



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

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Western India Chartered Accountants Newsletter

FEBRUARY 2015 | Vol. 41 | No. 2



**WIRC bestowed with Record Number of Awards including
Best Regional Council Award and Best Students' Association
Award for the year 2014**

Please see page 9 for details

"Connect with WIRC-ICAI"



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



Udaan

CA Students Festival
4th January 2015 | Mumbai





Dear Colleagues,

The past year has been an exhilarating one personally. As Chairman of the largest and most dynamic Region in India, I was privileged to put my shoulder to the wheel and along with other Members strive to take WIRC to greater heights. I am happy to say that the efforts of the whole WIRC family were recognised at the highest levels, and WIRC was once again awarded 'Best Region' as well as 'Best Students Association' awards. This record streak of wins is due to our Members and Students who have made winning a way of life and inspired and motivated me to give my 100 per cent. Serving as Chairman of WIRC of ICAI for 2014-15 has been an honour and a privilege. My time in office has been challenging and yet extremely rewarding and I hope that during my term I have been able to make a positive impact on both the current and future of the Region. Thank you for the opportunity to lead and for your patience as I grew in my position. This is definitely one experience I will never forget!

Reflecting back on this past year, it occurs to me that we as an organization met all of our key goals for the year. We built on the momentum of 2013-2014 by bringing together and implementing our vision and maintaining a high level of energy for all our projects, thus ensuring their success. We had exceptionally good attendance at our events and on multiple occasions throughout the year. Also during the year we have made efforts to further improve our Member and Student services. We have dreamt big and I am hopeful that some of the initiatives outlined in the 'Key Initiatives' section of this newsletter will bring positive results in the near future.

Maintaining our momentum of the year, the last month too, was equally exciting. The 26th January Republic Day Flag hoisting ceremony at ICAI Tower, BKC, saw WIRC Past Chairman, CA Gautam Doshi doing the honours. It was enriching for Members and Students to hear him and gain from his experience.

Two key events of ours were very well received. Firstly, the ICAI Awards for Members in Industry held at Mumbai was appreciated by Members in industry as well as Members in practice. Secondly, the 1st ICAI CSR Awards, hosted by WIRC, saw a great response from across India in terms of nominations as well as genuine interest as this was the first time

a regulatory body of the stature of ICAI was hosting CSR awards, making it all the more relevant.

The recent RRC organized at the Lonavala hill station jointly by Ghatkopar and Mulund Study Circles was much appreciated by Members.

Last month was also the month in which the sporting spirit was celebrated through a number of sporting events. The Pune Branch hosted the All India Cricket Tournament wherein around 20 teams from all over India participated. I am happy to say that the tournament was won by the Pune Branch of WIRC proving that WIRC actively fosters a healthy mind in a healthy body.

The Inter-Firm cricket tournament in Mumbai saw more than 24 teams of various firms vying for the honours. The Annual indoor sports meet saw active participation by more than 100 Members in events ranging from Badminton and Chess to Table Tennis and Carrom.

Putting into practice the 'Swaccha Bharat Abhiyaan', our WIRC Staff at BKC contributed to the Prime Minister's vision by cleaning the area around our ICAI Tower.

During the course of the month, WIRC office bearers visited Rajkot, Jamnagar and Gandhidham as part of their Branch visit interactions. The Gandhidham visit saw interactions with local Members and Students as well as those from Bhuj. I am extremely happy that the ICAI premises at Rajkot was inaugurated at the worthy hands of our President CA K. Raghu. I must put this on record that this premises is one of the best that I have seen so far. My compliments to the entire Rajkot team for their untiring efforts in dedicating another great infrastructure to the Institute and to the Nation.

My journey in leading the WIRC wasn't done alone. I was accompanied by a team of dynamic individuals, both elected and non-elected Members, who shared in our successes and learned from our failures. So I would like to take this opportunity to thank a number of people, Committee Members, Chairmen of various Branches, Conveners of Study Circles and volunteers for their hard work and dedication, and without whom running the WIRC wouldn't have been possible.

In particular, I'd like to thank ICAI President CA K. Raghu and Vice President, CA Manoj Fadnis for all their support and encouragement during my term; the Central Council Members who endorsed and encouraged WIRC activities; the Regional Council Members and Office bearers - CA Julfesh Shah, Vice Chairman, CA Shruti Shah, Secretary, Late CA Girish Kulkarni, CA Priyam Shah, Treasurer and CA S. G. Mundada, Chairman, WICASA for their dedication in serving together with me.

But most importantly, my thanks go out to you, the Members, for all your support during this year of change. For without you, the Region would not exist. It has been my pleasure to serve you.

In closing, I can only say that while we cherish the moments, we will also miss our friend and colleague, Late CA Girish Kulkarni who is remembered by all our Members for his dedication to the profession.

I do have one final request – I ask that each of you welcome and pledge your full support to our new Chairman and Office Bearers and continue to offer your unconditional loyalty to take the WIRC forward in unison with our motto, "Thinking Above & Beyond". Always remember, **"Unity is strength, when there is teamwork and collaboration, wonderful things can be achieved because where there is unity there is always victory."**

With best regards,

CA. Anil Bhandari

OFFICE BEARERS

CA. Anil Bhandari
Chairman

CA. Julfesh Shah
Vice Chairman

CA. Shruti Shah
Secretary

CA. Priyam Shah
Treasurer

EDITORIAL BOARD

Editor:
CA. Anil Bhandari

Joint Editor:
CA. Shruti Shah

MEMBERS

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

- 04 Forthcoming Events
- 08 Forthcoming Branch Meetings
- 08 Forthcoming Study Circle Meetings
- 09 Bulletin Board
- 10 Law Updates
- 20 Recent Judgments



Forthcoming Events

LIVE SCREENING OF UNION BUDGET 2015

The Union Budget, a yearly exercise carried out by the Government sets the path for economic development, by bringing changes in the Fiscal policies. Chartered Accountants are looked up to by the common man for understanding not only the changes in tax laws but also for analysing the impact on the various industries.

WIRC, jointly with All India Association of Industries and Young Entrepreneurs Association has organised a Live Screening of the Union Budget, on a Large Screen at the Institute.

Eminent Chartered Accountants and Industrialists will give their immediate reaction on the Union Budget.

| | | | |
|-----------------------|---|------------|--|
| DAY & DATE | : SATURDAY, 28TH FEBRUARY, 2015 | | |
| Venue | : Khimji Kunverji Vikramsey Auditorium, ICAI Tower, Near Standard Chartered Bank, BKC, Mumbai | | |
| Time | : 10.45 a.m. onwards | | |
| Chief | : CA. Shruti Shah | 9892407988 | |
| Co-ordinators | : CA. Sushrut Chitale | 9821112904 | |

ALL ARE CORDIALLY INVITED

UNION BUDGET 2015

The provisions relating to Direct Taxes in the Finance Bill, 2015 will be analysed clause-wise.

A Lecture Meeting on
The Finance Bill, 2015
– Direct Tax Provisions

on Tuesday, 3rd March, 2015
5.30 p.m. onwards

at C.C.I. East Lawns, Churchgate,
Mumbai 400 020.
(Entrance next to Asiatic Stores & Kaysons)

By
CA. Bansi S. Mehta
Past President, ICAI

Kindly occupy your seat by 5.15 p.m.
ALL ARE CORDIALLY INVITED

03
CPE HRS

Half Day Seminar on Stamp Duty

Others

| | | | |
|----------------------------|--|------------|--|
| DAY & DATE | SATURDAY, 7TH MARCH, 2015 | | |
| Venue | ICAI Tower, Near Standard Chartered Bank, BKC, Mumbai | | |
| Time | 2.00 p.m. to 5.00 p.m. | | |
| Fees | ₹ 700/- (inclusive of course material & refreshment) (Please add ₹ 100/- towards CA Benevolent Fund) | | |
| Chief Co-ordinators | CA. Julfesh Shah | 9823096540 | |
| | CA. Vishnu Agarwal | 9833310916 | |
| | <i>(Regional Council Members)</i> | | |
| Co-ordinators | CA. Mehul Sheth | 9820297310 | |
| | CA. Ritesh Hibare | 9773418343 | |
| | CA. Nehal Turakhia | 9833991898 | |

For more details visit www.wirc-icai.org

WORKSHOP ON FINANCE BILL, 2015 (INDIRECT TAXES PROVISIONS)

Indirect Taxes

| | | | |
|----------------------------|---|------------|--|
| DAY & DATE | SATURDAY, 7TH MARCH, 2015 | | |
| Venue | M. C. Ghia Hall, Kala Ghoda, Fort, Mumbai | | |
| Time | 8.45 a.m. to 1.15 p.m. | | |
| Fees | ₹ 700/- | | |
| Chief Co-ordinators | CA. Priyam Shah | 9824096112 | |
| | CA. Sandeep Jain | 9819788099 | |
| | <i>(Regional Council Members)</i> | | |
| Co-ordinators | CA. Aalok Mehta | 9892001645 | |
| | CA. Narendra Soni | 9833682932 | |
| | CA. Akhil Kedia | 9821111929 | |

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|--|---------------------------------------|
| TOPIC | SPEAKERS |
| Finance Bill, 2015 (Indirect Taxes Provisions) | CA. A. R. Krishnan Adv. Vipin Jain |

Jointly with Chamber of Tax Consultants

WORKSHOP ON FINANCE BILL, 2015 (DIRECT TAXES PROVISIONS)

Direct Taxes

| | | | |
|----------------------------|---|------------|--|
| DAY & DATE | SATURDAY, 7TH MARCH, 2015 | | |
| Venue | M. C. Ghia Hall, Kala Ghoda, Fort, Mumbai | | |
| Time | 2.30 p.m. to 6.00 p.m. | | |
| Fees | ₹ 700/- | | |
| Chief Co-ordinators | CA. Neel Majithia | 9820327660 | |
| | CA. Priti Savla | 9321426883 | |
| | <i>(Regional Council Members)</i> | | |
| Co-ordinators | CA. Ketan Vajani | 9820525972 | |
| | CA. Dinesh Poddar | 9821291588 | |
| | CA. Jayesh Shah | 9819043921 | |

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| TOPIC & SPEAKERS |
| Finance Bill, 2015 (Direct Taxes Provisions) – CA. Kishor Karia, Session Chairman, CA. Gautam Nayak, CA. Yogesh Thar |

Jointly with Chamber of Tax Consultants

06
CPE HRS

Seminar on Important Provisions of Companies Act, 2013

Corporate Laws

This programme focuses on the important provisions of Companies Act, 2013 from an auditor / practitioner perspective. Must know requirements of the Law to be complied with before 31st March, 2015 and important provisions pertaining to accounts & audit will be covered.

| | | | |
|----------------------------|---|------------|--|
| DAY & DATE | SATURDAY, 7TH MARCH, 2015 | | |
| Venue | J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade | | |
| Time | 10.00 a.m. to 6.00 p.m. (Registration & breakfast 9.30 a.m. to 10.00 a.m.) | | |
| Fees | ₹ 1,200/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund) | | |
| Chief Co-ordinators | CA. Sushrut Chitale | 9821112904 | |
| | CA. Parag Raval | 9824339200 | |
| | CA. Sarvesh Joshi | 9822022292 | |
| | <i>(Regional Council Members)</i> | | |
| Co-ordinators | CA. Y. R. Desai | 9820448365 | |
| | CA. Vikram Joshi | 9821733286 | |
| | CA. Anand Kothekar | 9820425551 | |

For more details visit www.wirc-icai.org



06

CPE HRS

Seminar on Statutory Audit of Bank Branches

Audit

DAY & DATE SATURDAY, 14TH MARCH, 2015

| | | |
|----------------------------|---|------------|
| 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. Sarvesh Joshi | 9822022292 |
| | CA. Parag Raval | 9824339200 |
| | CA. Dhiraj Khandelwal | 9867642684 |
| | <i>(Regional Council Members)</i> | |
| Co-ordinators | CA. Vinita Danaít | 9821029406 |
| | CA. Sonia Dawar | 9920283330 |
| | CA. Amol Kamat | 9823018763 |

For more details visit www.wirc-icai.org

03

CPE HRS

Seminar on Provisions of Budget (Direct Taxes)

Direct Taxes

DAY & DATE SATURDAY, 14TH MARCH, 2015

| | | |
|----------------------------|---|------------|
| Venue | J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade | |
| Time | 10.00 a.m. to 1.00 p.m. | |
| Fees | ₹ 700/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund) | |
| Chief Co-ordinators | CA. Mahesh Madkholkar | 9820075966 |
| | CA. Dilip Apte | 9823244383 |
| | <i>(Regional Council Members)</i> | |
| Co-ordinators | CA. Suneet Mahale | 9819966674 |
| | CA. Aditi Chaturvedi | 9768350383 |
| | CA. Aumkar Gadgil | 8007976830 |

| | |
|---|------------------|
| TOPIC | SPEAKER |
| Direct Tax Provisions of Finance Bill, 2015 | CA. Vimal Punmia |

03

CPE HRS

Seminar on Provisions of Budget (Indirect Taxes)

Indirect Taxes

DAY & DATE SATURDAY, 14TH MARCH, 2015

| | | |
|----------------------------|--|------------|
| Venue | J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade | |
| Time | 2.00 p.m. to 5.00 p.m. | |
| Fees | ₹ 700/- (inclusive of course material & refreshment) (Please add ₹ 100/- towards CA Benevolent Fund) | |
| Chief Co-ordinators | CA. Neel Majithia | 9820327660 |
| | CA. Hardik Shah | 9825510422 |
| | <i>(Regional Council Members)</i> | |
| Co-ordinators | CA. Vikas Vishwasrao | 9892915272 |
| | CA. Santosh Karambele | 9004495456 |
| | CA. Kinjal Maru | 9619362898 |

| | |
|---|---------------------------------------|
| TOPIC | SPEAKERS |
| Indirect Tax Provisions of Finance Bill, 2015 | CA. A. R. Krishnan Adv. Vipin Jain |

PUBLIC MEETING ON FINANCE BILL, 2015

Monday, 2nd March, 2015

| | |
|--------------------|--------------------------------------|
| Venue | Mayor Hall, Juhu Lane, Andheri West |
| Time | 6.00 p.m. to 8.00 p.m. |
| Topic | Direct Tax & Indirect Tax Provisions |
| Chief Guest | CA. Kirit Somaiya, MP |

Jointly with Andheri East & West CPE Study Circles and IGF

02

CPE HRS

Lecture Meeting on How do Global Oil Prices affect the Indian Economy

Others

DAY & DATE THURSDAY, 19TH MARCH, 2015

| | | |
|----------------------------|---|------------|
| Venue | ICAI Tower, Near Standard Chartered Bank, BKC, Mumbai | |
| Time | 6.00 p.m. to 8.00 p.m. | |
| Fees | ₹ 50/- | |
| Chief Co-ordinators | CA. Abhishek Nagori | 9426075397 |
| | CA. Vishnu Agarwal | 9833310916 |
| | <i>(Regional Council Members)</i> | |
| Co-ordinators | CA. Hrishkesh Wandrekar | 9892919239 |
| | CA. Viral Chheda | 9833594045 |

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|--|-------------------|
| TOPIC | SPEAKER |
| How do Global Oil Prices affect the Indian Economy | CA. Devashish Roy |

10

CPE HRS

Workshop on Service Tax for Beginners

Indirect Taxes

DAYS & DATES FRIDAY, 13TH & SATURDAY, 14TH MARCH, 2015

| | | |
|----------------------------|---|------------|
| Venue | ICAI Tower, Near Standard Chartered Bank, BKC, Mumbai | |
| Time | 2.00 p.m. to 7.00 p.m. 13/3/2015 10.00 a.m. to 6.00 p.m. 14/3/2015 | |
| Fees | ₹ 1,500/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund) | |
| Chief Co-ordinators | CA. Julfesh Shah | 9823096540 |
| | CA. Sandeep Jain | 9819788099 |
| | CA. Satyanarayan Mundada | 9422080814 |
| | <i>(Regional Council Members)</i> | |
| Co-ordinators | CA. Shantesh Warty | 9819947969 |
| | CA. Hiral Mehta | 9892592283 |
| | CA. Swati Bhatkar | 9967537989 |

For more details visit www.wirc-icai.org

06

CPE HRS

Seminar on Statutory Auditors of Bank Branches

Audit

DAY & DATE SATURDAY, 28TH MARCH, 2015

| | | |
|----------------------------|---|------------|
| 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. Subodh Kedia | 9879267750 |
| | CA. Mahesh Madkholkar | 9820075966 |
| | <i>(Regional Council Members)</i> | |
| Co-ordinators | CA. Nikhil Damle | 9820170436 |
| | CA. Nidhi Mewada | 9619602084 |
| | CA. Vivek Shah | 9819633348 |

| | |
|---|-----------------------|
| TOPICS | SPEAKERS |
| Audit Planning & Documentation | CA. Uday Sathaye |
| Audit of Advances – Funded & non-Funded | Eminent Faculty |
| Income Recognition, Asset Classification & Provisioning norms (NPA) | CA. Dhananjay Gokhale |
| LFAR Reporting & Other Certifications | CA. Abhay Kamat |



Forthcoming Events

12
CPE HRS

Seminar on Accounting Standards

Accounting & Auditing

If accounting is the language of communicating financial results, Accounting standards are its grammar. Hence, it is important to update oneself of the accounting standards on a periodic basis to be able to perform accounting & auditing functions effectively. This seminar will act as a refresher course on the various concepts covered in the ASs and will also highlight key issues faced in their implementation. Recommended reading – Participants are requested to read the relevant accounting standards prior to the programme

| DAYS & DATES | FRIDAY, 27TH & SATURDAY, 28TH MARCH, 2015 | |
|---------------------|---|------------|
| 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. Sarvesh Joshi | 9822022292 |
| | CA. Dhiraj Khandelwal | 9867642684 |
| | <i>(Regional Council Members)</i> | |
| Co-ordinators | CA. Milind Joshi | 9930033939 |
| | CA. Neha Patel | 9833678901 |
| | CA. Kunal Parikh | 9892429993 |

TOPICS

Friday, 27th March, 2015

AS – Fixed Assets – AS 6, AS 10, AS 16, AS 26, AS 28 • AS – Inventories – AS 2 • AS 4 – Events occurring after balance sheet date & AS 5 – Prior period items and changes in accounting policies • A Study on Disclosures in Accounting Standards

Saturday, 28th March, 2015

AS – Consolidation – AS 21, AS 23, AS 27 • AS – Revenue Recognition – AS 9, AS 7, AS 11 • AS – Employee Benefits – AS 15 • AS – Taxes & Provisions – AS 22, AS 29

06
CPE HRS

Seminar on Audit & Compliance Applicable to Stock Brokers

Finance & Capital Market

| DAY & DATE | SATURDAY, 4TH APRIL, 2015 | |
|---------------------|---|------------|
| 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. Satyanarayan Mundada | 9422080814 |
| | CA. Vishnu Agarwal | 9833310916 |
| | <i>(Regional Council Members)</i> | |
| Co-ordinators | CA. Bipeen Mundade | 9223290561 |
| | CA. Premal Gandhi | 9324383636 |
| | CA. Gaurav Parwani | 9323674628 |

TOPICS

• Recent SEBI/Exchange/FMC/Depository Circulars applicable to stock brokers/Commodity brokers/Depository Participants • Issues in certification & audit applicable to stock brokers/Commodity brokers/Depository Participants • System Audit (CTCL Audit) of Stock Brokers • Taxation of stock brokers & commodity brokers

06
CPE HRS

Workshop on Practice Skills (For Young Practising Members)

Soft Skills

Once a young CA decides to start with his own practise, he faces a number of challenges. These challenges include addressing questions like whether I should practise alone or should I enter into a partnership, which areas of practice should I focus on, how much can I bill clients, how do I manage my office etc. This programme aims to address some of these challenges faced by young practising members and provide perspectives on how they can be dealt with. **Who can attend** – This workshop is designed for members; Young practising members up to the age of 35 years. **Participant limit** – This workshop shall be limited to 40 participants (on first come basis).

| DAY & DATE | SATURDAY, 28TH MARCH, 2015 | |
|---------------------|---|------------|
| Venue | 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. Priyam Shah | 9824096112 |
| | CA. Priti Savla | 9321426883 |
| | CA. Hardik Shah | 9825510422 |
| | <i>(Regional Council Members)</i> | |
| Co-ordinators | CA. Aniket Kulkarni | 9821690559 |
| | CA. Reema Jethwa | 9619602083 |
| | CA. Amogh Pandit | 8108132425 |

TOPICS

• Glimpse in to the practice of the future (services, industries, size, skill sets, etc.) – Global and Indian scenario • Practice management skills & tools – How to build a practice (partnership firm or proprietorship / technology / office management / filing systems) • Networking & Mergers; Code of Ethics – what you can do & what you can't as a practising member • Business etiquettes

06
CPE HRS

Annual Capital Markets Summit-2015

Capital Market

Sectoral Analysis and Market Outlook – Important Sectors with current developments amongst Information Technology (including Internet), Telecom, Media, Pharmaceuticals, Healthcare, Agrochemicals, Auto & Auto Ancillaries, FMCG, Logistics, Infrastructure, Power, Consumer Goods, Oil and Gas, BFSI, Large Caps, Midcaps and Small Caps etc.

| DAY & DATE | SATURDAY, 28TH MARCH, 2015 | |
|---------------------|---|------------|
| Venue | ICAI Tower, Near Standard Chartered Bank, BKC, Mumbai | |
| Time | 10.00 a.m. to 6.00 p.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. Dilip Apte | 9930314856 |
| | CA. Abhishek Nagori | 9426075397 |
| | <i>(Regional Council Members)</i> | |
| Co-ordinators | CA. Namrata Shah | 9224876552 |
| | CA. Mayur Parkeria | 9823178406 |
| | CA. Kinner Mehta | 9819824641 |

TOPICS & PANELIST

Inaugural Address: CA. V. S. Parthasarathy, Member of the Group Executive Board, CFO and Group CIO, Mahindra & Mahindra Ltd. – Special Address on Creating Shareholder Value – Corporate and Business Perspective

• Investment Strategies • Corporate Governance • Financial Markets, Economy and Growth - Global Perspective - India -Is it a Growth Story? • Institutional, FI and Retail Segments • Corporate, Business and Markets Perspective • Make in India • Financial Sector Reforms • Market Outlook and Survey • Opportunities for CA's in Capital Markets

CA. Manoj Alimchandani • Shri Deven Choksey, MD, K R Choksey Group • CA. Ajay Parmar, Emkay Global • Shri Dipen Sheth, HDFC Securities • CA. Runit Dugar, Religare Capital Markets • Shri Prashant Nair*, Citigroup • Shri Kalpen Parekh*, IDFC Mutual Fund and other High Profile Guests and Eminent Speakers from Industry and Capital Markets.

* awaiting confirmation

06

FEBRUARY 2015

Western India Chartered Accountants Newsletter



06
CPE HRS

Seminar on Prevention of Money Laundering Act (PMLA)

Others

| DAY & DATE | | SATURDAY, 4TH APRIL, 2015 | |
|----------------------------|---|---------------------------|--|
| 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. Hardik Shah | 9825510422 | |
| | CA. Subodh Kedia | 9879267750 | |
| | <i>(Regional Council Members)</i> | | |
| Co-ordinators | CA. Gaurav Save | 9969001607 | |
| | CA. Praveen Shenoy | 8655070738 | |
| | CA. Arun Prithwani | 9820917280 | |

| TOPICS | SPEAKERS |
|---|---|
| Inauguration & Keynote address | Dr. S. W. Naqvi, Special Director, ED, Mumbai |
| Introduction to PMLA | CA. Dilip Shah |
| PMLA Investigation & legal overview | Shri Virendra Ojha Addl Director, ED |
| Case Studies | Adv. Nitee Punde |
| Risk & threat of money laundering through cyber crime | CA. K. N. Bhat |
| Use of compliance/IT set up of banks, KYC red flags | Shri Vikas Tandon |

06
CPE HRS

Workshop on Project Finance

Finance & Capital Market

| DAY & DATE | | SATURDAY, 11TH APRIL, 2015 | |
|----------------------------|---|----------------------------|--|
| Venue | 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. Julfesh Shah | 9823096540 | |
| | CA. Dilip Apte | 9930314856 | |
| | CA. Dhiraj Khandelwal | 9867642684 | |
| | <i>(Regional Council Members)</i> | | |
| Co-ordinators | CA. Abhijit Todade | 9819659151 | |
| | CA. Ankit Sanghvi | 9820689003 | |
| | CA. Lalit Bajaj | 9867692321 | |

| TOPICS |
|--|
| Sources of Finance • Concept of Working Capital & its Significance in Debt Financing • Preparing a detailed Project Report (Assessment of Technical & Economic Feasibility) • Case Study on preparing an excel model to submit with the project report • Credit Appraisal – A Banker's Perspective |

Study Group Meeting on BFSI & Capital Market

Date : Saturday, 28th February, 2015 **Time** : 4.00 p.m. – 7.00 p.m.

Venue : ICAI Tower, BKC **CPE** : 3 hours

Annual Fees : ₹ 1,000/- per annum

Guest Member Fees : ₹ 100/- for this session

Chief Co-ordinator : CA. Shruti Shah 9892407988
Secretary, WIRC

ROUNDTABLE DISCUSSION (MODERATOR – CA. MANOJ ALIMCHANDANI)

- 1 Capitals Markets – CA. Hardik Dhruva
- 2 Open House - On Union Budget 2015 – CA. Ajay Parmar, CA. Manish Chokshi and other eminent panelists

06
CPE HRS

Seminar on Redevelopment of Co-operative Societies

Accounting & Auditing

| DAY & DATE | | SATURDAY, 11TH APRIL, 2015 | |
|----------------------------|---|----------------------------|--|
| 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. Priti Savla | 9321426883 | |
| | CA. Priyam Shah | 9824096112 | |
| | CA. Mahesh Madkholkar | 9820075966 | |
| | <i>(Regional Council Members)</i> | | |
| Co-ordinators | CA. Kedar Limaye | 9820287646 | |
| | CA. Shilpa Shinagare | 9820053395 | |
| | CA. Jayesh Vora | 9819321123 | |

| TOPICS |
|---|
| • Development Control Regulations and Important Issues relating to sanction of Building Plans • Drafting of Documents relating to Redevelopment of Property of Co-operative Housing Society (Agreement for Development, P.O.A., Deed of Indemnity, Declaration, Tripartite Agreement, etc.) • MVAT implications of redevelopment • Service tax implications of redevelopment • Income tax implications of redevelopment |

06
CPE HRS

Seminar on Labour Laws

Corporate Laws

| DAY & DATE | | SATURDAY, 11TH APRIL, 2015 | |
|----------------------------|---|----------------------------|--|
| 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. Parag Raval | 9824339200 | |
| | CA. Satyanarayan Mundada | 9422080814 | |
| | <i>(Regional Council Members)</i> | | |
| Co-ordinators | CA. Himanshu Chheda | 9820676826 | |
| | CA. Sachin Holmukhe | 9820561266 | |
| | CA. Mousam Buch | 9819012868 | |

| TOPICS & SPEAKERS |
|---|
| • Employees State Insurance Scheme (ESIC) 1948 • The Payment of Bonus Act 1965 • The Payment of Gratuity Act, 1972 • The Payment of Wages Act, 1936 • The Maharashtra Labour Welfare Fund Act, 1953 • The Maharashtra State Profession Tax Act, 1975 – Adv. Ramesh L. Soni |
| • Employees Provident Fund Act 1952 & Pension Scheme 1995 • The Contract Labour Act, 1970 • The Shops & Establishment Act, 1948 • The Maternity Benefit Act, 1961 • The Factories Act, 1948 • The Employees' Compensation Act, 1923 – Shri Kesav Korgaonkar |



Forthcoming Branch Meetings

| Date | Time | Subject(s) | Speaker(s) | Venue |
|--|-----------|---|-------------------|-------|
| PUNE | | | | |
| 28/02/2015 to 14/03/2015 (Saturday & Sunday) | 9.30 a.m. | Certificate Course on Corporate Social Responsibility | Eminent Faculties | |
| RAJKOT | | | | |
| 28/02/2015 | | Overview of Quick Book | Eminent Faculty | |



Forthcoming Study Circle Meetings

| Date & Day | Time | Subject(s) | Speaker(s) | Venue | Organised by / Convenor / Tel. No. |
|----------------------|------------|--|---|---|---|
| 22/02/2015 Sunday | 9.30 a.m. | Emotional Transformation for successful CA Practice - Part 1 Emotional Transformation for successful CA Practice - Part 2 | CA. Amar Shukla Ms. Puja Jain | Garjata Marathi Hall, Near Rail Nagar Society, Before Jairaj & Ashoknagar Traffic Signal, Chandavarkar Extn. Road, Borivali (W) | Borivali (Central) CPE Study Circle CA. Vijay Kumar Jeyam M: 9821356515 |
| 22/02/2015 Sunday | 9.30 a.m. | Reporting for Bank Branch Audit Including LFAR | CA. Niranjan Joshi | Mysore Association, 2nd Floor Bhabhai Road, Matunga Central | Matunga CPE Study Circle CA. Usha Kadam M: 9867555625 |
| 28/02/2015 Saturday | 10.30 a.m. | Live Screening of Budget – Analysis of Provisions on 1) Direct Tax 2) Indirect Tax 3) Capital Market | CA. Haridas Bhat CA. Akhil Kedia CA. N. K. Jain | Hotel Kohinoor, Andheri Kurla Road J. B. Nagar, Andheri (E) | J. B. Nagar CPE Study Circle CA. Anil Sharma M: 9870708060 |
| 28/02/2015 Saturday | 5.30 p.m. | Bank Branch Audit - Audit of Advances LFAR | CA. Manish Sampat Eminent Faculty | Bhatia Wadi Vasant Rao Chogale Road, Bhabhai, Opp. Veer Savarkar Udyan, Borivali (W) | Borivali (Central) CPE Study Circle CA. Vijay Kumar Jeyam M: 9821356515 |
| 28/02/2015 Saturday | 5.30 p.m. | Recent Pronouncement under Income-tax Act | CA. Devendra Jain | Mulund College AC Auditorium, Near Mulund Railway Station, Mulund (W) | Mulund CPE Study Circle CA. Bhavesh Palan M: 9320166001 |
| 01/03/2015 Sunday | 9.30 a.m. | Ind AS 38– Intangible Assets Ind AS 40– Investment Properties | CA. Yagnesh Desai Eminent Faculty | Bhatia Wadi Vasant Rao Chogale Road, Bhabhai, Borivali (W) | Borivali (Central) CPE Study Circle CA. Vijay Kumar Jeyam M: 9821356515 |
| 04/03/2015 Wednesday | 5.30 p.m. | Public Meeting on Union Budget Impact of Union Budget on capital market | CA. Nihar Jambusaria Eminent Faculty | Bhatia Wadi Vasant Rao Chogale Road, Bhabhai, Borivali (W) | Borivali (Central) CPE Study Circle CA. Vijay Kumar Jeyam M: 9821356515 |
| 08/03/2015 Sunday | 8.30 a.m. | BCSC - 8 Cricket Teams | BCSC Members | Poisar Gymkhana, Boraspada Road, Kandivali (W) | Borivali (Central) CPE Study Circle CA. Vijay Kumar Jeyam M: 9821356515 |
| 12/03/2015 Thursday | | Discussion on Budget Session (not a public meeting) | Eminent Faculty | Assembly Hall, 1st Floor, St. Xavier's Institute of Research & Management, 5, Mahapalika Marg, Dhobi Talao | Churchgate CPE Study Circle CA. Purvi Patel M: 9892564858 |



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, members and students can send their grievances related to administrative matters, to the dedicated e-mail ID wircgrievance@icaai.in. The Grievance Cell will further ensure that all such e-mails received are directed/forwarded to the designated/appropriate officials on daily basis on all working days and also will strive to ensure that solutions are provided for such grievances, 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.

EXECUTIVE HEALTH CHECK UP AND DIAGNOSTIC TESTING FACILITY

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.

WIRC has also tied up with N. M. Medical Centre, for Health Check-up and diagnostic testing at any of their specified branches. The details of this scheme and list of their specified branches along with contact persons at each branch is hosted on the WIRC website www.wirc-icaai.org. Members and students are requested to take advantage of this scheme and avail the facility.

Also, WIRC of ICAI has tied up with Therapeuo Multispeciality Clinic, 38/39 Maker Arcade, G. D. Somani Marg, 85, Cuffe Parade, Mumbai-400 005, for oral health management and diagnostic imaging benefits. The details of the scheme and the list of services and benefits is hosted on WIRC website www.wirc-icaai.org. Members are requested to take advantage of this scheme and avail this facility.

HELP US TO SERVE YOU BETTER

The Students / Members can download and print copies of letters in respect of different activities viz. Registration of CPT / IPCC / Final, Registration & Re-registration / Termination / Completion of Articles, New Enrolment letters of Membership, Member Card and/or constitution / Re-constitution Certificate of Firm, Firm Card alike from the following portal of ICAI website www.icaai.org.

WEB PORTAL

www.icaai.org/e-Services/Reprint letter - Members/Students

MEMBERSHIP FEES

Those Members who have not paid their annual membership/ COP fees for the year 2014-15 till 30th September, 2014 are now requested to apply for restoration of membership by submitting Form No. 9 (available on ICAI website www.icaai.org under the link-Forms Download along with the restoration fees and membership fees (and Certificate of Practice fee if applicable) at the earliest, which will enable us to restore their names with retrospective effect i.e. from 1st October, 2014. The schedule of fees payable and Form 9 is available on website www.icaai.org

GRANT OF FELLOW MEMBERSHIP ON THE BASIS OF SERVICE

Regulation 5(3) of the Chartered Accountants Regulations, 1988 provides for eligibility to become a fellow member of the Institute on the basis of service in specified industries and organisations.

Members fulfilling above conditions may apply to the concerned Regional Office with the prescribed Fee and application in “Form 3” along with required documents for grant of Fellow Membership. Respective details and Application Form are available on the Institute’s website, *vide* link given below:

http://www.icaai.org/new_post.html?post_id=1564&c_id=89

Online Members card and fee History of 2 Years – Available Online
www.icaai.org

Member Card (Trace a Member)

<http://220.225.242.179/reprintletter/membercard.aspx>

Member fee details

<http://220.225.242.179/reprintletter/memberp.aspx>

FOR INFORMATION OF THE MEMBERS

Extension of last date “for complying with the CPE hours requirement for the calendar year 2014” – from 31st December, 2014 to 31st March, 2015
This is for kind information of the members that it has been decided to extend the last date for complying with the CPE hours requirement for the calendar year 2014 – from 31st December, 2014 to 31st March, 2015.

ICAI Awards 2014 to Western Region

Best Regional Council
Western India Regional Council (WIRC)

Best Students Association
Western India Chartered Accountants Students Association
(WICASA)

ICAI Awards to Branches of WIRC
Best Branch – Trophy & Certificate
(Mega Branch Category)
Ahmedabad Branch of WIRC

Highly Commendable Performance
Trophy and Certificate
(Medium Branch Category)
Aurangabad Branch of WIRC
(Small Branch Category)
Ahmednagar Branch of WIRC

Certificate of Appreciation
(Large Branch Category)
Nagpur Branch of WIRC
(Medium Branch Category)
Pimpri Chinchwad Branch of WIRC
(Micro Branch Category)
Nanded Branch of WIRC

ICAI Awards to Branches of WICASA of WIRC
Best Branches – Trophy & Certificate
(Large Branch Category)
Nagpur Branch of WICASA &
Aurangabad Branch of WICASA

Highly Commendable Trophy and Certificate
(Large Branch Category)
Nashik Branch of WICASA of WIRC

We express our heartfelt gratitude to all the members for
their whole hearted support



DIRECT TAX

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

Percentage of Government grant for considering university, hospital etc. as financed by Government for the purpose of section 10(23C) [370 ITR (ST.) 1]

The CBDT *vide* Notification No. SO3168(E) dated 12/12/2014 gives Income Tax (13th Amendment) Rules, 2014. It amends Income Tax Rules, 1962 and inserts Rule 2BBB. Rule 2BBB gives the percentage of Government grant for considering university, hospital etc. as substantially financed by the Government for the purpose of section 10(23C) of the Income-tax Act for the purpose of sub-clause (iiiab) and (iiiac). It provides that if the Government grant to such university and other educational institution, hospital and other institution exceeds 50% of the total receipts including any voluntary contribution of such institution during the relevant previous year, then it will be treated as financed by the Government.

Guidelines for Notification of a semi-conductor water fabrication manufacturing unit as specified business u/s. 35AD [370 ITR (ST.) 2]

The CBDT *vide* Notification No. SO3169(E) dated 12/12/2014 gives Income-tax (14th Amendment) Rules, 2014. It amends Income Tax Rules and inserts new Rule 11-OB. The Rule 11-OB prescribes the guidelines for notification of a semi-conductor water fabrication manufacturing unit as specified business u/s. 35AD. It provides for new Form 3CS being application for notification of a semi-conductor water fabrication manufacturing unit as specified business u/s. 35AD.

CBDT Circular – u/s. 192 of the Income-tax Act. [369 ITR (ST.) 9]

The CBDT *vide* Circular No. 17 of 2014 dated 10/12/2014 deals with guidelines for the Income-tax deduction from salaries u/s. 192 of the Income-tax Act and contains the rate of deduction of Income-tax from the payment of income chargeable under the head "Salaries" during the F.Y. 2014-15 and explains certain related provisions of the Act and Income Tax Rules, 1962. One may refer to the above magazine for full text of the circular.

Form of application for obtaining and advance ruling [369 ITR (ST.) 2]

The CBDT *vide* Notification No. SO3015(E) dated 20/11/2014 gives Income Tax (12th Amendment) Rules, 2014. It amends Rule 44E of Income Tax Rules which provides for form of application for obtaining an advance ruling. The newly amended rule provides for payment of prescribed fees for an application u/s. 245N(b) of the Income-tax Act. It inserts new Form 34DA being Form of application by resident applicant referred to Section 245N(b)(iia) seeking advance ruling u/s. 245Q (1) of the Income-tax Act, 1961 in relation to a transaction undertaken or proposed to be undertaken by him.

Resident undertaking transaction of ₹ 100 Crore can apply before AAR to determine his tax liability [369 ITR (ST.) 7]

The Central Government *vide* Notification No. SO3014(E) dated 20/11/2014 and in exercise of the power conferred u/s. 245N(b)(iia) of the Income-tax Act, 1961, hereby specifies a resident, in relation to his tax liability arising out of one or more transactions valuing ₹ 100 crore or more in total which has been undertaken or proposed to be undertaken, being such class of person, as applicable for the purpose chapter XIX-B of the said Act.

Income Tax Settlement Commission (ITSC) – CBDT clarification on Circular No. 3 of 2008 dated 12/03/2008 [369 ITR (ST.)1]

Chapter XIX-A of the Income-tax Act, 1961, contains provisions relating to settlement of cases by the Income Tax Settlement Commission (ITSC). The provisions contained in the said Chapter were amended by the Finance Act, 2007 and a Revised Settlement Scheme was put in place. Explanatory Circular No. 3 of 2008, dated 12th March, 2008 issued by the CBDT, *vide* Para 61 (comprising sub-paras 61.1 to 61.17) deals with the Revised Settlement Scheme.

Para 61.2 of Circular No. 3 of 2008 reads

"61.2 Under the existing provisions, an assessee may make an application to the Commission at any stage of the proceedings in his case pending before any income-tax authorities. After 31st May, 2007, an assessee can make an application to the Commission only during the pendency of the proceedings before the Assessing Officer. It is further clarified that (a) since intimation under section 143(1) is not an assessment order, there will be no bar in filing an application for settlement subsequent to receipt of an intimation under section 143(1). It is not material whether time limit for issue of notice under section 143(2) has expired or not; (b) the assessment shall be deemed to have been completed only on the date of service of assessment order to the applicant."

It has been inadvertently stated in Para 61.2 of Circular No. 3 of 2008 that the assessment shall be deemed to have been completed only on the date of service of assessment order to the applicant. This statement is not in consonance with the provisions contained in the Explanation to clause (b) of section 245A of the Income-tax Act which, *inter alia*, provides that a proceeding for the assessment of any assessment year shall be deemed to have concluded on the date on which the assessment is made.

In view of the above, para 61.2 of Circular No. 3 of 2008 is replaced with the following with effect from the 1st day of June, 2007:

"61.2 Under the existing provisions, an assessee may make an application to the Commission at any stage of the proceedings in his case pending before any income tax authorities. After 31st May, 2007, an assessee can make an application to the Commission only during the pendency of the proceedings before the Assessing Officer. It is further clarified that (a) since intimation under section 143(1) is not an assessment order, there will be no bar in filing an application for settlement subsequent to receipt of an intimation under section 143(1). It is not material whether time-limit for issue of notice under section 143(2) has expired or not; (b) the assessment shall be deemed to have been completed on the date on which the assessment order is passed."

MAHARASHTRA VAT

(Contributed by CA. C. B. Thakar)

Circulars

1. The Commissioner of Sales Tax has issued Circular bearing No.1T of 2015 dated 7/1/2015 by which revised instructions about stay under CST Act, 1956, when the dues are due to non-production of forms, are given.
2. The Commissioner of Sales Tax has issued Circular bearing No.2T of 2015 dated 14/1/2015 by which the information was given about extension of date of filing VAT Audit report for the year 2013-2014.

CORPORATE LAWS

(Contributed by CA. Rahul Joglekar)

MCA (www.mca.gov.in)

MCA Notification No. GSR(E) dated 16th January 2015 – Amendment to Companies (Accounts) Rules 2014

MCA has amended the Companies (Accounts) Rules 2014 with the aforesaid notification. New sub-rule has been inserted to provide for Form AOC-5 pursuant to Section 128(1) of the Companies Act 2013 dealing with place of maintenance of books of accounts. Certain relaxations have also been provided in respect of consolidation of financial statements for the year commencing on 1/4/2014 only. For a complete text of this notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/Amendment_Rules_2015_19012015.pdf.

MCA Notification No. GSR(E) dated 19th January 2015 – Amendment to Companies (Appointment and Qualification of Directors) Amendment Rules - 2014

MCA has amended the Companies (Appointment and Qualification of Directors) Amendment Rules - 2014 with the aforesaid Notification. A new Provision has been inserted providing that any company that has filed form DIR-12 with the Registrar under Rule 15, a Foreign Director of such

company resigning from his office may authorise in writing a practising Chartered Accountant or Cost Accountant in practice or Company Secretary in practice or any Resident Director of the company to sign Form DIR-11 and file the same on his behalf to the Registrar intimating the reasons for resignation. For a complete text of this notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/Amendment_Rules_2015_20012015_1.pdf.

MCA Notification No. GSR(E) dated 19th January 2015 – Amendment to Companies (Corporate Social Responsibility Policy) Amendment Rules - 2014

MCA has amended the Companies (Corporate Social Responsibility Policy) Amendment Rules-2014 with the aforesaid Notification. As per the Notification, the Ministry has widened the list of entities through which companies can undertake CSR activities by substituting the words “established by the Company or its holding or subsidiary or associate company under section 8 of the Act or otherwise” with “established under Section 8 of the Act by the Company, either singly or along with its holding or subsidiary company or associate company, or along with any other company or holding or subsidiary or associate of such other company, or otherwise”. For a complete text of this notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/Amendment_Rules_2015_20012015.pdf.

SEBI (www.sebi.gov.in)

SEBI Notification No. LAD-NRO/GN/2014-15/21/85 dated 15th January 2015 - SEBI (Prohibition of Insider Trading) Regulations, 2015

SEBI has notified the regulations related to prohibition of insider trading in companies. These regulations contain various aspects like definition of connected person, insider, unpublished price sensitive information etc. It also provides for aspects like communication or procurement of unpublished price sensitive information, trading plans by an insider, disclosures by certain persons, Code of Fair Disclosure etc. For a complete text of the notification please refer the link: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1421319519608.pdf.

CENTRAL EXCISE
(Contributed by CA. Jayesh Gogri)

Notifications

Excise Duty increased on Motor Spirit (Petrol) and High Speed Diesel (HSD)

Unconditional partial exemption was provided to Motor Spirit (Petrol) and High Speed Diesel (HSD) *vide* Notification No. 12/2012-CE dated 17th March, 2012. Such exemption differs on the basis of the intention of the manufacturer either to sell it with a brand name or otherwise. The effective rate of Excise Duty on Petrol and HSD has been increased as given in the following table:

| Chapter Heading | Name of the Product | Intention | ED per litre (w.e.f. 2/12/2014 till 1/1/2015) | ED per litre (w.e.f. 2/1/2015 till 16/1/2015) | ED per litre (w.e.f. 17/1/2015) |
|-----------------|---------------------|-------------------------|---|---|---------------------------------|
| 2710 | Petrol | Sale without brand name | 4.95 | 6.95 | 8.95 |
| | | Otherwise | 6.10 | 8.10 | 10.10 |
| 2710 19 30 | HSD | Sale without brand name | 3.96 | 5.96 | 7.96 |
| | | Otherwise | 6.25 | 8.25 | 10.25 |

(Notification No. 01/2015-CE dated 1/1/2015 and Notification No. 03/2015-CE dated 16/1/2015)

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Exemption to specified bunker fuels for use in Ships/Vessels for specified period now made permanent

Conditional exemption was provided on manufacture of bunker fuels for use in Ships or Vessels namely, IFO 180 CST (Intermediate fuel oil with a maximum viscosity of 180 Centistokes) and IFO 380 CST (Intermediate fuel oil with a maximum viscosity of 380 Centistokes) vide Notification No. 21/2014-CE dated 11/11/2014. The exemption was earlier given for a limited period till 10th May, 2015. However, now, the Mega Exemption Notification No. 12/2012-CE dated 17/3/2012 is further amended to remove the limitation with respect to period i.e. to say the exemption is available even after 10th May, 2015 till the Notification is further amended in this respect.

(Notification No. 2/2015-CE dated 7/1/2015)

SERVICE TAX (Contributed by CA. Rajiv Luthia)

SYNOPSIS OF NOTIFICATIONS, CIRCULARS & LETTERS

Central Government vide Notification No.1/2015-ST dated 20th January, 2015 has amended Notification No.20/2014-ST dated 16th September, 2014 whereby changes have been made in territorial jurisdiction of few of the Principal Commissioners of Service Tax & Commissioners of Service Tax.

CBEC vide Circular No.993/17/2014-CX dated 5th January, 2015 has issued following instructions/clarifications in respect of mandatory pre-deposits of duty or penalty for filing appeal:

- Para 7.2 of Circular No.984/08/2014-CX dated 16th September, 2014 requires Commissionerates to maintain a database of the record of deposits made so as to facilitate seamless verification of the deposits at the time of processing the refund claims made in case of favourable order from the Appellate Authority. It is instructed to maintain the said data separately in respect of appeals before CESTAT and Commissioner (Appeals). A separate register (preferable E-register) should be maintained containing details such as Sr. No., Name of Appellant, details of duty paying document viz Challan etc., amount of pre-deposit paid & Order No. & date of Order of Commissioner (Appeals)/Tribunal.
- In view of Rule 17 of CESTAT Procedure Rules, 1982, the Tribunal Registry must send a copy of the appeal memo to the Commissionerate immediately after receipt. Similarly, a copy of the appeal memorandum filed before the Commissioner (Appeal) must be sent to the Commissionerate concerned by the office of the Commissioner (Appeals). This would help in processing the refund claims quickly.
- Drawback, like rebate in Central Excise, is refund of duty suffered on the export goods. Section 129E of the Customs Act, 1962 stipulates that appellant filing appeal before the Commissioner (Appeals) shall pay 7.5% of the duty demanded where duty and penalty are in dispute. Accordingly, it is clarified that mandatory pre-deposit would be payable in cases of demand of drawback as the new section 129E would apply to such cases.
- The ambit of the section 129E of the Customs Act, 1962 in the legislation does not extend to appeals under section 129DD before Joint Secretary (Revision Application). Therefore, while mandatory pre-deposit would be required to be paid in cases of drawback, rebate and baggage at the first stage appeal before Commissioner (Appeals), no pre-deposit would be payable in such cases while filing appeal before the JS(RA).

CBEC vide Instruction F. No. 207/07/2014-CX-6 dated 20th January, 2015 has issued following instructions/clarifications in respect of issue of Summons in Central Excise & Service Tax matters:

- As per section 14 of Central Excise Act, 1944, summons can be issued in an inquiry for recording statements or for collecting evidence/documents. While the evidentiary value of securing documentary and oral evidence under the said legal provision can hardly be over emphasised, nevertheless, it is desirable that summons need not always be issued when a simple letter, politely worded, can also serve the purpose of securing documents relevant to investigation. It is emphasised that the use of summons be made only as a last resort when it is absolutely required.
- Power to issue summons is generally exercised by Superintendents, though higher officers also issue summons. Summons by Superintendents should be issued after obtaining prior written permission from an officer not below the rank of Assistant Commissioner with the reasons for issuance of summons to be recorded in writing.
- Where for operational reasons it is not possible to obtain such prior written permission, oral/telephonic permission from such officer must be obtained and the same should be reduced to writing and intimated to the officer according such permission at the earliest opportunity.
- In all cases, where summons are issued, the officer issuing summons should submit a report or should record a brief of the proceedings in the case filed and submit the same to the officer who had authorised the issue of summons.
- Senior management officials such as CEO, CFO, General Managers of a large company or a PSU should not generally be issued summons at the first instance. They should be summoned only when there are indications in the investigation of their involvement in the decision making process which led to loss of revenue.

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

EXTENSION OF TIME LIMITS

Amnesty Scheme

Vide Public Circular No. GUJKA /VAT/ Budget 2014-15/ OTW.164/142 dated 28th January, 2015, time limit for making Application under Amnesty Scheme for Civil Works Contractors, having validity up to 11/4/2015, has been extended from 31/1/2015 to 28/2/2015.

Annual Return

Vide Public Circular No. GUJKA /VAT/ Budget 2014-15/ OTW.165/143 dated 28th January, 2015, time limit for filing Annual Return by dealer liable for VAT Audit has been further extended from 31/1/2015 to 31/3/2015.

VAT Audit Report

Vide Public Circular No. GUJKA / VAT/ Budget 2014-15/ OTW.165/143 dated 28th January, 2015, time limit for e- filing of VAT Audit Report for F.Y. 2013-14 has been further extended from 31/1/2015 to 30/6/2015.

TAX CONCESSIONS

Vide Notification No. (GHN-4) VAT – 2015- S 5 (2) (42) –TH dated 21st January, 2015, following new entries have been added for exemption u/s 5(2) of GVAT Act

| Entry No. | Item | Concession | Validity |
|-----------|--|---|--|
| 101 | Technical Grade Urea | Tax rate reduced to 5% (including Additional Tax) | For sales up to 14th January, 2016 |
| 102 | Soap (Hand made) manufactured with use of motor up to 3 HP | Tax rate reduced to 5% (including Additional Tax) | Certificate of motor used is to be furnished to jurisdictional CTO |

ENTRY TAX (WEAVING JOBWORK) REMISSION SCHEME CONVERTED INTO REFUND SCHEME



Vide Notification No. (GHN-7) ET – 2015- S 17A (1) (3) –TH dated 22nd January, 2015, earlier Notification No. (GHN-25) ET – 2012- S 17A (1) (1) –TH Dt. 3rd October, 2012, allowing remission of Entry Tax on Yarn brought in the state of Gujarat, by manufacturers in Umargam Taluka, for converting into suiting-shirting fabrics, furnishing fabrics and towel-napkin fabrics on job work basis, is amended, *inter alia*, to provide for refund of tax instead of earlier remission of tax. In other words, the dealers will have to pay Entry Tax at the first instance on the yarn brought for job-work and claim refund of the same thereafter.

ENTRY TAX (YARN DYEING JOB WORK) REMISSION - REFUND SCHEME

Vide Notification No. (GHN-6) ET – 2015- S 17A (1) (2) –TH dated 22nd January, 2015, Tax Remission – Refund is announced, subject to conditions, including the following,

- “Specified Dealer” means a dealer, having manufacturing unit at Vapi and Sarigam and engaged in dyeing Job work of yarns who has been granted a Certificate of Entitlement by the Commissioner.
- The dealer shall have to apply online in Form-JWY-4 for Certificate of Entitlement.
- The dealer will have first to pay Entry Tax on the yarn brought for job work, which will be treated as excess payment and dealer will have to claim refund thereof.
- Remission for tax will be granted for finished dyed yarn, dispatched after job work, within 4 months.
- Dealer will have to file monthly returns along with prescribed Additional Form-JWY-4.

FEMA

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

Overseas Direct Investments by Indian Party – Rationalisation / Liberalisation

Notification No. FEMA.322/RB-2014 dated October 14, 2014 and A.P. (DIR Series) Circular No.54 dated December 29, 2014

In order to grant more flexibility to the Indian Party, it has been decided to further liberalise certain regulations of the Notification as detailed under:

i. Creation of charge on shares of JV/WOS/step down subsidiary (SDS) in favour of domestic/overseas lender

It has been decided that designated AD bank may permit creation of charge/pledge on the shares of the JV/WOS/SDS (irrespective of the level) of an Indian party in favour of domestic or overseas lender for securing the funded and/or non-funded facility to be availed of by the Indian party or by its group companies/sister concerns/associate concerns or by any of its JV/WOS/SDS (irrespective of the level) under the automatic route subject to following conditions:

- a. Provisions of Regulation 6 (and 7 if applicable) of the Notification *ibid* are complied by the Indian party for undertaking financial commitment.
- b. Provisions of Regulation 18 of the Notification *ibid* are complied.
- c. Period of charge if not decided upfront, may be co-terminus with the period of end use for which charge has been created
- d. Loan facility availed by the JV/WOS/SDS from the domestic/overseas lender shall be utilised only for its core business activities overseas and not for investing back in India.
- e. Certificate for statutory auditors of Indian Party to the effect loan/facility availed is not utilized for a direct or indirect investment in India is to be obtained by designated AD.
- f. Invocation of charge resulting into the domestic lender acquiring the shares of overseas JV/WOS/SDS shall be governed by extant FEMA regulations.
- g. Facilities extended by the domestic lender to the Indian party or its group/sister/associate concern or any of its overseas JV/WOS/

SDS shall be governed by prudential norms and other guidelines issued by Department of Banking Regulations.

- h. Matter relating to setting up / acquiring multi-layered structure of overseas entities by the Indian Party is under the examination of Reserve Bank and decision if any taken in this regard shall be conveyed in due course.

ii. Creation of charge on domestic assets in favour of overseas lenders to the JV/WOS/SDS

For creation of charge on the domestic assets of Indian party in favour of overseas lender to the JV/WOS/SDS which required prior approval of Reserve Bank, now AD Banks have been given powers to permit the same under automatic route subject to the following conditions:

- a. Provisions of Regulation 6 (and 7 if applicable) of the Notification *ibid* are complied by the Indian party for undertaking financial commitment.
- b. Provisions of Regulation 18A(1) of the Notification *ibid* are complied.
- c. Domestic assets on which charge is being created, are not securitised.
- d. Period of charge if not decided upfront, may be co-terminus with the period of end use for which charge has been created.
- e. Loan funds raised overseas by the JV/WOS/SDS shall be utilised only for its core business activities overseas and not for investing back in India.
- f. Certificate for statutory auditors of Indian Party to the effect loan / funds raised overseas has not been utilised for a direct or indirect investment in India is to be obtained by designated AD.
- g. In case of invocation of charge, resultant remittance of the proceeds exceeding the prescribed limit of financial commitment of Indian party shall require prior approval of the Reserve Bank
- h. Wherever creation of charge involves pledge of shares of an Indian company, the pledge shall also be governed by the extant FEMA provisions/regulations issued by the Reserve Bank and the consolidated Foreign Direct Investment (FDI) policy issued by the Government of India from time-to-time; and
- i. Matter relating to setting up/acquiring multi-layered structure of overseas entities by the Indian Party is under the examination of Reserve Bank and decision if any taken in this regard shall be conveyed in due course.

iii. Creation of charge on overseas assets in favour of domestic lender

For creation of charge on the overseas assets of JV/WOS/SDS of an Indian party in favour of domestic lender to the Indian Party which required prior approval of Reserve Bank, now AD Banks have been given powers to permit the same under automatic route subject to the following conditions:

- a. Provisions of Regulation 6 (and 7 if applicable) of the Notification *ibid* are complied by the Indian party for undertaking financial commitment.
- b. Provisions of Regulation 18A(2) of the Notification *ibid* are complied.
- c. Overseas assets on which charge is being created, are not securitised.
- d. Period of charge if not decided upfront, may be co-terminus with the period of end use for which the charge has been created.
- e. Loan/facility availed by the JV/WOS/SDS from the domestic lender shall be utilised only for its core business activities overseas and not for investing back in India.



- f. Certificate for statutory auditors of Indian Party to the effect loan/facility availed by the JV/WOS/SDS has not been utilised for a direct or indirect investment in India is to be obtained by designated AD.
- g. The invocation of charge, resulting into domestic lender acquiring the overseas assets shall require prior approval of the Reserve Bank
- h. Matter relating to setting up/acquiring multi-layered structure of overseas entities by the Indian Party is under the examination of Reserve Bank and decision if any taken in this regard shall be conveyed in due course.

In connection with the same, RBI has issued Notification No. FEMA.322/RB-2014 dated October 14, 2014 to make necessary amendments to the Notification *ibid*.

For detailed amendments, please refer the said Notification available on RBI website at –

<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/FEMA322NOTF151214.pdf>.

External Commercial Borrowings

A.P. (DIR Series) Circular No. 55 dated January 1, 2015

Under the extant ECB guidelines, the choice of security to be provided to the overseas lender/supplier for securing ECB is left to the borrower. With a view to liberalising, expanding the options of securities and consolidating various provisions related to creation of charge over securities for ECB at one place, it has been decided that AD Category-I banks may allow creation of charge on immovable assets, movable assets, financial securities and issue of corporate and/or personal guarantees in favour of overseas lender/security trustee, to secure the ECB to be raised/raised by the borrower, subject to satisfying themselves that:

- a. Underlying ECB is in compliance with ECB guidelines.
- b. There exists a security clause in loan agreement requiring borrower to create charge in favour of overseas lender/security trustee on immovable assets/movable assets/financial securities/issuance of corporate and/or personal guarantee.
- c. NOC, wherever necessary, from existing lenders in India is obtained.

On fulfilment of the above conditions AD Bank may permit creation of charge on immovable assets, movable assets, financial securities and issue of corporate and/or personal guarantees, during the currency of ECB with security co-terminating underlying the ECB, subject to the following:

- a. Creation of charge on immovable assets
 - Such security shall be subject to FEMA regulations
 - Permission not to be construed as permission to acquire immovable assets in India by the overseas lender/security trustee
 - In event of invocation/enforcement of charge, the asset will have to be sold to a person resident in India and sale proceeds shall be repatriated to liquidate the outstanding ECB
- b. Creation of charge on movable assets
 - In event of invocation/enforcement of charge, the claim of the lender will be restricted to the outstanding claim against the ECB. Encumbered movable assets may also be taken out of the country.
- c. Creation of charge over financial securities
 - Pledge of shares of the borrowing company held by promoters as well as in domestic associate companies of the borrower will be permitted. Pledge on other financial securities (bonds, debentures, Government securities, deposit receipts of securities and units in UTI or mutual funds) in name of ECB borrower/promoter will also be permitted

- Security interest over all current and future loan assets and all current assets including cash and cash equivalents including rupee account of the borrower can be used as security for ECB. Rupee accounts can also be in form of escrow arrangement or debt service reserve account
 - In event of invocation of pledge, transfer of financial securities shall be in accordance with the extant FDI/FII policy including provisions relating to sectoral cap and pricing as applicable
- d. Issue of Corporate or Personal Guarantee
 - Copy of board resolution for issue of corporate guarantee for the company issuing such guarantee, name of officials authorised to execute guarantee on behalf of the company should be obtained.
 - Specific requests from individuals to issue personal guarantee indicating details of the ECB should be obtained.
 - Such security shall be subject to provisions contained in FEMA regulations.

These amendments shall come into force with immediate effect.

Non-resident guarantee for non-fund based facilities entered between two resident entities

A.P. (DIR Series) Circular No. 56 dated January 6, 2015

In terms of A.P. (DIR Series) Circular No. 20 dated August 29, 2012, Non-resident guarantee for non-funded facilities such as Letters of Credit/guarantees/Letters of Undertaking (LoU)/Letter of Comfort (LoC) entered between two persons resident in India is allowed under the general permission route.

In connection with above, it is clarified that residents that are subsidiaries of multinational companies can also hedge their foreign currency exposure through permissible derivative contracts executed with AD Category-I Bank in India on the strength of guarantee of its non-resident group entity. The method of discharge of liability by the non-resident guarantor under the guarantee and the subsequent repayment of the liability by the principal debtor shall continue to be governed, as hitherto, by the provisions of A.P. (DIR Series) Circular No. 28 dated March 30, 2001.

AD Category-I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

Overseas Direct Investments by proprietorship concern/unregistered partnership firm in India

Notification No. FEMA.325/RB-2014 dated November 12, 2014 and A.P. (DIR Series) Circular No. 59 dated January 22, 2015

Keeping in view the changes in the definition/classification of the exporters as per the Foreign Trade Policy of the Ministry of Commerce and Industry it is decided to review the policy framework for Overseas Direct Investments (ODI) by a proprietorship concern/unregistered partnership firm in India. Accordingly following revised terms and conditions are required to be complied with for considering the proposal of ODI, by a proprietorship concern/unregistered partnership firm in India, by the Reserve bank under approval route:

- a. The proprietorship concern/unregistered partnership firm in India is classified as 'Status Holder' as per the Foreign Trade Policy issued by the Ministry of Commerce and Industry, Government of India from time-to-time.
- b. The proprietorship concern/unregistered partnership firm in India has a proven track record i.e. export outstanding does not exceed 10% of the average export realisation of the preceding three years and a consistent high export performance.
- c. The Authorised Dealer is satisfied that proprietorship concern/unregistered firm is a KYC (Know Your Customer) compliant, engaged in the business and has turnover as indicated.
- d. The entity has not come under adverse notice of any Government agency and does not appear in exporter's caution list of the Reserve Bank or in defaulters list of the banking system in India, and



- e. The amount of proposed investment outside India does not exceed 10 per cent of the average of last three years export realisation or 200 per cent of the net owned funds of the entity, whichever is lower.

Necessary amendments to the Notification No. 120 have been issued *vide* Notification No. 325/RB-2014 dated November 12, 2014.

Foreign Direct Investment – Review of FDI Policy (Sector Specific – Construction Development)

Notification No. FEMA.329/RB-2014 dated December 8, 2014 and A.P. (DIR Series) Circular No. 60 dated January 22, 2015

The extant FDI Policy for Construction Development sector has been reviewed and accordingly, effective 3rd December, 2014 100% FDI under automatic route shall be permitted in Construction Development sector subject to conditions specified in Press Note No. 10 (Series 2014) dated December 3, 2014 issued by DIPP.

Reserve Bank has since amended the Principal Regulations through Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Sixteenth Amendment) Regulations, 2014 notified *vide* Notification No. FEMA.329/2014-RB dated December 8, 2014.

For detailed amendments, please refer the said notifications on RBI website available at –

<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/NT329FEM140115FN.pdf>

Depository Receipts Scheme

Notification No. FEMA.330/RB-2014 dated December 15, 2014 and A.P. (DIR Series) Circular No. 61 dated January 22, 2014

A new scheme called 'Depository Receipts Scheme, 2014' (DR Scheme, 2014) for investments under ADR/GDR have been notified by the Central Government effective from December 15, 2014 which provides for repeal of extant guidelines for Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 except to the extent relating to foreign currency convertible bonds.

The salient features of the new scheme are:

- a. The securities in which a person resident outside India is allowed to invest under Schedules 1, 2, 2A, 3, 5 and 8 of Notification No. FEMA. 20/2000-RB dated 3rd May, 2000 shall be eligible securities for issue of Depository Receipts in terms of DR Scheme, 2014;
- b. A person will be eligible to issue or transfer eligible securities to a foreign depository for the purpose of issuance of depository receipts as provided in DR Scheme, 2014.
- c. The aggregate of eligible securities which may be issued or transferred to foreign depositories, along with eligible securities already held by persons resident outside India, shall not exceed the limit on foreign holding of such eligible securities under the extant FEMA regulations, as amended from time to time.
- d. The eligible securities shall not be issued to a foreign depository for the purpose of issuing depository receipts at a price less than the price applicable to a corresponding mode of issue of such securities to domestic investors under FEMA, 1999.
- e. It is to be noted that if the issuance of the depository receipts adds to the capital of a company, the issue of shares and utilisation of the proceeds shall have to comply with the relevant conditions laid down in the Regulations framed and Directions issued under FEMA, 1999.
- f. The domestic custodian shall report the issue/transfer of sponsored/unsponsored depository receipts as per DR Scheme, 2014 in 'Form DRR' as given in Annex within 30 days of close of the issue/programme.

Reserve Bank has since amended the Principal Regulations through the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Seventeenth Amendment) Regulations, 2014 notified *vide* Notification No. FEMA.330/2014-RB dated December 15, 2014.

For more details refer the said notification on RBI website available at – <http://rbidocs.rbi.org.in/rdocs/notification/PDFs/FEMA330NT120115F.pdf>

Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) Regulations, 2000 – Remittance of Salary

Notification No. FEMA.328/2014-RB dated December 3, 2014 and A.P. (DIR Series) Circular No. 62 dated January 22, 2014

Reserve Bank has been receiving queries whether remittance of salary outside India can be effected for employees on deputation to a group company in India and for employees of Limited Liability Partnership. The extant instructions have been reviewed and it is decided that the facility available to employee of a company under Regulation 7(8) of Notification No. FEMA 10 shall also be available to an employee who is deputed to a group company in India. Further, the term 'company' will henceforth also include 'Limited Liability Partnership' as defined in the LLP Act, 2008. The same has been amended by RBI *vide* Notification No. FEMA 328/2014-RB dated 3rd December, 2014.

For more details refer the said notification on RBI website available at – <http://rbidocs.rbi.org.in/rdocs/notification/PDFs/328FEMA120115.pdf>

Export and Import of Indian Currency

Notification No. FEMA.331/RB-2014 dated December 16, 2014 and A.P. (DIR Series) Circular No. 63 dated January 22, 2014

With a view to mitigate hardships of individuals visiting from India to Nepal or Bhutan, it has been decided that an individual may carry currency notes of Reserve Bank of India of denominations above ₹ 100/- i.e currency notes of ₹ 500/- and /or ₹ 1,000/- denominations, subject to limit of ₹ 25,000/-. Necessary amendments to FEMA Notification No. 6 have been made by Reserve Bank *vide* Notification No. FEMA.331/RB-2014 dated December 16, 2014.

External Commercial Borrowings – Simplification of Procedure

A.P. (DIR Series) Circular No. 64 dated January 23, 2014

As a measure of simplification to existing procedure for rescheduling/restructuring of ECBs and in supersession to provisions relating to powers being delegated to Authorised dealers to deal with cases related to change in draw-down and repayment of schedules of ECBs, it has been decided to delegate to AD banks some more powers to allow:

- a. Changes or modification in draw down and repayment schedules of the ECB *whether* associated with change in the average maturity period or not and/or with changes (increase/decrease) in the all in cost.
- b. Reduction in the amount of ECB along with any changes in draw down and repayment schedules, average maturity period and all in cost.
- c. Increase in all in cost, irrespective of number of occasions.

If the lender is an overseas branch/subsidiary of an India bank the changes shall be subject to the applicable prudential norms.

It has also been decided to delegate powers to the designated AD Category-I banks to permit changes in the name of the lender of ECB after satisfying themselves with the *bona fides* of the transactions and ensuring that the ECB continues to be in compliance with applicable guidelines. Further, the AD Category-I banks may also allow the cases requiring transfer of the ECB from one company to another on account of reorganisation at the borrower's level in the form of merger/demerger/amalgamation/acquisition duly as per the applicable laws/rules after satisfying themselves that the company acquiring the ECB is an eligible borrower and ECB continues to be in compliance with applicable guidelines

For more details refer the said circular on RBI website at – <http://rbidocs.rbi.org.in/rdocs/Notification/PDFs/64APDIRECB01015.pdf>

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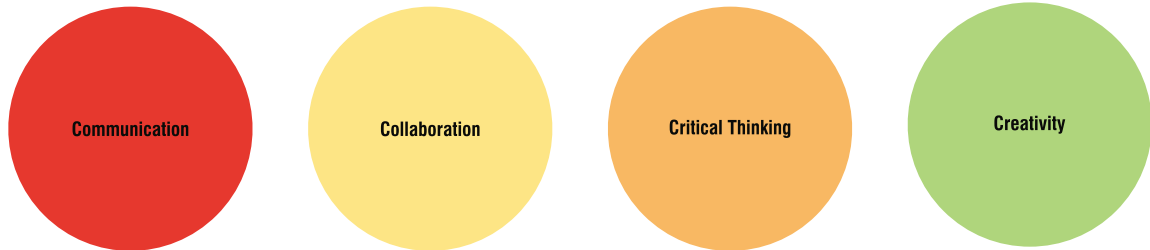


Initiatives and Achievements

Thinking Above & Beyond

The theme coined for WIRC Year 2014-15 was "Thinking Above & Beyond". This maxim impressed upon members that while the conventional practice had sustained for several decades, the current business dynamics could change the way we look at practice. Further, the Indian economy is likely to merge with the global economy and its subsequent place in the world order would mean that the practice will no longer be "Auditing and Accounting". Members would have to think "Services". Similarly for those members in the corporate world, it would also mean that they should now aim for the front office rather than the back office.

The Theme largely encourages members to embrace the 4Cs:



At WIRC, we have not only urged members to adopt the 4Cs but we ourselves have incorporated the 4Cs in the way that we operate and reach out to our members across the region. The following have been an integral part of our approach to work at WIRC during this year.

Creating Awareness of the core values of Chartered Accountants and impressing upon them the fact that Chartered Accountants have a larger role to play and that they stand apart simply because of their core values.



Members in Industry Connect Programmes: The latest demographics of membership of the Institute reveal a shifting trend of many young members more inclined on taking up jobs in the industry. With this perspective, WIRC along with some study circles in Mumbai undertook members in industry connect programmes. During such visits, the young members were made aware of the advantages offered by the Institute to them and at the same time, efforts were made to understand their issues as well.

Leverage social media to reach out to WIRC-ICAI members as this is the fastest and most efficient way to interact. Social media would also help us reduce other communication costs in the future.



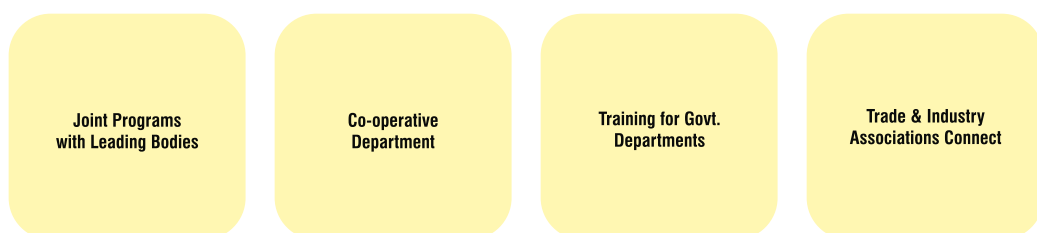
WIRC mobile app is another step down the road to completely integrate members and students within the WIRC family. Updates, announcements and seminars at your fingertips, on your mobile.

WIRC has recently tied-up with ICAEW to offer scholarship programmes for young members in industry. This scholarship programme is being offered to 40 students who will be provided financial assistance as well as training such that they can take up ICAEW course under the MRA with the ICAEW.



Embracing the 4Cs: Collaboration

WIRC encourages members to leverage knowledge with other organizations/institutions so that expert knowledge can be gained. This would help members enhance their own skill sets and serve clients better. The following were the key elements for implementing collaborative strategy:



Initiatives and Achievements



Joint Programmes: At WIRC, we too, have followed a similar approach. To provide the best possible knowledge to members and students, we partner with several organization which have expert knowledge in a particular area. WIRC conducted several thought leadership programs with various associations, organizations and institutions.



Co-operative Department: This year we have extensively worked with the Co-operative department in Maharashtra and Gujarat as well as offered several training programs to various Govt. Departments viz: Service Tax Dept., Cyber Crime Department, Economic Offense Wing.

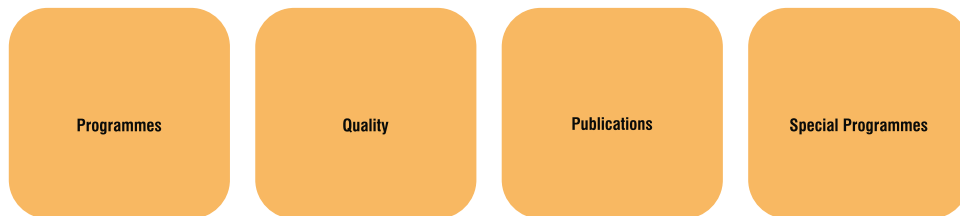
Training for Government Departments: At WIRC, we work with the Government Departments on several of their initiatives so that there is networking amongst our members and the officials. This serves the dual purpose of keeping Government officials abreast of the latest changes as well as building interpersonal bonds to understand each other's point of view better.



Connecting with the Trade and Industry Associations: We, at WIRC, reached out to trade and industry in various locations within the states of Gujarat, Goa and Maharashtra. The rationale being that industry should view us as playing a larger role not only in the conventional areas of auditing and accounting but also lend our expertise in facilitating trade, conducting research and recommending areas of improvement in policy and procedures to the Government.

Embracing the 4Cs: Critical Thinking

Critical thinking entails planning how to deliver better content to members in a more efficient and in a cost effective manner. WIRC has conducted large number of programmes and effectively made use of the infrastructure at ICAI Towers, BKC, as well as ICAI Bhawan, Cuff Parade. The following comprise the key elements of our critical thinking:



The programmes conducted offered relevant and timely updates on various topics of interest to members.



Programmes in the region

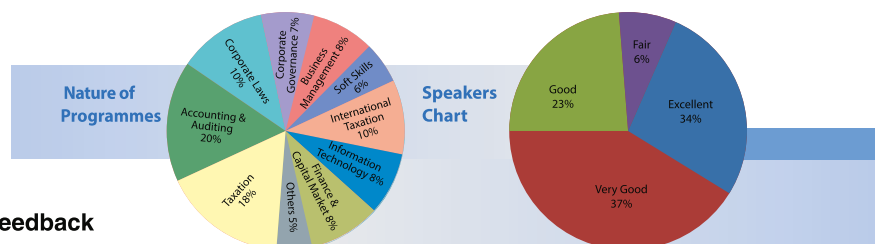
Members attendance

Multi Track Programmes



Quality WIRC, besides ensuring adequate infrastructure also ensures that the subjects, programme design and speakers are of the highest standards.

Programme Feedback





Initiatives and Achievements

Publications play a very important role in assisting members look at opportunities, recognizing and understanding the same while also updating themselves on the latest professional developments.



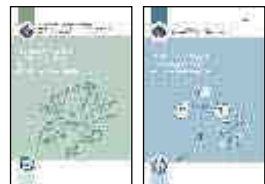
WIRC made a concerted and specific effort to create **special programmes** significant to the profession, such as new Acts approved by the Govt. like the Companies Act, 2013, IFRS and its convergence to IND AS, GST its impact and also state level programmes on LBT and Co-operative Act.

Embracing the 4Cs: Creativity



India is poised to become a global economic power and members would have to create service lines which are innovative and provide specific insights to businesses. Just as members are required to be innovative, WIRC too has recognized this fact and in order to inculcate this ethos in its members, has embarked on the journey to create innovative programmes.

Advance Management Programme: Innovative Programmes are the key to create success for members and the region as a whole. To that end, WIRC organized the Advance Management Programme to enhance CA members' management skills.



Publications: WIRC understands that insightful and practical publications make the difference between academic thoughts and day to day practical knowledge. Hence, we published a few books as real-world guides which members greatly appreciated.

Other Innovative Programmes: Continuing to think out of the box, WIRC initiated think tanks on contemporary subjects and topics relevant to the modern professional.



WIRC Supports ICAI Initiatives



WIRC staunchly supports all ICAI initiatives and programmes ranging from the National Programmes and all the committee programmes including 1st July Programmes.

WIRC hosted more than 17 National Programmes of Various Committees



To support Presidents initiatives for Women Empowerment, various programmes all across the

region were organised.



For the first time WIRC hosted a National Residential Women conference at Goa.

WIRC hosted four Convocation Ceremonies where more than 4,000 Students were awarded certificates.



Research at WIRC

WIRC gives its whole hearted support in ICAI's research initiatives. To take things forward for the profession, WIRC has also started its own research initiatives.

Smart Cities:

Supporting the Prime Minister's vision of 100 smart cities, WIRC's branches carried out research to give recommendations how they could transform their own cities into smart cities. Branches have already interacted with their local government bodies to provide better recommendations and have submitted their thoughts via research reports.



Alternative Methods of Taxation: WIRC had also tasked the Study Circles to research and present papers on the subject 'Alternative Methods of Taxation'.



Initiatives to Improve the Administration & Infrastructure

WIRC has been steadily ramping up the number of its branches in its quest to ensure that members and students all over the region are given complete professional support. This year we inaugurated three new branches at Kolhapur, Pimpri-Chinchwad and Rajkot respectively and dedicated them in the service of the nation. WIRC also established study chapters in Parbhani, Nadurbar and Palghar, ensuring that members and students in these areas received professional support.



Further, an excellent new infrastructure project is now completed in February at Rajkot, Gujarat.

Efforts by several Regional Council Members and staff saw the commencing of a special BEST bus service from station to the ICAI Towers, BKC and back.



We believe, ICAI should offer high quality services to its members and students at large. With this perspective, WIRC, with the permission of the President of ICAI, took several initiatives during the year to improve upon the services to its members:

- Call Centre (Help Desk) with CRM application
- Online Payments
- Improvement in data available to members online
- Electronic forms etc.

WIRC student support

WIRC Coaching classes: WIRC coaching classes are a huge success. WIRC coaching classes which started in 2012 with 40 students now have more than 400 students.

Joint initiative with Vedanta Foundation: WIRC tied up with the Vedanta Foundation to promote Chartered Accountancy course amongst the poor and needy section of society.

Till now about 160 applications have been received and out of these, 143 application have already been selected. WIRC also started free coaching classes at Vithalwadi for under privileged students with the support of Vedanta foundation.



Reading Rooms: Today, WIRC has more than 8-9 reading rooms across different branches including a new one at Vithalwadi. Totally, these reading rooms accommodate more than 1500 students and help them achieve their dreams of qualifying as Chartered Accountants.

Image Building

Lapel Pins: In an effort to increase the brand visibility of WIRC, we had WIRC Lapel Pins made and distributed to members. Over 5,000 members already wear these pins with great pride.



Meeting with Dignitaries: WIRC has also started the exercise of consciously building the WIRC brand via interactive meetings with dignitaries wherein the dignitaries are informed about WIRC and various WIRC projects.



Member Benefit Programme

Executive health checkup facility: Realizing that life for CA professionals in becoming increasingly stressful, WIRC has tied up with a number of health care providers to provide optimum care for its members, students & their family members. WIRC has tied up with the following:

- Global Hospital for executive health checkup facility
- N M Medical Centre for health checkup and diagnostic testing at any of their specified branches
- Therapeuo Multi Speciality clinic for oral health management and diagnostic imaging benefits.



Future Group Discount Cards: WIRC has tied up with the Future Group to provide Members extra benefits while shopping at Future Group Big Bazaar outlets.





DIRECT TAX

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

High Courts

S. 2(15) Proviso – Charitable purpose

If the literal interpretation is given to the proviso to Section 2(15) of the said Act, then the proviso would be at risk of running foul of the principle of equality enshrined in Article 14 of the Constitution India. In order to save the Constitutional validity of the proviso, the same would have to be read down. The correct interpretation of the proviso to Section 2(15) of the said Act would be that it carves out an exception from the charitable purpose of advancement of any other object of general public utility and that exception is limited to activities in the nature of trade, commerce or business or any activity of rendering any service in relation to any trade, commerce or business for a cess or fee or any other consideration. In both the activities, in the nature of trade, commerce or business or the activity of rendering any service in relation to any trade, commerce or business, the dominant and the prime objective has to be seen. If the dominant and prime objective of the institution, which claims to have been established for charitable purposes, is profit making, whether its activities are directly in the nature of trade, commerce or business or indirectly in the rendering of any service in relation to any trade, commerce or business, then it would not be entitled to claim its object to be a 'charitable purpose'. On the flip side, where an institution is not driven primarily by a desire or motive to earn profits, but to do charity through the advancement of an object of general public utility, it cannot but be regarded as an institution established for charitable purposes – *India Trade Promotion Organisation vs. Director General of Income-tax (Exemptions)* [2015] 53 taxmann.com 404 (Delhi).

S. 4 Entertainment tax subsidy

The entertainment subsidy received to offset cost of construction of the multiplex was held to be capital receipt – *CIT vs. Bougainvillea Multiplex Entertainment Centre Pvt. Ltd.* ITA 586 & 587 /2013 Delhi, Order dated 30/1/2015.

S. 119 Condonation of delay in filing of return of income

Assessee filed return of income Return of Income beyond the period specified under Sections 139(1) & (4). Assessee also approached the CBDT under Section 119 (2)(b) and sought for condonation of delay in filing the Return of Income. In the application the petitioner stated that at the relevant time, the office of the petitioner company was shifted and certain records including TDS Certificates got misplaced / mislaid and considerable time was spent to retrieve the same resulting in the delay. It was held that an acceptable explanation was offered by the petitioner and a case of genuine hardship was made out. The refusal by the CBDT to condone the delay was a result of adoption of an unduly restrictive approach. The CBDT appears to have proceeded on the basis that the delay was deliberate, when from explanation offered by the petitioner, it is clear that the delay was neither deliberate, nor on account of culpable negligence or any *mala fides*. Therefore, the impugned CBDT order refusing to condone the delay in filing the Return of Income was set aside – *Artist Tree (P.) Ltd. vs. CBDT* [2014] 52 taxmann.com 152 (Mumbai).

S. 133(6) Constitutional validity

The 'taxation entry' confers powers upon the legislature to legislate for matters 'ancillary or incidental', including the provisions for evasion of tax. The confidentiality of the information gathered by the Income Tax Department is well taken care of by Section 138. A mere possibility of abuse by the official on whom power is conferred is not a ground to strike

down the statutory provision. It was held that the amended provisions incorporating the words 'enquiry or' and the 2nd proviso to Section 133(6) are constitutionally valid – *Pattambi Service Co-operative Bank Ltd. vs. UOI* [2015] 53 taxmann.com 453 (Kerala).

Frivolous filing of appeals by Revenue

Rule of law implies certainty of law and the State filing appeals on settled issues arbitrarily and/or without any application of mind. This filing of appeal without due application of mind leads to attempting to unsettle settled position without reasons. This casual manner of filing appeals subjects an assessee to unnecessary expenditure and at times anxiety. Even the Revenue incurs substantial expenses in pursuing unwarranted cases, which are a sheer waste of public money. The least that the Revenue should do is to examine whether or not the decision of the jurisdictional High Court being relied upon by the Tribunal, is subject matter of challenge before the Apex Court or is otherwise distinguishable and the same must be indicated in the appeal memo.

It was observed that earlier when costs were imposed on the Revenue, amounts were paid out of the general pool of tax paid by the tax payers. In the circumstances, now Court asked Officers, that in all cases including where appeals are filed, the Offices instructing the Counsel would review whether the appeal should at all be pressed in view of the Revenue having accepted the jurisdictional High Court's order on an identical issue and take necessary instructions from the Commissioner of Income Tax to withdraw and/or not press the appeal. Alternatively, in case a conscious decision is taken to press the appeal, then an averment to the effect that either the case is distinguishable or an appeal has been preferred from the decision of this Court to the Apex Court if not averred in the appeal memo, then a further affidavit in support be filed indicating the reasons. In the absence of the above, Court impose heavy/exemplary costs to be personally paid by the jurisdictional – Commissioner of Income Tax under whose jurisdiction, the appeal is being filed and pressed in spite of the issue being settled by the Bombay Court and the same having been accepted by the Revenue – *CIT vs. Proctor and Gamble Home Products Ltd.* ITA No. 37 of 2013 Order dated 19/1/2015 (Mumbai).

Tribunal decisions

ITAT directs CBDT to train revenue officers

The AO failed to give effect to the order of the Tribunal. Being aggrieved, the assessee filed appeal before the Ld. CIT(A). The Ld. CIT(A) directed the AO to give effect to the order of the Tribunal which has attained finality. Subsequently CIT not only authorised but directed *vide* his to the AO to file appeal against the said directions of the Ld. CIT(A). Under these circumstances ITAT observed that there is a lack of proper knowledge/guidance to the revenue officials about the judicial hierarchy, the need to maintain judicial discipline and proper conduct in this respect. This Tribunal is not of penal jurisdiction to call upon the concerned officials time and again and seek their explanation, especially, when they feel that there is overall lack of knowledge and guidance in this respect. They also directed the registry to send the copy of this order also to the Chairman CBDT so that necessary action is taken for providing training/guidance in this respect to the revenue officials – *ACIT vs. Shri S. Ganesh* ITA No.1987/Mum/2011 A.Y. 2006-07, Mumbai Bench J, Date of order 9/1/2015.

S. 2(15) – Charitable activities vis-à-vis charging of fees

The mere fact that service charges have been received by the assessee do not vitiate the charitable nature of assessee's activities. A small contribution by way of fee that the beneficiary pays would not convert charitable activity into business, commerce or trade in the absence of contrary evidence and that quantum of fee charged, economic status of the beneficiaries who pay, commercial value of benefits in comparison to the fee, purpose and



Corporate Governance and Role of Independent Directors with special focus on Women Director

The Companies Act, 2013 (The Act) has overhauled a lot of Sections and provisions relating to the Governance of both Private Limited & Limited Companies. The Act cast responsibilities on Companies for imposing training to Independent Directors and this program is required to fulfill the regulatory requirement. The Ministry of Corporate Affairs carried out corresponding changes to the Clause 49 of the Listing Agreement which deals with the Independent Directors for the listed companies. A need for comprehensive and strong legislation relating to Independent Directors became vital and eventually led to the overhauling of not only the Act but also the Clause 49.

The programme will be a three day full time programme to be held at the campus of S.P.Jain's Institute of Management and Research to address the following issues:

- Overall role of the Board and Independent Directors
- Strategy, Culture, Planning Board Dynamics required to be addressed
- Corporate Social Responsibility Committee
- Expectation of all the Stakeholders from Independent Directors
- Responsibility to all the Stakeholders
- Role of various committees with special focus on the Audit Committee dealing with related party transactions, Directors responsibility on Internal Controls, Regulatory Compliances, Nomination, Evaluation and Remunerations
- Liabilities of the Directors

Faculty will comprise of senior professionals having expertise in the field. Topic to be covered as follows:

| Sr. No | Topics | Speakers |
|--------|---|---|
| 1 | Board Dynamics & Expectations from Independent Directors | Amarjit Chopra, Chartered Accountant, Past President ICAI |
| 2 | Directors Responsibility Statement with Special reference to Regulatory Compliance u/s. 134(5) of the companies Act, 2013 | Nawshir H. Mirza, Corporate Director |
| 3 | Audit Committee Objectives, Charter, Meeting Programme and other committees | Nawshir H. Mirza, Corporate Director |
| 4 | Introduction to Concepts and Corporate Social Responsibility to all Stake holders | S. Jambunathan, Ex-Chariman BSE |
| 5 | Financial Statement Oversight | Eminent Faculty |
| 6 | Related Party Transactions | Mukund Chitale, Chartered Accountant, Past President ICAI |
| 7 | Liabilities of a Director | Sanjay Buch, Solicitor, Crawford Bayley & Co. |
| 8 | Risk Management | Natrajh Ramkrishnan, Chartered Accountant |
| 9 | Statutory Auditor Relationship | Y. M. Kale, Chartered Accountant, Past President ICAI |
| 10 | Internal Audit | Dr. B. K. Vatsaraj, Chartered Accountant |
| 11 | Internal Controls | Dr. B. K. Vatsaraj, Chartered Accountant |
| 12 | Strategy & Overall Role of the Board | S. P. Jain Of Management and Research |
| 13 | Whistle Blowing | S. P. Jain Of Management and Research |

Programme details are presented hereunder

Day & Date: Thursday, 19th March to Saturday, 21st March 2015 **Time:** 10.00 a.m. - 6.00 p.m. **Fees:** Rs 18,690 + Rs 2,310 (ST) = Rs. 21,000
Fees include Breakfast, Lunch, Tea Coffee, Course Material and certificate award function preferably at a star venue
Venue: SP Jain Institute of Management & Research, Inside Bhavans College Campus, Munshi Nagar, Dadabhai Road, Andheri (W), Mumbai - 58.

Enrollment for Limited seats only

Note: Inauguration and the keynote address will be done by an Eminent Independent Director
 Certificate will be Awarded to All Participants

Corporate & Securities Laws Committee

Chairman
Kanu S. Chokshi

Convenors
Jayant M. Thakur, Manish P. Sampat
& Samir L. Kapadia

Co-ordinators
Bhargava Vatsaraj, Kinjal M. Shah,
Manish P. Sampat & Shreyas P. Trivedi



Recent Judgments

object behind the fee etc. are several factors which will decide the seminal question, is it business. It was accordingly held that the assessee charging fees for processing the subsidy applications would not make assessee's activities uncharitable activities under section 2(15) – *National Horticulture Board vs. ACIT* [2015] 53 taxmann.com 343 (Delhi-Trib.).

S. 14A, R. 8B Amount of disallowance

Disallowance u/s 14A r.w.r. 8D cannot exceed the amount of exempt Income – *Daga Global Chemicals Pvt. Ltd. vs. ACIT* ITA No.5592/Mum/2012 A.Y. 2009-10, Mumbai 'D' Bench, Date of Order 1/1/2015.

S. 22 Income from House property vis-à-vis other sources

Sums received from telecom companies for allowing them to install antennas on terraces is to be taxed as income from house property and not as Income from Other Sources – *Manpreet Singh vs. ITO* [2015] 53 taxmann.com 244 (Delhi-Trib.).

S. 43B Conversion of interest payable into equity shares

Conversion of interest payable to schedule bank into equity shares, tantamount to actual discharge of liability and same cannot be disallowed u/s 43B – *Garware Chemicals Ltd. vs. DCIT* [2015] 54 taxmann.com 86 (Mumbai-Trib.).

S. 50C Transfer of MIDC leasehold rights

Assessee transferred leasehold rights in land which were acquired by it from Maharashtra Industrial Development Corporation (i.e. MIDC) on a 99 years lease basis. It was held that that section 50C does not come into operation on transfer of leasehold rights in land – *Kancast Pvt. Ltd. vs. ITO*, ITA No.1265/PN/2011, AY 2006-07 Pune 'A' Bench, Order dated 19/1/2015.

S. 54F Deduction on purchase of one-half share

It was held that the assessee is eligible for claim of deduction u/s 54F in purchase one half share of the residential house (farmhouse) owned by one of the members of the assessee-HUF. During the purchase rights in land on which house was constructed was not transferred – *Chandrakant S. Choksi HUF vs. ACIT* [2015] 53 taxmann.com 312 (Mumbai - Trib.).

S. 147 Sufficiency of the reasons for reopening

The reasons recorded for reopening indicate that cash deposits aggregating to ₹ 10,24,100 have been made in the bank account of the assessee. ITAT observed that such an opinion proceeds on the fallacious assumption that the bank deposits constitute undisclosed income, and overlooks the fact that the sources of deposit need not necessarily be income of the assessee. It further observed that it may be desirable, from the point of view of revenue authorities, to examine the matter in detail, but then reassessment proceedings cannot be resorted to only to examine the facts of a case, no matter how desirable that be, unless there is a reason to believe, rather than suspect, that an income has escaped assessment. Reassessment proceedings were squashed since no sufficient reasons for reopening the assessment proceedings were recorded – *Bir Bahadur Singh Sijwali vs. ITO* [2015] 53 taxmann.com 366 (Delhi-Trib.).

S. 263 Basis of revision by CIT

During the course of revision proceeding learned Commissioner proceeded to observe that "Had the said additions/disallowances been made, there would have been substantial tax effect and thus the cause of revenue has suffered. Further, the order of the AO is in clear violation of the

legal provisions as enumerated in the Income-tax Act, 1961. Thus, the very sanctity of the Act has been eroded and may serve as a very bad precedent". Finally Commissioner revised the order for want of "proper requisite and desired inquiries". ITAT observed that basis of revising order amounts to shifting the goalpost. That's not permissible under the scheme of the law, as a revision order can only be passed on the ground on which the assessee has been given reasonable opportunity of being heard, and as it is not open to Commissioner to set out one reason for revising the order but actually revise the order on some other ground. ITAT also observed that, lack of proper inquiries, which an Assessing Officer ought to have conducted on the facts of the said case, is altogether a different reason from inadmissibility of a claim of deduction or an income which ought to have been brought to tax. It was held impugned revision order is contrary to the scheme of law, and should be quashed for this reason alone – *B.S. Sangwan vs. ITO* [2015] 53 taxmann.com 402 (Delhi-Trib.).

Wealth Tax

S. 2(ea) Grant of interest free loan to spouse

Assessee granted interest free loan to the spouse. Who then purchased immovable property and jewellery out of the same. It was observed that there is a distinction between the term "transfer" and "loan" which can be appreciated by comparing the "act of transfer" with the act of "lending". In the former case some legal interest is created in the transferee over the subject matter of transfer, whereas in the case of lending, except a possessory interest, which may be momentary also, no other interest is created. In the case of immovable properties, a distinction of this sort is easily noticed by comparing a lease with a licence or as the case may be. When money is lent, the debtor is not expected to return the same coin or currency; he has to return an equivalent worth of money; in the meanwhile, the debtor is free to use the loan in whatever manner he likes; the investment made by him by utilising the loan need not necessarily be disturbed at the time of returning the loan. Grant of interest free loan cannot be said to be a device for evasion of tax or transfer of asset. It was held that the impugned loan amount was not includible in net wealth of assessee – *Shah Rukh Khan vs. Assistant Commissioner of Wealth Tax* – [2014] 52 taxmann.com 252 (Mumbai-Trib.).

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

Finoram Sheets Ltd. vs. ITO [TS-686-ITAT-2014 (PUNE)] dated November 14, 2014

Facts of the case

The assessee, Finoram Sheets Ltd., entered into a Technology Licence agreement with Paltough Ltd. Israel. As per the agreement Paltough agreed to transfer, disclose, supply technical data, information, specifications, plans and drawings relating to the manufacture, design and production of the products and other know-how mentioned in the agreement.

Assessee was required to pay consideration (in instalments) comprising of Design engineering services and commercial services. Therefore, assessee made an application to the ITO for issuance of No tax deduction certificate in respect of such remittance u/s 195(2). However, AO rejected assessee's application and held the same to be an income accrued in India in the hands of Paltough and should deduct such tax at source at the time of remitting such payments.

In appeal, CIT(A) not only dismissed assessee's appeal but went on to hold that payment in respect of Design engineering services was not only in the nature of 'fees for technical services' but also fell within the definition 'Royalty'.

Aggrieved assessee preferred an appeal before Pune ITAT.



Issues

Whether the assessee is liable to deduct tax at source under section 195(1) of the Act in respect of the Design engineering fee, commercial services and other know-how contained in the Technology Licence agreement?

Held

The ITAT analysed various clauses of the agreement pertaining to definitions of Design engineering vis-à-vis Plant Know-how, Commercial services Technical and process know-how.

ITAT observed assessee's contention with regard to Design engineering, where assessee argued that no part of the income of the foreign company arose in India. ITAT observed the existence of clause whereby the Plant know-how delivered to the assessee therein was to remain its property for its full and free use thereof and held that, as per Clause of the Agreement assessee is granted a permanent right to use and exploit the design engineering. Therefore, payment for obtaining plant know-how i.e. designing, characterisation of plant and machinery, etc. the same cannot be considered as payments falling within the purview of 'Royalty'.

ITAT also observed that payment pertaining to Technical and Process know-how services provided under the agreement was in fact covered by definition of 'Royalty'. ITAT thus set aside CIT (A)'s order and remanded the matter back to AO with direction to segregate the nature of remittances to the foreign collaborator.

ITAT thus partly allowed assessee's appeal.

Morgan Stanley International Incorporated vs. DDIT [TS-775-ITAT-2014(Mum.)] dated December 18, 2014

Facts of the case

The assessee, Morgan Stanley International Incorporated, a US company provides support services to various Indian subsidiary companies. The assessee has deputed its employees to India to render their services to the Indian companies under supervision and control of the Board of Directors of the Indian companies and their day-to-day responsibility and activities were managed by the Indian company. However, their salary were paid by the assessee company after deducting TDS and duly deposited in the Indian Government Treasury. The entire salary paid by the assessee had been reimbursed by the Indian company to the assessee.

However, AO and CIT(A) taxed the amount received by assessee towards reimbursement of salary cost as FIS.

Aggrieved, assessee preferred an appeal before Mumbai ITAT.

Issues

Whether a payment received by the assessee on account of reimbursement of cost of salary paid to the seconded employee, constituted fees for included services (FIS) within the meaning of Article 12(4) of India-US DTAA and is it taxable in India attracting TDS u/s 195 of the Act?

Held

ITAT relied on Delhi HC ruling in Centrica India Offshore Pvt Ltd. wherein HC (overruling AAR conclusion) had held that employee secondment to Centrica India, from Canadian & UK Group companies created PE and it rejected plea that Indian company was economic employer & that salary payment made was merely reimbursement.

The seconded employees are the real employees of the assessee who have come to India to render services and once they are rendering services on behalf of assessee in India then, they constitute Service PE in India. Further, it also held that services rendered by deputed employees "made

available" technical knowledge to Indian entity & hence was taxable as FIS.

However ITAT concluded that the payment made by the Indian entity to the assessee on account of reimbursement of salary cost of the seconded employees will have to be seen and examined under Article 7 only, that is, while computing the profits under Article 7, payment received by the assessee is to be treated as revenue receipt and any cost incurred has to be allowed as deduction because salary is a cost to the assessee which is to be allowed. Accordingly, the AO is directed to compute the payment strictly under terms of Article 7 and not under Article 12 of the DTAA. ITAT thus allowed assessee's appeal.

Bank of India vs. DCIT [TII-01-HC-INTL (Mum.)] dated January 7, 2015

Facts of the case

The assessee is engaged in banking activities. It had excluded the income from foreign branches based on Double Tax Avoidance Agreement entered into between the Govt. of India and the Govt. of the respective countries.

During assessment, the AO had granted relief only in respect of some branches in respect of the other branches denied the benefit. However CIT(A) allowed the claim based on the decision of ITAT in the assessee's own case. Aggrieved, the department appealed to the Tribunal.

According to ITAT the operations of the assessee bank in foreign countries denote a PE outside India & the income attributable to this branch cannot be taxed in India.

Aggrieved, Revenue preferred an appeal before Mumbai HC stating that Tribunal committed an error in holding the above and the finding is rendered without adverting to the relevant factual materials and proof of payment of taxes in relation to the establishment abroad.

Issues

Whether foreign branch of an Indian bank can be treated as PE?

Whether when the income of such branches was taxed as per the local laws abroad and if the evidence is produced before the Indian AO, the tax credit can be denied?

Whether tax treaty benefits are to be allowed to the branch income in above cases?

Held

HC observed that the assessee brought to their notice series of favourable orders passed by the Tribunal in identical circumstances and in case of this very assessee. The Tribunal followed that orders when the identical circumstances were pointed out.

Also noted that the permanent establishments or branches outside India generated income and which was subjected to the law pertaining to tax on income abroad. Once the factual position is not disputed by the Revenue, then, the benefit of tax credit cannot be denied.

HC further observed that the Assessing Officer was satisfied that the benefit of the Double Taxation Avoidance Agreement is admissible provided the proof is produced in relation to payment of taxes by the assessee abroad. That evidence was always available with the assessee and the same was noted by the Commissioner of Income Tax (Appeals) and the Tribunal. Thus on production of such evidences the assessee would be entitled to the benefit of DTAA.

Thus HC dismissed the appeal.



Anil Bhansali vs. ITO [TS-15-ITAT-2015(Hyd.)] dated January 21, 2015

Facts of the case

The assessee, Anil Bhansali is an individual employed with Microsoft India (R & D), Hyderabad. For F.Y. 2007-08 the assessee filed his return of income as 'Resident but not ordinarily Resident'. Reassessment notice was issued and in response assessee submitted details of Stock Option Transfer proceeds received from his then employer Microsoft Corporation, USA(August 2002 to September 2005). The assessee contended that as the proceeds received pertained to his services rendered in USA, same has been claimed exempt as per Income-tax Act as well as Indo-USA DTAA.

Also, assessee relied upon section 5(1)(c) and section 9(1) of the Act to claim that in case of a person who is not ordinarily resident, only the income accruing or arising in India can be taxable in India.

AO though accepted that assessee was not ordinarily resident but did not accept assessee's contention that income was rightly claimed exempt, as assessee failed to produce any evidence of tax payment in USA. AO treated stock award/SOTP as income of the assessee.

Aggrieved assessee filed an appeal before Hyderabad ITAT.

Issues

Whether an assessee having residential status of 'Resident but not ordinarily Resident' are liable for the tax on the Stock Option Transfer Proceeds received in India but accrued or aroused to him outside India?

Held

Assessee had stayed for 704 days during preceding seven financial years and hence as per Section 6(6), he should be treated as "not ordinarily resident". ITAT observed that out of total addition, some part of addition was acceptable by the assessee as it was accrued and aroused in India. Hence dispute was related only to the balance amount.

ITAT further observed that section 9(1)(ii) also made it clear, income under the head "Salaries shall be deemed to accrue or arise in India if it is earned in India towards services rendered in India and Article 16(1) of India-USA DTAA also provided that salary derived by a resident of USA in respect of an employment exercised in USA shall be taxable in USA. Assessee's claim that stock awards attributable to services rendered in USA, was offered to tax in USA needed to be examined from the returns filed before USA tax authorities and that AO and CIT(A) both failed to do.

It held that only because employer has treated Stock Option Transfer Proceeds as part of salary and issued TDS certificate for the same cannot be considered be the only reason to tax entire SOTP amount in India. Without ascertaining how much of the SOTP is attributable to services rendered in India, the entire amount cannot be made taxable only because the money was received in India.

ITAT thus concluded that in respect of assessee having residential status of 'not ordinarily resident', only that portion of the SOTP attributable to services rendered in India can form part of total income. ITAT directed AO to reconsider the issue of taxability and also asked to verify the correctness of the amount admitted by assessee as accrued or aroused in India and if assessee succeeds in establishing the fact, same shall not be taxed in India.

Ruling in favour of assessee, ITAT allowed assessee's appeal.

Bennett Coleman & Co. Ltd. vs. ITO (TDS) [TS-684-ITAT-2014 (Mum.)] dated November 12, 2014

Facts of the case

The assessee, Bennett Coleman & Co. Ltd., is a company engaged in the business of printing and publishing of newspapers. Assessee purchased mail room equipment' for timely delivery within the shortest time to its readers from M/s FERAG AG, Switzerland.

The assessee entered into two contracts with M/s. FERAG AG, Switzerland one for the supply of various components/units of the mail room equipment and second for installation and commissioning of the components/units of the mail room equipment in the premises of the assessee and training of the staff of the company for operation of this equipment to be supplied.

Accordingly, the assessee company paid in aggregate towards installation and commissioning of the various components/units, as well as for training of the employees of the assessee. The entire payment was made without deduction of tax at source.

The AO, concluded that the payments made by the assessee, were liable to withholding tax in the hands of FERAG AG, as "Fees for Technical Services" ('FTS') and since the assessee failed to deduct TDS on the said remittance, AO invoked the provisions of Sec 201 r.w.s 195 of the Act. Therefore, directed the assessee to pay u/s 201(1) of the Act, along with interest u/s 201(1A) of the Act. On appeal, CIT (A) partly ruled in favour of assessee.

Aggrieved both, assessee and Revenue, filed an appeal before Mumbai ITAT.

Issues

Whether consideration paid by assessee for installation/commissioning of complex "mail room equipment" taxable in India as FTS?

Whether consideration paid for training assessee's employees for operation of the equipment supplied taxable in India as FTS?

Held

ITAT observed that the bid document clearly stipulated that the units/ components of the mail room equipment would have to be installed and commissioned by trained and qualified personnel of the supplier, Who shall, then provide training to the assessee's employees, on the operation and maintenance of mail room equipment. The price quoted included installation, commissioning and training.

The mere fact that both the contracts, i.e. for supply of the mail room equipment and its installation, commissioning and training were entered into on the same date would not lead to an automatic conclusion that they should be read in isolation with the other.

ITAT referring to SC ruling in *Ishikawajima-Harima Heavy Industries vs. DIT [288 ITR 408]* holds that payment by assessee to Swiss Co. for installation / commissioning of complex 'mail room equipment', not taxable in India. Installation / commissioning involves proper alignment /positioning of various units and components to ensure optimum functioning and therefore qualifies as "assembly" under Explanation 2 to Section 9(1) (vii), hence not FTS. Moreover, in view of Article 14 of India-Swiss DTAA (relating to 'Independent personnel Services'), consideration relating to installation/commissioning, being professional services, was only taxable in Switzerland.

However, consideration paid for training assessee's employees was neither 'professional services' under Article 14 of DTAA nor 'assembly' under the Act, hence taxable in India as FTS. Article 14 of India-Swiss DTAA uses the term "residents of a contracting state" and hence, not restricted only to individuals. Thus, dismissing Revenue's appeal, ITAT partly allowed assessee's appeal.



SERVICE TAX

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

Advertising agency service

Mere shooting the programme prepared by the advertising agency is not connected with making, preparing, display or exhibition of advertisement and hence is not taxable under the category of advertising agency services [CST vs. Mad Entertainment Ltd. (2014) 36 STR 1162 (Tri.-Mumbai)].

Authorised service station service

In a case where the assessee is an authorised service station of M/s. MUL on facts, the Tribunal held that –

- Service tax is not payable on free services provided to customers of M/s. MUL since no amount is received from the customer;
- As regards reimbursement of salary of drivers of vans used for providing mobile services to the car owners received, it was held that since no service was provided to M/s. MUL such amount is not liable for service tax under the category of authorised service station service

[CCE vs. Jabalpur Motors Ltd. (2014) 36 STR 1160 (Tri.-Del.)].

Banking and Financial Services

Interest earned on bill discounting cannot be excluded as interest on loans since lending and bill discounting are two distinct services. However, it will be exempted as interest earned on discounting of bills, bills of exchange or cheques under Notification No. 29/2004-S.T. Interest on overdraft and cash credit facility would be considered as exempted service for the purpose of reversal of credit under Rule 6(3A) (c) of the CENVAT Credit Rules, 2004 [UCO Bank vs. CST (2014) 36 STR 1169 (Tri.-Kolkata)].

Commercial or Industrial Construction Service

Where on facts (perusal of work order), the appellant's activities of repair, alteration, renovation or restoration were pertaining to an existing building or civil structure, it was held that the appellant's activities were classifiable under s. 65(25b)(d) viz., repair, alteration, renovation or restoration services and not under s. 65(25b)(c) viz., completion and finishing services [since these dealt with new construction] and hence they were eligible for the benefit of abatement under Notification No. 1/2006-S.T. [The Carpenters vs. CCE&ST (2014) 36 STR 1137 (Tri.-Mumbai)].

Erection, Commissioning or Installation

Laying, connecting, jointing of long distance pipelines is not liable for services tax under the category of "Erection, commissioning and installation" service but classifiable under the category of "Commercial or industrial construction service" [CCE vs. Surindra Engineering Co. Ltd. (2014) 36 STR 1191 (Tri.-Mumbai) following Indian Hume Pipe Co. Ltd. vs. CCE (2008) 12 STR 363 (Tri.-Chennai)].

Storage and Warehousing services

The assessee is manufacturers of various gases including medical grade liquid oxygen which was supplied to Kailash Hospitals and Research Centre (KHRC). It was held that though the gases were stored in the tank supplied by the assessee, there was no storage and warehousing services provided by the assessee since such tank was in the custody of KHRC and was wholly maintained by them and the assessee cannot be termed as a 'storage or warehouse keeper' [CCE vs. Goyal M. G. Gases (Pvt.) Ltd. (2014) 36 STR 1165 (Tri.-Del.)].

Reverse Charge

BA, U.K., an airline company, incorporated in U.K., had a branch in India (BA, India) through which it provided services of air transport in India. BA, India was registered and paying service tax on such services. BA, India appointed IATA agents to book tickets on their behalf. BA, U.K. contracted with various overseas computer reservation system companies (CRS companies) which maintained an online real time database about flight schedules, fares, seat availability etc. of the flights operated by BA, U.K. all over the world. The CRS companies were located outside India did not have any branch office or establishment in India. The IATA agents used this platform for booking tickets. BA, U.K. paid the CRS companies outside India directly. The consideration payable to CRS companies was based on the number of tickets booked by IATA agents using the online database of the CRS companies. BA, India in its account also made an appropriate debit of CRS cost attributable to India ticketing operations. The revenue had sought to –

- Classify the service provided by overseas CRS companies as "Online Information and Database Access and Retrieval Services"
- Tax BA, India under the Reverse Charge Mechanism considering that it had also received a service from the overseas CRS companies to the extent of the CRS debit made in its accounts.

G. K. Choksi & Co.

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| Designation | Description of Job | Experience |
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| Manager / Sr. Executive – Taxation | Experience in Direct tax advisory and litigation | 3 Years Post Qualification |
| Manager – Transaction Advisory | Experience in Mergers Amalgamation, Transaction Advisory | 2 Years Post Qualification |

Job Location: Ahmedabad

Minimum Skill Set expected:

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- Leadership Qualities with Multitasking Capabilities
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Eligible Candidates must forward their resume/CV along with the following details

- Name of the Current Organisation of employment
- Current CTC
- Expected CTC
- Notice Period
- Brief idea about the type of assignments handled

Kindly mail the details at tmv@gkcco.com



Recent Judgments

On appeal, the Hon'ble Tribunal held that –

- The activity of the CRS companies is maintaining online information on real time basis about the flight schedules, fares, seat availability etc. of the flights operated by BA, U.K. all over the world, for which CRS companies have linkage with the computer system of BA, U.K. and provide access in respect of this information to the IATA agents appointed by BA which is used by them for selling of air tickets of BA. This activity of the CRS companies is covered by the definition of "Online Information and Database Access and Retrieval" service. The fact that the IATA agents access the information and databases of BA or that the data stored by the CRS companies belonged to BA is of no relevance.
- S. 66A(2) read with Explanation 1 thereto provides that a permanent establishment in India and permanent establishment outside India of a person carrying on a business would be treated as separate person for the purpose of s. 66A. In view of the fact that BA U.K. has contracted with CRS companies and has paid the consideration to the overseas CRS companies outside India, BA India cannot be held to be a recipient of services so as to make it liable to pay service tax on reverse charge basis in terms of provision of s. 66A.
- If BA India had paid service tax under reverse charge, CENVAT credit would have been available to them for discharging their service tax liability on air transport services and demand would be revenue neutral and accordingly the extended period of limitation cannot be invoked

[*British Airways vs. CCE (2014) 36 STR 598 (Tri.-Del.)*] (Third Member Bench decision)].

Service tax on lottery

Lottery being an actionable claim would be excluded from the definition of service. Also the service of betting, gambling or lottery was included in the negative list and therefore transaction in the lottery tickets are not liable to service tax under the provisions of Finance Act, 1994 [*Tashi De Lek Gaming Solutions Pvt. Ltd. vs. UOI (2014) 36 STR 964 (Sikkim)*] applying *Furture Gaming Solutions India Pvt. Ltd. vs. UOI (2014) 36 STR 733 (Sikkim)*].

Demand on facts – Raised on external evidence sustainable

The Revenue in the present case sought to tax the appellants (cable operators) on amounts by adopting the number of the subscribers given in the agreements entered into by the appellant with the broadcasters. The Hon'ble Tribunal held that once the figures are taken from a written contract, which is in pursuance to a statute, namely, Telecom Regulatory Authority of India Act, 1997 and the regulations made thereunder, the same is beyond challenge [*Intermedia Cable Communication P. Ltd. vs. CCE (2014) 36 STR 1091 (Tri.-Mumbai)*].

SCN not specifying the taxable service – Demand not sustainable

Where proceedings initiated by proposing to tax the amounts under three different categories viz., Coal Handling and Loading service, Manpower Recruitment or Supply Agency Services and Cleaning Services without indicating how much of the amount is attributable to each of taxable service, the demand is not sustainable [*CCE vs. Bishambar Lal Arora (2014) 36 STR 1050 (Tri.-Del.)*].

Rectification

In case where core issue was considered but the issues were not argued and no findings were recorded the Tribunal held that there was an error

apparent on the face of the record and appeal was restored [*Correctech International Pvt. Ltd. vs. CST (2014) 36 STR 1088 (Tri.-Ahmd.)*].

Excess payment of tax can be adjusted

If excess payment of tax in a month is on account of inability of the assessee to exactly determine the total amount collected during the month against the bills raised (i.e. clerical), it was held that since the above is not on account of reasons involving interpretation of law, taxability, classification, valuation or applicability of exemption notification such excess can be adjusted against the tax liability of subsequent months even if the assessee does not have centralised registration under Rule 4(2) during the period prior to 1/3/2008. Refusal of adjustment would amount to collection of tax without the authority of law which is contrary to Article 265 of Constitution of India [*General Manager (CMTS) vs. CCE (2014) 36 STR 1084 (Tri.-Del.)*].

Refund

Refund of service tax paid by a merchant exporter on –

- Storage and warehousing services for storage of export goods;
- Insurance charges on such goods;
- Transportation charges for such goods;
- Terminal handling charges for such goods
- Is admissible since such goods have been exported.

[*Vijay Cotton & Fibre Co. vs. CST (2014) 36 STR 1164 (Tri.-Mumbai)*].

Where on facts the total consideration under the work order between the parties was inclusive of service tax and no separate service tax was collected by them, it was held that the assessee's claim for refund would not be barred by unjust enrichment even if the agreement was inclusive of service tax [*CCE vs. J. R. Transformers Pvt. Ltd. (2014) 36 STR 1167 (Tri.-Del.)*] following *CCE vs. Modest Infrastructure Ltd. 2011 (24) STR 369 (Tri.-Ahmd.)*].

Any amount of service tax paid by mistake on import of service under reverse charge mechanism on royalty paid for use of intellectual property prior to 18/4/2006 is to be refunded to the assessee and cannot be credited to the Consumer Welfare Fund [*Madhura Coats Pvt. Ltd. vs. UOI (2014) 3 STR 1004 (Kar.)*].

Refund sanctioned cannot be adjusted against unconfirmed demand [*Bharat Sanchar Nigam Ltd. vs. CCE (2014) 36 STR 1054 (Tri.-Del.)*].

CENVAT Credit

Service related to advice and consultancy in the form of sales, planning, marketing, management, human resource, financial planning and analysis, logistic management, customer services, operation management, tax consultancy are more appropriately classifiable under the category of 'Management consultancy services' and not under the category of 'Business support service' and such services received by the appellant from abroad the appellant is rightly entitled to avail 100% CENVAT credit of the service tax paid on these services and is not required to reverse any portion thereof as attributable to exempt services provided by it since the services being in the nature of management consultancy services were covered under Rule 6(5) of the CENVAT Credit Rules, 2004 [*Federal Express Corporation vs. CST (2014) 36 STR 375 (Tri.-Mum.)*].

Where the appellant had taken CENVAT credit on rent paid for its premises used for storage of its records and also of the input services used at such premises, the Tribunal held that since the premises were not registered with service tax authorities as a service provider or as input service distributor,

availment of CENVAT credit on such input services was not permissible [*Market Creators Ltd vs. CST (2014)36 STR 386 (Tri.-Ahmd.)*].

Expenses incurred on fumigation of containers used for export of goods in compliance with the requirement of international regulation of packing prepared by 'International Plant Protection Convention' are in the nature of packing expenses and hence credit of service tax paid thereon is allowable under the CENVAT Credit Rules, 2004 [*Venus Wire Industries Pvt. Ltd vs. CCE (2014) 36 STR 475 (Tri.-Mum.)*].

As per Rule 4(7) of CENVAT Credit Rules, 2004, the CENVAT credit shall be allowed, on or after the day on which payment is made of the value of input service and the service tax paid or payable as per the invoice. There is no requirement that the service tax should have been deposited by the service provider before the availment of the credit. If the service provider has not deposited the service tax with the department on due date, Revenue's remedy lies at the end of the service provider for recovery of the service tax along with interest. [*General Manager B.S.N.L vs. CST (2014) 36 STR 445 (Tri.-)*]. On similar facts it was held that the CENVAT credit cannot be reduced if service provider deposits lesser amount of tax into the credit of Government [*Kiran Motors Ltd. vs. CCE (2014) 36 STR 172 (Tri.-Ahmd.)*].

Commission paid for selling activity is part of sales promotion and credit is admissible under the broad category of sales promotion – specifically covered in definition of input services. [*CCE vs. Remi Metals Gujarat Ltd., (2014) 36 STR 158* See also *CST vs. Shree Kamrej Vibhag Khand Udyog Sahakari Mandli Ltd. (2014) 36 STR 814 (Tri.-Ahmd.)*].

CENVAT credit on insurance services i.e. group accident & group medical policy for employees is allowable [*CST vs. Team Lease Services Pvt. Ltd. (2014) 36 STR 543 (Kar.)* relying on *Stanzen Toyotetsu India (P) Ltd. (2011) 23 STR 444 (Kar.)*].

CENVAT credit on capital goods and input services used for setting up a factory is allowable and cannot be denied for want of registration [*Beico Industries Pvt. Ltd. vs. CCE&ST (2014) 36 STR 551 (Tri.-Ahmd.)*].

CENVAT credit can be taken on Goods Transport Agency services and Business Auxiliary Services by a job-worker who cleared excisable goods to a manufacturer who paid duty on the goods even though the job-worker neither paid duty nor service tax [*Western India Forging P. Ltd. vs. CCE 2014 (36) STR 637 (Tri.-Mum.)* where assessee referred to *Sterlite Industries (I) Ltd. vs. CCE (2005) 183 ELT 353 (Tri.-LB)*].

Insurance of workers in the factory has an integral connection with the manufacture and hence cenvat credit allowable on the premises [*Binani Cement Ltd. vs. CCE & ST (2014) 36 STR 676 (Tri.-Del.)*].

Where the assessee manufactured and installed diesel sets for their clients and also provided warranty, it was held that repair services availed by the assessee for repairing the diesel sets of its customers during the warranty period is an input service and credit of service tax paid on such services is admissible [*Gujarat Forging Ltd. vs. CCE (2014) 36 STR 677 (Tri.-Ahmd.)*].

Photostat service: Photostat services being necessary input service CENVAT credit admissible [*Punjab Alkalies & Chemicals Ltd vs. CCE&ST (2014) 36 STR 688 (Tri.-Del.)*].

Where the assessee was a manufacturer as well as a trader (import and sale) of motor vehicles and availed CENVAT credit on certain input services which are common to manufacturing and trading activities such as advertising, event management, Business Auxiliary and Business Support Services which are essentially for sales promotion of their cars and took entire CENVAT credit relating to such services, the Hon'ble Tribunal held that –

- Trading is not a service and therefore cannot be considered as exempt service prior to 1/4/2011.



- The Explanation to Rule 2(e) defining 'exempt services' which provides that 'for removal of doubts it is hereby clarified that', exempted services includes trading, will have only prospective effect from 1/4/2011 notwithstanding the use of the expression 'for removal of doubts'.
- Since trading is not considered as an 'exempted service', demanding 6% of the trading turnover under Rule 6(3)(i) of the CENVAT Credit Rules, 2004 is incorrect.
- Credit on common input service used in manufacture and trading, cannot be entirely allowed since all input services had to have an integral connection with the business of manufacturing dutiable final products.
- Considering the nature of services which were common to manufacturing and trading activities such as advertising, event management, business auxiliary and business support services, it was held that it would be appropriate to apportion the credit in the ratio of turnover of manufactured cars and traded cars rather than in the ratio of turnover of manufactured cars and margin of traded cars.
- Clause (c) of Explanation 1 added w.e.f. 1/4/2011 which prescribes that value of 'exempted service' in case of trading would be the sale price minus purchase price (i.e. margin) cannot be used to apportion credit attributable to 'trading activity' for the period prior to 1/4/2011 since the substantive provision that trading is 'service' and hence can be considered as 'exempted service' itself did not exist before the said date.

[*Mercedes Benz India Pvt. Ltd. vs. CCE (2014) 36 STR 704 (Tri.-Mum.)*].

Credit of service tax availed by an insurance company on Reinsurance services is admissible since –



Recent Judgments

- Reinsuring a specified percentage of sum assured with another insurance company is a statutory obligation under the Insurance Act, 1938;
- Reinsurance being co-terminus with the insurance policy it has to be considered as having a nexus with the output service of insurance.

[PNB Metlife India Insurance Co. Ltd. vs. CST (2014) 36 STR 891 (Tri.-Bang.)].

1. CENVAT Credit on Clearing charges paid to Customs House Agent by a manufacturer for clearing his export goods [where place of removal is the port] is admissible.
2. Credit of service tax paid on Commission Agent's Services, Material Handling Charges, Terminal Handling Charges, Bank Commission Charges, Aviation Charges and Courier Services by a manufacturer in the course of its business activity is admissible.

[JSW Steel Ltd. vs. CCE (2014) 36 STR 801 (Tri.-Mumbai) see also Jotindra Steel and Tubes Ltd. vs. CCE (2014) 36 STR 672 (Tribunal)].

Where the appellant's head office was discharging the entire service tax liability including the liability of its branch office, the denial of credit on input services invoices which was received and addressed to its branch office was held to be incorrect especially where the appellant had produced a certificate from the service provider clarifying that address in the invoice may be read as addressed to the appellants head office [Rajasthan Diesel Sales & Services vs. CCE (2014) 36 STR 832 (Tri.-Del.)].

CENVAT credit on lift/ air conditioner maintenance, renting of cafeteria area, sale of foreign currency is allowable [CST vs. Verizon Data Services (I) (P) Ltd. (2014) 36 STR 846 (Tri.-Chennai)].

Broadcasting Service: Where the revenue had sought to deny credit of service tax paid on broadcasting services availed by the assessee on the grounds that the broadcasting company were engaged by the advertising agency appointed by the appellant and the payment of the services were also made by the advertising agency, the Hon'ble Tribunal observed that the invoices of Broadcasting company clearly mentioned appellant as the advertiser and the advertising agency acted on behalf of the appellant and also that in the subsequent period the Commissioner has allowed the CENVAT Credit on broadcasting and hence the Tribunal held that CENVAT credit thereon was admissible to the appellant [Indian Oil Corporation Ltd. vs. CCE (2014) 36 STR 833 (Tri.-Del.)].

Credit of service tax paid on cargo handling services utilised for the export of final product from the place of removal (port in this case and not the factory gate) till the goods left India from the port is admissible as being a service in relation to 'clearance of final product from the place of removal'

[Central Excise vs. Inductotherm India P. Ltd. (2014) 36 STR 994 (Guj.)].

CENVAT credit in respect of housekeeping/cleaning services, legal services and event management services [event for honouring outstanding employees] is admissible [Delphi Automobile System Pvt. Ltd. vs. CCCE&ST (2014) 36 STR 1089 (Tri.-Del.)].

CENVAT credit allowed in the following cases –

- Outdoor catering services since providing of canteen facility for the factory workers is mandatory;
- Maintenance of lawns and gardens – since condition imposed by Pollution Board
- Maintenance of cycle stand – necessary requirement
- Maintenance of guest house – adjacent to factory premises – necessary business requirement as factory is outside city limits

[DCM Shriram Consolidated Ltd. vs. CCE (2014) 36 STR 1120 (Tri.-Del.)].

TR6 challan representing credit of service tax paid under reverse charge admissible if paid after detection by the department since such disallowance is applicable only post 1/4/2011 vide Notification No. 13/2011 [CCE vs. Sakthi Sugars Ltd. (2014) 36 STR 1125 (Tri.-Chennai)].

Goods which are cleared under specific rate of duty or in terms of MRP declaration the place of removal would be factory and CENVAT credit on service tax paid on courier services for despatch of their goods to the customers from the factory is not admissible [Hero Motorcorp Ltd. vs. CCE (2014) 36 STR 1128 (Tri.-Del.)].

CENVAT credit on input services used for providing exempted output services is not admissible [UCO Bank vs. CST (2014) 36 STR 1169 (Tri.-Kolkata)].

CENVAT credit in respect of expenditure incurred on inputs such as CHA services, airport services, port services, etc. allowed in case of export since for exports, place of removal is port [Ballarpur Industries Ltd. vs. CCE (2014) 36 STR 1122 (Tri.-Mumbai)].

Exempted Service

Cargo handling service excluded handling of export cargo but such exclusions would also be considered as exempted service for the purpose of CENVAT Credit and there is no requirement for an exemption notification to be issued as long as the activity is a service and it is not taxable, such services are 'exempted service' [Prathyusha Associates Shipping P. Ltd. vs. CCE&ST (2014) 36 STR 1145 (Tri.-Bang.)].

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Ahmedabad: Press Conference on CA Final Exam Results for ranker Student – November 2014. (L-R): CA. Vikash Jain, CA. Aniket Talati, Branch Chairman, CA. Satyendra Jha, CA. Purushottam Khandelwal



Akola: Flag Hoisting at Republic Day at the hand of CA. Ramesh Golechha, Past Chairman & Managing Committee Members



Gandhidham: Seminar on Professional Opportunities to Indian CA with reference to Professional and SME in Make in India Movement on 18/1/2015. (L-R): CA. Mitesh Dharmashi, CA. Narendra Dhalani, CA. Gajendra Bolia, CA. Sanjay Mehta, CA. Jitendra Thacker, CA. Vishnu Agrawal, RCM & Faculty, CA. Uttamprakash Agrawal, Past President, ICAI, CA. F. A. Hiranandani, CA. Shailesh Chothani, Branch Chairman



Gandhidham: Felicitating new members at Branch. (L-R): CA. Shailesh Chothani, CA. Jitendra Khandol, CA. Anil Bhandari, Chairman, WIRC, CA. Shruti Shah, Secretary, WIRC, CA. Priyam Shah, Treasurer, WIRC



Jalgaon: Felicitation of newly qualified Chartered Accountants on 26/1/2015. (L-R): CA. Smita Bafna, CA. Jayesh Lalwani, Branch Chairman, CA. Virendra Kawdia, CA. Kaushal Mundada, CA. Pallavi Mayur, CA. Pankaj Agrawal & Standing behind newly qualified Chartered Accountants



Jamnagar: Photograph taken during the Cleanliness Drive held on 30/1/2015. **Seen in picture:** Shri Nalin Upadhyay, Collector, Jamnagar, CA. Kaupil Doshi, Branch Chairman, CA. Bharat Bhatt, CA. Sheela Dattani and Other Members and Students



Kolhapur: Felicitation of newly passed CA Final Students. (L-R): CA. Shrirang Kulkarni, CA. Imran Mulla, CA. Satish Dakare, Branch Chairman, CA. Mandar Dharmadhikari



Nagpur: Seminar on Forensic Audit & Fraud Detection held on 10/1/2015. (L-R): CA. Kirti Agrawal, CA. Swapnil Ghate, CA. Ashwini Agrawal, Branch Chairman, CA. Julfesh Shah, Vice Chairman, WIRC, CA. Milind Patel, Chief Guest, CA. Sandeep Baldava, CA. Sandeep Jotwani, CA. Suren Duragkar



Nashik: Photograph taken during the occasion of Republic Day Celebrations on 26/1/2015. Seen in photograph are Branch Chairman, Managing Committee Members, Past Chairmen, Members and Students



Vasai: Group photograph taken during the 131st Batch of Certificate Course on Concurrent Audits of Banks organised by Committee of Internal Audit Standard Board in the presence of CA. Kishor Vaishnav, Branch Chairman, CA. Umesh Mestry, CA. Dayaram Paliwal, CA. Unmesh Narvekar, CA. Kuntal Shah Faculty, CA. Vimal Agarwal from 27/12/2014 to 11/1/2015

Session Chairman at the National Convention for CA Students held on 2nd & 3rd January, 2015



Shri Vijay Kapur
Director, BOS



CA. Nihar Jambusaria
CCM



CA. Sujal Shah



CA. Ameet Patel



Shri Ajit Apte



CA. Khushroo
Panthakhy



CA. T. P. Ostwal



CA. Nilesh Gore



CA. Sunil Gabhawalla



CA. Vimal Shah



CA. Jeenendra
Bhandari



CA. Charanjit Attra



CA. Manish Baxi



Inter Firm Cricket Tournament held on 11th & 17th January, 2015



Winner – C N K & Associate



Runner up – S H Bathiya & Associate

Study Group Meeting on BFSI and Capital Market held on 31st January, 2015



CA. Laxmikant Gupta, CA. Rachana Kothari Doshi, CA. Manoj Alimchandani, CA. Sujal Shah, CA. Ajay Parmar

Residential Refresher Course held on 31st January & 1st February, 2015 at Lonavala. Organised jointly with Mulund & Ghatkopar CPE Study Circle



CA. Anil Bhandari, Chairman, WIRC, CA. Shruti Shah, Secretary, WIRC, CA. Priti Savla, RCM, CA. Mahesh Madkholkar, RCM & other members

GenNext Seminar on Chartered Accountants held on 15th January, 2015



CA. Atul Bheda, Faculty, CA. Sunil Mantri, Principle, N. M. College, Major Gen. Neeraj Bali, Faculty, Shri Amrish Patel, President, SVKM, CA. Sanjeev Maheshwari, CCM, CA. Anil Bhandari, Chairman, WIRC, CA. Shruti Shah, Secretary, WIRC, CA. Y. M. Kale, Past President, ICAI

Swachh Bharat Abhiyan on 22nd January, 2015 at ICAI Tower, BKC, Mumbai



Flag Hoisting Ceremony on Republic Day 26th January, 2015 at ICAI Tower, BKC, Mumbai





Seminar on Companies Act, 2013 held on 3rd January, 2015



CA. Reema Jethwa, CA. Shardul Shah, RCM, CA. Manoj Pati, Faculty, CA. Gaurav Save

Other Speakers



CA. Manish Sampat



CA. Anirudha Godbole



CS. Makarand Joshi

Seminar on Due Diligence held on 3rd January, 2015



CA. Swati Bhatkar, CA. Y. R. Desai, CA. Anil Talreja, Faculty, CA. Mehul Sheth

Other Speakers



CA. Amit Sarkar



CA. Mayank Rastogi



Adv. Prachi Manekar



CA. Poonam Basak

Seminar on Audit of Charitable Organisation held on 10th January, 2015



CA. Vinita Danait, CA. Neel Majithia, RCM, CA. Tushar Doctor, Faculty, CA. Devang Doshi

Other Speakers



CA. Suhas Malankar



CA. Namrata Dedhia



CA. Vijay Joshi

Workshop on Opportunities and Challenges for Young Chartered Accountants held on 17th January, 2015



CA. Karishma Mehta, CA. Durgesh Kabra, CA. Shrinivas Joshi, CCM, CA. Prafulla, Chhajed, Chairman, YMEC-ICAI, CA. Anil Bhandari, Chairman, WIRC, CA. Nihar Jambusaria, CCM, CA. Abhay Mehta, Faculty, CA. Kushboo Jain

Lecture Meeting on Use of RTI held on 22nd January, 2015



CA. Hrishikesh Wandrekar, CA. Anil Bhandari, Chairman, WIRC, CA. Vyankatesh Joshi, Faculty

Seminar on Assessment under IT Act held on 17th January, 2015



CA. Jayesh Vora, CA. Nikunj Suchak, CA. Vimal Punmiya, Faculty, CA. Shilpa Shinagare

Other Speakers



CA. Sanjeev Lalan



CA. Harish Motiwalla



CA. Bhavesh Dedhia

Seminar on Issues under TDS held on 24th January, 2015



CA. Priti Savla, RCM, CA. Atul Suraiya, Faculty, CA. Mahendra Sanghvi, Faculty, CA. Avinash Rawani, Faculty, CA. Hiral Mehta

Other Speakers



CA. Nihar Jambusaria



CA. Shailendra Sharma



Team WIRC receiving the Best Students Associations Award 2014 from CA. Piyush Goyal, Hon'ble Minister of State with Independent Charge for Power, Coal and New & Renewable Energy in the Government of India, in presence of CA. K. Raghu, President, ICAI & CA. Manoj Fadnis, Vice President, ICAI

National Convention for CA Students held on 2nd & 3rd January, 2015 at Mumbai



CA. Sunil Patodia, RCM, CA. Mangesh Kinare, Imm. Past Chairman, CA. Priti Savla, RCM, CA. Mahesh Madkholkar, RCM, CA. Julfesh Shah, Vice Chairman, WIRC, CA. Prafulla Chhajed, Vice Chairman, BOS, CA. S. G. Mundada, Chairman, WICASA, CA. M. Devaraja Reddy, Chairman, BOS, CA. Anil Bhandari, Chairman, WIRC, CA. Shruti Shah, Secretary, WIRC, CA. Priyam Shah, Treasurer, WIRC, CA. Vishnu Agarwal, RCM, CA. Sushrut Chitale, RCM, CA. Neel Majithia, RCM & Team WICASA

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