMP, end use etc.
- vi. The borrower should not be in default/caution list of RBI and also not under investigation of Directorate of Enforcement.

The facility will be available for ECBs raised through both routes viz. automatic and approval. These provisions shall not apply to FCCBs.

The modification to the ECB policy shall come into force with immediate effect and all other aspects of the ECB policy shall remain unchanged.



2. Refinance / Repayment of Rupee Loans raised from domestic banking system

A.P. (DIR Series) Circular No. 129 dated May 9, 2014

As per the extant regulations, eligible Indian companies are permitted to refinance / repay the Rupee loans, raised from domestic banking system by raising ECB from recognised lenders but subject to conditions.

However Circular DBOD.No.BPBC.107/21.04.048/2013-14 dated April 22, 2014 issued by Department of Banking Operations and Development (DBOD) of RBI restricted the repayment of Rupee loans availed from domestic banking system through ECBs extended by overseas branches/subsidiaries of Indian Banks.

In view of the above circular, RBI has restricted raising of ECBs by eligible Indian companies from overseas branch/subsidiaries of Indian banks for refinance/repayment of Rupee Loans raised from domestic banking system for the following purposes:

- i. Scheme of take out finance
- ii. Repayment of existing rupee loans for companies in infrastructure sector
- iii. Spectrum allocation
- iv. Repayment of Rupee loans

The above changes shall come into force with immediate effect.

3. ECB form Foreign Equity Holders – Simplification of Procedure

A.P. (DIR Series) Circular No.130 dated May 16, 2014

As per the extant ECB policy, ECBs from direct Foreign Equity Holders (FEH) are considered both under automatic and approval routes as the case may be. ECBs from indirect equity holders and group companies and FEHs for general corporate purpose are considered under approval route.

As a measure to simplify the procedure, RBI has decided to delegate powers to AD banks to approve proposals for raising ECBs under approval route by the following companies:

- i. Companies belonging to manufacturing, infrastructure, hotels, hospitals and software sectors from indirect equity holders and group companies.
- ii. Companies in miscellaneous services from direct/indirect equity holders and group companies.
(Miscellaneous services means companies engaged in training activities, research and development activities and supporting infrastructure sector. Companies doing trading business, providing logistics services, financial and consultancy services not covered under this facility.)
- iii. Companies belonging to manufacturing, infrastructure, hotels, hospitals and software sectors for general corporate purpose. ECB for general corporate purpose (including working capital finance) is permitted only from direct equity holders.
- iv. Proposals involving change in lender when ECB is from FEH – direct / indirect equity holders and Group Company.

Other aspects of ECB policy like eligible borrower, recognised lender, permitted end use, all-in-cost, average maturity period, pre payment, reporting arrangements etc. shall remain unchanged.

Overseas Direct Investment (ODI) –i Limited Liability Partnership (LLP) as Indian Party

Notification No. FEMA. 299/2014-RB dated March 24, 2014 and A.P. (DIR Series) Circular No.131 dated May 19, 2014

RBI has decided to notify a Limited Liability Partnership (LLP), registered under Limited Liability Partnership Act, 2008 (6 of 2009), as an “Indian Party” under clause (k) of Regulation 2 of Notification No. FEMA.120/RB-2004 dated July 7, 2004. Accordingly, an LLP, may henceforth undertake financial commitment to / or behalf of JV / WPS abroad in terms of FEMA

provisions under Regulation 6 (and regulation 7, if applicable) of the notification ibid.

Necessary amendment to the Notification ibid is issued *vide* Notification No. FEMA. 299/2014-RB dated March 24, 2014, which is effective from the date of publication in the Gazette i.e. 7th May, 2014.

Export of Goods – Long-Term Export Advances

A.P. (DIR Series) Circular No. 132 dated May 21, 2014

Notification No. FEMA.23/RB-2000 dated 3rd May, 2000 requires prior approval of RBI by an exporter for receipt of advance where export agreement provides shipment of goods beyond a period of 1 year from the date of receipt of advance. Further, AD Category-I banks are currently allowed to permit exporters to receive payment for export of goods which would take more than 1 year to manufacture and ship where export agreement provides the same.

In view of requests received from exporters, RBI has decided to permit AD Category-I banks to allow exporters having a minimum of 3 years satisfactory track record to receive long-term export advance up to a maximum tenor of 10 years to be utilised for execution of long-term supply contracts for export of goods subject to certain conditions as specified.

For details of conditions and instructions issued by RBI please refer circular at –

<http://rbidocs.rbi.org.in/rdocs/Notification/PDFs/132APDIR210514.pdf>

Import of Gold by Nominated Banks/Agencies/Entities

A.P. (DIR Series) Circular No. 133 dated May 21, 2014

Taking into account the representations received from jewellers, bullion dealers, AD banks, trade bodies etc. and in consultation with the Government of India (GOI), RBI has decided to rationalise / modify guidelines for import of gold by nominated banks/agencies/entities.

Star Trading Houses/Premier Trading Houses (STH/PTH) which are registered as nominated agencies by Director General of Foreign Trade (DGFT) may now import gold under 20:80 scheme subject to conditions:

- a. The STH/PTH should have imported gold prior to introduction of 20:80 the scheme. They should get verification of gold consignment by Department of Customs at any port where they have imported gold consignment in past.
- b. The first lot of gold under this scheme would be based on highest monthly import during any of the last 24 months prior to RBI's notification dated August 14, 2013, subject top maximum of 2,000 kgs.
- c. As in case of other nominated agencies, eligible quantities may be imported by STH/PTH from any port, subject to their eligibility limit / maximum quantity allowed.
- d. For compliance, before importing they must submit import plan, port wise and quantity wise to the customs office, where verification of figures of past performance was done. The overall discipline of exporting 20% of each imported consignment before the next consignment is imported is equally applicable to such STH/PTH.

Further, nominated banks are permitted to give Gold Metal Loans (GML) to domestic jewellery manufacturers out of eligible domestic import quota of 80% to the extent of GML outstanding in their books as on March 31, 2013.

These guidelines shall come into force with immediate effect.

For working example of the operation of 20:80 scheme in terms of the revised guidelines please refer circular at -

<http://rbidocs.rbi.org.in/rdocs/Notification/PDFs/IGNB210514.pdf>

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DIRECT TAX

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

Supreme Court

S. 72A Set off & Carry forward of losses of amalgamating Societies

There is no equity in matters of taxation. One cannot read into a section which has not been specifically provided. All those four societies, upon their amalgamation into the appellant society, had ceased to exist and registration of those societies had been cancelled. In the circumstances, those societies had no right under the provisions of the Act to file a return to get their earlier losses adjusted against the income of a different legal personality i.e. the appellant society. There is a specific provision in the Act that upon amalgamation of one company with another, losses of the amalgamating companies can be carried forward and the amalgamated company can get those losses set off against its profits subject to the provisions of the Act. This is permissible by virtue of Section 72 A of the Act but there is no such provision which would permit the amalgamating co-operative society to carry forward and adjust such losses against the profits of the amalgamated co-operative society – *Rajasthan R.S.S. & Ginning Mills Fed. Ltd. vs. DCIT [2014] 45 taxmann.com 1 (SC)*

S. 167B - Discretionary Trust

A discretionary trust is one which gives a beneficiary no right to any part of the income of the trust property, but vests in the trustees a discretionary power to pay him, or apply for his benefit, such part of the income as they think fit. The trustees must exercise their discretion as and when the income becomes available, but if they fail to distribute in due time, the power is not extinguished so that they can distribute later. They have no power to bind themselves for the future. The beneficiary thus has no more than a hope that the discretion will be exercised in his favour. Merely because the Settlor and after his death, his son did not exercise their power to appoint the discretion exercisers, the character of the subject trusts does not get altered. It still remains discretionary. The above position with regard to the discretionary trust is equally applicable to the Wealth Tax Act. Accordingly it was held that the value of the assets cannot be assessed on the estate of the deceased Settlor – *CWT vs. Estate of Late HMM Vikramsinhi of Gondal Civil Appeal No. 2312 of 2007, Order dated 16/4/2014 Supreme Court*

Authority for Advance Ruling

S. 192 TDS on contribution to Superannuation Fund exceeding ₹ 100,000 at the time of making contribution

Tax is not required to be deducted at source under section 192 of the Act, by the employer -Applicant at the time of contributing to the superannuation fund (for an amount exceeding one lakh rupees per employee) as prerequisite. It was observed that the employee does not get a vested right at the time of contribution to the fund by the employer. The amount standing to the credit of the funds like the pension and fund account, social security of medical or health insurance would continue to remain invested till the assessee becomes entitled to receive it. The vesting right to receive the amount under the scheme or plan did not occur. Relying on the Apex Courts decision AAR spelt out a wider and fundamental principle, i.e. when the amount does not result in a direct present benefit to the employee who does not enjoy it, but assures him a future benefit, in the event of contingency, the payment made by the employer, does not vest in the employee. AAR also relied on definition of Defined Benefit Plan under AS 15 – *Royal Bank of Scotland, In re [2014] 45 taxmann.com 283 (AAR - New Delhi)*

High Courts

S. 2(31) Association of Persons

An Association of Persons is one in which two or more persons join together for a common purpose or common action and there is a joint management or joint action by the said two or more persons. In order to treat persons as an association, it is necessary that the members must have a common intention and must act jointly for fulfilling the object of their joint enterprise. It would be necessary to consider the extent and the nature of the common purpose and the common action, in order to determine whether the said persons form an association for the purposes of imposing tax or not. Unless the facts lead to a conclusion that there is sufficient joint participation for a common enterprise, it would not be appropriate to treat two or more persons as an Association of Persons for the purposes of assessing them as a separate taxable entity. A mere co-operation of one person with another in serving one's business objective would not be sufficient to constitute an Association of Persons merely because the business interests are common. A common enterprise, which is managed through some degree of joint participation, is an essential condition for constituting an Association of Persons – *Linde AG, Linde Engineering Division vs. DCIT [2014] 44 taxmann.com 244 (Delhi)*

S. 14A – Disallowance in case on no tax-free income earned

In the absence of tax free income, the corresponding expenditure to earn that income cannot be worked out for its disallowance. Therefore, in a situation where there is no tax free income, no disallowance u/s. 14A is possible - *CIT vs. Corrttech Energy Pvt Ltd. Tax Appeal No. 239 of 2014 Gujarat order dated 24/3/2005; CIT vs. Shivam Motors (P) Ltd. Income Tax Appeal No. 88 of 2014 Allahabad order dated 12/11/2013*

S. 40A(3)(a) Payment through crossed cheque

There is distinction between a crossed cheque and an account payee cheque. In case cheque issued is not account payee cheque provisions of S. 40A(3)(a) are violated – *Rajmoti Industries vs. ACIT [2014] 45 taxmann.com 72 (Gujarat)*

S. 80-IB(10) – Under utilisation of FSI

Under utilisation of FSI within the marginal range of 25% to 30% would not be hit by disallowance of deduction under Section 80IB of the Act – *CIT vs. Shreenath Infrastructure [2014] 44 taxmann.com 461 (Gujarat)*

S. 214 – Mis-match with Form 26AS

The Assessing Officer has denied refunding the TDS on the ground that the refund would only be granted when the TDS matches with the details mentioned in Form 26AS. Further no intimation was given to the assessee for short refund. Since the mismatching is not attributable to the assessee and the fault solely lay with the deductor, Court held that a case has been made out for grant of a mandamus for refund of the TDS amount. It was also held that assessee is entitled for interest for the delay in refunding the amount was attributable solely with the Income Tax Department and there is no fault on the part of the assessee. The Court also awarded cost of ₹ 25,000 on the department – *Rakesh Kumar Gupta vs. UOI Civil Misc Writ Petition (Tax) No. 657 of 2013 Allahabad High Court Order dated 6/5/2014*

S. 292BB – Defect in issue of notice within time limit

S. 292BB does not apply to issuance of notice, neither it cures the defect or enlarges statutory period where a mandatory notice under section 143(2) of the Act is required to be issued within limitation fixed under the Act. In absence of issuance of the notice under the proviso to section 143(2) of the Act within a period of 12 months from the end of the month in which return was furnished by the assessee, the proceedings initiated by the Assessing Officer with regard to block assessment period 1/4/1997 to 25/7/2002 on the basis of notice issued on 6/7/2006 under section



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Members are requested to spread this information and/or identify such needy students and encourage them to send their applications.



Recent Judgments

143(2), after about 20 months, was time barred and the entire proceedings in pursuance of such notice is null and void *CIT vs. Panorama Builders (P) Ltd. [2014] 45 taxmann.com 159 (Gujarat)*

Filing of frivolous appeals by Revenue

Court observed that how can Officers lower down in the hierarchy take decisions to file Appeals and that too against the decision of the Tribunal. The tendency not to accept any adverse verdict on facts results in frivolous Appeals being filed with the High Courts. That causes huge loss to the public exchequer and results in wastage of precious judicial time of the Court. The High Court has not adopted a strict approach and that has possibly encouraged the Revenue in filing Appeals to challenge essentially findings of fact and with regard to matters which should stand concluded at the level of the authorities. The officials should realise that the authorities like Commissioner of Income Tax (Appeals) and the ITAT are envisaged as appellate and possibly final fact finding authorities and at least the Tribunal is last in that hierarchy. The fact finding therefore if demonstrably perverse or palpably erroneous and as would amount to unsettling the settled position in law alone should be questioned by filing Appeals to the High Court. However, a routine exercise and by people who do not wish to take any responsibility, results in number of Appeals being filed and pending. This benefits no one and rather defeats larger public interest. The Revenue collection and equally the participation of the assessee in the exercise undertaken by the authorities to assess their income, therefore is affected adversely. None takes a position or decision because of pendency of matters and for a long time. In these circumstances, High Court while dismissing the Appeal, imposed costs of ₹ 50,000/ – *CIT vs. Sairang Developers and Promoters Pvt. Ltd. Income Tax Appeal No. 2603 of 2011*

ITAT

S. 2(47) Date of transfer

The assessee has executed by 'Development Agreement-cum-General Power of Attorney'. As per the terms of said agreement, consideration receivable by the assessee from the developer was '33% of the residential part of the developed area. It was held that it is only upon receipt of such consideration in the form of developed area by the assessee in terms of the development agreement, the capital gains becomes assessable in the hands of the assessee – *Binjusaria Properties (P) Ltd. vs. ACIT [2014] 45 taxmann.com 115 (Hyderabad-Trib.)*

S.10(1) r.w.s. 2(1A)(a) Capital Asset

The assessee purchased land with standing corp. Subsequently sold the land within a period of 13 months to the developers. It was held that mere sale of land on a profit cannot be a factor to conclude that intention of the assessee was to carry on an adventure in the nature of trade. In other words, the subsequent making of profit cannot be a decisive factor. On the facts it was held that sale of land was sale of agricultural land and not assessable to tax – *Smt Supriya Kanwar vs. ITO I.T.A. No. 362/JU/2010 (Jodhpur-Trib.) (TM) Order dated 13-05-2014*

S. 40(a)(ia) Second proviso though inserted w.e.f. 1-4-2013 has retrospective effect from 1-4-2005

The scheme of Section 40(a)(ia), is aimed at ensuring that an expenditure should not be allowed as deduction in the hands of an assessee in a situation in which income embedded in such expenditure has remained untaxed due to tax withholding lapses by the assessee. It is not, a penalty for tax withholding lapse but it is a sort of compensatory deduction restriction for an income going untaxed due to tax withholding lapse. The provisions of Section 40(a)(ia), as they existed prior to insertion of second proviso thereto (assessee is not considered as in default of non-deduction

of tax at source if payee has filed return of income u/s. 139, considered such income while computing income and paid tax thereon), went much beyond the obvious intentions of the lawmakers and created undue hardships even in cases in which the assessee's tax withholding lapses did not result in any loss to the exchequer. Now that the legislature has been compassionate enough to cure these shortcomings of provision. ITAT held that the insertion of second proviso to Section 40(a)(ia) is declaratory and curative in nature and it has retrospective effect from 1st April, 2005, being the date from which S. 40(a)(ia) was inserted by the Finance (No. 2) Act, 2004 – *Rajeev Kumar Agarwal vs. ACIT AY 2006-07 [2014] 45 taxmann.com 555 (Agra-Trib.)*

S. 54 – Meaning of House owned has different meaning and connotation

The owning of a residential house at the time of transfer of the original asset has different meaning and connotation and acquisition of new asset 'which is equivalent to purchase of new residential house' has entirely different meaning and connotation. The meaning of term 'owns' used in section 54F (conditions) – 'owns more than one residential house on the date of transfer of the capital asset' means the 'house' – building in its normal residential' conditions which is found fit for living by human-beings and not a house under construction' and this house should be completely owned by the assessee at the relevant time. Whereas purchase of new residential house, the provisions does not laid down a condition that a new house should either be complete or it should be purchased as a complete livable house. Accordingly it was held that assessee who has booked house and whose possession is not yet received is not considered as the house which is owned by him at the time of selling of house for the purpose of claiming deduction u/s 54F – *Ram Prakash Miyan Bazaz vs. DCIT [2014] 45 taxmann.com 550 (Jaipur-Trib.)*

S. 54F Exemption where residential house use for other than residential purpose

If the construction is made in such a way that it is not normally for residential use but purely commercial use, then it cannot be considered to be a residential house. Therefore, the primary fact which is required to be examined is whether the building has been constructed for residential use or not. This can be verified from the approved plan and architectural design of the building. If the building has been constructed for residential use with all amenities, which are necessary for a residential accommodation, then exemption u/s. 54F cannot be refused only because it is being used as a school subsequently. Further it was also observed that 'a residential house' does not mean a single residential house. Even where the assessee constructs or receives a number of flats adjacent to each other or in different floors of the same building then also the assessee would be entitled for exemption u/s. 54F of the Act – *N. Revathi vs. ITO [2014] 45 taxmann.com 30 (Hyderabad-Trib.)*

INTERNATIONAL TAXATION (Contributed by CA. Hinesh Doshi & CA. Ronak Soni)

Oxford University Press (TS-301-AAR-2014) dated April 30th, 2014

Facts of the case

The applicant, Oxford University Press, is an Indian branch of Oxford University Press, U.K., a Department of Oxford University U.K. It is engaged in publishing, printing and reprinting of educational books for schools, universities, professional and other educational institutions or scholarly books. The applicant had appointed Ms. Geetha, a resident of Colombo, Sri Lanka and designated her as "Resident Executive". The role of Ms. Geetha was basically marketing executive that involved promotion of sale of books published by the applicant. The monthly remuneration and reimbursement of expenses were remitted to Ms. Geetha's bank account in Sri Lanka.

Issues

Applicant filed an application before AAR u/s. 245Q(1) seeking ruling on whether it was required to withhold tax on amount paid to its sales executive in Sri Lanka, towards her remuneration and reimbursements?

Held

AAR noted that activity of sales promotion nature was carried by the executive in Sri Lanka (i.e. outside India). Further, the executive was also a resident of Sri Lanka. AAR further noted that there was no definition of 'technical services' in India-Sri Lanka DTAA. Therefore, on observing the IT Act, AAR noted that no managerial, technical or consultancy services were involved in services performed by executive and, therefore, Sec. 9(1) (vii) of the Act was not triggered.

AAR further held that, executive was entitled to claim the benefit of Article 14 of the DTAA which deals with income derived from professional services and activities of an independent character. AAR states that her income was taxable only in the country in which she was rendering the services as a resident in Sri Lanka. Being resident of Sri Lanka and non-resident in India, the remuneration received by her was not taxable in India both u/s 5(2) and u/s 9(1) (vii) of the Act and Article 14 of India-Sri Lanka DTAA.

AAR, thus, concluded that applicant was not liable to withhold tax on payments made to its sales executive in Sri Lanka.

Pan-Asia iGATE Solutions, Mauritius (TS-296-AAR-2014) dated May 9, 2014

Facts of the case

The applicant, Pan-Asia iGATE Solutions, incorporated in Mauritius, is a non-resident company under the provisions of the Income-tax Act, 1961 ('the Act'). Applicant proposed to purchase 1,82,55,396 equity shares of Patni Computer Systems Ltd. (a listed Indian company) from iSolutions, Inc., a US based company.

Issues

Applicant filed an application before AAR u/s 245Q(1) seeking ruling on whether it was required to withhold tax u/s 195 @ 10% on amount of long term capital gains ('LTCG') arising to iSolutions under proviso to Sec. 112(1).

Held

AAR took note of its previous ruling in Cairn UK Holdings Ltd. [TS-419-AAR-2011], which was quashed by Delhi HC by its order dated October 7, 2013 [TS-510-HC-2013(DE)]. Delhi HC ('HC') had therein observed that non-resident seller was eligible for lower rate of 10% on capital gains, on sale of listed shares, as per proviso to Sec. 112(1) and quashed AAR ruling which denied relief by applying 20% capital gains tax. HC rejected Revenue's contention that proviso to Sec. 112(1) was available only if second proviso to Sec. 48 applied (which neutralises the effect of inflation) and held, "legislative intention was to tax long term capital gain on listed shares, bonds and units @ 10%, without benefit of indexation under second proviso to Section 48 of the Act."

Thus, ruling in favour of assessee, HC had quashed AAR's diametrically reversed order. Relying on above Delhi HC ratio, AAR in applicant's case, answered the question in affirmative. AAR, thus, held that applicant shall withhold TDS at a lower rate of 10.56% (including surcharge and education cess) as per proviso to Sec. 112(1), on LTCG arising to non-resident seller.

The Director of Income Tax (International Taxation) II vs. Bechtel International Inc USA (TS-261-HC-2014(BOM) dated April 30, 2014

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Facts of the case

The assessee, Bechtel International Inc, USA, came to India in connection with 2 projects, namely, Dabhol Power Company for setting up a power plant in Maharashtra and Haldia Petrochemical Ltd for setting up a petrochemical plant in West Bengal. The assessee claimed a deduction in relation to expenses of Dabhol Power Project of ₹ 1.52 crores which was disallowed by AO and CIT(A). However, Tribunal ruled in favour of the assessee.

Aggrieved by Tribunal's order, Revenue preferred an appeal before Bombay HC.

Issues

Whether if business deduction of project's expenses is allowed after temporary termination of the said business if there is absence of total business discontinuance?

Held

HC observed that Tribunal noted the factual position and found that though the Dabhol Power Company contract was temporarily terminated w.e.f. June 17, 2001 for default in payment, yet, the assessee's presence in India continued for pursuing its claim against the company. Further, the project office was not the only reason by which the assessee claimed the deduction but urged it was following up the matter and seeking the extension from the Reserve Bank of India ('RBI'). It was also noted that extension was granted by RBI from time to time till September 30, 2006. In the meantime, it was observed that assessee entered into an agreement with Bharat Heavy Electrical Limited on March 27, 2006 for providing through the very office, services in relation to Dabhol Power Company.



Recent Judgments

HC noted that in these peculiar circumstances that the Tribunal held that the assessee could not be said to be not carrying on any business in India during the relevant period. HC thus concluded that the disallowance by the Assessing Officer and sustained by the Commissioner of Income Tax (Appeals), cannot be upheld. Noting that there was no total or complete discontinuance of the business activity, HC also rejected Revenue's objection that there was no business activity and, therefore, the income could not be said to be generated or earned from the business. Ruling in favour of assessee, HC upheld Tribunal's order and dismissed Revenue's appeal.

Sumit Aggarwal vs. DCIT Circle VI I Ludhiana (TS-300-ITAT-2014(CHANDI) dated May 20, 2014

Facts of the case

The assessee, a resident of India, filed his return of income for AY 2008-09 declaring an income of ₹ 2.42 crores after computing loss from house property. The loss from house property was computed because of the payment of interest to ANZ Bank, Australia amounting to ₹ 10.43 lakhs in respect of property purchased and let out on rent in Australia.

The AO observed that since the assessee had not deducted tax, possible income from property should have been assessed to tax after ignoring the claim of interest which is not allowed if payable outside India without tax deduction under section 25 of the Income-tax Act.

CIT (A) held that AO was not justified in disallowing interest and Revenue also did not oppose this finding. However, in appellate proceedings, CIT(A) referred to the decision of *CIT vs. PVAL Kulandagan Chettiar (267 ITR 645)* stating that as far as rent income from Australia was concerned, the assessee was required to file the return in Australia and such income could not be included in Indian income. Therefore, negative income could not be assessed in India.

Aggrieved, assessee filed an appeal before Chandigarh ITAT.

Issues

Whether income accruing and arising outside India should be taxed under the DTAA or Income-tax Act in case of a resident?

Whether loss from house property from Australia can be allowed to be set off against Indian income in that case?

Held

ITAT observed that as per Sec. 5, in case of a resident, income accruing or arising outside India has to be assessed in India and that Sec. 90(2) states that wherever DTAA is applicable in case of an assessee then the assessee has an option to apply either Indian Tax Laws or provisions of DTAA if the same are more beneficial to the assessee. In the present case, ITAT noted that the assessee had exercised the option of filing his return of income under Indian law and held that the same could not be refused simply because DTAA was applicable as an option to the assessee. Ruling in favour of the assessee, ITAT concluded that the assessee had right to file the return of global income in India and the Revenue is bound to give effect to such return. Therefore the learned CIT (A) is not correct in holding that income from house property from Australian property was not assessable in India. Accordingly, ITAT directed AO to assess the loss from house property in the hands of the assessee.

Pirelli Cavi E Sistemi Telecom S.P.A. vs. ACIT Circle 3(2) Hyderabad. (TS-317-ITAT-2014(HYD)) dated May 28, 2014

Facts of the case

The assessee, an Italian Company, had entered into three different contracts with an Indian Company relating to offshore supply of equipments, onshore supply of equipments and onshore services contract respectively. The assessee had Permanent Establishment ('PE'- Project Office) in India which was established after the signing of contracts. For AY 2000-01, assessee offered income arising out of on-shore supply and on-shore services contracts. It submitted that income arising from off-shore supply contract was not taxable in India.

However, AO observed that all the three contracts were to be treated as a single/composite contract and held that the profit from the offshore contract was also taxable in India estimating the income from offshore contract at 5% of the gross contract value.

On appeal to CIT (A), it noted that some installation activities and training imparted to personnel should be considered to be carried out by assessee in India through its Project Office. Hence, it confirmed AO's order that income from offshore contract was also to be taxed in India but reduced the percentage of income taxable to 1%.

Assessee, aggrieved by confirmation of income on offshore contract as well as rejection of books of accounts preferred an appeal before Hyderabad ITAT. On the other hand, Revenue, aggrieved by reduction of estimation on the offshore contracts and adoption of domestic tax rate as against higher rate adopted by AO filed a cross-appeal.

Issues

Whether Income of non-resident assessee from offshore contract with Indian Company for procurement of cables outside India taxable in India in case of PE being present in India?

Whether it is taxable if PE is not present in the above case?

Whether tax rate higher than tax rate as applicable to domestic companies should be applied to such income?

Held

ITAT noted that offshore contract was entered into in February, 1998 whereas assessee's PE in India— Project Office was established in June, 1998. Thus, it held that there was no correlation between signing up the contract in India and assessee's PE, also stating that CIT (A) had erred in doing so. It also observed that 'installation' in the present case, did not pertain to installation service but involved fixation of cable lines required for installation activity outside India. Further, with reference to training imparted to personnel in India, ITAT observed that training was incidental to supply of offshore material and even if it was considered as part of PE operations, assessee did not earn any income on personnel training in India. Thus, ITAT held "no profit was earned on the said activity in India, no income can be deemed to accrue or arise in India".

It also noted that the principle that income from offshore contract is taxable only to the extent of profits attributable to the operations in India (by assessee's PE), ITAT held that this principle was applicable even if all the three contracts signed in the present case were treated to be single or composite contract.

On Revenue's appeal, rejected Revenue's contention that higher tax rate as held by AO was applicable in the present case. Thus, ITAT confirmed CIT (A)'s order on applicability of lower tax rate as applicable to domestic companies as it was in line with non-discrimination clause in the DTAA. Thus, Revenue's cross-appeals were dismissed.

SERVICE TAX

(Contributed by CA. A. R. Krishnan & CA. Girish Raman)

Commercial Training or Coaching Service

Where the appellant was engaged in imparting training in specified courses in fields of information technology and management which it contended was in the nature of education, the Tribunal held that –

- Since the course conducted by the appellant imparted specific skills and training in specific areas the activities will come under the category of 'training or coaching'.
- Since every education results in enhancement of skill and entails training or coaching there cannot be a distinction between training and coaching & general education.

Accordingly the appellant was liable for service tax under the category of commercial training or coaching services. *[IIT Pvt. Ltd. vs. CCE (2014) 34 S.T.R. 214 (Tri.-Mumbai)]*

Consulting Engineer Service

Supply of technical know-how consisting of patents, secret information, licence to use trade mark, etc. liable for service tax under the category of Intellectual Property Rights Services w.e.f. 10/9/2004 and do not come under the category of Consulting Engineer Services *[Duraline Corporation vs. CCE (2014) 34 STR 398 (Tri.-Mum.)]*

Goods Transport Agency Service: Where the assessee provided after sales services (business auxiliary services) and authorised service station services in respect of vehicles manufactured by its customer (manufacturer), CENVAT Credit of service tax paid on GTA services used to transport vehicles and spares from its customer's premises to the assessee's premises would be allowed *[Badrika Motors (P) Ltd vs. CE & ST (2014) 34 STR 349 (Tri.-Del.)]*

Management Consultancy Services

Private placement of unlisted shares would not be liable for service tax under the category of Management Consultancy Services since no advice or technical assistance relating to conceptualising, devising, development, modification, rectification or upgradation of any working system of any organisation is rendered. More so, when there was no dispute raised by the department that post 2001 such services will be taxable under banking and other financial services as being merchant banking services *[CLSA India Ltd. vs. CST (2014) 34 STR 407 (Tri.-Mum.)]*

Manpower Recruitment and Supply Agency Service

The appellants (trusts / co-operative societies of farmers), entered in to an agreement with farmers for harvesting and transportation of sugarcane and were paid based on tonnage of sugarcane supplied. It distributed amounts received to the labourers after retaining a supervision charge. It was held, on facts, that the services are not liable for service tax as 'Manpower Recruitment and Supply Agency Service'. It was further held that though the appellants did not procure sugar (input) for sugar factories they rendered a service incidental or ancillary to such procurement, and hence their activity more appropriately fell under Business Auxiliary Service [65(19)(vii)] *[Bhogavati Janseva Trust vs. CCE (2014) 34 STR 410 (Tri.-Mum.)]*

Valuation

Where the assessee a manpower supplier was also reimbursed the amounts payable by the assessee to the Provident Fund authorities, the Tribunal held that the same would also be included in the value of taxable



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service and accordingly be subjected to service tax *[Neelav Jaiswal & Brothers vs. CCE (2014) 34 STR 225(Tri.-Del.)]*

Value of materials to be excluded

- Where the assessee repaired transformers it was held that service tax was payable only on labour charges and not on value of replaced material which was shown separately in contract and on which the assessee had also paid VAT *[CCE vs. Shiv Engineering (2014) 34 STR 236(Tri.-Del.)]*
- To claim exemption in respect of material under Notification No.12/2003 it is not necessary that the invoice should indicate the value of goods separately. The assessee may put forth any evidence to prove value of goods sold to the service provider *[Mehta Plast Corporation vs. CCE 2014(34) S.T.R. 401(Tri.-Del.)]*

Abatement

The assessee provided the services of commercial and industrial construction services for setting up power plants for its customers and claimed abatement in respect of certain contracts under Notification Nos.15/2004 and 1/2006 without taking the benefit of CENVAT credit but in respect of other contracts it paid service tax on the entire contract value and claimed credit of inputs and input services. The department enforced abatement on all contracts uniformly. The Tribunal held that –

- The abatement Notification No.15/2004 and 1/2006 used the term "in cases where" CENVAT credit is taken, the abatement shall not apply. Hence assessee has the option to avail or not avail CENVAT credit or abatement in a given contract.



Recent Judgments

- There is no restriction in utilising accumulated CENVAT credit of a given contract to discharge the service tax liability on the non-abated portion of the value of another contract. This utilisation would not disentitle abatement.

[*Bharat Heavy Electricals Limited vs. CCE 2014 (34) S.T.R.430(Tri.-Mum.)*]

Demand

A sub-contractor rendering services to a main contractor is liable to pay service tax on the services rendered to the main contractor notwithstanding that the main contractor would have paid tax on the services provided to the client. Clarification in the Board Circulars dated 6/6/1997, 7/10/1998, 17/12/2004 and 23/8/2007 that a sub-contractor is not liable to pay

Obituary



CA. Mahesh Vasanji Kothari

M. No. 008983 left for Heavenly Abode on 18/4/2014. May the departed soul rest in peace.



CA. Arvind P. Chitale

M. No. 6285 left for Heavenly Abode on 16/4/2014. May the departed soul rest in peace.



CA. Ulhas R. Chitale

M. No. 32292 left for Heavenly Abode on 24/4/2014. May the departed soul rest in peace.



CA. Dwarkanath Dharamdas Shah

M. No. 010457 left for Heavenly Abode on 31/10/2013. May the departed soul rest in peace.



CA. Ramchandra Gajanan Jogalekar

M. No. 006234 left for Heavenly Abode on 11/3/2014. May the departed soul rest in peace.

CA. Sudhir Patil

M. No. 34173 left for Heavenly Abode on 26/2/2014. May the departed soul rest in peace.

service tax where the main service provider has paid the same are incorrect [*Engineers India technical services vs. CCE (2014) 34 STR 358 (Tri.-Del.)*]

Limitation

Mere failure to register with the department and pay service tax by itself cannot amount to suppression unless the same was with an intent to evade payment of service tax. [*I2IT Pvt. Ltd. vs. CCE (2014) 34 STR 214 (Tri.-Mumbai)*]

Penalty

Where the appellant had failed to pay service tax as a recipient of service under section 66A of the Act on the grounds that the constitutional validity of said section was challenged before many courts, the Tribunal held that the same cannot be considered as a bona fide belief entertained by it and accordingly imposition of penalty was held to be justified [*Rikin Industries vs. CST (2014) 34 STR 252 (Tri.-Ahmd.)*]

Remand

Where the Commissioner (Appeals) settled the substantive issue of refund claim and sent the matter back to the lower authority for re-quantification of amount of refund, the Hon'ble Tribunal held that the order does not amount to remand as substantive issue was settled by the appellate authority itself [*CCE vs. Outsource Partners Interational P. Ltd. (2014) 34 STR 399 (Tri.-Bang.)*]

Refund

In case of claiming refund of service tax paid on exports under Notification No. 41/2007, the conditions [viz., time limit and drawback conditions] prevailing on the date of filing of refund claims are to be considered and not the conditions prevailing on the date of export. Further the Tribunal observed that non-mentioning of commission amount in shipping bill being only procedural lapse the refund claims cannot be rejected in case the documentary evidence substantiating the said payment is available [*Faizan Shoes Pvt. Ltd. vs. CST (2014) 34 STR 205(Tri.-Chennai)*]

The appellant in the present case had not disclosed the value of service and service tax in its invoice separately and had paid service tax on a cum-tax basis. Subsequently it filed a refund claim which was rejected on the grounds of unjust enrichment. On appeal to the Tribunal, it was held that Ss.12A and 12B of Central Excise Act are applicable to refund claims and accordingly by virtue of S.12A the assessee was required to indicate the amount of service tax forming part of value of taxable service and in absence of same by virtue of S.12B the assessee will be deemed to have passed full incidence of tax to the recipient. Hence denial of refund by department was held to be correct [*Trade Vision India Pvt. Ltd. vs. CST (2014) 34 STR 280(Tri.-Bang.)*]

The appellant had during the course of adjudication paid the amount of duty demanded under protest through CENVAT credit. Subsequently, on appeal when the demand was dropped it claimed refund of the tax paid in cash since by then it had surrendered its registration. On the above facts the Tribunal held that under the scheme of CENVAT credit there is no provision for granting cash refund of accumulated CENVAT credit & hence denial of refund in cash was justified [*Lavkush Textiles vs. CCE (2014) 34 STR 313(Tri.-Del.)*]

Refund claim u/r. 5 of CENVAT Credit Rules, 2004 in respect of input services used for exports is to be preferred within one year from the date of exports and in case of export of services, export is completed on receipt of foreign exchange in India. Hence where the appellant had filed the refund claim within 1 year from the receipt of foreign exchange in India, the refund claim was held as not time barred. [*Bechtel India Pvt. Ltd. vs. CCE 2014 (34) S.T.R.437 (Tri.-Del.)*]



Stay of Demand

Stay orders passed by the Tribunal can be extended beyond a period of 365 days in case where the appeal could not be disposed of within the said period for no fault of the assessee irrespective of the third proviso to Section 35C(2A) of the Central Excise Act, 1944 [*J. P. Transformers vs. CCE (2014) 34 STR 207(Tri.-Del.) relying on Kumar Cotton Mills (2005) 180 E.L.T.454 SC*].

CENVAT Credit

Credit of service tax paid on services provided by overseas commission agent for procuring orders is eligible for CENVAT credit since –

- The service of procuring orders is a service of marketing and sales promotion
- The same is related to the manufacturing activity of the appellant

[*CCE vs. Forgings & Chemicals Industries (2014) 34 STR 238(Tri.-Del.)*; See also *Klipco Pvt. Ltd. vs. CCE (2014) 34 STR 461 (Tri.-Mum.)*]

CENVAT credit on construction services used for construction of coal shed in the factory premises for storing of coal which is used in manufacturing of final product viz., sponge iron is held to be an input service [*Hi Tech Power & Steel Ltd. vs. CCE (2014) 34 STR 276 (Tri.-Del.)*]

(i) Where mediclaim insurance & accident insurance to employees is required under statutory provision like Factories Act, labour laws, etc. (and not taken as welfare measure), the credit of service tax paid on such insurance premium would be eligible as input credit.

(ii) Insurance of plant & machinery, goods in storage, cash in transit. Goods in transit on FOR basis being activities integrally connected with the manufacturing business of the assessee CENVAT credit paid thereon is admissible.

[*Oudh Sugar Mills Ltd. vs. CCE (2014) 34 STR 309(Tri.-Del.)*]

The appellant is a job worker manufacturing biscuit on behalf PBPL was clearing biscuits by paying excise duty on MRP basis. CENVAT credit on transportation charges incurred by it for transportation of biscuits to PBPL's depots was held as allowable since as per the contract the place of removal was PBPL's depots and accordingly the credit of outward transportation up to PBPL's depots was admissible [*M. P. Biscuits Pvt. Ltd. vs. CCE (2014) 34 STR 318 (Tri.-Del.)*]

The assessee had two manufacturing units – M1 & M2. M1 manufactured goods on its own account and also on job-work basis for M2 and claimed exemption in respect of job-work under Notification No. 214/86-CE. It availed CENVAT credit on input services used for manufacturing own goods & job-work goods. The department contended that the appellant's M1 unit provided exempt 'business auxiliary services' to its M2 unit and disallowed CENVAT credit proportionate to the job-work. The Tribunal dismissed the contention holding that–

- Input services used for 'exempt job-work' cannot be disallowed under rule 6(1) following *Sterlite Industries vs. CCE (2005) 183 ELT 353 (Tri.-LB)* [conditional exemption does not attract rule 6(1)];
- The job work activity of M2 amounts to 'manufacture' and is not one for providing 'service' and hence the appellant cannot be considered as providing 'non-taxable' or 'exempted output service'

[*JBF Industries vs. CST (2014)34 STR 345 (Tri.-Ahmd.)*]

CENVAT Credit availed on inputs used for manufacturing activities can be utilized for payment of service tax on GTA services, there being no bar /

legal restriction in the CENVAT Credit Rules in this regard prior to 1/3/2008 [*Panchmahal Steel Ltd. vs. CE& ST (2014) 34 STR 351 (Tri.-LB)*]

The assessee received capital goods in its premises [Secondary Switching Areas (SSAs)] from its Central Stores Department (CSD) which purchased goods centrally and intimated the SSAs by an Advice of Transfer Debit [ATD] supported by xerox copies of original invoices, based on which the SSAs took credit. The Department denied credit on the ground that ATD is not a document for claiming credit. The Tribunal allowed the credit holding that –

- Existence of original invoice and its genuineness is not disputed by the revenue;
- The duty involved has been paid; and
- There is no dispute that the equipment in question has been used at the sites where credits were taken.

[*Bharat Sanchar Nigam Ltd. vs. CCE, (2014) 34 STR 378 (Tri.-Chennai)*]

CENVAT credit of service tax paid on services of removal of coal fly ash from captive power plant which is used for generation of power which in turn is consumed for manufacture of excisable goods is allowable even though coal fly ash is exempt, since removal of coal fly ash is a necessity for operation of captive power plant which again is a necessity for manufacture of final product [*Ultratech Cement Ltd. vs. CCE (2014) 34 STR 426 (Tri.-Del.)*]

Where the service receiver paid its input service provider after retaining some portion of the billed value towards performance guarantee (which was subsequently paid) but took credit of the entire amount of service tax charged by service provider, the Tribunal allowed full CENVAT credit since the service provider had paid the entire service tax to the Government at the time of billing and it was not the department's case that the amount withheld was never paid [*CCE vs. Hindustan Zinc 2014 (34) S.T.R.440 (Tri.-Del.)*]

Input Service Distributor

Where the appellant the Zonal Audit Head Office of the Bank, which was registered with service tax department for Banking and Financial services but not as an Input Service Distributor (ISD), had taken credit on invoices addressed to it and distributed the same to its branches which were actually engaged in providing banking services and were also separately registered for service tax and had also disclosed the distribution of such credit in its ST-3 returns the Tribunal held that the distribution of credit by the appellant without obtaining ISD registration was admissible [*Punjab National Bank CCE (2014) (34) STR 278(Tri.-Del.)*]

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Personal Column

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Ahmedabad: Group photograph taken on the occasion of Leh Ladakh RRC @ Pangong lake – an endorheic lake in the Himalayas situated at a height of 4,350 m.



Gandhidham: Programme on Peer Review, CA Office Management and Art of Public Speaking on 3/5/2014. (L-R): CA. Ramesh Pindolia, Faculty, CA. Bhavesh Thacker, Faculty, CA. Jitendra Thacker, Faculty



Jalgaon: Seminar on Companies Act, 2013 held on 17/5/2014. (L-R): CA. Pramod Shinde, Faculty, CA. Nitin Zawar, CA. Parag Raval, RCM, CA. Jayesh Lalwani, Branch Chairman, CA. Janak Bathiya, Faculty, CA. Sneha Lodaya



Kolhapur: Seminar on Companies Act, 2013 on 24/5/2014. (L-R): CA. Mandar Dharmadhikari, CA. Satish Dakare, Branch Chairman, CS. Kelkar C. S., Faculty, CA. Kiran Kunte, Faculty, CA. Imran Mulla



Nashik: Felicitating of CA. Mangesh Kinare, Imm. Past Chairman, WIRC at "Intensive Study Course on Companies Act, 2013 held on 30/5/2014. **Seen in picture:** CA. Vikrant Kulkarni, Branch Chairman, CA. Suhas Deshpande, Faculty



Akola: Seminar on Advanced Excel held on 1/5/2014. (L-R): Shri Ajay Pande, CA. Vikram Golechha, Branch Chairman, CA. Pankaj Agrawal



Goa: CA. Naveen G. Daivajna, Branch Chairman, addressing the One Day Seminar on Companies Act, 2013 held on 10/5/2014. (L-R): CA. Shashikant Shenoy, Faculty, CA. Virendra Prabhudesai



Jamnagar: Photograph taken during the Indirect Tax Refresher Course held on 10/5/2014. (L-R): CA. Sagar Shah, CA. Punit Prajapati, Faculty, CA. Kaupil Doshi, Branch Chairman, CA. Parag Sumaria



Nagpur: Shri Rakesh Tiwari, ROC Chhattisgarh & official Liquidator, lighting the lamp at the Seminar on Companies Act, 2013 held on 17/5/2014. (L-R): CA. Umang Agrawal, CA. Kirti Agrawal, CA. Jayesh Gandhi, CA. Manoj Pati, CA. Julfesh Shah, Vice Chairman, WIRC, CA. Ashwini Agrawal, Branch Chairman, CA. Swapnil Agrawal, CA. Sandeep Jotwani, CA. Mehul Shah, CA. Suren Duragkar



Pimpri Chinchwad: Seminar on LBT Practical Difficulties & Aspects Returns & assessment. CA. Baban Dangale, Branch Chairman, felicitating CA. Anil Shah by offering bouquet.



Pune: Hon'ble Vice President of ICAI's visit at Pune Branch of WIRC. (L-R): CA. Prashant Saraaf, CA. Manojkumar Agarwal, CA. Baban Dangale, Chairman-Pimpri Chinchwad Branch, CA. Santosh Sancheti, CA. Dilip Apte, RCM, CA. S. B. Zaware, CCM, CA. Manoj Fadnis, Vice President, ICAI, CA. Sarvesh Joshi, RCM, CA. Rajeshkumar Patil, Branch Chairman, CA. Satyanarayan Mundada, RCM, CA. Anand Jakhotiya



Rajkot: Group photograph taken during the of Direct Tax Refresher course. **Seen in picture:** CA. Kalpesh Parekh, CA. Niketa Mody, CA. Abhishek Doshi, Branch Chairman, CA. Jatin Jajal, CA. Hardik Vyas & Audience



Solapur: Seminar on Overview of Companies Act, 2013 held on 3/5/2014. (L-R): CA. Sunil Ingale, CA. Arvind Shankur, Branch Chairman, CA. Chandrakant Injamuri, CS. Sunil Nanal, Faculty, CS. Vinayak Khanvalkar, Faculty, CA. Daresh Patil



Surat: Workshop on Companies Act - 2013 on 17-18/5/2014. (L-R): CA. Jay Chhaira, CCM, CA. Abhishek Mittal, CA. Raajnish Desai, CA. Hemant Jariwala, Branch Chairman



Vapi: Audience photograph taken during the Lecture Meeting on "Discussion u/s 14A and Sec. 40 a (1a) Disallowances"



Vasai: Group photograph taken during the Educational visit. **Seen in picture:** CA. Kishor Vaishnav, Branch Chairman, CA. Umesh Mestry & Participants

Introductory Programme on IFRS for Young Members held on 3rd May, 2014



CA. Nehal Turakhia, CA. Nitish Kirtikar, Faculty CA. Sunil Patodia, RCM, CA. Prafulla Chhajed, Chairman, Young Members Empowerment Committee, ICAI

Training Programme for Service Tax Officials held on 16th May, 2014



CA. Shardul Shah, RCM, Shri Suresh N., Shri R. Sekar, Commissioner of Service Tax, Shri Manish Mohan

Speakers from Students Programme

2/5/2014

5-6/5/2014

8/5/2014

9/5/2014



Shri Jignesh Chheda



CA. Prasad Bhandari



CA. Anand Sakle



CA. Pramod Lele

Lecture Meeting on Treasury Management held on 16th May, 2014



CA. Reema Jethwal, CA. Sunil Patodia, RCM, Shri Rohit Jethra, Faculty



Seminar on Internal Audit held on 10th May, 2014



CA. Abhijit Totade, CA. Neeta Shah, Faculty, CA. Priti Savla, RCM, CA. Jayesh Vora

Other Speakers



CA. Satish Shenoy



CA. Manoj Agarwal



CA. Percy Amalsadiwalla

Seminar on Financial Planning – A New Professional Opportunity held on 17th May, 2014



CA. Neel Majithia, RCM, CA. Harsh Roongta, Faculty, CA. Kamal Naulakha

Other Speakers



Ms. Chitra Iyer



CA. Rajesh Gupta



Shri Satish Menon



CA. Kinner Mehta

Seminar on VAT – CST held on 17th May, 2014



CA. Viral Chheda, CA. Priti Savla, RCM, CA. Mayur Parekh, Faculty, CA. Ankit Kapadia

Other Speakers



CA. Sujata Rangnekar



CA. Vikram Mehta



CA. Deepak Thakkar

Seminar on Construction Industry–Compliance & Finance held on 31st May, 2014



CA. Ajit Sharma, CA. Vimal Punmiya, Faculty, CA. Dhiraj Khandelwal, RCM, CA. Lalit Bajaj

Other Speakers



CA. Anand Banka



Adv. Bharat Raichandani



CA. Ratan Moondra

Seminar on Companies Act held on 24th May, 2014



CA. Swati Bhatkar, CA. Mangesh Kinare, Imm. Past Chairman, WIRC, CA. Manoj Pati, Faculty, CA. Rahul Lotlikar

Other Speakers



CA. Abhay Arolkar



CA. Anand Bathiya



CA. Rajan Kamat

Seminar on Audit & Taxation for Charitable Organisation held on 31st May, 2014



CA. Neha Patel, CA. Shardul Shah, RCM, CA. R. K. Sinha, Faculty, CA. Neel Majithia, RCM

Other Speakers



CA. Suhas Malankar



CA. Namrata Dedhia



CA. Vijay Joshi



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NEWS



Group photograph taken during the International Study Tour in Europe held from 17th - 25th May, 2014

1st Women Regional Residential Refresher Course held on 30th, 31st May & 1st June, 2014 at Goa



CA. Mahesh Madkholkar, RCM, CA. Shruti Shah, Secretary, WIRC, CA. Priti Savla, RCM, CA. Anil Bhandari, Chairman, WIRC, CA. C. S. Nanda, Chairman, Women Members Empowerment Committee, ICAI, CA. Bhavna Doshi, Faculty, CA. Prafulla Chhajed, CCM, CA. Sunil Patodia, RCM with Participants

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