



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

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Western India Chartered Accountants Newsletter

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*Holidays...
Family
Friends
& Fun
to Recharge,
Renew &
Revitalize*

PERSEVERANCE

“The quality of constant and steady persistence in a course of action or a purpose despite difficulties, obstacles or discouragement.

The foundation of every great achievement is the steadfastness, resoluteness and unyielding tenacity in following a course of action.... A characteristic visible in the truly professional CA.”





Training Programme on Service Tax for CBEC Officials held from 9th to 11th April, 2014 at ITO, Parel, Mumbai



CA. Girish Kulkarni, Treasurer, WIRC, CA. Shruti Shah, Secretary, WIRC, CA. Prafulla Chhajed, CCM, CA. Nihar Jambusaria, Vice Chairman, IDTC-ICAI, CA. Atul Gupta, Chairman, IDTC-ICAI, Ms. A. Vasudev, Chief Commissioner, Smt. P. Saroop, Additional Director General, Shri Raju Sakthivel, Additional Director, CA. Tarun Ghia, CCM, CA. Anil Bhandari, Chairman, WIRC, CA. Abhay Kamat, Faculty

Cyber Forensics Training for Crime Branch Officers held from 14th to 17th April, 2014



CA. Anil Bhandari, Chairman, WIRC, Shri Nandkishore More, SCP, CA. Shardul Shah, RCM

Seminar on Project Finance held on 26th April, 2014



CA. Amol Kamat, CA. Vishnu Agarwal, RCM, CA. Sanjay Agrawal, Faculty, CA. Lalit Bajaj

Other Speakers



CA. Vinit Deo



Shri Ashok Gupta



CA. Pratik Singhi

Training Programme on Service Tax for CBEC Officials held on 10th & 11th April, 2014 at BKC, Mumbai



CA. Nihar Jambusaria, Vice Chairman, IDTC-ICAI, CA. Atul Gupta, Chairman, IDTC-ICAI, Shri R. Sekar, Comm. of Service Tax, CA. Prafulla Chhajed, CCM, CA. Shruti Shah, Secretary, WIRC

Seminar on E-filing of Returns Under Direct Tax and Indirect Taxes held on 19th April, 2014



CA. Anil Sharma, CA. Sunil Patodia, RCM, CA. Pinki Kedia, CA. Somit Goyal, Faculty, CA. Mahesh Bhageria, CA. Mandeep Singh Talwar, CA. Kamal Dhanuka, CA. Rakesh Gupta, CA. Pramod Agarwal

Other Speakers



CA. Avinash Rawani



CA. Sumit Jhunjunwala

Costing for CA Final held from 28th to 30th April, 2014



Mr. Vishal Singh, CA. Parag Raval, RCM, CA. Dani Khandelwal, Faculty, Mr. Vijendra Jain

Indirect Taxes for CA Final held from 28th to 30th April, 2014



CA. Girish Kulkarni, Treasurer, WIRC, CA. Shardul Shah, RCM, CA. Mahesh Madkholkar, RCM, CA. Anil Bhandari, Chairman, WIRC, Mr. Richard Zielinski, Vice Consul for Economic Affairs Consulate General of USA, CA. Yashvant Mangal, Faculty



Dear Colleagues,

The current general elections are a reflection of the times and one can see extensive use of technology and social media to reach out to voters. Comparisons have been made to the US election campaigns.

Awareness campaigns by different agencies have also led to good voter turn-out which should give us an able government.

As Chairman, WIRC, the media asked me about our expectations from the next government and my candid reply was, "give us a responsive and stable government". With coalition governments being the order of the day, people hope that our leaders show enough maturity to enable a coalition government to function in the interests of the nation. It is amazing that we actually expect very little.

That India is at the most critical juncture since independence is a common refrain voiced across the nation. We are at the cusp of a great opportunity which can once again reinstate India as a global economic power. We sincerely hope and trust that our leaders will not allow this opportunity to pass by and will rise to meet the challenge.

However, I must also state that the problems will not disappear by themselves but by everyone doing their little bit to ensure a stronger India. To move forward successfully we need to inculcate certain core values. These values form the theme of our Newsletter for 2014-15. We need Integrity, Passion and a lot of Perseverance, which is a quality of constant and steady persistence in a course of action or a purpose despite difficulties, obstacles or discouragement.

Quite often people get discouraged and quit at a time when, with a little more perseverance they could have attained something special. A great illustration of the power of perseverance is Abraham Lincoln. He faced persistent defeats throughout his life, yet made history and changed the course of a nation and its people.

The Institute organised the 'All Regions Chairmen's Meet' in Delhi

last month where WIRC made suggestions on the way forward as well as on Branch infrastructure issues. Concerns and solutions were discussed in a conducive atmosphere at the Meet and issues resolved for the greater good of the profession.

Last month WIRC undertook the financial and accounting training for Service Tax officials which took place at the Parel IT office and ICAI Tower at BKC. Present for these sessions were Chief Commissioner A. Vasudev (Service Tax) and Commissioner R. Sekhar (Service Tax). They appreciated ICAI's efforts to bring about better relations through knowledge sharing.

WIRC also hosted training in cyber forensics for the Mumbai Police Crime Branch officials. Present on the occasion was Jt. Police Commissioner (Crime) Mr. Sadanand Date, who appreciated our efforts towards updating the Police Force.

One of our President's focus areas for 2014-15 is 'Woman Empowerment'. To that end we are organising the first Women's RRC in Goa at the end of May. I appeal to all women Members of the Region to attend in large numbers and make it a success.

WIRC is going to start intensive programmes on Companies Act at the Institute as well as the Study Circles and I request Members to take advantage of the same. Members should also block their calendars for the DTRC programme commencing from the first week of June.

WIRC office bearers visited the branches at Aurangabad, Ahmednagar, Jalgaon, Dhule, Nashik and Baroda. Interactions with Members and Students of these Branches gave us good insight into the local practice dynamics, industry opportunities, infrastructure upkeep and maintenance issues. In line with the theme for this year, we connected with industry trade bodies and prominent business leaders present in the areas covered by these Branches. The objective was to showcase to them that CAs are no longer just service providers but also trade facilitators with a strong grasp of governance and business practices.

These meetings also highlighted local issues like: LBT, VAT refund, Gram Panchayat Tax, Government Subsidies/Schemes, etc. We found that while the government has announced several industry schemes in the region, due to low awareness and procedural issues most of the schemes exist only on paper. We will form a special sub-group to study these issues and represent to the local government on various ways to improve the construct of these schemes as well as processes related to local taxes.

By the time you receive this Newsletter we would have celebrated Maharashtra and Gujarat Day. These two states have continuously contributed to the greater good of our Nation and we are proud to be a part of them. Let us take a leaf from history and do our own personal bit to contribute to our Nation. In the words of Mahatma Gandhi, "consciously or unconsciously, every one of us does render some service or other. If we cultivate the habit of doing this service deliberately, our desire for service will steadily grow stronger, and will make, not only our own happiness, but that of the world at large."

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 VAT-CST

Indirect Tax

DAY & DATE		SATURDAY, 17TH MAY, 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. Mahesh Madkholkar	9820075966	
	CA. Priti Savla	9321426883	
	CA. Girish Kulkarni	9225306814	
	<i>(Regional Council Members)</i>		
Co-ordinators	CA. Nikhil Damle	9820170436	
	CA. Ankit Kapadia	9867876376	
	CA. Viral Chheda	9833594045	

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	

TOPICS

Case Study on latest frauds and hacking techniques
Crypto Currencies
Open source intelligence
Dead Disk & mobile forensics

SPEAKERS

Shri Abhishek Parikh
Shri Rishabh Dudheria
Shri Abhishek Tawde
Shri Raviraj Doshi

02
CPE HRS

Lecture Meeting on Compounding under FEMA

FEMA

DAY & DATE		WEDNESDAY, 11TH JUNE, 2014	
Venue	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade		
Time	6.00 p.m. to 8.00 p.m.		
Fees	Free		
Chief Co-ordinator	CA. Shardul Shah	9820287625	
	<i>(Regional Council Member)</i>		
Co-ordinators	CA. Aalok Mehta	9892001645	
	CA. Mukund Mall	9322224142	

TOPIC

Compounding under FEMA

SPEAKER

Shri A. O. Basheer
General Manager, RBI

06
CPE HRS

Seminar on Financial Planning – A New Professional Opportunity

Finance

DAY & DATE		SATURDAY, 17TH MAY, 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. Neel Majithia	9820327660	
	CA. Hardik Shah	9375533336	
	<i>(Regional Council Members)</i>		
Co-ordinators	CA. Amogh Pandit	8108132425	
	CA. Anil Bhomawat	9323243205	
	CA. Harsh Dedhia	9892444121	

For more details visit - www.wirc-icai.org

06
CPE HRS

Seminar on Companies Act

Corporate Law

DAY & DATE		SATURDAY, 24TH MAY, 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. Neel Majithia	9820327660	
	CA. Sunil Patodia	9820344085	
	CA. Abhishek Nagori	9426075397	
	<i>(Regional Council Members)</i>		
Co-ordinators	CA. Kedar Mehendale	9820819459	
	CA. Kunal Parikh	9892429993	
	CA. Rahul Lottikar	9821140019	

For more details visit - www.wirc-icai.org

12
CPE HRS

1st Women Regional Residential Refresher Course

DAYS & DATES FRIDAY, 30TH, SATURDAY, 31ST MAY, & SUNDAY, 1ST JUNE, 2014

Theme: Inspire, Innovate & Implement

Venue	Hotel Byke Retreat, South Goa		
Time	10.00 a.m. to 6.00 p.m. (Friday, Saturday) 10.00 a.m. to 1.00 p.m. (Sunday)		
Fees	₹ 6,500/- (Ex-Goa) per person ₹ 3,500/- per child (5 – 12 age)		
Chief Co-ordinators	CA. Priti Savla	9321426883	
	CA. Shruti Shah	9892407988	
	<i>(Regional Council Members)</i>		
Co-ordinators	CA. Rekha Dhamankar	9326447619	
	CA. Kirti Agarwal	9326089102	
	CA. Kejal Pandya	9825977220	
	CA. Pinky Kedia	9869030652	

For more details visit www.wirc-icai.org



15 CPE HRS Intensive Study Course on Companies Act, 2013

Corporate Laws

Description – Majority of the provisions of The Companies Act, 2013 have been notified. Many of these provisions have come into effect from 1st April, 2014. This intensive course on Companies Act will focus on understanding the concepts as well as compliance aspects of the new Act and will prepare practising chartered accountants to advise their clients better.

Objective of the programme – To provide a platform for members to understand in detail the Companies Act, 2013.

Who can attend – Members who wish to understand/study Company Law in detail.

Recommended reading – Companies Act, 2013 and rules thereon.

DAYS & DATES	SATURDAY, 7TH, 14TH, 21ST, 28TH JUNE & 5TH JULY, 2014	
Venue	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	10.00 a.m. to 1.00 p.m. (Registration & breakfast 9.30 a.m. to 10.00 a.m.)	
Fees	₹ 1,500/- (inclusive of course material & refreshment) (Please add ₹ 100/- towards CA Benevolent Fund)	
Chief Co-ordinators	CA. Sushrut Chitale	9821112904
	CA. Julfesh Shah	9823096540
	CA. Parag Raval	9824339200
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Y. R. Desai	9820448365
	CA. Sonia Dawar	9920283330
	CA. Jigar Gogri	9320170436
	CA. Reema Jethwa	9619602083

TOPICS
7th June, 2014 Status of Companies Act, 2013, Key definitions, Incorporation of Companies & matters incidental thereto, Prospectus & Allotment of securities
14th June, 2014 Share Capital & Debentures, Registration of charges, Management & Administration
21st June, 2014 Accounts of Companies, Audit & Auditors
28th June, 2014 Appointment & qualifications of Directors, Board meetings / powers, Acceptance of Deposits, Related party transactions, Managerial remuneration, Declaration & payment of dividend
5th July, 2014 Inspection, inquiry & investigation, Compromises, Arrangements & Amalgamations (not yet notified), Foreign companies, Miscellaneous provisions

06 CPE HRS Seminar on Construction Industry (Compliance & Finance)

Industry

DAY & DATE	SATURDAY, 31ST MAY, 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	9867642684
	CA. Dilip Apte	9930314856
	CA. Sunil Patodia	9820344085
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Lalit Bajaj	9867692321
	CA. Harmesh Madhyani	9819259799
	CA. Ajit Sharma	9920756464

For more details visit - www.wirc-icai.org

06 CPE HRS Seminar on Audit & Taxation for Charitable Organisation

Direct Tax

DAY & DATE	SATURDAY, 31ST MAY, 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	9892407988
	CA. Shardul Shah	9820287625
	CA. Parag Raval	9824339200
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Sachin Holmukhe	9820561266
	CA. Harshvardhan Shah	9820247299
	CA. Neha Patel	9833678901

For more details visit - www.wirc-icai.org

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. Dhiraj Khandelwal	9867642684
	CA. Sarvesh Joshi	9822022292
	CA. Vishnu Agarwal	9833310916
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Bipeen Mundada	9223290561
	CA. Deepika Agarwal	9920178906
	CA. Rupal Haria	9322219029

TOPICS
Audit & Auditors – Appointment, Auditor Rotation, Removal, Role and Responsibilities
Audit Reports, Accounting & Auditing Standards and Integral Reporting
Formation of OPC, Dormant Cos., Inactive Cos., Board, Board of Directors, Independent Directors
CSR – Roles and Responsibilities
Penal Discussion and Open Discussion

Study Group Meeting on BFSI & Capital Market		
Date	: Friday, 30th May, 2014	Time : 5.30 p.m. - 8.30 p.m.
Venue	: ICAI Towers, BKC	CPE : 3 hours
Annual Fees : ₹ 1,000/- per annum		
ROUNDTABLE DISCUSSION (MODERATOR - CA. MANOJ ALIMCHANDANI)		
1. Capital Market Scenario - Post Elections – CA. Nipun Mehta		
2. Technical Analysis - An Overview - Part 1. – CA. Manish Chokshi		



Forthcoming Events

Foundation Day Celebration
 ~ 9th year ~
Mile Sur Mera Tumhara
1st July, 2014

Day & Date : Tuesday 1st July, 2014 | 6.00 p.m. to 10.00 p.m.
 at Bhaidas Hall, Near Mithibai College, Juhu Scheme, Vile Parle (West), Mumbai - 400056

AUDITION FOR DANCE, SINGING & ACTING
 Sunday 25th May, 2014 | 11.00 a.m. to 2.00 p.m. | J. S. Lodha Auditorium, ICAI Bhawan, WIRC

15 CPE HRS
Direct Tax Refresher Course (DTRC 2014)
 Direct Tax

DAYS & DATES SATURDAY, 7TH, 14TH, 21ST, 28TH JUNE & 5TH JULY, 2014

Venue	Birla Matushri Sabagraha, New Marine Lines, Churchgate	
Time	2.00 p.m. to 6.00 p.m. (Registration 1.30 p.m. to 2.00 p.m.)	
Fees	₹ 1,900/- for all sessions (inclusive of course material & refreshment) (Please add ₹ 100/- towards CA Benevolent Fund)	
Chief Co-ordinators	CA. Shruti Shah	9892407988
	CA. Julfesh Shah	9823096540
	CA. Girish Kulkarni	9225306814
	CA. Priyam Shah	9824096112
	CA. Priti Savla	9321426883
	CA. Hardik Shah	9825510422
	CA. Neel Majithia	9820327660
	<i>(Regional Council Members)</i>	

TOPICS **SPEAKERS**

7th June, 2014	
Reassessment & Revision Proceedings – Important Provisions	CA. Anil Sathe
Taxation of Salary	CA. Yogesh Thar
14th June, 2014	
Important issues in sections 43(CA), 50(C), 56(2), (viiia)–(viib)	CA. Kishor Karia
Computation of Arm's Length Price in Transfer Pricing	CA. Rakesh Alsi
21st June, 2014	
Practical Aspects – Search and Seizure including post Search Proceedings	CA. Snehal Shah
Controversies in TDS & TCS	CA. Atul Suraiya
28th June, 2014	
Settlement Commission – Approach & Process	CA. Chetan Karia
Taxation & Accounting of Builders & Developers	CA. Pradip Kapasi
5th July, 2014	
Brains Trust	CA. Ved Jain, Past President, ICAI Adv. Hiro Rai CA. Rajan Vora

Note:
 Brains Trust Queries to be sent before 14th May, 2014 on wircvents1@gmail.com

12 CPE HRS
Workshop on VAT
 Indirect Tax

DAYS & DATES SATURDAY, 14TH & SUNDAY, 15TH JUNE, 2014

Venue	Mayfair Banquet, 1st Floor, Mayur Tower, Junction of Eksar and Chandavarkar Road, Borivali (W)	
Time	10.00 a.m. to 6.00 p.m. (Registration & breakfast 9.30 a.m. to 10.00 a.m.)	
Fees	₹ 2,200/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)	
Chief Co-ordinators	CA. Vishnu Agarwal	9833310916
	CA. Mahesh Madkholkar	9820075966
	CA. Shardul Shah	9820287625
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Giriraj Khandelwal	9820344999
	CA. Sharad Sheth	9820137240
	CA. Dushyant Bhatt	9820019436

TOPICS **SPEAKERS**

14th June, 2014	
Introduction, Definitions, Scheme of MVAT and CST	CA. Nikita Badheka
E-compliances under MVAT (Registration, Returns, Requisition of forms)	CA. Lalit Panchal
Levy of tax including provisions of various composition schemes, exemptions and deductions	CA. Sujata Rangnekar
Input Tax Credit Provisions under MVAT and issues related to Suspicious Dealers	CA. Dushyant Bhatt
15th June, 2014	
Taxation of Deemed Sales (WCT, Leasing, Hoteliers, Mandap Keepers)	CA. Janak Vaghani
Provisions and Practical Issues for MVAT Audit, maintenance of records and data compilation	CA. Dilip Phadke
DDQs, Assessments, Business Audit, Refund Audit, Appeals and Rectification	CA. Kiran Garkar
Search, Survey, Seizure, Recovery proceedings and interest, penalties and prosecution under MVAT Act	CA. C. B. Thakar

Jointly with Borivali (Central) CPE Study Circle



12
CPE HRS

Two Days Seminar on Accounting Standards

Account & Audit

DAYS & DATES FRIDAY, 13TH & SATURDAY, 14TH 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	₹ 2,400/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)	
Chief Co-ordinators	CA. Sushrut Chitale	9821112904
	CA. Girish Kulkarni	9225306814
	CA. Sandeep Jain	9819788099
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Anand Sakle	9869770564
	CA. Neha Patel	9833678901
	CA. Suneet Mahale	9819966674
	CA. Ramesh Mishra	9820419606

TOPICS

AS-21 Consolidated Financial Statements • AS-23 Accounting for Investments in Associates in Consolidated Financial Statements • AS-27 Financial Reporting of Interests in Joint Ventures
AS-30 Financial Instruments: Recognition & Measurement • AS-31 Financial Instruments: Presentation • AS-32 Financial Instruments: Disclosures
AS-25 Interim Financial Reporting • AS-29 Provisions, Contingent Liabilities & Contingent Assets
AS-26 Intangible Assets • AS-28 Impairment of Assets

06
CPE HRS

Seminar on Service Tax

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. Shantesh Warty	9819947969
	CA. Akshay Patil	8879385263
	CA. Samir Mhatre	9987311092

TOPICS

Concept of Works Contract and its Valuation
Taxability of Builders & Developers (Including implications of POT Rules)
Negative List, Exemptions and Abatements
Reverse Charge and CENVAT

SPEAKERS

Eminent Faculty
CA. Rajiv Luthia
Eminent Faculty
CA. Naresh Sheth

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. Gaurav Save	9969001607
	CA. Ankit Anjaria	9930001614
	CA. Vikram Joshi	9821733286
	CA. Arun Prithwani	9167986549

TOPICS & SPEAKERS

5th July, 2014

Article 5 – Concept of Business Connection and PE • Fixed Place PE - Concepts • Agency PE - Concepts • Construction PE • Service PE • Preparatory and ancillary activities • Case Study • Structuring tax efficient structure from PE perspective

6th July, 2014

Article 14 – Concept of PE and Fixed Base • Scope of Independent Personnel Services • Overlapping with Royalty and Services – **CA. Shreyas Shah**

Article 7 – Traditional approach to attribute profits • OECD AOA approach • Indian Approach

• Court cases and case study • Tax efficient structures from PE and attribution perspective – **CA. Dhinal Shah**

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
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Nikhilesh Soman	9867183643
	CA. Purva Mittal	8655046341
	CA. Anand Kothekar	9820425551

TOPICS

E-filing under Various Laws
E-filing of ROC
E-filing under VAT
E-filing of TDS return

SPEAKERS

CA. Avinash Rawani
CA. Nimesh Dedhia
CA. Janak Vaghani
CA. Ravi Soni



Forthcoming Events

Students' Programme

Chief Co-ordinators:					
CA. Shruti Shah – 9892407988, (Regional Council Members)		CA. Satyanarayan Mundada – 9422080814,		CA. Mahesh Madkholkar – 9820075966	
Date & Day	Time	Subject(s)	Speaker(s)	Venue	Fee ₹
27-31/05/2014 Tuesday - Saturday	5.30 p.m. to 8.30 p.m.	Crash Course for CPT	Eminent Faculty	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	500/-
01-05/06/2014 Sunday - Thursday	5.30 p.m. to 8.30 p.m.	Crash Course for CPT	Eminent Faculty	ICAI Tower, Near Standard Chartered Bank, Opp. MCA, BKC, Bandra (E)	500/-
15/06/2014 Sunday	10.00 a.m. to 6.00 p.m.	VAT for beginners	Eminent Faculty	ICAI Tower, Near Standard Chartered Bank, Opp. MCA, BKC, Bandra (E)	350/-
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/-

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
BARODA				
24/05/2014	4.00 p.m.	"Gyan Ganga" – Dazzling Enlightenment Monthly Lecture Series	Shri Sadhu Gyanvatsaldas	ICAI Bhawan, Kalali –Tandalja Road, Atladara, Baroda
31/05/2014	2.00 p.m.	Direct Tax Refresher Course Part- I	CA. Kapil Goel CA. NiharJambusaria	ICAI Bhawan, Kalali –Tandalja Road, Atladara, Baroda
NAGPUR				
24/05/2014	10.30 a.m.	CPT Mock Test		ICAI Bhavan
24/05/2014	9.30 a.m.	Seminar on E-filing of Returns Under various Act	Eminent Speakers	ICAI Bhavan
31/06 to 01/07/2014	9.30 a.m.	Study Course on Co-operative Societies	Eminent Speakers	ICAI Bhavan
RAJKOT				
24/05/2014	4.00 p.m.	Issues in Capital Gain Search, Survey & Seizure	CA. Kalpesh Doshi CA. J. C. Ranpura	Branch Premises
31/05/2014	4.00 p.m.	Issues in Tax Audit Assessments & Reassessments	CA. Gaurang Sanghvi CA. R. K. Doshi	Branch Premises
SURAT				
24/05/2014	4.00 p.m.	How to scale up your Organisation, Risk Management in Large Scale Organisation & Brainstorming Session (New Opportunities for Young CA's in Business Development)	CA. Kailash Lohiya Mr. Atul Goyal CA. Puneet Mittal	
21-22/06/2014	9.30 a.m.	National Conference on Taxation – 2014	Eminent Speakers	Convention Hall, Veer Narmad South Gujarat University, Surat



Date & Day	Time	Subject(s)	Speaker(s)	Venue	Organised by / Convenor / Tel. No.
17/05/2014 Saturday	5.30 p.m.	Basics of International Taxation	CA. Jimit Dewani	4th Floor, New SNDT, Bhuriben, Cama Lane, Ghatkopar (W)	Ghatkopar CPE Study Circle CA. Hemang Shah M: 9223273189
18/05/2014 Sunday	8.45 a.m.	Smarter use of Smart Phone Tally ERP as Audit Tool	CA. Sanjay Chedda Shri Darshan Shah	A-52, AIPMA House, Street No 1, Nr. Tunga International Hotel, MIDC, Andheri (E)	J. B. Nagar CPE Study Circle CA. Anil Sharma M: 9870708060
18/05/2014 Sunday	9.30 a.m.	Direct Tax Issues – Software Industry Indirect Tax Issues – Software Industry	CA. Rajesh Kothari CA. Divyesh Lapsiwala	Bhatia Wadi, Opp. Veer Savarkar Udyan, T.P.S. Road, Borivali (W)	Borivali (Central) CPE Study Circle CA. Giriraj Khandelwal M: 9820344999
18/05/2014 Sunday	9.30 a.m.	TDS provisions – Compliance and legal issues		Mysore Association, 2nd Floor, Bhaudaji Road, Matunga Central	Matunga CPE Study Circle CA. Atul Shahade M: 9821116850
21/05/2014 Wednesday	5.30 p.m.	Overlapping of VAT and Service Tax in certain Industries	CA. Pooja Shah	Hotel Kanak, Opp. Gujarat College, Ellisbridge, Ahmedabad	Ellisbridge CPE Study Circle CA. Kartik Dave M: 9427525676
21/05/2014 Wednesday	5.30 p.m.	Companies Act, 2013: Overview, High Impact Areas, New Concepts, Accounts, Audit–Auditors and Opportunities for CA's	CA. Anand Bathiya	3rd Floor, Roman Vision Banquet Hall, 99/101, Keshavji Naik Road, Mahajan Wadi, Chinchbunder	Masjid Bunder CPE Study Circle CA. Darshak Shah M: 9920226360
22/05/2014 Thursday	5.30 p.m.	Companies Act, 2013: Provisions related to Private Limited Companies	CA. Nilesh Vikamsey	3rd Floor, Roman Vision Banquet Hall, 99/101, Keshavji Naik Road, Mahajan Wadi, Chinchbunder	Masjid Bunder CPE Study Circle CA. Darshak Shah M: 9920226360
24/05/2014 Saturday	4.15 p.m.	Overview of Wealth Tax Provisions and Assessments	CA. Anil Shetty	Shiv Samarth School, Ram Maruti Road, AC Hall at Ground Floor, Thane (W)	Thane CPE Study Circle CA. Shekhar Kulkarni M: 9821256333
24/05/2014 Saturday	4.30 p.m.	Labour Laws Including ESIC, PF, Bonus, Gratuity and Maharashtra Labour Welfare Fund Act	Shri Ramesh Soni	TMA, Hall, Near Dwarka Hotel, Wagle Estate, Thane (W)	Thane Midtown CPE Study Circle CA. Vijay Jain M: 9869010681
24/05/2014 Saturday	5.30 p.m.	Formation of LLP- Procedural Part Corporate restructuring through LLP	Shri Jayant Arya CA. (Dr.) Hareesh Shah	Sarvoday A/C Hall, L. T. Road, Opp. Diamond Talkies, Borivali (W)	Borivali (Central) CPE Study Circle CA. Giriraj Khandelwal M: 9820344999
24/05/2014 Saturday	5.30 p.m.	Opportunities for CAs in Business Restructuring and SME Models	CA. Paras Savla	4th Floor, New SNDT, Bhuriben, Cama Lane, Ghatkopar (W)	Ghatkopar CPE Study Circle CA. Hemang Shah M: 9223273189
24/05/2014 Saturday		Study Group Meeting – Audit Planning Set off and Retention under MVAT Laws	CA. Mandeep Singh Talwar CA. N. M. Jain	Direct-I-Plex, Old Nagardas Road, Near Andheri East Subway, Andheri (E)	J. B. Nagar CPE Study Circle CA. Anil Sharma M: 9870708060
25/05/2014 Sunday	9.45 a.m.	Study Group Meet on Issues in Income from Business and Capital gains	CA. Ashok Tripathi	Vrundas Veg., Near Ajanta Talkies, Borivali (W)	Borivali (Central) CPE Study Circle CA. Giriraj Khandelwal M: 9820344999
25/05/2014 Sunday	10.00 a.m.	Seminars for Formation of Trust and Taxation	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
28/05/2014 Wednesday	5.30 p.m.	Limited Liability Partnership – Formation, Conversion and Dissolution	CA. Helly Parikh	Hotel Kanak, Opp. Gujarat College, Ellisbridge, Ahmedabad	Ellisbridge CPE Study Circle CA. Kartik Dave M: 9427525676
28/05/2014 Wednesday		Provisions related to Pvt. Ltd. Co. in New Co. Act	CA. Chintan Patel*	Hotel Woodland, Nadiad	Nadiad CPE Study Circle CA. Hitesh Shah M: 9428435900
04/06/2014 Friday		Provisions related to Audit, Auditor, Acceptance of Deposit and preparation of Financial Statement under New Co. Act	CA. Vikas Jain	Hotel Golden Curry, Nadiad	Nadiad CPE Study Circle CA. Hitesh Shah M: 9428435900
08/06/2014 Sunday	9.30 a.m.	Workshop on FEMA (1) Introduction of FEMA, Banking & Deposit Rules– Inward/Outward Remittances (2) Establishment of Project/Liaison Office/Branch in India Industry	CA. Mayur Nayak CA. Natwar Thakrar	Bhatia Wadi, Opp. Veer Savarkar Udyan, T.P.S. Road, Borivali (W)	Borivali (Central) CPE Study Circle CA. Giriraj Khandelwal M: 9820344999
15/06/2014 Sunday	9.30 a.m.	Companies Act, 2013 Overview in relation to Private Limited Companies	CA. Durgesh Kabra	Seminar Room [Mayor Hall], All India Institute of Local Self Government, Sthanikraj Bhavan, C D Barfiwala Marg, Andheri (W)	Andheri (West) CPE Study Circle CA. Shantesh Warty M: 9819947969
22/06/2014 Sunday	9.30 a.m.	Workshop on FEMA (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 Change 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



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

The Sixty Third Annual General Meeting of the Members of Western India Regional Council of ICAI will be held on Friday, 27th June, 2014 at the ICAI Tower, BKC Premises, Bandra(E), Mumbai. The detailed notice for the said meeting will be sent by e-mail in due course to all the members of ICAI from the Western Region, whose e-mail ids are available in the records of the Institute. Members who have not yet furnished their e-mail ids are once again requested to update their e-mail ids at the very earliest in the records of the Institute, to enable the above notice to be e-mailed to them, also.

The aforesaid notice, as also the Annual Report of WIRC of ICAI for the period from 1st June, 2013 to 31st May, 2014 and the audited financial statements of WIRC of ICAI for the financial year 2013-14 will be hosted on the WIRC website www.wirc-icaai.org, in due course. The said Notice will also be displayed on the Notice Board of the WIRC office in the BKC premises of ICAI, but after it has been hosted on the WIRC website. The hard copies of the said annual report and the said audited annual financial statements will be sent only to those members, who express their desire for the same, in writing, but after the same has been hosted on the WIRC website.

In this context, attention of the members is also invited to Regulation No. 150 of the Chartered Accountants Regulations, 1988 which entitles a member to move a resolution for consideration of the meeting of the members, provided a draft of the resolution is received by the Secretary of the Regional Council at the office of Regional Council at least 28 days before the date of the meeting. However, the said Regulation also states the Chairman of the Meeting may admit a resolution in respect of which, a shorter notice is received not being less than 7 days.

STUDY GROUP OF 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.

ASSESSMENT TEST OF INFORMATION SYSTEM AUDIT

The Assessment Test of Information System Audit course will be held on Saturday, 28th June, 2014 from 10.30 a.m. to 2.30 p.m. in the different cities. The detailed announcement is uploaded on the Institute website www.icaai.org.

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 student representatives would be held from 8.00am 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

ICAI CONVOCATION 2014

ICAI invites newly enrolled members during the period of December, 2013 to May, 2014, to participate in the Convocation wherein Certificate of Membership will be awarded amidst the august gathering of the President and other Dignitaries. Members who, due to any reason, could not attend the last Convocation held in January, 2014 at Delhi, Kolkata, Bengaluru, Mumbai and Kanpur may also participate in the proposed Convocation. The detailed announcement with respect to this Convocation function is hosted on the Institute website www.icaai.org

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



DIRECT TAX

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

Section 119, read with section 195 of the Income-tax Act, 1961 – Income-tax authorities – Instructions to subordinate authorities – Clarifications as to whether tax is to be deducted under section 195(1) on whole sum being remitted to a non-resident or only portion representing sum chargeable to tax, particularly if no application has been made under section 195(2) to determine sum {221 taxmann (st.) 97}

Instruction No. 2/2014 [F.No. 500/33/2013-FTD-I], dated 26/2/2014

Section 195 of the Income-tax Act (hereafter referred to as 'the Act') provides that any person, responsible for paying to a non-resident not being a company or to a foreign company, any sum chargeable under the provisions of this Act, shall at the time of credit of such income to the account of the payee or at the time of payment thereof, whichever is earlier, deduct income-tax thereon at the rates in force. Section 201 of the Act *inter alia* provides that any person who is required to deduct tax in accordance with the provisions of the Act, does not do so, shall be deemed to be an assessee in default and shall also be liable to pay simple interest at the specified rate.

References were received from field officers on the issue of deduction of tax at source under section 195 in the light of the decisions of the Supreme Court of India in the case of *GE India Technology (P.) Ltd. vs. CIT [2010] 193 Taxmann 234/327 ITR 156 (SC)* and *Transmission Corporation of AP Ltd. and Another vs. CIT [1999] 105 Taxmann 742/239 ITR 587 (SC)* and the decision of the Madras High Court in *CIT vs. Chennai Metropolitan Water Tax Cases Appeals Nos. 500-501 of 2005, [2011] 202 Taxmann 454/[2012] 348 ITR 530 (Mad.)* with a request for clarification as to whether the tax is to be deducted under sub-section (1) of section 195 on the whole sum being remitted to a non-resident or only the portion representing the sum chargeable to tax, particularly if no application has been made under sub-section (2) of section 195 of the Act to determine the sum.

The matter has been examined in the Board and accordingly, in exercise of powers vested under section 119 of the Act, the Board hereby directs that in a case where the assessee fails to deduct tax under section 195 of the Act, the Assessing Officer shall determine the appropriate proportion of the sum chargeable to tax as mentioned in sub-section (1) of section 195 to ascertain the tax liability on which the deductor shall be deemed to be an assessee in default under section 201 of the Act, and the appropriate proportion of the sum will depend on the facts and circumstances of each case taking into account nature of remittances, income component therein or any other fact relevant to determine such appropriate proportion.

Section 90 of the Income-tax Act, 1961 – Double taxation agreement – Agreement for avoidance of double taxation and prevention of fiscal evasion with foreign countries – Latvia {221 taxmann (st.) 98}

Notification No. 12/2014 [F.No. 503/02/1997-FTD-I]/so 663(e), dated 5/3/2014

An Agreement was entered into between the Government of the Republic of India and the Government of the Republic of Latvia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, which was signed at New Delhi on the 18th day of September, 2013 (hereinafter referred to as the said Agreement). The date of entry into force of the said Agreement is the 28th day of December, 2013, being the date of later of the notifications of the completion of the procedures required by the respective laws for entry into force of the said Agreement, in accordance with paragraph 2 of Article 30 of the said Agreement. The sub-paragraph (a) of paragraph 3 of Article 30 of the said Agreement provides that the provisions of the said Agreement shall have effect in India in respect of income derived in any fiscal year beginning on or after the first day of April next following the calendar year in which the said Agreement enters into force. Now, therefore, in exercise of the powers conferred by section 90

of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that all the provisions of said Agreement between the Government of the Republic of India and the Government of the Republic of Latvia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, as set out in the Annexure hereto, shall be given effect to in the Union of India with effect from the 1st day of April, 2014.

Section 90 of the Income-tax Act, 1961 – Double taxation agreement – Agreement for avoidance of double taxation and prevention of fiscal evasion with foreign countries – Romania {221 taxmann (st.) 117}

Notification No. 13/2014 [F.No. 501/10/1995-FTD-I]/so 680(e), dated 5/3/2014

An Agreement between the Republic of India and Romania, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income was signed at New Delhi on the 8th day of March, 2013 (hereinafter referred to as the said Agreement). The date of entry into force of the said agreement is the 16th day of December, 2013, being the date of later of the notifications of completion of the procedures as required by the respective laws for entry into force of the said Agreement, in accordance with paragraph 1 of Article 30 of the said Agreement. Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that all the provisions of said Agreement between the Republic of India and Romania for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, as set out in the Annexure hereto, shall be given effect to in the Union of India with effect from the 16th day of December, 2013.

Section 119 of the Income-tax Act, 1961 – Income-tax authorities – Instructions to subordinate authorities – Extension of last date for payment of advance tax for F.Y. 2013-14 {221 taxmann (st.) 133}

Order [F.No. 385/8/2013-IT(B)], dated 14/3/2014

In exercise of power conferred under sec. 119(2)(a) of the Income-tax Act, 1961, the Central Board of Direct Taxes has decided to extend the last date of payment of the March Quarter Installment of Advance Tax for the financial year 2013-14, from 15 March, 2014 to 18th March, 2014 for all the assesseees.

Section 139d of the Income-tax Act, 1961 – Filing of return in electronic form – Extension of date for receipt of ITR-Vs in CPC, Bengaluru, for cases of A.Y. 2012-13 and 2013-14 received/e-filed in F.Y. 2012-13

Press release, dated 19/3/2014

There are many taxpayers who have uploaded their Income Tax Returns (without digital signature Certificate) for A.Y. 2012-13 [filed between 1/4/2012 and 31/10/2013] and for A.Y. 2013-14 [filed between 1/4/2013 and 31/10/2013], but have either not filed the corresponding ITR-V or have filed it with the local Income-Tax Office. ITR-V is accepted only at CPC, Bengaluru by ordinary or speed post. Therefore an opportunity is being given to such taxpayers to regularize their Income-tax returns.

All such taxpayers may mail the ITR-V, by 31st March, 2014, by ordinary post or speed post at Post Bag No. 1, Electronic City Post Office, Bengaluru-560 100 (Karnataka). Taxpayers who have filed their ITR-V with the local Income-tax office may again mail their ITR-V to the CPC by 31st March, 2014. Those taxpayers who have earlier mailed their ITR-V, but have not received the acknowledgement e-mail from the CPC, may mail their ITR-V to the CPC again.

Taxpayers may also note that without acknowledgement of the ITR-V from the CPC it would not be possible for the Income-tax Department to process the Income-tax returns or issue any refunds therefrom, as these would be treated as not having been filed with the Department.



Section 90 of the Income-tax Act, 1961 – Double taxation agreement – Agreement for avoidance of double taxation and prevention of fiscal evasion with foreign countries – Sri Lanka {222 taxmann (st.) 49}

Notification No. 23/2014 [F.No. 501/10/1995-FTD-I], dated 28/3/2014

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 and the prevention of fiscal evasion with respect to taxes on income (hereinafter referred to as DTAA) signed in India on the 22nd day of January, 2013 shall enter into force on the 22nd day of October, 2013, being the date of the later of the notifications after completion of the procedures as required by the laws of the respective countries for the entry into force of DTAA, in accordance with Article 30 of the said DTAA. Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that the provisions of DTAA annexed hereto shall be given effect to in the Union of India with effect from the 1st day of April, 2014.

Section 10(2a) of the Income-tax Act, 1961 – firm – Share of profits to partner of firm – Clarification on interpretation of provisions of section 10(2a) in cases where income of firm is exempt {222 taxmann (st.) 9}

Circular No. 8/2014 [F.No. 173/99/2013-ITA-I], dated 31/3/2014

A reference has been received in the Board in connection with the interpretation of provisions of section 10(2A) of the Income tax Act, 1961 ('Act') seeking clarification as to what will be the amount exempt in the hands of the partners of a partnership firm in cases where the firm has claimed exemption/deduction under Chapter III or VIA of the Act. The matter has been examined. Sub-section (2A) of section 10 was inserted by the Finance Act, 1992 w.e.f. 1/4/1993 due to a change in the scheme of taxation of partnership firms. Since assessment year 1993-94, a firm is assessed as such and is liable to pay tax on its total income. A partner is not liable to tax once again on his share in the said total income. It is clarified that 'total income' of the firm for sub-section (2A) of section 10 of the Act, as interpreted contextually, includes income which is exempt or deductible under various provisions of the Act. It is, therefore, further clarified that the income of a firm is to be taxed in the hands of the firm only and the same can under no circumstances be taxed in the hands of its partners. Accordingly, the entire profit credited to the partners' accounts in the firm would be exempt from tax in the hands of such partners, even if the income chargeable to tax becomes NIL in the hands of the firm on account of any exemption or deduction as per the provisions of the Act.

Section 92cc of the Income-tax Act, 1961 – Advance pricing agreement – Signing of first batch of 5 unilateral advance pricing agreements (APA) on 31/3/2014 by CBDT and highlighting features of whole scheme of APA {222 taxmann (st.) 10}

Press release No. 402/92/2006-MC, dated 31/3/2014

The CBDT has signed the first batch of 5 unilateral Advance Pricing Agreements (APA) on 31/3/2014. The agreements cover a period of 5 years from AY 2014-15 to AY 2018-19 and specify the arm's length price for the covered international transactions entered into by the taxpayers. These agreements cover a range of international transactions, including interest payments, corporate guarantees, non-binding investment advisory services and contract manufacturing. The agreements pertain to different industrial sectors including pharmaceuticals, telecom, exploration and financial services.

The agreements provide a complete certainty to the taxpayers for 5 years with regard to the covered international transactions. The APA programme came into effect on 1/7/2012 and the first batch of 146 APA applications was received in March 2013. The CBDT has been able to conclude the first

set of agreements within a period of 1 year as against the internationally accepted norm of at least 2 years.

The whole scheme of APA has been designed with the intention of creating a taxpayer friendly environment in transfer pricing matters and to minimise the transfer pricing disputes. Before filing the APA applications, taxpayers are given the opportunity to share their expectations from the APA process during the pre-filing consultations and the APA team shares a broader understanding of the forthcoming APA procedure.

Having received an APA application, the APA team works towards establishing the appropriate economic analysis of the covered international transactions which also involves a site visit i.e. physical verification of the business of the applicant with regard to the said transactions. It is this detailed fact finding exercise which lends credibility to the determination of arm's length price under the APA. The APA team furnishes a report incorporating functions, assets and risk (FAR) analysis which is further examined at length by the CBDT before its submission for the final approval of the Central Government.

Income-tax (Fourth Amendment) Rules, 2014 – Amendment in rule 12 & substitution of Forms Sahaj (ITR-1), ITR-2, Sugam (ITR-4S) and ITR-V {222 taxmann (st.) 15}

Notification No. 24/2014 [F.No. 142/2/2014-TPL]/so 997(e), dated 1/4/2014

The above forms have been notified for Assessment Year 2014-15 under above citation.

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

MAVT ACT, 2002

Circulars

The Commissioner of Sales Tax has issued Circular No. 10T of 2014 dated 29/3/2014 by which the date for filing audit report in Form 704 for 2012-13 by developer is extended up to 10/5/2014.

The Commissioner of Sales Tax has issued Circular No. 11T of 2014 dated 4/4/2014 by which the effect of judgment of Supreme Court in case of Bansal Wire Industries on rate of tax of declared goods is explained.

The Commissioner of Sales Tax has issued Circular No. 12T of 2014 dated 17/4/2014 which is in Form of FAQ about issues in related to builders & developers.

CORPORATE LAWS (Contributed by CA. Rahul Joglekar)

MCA General Circular No. 8/2014 dated 4th April, 2014 – Commencement of provisions of Companies Act, 2013 w.r.t maintenance of books of accounts, etc.

A number of provisions of the Companies Act, 2013 including those relating to maintenance of books of account, preparation, adoption & filing of financial statements (and documents required to be attached thereto), Auditors reports and the Board of Directors report (Board's report) have been brought into force with effect from 1st April, 2014. MCA had received numerous requests for clarification w.r.t the financial year from which these provisions will be effective. The MCA has clarified that the financial statements (and documents required to be attached thereto), auditors report and Board's report in respect of financial years that commenced earlier than 1st April, 2014 shall be governed by the relevant provisions/Schedules/ rules of the Companies Act, 1956 and that in respect of financial years commencing on or after 1st April, 2014, the provisions of the new Act shall apply. Therefore for the financial statements of F.Y. 2013-14 or calendar year 2014, the provisions of Companies Act 1956 will



continue to apply. For complete text of the circular please refer to the link: http://www.mca.gov.in/Ministry/pdf/General_Circular_8_2014.pdf

Availability of E-forms on MCA portal and Table of fees for various forms to be filed with ROC

MCA has clarified that instead of staggered roll out of e-forms as notified earlier, there would be a single roll out for all e-forms. Accordingly, it is clarified that all E-forms will be available for upload with effect from 28th April, 2014. A schedule showing the mapping of e-forms under Companies Act, 2013 with the corresponding e-forms under Companies Act, 1956 is also provided and the same is available at the link: <http://www.mca.gov.in/Ministry/pdf/eformsMapping.pdf>

MCA has also released a schedule of fees applicable for filing of various forms with the ROC pursuant to Rule 12 of the Companies (Registration of Offices and Fees) Rules, 2014. The schedule can be referred to at the link: http://www.mca.gov.in/Ministry/pdf/tableoffee_01042014.pdf

Amendment of Schedule II of Companies Act, 2013

The MCA has amended Schedule II of the Companies Act, 2013 dealing with rates of depreciation. The amendment relates to rates of depreciation in respect of intangible assets (Toll Roads) created under Build, Own, Operate, Transfer or any other form of public private partnership route in case of toll roads. The actual amendment and the detailed methodology of amortisation can be referred on the MCA website at the link: http://www.mca.gov.in/Ministry/pdf/Amendment_Schedule2.pdf

SEBI Circular No. – CIR/CFD/POLICY CELL/2/2014 dated 17th April, 2014 – Corporate Governance in listed entities – Amendments to Clauses 35B and 49 of the Equity Listing Agreement

The Companies Act, 2013 was enacted on August 30, 2013 which provides for a major overhaul in the Corporate Governance norms for all companies. The rules pertaining to Corporate Governance were notified on March 27, 2014. In light of the stricter provisions of the Companies Act, 2013, SEBI has decided to review the provisions of the Listing Agreement in this regard with the objectives to align with the provisions of the Companies Act, 2013, adopt best practices on corporate governance and to make the corporate governance framework more effective. For complete text of this Circular please refer to the link: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1397734478112.pdf

SEBI Circular No. – CIR/IMD/FIIC/09/2014 dated 28th April, 2014 – Infrastructure facilities and submission of periodic reports by Designated Depository Participants (DDP)

SEBI has advised that in order to ensure proper functioning of the Foreign Portfolio Investor regime, it is imperative that DDPs should have adequate infrastructure facilities and appropriate systems and controls in place. Accordingly certain instructions have been issued to DDPs *vide* the aforesaid circular. For complete text of the circular please refer to the link: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1398685079507.pdf

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

Update of GVAT Act, 2003

Handspun yarn implements notified

Vide Notification No. GNH/ 9-VAT-2013-SCH-1 (13) (6)-TH Dt. 1/7/2013, items of Charkha and other implements for use in the production of handspun yarn are notified.

No recovery without assessment

Hon'ble Gujarat High Court has, in case of Atul Motors Private Limited (SCA No. 959 of 2014), decided, *vide* its order dated 14/2/2014 that department

cannot encash advance cheques obtained during spot visit and recovery cannot be made without passing assessment order.

No recovery pending stay petition

Hon'ble Gujarat High Court has, in case Sahjanand Technologies Private Limited (SCA No. 2013 of 2014), decided, *vide* its order dated 21/2/2014 that recovery made by the department during pendency of stay petition is liable to be quashed.

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

Advance remittance for import of rough diamonds

A.P. (DIR Series) Circular No. 116 dated April 1, 2014

With a view to further liberalise the procedure for facilitating the import of rough diamonds, RBI has now decided that henceforth RBI will not notify the names of overseas mining companies from whom an importer (other than a Public Sector Company (PSC) or a Department/Undertaking of the Government of India (GOI)/State Government) may import rough diamonds into India, by way of advance payments, without any limit / bank guarantee/stand-by letter of Credit. (Currently 9 such names of overseas mining companies have been notified by RBI)

AD category-I banks are, henceforth, permitted to take decision on overseas mining companies to whom an importer (other than PSC or Department/ Undertaking of GOI/State Government) can make advance payments, without any limit/bank guarantee/stand-by letter of Credit.

AD Category-I banks are required to submit a report of all such advance remittances made without a bank guarantee or standby letter of credit, where the amount of advance payment is equivalent to or exceeds USD 5,000,000/- to the concerned Regional Office of RBI, in the specified format, within 15 calendar days of the close of each half year.

Compounding of contraventions under FEMA, 1999

A.P. (DIR Series) Circular No. 117 dated April 4, 2014

RBI has decided to delegate further powers to the Regional Offices of RBI to compound the contraventions of FEMA. Accordingly, the powers to compound the following contraventions shall now be vested with the Regional Offices –

- Delay in reporting inward remittance received for issue of shares
- Delay in filing form FC-GPR after issue of shares
- Delay in issue of shares/ refund of share application money beyond 180 days, mode of receipt of funds, etc.
- Violation of pricing guidelines for issue of shares.
- Issue of ineligible instruments such as non-convertible debentures, partly paid shares, shares with optionality clause, etc.
- Issue of shares without approval of RBI or FIPB respectively, wherever required.

The above contraventions can be compounded by all Regional Offices (except Kochi and Panaji) without any limit on the amount of contravention. Kochi and Panaji Regional offices can compound these contraventions for amount of contravention below ₹ 1,00,00,000. The contraventions above ₹ 1,00,00,000 under the jurisdiction of Panaji and Kochi Regional Offices and all other contraventions of FEMA will continue to be compounded at Cell for Effective Implementation of FEMA (CEFA), Mumbai, as hitherto.

Accordingly, applications for compounding related to the above contraventions may be submitted by the concerned entities to the



respective Regional Offices under whose jurisdiction they fall. For all other contraventions, applications may continue to be submitted to CEFA, Foreign Exchange Department, 5th Floor, Amar Building, Sir P. M. Road, Fort, Mumbai - 400 001.

The above modifications will come into force with immediate effect. All other instructions on compounding shall remain unchanged.

Foreign Direct Investment (FDI)

Foreign investment in India in Government Securities

A.P. (DIR Series) Circular No. 118 dated April 7, 2014

The present limit for investment in Government Securities by SEBI registered FIs, QFIs, long-term investors and FPIs registered in accordance with SEBI guidelines stands at USD 30 billion.

On a review, to encourage longer term flow, RBI has now decided that foreign investment by all eligible investors i.e. RFPIs (including existing FIs and QFIs) and Long-term investors registered with SEBI – SWFs, Multilateral Agencies, Pension/ Insurance / Endowment Funds and foreign Central Banks, shall henceforth be permitted only in Government dated securities having residual maturity of 1 year and above.

Existing investment in T-bills and Government dated securities of less than 1 year residual maturity shall be allowed to taper off on maturity/sale and no fresh investment in T-bills and Government dated securities of less than 1 year residual maturity is allowed.

Clarifications on FDI in pharmaceuticals sector

Notification No. FEMA 296/2014-RB dated March 3, 2014 and A.P. (DIR Series) Circular No. 124 dated April 21, 2014

The Department of Industrial Policy and Promotion (DIPP) had, *vide* Press Note No. 1 (2014 Series) dated January 8, 2014, reviewed paragraph 6.2.18 of the Consolidated FDI policy relating to pharmaceuticals sector and had decided that the existing policy would continue with the condition that 'non-compete' clause would not be allowed except in special circumstances with the approval of the Foreign Investment Promotion Board (FIPB) of the Government of India (GOI).

Consequently, RBI has amended Schedule 1 of Notification No. FEMA 20/2000-RB incorporating the above mentioned change in the existing entry 25 of 'Annexure B' of Schedule 1 *vide* Notification No. FEMA. 296/2014-RB dated March 3, 2014.

FDI in Limited Liability Partnership (LLP)

Notification No. FEMA 298/2014-RB dated March 13, 2014 and A.P. (DIR Series) Circular No. 123 dated April 16, 2014

RBI has notified the guidelines in relation to FDI in LLP. These guidelines were long overdue since FDI in LLP was permitted *vide* Press Note 1 of 2011 Series by DIPP but there was no corresponding reference in the Foreign Exchange Management Act (FEMA).

As per the new guidelines, any person resident outside India or an entity incorporated outside India, (other than a person or entity of Pakistan or Bangladesh), not being a registered FI or Foreign Venture Capital Investor or QFI registered with SEBI or FPI registered in accordance with SEBI guidelines, may contribute foreign capital either by way of capital contribution or by way of acquisition/transfer of profit shares in the capital structure of an LLP under FDI, subject to the following terms and conditions—

(a) The Scheme shall be called Foreign Direct Investment (FDI-LLP) in Limited Liability Partnerships (LLP) formed and registered under the Limited Liability Partnership Act, 2008.

- (b) An LLP, existing or new, operating in sectors/activities where 100% FDI is allowed under the automatic route of FDI Scheme would be eligible to receive FDI. An LLP engaged in following sectors/activities shall not be eligible to accept (FDI):
 - i. Sectors eligible to accept 100% FDI under automatic route but are subject to FDI-linked performance related conditions;
 - ii. Sectors eligible to accept less than 100% FDI under automatic route or accept FDI under Government Approval route;
 - iii. Agricultural/plantation activity and print media;
 - iv. Sectors ineligible to accept FDI i.e. any sector which is prohibited under extant FDI policy
- (c) Any form of foreign investment in a LLP, direct or indirect (regardless of nature of 'ownership' or 'control' of an Indian Company) shall require Government/FIPB approval.
- (d) FDI in a LLP either by way of capital contribution or by way of acquisition/transfer of profit shares, would have to be more than or equal to the fair price as worked out with any valuation norm which is internationally accepted/adopted as per market practice and a valuation certificate to that effect shall be issued by the Chartered Accountant or by a practicing Cost Accountant or by an approved valuer from the panel maintained by the Central Government.
- (e) Payment by an eligible investor towards capital contribution of LLPs will be allowed only by way of cash consideration to be received by way of inward remittance through normal banking channels; or by debit to NRE/FCNR(B) account of the person concerned, maintained with an AD Category-I bank
- (f) LLPs shall report to the Regional Office concerned of the RBI, the details of the receipt of the amount of consideration for capital contribution and 'profit shares' in Form FOREIGN DIRECT INVESTMENT-LLP(I) as specified by RBI from time to time, together with a copy/ies of the FIRC/s evidencing the receipt of the remittance along with the KYC report on the non-resident investor, through an AD Category-I bank, and valuation certificate as regards pricing within 30 days from the date of receipt of the consideration. The report would be acknowledged by the Regional Office concerned, which would allot a Unique Identification Number (UIN) for the amount reported.
- (g) Disinvestment /transfer of capital contribution or profit share between a resident and a non-resident (or vice versa) shall be required to be reported within 60 days from the date of receipt of funds in Form FOREIGN DIRECT INVESTMENT-LLP(II) as specified by RBI from time to time.
- (h) In case an LLP with FDI has a body corporate as a designated partner or nominates an individual to act as a designated partner, such a body corporate should only be a company registered in India and not any other body, such as an LLP or a Trust and would have to satisfy the definition of "person resident in India", as prescribed under section 2(v)(i) of the FEMA, 1999.
- (i) The designated partners will be responsible for compliance with all the above conditions and also liable for all penalties imposed on the LLP for their contravention, if any.
- (j) Conversion of a company with FDI, into an LLP, will be allowed only if the above stipulations (except the stipulation as regards mode of payment) are met and with the prior approval of FIPB/Government.
- (k) LLPs shall not be permitted to avail External Commercial Borrowings (ECBs).

Amendments to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000 [Notification No. FEMA 20/2000- RB dated 3rd May, 2000]

Notification No. FEMA. 297/2014-RB dated March 13, 2014 – Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) (Second Amendment) Regulations, 2014

RBI has amended Regulations 2, 5 and 14 and Schedule 5 of Notification No. FEMA 20/2000-RB to give effect to the amendments brought in by A.P. (DIR Series) Circular No.112 March 25, 2014 issued by RBI regarding 'Foreign Portfolio Investment' scheme.

These amendments shall be deemed to have come into force from the date of publication of this notification in the Official Gazette.

Amendments in the Consolidated FDI Policy

Consolidated FDI Policy Circular 1 of 2014 dated April 17, 2014 issued by DIPP and Ministry of Commerce and Industry of the GOI

The GOI has, *vide* Circular 1 of 2014 series issued the Consolidated FDI Policy incorporating the changes made over the last year, which shall come into force with immediate effect.

The changes made in the aforesaid Policy vis-à-vis the previous Policy issued by the GOI on April 5, 2013 are outlined below:

- (a) The definition of the term 'Control' has undergone a change to now not only include the power to appoint a majority of directors, but also the ability to control the management or policy decisions by virtue of shareholding, management rights, shareholder agreements, or voting agreements.
- (b) FDIs in case of Commodity Exchanges, Power Exchanges, Courier services, Test Marketing and Petrol Refining by Public Sector Undertakings have been brought under the Automatic route which were earlier under the Government Approval route subject to their respective FDI caps. Also, henceforth FDI in Commodity Exchanges shall be subject to the guidelines of the Central Government/ Forward Markets Commission from time to time.
- (c) FDI & FII in Asset Reconstruction was earlier allowed up to only 74% under the Government route. Now, it is allowed under the Automatic route up to 49% and beyond 49% up to 100% under the Government route.
- (d) FDI in Telecom services sector is now allowed up to 100% which was earlier restricted only to 74% under the Government route.
- (e) In case of Defence Production, FDI up to 26% is now allowed under the Automatic route and beyond 26% it is allowed under the Government route.
- (f) FDI under Automatic route in Insurance sector is now allowed to cover Insurance Company, Insurance Broker, Third Party Administrators and Surveyors and Loss Assessors up to 26% which would include FDI, FII and NRI investment subject to certain conditions specified therein. For detailed conditions, please refer the said Circular available on DIPP website at- http://dipp.nic.in/English/Policies/FDI_Circular_2014.pdf
- (g) FDI in case of Single Brand retail trading is now allowed under the Automatic route up to 49% and under the Government route beyond 49%. Also, while previous FDI policy only permitted 1 non-resident entity with ownership of a brand (or rights to a brand) to invest in Indian companies engaged in the retail trading of that brand, policy changes now allow multiple non-resident entities, whether owner of the brand or otherwise, to invest in Indian entities, either directly or through a legally tenable agreement.



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(h) With respect to Multi Brand Retail Trading, it has now been clarified that at least 50 per cent of the first US \$ 100 million invested must be in 'back end infrastructure.'

Rupee Drawing Arrangement – 'Direct to Account' Facility

A.P. (DIR Series) Circular No. 120 dated April 10, 2014

In order to facilitate receipt of foreign inward remittances directly into bank accounts of the beneficiaries, RBI has decided to allow foreign inward remittances received under Rupee Drawing Arrangement (RDA) to be transferred to the KYC compliant beneficiary bank accounts through electronic mode, such as, NEFT, IMPS, etc. The procedure to be followed for the purpose can be referred in the said circular available on RBI website at-<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/120AP100414F.pdf>

External Commercial Borrowings (ECB)

ECB Policy – Review of all-in-cost ceiling

A.P. (DIR Series) Circular No. 121 dated April 10, 2014

All-in-cost ceiling as specified in A.P. (DIR Series) Circular No. 99 dated March 20, 2012 relating to ECB shall continue to be applicable till June 30, 2014 until further review. All other aspects of ECB policy remain unchanged.

Trade Credits for Imports into India – Review of all-in-cost ceiling

A.P. (DIR Series) Circular No. 122 dated April 10, 2014

The all-in-cost ceiling as specified under paragraph 4 of A.P. (DIR Series) Circular No. 28 dated September 11, 2012 shall continue to be applicable till June 30, 2014 and is subject to review thereafter. All other aspects of Trade Credit policy shall remain unchanged.

...



DIRECT TAX

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

Ss. 2(14)(iii) & 54B: Meaning of rural agricultural land

When the land in question was not situated within 8 kms from the municipal limit in terms of the approach by road and not by the straight line distance on horizontal plane or as per crow's flight, assessee was entitled to exemption under s. 54B.

CIT vs. Shabbir Hussain Pithawala (2014) 265 CTR (MP) 606

Ss. 2(15), 2(15), proviso, 12AA(1) & 12AA(3) Registration cannot be cancelled for carrying out commercial activities

For the cancellation of the registration under s. 12AA(3), all that it is insisted upon is the satisfaction as to whether the activities of the trust or institution are genuine or not and whether the activities are being carried on in accordance with the objects of the trust; if a particular activity of the institution appeared to be commercial in character, and it is not dominant, then it is for the AO to consider the effect of s.11 in the matter of granting exemption on particular head of receipt and the mere fact that the said income does not fit in with s. 11 would not, by itself, lead to the conclusion that the registration granted under s.12AA is bad and hence, to be cancelled.

Tamil Nadu Cricket Association vs. CIT (2014) 265 CTR (Mad.) 277

S. 2(22)(e): Loan to a firm in which shareholder has substantial interest is deemed dividend

Assessee being the managing director as well as beneficial owner of shares of a residuary non-banking company and also a partner having substantial interest in a firm which acted as an agent of the said company for mobilising the deposits from public and the said firm having retained the deposits collected by it instead of remitting the same to the company it was a loan to the firm and, therefore, it is a case of deemed dividend under s. 2(22)(e) in the hands of assessee.

CIT vs. Subrata Roy (2014) 265 CTR (All) 481

Ss. 2(24)(x), 36(1)(va) & 43B: Deduction allowable on employee's contribution paid by employer

From the perusal of paras 30 and 38 of PF scheme it is clear that the word "contribution" is used not only to mean contribution of the employer but also contribution to be made on behalf of the member employed by the employer directly; that being so, if the employee's contribution is made on or before the due date for furnishing the return of income under sub-s. (1) of s. 139 the employer is entitled for deduction.

Essae Teraoka (P) Ltd. vs CIT (2014) 266 CTR (Kar.) 246

S. 5: Accrual of Income & Retention Money

Retention money received after TDS, but subject to bank guarantee, is not chargeable to tax as income till all conditions are satisfied.

Amarshiv Constructions Pvt. Ltd. vs. D. CIT (Gujarat High Court) April 26, 2014

Ss. 9(1)(vi), 40(a)(ia) & 194J: Acquisition of commercial rights amounts to sale and not fees

Assessee had acquired the commercial rights including copyrights in a film for a perpetual period of 99 years and the transaction amounted to sale and

therefore s. 194J r/w s. 9(1)(vi) was not applicable; disallowance under 40(a)(ia) was not called for.

Mrs. K. Bhagyalakshmi vs. Deputy Commissioner of Income Tax (2014) 265 CTR (Mad.) 545

S. 10B: Typographical error while filing return of income cannot result into denial of deduction

Once the assessee was found eligible for an exemption under s.10B, it having been allowed such exemption in the past, and merely because a typographical error crept in while e-filing the return and it was mentioned as under s.80-IB instead of s.10B, this being a technical mistake, should not come in the way by disallowing the otherwise allowable/eligible exemption.

CIT vs. Rajasthan Fasteners (P) Ltd. (2014) 266 CTR (Raj.) 401

S. 14A: Expenditure incurred in relation to exempt income

When no human agency is involved in collecting dividends and interest for which the assessee has to incur any expenditure and, when the assessee has not incurred any expenditure for realising the income, the question of holding that 2 per cent of the gross total income is an expenditure and that has to be added back to the income is unsustainable in law.

Canara Bank vs. Assistant Commissioner of Income Tax (2014) 265 CTR (Kar.) 385

Ss. 40(a)(ia), 194C & 194-I: TDS in respect of composite contract

In the case of a composite contract for loading and unloading and transport of granites where the assessee makes use of vehicles and equipment, s. 194-I will be applicable and not s. 194C; contention that for attracting s. 194-I, there must be a lease or other arrangement relating to immovable property is not sustainable.

Three Star Granites (P) Ltd. vs. CIT (2014) 266 CTR (Ker.) 326

S. 40A (3): Disallowance of expenditure

There is difference between "Crossed cheque" and "Account Payee cheque". Payment by crossed cheque attracts S. 40A (3) disallowance.

Rajmoti Industries vs. ACIT (Gujarat High Court) April 26, 2014

S. 41(1): Waiver of principal is not income

Assessee having never claimed the principal amount of bank loan as a deduction, waiver thereof by the bank did not amount to income of the assessee.

CIT vs. Dholgiri Industries (P) Ltd. (2014) 266 CTR (MP) 111

S. 48: Compensation for termination of tenancy, paid after sale of property not allowable as deduction

Lease of the property being to a related company which had sublet the part of property to a bank amount paid as compensation to that company for termination of tenancy rights that too after receipt of sale consideration was in fact not related to the transaction of sale made by the assessee and, therefore, cannot be claimed to be expenditure under s. 48(1) for computation of capital gains.

L. M. Patel & B. M. Patel (HUF) vs. Commissioner of Income Tax (2014) 265 CTR (Guj.) 445

Ss. 50 & 54EC: Exemption allowable in respect of depreciable assets

Capital gain arising out of long-term capital asset, if invested in specified asset, the assessee is not to be charged capital gains and exemption

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Particulars	31.03.2013	31.03.2014
Business Mix	8708.93	10268.01
Deposits	5308.16	6194.00
Advances	3400.77	4074.01
Gross Profit	113.01	146.39
Net Profit	74.99	93.52
Owned Funds	581.04	667.19
Gross NPA	3.32%	3.58%
Net NPA	0.00%	0.40%
CRAR	13.48%	15.05%

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Recent Judgments

provided under s.54EC cannot be denied to the assessee only on account of the fact that deeming fiction is created under s. 50.

CIT vs. Aditya Medisales Ltd. (2014) 266 CTR (Guj.) 98

S. 54F: Exemption allowed even construction commenced before sale

Exemption under s. 54F could not be denied on the ground that the construction of the house had commenced before the date of sale of shares.

CIT vs. Bharti Mishra (2014) 265 CTR (Del.) 374

S. 57(iii): Interest on borrowed funds not allowable as deduction

Assessee having invested interest-bearing funds in the purchase of shares of loss-making companies of the same group and shown no income from such investments, the interest paid by the assessee on borrowed funds was not incurred wholly and exclusively for the purpose of earning income but was a colourable device for tax evasion and, therefore, the same is not allowable as deduction under s. 57(iii).

CIT vs. Subrata Roy (2014) 265 CTR (All) 481

S. 80-IB(10): Amendment not applicable retrospectively

Assessee had obtained the approval of the project on 16th March, 2005 from the Development Authority and assessee had also applied to the Authority on 5th Nov. 2008 for issue of completion certificate and therefore denial of deduction under s. 80-IB(10) on the ground that the completion certificate in terms of Explan. (ii) which was inserted w.e.f. 1st April, 2005, had not been granted so as to enable it to avail the benefit was not justified.

CIT vs. CHD Developers Ltd. (2014) 266 CTR (Del.) 360

S. 80-IB(10): If developers does not (without just cause) develop to full extent of FSI, a part of the sale proceeds has to treated as being for sale of FSI and denied s. 80-IB(10) deduction

For any commercial activity of construction, be it residential or commercial complex maximum utilisation of FSI is of great importance to the developer. Ordinarily, therefore, it would be imprudent for a developer to underutilise available FSI. Sale Price of constructed properties is decided on the built up area. It can thus be seen that given the rate of constructed area remaining same, non-utilisation of available FSI would reduce the profit margin of the developer. Thus, therefore, when a developer constructs residential unit occupying a fourth or half of usable FSI and sells it, his profits from the activity of development and construction of residential units and from sale of unused FSI are distinct and separate and rightly segregated by the AO.

CIT vs. Moon Star Developers (Gujarat High Court) April 9th, 2014

Ss. 194-C & 194-I: Godown Management Charges, TDS u/s 194C

Assessee used to hire godowns on rent and engage C & F agents to manage them; Tribunal was justified in holding that tax was deductible at source under s. 194C from payments made to C & F agents and not under s. 194-I.

CIT vs. Hindustan Lever Ltd. (2014) 265 CTR (Del.) 518

S. 194-I: TDS @2% for use of Machinery/Plant/Equipment

Receipts from provision of passive infrastructure services to mobile operators amount to renting out, would attract lower TDS deduction u/s 194-I and not u/s 194-C.

Indus Tower Ltd. vs. CIT (2014) 44 taxmann.com 3 (Del.)

S. 234-E: Interest for late filing of TDS return

High Court issues notice on challenge to notice for levy of fee for failure to file TDS statement. Recovery of fee is subject to outcome of Petition.

Om Prakash Dhoot vs. U.O.I. (Rajasthan High Court) April 18, 2014

S. 271(1)(c): No penalty in case of assessment on estimate basis & for change in head of income

In a case of estimation of income after rejection of books, no penalty could be imposed under s. 271(c); penalty was not attracted in case interest income claimed by assessee as business income was assessed by AO under the head "Other Sources".

Naresh Chand Agarwal vs. CIT (2014) 265 CTR (All) 306

ITAT Decisions

Write-off of irrecoverable advances is not a "transfer" and the loss cannot be claimed as a capital loss u/s 45

Having regard to the definitions of terms "capital asset" and "transfer" in sections 2(14) and 2(47), in order to be eligible for carry forward of capital loss, the capital asset should be of the nature defined in s. 2(14) and should be transferred in the manner defined in s. 2(47). Equally, it should be subjected to tax as per s. 45(1) of the Income-tax Act. The advances given to the said two parties and written off are not the capital assets nor there is any transfer. Therefore, they were not allowed to be carried forward to subsequent years. It is a capital loss and should be ignored.

Crompton Greaves Limited vs. DCIT (Bombay High Court) April 4th, 2014

The term "month" in ss. 54E, 54EA, 54EB & 54EC does not mean "30 days" but the "calendar month"

Sections 54E, 54EA, 54EB & 54EC require the investment to be made "within a period of six months after the date of such transfer". The subtle question is that whether the word "month" refers in this section a period of 30 days or it refers to the month only. The term 'month' is not defined in the Income-tax Act. Therefore, its meaning has to be understood as per the General Clauses Act, 1897 which defines the word "month" to mean a month reckoned according to the British calendar.

Alkaben B. Patel vs. ITO (ITAT Ahmedabad) (Special Bench) April 4th, 2014

S. 56(2)(vii) does not apply to bonus & rights shares offered on a proportionate basis even if the offer price is less than the FMV of the shares

S. 56(2)(vii)(c) (ii) provides that where an individual or a HUF receives any property for a consideration which is less than the FMV of the property, the difference shall be assessed as income of the recipient. S. 56(2)(vii) does not apply to the issue of bonus shares because there is a mere capitalisation of profit by the issuing-company and there is neither any increase nor decrease in the wealth of the shareholder as his percentage holding remains constant. A higher than proportionate or a non-uniform allotment though would attract the rigor of the provision to the extent of the disproportionate allotment and by suitably factoring in the decline in the value of the existing holding.

Sudhir Menon HUF vs. ACIT (ITAT-Mumbai) March 17th, 2014



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INTERNATIONAL TAXATION

(Contributed by CA. Hinesh Doshi & CA. Dolly Waghela)

ADIT vs. DQ Entertainment (International) P. Ltd. (TS-219-ITAT-2014(HYD)) dated April 22, 2014

Facts of the case

The assessee, an Indian company is engaged in the business of production of 2D and 3D animation films for foreign companies. During AYs 2007-08 & 2008-09, assessee outsourced a part of the project by entering into 'Outsourcing Facilities Agreement' with foreign sub-contractors like Maxim International, Hong Kong ('MI/GE') and Hong Guang Animation Co. Ltd., China ('HGA') out of orders it received from some of its overseas clients. By virtue of such agreement, assessee made certain payment to those two foreign subcontracting companies without deducting tax at source ('TAS').

AO observed that the services provided by the two foreign companies in respect of animation film-making, enabled the assessee to complete production of animation films as per its overseas client's requirements. Hence, according to AO, though services were rendered by MI/GE, HGA only in Hong Kong/China, yet the same were utilised by assessee in its business in India.

Thus, AO held that irrespective of situs of services, income is deemed to accrue or arise in India in the hands of MI/GE, HGA and consequently, assessee was liable to deduct TDS u/s 195 of the Act. Hence, AO passed orders u/s. 201(1)/(1A) of the Act for default on part of assessee to deduct TDS.

On appeal by assessee, CIT (A) reversed AO's order and ruled in favour of assessee. Aggrieved, the Revenue preferred an appeal before Hyderabad bench of ITAT.

Issues

Whether payment to foreign companies by the assessee are covered under first category of exception u/s 9(1)(vii)(b)?

Whether payment to foreign sub-contractors for creating 'production material' as per assessee's requirements and technical specifications are fees for technical services?

Whether the assessee will be an assessee in default u/s 201(1)/(1A)?

Held

The ITAT noted that Sec. 9(1)(vii)(b) provides that if any fees are payable in respect of services utilised in a business carried on by a resident outside India or for the purpose of making or earning any income from any source outside India, such fees shall be excluded from the purview of FTS. ITAT agreed that assessee's business with its overseas clients did constitute a business carried on by it outside India. It was noted that this satisfied the first category of exception referred to in Sec. 9(1)(vii)(b).

ITAT stated that under the Outsourcing Facilities Agreement, assessee engaged the foreign sub-contractor to create 'production materials' (an item of property) as per assessee's requirements and technical specifications with the use of its production premises, facilities, personnel, materials, services and expertise, these materials are then required by it to make an animation films as per its client's requirement. Thus, only upon creation of the 'production materials' by foreign subcontractor, it became the property of assessee. Based on above facts, ITAT rejected Revenue's argument that transaction between assessee and MI/GE was in the nature of a service transaction and fees paid were in the nature of FTS.

Thus, ITAT quashed AO's demand u/s 201 holding that the foreign parties have not done any activity in India nor they have any PE in India. As there is no liability to deduct tax on the amounts paid u/s 195, it is not correct on the part of AO to raise demands.

DIT (International Taxation) vs. Set Satellite (Singapore) Pte Ltd. TS-250-HC-2014(BOM) dated May 2, 2014

Facts of the case

Set Satellite (Singapore) Pte Ltd., an assessee, a Singapore based company and Singapore tax resident, is engaged in the business of acquiring rights in television programmes, motion pictures and sports events and exhibiting the same on its television channels from Singapore. Pursuant to 2002 agreement signed with Global Cricket Corporation Private Limited (GCC), another Singapore based company, assessee received telecast rights. The licensed territory included India.

The Revenue claimed that TDS was applicable on payment by assessee to GCC. However, the Appellate Commissioner as well as ITAT held that the payment for cricket rights was made only for broadcasting operations of the assessee which were carried out from Singapore.

Aggrieved, Revenue approached the HC raising two issues on whether payment for acquiring telecast rights are in the nature of "royalty" covered by Explanation 2 under section 9(1)(vi)(c) of the Income-tax Act, 1961 and the effect of Article 12(7) of the treaty.

Issues

Whether payment for telecast rights (licence territory *inter alia* involved India) entirely in connection with broadcasting operations in Singapore is taxable as "royalty" covered under the Income-tax Act, 1961 or under Article 12(7) of the India-Singapore DTAA?

Held

The HC held that the liability for the payment is incurred by the assessee in connection with the broadcasting operations in Singapore. That has no connection with the marketing activities carried out through its alleged permanent establishment in India. HC held that there was no economic link between the payment and Indian operations and such link was entirely with the assessee's head office in Singapore. HC also noted that the fact that payment to GCC could not be said to have been incurred in connection with the appellant's permanent establishment (PE) in India nor borne by Indian PE. HC also held that payer was not a resident of India. Thus, HC dismissed the Revenue's appeal in its entirety.

DIT (International Taxation) vs. R & B Falcon Offshore Ltd. (TS-233-HC-2014 Uttarakhand HC)

Facts of the case

The assessee, R & B Falcon Offshore Ltd. (non-resident), brought in a rig and operated that rig for and on account of its clients in India. The rigs remained unused on the dates they were deployed on account of maintenance and repair.

As per Article 5(2)(j) of India-US DTAA, the term 'permanent establishment' ('PE') includes an installation or structure used for the exploration or exploitation of natural resources, but only if so used for a period of more than 120 days in any twelve calendar months period. AO noted that DTAA did not define the word 'use' and thus resorted to Income-tax Act which contains the term 'ready for use'.

AO felt that even during the time of repair and maintenance, the rig was lying ready for use and, as such, the rig having been used for more than 120 days during the relevant AYs, the assessee, in the form of the said rig, had a permanent establishment ('PE') in India under Article 5(2)(j) of the DTAA.

On appeal, CIT(A) confirmed AO's order.

Held

ITAT, on appeal, perused Article 5(2) (j) and observed that DTAA was sufficient and clear enough to explain the word 'used' and there was no scope of referring to Income-tax Act.

ITAT held, "the word 'used' has been used in conjunction of 'an installation or structure for exploration or exploitation of natural resources and only if so used for a period of more than 120 days in 12 month period' and, thereby, made it absolutely clear that the Agreement meant user of installation and structure for exploration or exploitation of natural resources and not merely being ready for use."

Thus, concluding that the rigs had to be used and not ready for use, ITAT reversed CIT(A)'s and AO's order.

Aggrieved, Revenue preferred an appeal before Uttarakhand HC.

HC confirmed ITAT's view that there was no scope of referring to Income-tax Act when the DTAA provides for the relevant meaning and context of the word 'use' under Article 5(2)(j).

Consequently, it was held that assessee had no PE in India as rigs were not 'used' in terms of the DTAA. HC held, "we have not been able to persuade ourselves to take a different view" and dismissed Revenue's appeals.

DIT (International Taxation) vs. Wizcraft International Entertainment Pvt. Ltd. [TS-240-HC-2014(BOM)] dated April 21, 2014

Facts of the case

The assessee, Wizcraft International Entertainment Pvt. Ltd., an event management company had engaged the services of an agent, Mr. Colin Davie, to bring artists to India. The assessee paid remuneration to the artists, to the agent and reimbursed expenses in connection with the visit and performance of artists in India.

The Assessing Officer was of the view that any payment made to the artists or the agents should be treated as consideration payable to the artist only. It was noted that while tax had been deducted on payments made to the artists, no tax was deducted on payments made to the agent or for expenses. That requires an application to be made by the assessee under section 195(2) of the Income-tax Act. The assessee was therefore treated as defaulter for neither deducting tax nor filing return of income as a representative assessee.

CIT(A) held that expenses in connection with artists' performance in India and their reimbursement did not constitute income derived by artists from their personal activities to be taxable under Article 18 of India-UK DTAA.

Tribunal also held that AO, unjustifiably and without material on record, held that the payment for reimbursement of expenses were liable for tax deduction at source and in absence of certificate u/s 195(2), tax was required to be deducted and paid on the gross amount.

Aggrieved by ITAT's order, Revenue filed an appeal before Bombay HC.

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Held

HC noted that Tribunal had correctly understood that the limited controversy was with regard to reimbursement of expenses to performing artists and requirement of tax deduction on payments made to the agent.

Article 18, of India -UK Double Taxation Avoidance Agreement provides for taxation of income of the artists and athletes and states that income derived from their personal activities may be taxed in the Contracting State in which the activities are performed. Article 18(2) states that where income arising from personal activities are such exercised in a Contracting state by an entertainer or athlete accrues not to that entertainer or athlete himself but to another person, that income may be taxed in that Contracting State.

HC concluded that the payments made to the artists, the reimbursement has been completely misconstrued in as-much-as the agreements with the artists and the understanding with Agent would indicate that the payment of commission to him is not covered by the Article in question.

Accordingly, there was no obligation on the part of the assessee to deduct the tax at source at the time of making of such payments. Ruling in favour of assessee, HC dismissed Revenue's appeal.

SERVICE TAX

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

Business Auxiliary Service

The assessee sold meal/gift coupon vouchers to its customers who could use them to purchase goods or services at specified business establishments (restaurants, shops, etc.). When the customers present the vouchers / coupons at the establishments it is accepted as a payment towards goods or services purchased by them. The establishment in turn present the coupon to the assessee who after deducting certain amount as their service charge make payment for the face value of the voucher to the establishments. The Revenue had sought to tax the service charges retained by the assessee under the category of 'Business Auxiliary services' on the ground that the assessee promoted the goods or services of the business establishment. The Tribunal held that since the user cannot approach any other business establishment other than the specified ones to purchase goods or services against the voucher, the assessee definitely helps in promoting sale of goods and services of the establishment and accordingly is liable for service tax on the service charges under the category of Business Auxiliary Service. [*Sodexo Pass Services India P. Ltd vs. CST, 2014(33) STR 561 (Tri.-Mum.)*]

The Tribunal held that re-rubberisation of old, worn out rubberised rollers was equally classifiable under 'business auxiliary services' [s.65(105)(zzb)] (as being processing of goods for the client) as well as 'maintenance and repair services' [s.65(105)(zzg)] (as being reconditioning or restoration of goods). Further it was also observed that s.65A(a) [specific over general test] and s.65A(b) [essential character test] could not resolve the classification issue. Hence the Tribunal applied section 65A(c) according to which service is classifiable under the sub-clause of clause (105) of section 65 which comes first. Since business auxiliary service comes first under clause 65(105)(zzb), the Tribunal held that service is classifiable under the business auxiliary service and not under maintenance or repair services as contended by the Revenue. [*Zenith Rollers Ltd vs. CCE 2014 (33) STR 678 (Tri.-Del.)*]

Clearing and Forwarding Agent Services

Where the appellants were receiving the goods from M/s. Ford India Ltd., warehousing these goods, receiving dispatch orders, arranging dispatch

of these goods, and maintained records of incoming shipments and deliveries, it was held that the appellant is liable for service tax under the category of 'clearing and forwarding agent's services'. [*Talera Logistics Pvt Ltd vs. CCE, 2014 (33) STR 514*]

Commercial Coaching or Training Service

Where the appellant conducted a two-year course titled 'post-graduate diploma in management' which was essentially theory oriented and academic in nature covering a broad spectrum of subjects as economics, business communication, psychology and organisational behaviour, etc., the Tribunal held that the appellant did not provide any vocational training that imparted skills to seek employment or undertake self-employment after such training and hence was not entitled to exemption under Notification No.24/2004-ST dated 10/9/2004 (for vocational training institutes). [*Sadhana Educational & People Dev Services Ltd vs. CCE, 2014(33) STR 575 (Tri.-Mum.)*]

Construction Service

Notification No.15/2004 dated 10/9/2004 allowed 67% abatement on construction services subject *inter alia* to the condition that no CENVAT credit on inputs and capital goods are taken. This notification which was in effect up to 28/2/2006 was rescinded by Notification No.1/2006 dated 1/3/2006 which allowed an abatement of 67% but subject to an additional condition that no CENVAT credit on input services is taken. Where the assessee in respect of a single construction contract claimed benefit of abatement up to 28/2/2006 and the benefit of CENVAT credit with effect from 1/3/2006 (without claiming abatement), it was held that in absence of any restriction that the benefit under Notification No.15/2004 dated 10/9/2004 has to be availed during the entire currency of the contract, the assessee's stand was correct. [*CCE vs. Prasad & Company 2014 (33) STR 665 (Tri.-Delhi)*]

Goods Transport Agency Services

Where the appellant claimed refund of tax paid by them on goods transport agency services availed from private trucks owners/operators on the ground that the private trucks owners/operators did not issue consignment notes to them, it was held that:

- The refund is not admissible since the appellant would still be liable to pay service tax though the provider has defaulted on issuance of a consignment note.
- However the contention of the revenue that the appellant should have challenged its own assessment before filing the refund claim is expecting the impossible since a person cannot challenge his own assessment and a question may arise before whom it may be challenged. Hence this ground of rejection of refund was held unsustainable. [*Coromandel Agro Products & Oils Ltd. vs. CCE 2014 (33) STR 660 (Tri.-Bang.)*]

Leased Circuit Service / Telecommunication Service

Where the assessee had received and paid for international private leased circuit services from foreign telecom service providers who were not 'telegraph authorities' as defined in section 65(111) of the Finance Act, 1994, it was held that the assessee cannot be made liable for payment of service tax as a recipient of services since the service received was not a taxable service as the service provider was not a telegraph authority. [*TCS E-Serve Ltd vs. CST 2014(33) STR 641 (Tri.-Mumbai)*]

Maintenance and Repair Services

'Runways' (i.e. a strip of land over which aircrafts land or take off) was held not to be 'road' (which is a path or a way between two different places) and therefore maintenance or repair of runways was held to be liable for service tax under the category of Management, Maintenance and Repair services since the exemption in respect of Management, Maintenance and Repair services of roads will not be applicable in the case of runways. [D. P. Jain & Co. Infrastructure Pvt. Ltd. v. CCE 2014(33) STR 668 (Tri.-Mumbai)]

Management Consultancy Service vs. Business Auxiliary Service

Where the assessee provided advice relating to the financial restructuring relating to business of various clients it was held that its services would be liable for service tax under the category of 'Management Consultancy services' prior to 16/7/2001 even though the said services may be liable for service tax under the category of "Banking and Other Financial Services" post 16/7/2001. [HSBC Securities & Capital Markets (I) P. Ltd. vs. CST, 2014 (33) STR 530 (Tri.-Mum.)]

Mandap Keeper Service

Where the assessee leased out its premises to a hotel in consideration for an interest free deposit, it was held that the said transaction does not come under the purview of 'Mandap Keeper Service' under Section 65(67) of the Finance Act, 1994 since the premise is not given for temporary occupation. [Acharya Jialal Vasant Sangeet Niketan vs. CCE, 2014(33) STR 550 (Tri.-Mum.)]

Rent-A-Cab Service

Where the assessee supplied vehicles of specified description along with drivers to their clients and charged a flat rate on per kilometer basis for different kinds of vehicles, it was held that the assessee would be liable to service tax under the category of rent-a-cab services. [Transport Solution Group vs. CCE 2014(33) STR 683 (Tri.-Mumbai)]

Storage and Warehousing Service

Relying on CCE vs. Nahar Industrial Enterprises Ltd. (2010) 19 STR 166 (P & H), the Tribunal held that subsidy received from the Government towards interest, storage and insurance for maintenance of a specific quantity of free sale sugar for a specified period (buffer stock) under the provisions of Sugar Development Fund Act, 1982 is not liable under the 'storage and warehousing services'. The High Court had in the above case reasoned that:

- Nobody can provide service to himself – the appellant stored the goods owned by himself for a specified period and after the expiry of the period he was free to sell the same;
- Subsidy received was not on account of services rendered to Government but is received as compensation on account of loss of interest, cost of insurance etc. incurred on account of maintenance of stock.
- Just because the storage period of free sale sugar had to be extended at the behest of Government of India, neither the sugar mills becomes 'Storage and Warehouse Keeper' nor the Government of India becomes their client in this regard.

Following the above High Court decision the Tribunal in this case dismissed the department's appeal. [CCE vs. Kumbhi Kasari SSK Ltd., 2014(33) STR 539 (Tri.-Mum.)]



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Where the appellant had provided shipping vessels to its client on charter hire basis which were used as a temporary storage and the primary object was transportation of crude oil from the place of production i.e. in the High Seas to the refineries in India, it was held that the appellant's services were not liable for service tax under the category of "Storage and Warehousing services" especially since the appellant did not provide security, stacking, loading or unloading of the goods in the storage area. [Shipping Corporation of India (SCI) vs. CCE & ST(LTU), 2014(33) STR 552 (Tri.-Mum.)]

Tour Operator Service

The appellants were operating two ropeways from Hardwar to some temples on the hills around Hardwar. There was a small in-transit road link between the boarding points of the two ropeways. Though it was not in dispute that the travel charges on the ropeway attracted no service tax, the appellants were asked to pay service tax on the amount charged for the in-transit travel by road treating the travel as a tour since 'tour' was defined as 'a journey between one place to another irrespective of the distance between such places'. The High Court upheld the Tribunal's decision holding that the travel by road is only incidental link and the tour in the present case is the journey to the temples performed in the ropeway Gondola and not tourist vehicle contemplated in the statute so as to attract levy. [CCE vs. Usha Breco Ltd. 2014(33) STR 619 (Uttarakhand)]

Works Contract Services

The assessee had entered into two contracts dated 24/8/2007 with its customer– one for the supply of indigenous equipment and materials (supply contract) and the other for the construction/erection/installation of plant (construction contract). Further, the service recipient had also bought some imported equipment and materials which was supplied to the assessee for completing the construction contract. The Revenue had



Recent Judgments

sought to consider the two contracts as one for the purpose of computing service tax. However, the Tribunal, on facts, held that the two contracts are independent of each other and service tax has to be levied only on the value of the construction contract. Further, since the contract commenced prior to 7/7/2009, free of cost supplies could not be added to compute the gross amount on which tax was payable under the Works Contract (Composition Scheme) Rules, 2007. [*Essar Projects (India) Ltd. vs. CCE & ST 2014(33) STR 696 (Tri.-Ahmd.)*]

Exports

Where the assessee provided advertising agency services to the foreign service recipients for advertisements displayed in India during the period 1/3/2003–19/11/2003, it was held that the assessee is liable to pay service tax in absence of any exemption notification during the said period. [*J. Walter Thompson vs. CCE, 2014(33) STR 525 (Tri.-Mum.)*]

Valuation

Reimbursement of out-of-pocket expenses incurred by an advertising agency is includible in the value of taxable services. The appellants were however granted cum-tax benefit. [*J. Walter Thompson vs. CCE, 2014(33) STR 525 (Tri.-Mum.)*]

Service Tax Audit

The petitioners filed a writ challenging the *vires* of Rule of 5A(2) of the Service Tax Rules, 1994 as being inconsistent with section 72A of the Finance Act, 1994, in as much as - it empowered the central excise officers to call for and audit the records of the assessee; the impugned rule is totally arbitrary and without specifying the period for conducting the special audit; qualification and manner in which audit will be conducted has not been defined anywhere; there is no provision to provide the audit report to the assessee; and the audit manual, 2011 is exclusively meant for the departmental use, but, petitioner-assessee was asked to fill up certain forms. The department's counsel argued that the audit will not be done by any officer or on his behalf. The audit will be performed by a qualified Chartered Accountant. So, the reference to the Audit Manual, 2011 for the Department is valid. Asking the petitioner-assessee for filing up certain forms, is just to facilitate the audit, which is to be carried out, as per law. Further during the course of arguments, learned Additional Solicitor General of India also assured that the audit will be performed by a qualified Chartered Accountant and as per accounting standard and after the audit, the assessee will get the copy of the audit report, as per law. Based on the above arguments, the High Court dismissed the writ holding that:

Under Section 72A, in certain situations, the Commissioner may appoint a Chartered Accountant or Cost & Works Accountant to audit the records of the assessee and the audit report would be submitted to the said Commissioner. A copy of the Audit Report may also be made available to the assessee and a proper opportunity of being heard may be given to the assessee, if the material gathered in the audit is proposed to be used in any proceeding against the assessee.

Under Rule 5A(2) of Service Tax Rules, 1994 the audit will be performed only by a Chartered Accountant in case of a private assessee or in the case of government autonomous body, it would be conducted by the Comptroller and Auditor General of India. However, the material for the purpose of the audit can be collected either by the officer authorised by the Commissioner or by the auditor himself. (Hence even under this rule the audit would not be performed by the Commissioner).

Hence there is no inconsistency in Rule 5A(2) and Section 72A. [*A.C.L. Education Centre (P) Ltd. vs. Union of India 2014 (33) STR 609 (All.)*]

Demand

Where the show cause notice had proposed to tax the appellant under the category of management consultancy services, the adjudicating authority cannot confirm the demand under another head (Business auxiliary services). [*CCE vs. Mahakoshal Beverages Pvt. Ltd. 2014(33) STR 616 (Kar.)*]

Limitation

Where there were divergent views regarding taxability of reimbursable expenses, the extended period of limitation was held to be not invocable. [*J. Walter Thompson vs. CCE, 2014(33) STR 525 (Tri.-Mum.)*]

Penalty

Where the appellant was under a *bona fide* belief that the reimbursable expenses are not to be included in the assessable value, in view of the provisions of section 80 of the Finance Act, the penalties were set aside. [*J. Walter Thompson vs. CCE, 2014(33) STR 525 (Tri.-Mum.)*]

Refund

Where the assessee had paid service tax on interest on loans (non-taxable services) and filed a refund claim after 1 year from the date of payment, the High Court held that refund is not admissible since the claim is to be filed within time limit prescribed u/s. 11B of Central Excise Act, 1944 i.e. 1 year from the date of payment considering that the tax was paid under the Chapter V of the Finance Act, 1994 ("Act") and not outside the Act so as to be treated as refund under the General Law. [*M.C.I Leasing (P) Ltd. vs. CCE, 2014(33) STR 497 (Kar.) differentiating CCE vs. KVR Construction 2012(26) STR 195 (Kar.)*]

Appeal

Though there is no period of limitation prescribed for filing application for restoration of Appeal, it should be filed within the maximum period of 3 months from the dismissal of appeal. [*Bharati Airtel Ltd. vs. CCE, 2014(33) STR 524 (Tri.-Chennai)*]

The Commissioner (Appeals) by a stay order dated 20/6/2011 directed pre-deposit of service tax in an appeal filed before him by the assessee which the assessee did not comply. Consequently the Commissioner (Appeals) dismissed the appeal for non-compliance of pre-deposit *vide* order dated December 2012. In an appeal to the Tribunal against the order of the Commissioner (Appeals) dated December 2012, the Tribunal held:

The appellant is bound to pre-deposit the amount as directed and if the appellant fails to comply with the order of pre-deposit as directed his appeal is liable to be rejected for non-compliance in view of the provisions of sec. 35F of Central Excise Act.

If the appellant is aggrieved by the order of the lower Appellate Authority (directing pre-deposit), the assessee must seek remedy elsewhere other than this Tribunal including perhaps in judicial review but if not done so, the consequence in (i) must follow.

[*Aakash Cable TV Network vs. CCE 2014(33) STR 674 (Tri.-Del.)*]

CENVAT Credit

Credit of service tax paid on insurance of the vehicles used in the residential colony of the company is not admissible since the vehicles are used only by the residents of the colony and not for the business purpose of the company. [*CCE vs. Ultratech Cement Ltd. 2014(33) STR 501 (Guj.) relying on CCE vs. Gujarat Heavy Chemicals Ltd. (2011) 22 STR 610 (Guj.)*]



Commission Agent Services: Credit of service tax paid in respect of Business Auxiliary Service provided by Commission Agent is admissible.

Chartered Accountant Services: Credit on Chartered Accountant's services is admissible since accounting and auditing is specifically covered under the scope of input service as provided under Rule 2(l) of CENVAT Credit Rules. [CCE vs. DRP Malleables Pvt. Ltd., 2014(33) STR 521 (Tri.-Del.)]

Credit of Service tax paid on insurance premium for insurance of company's vehicles used by the company's senior officials for company's work and for commuting between the residence and the factory is admissible since it is an activity related to business. [DCM Engineering Products vs. CST, 2014(33) STR 522 (Tri.-Del.)]

Where the appellant provided taxable and exempted services i.e., (services to SEZ units/SEZ developers) and availed CENVAT credit on inputs/input services without maintaining separate accounts as per Rule 6(2) of CENVAT Credit Rules, 2004, it was held that the appellant was not liable to pay an amount of 8%/6% of the amount of exempted services under Rule 6(3) for period April 2008 to September 2009 since:

Section 144 of the Finance Act, 2012, made a retrospective amendment to the provisions of Rule 6(6A) of CENVAT Credit Rules, 2004 w. e. f. 10/2/2006 to provide inter alia that the provisions of Rule 6(3) of CENVAT

Credit Rules, 2004 shall not be applicable in case the taxable services are provided, without payment of service tax, to a unit in a Special Economic Zone. Therefore, there is no need to reverse any CENVAT Credit taken on inputs/input services if such inputs/input services were used in rendering of output services to SEZ unit/SEZ developer.

Relying on *Repro India Ltd vs. UOI (2009) 235 E.L.T 614(Bom.)*, it was held that services provided to SEZ unit/SEZ developer was deemed as "exports" and therefore there was no requirement to reverse CENVAT credit [Tata Consulting Engineers Ltd. vs. CST 2014(33) STR 655 (Tri.-Mumbai)]

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Personal Column

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Nanded: Seminar on The Important Provisions of the Companies Act 2013 held on 26/4/2014. (L-R): CA. Parag Rawal, RCM & Faculty, CA. Anand Banka, Faculty, CA. Pramod Shinde, CA. Govind Prasad Mundada, Branch Chairman, CA. Tousif Ahmed



Surat: Seminar on International Taxation held on 26/4/2014. (L-R): CA. Mehul Shah, Faculty & CA. Nikesh Hinger



Nashik: CA. Anil Bhandari, Chairman, WIRC lighting the lamp at Seminar on LBT held on 20/4/2014. (L-R): CA. Mangesh Kinare, Imm. Past Chairman, WIRC, CA. Julfesh Shah, Vice Chairman, WIRC, CA. Vikrant Kulkarni, Branch Chairman, CA. S. G. Mundada, Chairman, WICASA, CA. Anil Shah, Faculty, CA. Girish Kulkarni, Treasurer, WIRC, CA. R. R. Jajoo, CA. Jayanti Patel



Solapur: Lecture meet on Study on Updates in Tax Base & VAT held on 26/4/2014. (L-R): CA. Arvind Shankur, Branch Chairman, CA. Sunil Agrawal, CA. Chandrakant Injamuri, Shri Anil Mulani, MD, Sinewave Computer Services Pvt Ltd., Pune



Rajkot: Group photograph taken during the Seminar on Women Empowerment



Vasai: Seminar on Latest Changes & Issues Involving in Co-operative Law held on 27/4/2014. (L-R): CA. Ramesh Prabhu, Faculty, CA. Tarun Ghia, CCM, CA. Kishor Vaishnav, Branch Chairman, CA. Rajkumar Adukia, CCM, CA. Girish Kulkarni, Treasurer, WIRC, CA. Umesh Mestry



Ahmedabad: CA. Aniket Talati, Branch Chairman welcoming Hon'ble President CA. K. Raghu, Vice-President CA. Manoj Fadnis at Members' Meet on 18/4/2014. Also seen CA. Amrish Patel, CA. Vikash Jain, CA. Satyendra Jha, CA. Dhinal Shah, CCM



Aurangabad: CA. Anil Bhandari, Chairman, WIRC addressing the Members Meet on 18/4/2014. (R-L): CA. Alkesh Rawka, CA. Vijay Rathi, Branch Chairman, CA. Julfesh Shah, Vice Chairman, WIRC, CA. Girish Kulkarni, Treasurer, WIRC



Gandhidham: Programme on Importance of Meditation, Pranayam and Yoga on 26/4/2014. (L-R): CA. Jitendra Thacker, CA. Shailesh Chothani, Branch Chairman, Yogacharya Kuldeep Shashtri



Jalgaon: All Maharashtra Direct Tax Conclave held on 19/4/2014. (L-R): CA. Nitin Zavar, CA. S. G. Mundada, Chairman, WICASA, CA. Girish Kulkarni, Treasurer, WIRC, CA. Jayesh Lalwani, Branch Chairman, Chief Guest Adv. Ujjwal Nikam, Special Public Prosecutor, CA. Anil Bhandari, Chairman, WIRC, CA. Julfesh Shah, Vice Chairman, WIRC, CA. Kaushal Mundada



Navi Mumbai: Half day Seminar on "MVAT Act 2002" with special reference to recent judgments passed by Supreme Court in case of Builders and notification issued by MVAT Department. (L-R): CA. C. B. Thakar, Faculty, CA. J. D. Adhyapak



Ahmednagar: CA. Anil Bhandari, Chairman, WIRC inaugurating Ahmednagar Branch's Community Project: Food Donation – Waste Food Management, along with CA. Julfesh Shah, Vice Chairman, WIRC, CA. Ajay Mutha, Branch Chairman, CA. Girish Kulkarni, Treasurer, WIRC, CA. Sattyannarayan Mundada, Chairman, WICASA, CA. Sarvesh Joshi, RCM (L-R): CA. Vishal Gandhi, CA. Sushil Jain, CA. Paras Challani, CA. Milind Jangada, CA. Prasad Bhandari, CA. Amit Firodiya, CA. Dyanesh Kulkarni, CA. Sanit Mutha



Dhule: Photographs taken during the Members & Industrialists meeting



Goa: CA. Brijesh R. Shah, Faculty, addressing the participants at the Lecture Meeting on Controversial Issues relating to Trusts held on 26/4/2014



Jamnagar: CA. Nihar Jambusaria, Chairman, Committee on International Taxation, ICAI inaugurating Two Days Workshop on International Taxation held on 26 & 27/4/2014. (L-R): CA. Mahesh Sardha, Past CCM, CA. Dhinal Shah, CCM, CA. Kaupil Doshi, Branch Chairman



Nagpur: Workshop on Using Excel As Audit Tool Exclusively for Fellow Members held on 26/4/2014. CA. T. S. Rawal, Chief Guest inaugurating the Workshop by lighting the traditional lamp. (L-R): CA. Arun Bafna, CA. Charudutt Marathe, CA. Suren Duragkar, CA. Swapnil Ghate, CA. Julfesh Shah, Vice Chairman WIRC, CA. Ashwini Agrawal, Branch Chairman, CA. Kirit Kalyani, CA. Kirti Agrawal, CA. Umang Agrawal



Seminar on VAT-CST held on 5th April, 2014



CA. Viral Chheda, CA. Priti Savla, RCM, CA. Mahesh Madkholkar, RCM, CA. Manish Goel, Faculty, CA. Dharmen Shah

Other Speakers



CA. Pranav Kapadia



CA. Kiran Garkar



CA. Amar Shukla

Seminar on Prevention of Money Laundering Act (PMLA) held on 19th April, 2014



CA. Y. R. Desai, CA. Shardul Shah, RCM, CA. Rashmin Sanghvi, Faculty, CA. Dilip Shah, Faculty, CA. Santosh Karambele

Other Speakers



Shri Vikas Tandon



Shri D. K. Sinha

Seminar on TDS- Law Practice held on 12th April, 2014



CA. Parag Raval, RCM, CA. Shruti Shah, Secretary, WIRC, Shri V. K. Pandey, Chief Guest, Ms. Jaya Choudhary, Faculty, CA. Neel Majithia, RCM, CA. Mahesh Madkholkar, RCM

Other Speakers



CA. Avinash Rawani



CA. Mahendra Sanghvi



CA. Atul Suraiya



CA. Anil Sathe



CA. Shailendra Sharma

Students Programme

11/4/2014



Dr. Mahesh Gour

14-16/4/2014



Smt. Archana Khetan

Interactive Meeting with Institute of Internal Auditors, Inc Officials



CA. Naren Aneja, Mr. Hal Garyn, Vice President, IIA, Inc, Mr. Denny Beran, Past Chairman, IIA Inc, CA. Nagesh Pinge, CA. Shriniwas Joshi, CCM, CA. Anil Bhandari, Chairman, WIRC, CA. Julfesh Shah, Vice Chairman, WIRC



CA. Vijay Rathi, Chairman Aurangabad branch felicitating Shri Manoharji Parrikar, Chief Minister, Goa State on 19/4/2014 at Aurangabad

Industry Gears UP – Roadmap for Implementation of New Company Law held on 27th April, 2014



CA. Sanjeev Vora, CA. Jalpesh Vora, CA. Jayprakash Tiwari, CA. Tarun Ghia, Chairman, CMII-ICAI, CA. Vishnu Agarwal, RCM, CA. Rajkumar Adukia, CCM & Faculty, CA. Ramesh Venkat, Faculty, CA. Dhiraj Khandelwal, RCM, CA. S. P. Nathani, CA. Jignesh Sawla, CA. Harnish Mehta

All Region Chairmen Meet with President & Vice President at New Delhi on 16th April, 2014



CA. Subhash Saraf, Chairman, EIRC, CA. Radhey Shyam Bansal, Chairman, NIRC, CA. Manoj Fadnis, Vice President, ICAI, CA. K. Raghu, President, ICAI, CA. Anil Bhandari, Chairman, WIRC, CA. Nitish Agarwal, Chairman, CIRC, CA. P.V. Rajarajeswaran, Chairman, SIRC

All Maharashtra Direct Tax Conclave held on 19th April, 2014 at Jalgaon



CA. S. G. Mundada, Chairman, WICASA, CA. Girish Kulkarni, Treasurer, WIRC, CA. Jayesh Lalwani, Chairman, Jalgaon Branch, Chief Guest Adv. Ujjwal Nikam, Special Public Prosecutor, CA. Anil Bhandari, Chairman, WIRC, CA. Julfesh Shah, Vice Chairman, WIRC

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