



WESTERN INDIA CHARTERED ACCOUNTANTS NEWSLETTER

JANUARY 2016 | Vol. 42 | No. 01

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)



Joy to the World,
Peace on Earth &
Goodwill towards each other

Happy New Year
2016



11th & 12th December, 2015 | Hotel The Lalit, Andheri (E), Mumbai



CHAIRMAN'S COMMUNICATION



Dear Professional Colleagues,

We are several days into the New Year 2016 and many of us are still basking in the glow of a fresh, new start. Every year, January brings renewed optimism for change, for a better life, for a better you. And that's a wonderful thing because this fresh start gives us a chance to reinvent ourselves and our lives. It allows us to reinvigorate ourselves, to shed the previous year's baggage and do something new. Anything is possible! That is a gift, my friends, and I suggest we make the most of this gift. Not just by creating and sticking to New Year resolutions but by reinventing the way we live.

"Be of service. Whether you make yourself available to a friend or co-worker, or you make time every month to do volunteer work, there is nothing that garners more of a feeling of empowerment than being of service to someone in need." We at WIRC are firm believers in this and our emblem reflects this ethos of empowering excellence. I strongly urge all members to follow the motto 'Learn-Unlearn-Relearn' to change and grow. Excellence in any field is valuable. Empowering Excellence inspires a revolution in teaching and will find ideas that will transform classrooms into places where students are instilled confidence and empowered to strive for excellence. This has always been the motto at WIRC. I am indeed fortunate to have a strong empowering team at WIRC by my side.

Time flies like an arrow... it has been almost 10 months now that I have been communicating with all members through various tech apps, but foremost through the Newsletters which are published in the first week of every month. WIRC has presented almost all themes as per our President's vision of 'Spearheading Professional Excellence', ranging from 'Empowering Excellence' to 'Developing Best Human Resource Practices'. I am happy to say that during the past few months we organised various programmes, seminars, meetings, workshops, women's marathon, study tours, felicitations and others, all of which were successful.

One of our flagship events 'the Mega Conclave for New Horizons for the Profession' was held on 11th and 12th December at The Lalit, Mumbai. Members participated in large numbers at this Conclave, making it a grand success. Other programmes viz. Seminars of Internal Audit, Industry Connect, Study Group Meetings on BFSI & Capital Market as well as on IFRS were organised which saw large number of members take part. The Sub-Regional Conference at Rajkot was organised in the esteemed presence of Shri Vijay Rupani, MLA, Gujarat and ICAI President CA Manoj Fadnis.

We strive to offer you a variety of learning solutions that allow us to maximise our training spend which is why we offer CPE courses. CPE hours are mandatory for all and for that WIRC holds various programmes. This year, 17 lectures with FREE CPE hours were organised for the benefit of members totalling to 34 FREE CPE hours. We at WIRC strongly believe that such programmes are instrumental in helping members.

To encourage and motivate the electoral candidates in last month's Council and Regional Council elections of ICAI, WIRC took initiatives like advertisements in newsletters, videos, sms, etc. I appreciate all the efforts put in by everyone from WIRC team and our fraternity to make the election campaign a success. I wish the future TEAM all the success for their tenure. Videos on CPE hours went viral making me happy to see members trying to complete their CPE Hours.

Information Technology has become an essential part of our lives and we have become very dependent on technology as it plays a very important role in our daily lives. To increase knowledge and to benefit students, intensive study course on 'Information Technology' jointly with J. B. Nagar and Ghatkopar CPE Study Circle was held. It was good to know that students are taking advantage of these study courses which would be helpful to them in their lives ahead.

We had a fruitful meeting with the MMRDA officials for the landscaping and beautification of RG Area adjoining the BKC Office. This will keep the RG Area beautiful and well maintained and would also enhance the brand value of our *Alma Mater*.

Unlike other means of transport, travelling by bus is reliable and efficient. I appreciate the efforts put in by our team to regularise and increase the BEST frequency services from Bandra Station to ICAI. This would be financially beneficial to the students as well as the staff. The timings of BEST buses would be from 9.00 am to 12.00 noon and from 5.00 pm to 8.00 pm. We are communicating with BEST to increase frequency from 8:00 am to 8:00 pm continuously. We are also corresponding with the BEST authority to start bus service from Kurla Station, so that the central region will also benefit.

We are repeatedly sending gentle reminders to members about our 'Going Green' initiative. The larger value of going green relates to maintaining the health of the environment and utilising sustainable methods that can prevent the waste of natural resources, helping reduce the risk of depletion in the long run. We at WIRC are thinking of publishing a fortnightly e-Newsletter for the benefit of members and students. We welcome members to send their suggestion at the earliest so that we can make further progress in this initiative.

The three R's of being environmentally friendly that we grew up with has now evolved into five R's: Reduce, Reuse, Recycle and now Repair and Rethink. We should take all five R's into consideration – especially the rethinking part – and should go green in our daily life. Book your e-Newsletter today for a better tomorrow – Go Green today and adapt a culture of conservation.

If your dream is big enough, the odds do not matter. Decide to do whatever you must do to achieve your goal. Start where you are with what you have in your hands. Make the commitment to move forward despite the challenges and the difficulties that you will encounter. Live your dream.

I wish all members and students that the coming New Year showers you much happiness, health, work and success in your life projects.

HAPPY NEW YEAR 2016

Swasth Raho, Vyast Raho, Khush Raho.

With best regards,

CA. Sunil Patodia

OFFICE BEARERS

CA. Sunil Patodia, Chairman • **CA. Dilip Apte**, Vice Chairman
Secretary • Treasurer

EDITORIAL BOARD : Editor: **CA. Sunil Patodia**

MEMBERS: CA. Narayan Pasari, CA. Haridas Bhat,
CA. Ketan Mehta, CA. Ashwini Shah

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Forthcoming Events

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CPE HRS

Seminar on Charitable Organisations (NPO)

DAY & DATE	SATURDAY, 9TH JANUARY, 2016	
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. Dilip Apte CA. Shardul Shah CA. Abhishek Nagori (Regional Council Members)	9823244383 9820287625 9426075397
Co-ordinators	CA. Swati Bhatkar CA. Aashish Bakliwal CA. Deepika Agarwal	9967537989 9004315053 9920178906

TOPICS	SPEAKERS
Formation, Registration of Charitable Trusts/Societies/Companies & Important compliance under MPT Act	CA. Suhas Malankar
Accounting & Auditing under various laws applicable to NPO	CA. Vijay Joshi
Registration u/s. 12A, approval u/s. 80G of the Income-tax Act	CA. Kishore Peshori
Taxation of NPOs under Income-tax Act	CA. Sanjiv Brahme



INTER FIRM CA CRICKET TOURNAMENT

Days & Dates : Saturdays, 9th & 16th January, 2016

Venue : Oval Maidan, Churchgate, Mumbai

ENTRY CLOSED

Study Group Meeting on BFSI & Capital Market

Date : Saturday, 30th January, 2016

Time : 9.30 a.m. – 1.30 p.m. **CPE :** 4 hours

Venue : Conference Room, ICAI Tower, BKC

Annual Fees : ₹ 1,000/- per annum

Co-ordinator: CA. Pramod Kumar Agarwal 9930266050

Topic: Roundtable Discussion on Due Diligence - Approaches and Trends in Due Diligence and Group Study on Innovations in Financial Markets
CA. Manoj Alimchandani - Moderator, CA Amrish Shah, CA. Peshavan Anklesharia and others

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CPE HRS

Seminar on Tax Planning of NRI

DAY & DATE	SATURDAY, 9TH JANUARY, 2016	
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. Dilip Apte CA. Shardul Shah CA. Abhishek Nagori (Regional Council Members)	9823244383 9820287625 9426075397
Co-ordinators	CA. Nikhil Damle CA. Ajeet Taparia CA. Hrishikesh Wandrekar	9820170436 9920710121 9892919239

TOPICS	SPEAKERS
Tax Planning for NRIs	CA. Rajesh Athavale
FEMA Regulations relating to – a) Investments in India & b) Investments outside India with rupee funds	CA. Manoj Shah
Do's & Don'ts under FEMA for NRIs	CA. Natwar Thakrar
TDS provisions for payment to non-Residents	CA. Shailendra Sharma

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CPE HRS

Seminar on Assessment under IT Act

DAY & DATE	SATURDAY, 16TH JANUARY, 2016	
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. Dilip Apte CA. Shardul Shah CA. Abhishek Nagori (Regional Council Members)	9823244383 9820287625 9426075397
Co-ordinators	CA. Devang Doshi CA. Sunil Sharma CA. Hiral Mehta	9967923276 9769949829 9892592283

TOPICS	SPEAKERS
Scheme of Assessments under Income-tax (including self assessments, regular assessments, best judgment assessments) limitations, notices, section 292BB, etc.	CA. Vimal Punmiya
Assessment of search cases (sec. 153A, 153C) technical aspects & recent developments	Eminent Faculty
Reassessments with special reference to recent developments and practical aspects thereto	CA. H. N. Motiwala
Reference to & proceedings before valuation officers, TPO and DRP	CA. Bhavesh Dedhia



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CPE HRS

Seminar on Recent Development and Compliance Issues in Securities Market

DAY & DATE	SATURDAY, 16TH JANUARY, 2016	
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. Dilip Apte	9823244383
	CA. Shardul Shah	9820287625
	CA. Abhishek Nagori	9426075397
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Vikas Vishwasrao	9892915272
	CA. Aditi Chaturvedi	9768350383
	CA. Ryan Fernandes	9619262890

TOPICS	SPEAKERS	
RBI compliances applicable for NBFC predominantly lending against securities	CA. Bhavesh Vora	
PMLA compliances applicable for securities market intermediaries	Shri Sagar Tanna	
Recent Development and Compliance Issues for Stock Brokers/ Commodity Brokers	CA. Kinjal Shah	
FATCA Compliances applicable to securities market intermediaries	Eminent Faculty	
Research Analyst regulations including audit aspects	CA. Uday Tardalkar	

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CPE HRS

Seminar on Important Aspects of Companies Act, 2013

DAY & DATE	SATURDAY, 23RD JANUARY, 2016	
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)	
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	CA. Shardul Shah	9820287625
	CA. Abhishek Nagori	9426075397
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Ketan Sarage	9920761105
	CA. Mayur Momaya	9867952010
	CA. Pranav Shah	7738322283

TOPICS & SPEAKERS
Incorporation of Companies, Drafting of MOA/AOA, Applicable Sections and recent changes in incorporation – CA. Abhay Arolkar • Management & Administration: Annual Return • AGM / EGM – notice / quorum / proxies • Postal ballot / e-voting • Ordinary & Special resolutions • The Companies (Management & Administration) Rules, 2014 & Companies Amendment Act, 2015 – Eminent Faculty • Acceptance of Deposits • Restrictions on acceptance of deposits – private/public/eligible companies • The Companies (Acceptance of Deposits) Rules, 2014 • Related party transactions • Loans to directors • Loans / investments by companies – CA. Alok Saxena • Various Compliances under e-filing under Companies Act, 2013 – CA. Avinash Rawani



National Convention for CA Students at Mumbai

DAYS & DATES	FRIDAY, 22ND & SATURDAY, 23RD JANUARY, 2016	
Venue	Yogi Sabhagriha, Nr. Dadar Station, Dadar (E), Mumbai	
Time	9.00 a.m. to 6.00 p.m.	
Fees	₹ 350/- per student	
Convention Chairman	CA. V. Murali, Chairman, BOS-ICAI	
Convention Convener	CA. Sanjeev Maheshwari, Chairman, ASB-ICAI	
Convention Co-ordinator	CA. Sunil Patodia, Chairman, WIRC	
Students Co-ordinators	Mr. Shubham Bumb	9833156750
	Mr. Vaibhav Tailor	7303410909
	Mr. Pulkit Kedia	8080756565
	Ms. Pooja Deepak Mohinani	9029247647
	Mr. Shubham Punglia	9819537855

TOPICS	SPEAKERS	
Day 1		
Inaugural Session		
Guest of Honour	CA. V. Murali <i>Chairman, BOS-ICAI</i>	
Interaction and Open House	CA. V. Murali <i>Chairman, BOS-ICAI</i>	

Technical Session-I – Account Taxes		
Session Chairman: Eminent Expert		
(i) Scrapping Wealth Tax & Increasing Service Tax to 14% - Revenue Impact		
(ii) IND AS or AS given by ICAI		

Special Session-I		
Cloud Computing & Emerging Technologies by an Eminent Expert		
Special Session-II		
Debate Discussion: Is Articleship for 3 years worth it?		

Day 2		
Technical Session-II – Law, Audit & IT		
Session Chairman: Eminent Expert		
(i) Money Laundering Act		
(ii) Taxation on Permanent Establishments		

Technical Session-III – Finance		
Session Chairman: Eminent Expert		
(i) Social Media as an Emerging Financial Opportunity		
(ii) How to win a better deal for your company?		

Special Session-III		
Untapped Opportunities for Chartered Accountants by an Eminent Expert		

Technical Session-IV – Indian Economy		
Session Chairman: Eminent Expert		
(i) Indian Infrastructure & its comparison with the world		
(ii) Swachh Bharat Abhiyan: One Year Later (Current Scenario)		

Special Session-IV		
Panel Discussion: CAs as Entrepreneurs		
Valedictory Session		

Organised by Board of Studies, ICAI
Hosted by WIRC of ICAI & WICASA

“UDAAN” - Students Festival

Sunday, 24th January, 2016

Jasoda Rang Mandir, Bhaidas Hall, Near Mithibai College, Juhu Scheme, Vile Parle (W), Mumbai

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



Forthcoming Events

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CPE HRS

Seminar on Issues in TDS

DAY & DATE		SATURDAY, 23RD JANUARY, 2016	
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. Dilip Apte	9823244383	
	CA. Shardul Shah	9820287625	
	CA. Abhishek Nagori	9426075397	
	<i>(Regional Council Members)</i>		
Co-ordinators	CA. Mehul Sheth	9820297310	
	CA. Y. R. Desai	9820448365	
	CA. Sajjan Agrawal	9322281706	
TOPICS	SPEAKERS		
Latest Judgments and Circulars	CA. Mahendra Sanghvi		
TRACES Site and Recovery	CA. Avinash Rawani		
Tax Audit Reporting	Eminent Faculty		
TDS on Salary – New Circular	CA. Atul Suraiya		
195 and Foreign Payments	CA. Shailendra Sharma		

Annual INDOOR SPORTS 2016

DAY & DATE		SATURDAY, 23RD JANUARY, 2016	
Venue	Goregaon Sports Club, Link Road, Goregaon (W)		
Time	10.00 a.m. to 6.00 p.m. (Registration 9.00 a.m. to 10.00 a.m.)		
Fees	₹ 500/- for first game (Including lunch) ₹ 100/- for every additional game		
Co-ordinators	CA. Ashok Manghnani	9820395195	
	CA. Mahesh Chhabria	9867565118	
	CA. M. Kalahasthi	9029006759	
	CA. Mandar Date	9819487770	

Members are invited to participate in Annual Indoor Sports Meet of 2015 of WIRC. Badminton (Singles & Doubles), Table Tennis (Singles & Doubles). Carrom (Singles & Doubles), Chess, will be played. Please send in your entries at the earliest.

SEPARATE FACILITIES FOR LADIES & GENTS MEMBERS

LIVE SCREENING OF UNION BUDGET 2016

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	Monday, 29th February, 2016		
Venue	Khimji Kunverji Vikramsey Auditorium, ICAI Tower, Near Standard Chartered Bank, BKC, Mumbai		
Time	10.45 a.m. onwards		

ALL ARE CORDIALLY INVITED

M. L. D'Souza Rotating Trophy Cricket Match

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

DAY & DATE	FRIDAY, 29TH JANUARY, 2016		
Venue	Police Gymkhana Ground, Mumbai		
Time	5.00 p.m. to 10.00 p.m.		

Co-ordinators	
CA. Shardul Shah, RCM	9820287625
CA. Rakesh Upadhyaya	9821094698
CA. Sagar Palnitkar	9967325000

ALL ARE
CORDIALLY INVITED
TO CHEER
OUR TEAM



6

CPE HRS

Seminar on Private Equity

DAY & DATE		SATURDAY, 30TH JANUARY, 2016	
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. Dilip Apte	9823244383	
	CA. Shardul Shah	9820287625	
	CA. Abhishek Nagori	9426075397	
	<i>(Regional Council Members)</i>		
Co-ordinators	CA. Ritesh Hibare	9773418343	
	CA. Viral Mehta	9819030563	
	CA. Mukund Mall	9322224142	

TOPICS & SPEAKERS

Private Equity trends in India and globally? How private equity has evolved in India? The India growth story – how is it looking? Impact of Make in India? Which sectors are looking attractive? • Roundtable discussions on Private Equity in e-commerce, dotcom, mobile payment companies: What is driving valuation in the sector? What strategies are firms using to create value and achieve superior returns? Are current valuations sustainable? Will India create a new wave of e-commerce and internet revolution? • How do you raise Private Equity? What are the key considerations of funds while investing? How do you pitch PE investors? Managing Valuation Expectations? Planning the exit and future strategies after raising PE – **CA. Shailendra Jindal** • Roundtable discussion on Private Equity Buyout: Are huge cash balances a.k.a. "Dry Powder" driving investors towards ever more risky alternative investments? • Venture Capital Internet & Software Panel: What are the trends in the internet & software sector? How have recent large M&A deals changed the landscape? • Roundtable discussion on Venture Capital funding for start-ups. : The start-up market is booming with a strong ecosystem developing in India. Where is this industry going and how are venture capital funds changing the landscape? • Roundtable discussion on Private Equity Operations: How do private equity firms and consultants add value to target companies through operational improvements?



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CPE HRS

Seminar on Audit of SME: Practitioners Challenges

DAY & DATE	SATURDAY, 30TH JANUARY, 2016	
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. Dilip Apte	9823244383
	CA. Shardul Shah	9820287625
	CA. Abhishek Nagori	9426075397
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Prachi Kulkarni	9819179198
	CA. Nidhi Mewada	9619602084
	CA. Vivek Shah	9819633348

TOPICS & SPEAKERS

Audit Manual & Documentation – Understanding the appropriate documents for SME Audit – **CA. Manish Sampat** • Audit– Sampling Techniques & Approach – CA. Ashutosh Pednekar • Accounting of Employee Benefits (AS-15) & Forex Accounting (AS-11) – **CA. Kishor Parikh** • Consolidation of Accounts (AS-21/23/27) – **CA. Sandeep Shah**

6

CPE HRS

Seminar on Critical Issues in Income Tax & Service Tax

DAY & DATE	SATURDAY, 6TH FEBRUARY, 2016	
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. Dilip Apte	9823244383
	CA. Shardul Shah	9820287625
	CA. Abhishek Nagori	9426075397
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Amol Kamat	9823018763
	CA. Aumkar Gadgil	8007976830
	CA. Dattatraya Pawar	9967835454

TOPICS

Service Tax on Builders & Developers • Service Tax on Works Contract Service: Scope of Levy, Valuation & Exemption • Issues in Capital Gain in Real Estate Transactions • Taxation of Business Income in Real Estate Sector with Specific reference to Section 43CA

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CPE HRS

Seminar on Statutory Audit of Bank Branches

DAY & DATE	SATURDAY, 6TH FEBRUARY, 2016	
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)	
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	CA. Shardul Shah	9820287625
	CA. Abhishek Nagori	9426075397
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Abhijit Totade	9819659159
	CA. Himanshu Chheda	9820676826
	CA. Neha Kothari	9840829669

TOPICS

TOPICS	SPEAKERS
Audit Planning and Documentation	CA. Niranjan Joshi
Risk based Audit in CBS environment	CA. Ashutosh Pednekar
Audit of Advances & IRAC norms	CA. Vipul Choksi
LFAR Reporting & other certifications	CA. Abhay Kamat

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CPE HRS

Workshop on Drafting of Agreements, Deeds and Documents

DAYS & DATES	SATURDAY, 6TH & SUNDAY, 7TH FEBRUARY, 2016	
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	₹ 1,900/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)	
Chief Co-ordinators	CA. Dilip Apte	9823244383
	CA. Shardul Shah	9820287625
	CA. Abhishek Nagori	9426075397
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Vikram Joshi	9821733286
	CA. Nehal Turakhia	9833991898
	CA. Gaurav Parwani	9323674628

TOPICS

Saturday, 6th February, 2016

TOPICS	SPEAKERS
An overview of Law affecting Real Estate Transactions (Transfer of Property Act, Maharashtra Ownership Flats Act, Maharashtra Apartment Ownership Act, Indian Contract Act, Registration Act, etc.)	Shri Parimal Shroff <i>Advocate & Solicitor</i>
Conveyancing – An Overview	Shri Pravin Veera <i>Advocate & Solicitor</i>

Drafting of Agreement for Development, Agreement for Sale, M.O.U. etc.	Shri P. A. Jani <i>Advocate & Solicitor</i>
Important Provisions of Indian Partnership Act, 1932 and Drafting of Deed of Partnership, Deed of Admission, Deed of Retirement, Deed of Dissolution	Shri J. S. Solomon <i>Advocate & Solicitor</i>
Important Provisions of Bombay Public Trust Act, Drafting of Trust Deed, Registration of Trust	CA. Vipin Batavia

Sunday, 7th February, 2016

Drafting of Documents relating to Transfer of Premises in Co-operative Societies (i.e. Flats, Shops, Offices, etc.) (Agreement for Transfer, P.O.A., Deed of Indemnity, Declaration, Deed of Transfer, etc.)	Shri Pravin Veera <i>Advocate & Solicitor</i>
Drafting of Lease Deed, Tenancy Agreement, Leave and Licence Agreement	Shri Mahesh Shah <i>Advocate & Solicitor</i>
Drafting of documents relating to Transfer of Flats and Premises in a Co-operative Society	Smt. Parimal Y. Golwala <i>Advocate & Solicitor</i>

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CPE HRS

Seminar on Due Diligence

DAY & DATE	SATURDAY, 13TH FEBRUARY, 2016	
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)	
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	CA. Shardul Shah	9820287625
	CA. Abhishek Nagori	9426075397
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Aalok Mehta	9892001645
	CA. Amogh Pandit	8108132425
	CA. Jay Rambhia	9820896491

TOPICS

What is Due Diligence – Importance of Due Diligence and Financial Due Diligence • Due Diligence – Direct taxes • Due Diligence – Indirect taxes • Legal Due Diligence • Due Diligence report



Forthcoming Events

6

CPE HRS

Seminar on Income Computation and Disclosure Standards

DAY & DATE SATURDAY, 13TH FEBRUARY, 2016

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. Dilip Apte	9823244383
	CA. Shardul Shah	9820287625
	CA. Abhishek Nagori	9426075397
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Aniket Kulkarni	9821690559
	CA. Vidhyut Jain	9892414386
	CA. Prajakta Patil	9819041003

TOPICS

Base Erosion and Profit Shifting
Debt markets in India
M & A Case Laws

SPEAKERS

CA. Sudha G. Bhushan
Eminent Faculty
CA. Rashmin Pandhya

6

CPE HRS

Workshop on Project Finance

Finance is the life blood of business. Getting the capital structure right and having right sources of finance is important for ensuring the financial success of a business. Thus knowing the various sources of finance and understanding the process of arranging funds from these sources becomes crucial. With an increased exposure of the banking sector to MSME units, possibility of debt funding to such units has increased. A business plan backed by appropriate feasibility study is always necessary.

Objective of the programme – This one day workshop aims to equip the participants with the basic knowledge of project finance and to prepare a detailed feasibility report.

Recommended reading – Working knowledge of Excel. The sessions would be conducted in a workshop mode. Participants are expected to carry their own laptops.

DAY & DATE SATURDAY, 27TH FEBRUARY, 2016

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. Dilip Apte	9930314856
	CA. Shardul Shah	9820287625
	CA. Abhishek Nagori	9426075397
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Dhawal Acharya	9819411101
	CA. Rahul Pandey	9890867831
	CA. Pooja Achhra	9820138828

TOPICS & SPEAKERS

What Is Project Finance? • Important Aspects in Project Finance • Role of Chartered Accountant in Project Finance • Preparing a detailed Project Report (Assessment of Technical & Economic Feasibility) – **CA. Amit Godse**

Preparing a detailed Project Report (Assessment of Technical & Economic Feasibility) – **CA. Amit Godse**

Sources of Long & Short Term Finance – **Eminent Faculty**

Case study on preparing an Excel model to submit with the Project Report – **CA. Amit Godse**

Credit Appraisal – A Banker's perspective

6

CPE HRS

Seminar on Auditing Standards

DAY & DATE SATURDAY, 20TH FEBRUARY, 2016

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. Dilip Apte	9823244383
	CA. Shardul Shah	9820287625
	CA. Abhishek Nagori	9426075397
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Sachin Holmukhe	9820561266
	CA. Nitin Jaisinghani	9967539598
	CA. Nandan Khambate	9969955696

TOPICS

Planning an audit (SA 200-299) • Standards on audit evidence (SA 500-599) • Standards on Quality Control (SQC) and compliance thereof • Audit reporting & common mistakes therein

6

CPE HRS

Workshop on 'Practice Skills' (For Young Practicing Members)

DAY & DATE SATURDAY, 20TH FEBRUARY, 2016

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. Dilip Apte	9823244383
	CA. Shardul Shah	9820287625
	CA. Abhishek Nagori	9426075397
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Nipun Dangaich	9004271997
	CA. Ramesh Mishra	9820419606
	CA. Siddhant Maheshwari	9833456902

TOPICS

Practice with Global Perspective • Office Management and Practice Strategies for Developments • Moving from general practice to specialisation and Professional Excellence • Effective use of Google for CAs office

6

CPE HRS

Seminar on LLP

DAY & DATE SATURDAY, 27TH FEBRUARY, 2016

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. Dilip Apte	9823244383
	CA. Shardul Shah	9820287625
	CA. Abhishek Nagori	9426075397
	<i>(Regional Council Members)</i>	
Co-ordinators	CA. Akshay Tambe	9892701496
	CA. Dilkush Shah	9769643909
	CA. Kalpesh Kothari	9029371777

TOPICS

Taxation of LLP • Formation & Conversion of LLP • The LLP Act, 2008 Drafting of LLP Agreement • Conversion of Partnership Firm and Private Limited Company into LLP



Bulletin Board

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 under the Grievance Committee of WIRC 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.

WEB PORTAL

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

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 & Reregistration/Termination/Completion of Articles, New Enrolment letters of Membership, Member Card and/or Constitution/Reconstitution Certificate of Firm, Firm Card alike from the following portal of ICAI website www.icaai.org.

MEMBERSHIP FEES

Those Members who have not paid their annual membership/cop fees for the year 2015-16 till 30th September, 2015 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) latest by 31/03/2016 which will enable us to restore their names with retrospective effect i.e. from 1st October, 2015.

The schedule of fees payable is given below:

For Members below age of 60 years		For Members above age of 60 years (As on 1st April 2015)	
Associate Without Certificate of Practice	800/-	Associate Without Certificate of Practice	600/-
Associate With Certificate of Practice	2,800/-	Associate With Certificate of Practice	2,100/-
Fellow Without Certificate of Practice	2,200/-	Fellow Without Certificate of Practice	1,600/-
Fellow With Certificate of Practice	4,200/-	Fellow With Certificate of Practice	3,100/-

Restoration Fee ₹ 1,200

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Datey Lands, Datey Zerox, Datey Bhavan, Akshikar Road,
Opp. Vanmali-Dhuru Hall, Near Railway Station,
Dadar (West), Mumbai - 400028.

Pragati - 8433557110, Aditi - 9969449896, Smita - 9819470186
1800 22 5822, 022-24388174, 24224046, 24220199, 24305382.
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Dear Members,

WIRC has been prompt in mailing its newsletters to all Members across the Region. Today, WIRC posts both the hard copy as well as soft copies online for a greater reach. However, some Members have come forward saying they are not receiving their hard copies via post office.

WIRC is prompt in sending the newsletters to the GPO from where they are despatched to their delivery offices across the Region. To solve this issue of last mile delivery, we request Members to write a letter to their respective local post offices mentioning you're not receiving WIRC Newsletter.

In your letter to Post Office, please include:

RNI No.: 22878/1975

Regn. No. MCN/277/2015-2017

We believe that this step will make local post offices aware and take relevant steps to ensure you receive the WIRC Newsletter on time.



Forthcoming Study Circle Meetings

Date & Day	Time	Subject(s)	Speaker(s)	Venue	Organised by / Convenor / Mobile No.
09/01/2016 Saturday	3.45 p.m.	Issues in 14A & Sec 56 - Income-tax Act Issues in Refunds, Audit, Assessments under MVAT & CST	Adv. Jitendra Singh CA. N. M. Jain	Direct-I-plex, Old Nagardas Road, Opp. Wilson Pens, Near Andheri East Subway, Andheri (E)	J. B. Nagar CPE Study Circle CA. Pinki Kedia M: 9820113781
09/01/2016 Saturday	5.30 p.m.	"Professional Ethics"	CA. C. N. Vaze	4th Floor, New SNTD, Bhuriben, Cama Lane, Ghatkopar (W)	Ghatkopar CPE Study Circle CA. Rajesh Dholu M: 9833828892
10/01/2016 Sunday	8.45 a.m.	FATCA Issues in ICDS (Impact of ICDS on BP, Practical issues with major difference with AS)	CA. Haridas Bhat CA. Atul Suraiya	C. T. Chatwani Hall, Citi Point, (Telli Galli), Andheri (E)	J. B. Nagar CPE Study Circle CA. Pinki Kedia M: 9820113781
10/01/2016 Sunday	9.30 a.m.	Ind AS vs India GAAP	Eminent Faculty	2nd Floor, Eden Hall, Raheja Classique Club, Link Road, Andheri (W)	Andheri Oshiwara CPE Study Circle CA. Suraj Gujjaran M: 9820386681
10/01/2016 Sunday	10.00 a.m.	Redevelopment and Co-operative Societies - Important Practical aspects in Society Redevelopment, Deemed Conveyance and Co-operative Societies with important cases	CA. Ramesh Prabhu	Khar Gymkhana, Khar (W)	Khar CPE Study Circle CA. Himank Desai M: 9867087777
17/01/2016 Sunday	10.00 a.m.	Awareness Programme on TDS	Miss Swati Desai Shri Deepak Wyal CA. Ravi Soni	1st Floor, Chess Room, Dahisar Sports Foundation's Samaj Kalyan Kendra, C.S. Road, Dahisar (E)	Dahisar CPE Study Circle CA. Manish Vora M: 9167729167
17/01/2016 Sunday	9.30 a.m.	Health – Some Aspects and Religion in the eyes of Educated People Increase Health, Wealth and Love in Life	CA. Mahesh Dave Shri Satish Derashri	Sarvodaya Hall, L. T. Road, Opposite Diamond Cinema, Borivali (W)	Borivali (Central) CPE Study Circle CA. Vijay Kumar Jeyam M: 9821356515
23/01/2016 Saturday	5.30 p.m.	Overview of ICDS – Valuation of Inventories, The Effect of Changes in Foreign Exchange Rates, Borrowing Cost Overview of ICDS - Construction Contracts and Revenue Recognition	Eminent Faculty CA. Paresh Vakharia	Bhatia Wadi, Vasant Chogale Road, Opp. Veer Savarkar Udyan Main Gate, L.T. Road, Borivali (W)	Borivali (Central) CPE Study Circle CA. Vijay Kumar Jeyam M: 9821356515
24/01/2016 Sunday	7.15 a.m. 8.45 a.m.	Power Yoga Internal Financial Control Ind-AS Update and Refresher – Impact on India Inc and easy to us approach for Ind-AS Conversion	CA. Malvika Mitra CA. Sandeep Shah CA. Rakesh Agarwal	Hotel Kohinoor, Andheri Kurla Road, J. B. Nagar, Andheri (E)	J. B. Nagar CPE Study Circle CA. Pinki Kedia M: 9820113781
29/01/2016 Friday	5.30 p.m.	Project Finance and Update in Subsidy Scheme under TUF	CA. Mahesh Poddar	Rotary Welfare Trust, Date Mala, Ichalkaranji, Dist. Kolhapur	Ichalkaranji CPE Study Circle CA. Bhalchandra Thigale M: 9823141599
31/01/2016 Sunday	9.30 a.m.	Yoga - Part 1 Yoga - Part 2	Shri Sheedhar Parab Eminent Faculty	Sarvodaya Hall, L. T. Road, Opposite Diamond Cinema, Borivali (W)	Borivali (Central) CPE Study Circle CA. Vijay Kumar Jeyam M: 9821356515
31/01/2016 Sunday	10.00 a.m.	Provisions of Companies Act applicable to Private Limited companies	CA. Hitesh Pasad	1st Floor, Chess Room, Dahisar Sports Foundation's Samaj Kalyan Kendra, C.S. Road, Dahisar (E)	Dahisar CPE Study Circle CA. Manish Vora M: 9167729167
07/02/2016 Sunday	7.15 a.m. 8.45 a.m.	Power Yoga Taxation of Charitable Trust Issues in Sec 195	CA. Malvika Mitra CA. Tushar Doctor CA. Shalendra Sharma	Hotel Kohinoor, Andheri Kurla Road, J. B. Nagar, Andheri (E)	J. B. Nagar CPE Study Circle CA. Pinki Kedia M: 9820113781
07/02/2016 Sunday	10.00 a.m.	Will, Gift and Family Arrangement	Adv. J. Gulati	1st Floor, Chess Room, Dahisar Sports Foundation's Samaj Kalyan Kendra, C.S. Road, Dahisar (E)	Dahisar CPE Study Circle CA. Manish Vora M: 9167729167
12/02/2016 Friday		Filing Correction Statement for TDS Return	CA. Sunil Khatod CA. Pawan Bhagwat	Rotary Welfare Trust, Date Mala, Ichalkaranji, Dist. Kolhapur	Ichalkaranji CPE Study Circle CA. Bhalchandra Thigale M: 9823141599
20/02/2016 Saturday	5.30 p.m.	"Internal Financial Controls & Corporate Social Responsibility"	CA. Milan Mody CA. Prashant Daftary	4th Floor, New SNTD, Bhuriben, Cama Lane, Ghatkopar (W)	Ghatkopar CPE Study Circle CA. Rajesh Dholu M: 9833828892
21/02/2016 Sunday	7.15 a.m. 8.45 a.m.	Power Yoga Open Office Applicability of VAT & Service Tax on IPR (Intellectual Property Right) and IPR related transactions (viz. Trademark, Copyrights, Franchise etc)	CA. Malvika Mitra CA. Mitesh Katira CA. Sunil Gabhawalla	Hotel Kohinoor, Andheri Kurla Road, J. B. Nagar, Andheri (E)	J. B. Nagar CPE Study Circle CA. Pinki Kedia M: 9820113781
26/02/2016 Friday	5.30 p.m.	Goods & Service Tax Cash payment and Deductions under Income-tax Act	CA. Deepak Bharadia CA. Ramvallabh Bharadia	Rotary Welfare Trust, Date Mala, Ichalkaranji, Dist. Kolhapur	Ichalkaranji CPE Study Circle CA. Bhalchandra Thigale M: 9823141599
27/02/2016 Saturday	5.30 p.m.	"Issues in Co-operative Housing Societies"	CA. Mukul Varma	4th Floor, New SNTD, Bhuriben, Cama Lane, Ghatkopar (W)	Ghatkopar CPE Study Circle CA. Rajesh Dholu M: 9833828892
28/02/2016 Sunday	10.00 a.m.	Live Budget View	Eminent Faculty	Rotary Welfare Trust, Date Mala, Ichalkaranji, Dist. Kolhapur	Ichalkaranji CPE Study Circle CA. Bhalchandra Thigale M: 9823141599



Forthcoming Branch Meetings

Date	Time	Subject(s)	Speaker(s)	Venue
VAPI				
28/01/2016	10.00 a.m.	Half Day Seminar on Allied laws	Shri Ramesh Soni CA. Mitesh Katira	Atul Learning Centre, Atul Ltd., Atul - Dist. – Valsad



DIRECT TAX

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

SECTION 197A OF THE INCOME-TAX ACT, 1961 – DEDUCTION OF TAX AT SOURCE – NON-DEDUCTION IN CERTAIN CASES – SIMPLIFICATION OF PROCEDURE FOR FORM NOS. 15G & 15H

NOTIFICATION 4/2015 [F. NO. DGIT(S)/CPC(TDS)/DCIT/15H/2015-16/14425-556, DATED 1-12-2015]

Section 197A of the Income tax Act provides for no deduction in certain cases by submitting a declaration using Form 15G/15H as laid down in Rule 29C of the Income-tax Rules. The manner of filing such declaration and the particulars have been laid down in Rule 29C of the Income-tax Rules. The person responsible for paying any income of the nature referred to in sub-section (1) or sub-section (1A) or sub-section (1C) of section 197A (hereinafter called “payer”) shall enable the payee to furnish the declaration in electronic form after due verification through an electronic process. The declarant shall mandatorily quote his/her PAN in the declaration form 15G/H in accordance with the provisions of section 206AA(2).

A unique identification number shall be allotted to declaration (paper /electronic). The payer shall digitise the paper declaration and upload all declarations (including electronic declaration and digitised declaration) received during a particular quarter at departmental site (www.incometaxindiaefiling.gov.in) on quarterly basis. Further, clause 5 of Rule 29C provides that the payer shall also furnish transactions covered under 15G/15H declarations in quarterly TDS statement in accordance with the provisions of clause (vii) of sub-rule (4) of Rule 31A irrespective of the fact that no tax has been deducted in the said quarter.

In exercise of the powers delegated by the Central Board of Direct Taxes (Board) sub-para (7) of para 2 of Notification issued *vide* S.O. No.2663(E) dated 29th September 2015, the Principal Director General of Income-tax (Systems) has specified the procedure, formats and standards in this regard in the above notification.

SECTION 90 OF THE INCOME-TAX ACT, 1961 – DOUBLE TAXATION AGREEMENT – AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION AND PREVENTION OF FISCAL EVASION WITH FOREIGN COUNTRIES – THAILAND

NOTIFICATION 88/2015 [F. NO. 503/5/2005-FTD-II] / SO 3244(E), DATED 1-12-2015

Agreement between the Government of the Republic of India and the Government of the Kingdom of Thailand for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income was signed in Thailand on the 29th day of June, 2015 (hereinafter referred to as the said Agreement). The said Agreement entered into force on the 13th day of October, 2015, being the date of the later of the notifications of the completion of the procedures required by the respective laws for entry into force of the said Agreement, in accordance with paragraph 2 of Article 29 of the said Agreement. Clause (a) of paragraph 3 of Article 29 of the said Agreement provides that the provisions of the Agreement shall have effect in India in respect of income derived in any fiscal year beginning on or after the first day of April following the calendar year in which the said Agreement enters into force. Therefore, in exercise of the powers conferred by sub-section (1) of section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that all the provisions of said Agreement, shall be given effect to in the Union of India.

INCOME-TAX (EIGHTEENTH AMENDMENT) RULES, 2015 – INSERTION OF RULE 127

NOTIFICATION 89/2015 [F. NO. 133/79/2015-TPL]/GSR 923(E), DATED 2-12-2015

In the Income-tax Rules, 1962, after Rule 126, following Rule shall be inserted, namely:—

“Service of notice, summons, requisition, order and other communication. 127. (1) For the purposes of sub-section (1) of section 282, the addresses (including the address for electronic mail or electronic mail message) to which a notice or summons or requisition or order or any

other communication under the Act (hereafter in this rule referred to as “communication”) may be delivered or transmitted shall be as per sub-rule (2).

(2) The addresses referred to in sub-rule (1) shall be—

(a) For communications delivered or transmitted in the manner provided in clause (a) or clause (b) of sub-section (1) of section 282—

(i) The address available in the PAN database of the addressee; or

(ii) The address available in the income-tax return to which the communication relates; or

(iii) The address available in the last income-tax return furnished by the addressee; or

(iv) In the case of addressee being a company, address of registered office as available on the website of Ministry of Corporate Affairs:

Provided that the communication shall not be delivered or transmitted to the address mentioned in items (i) to (iv) where the addressee furnishes in writing any other address for the purposes of communication to the income-tax authority or any person authorised by such authority issuing the communication;

(b) For communications delivered or transmitted electronically—

(i) E-mail address available in the income-tax return furnished by the addressee to which the communication relates; or

(ii) The e-mail address available in the last income-tax return furnished by the addressee; or

(iii) In the case of addressee being a company, e-mail address of the company as available on the website of Ministry of Corporate Affairs; or

(iv) Any e-mail address made available by the addressee to the income-tax authority or any person authorised by such income-tax authority.

(3) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall specify the procedure, formats and standards for ensuring secure transmission of electronic communication and shall also be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to such communication.”

SECTION 119 OF THE INCOME-TAX ACT, 1961 – INCOME-TAX AUTHORITIES – EXTENSION OF TIME FOR DEPOSIT OF TAX DEDUCTED AT SOURCE AND TAX COLLECTED AT SOURCE FOR STATE OF TAMIL NADU

ORDER [F. NO. 385/26/2015-IT(B)], DATED 5-12-2015

In exercise of the powers conferred under section 119 of the Income-tax Act, 1961 (the Act), the Central Board of Direct Taxes hereby extends the due date [under section 200(1) of the Act] for paying to the credit of the Central Government, tax deducted at source and the due date [under section 206C(3)] for paying to the credit of the Central Government, tax collected at source, in respect of deductions or collections made during the month of November, 2015, from 7th of December, 2015 to 20th of December, 2015 in respect of deductors located in the State of Tamil Nadu.

SECTION 90 OF THE INCOME-TAX ACT, 1961 – DOUBLE TAXATION AGREEMENT – MEETING BETWEEN HEADS OF REVENUE ADMINISTRATION OF INDIA AND KOREA FOR SUSPENSION OF COLLECTION OF TAXES DURING PENDENCY OF MUTUAL AGREEMENT PROCEDURE (MAP)

PRESS RELEASE, DATED 9-12-2015

A meeting was held on 9th December, 2015 between Indian and Korean



delegations headed by Revenue Secretary and Commissioner, National Tax Service, Korea under the Memorandum of Understanding for Mutual Co-operation between the countries. During the meeting, a new Memorandum of Understanding (MoU) on suspension of collection of taxes during pendency of Mutual Agreement Procedure (MAP) was signed. This MoU will relieve the burden of double taxation for the taxpayer in both the countries during the pendency of MAP proceedings. Further, both sides noted that transfer pricing dispute cases will be taken up for MAP under the revised DTAA between India and Korea. This is a step towards ease of doing business in India for Korean companies as it will relieve economic double taxation and promote cross-border trade and investment.

NEW FACILITY OF PRE-FILING TDS DATA WHILE SUBMITTING ONLINE RECTIFICATION

PRESS RELEASE, DATED 10-12-2015

Central Board of Direct Taxes has simplified the process of online rectification of incorrect TDS details filed in the Income Tax Return. Taxpayers were required to fill in complete details of the entire TDS schedule while applying for rectification on the e-filing portal of the Income-tax Department (www.incometaxindiaefiling.gov.in). Errors due to incomplete TDS details in rectification applications were leading to delays in processing of such applications thereby causing hardship to the taxpayers.

To avoid this inconvenience, a new facility has been provided for pre-filing of TDS schedule while submitting online rectification request on the e-filing portal to facilitate easy correction or updating of TDS details. This is expected to considerably ease the burden of compliance on the taxpayers seeking rectification due to TDS mismatch.

SECTION 268A OF THE INCOME-TAX ACT, 1961 – FILING OF APPEAL OR APPLICATION FOR REFERENCE BY INCOME-TAX AUTHORITY – REVISION OF MONETARY LIMITS FOR FILING OF APPEALS BY THE DEPARTMENT BEFORE INCOME TAX APPELLATE TRIBUNAL, HIGH COURTS AND SUPREME COURT

CIRCULAR 21/2015 [F. NO. 279/MISC. 142/2007-ITJ (PT.)], DATED 10-12-2015

Henceforth, appeals/SLPs shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder:—

Appeals in Income-tax matters	Monetary Limit (in ₹)
Before Appellate Tribunal	10,00,000/-
Before High Court	20,00,000/-
Before Supreme Court	25,00,000/-

It is also clarified that an appeal should not be filed merely because the tax effect in a case exceeds the monetary limits prescribed above. Filing of appeal in such cases is to be decided on merits of the case.

For this purpose, “tax effect” means the difference between the tax on the total income assessed and the tax that would have been chargeable had such total income been reduced by the amount of income in respect of the issues against which appeal is intended to be filed (hereinafter referred to as “disputed issues”). However the tax will not include any interest thereon, except where chargeability of interest itself is in dispute. In case the chargeability of interest is the issue under dispute, the amount of interest shall be the tax effect. In cases where returned loss is reduced or assessed as income, the tax effect would include notional tax on disputed additions. In case of penalty orders, the tax effect will mean quantum of penalty deleted or reduced in the order to be appealed against.

In a case where appeal before a Tribunal or a Court is not filed only on account of the tax effect being less than the monetary limit specified above, the Commissioner of Income-tax shall specifically record that “even though the decision is not acceptable, appeal is not being filed only on the consideration that the tax effect is less than the monetary limit specified in this instruction”. Further, in such cases, there will be no presumption that the Income-tax Department has acquiesced in the decision on the disputed issues. The Income-tax Department shall not be precluded from filing an

appeal against the disputed issues in the case of the same assessee for any other assessment year, or in the case of any other assessee for the same or any other assessment year, if the tax effect exceeds the specified monetary limits.

Adverse judgments relating to the following issues should be contested on merits notwithstanding that the tax effect entailed is less than the monetary limits specified above:

- Where the Constitutional validity of the provisions of an Act or Rule are under challenge, or
- Where Board’s order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or
- Where Revenue Audit objection in the case has been accepted by the Department, or
- Where the addition relates to undisclosed foreign assets/bank accounts.

The monetary limits specified above shall not apply to writ matters and direct tax matters other than Income tax. Filing of appeals in other Direct tax matters shall continue to be governed by relevant provisions of statute & rules. Further, filing of appeal in cases of Income tax, where the tax effect is not quantifiable or not involved, such as the case of registration of trusts or institutions under section 12A of the IT Act, 1961, shall not be governed by the limits specified above and decision to file appeal in such cases may be taken on merits of a particular case.

This instruction will apply retrospectively to pending appeals and appeals to be filed henceforth in High Courts/Tribunals. Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed. Appeals before the Supreme Court will be governed by the instructions on this subject, operative at the time when such appeal was filed.

CORPORATE LAWS (Contributed by CA. Rahul Joglekar)

MCA (www.mca.gov.in)

MCA general Circular No. 15/2015 dated 30th November 2015– Relaxation of additional fees and extension of last date in filing of Forms MGT-7 (Annual Return) and AOC-4 (Financial Statement) under the Companies Act, 2013

MCA has directed that keeping in view requests received from various stakeholders, relax the additional fees payable on e-forms AOC4, AOC (CFS) AOC-4 XBRL and e-Form MGT-7 up to 30th December 2015, wherever additional fee is applicable. For a complete text of the circular, please refer the link: http://www.mca.gov.in/Ministry/pdf/General_Circular_No_15_2015.pdf.

SEBI (www.sebi.gov.in)

SEBI Circular No. CIR/CFD/CMD/15/2015 dated 30th November 2015– Formats for publishing financial results

Listing regulations by SEBI has prescribed various disclosures to be filed under various provisions contained therein. Various formats have been prescribed which shall come into force with effect from December 01, 2015. The regulations also deal with publication of previous period Ind-AS results in case of companies adopting Ind-AS in terms of Companies (Indian Accounting Standards) Rules, 2015. The formats of limited review reports to be issued by auditors have also been prescribed. For a complete text of the circular, please refer the link: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1448885855487.pdf

SEBI Circular No. CIR/IMD/DF1/9 /2015 dated 27th November 2015– Format for financial results for listed entities which have listed their debt securities and/or non-cumulative redeemable preference shares.

Under the captioned circular, SEBI has prescribed separate formats for half yearly financial results and also for limited review reports for companies other than banks and NBFCs as well as for Banks and NBFCs. Manufacturing, trading and service companies may furnish the half-yearly financial results in the alternative format prescribed under the said circular. For a complete text of the circular, please refer the link: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1448620165250.pdf.

GO GREEN - BOOK YOUR E-NEWSLETTER TODAY !

The world is slowly becoming more environment conscious and working towards making a more positive impact on the environment through different initiatives. The Institute and WIRC were the early torchbearers in thinking, planning and implementing this process in a phased manner amongst organisations in India. In fact, WIRC is working towards saving paper and the first step is to try and move from printed WIRC Newsletter to an e-Newsletter. **Members who desire to get only the e-newsletter as against a physical copy should send an e-mail to wircnewsletter@icai.in with the following details – Membership number, name, subject stating that members desire to get only e-newsletter.**

Thus, we start moving forward in working towards making a green impact. As we know, one of the best decisions organisations can make towards being environment friendly is by slowly implementing a paperless office. This step has a twofold benefit of helping organisations become more environmentally friendly while encouraging efficiency through streamlined corporate processes.

Also, simple responsible behaviour such as powering down computers and printers; switching off lights and fans when not required; checking documents before printing and printing them double sided, etc, has a huge positive impact on the environment. **Remember, all it takes to go green is to Reduce, Reuse, Recycle and Repair.**

Green Initiative
For a Better Tomorrow – Go Green Today



CENTRAL EXCISE (Contributed by CA. Jayesh Gogri)

Notifications

Tariff

Exemption provided to goods for use in manufacture of certain specified ships/vessels

Stainless steel used in manufacture of specified ships/vessel was given conditional exemption from excise duty *vide* Notification No. 12/2012-CE dated 17th March, 2012. Now, exemption has been extended to all raw materials and parts for use in manufacture of ships/vessels falling under Tariff ID 8901, 8902, 89040000, 8905 (except tariff item 8905 20 00) and 8906 subject to specified conditions.

(Notification No. 44/2015-CE dated 24th November, 2015)

Duty exemption to EOUs on raw material/parts used in manufacture of certain specified ships/vessels

Notification No. 22/2003-CE dated 31st March, 2003 provides conditional exemption to goods brought from domestic tariff area into EOUs/STP/EHTP units. Now, EOUs may procure raw materials and parts duty-free for processing, manufacture, production or packaging of specified ships/vessels even in cases where ships/vessels (including rejects, waste, scrap and remnants) are either non-taxable or exempted from customs duty.

(Notification No. 45/2015-CE dated 24th November, 2015)

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 and the same has been amended from time-to-time. The exemption differs on the basis of the intention of the manufacturer whether to sell it with a brand name or otherwise. With effect from 17th December, 2015, 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. 17th December, 2015)
2710	Petrol	Sale without brand name	7.36
		Otherwise	8.54
27101930	HSD	Sale without brand name	5.83
		Otherwise	8.19

(Notification No. 46/2015-CE dated 16th December, 2015)

Non-Tariff

Amendments to jurisdiction of certain Central Excise Officers

Notification No. 27/2014-CE (NT) dated 16th September, 2014 was issued specifying jurisdiction of various Central Excise Officers. Now, the jurisdiction of Principal Chief Commissioner of Central Excise, Chief Commissioner of Central Excise and Commissioner of Central Excise Audit or Appeal and Principal Commissioner of Central Excise of specified jurisdictions have been reconstituted.

(Notification No. 24/2015-CE (NT) dated 7th December, 2015)

Extension of due dates in view of natural calamities in the State of Tamil Nadu and Union Territory of Puducherry (except Yaman & Mahe)

- Date of payment of duty for assesseees of Tamil Nadu State and Union Territory of Puducherry (except Yaman & Mahe) for the month of November, 2015 is extended from 5th/6th December, 2015 to 20th December, 2015
- With respect to EOU returns, CBEC has been empowered to issue an order to extend the due date under the circumstances of special nature
- Consequently, the due date for submission of Form ER-1, ER-2 and ER-6 for the month of November, 2015 has been extended from 10th December, 2015 to 31st December, 2015. Further, the due date



Law Updates

for submission of Form ER-4 has been extended from 30th November, 2015 to 31st December, 2015 in the State of Tamil Nadu and Union Territory of Puducherry (except Yaman & Mahe).

(Notification Nos. 25/2015-CE (NT) dated 9th December, 2015; 26/2015-CE (NT) dated 18th December, 2015 and Order Nos. 1/2015-CE dated 10th December, 2015 and 2/2015-CE dated 18th December, 2015).

Circulars

Clarification regarding excise duty exemption to units located in North-East regions

Fresh registrations for the schemes under North-East Industrial and Investment Promotion Policy (NEIPP), 2007 was suspended by the Department of Industrial Policy & Promotion (DIPP) w.e.f. 1st December, 2014. Consequently, doubts were raised on excise duty exemption under Notification No. 20/2007 dated 25th April, 2007 to new units or units undertaking substantial expansion in the North-Eastern region including Sikkim after 1st December, 2014. Post examination of the matter, it was clarified that new units or units undertaking substantial expansion after 1st December, 2014 and up to the cut-off date of 31st March, 2017 shall continue to be eligible for such exemption subject to adherence of specified conditions.

(Circular No. 1012/19/2015-CX dated 2nd December, 2015)

SERVICE TAX (Contributed by CA. Rajiv Luthia)

SYNOPSIS OF NOTIFICATIONS, CIRCULARS & LETTERS

Central Government, vide Notification No. 26/2015-ST dated 9th December, 2015 as amended by Notification No. 27/2015-ST dated 18th December, 2015, has extended the due date for payment of Service Tax for the month of November, 2015 in case of assessee in the State of Tamil Nadu & Union Territory of Puducherry (except Mahe & Yanam) to 20th December, 2015.

CBEC, vide Circular No.189/8/2015-ST dated 26th November, 2015, has clarified that all testing and ancillary activities to testing such as seed certification, technical inspection, technical testing, analysis, tagging of seeds, rendered during testing of seeds, are covered within the meaning of "testing" as mentioned in Section 66D(d)(i) of the Finance Act, 1994 therefore, such services are not liable to Service tax under section 66B of the Finance Act, 1994.

CBEC, vide Circular No.190/9/2015-ST dated 15th December, 2015, has clarified following points on applicability of Service tax on the services received by apparel exporters in relation to fabrication of garments:

- The nature of manpower supply service is quite distinct from the service of job work. The essential characteristics of manpower supply service are that the supplier provides manpower which is at the disposal and temporarily under effective control of the service recipient during the period of contract. Service provider's accountability is only to the extent and quality of manpower. Deployment of manpower normally rests with the service recipient. The value of service has a direct correlation to manpower deployed, i.e., manpower deployed multiplied by the rate. In other words, manpower supplier will charge for supply of manpower even if manpower remains idle.
- On the other hand, the essential characteristics of job work service are that service provider is assigned a job e.g. fabrication/stitching, labelling etc. of garments in case of apparel. Service provider is accountable for the job he undertakes. It is for the service provider to decide how he deploys and uses his manpower. Service recipient is concerned only as regards the job work. In other words service receiver is not concerned about the manpower. The value of service is function of quantum of job work undertaken, i.e. number of pieces fabricated etc. It is immaterial as to whether the job worker undertakes job work in his premises or in the premises of service receiver.

- If the job work involves a process on which duties of excise are leviable u/s. 3 of the Central Excise Act, 1944, it would be covered under Negative List in terms of Section 66D (f) read with Section 65B (40) of the Finance Act, 1994.
- Therefore, the exact nature of service needs to be determined on the facts of each case which would vary from case-to-case. The terms of agreement and scope of activity undertaken by the service provider would determine the nature of service being provided. The issue of applicability of Service tax may accordingly be decided taking into account the nature of agreement/contract and the service being provided.

CBEC, vide Instruction F.No.390/MISC./163/2010-JC dated 17th December, 2015, has revised earlier Instruction F.No.390/MISC./163/2010-JC dated 17th August, 2011 & has fixed up following monetary limits below which appeal shall not be filed by the Revenue in Tribunal, High Court & the Supreme Court.

Sr. No.	Appellate Forum	Existing Monetary Limit (₹)	Revised Monetary Limit (₹)
1)	CESTAT	5,00,000/-	10,00,000/-
2)	High Court	10,00,000/-	15,00,000/-
3)	Supreme Court	25,00,000/-	25,00,000/-

The determining element for the purpose of above said monetary limits would be the duty/tax under dispute and would not include interest/penalties. However, where the imposition of penalty/demand of interest is the subject matter of dispute and the said penalty/interest exceeds the monetary limit prescribed, then the matter could be litigated further.

It is also clarified that:

- Adverse judgments relating to the following should be contested irrespective of the amount involved:
 - Where the Constitutional validity of the provisions of an Act or Rule is under challenge.
 - Where Notification/Instruction/Order or Circular held illegal or *ultra vires*.
 - Classification and refunds issues which are of legal and/or recurring nature
- Above said monetary limits would apply to cases of refund as well.

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

DEPARTMENTAL INSTRUCTIONS

Dealers are requested to approach Unit Offices to get Manual Acknowledgement for physical challan of VAT/CST above ₹ 10 lakhs, in Unit Offices, where payment date is 16-Nov or earlier only. This is open for 15-days only. Thereafter, Dealer shall not be issued any manual acknowledgement of tax payment of ₹ 10 lakhs and above from any unit office.

Officers are directed to make verifications and checkings, *inter alia*, as under before issue of any refund to any dealer.

To check payment of tax by suppliers on refund claimant's purchases minimum up to 5 levels.

In case of refund resulting due to inter state sales, to call for concerned state dealer's return and tax payment copies for verification of tax compliance.

Application seeking Registration shall, henceforth, be by way of e-Application only.

FEMA (Contributed by CA. Manoj Shah & CA. Sudha G. Bhushan)

Review of Foreign Direct Investment (FDI) Policy on various sectors DIPP Press Note No. 12 (2015 Series) dated November 24, 2015

Government of India has reviewed the extant FDI Policy on various sectors and has made amendments in the Consolidated FDI Policy Circular of 2015. Some of the important amendments made in FDI Policy Circular are given below:



i. Definition of term “Manufacture” is added after para 2.1.25 of the FDI Policy

2.1.25 bis: “Manufacture” with its grammatical variations, means a change in a non-physical object or article or thing – (a) resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use, or (b) bringing into existence of a new and distinct object or article or thing with a different chemical composition or integral structure.

Permitting Manufacturers to Undertake Wholesale and/or Retail, Including Through E-Commerce Without Government Approval

Para 6.2.5 of the FDI Policy is accordingly amended to be read as under:

Subject to the provisions of the FDI Policy, foreign investment in ‘manufacturing sector’ is under automatic route. Further, a manufacturer is permitted to sell its products manufactured in India through wholesale and/or retail, including through e-commerce without Government approval.

ii. 100% FDI in LLPs permitted under automatic route

Para 3.2.5 of FDI Policy is amended to read as under:

FDI in LLPs is permitted, subject to the following conditions:

- FDI is permitted under the automatic route in LLPs operating in sectors/activities where 100% FDI is allowed, through the automatic route and there are no FDI linked performance conditions.
- An Indian company or an LLP, having foreign investment, will be permitted to make downstream investment in another company or LLP in sectors in which 100% FDI is allowed under the automatic route and there are no FDI linked performance conditions.
- FDI in LLPs is subject to the compliance of the conditions of LLP Act, 2008.

iii. Investment by Companies/Trusts/Partnerships Owned & Controlled by NRIs on Non-Repatriation basis to be treated as Domestic Investment

Non-Resident Indians (NRIs) have special dispensation for investment in construction development and civil aviation sector and investment made by NRIs under Schedule 4 of FEMA (Transfer or issue of Security by Persons Resident Outside India) Regulations is deemed to be domestic investment at par with the investment made by residents.

In order to attract larger investments, which are possible through incorporated entities only, the special dispensation of NRIs has now been also extended to companies, trusts and partnership firms, which are incorporated outside India and are owned and controlled by NRIs. (New Para is inserted in FDI Policy after para 3.1.3). Henceforth, such entities owned and controlled by NRIs will be treated at par with NRIs for investment in India.

Para 3.6.2(vii) is inserted and same to be read as under:

A company, trust and partnership firm incorporated outside India and owned and controlled by non-resident Indians will be eligible for investments under Schedule 4 of FEMA (Transfer or Issue of Security by Persons Residents Outside India) regulations and such investment will also be deemed to be domestic investment at par with the investment made by residents.

iv. Companies without Operations Not to Require Government Approval for FDI for Undertaking Automatic Route Sector Activities (Para 3.10.3.3 of FDI Policy Circular is amended)

Approval requirements in respect of companies without operation have also been relaxed. It has now been decided that for infusion of foreign investment into an Indian company which does not have any operations and also does not have any downstream investments, Government approval would not be required, for undertaking activities which are under automatic route. However, approval of government will be required for such companies for infusion of foreign investment for undertaking activities which are under Government route, regardless of the amount or extent of foreign investment. Further as and when such a company commences business(s) or makes downstream

investment, it will have to comply with the relevant sectoral conditions on entry route, conditionalities and caps.

v. Investment by Swap Shares

Para 3.5.6 of FDI Policy Circular is amended to read as under:

In case of investment by way of swap of shares, irrespective of the amount, valuation of shares will have to be made by a Merchant Banker registered with SEBI or an Investment Banker outside India registered with the appropriate regulatory authority in the host country. Approval of the Government will also be a prerequisite for investment by swap of shares for sector under Government approval route. No approval of the Government is required for investment in automatic route sectors by way of swap of shares.

vi. Raising the Threshold Limit for Approval by Foreign Investment Promotion Board (Para 5.2 of the FDI Policy is amended)

The Minister of Finance who is in charge of FIPB would consider the recommendations of FIPB on proposals with total foreign equity inflow of and below ₹ 5,000 crore.

The recommendations of FIPB on proposals with total foreign equity inflow of more than ₹ 5,000 crore would be place for consideration of Cabinet Committee on Economic Affairs (CCEA).

The CCEA would also consider proposals which may be referred to it by the FIPB/the Minister of Finance (in charge of FIPB).

For other amendments relating to sectoral conditions on entry route, conditionalities and caps in various sectors refer below link at DIPP website –

http://dipp.nic.in/English/acts_rules/Press_Notes/pn12_2015.pdf

Import of Goods into India – Evidence of Import

A.P. (DIR Series) Circular No. 29 dated November 26, 2015

In terms of para A.10.1 of A.P. (DIR Series) Circular No. 106 dated June 19, 2003, an importer has to submit as evidence of import, a) the exchange control copy of the Bill of Entry for Home Consumption; b) the exchange control copy of the Bill of Entry for Warehousing, in the case of 100% Export Oriented Units (EOUs); or c) Customs Assessment Certificate or Postal Appraisal Form as declared by the importer to the Customs Authorities.

With the establishment of Free Trade Warehousing Zones/SEZ Unit warehouses, imported goods can be stored therein, for re-export/re-selling purposes for which Customs Authorities issue Ex-Bond Bill of Entry. AD banks are advised to consider the Bill of Entry issued by Customs Authorities named as Ex-Bond Bill of Entry or by any other similar nomenclature, as evidence for physical import of goods.

Further, in cases where goods have been imported through couriers, the Courier Bill of Entry, as declared by the courier companies to the Customs Authorities, may also be considered as evidence of import of goods.

Advance Remittance for Import of Aircraft/helicopters/other aviation related purchases

A.P. (DIR Series) Circular No. 30 dated November 26, 2015

Director General of Foreign Trade vide Notification No. 24/2015-2020 dated October 9, 2015 has announced amendment in Policy condition 1 of Chapter 88 of ITC (HS), 2012-Schedule-1 (Import Policy). Accordingly, AD Category-I banks may, while allowing advance remittance without bank guarantee or an unconditional, irrevocable standby letter of credit up to USD 50 million, ensure that only the requisite approval of DGCA for import of aircraft/helicopters in terms of the extant Foreign Trade Policy has been obtained by the company for operating Scheduled or Non-Scheduled Air Transport Services (including Air Taxi Services). In other words, the approval from Ministry of Civil Aviation (MoCA) will not be required.

Investment by Foreign Portfolio Investors (FPIs) in Corporate Bonds

A.P. (DIR Series) Circular No. 31 dated November 26, 2015

It has been decided to permit FPI to acquire NCDs/bonds which are under



default either fully or partly, in the repayment of principal on maturity or principal instalment in the case of amortising bond. The revised maturity period of such NCDs/bonds, restructured based on negotiations with the issuing Indian company, should be three years or more.

The FPI which propose to acquire such NCDs/bonds under default should disclose to the Debenture Trustees the terms of their offer to the existing debenture holders/beneficial owners from whom they are acquiring. Such investment should be within the overall limit prescribed for corporate debt from time to time (currently ₹ 2443.23 billion). All other existing conditions for investment by FPIs in the debt market remain unchanged.

External Commercial Borrowings (ECB) Policy – Revised Framework

A.P. (DIR Series) Circular No. 32 dated November 30, 2015

As sufficient time has passed since the extant ECB framework was operationalised, a need was felt to undertake a review based on the experience gained in administering the ECB regime and the current financing ecosystem which, *inter alia*, allows issuance of Indian Rupee (INR) denominated bonds overseas by a wide set of borrowers. Based on the responses received and, in consultation with the Government of India, a revised ECB framework based on the following overarching principles has been finalised:

- i. A more liberal approach, with fewer restrictions on end uses, higher all-in-cost ceiling, etc. for long-term foreign currency borrowings as the extended term makes repayments more sustainable and also minimises roll-over risks for the borrower;
- ii. A more liberal regime for INR denominated ECBs where the currency risk is borne by the lender;
- iii. Expansion of the list of overseas lenders to include long-term lenders, such as, Insurance companies, Pension Funds, Sovereign Wealth Funds;
- iv. Only a small negative list of end-use restrictions applicable in case of long-term ECB and INR denominated ECB;
- v. Alignment of the list of infrastructure entities eligible for ECB with the Harmonised List of the Government of India.

The revised ECB framework will comprise the following three tracks:

Track I : Medium term foreign currency denominated ECB with Minimum Average Maturity (MAM) of 3/5 years.

Track II : Long-term foreign currency denominated ECB with MAM of 10 years.

Track III : Indian Rupee denominated ECB with MAM of 3/5 years.

The guidelines for the revised ECB framework specifying the parameters and other terms & conditions are set out in the Annex to this Circular. It may be noted that these parameters will apply in totality and not on a standalone basis. Criteria for raising ECB under both routes, viz., the automatic route where entities do not require the prior approval of the Reserve Bank for raising ECB and the approval route where entities can raise ECB only with the prior approval of the Reserve Bank are also given in the Annex.

The new ECB framework will come into force from the date of publication, in the Official Gazette, of the relative Regulations issued under FEMA. These Regulations are being issued separately.

For more details of new revised ECB framework specifying the parameters and other terms and conditions as set out in the Annex of the Circular please refer this circular on the RBI website at –

<https://rbidocs.rbi.org.in/rdocs/Notification/PDFs/A320084163A24434DB5905EEB3F3296EBEC.PDF>

Guidelines on trading of Currency Futures and Exchange Traded Currency Options in Recognised Stock Exchange – Introduction of Cross Currency Futures and Exchange Traded Options Contracts

A.P. (DIR Series) Circular No. 35 dated December 10, 2015

In order to enable direct hedging of exposures in foreign currencies and

facilitate execution of cross-currency strategies by market participants, it has been decided, as announced in the Fourth Bi-monthly Monetary Policy Statement 2015-16 (Para 38), to permit the recognised stock exchanges to offer cross-currency futures contracts and exchange traded option contracts in the currency pairs of EUR-USD, GBP-USD and USD-JPY. Recognised stock exchanges are also permitted to offer exchange traded currency option contracts in EUR-INR, GBP-INR and JPY-INR in addition to the existing USD-INR option contract, with immediate effect.

Accordingly, the Notifications No. FMRD.1 / ED (CS) - 2015 dated December 10, 2015 and No. FMRD. 2/ ED (CS) – 2015 dated December 10, 2015 viz. Currency Futures (Reserve Bank) (Amendment) Directions, 2015 and Exchange Traded Currency Options (Reserve Bank) (Amendment) Directions, 2015 amending the Directions notified *vide* Notification No. FED.1/DG (SG) – 2008 dated August 6, 2008 and Notification No. FED.1/ED (HRK)-2010 dated July 30, 2010 respectively have been issued.

Market Participants, i.e., residents and FPIs, are allowed to take positions in the cross-currency futures and exchange traded cross-currency option contracts without having to establish underlying exposure subject to the position limits as prescribed by the exchanges.

The existing position limits of USD 15 million for USD-INR contracts and USD 5 million for non USD-INR contracts, all put together, per exchange, for residents and FPIs, without having to establish underlying exposure, shall remain unchanged. The hedging procedure for residents as laid down in A.P. (DIR Series) Circular No. 147 dated June 20, 2014 and for FPIs as laid down in A.P. (DIR Series) Circular No. 148 dated June 20, 2014 shall also remain unchanged.

RBI/2015-16/248

A.P. (DIR Series) Circular No. 29 dated November 26, 2015

Import of Goods into India – Evidence of Import

In terms of para A.10.1 of A.P. (DIR Series) Circular No. 106 dated June 19, 2003 an importer has to submit as evidence of import, (a) the exchange control copy of the Bill of Entry for home consumption; (b) the exchange control copy of the Bill of Entry for warehousing, in the case of 100% Export Oriented Units (EOUs); or (c) Customs Assessment Certificate or Postal Appraisal Form as declared by the importer to the Customs Authorities.

With the establishment of Free Trade Warehousing Zones/SEZ Unit warehouses, imported goods can be stored therein, for re-export/re-selling purposes for which Customs Authorities issue Ex-Bond Bill of Entry. It has now been decided that the Bill of Entry issued by Customs Authorities named as Ex-Bond Bill of Entry or by any other similar nomenclature, will also be considered as evidence for physical import of goods. Further, in cases where goods have been imported through couriers, the Courier Bill of Entry, as declared by the courier companies to the Customs Authorities, may also be considered as evidence of import of goods.

For full text visit: <https://rbidocs.rbi.org.in/rdocs/Notification/PDFs/248AP6B4FA5CF15164D9BA187B864E54E5A13.PDF>

RBI/2015-16/249

A.P. (DIR Series) Circular No. 30 dated November 26, 2015

Advance Remittance for Import of aircrafts /helicopters / other aviation related purchases

In terms of clause 3(f) of A.P. (DIR Series) Circular No.77 dated June 29, 2007, AD Category I banks could allow advance remittance, without bank guarantee or an unconditional, irrevocable standby letter of credit up to USD 50 million, in the case of import of aircraft/helicopters/other aviation related purchases by scheduled air transport operators permitted by the Director General of Civil Aviation (DGCA), after ensuring that the requisite approval of the Ministry of Civil Aviation (MoCA)/ DGCA / other agencies in terms of the extant Foreign Trade Policy, had been obtained by the company for import.

Director General of Foreign Trade *vide* Notification No. 24/2015-2020 dated October 9, 2015 has announced amendment in Policy condition 1 of Chapter 88 of ITC (HS), 2012-Schedule – 1 (Import Policy). Accordingly, now in case of advance remittance without bank guarantee or an unconditional, irrevocable standby letter of credit up to USD 50 million, only the requisite approval of DGCA is required to be obtained by the company and the approval from MoCA will not be required.

For full text visit: <https://rbidocs.rbi.org.in/rdocs/Notification/PDFs/249APB4643F60014E487F9FA98E0906FF1589.PDF>

RBI/2015-16/253

A.P. (DIR Series) Circular No. 31 dated November 26, 2015

Investment by Foreign Portfolio Investors (FPI) in Corporate Bonds

Vide A.P. (DIR Series) Circular No. 31 dated November 26, 2015 FPI have been permitted to acquire NCDs/bonds, which are under default, either fully or partly, in the repayment of principal on maturity or principal instalment in the case of amortising bond. The revised maturity period of such NCDs/bonds, restructured based on negotiations with the issuing Indian company, should be three years or more. The FPI which propose to acquire such NCDs/bonds under default should disclose to the Debenture Trustees the terms of their offer to the existing debenture holders / beneficial owners from whom they are acquiring. Such investment should be within the overall limit prescribed for corporate debt from time to time (currently ₹ 2443.23 billion). All other existing conditions for investment by FPIs in the debt market are unchanged.

For full text visit: <https://rbidocs.rbi.org.in/rdocs/Notification/PDFs/253CFPI5DFF94350DD64AD4B7C128BCF6F7E08D.PDF>

RBI/2015-16/255

A.P. (DIR Series) Circular No. 32 November 30, 2015

Revised Framework on External Commercial Borrowings (ECB) Policy

RBI in consultation with the Government of India, has calibrated a revised ECB framework based on the following overarching principles:

- A more liberal approach, with fewer restrictions on end uses, higher all-in-cost ceiling, etc. for long-term foreign currency borrowings as the extended term makes repayments more sustainable and also minimises roll-over risks for the borrower;
- A more liberal regime for INR denominated ECBs where the currency risk is borne by the lender;
- Expansion of the list of overseas lenders to include long-term lenders, such as, Insurance Companies, Pension Funds, Sovereign Wealth Funds;
- Only a small negative list of end-use restrictions applicable in case of long-term ECB and INR denominated ECB;
- Alignment of the list of infrastructure entities eligible for ECB with the Harmonised List of the Government of India.

The new ECB framework will come into force from the date of publication, in the Official Gazette, of the relative Regulations issued under FEMA. These Regulations are being issued separately.

The new guidelines will be reviewed after one year based on the experience and evolving macro-economic situation.

The revised ECB framework will comprise the following three tracks:

Track I: Medium-term foreign currency denominated ECB with Minimum Average Maturity (MAM) of 3/5 years.

Track II: Long-term foreign currency denominated ECB with MAM of 10 years.

Track III: Indian Rupee denominated ECB with MAM of 3/5 years.

Entities raising ECB under extant framework can raise the said loans by March 31, 2016 provided the agreement in respect of the loan is already signed by the date the new framework comes into effect. For raising of ECB under the following carve outs, the borrowers will, however, have time up to March 31, 2016 to sign the loan agreement and obtain the Loan Registration Number (LRN) from the Reserve Bank by this date:

- ECB facility for working capital by airlines companies;
- ECB facility for consistent foreign exchange earners under the USD 10 billion Scheme; and
- ECB facility for low cost affordable housing projects (low cost affordable housing projects as defined in the extant Foreign Direct Investment policy)

For full text on guidelines for the revised ECB framework specifying the parameters and other terms and conditions visit: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10153&Mode=0>

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RBI/2015-16/267

A.P. (DIR Series) Circular No. 35 dated December 10, 2015

Introduction of Cross-Currency Futures and Exchange Traded Option Contracts

Currently market participants, i.e., residents and eligible non-resident market participants are permitted to trade in US Dollar (USD)-Indian Rupee (INR), Euro (EUR)-INR, Pound Sterling (GBP)-INR and Japanese Yen (JPY)-INR currency futures contracts and USD-INR currency option contract in recognised stock exchanges. In order to enable direct hedging of exposures in foreign currencies and facilitate execution of cross-currency strategies by market participants, it has been decided to permit the recognised stock exchanges to offer cross-currency futures contracts and exchange traded option contracts in the currency pairs of EUR-USD, GBP-USD and USD-JPY. Recognised stock exchanges are also permitted to offer exchange traded currency option contracts in EUR-INR, GBP-INR and JPY-INR in addition to the existing USD-INR option contract. Market Participants, i.e., residents and FPIs, are allowed to take positions in the cross-currency futures and exchange traded cross-currency option contracts without having to establish underlying exposure subject to the position limits as prescribed by the exchanges.

For full text visit: <https://rbidocs.rbi.org.in/rdocs/Notification/PDFs/APDBCDEC1B7F4A4487095CC9900E2B2791A.PDF>

Press Note 12 dated 24th Nov. 2015 issued by Department of Policy and Promotion, GOI

As a follow-up to the Foreign Direct Investment policy changes announced by the Government vide Press Release dated November 10, 2015 (refer last month update) the DIPP has released Press Note 12 of 2015 notifying the amendments to FDI Policy effective November 24, 2015.

For full text visit: https://dipp.nic.in/English/acts_rules/Press_Notes/pn12_2015.pdf

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Recent Judgments

DIRECT TAX

(Contributed by CA. Paras K. Savla & CA. Lalchand Choudhary)

SUPREME COURT & HIGH COURTS

Spentex Industries Ltd vs. CCE (Supreme Court)

CBDT & Government are bound by their own interpretation of a statutory provision. Principle of “*contemporanea expositio*” explained. The word “or” can be interpreted as “and” if the former leads to unintelligible and absurd results

The Supreme Court held that it is to be borne in mind that it is the Central Government which has framed the Rules as well as issued the notifications. If the Central Government itself is of the opinion that the rebate is to be allowed on both the forms of excise duties the Government is bound thereby and the rule in-question has to be interpreted in accord with this understanding of the rule maker itself. Law in this respect is well-settled and, therefore, it is not necessary to burden this judgment by quoting from various decisions.

Hero Cycles (P) Ltd vs. CIT (Supreme Court)

S. 36(1)(iii): Law on when interest expenditure on loans diverted to sister concerns and directors can be allowed as business expenditure explained

The Supreme Court held that once it is established that there is nexus between the expenditure and the purpose of business (which need not necessarily be the business of the assessee itself), the Revenue cannot justifiably claim to put itself in the arm-chair of the businessman or in the position of the Board of Directors and assume the role to decide how much is reasonable expenditure having regard to the circumstances of the case. It further held that no businessman can be compelled to maximise his profit and that the income tax authorities must put themselves in the shoes of the assessee and see how a prudent businessman would act. The authorities must not look at the matter from their own view point but that of a prudent businessman.

DCIT vs. Zuari Estate Development & Investment Co. Ltd. (Supreme Court)

Ss. 143(1)/147: As a section 143(1) intimation is not an assessment, there is no question of “change of opinion” by the AO

The Supreme Court held that an Intimation u/s. 143(1) cannot be equated with an assessment order. The intimation under Section 143(1)(a) was deemed to be a notice of demand under Section 156, for the apparent purpose of making machinery provisions relating to recovery of tax applicable. By such application only recovery indicated to be payable in the intimation became permissible. And nothing more can be inferred from the deeming provision. Therefore, there being no assessment under Section 143(1)(a), the question of change of opinion, as contended, does not arise.

Knorr - Bremse India Pvt. Ltd. vs. ACIT (P&H High Court)

Rule 10A(d): Law on when multiple transactions can be regarded as a single composite transaction for determining arm's length price explained. Fact that a transaction results in a profit or a loss has no bearing on whether it is at arm's length price

The High Court held that the answer to the issue whether a transaction is at an arm's length price or not is not dependent on whether the transaction results in an increase in the assessee's profit. A view to the contrary would cause considerable confusion and lead to arbitrary, if not illogical, results. A view to the contrary would then raise a question as to the extent of profitability necessary for an assessee to establish that the transaction was at an arm's length price. A further question that may arise is whether the arm's length price is to be determined in proportion to the extent of profit. Thus, while profit may reflect upon the genuineness of an assessee's claim, it is not determinative of the same.

Varshaben Sanatbhai Patel vs. ITO (Gujarat High Court)

S. 143(1)/ 147: If the assessment is reopened on the ground of “bogus purchases”, the reasons must contain an averment of which details on record reflect the bogus purchases

The returns filed by the assessee have been processed under section 143(1) of the Act. The Assessing Officer in the reasons recorded for the

purpose of reopening the assessment has placed reliance upon the record of the case. As noted hereinabove, there is no assertion as regards on what basis the Assessing Officer has stated that the assessee had made claim in respect of bogus purchases in the Trading and the Profit and Loss Account as expenditure. The Assessing Officer has stated that on verification of the details available on record, it has been noticed that the assessee has made bogus purchases; however, no specific averments are made as regards which details available on record reflected such bogus purchases.

Maruti Suzuki India Limited vs. CIT (Delhi High Court)

Transfer Pricing: Important legal principles on whether an adjustment for Advertisement & Market Promotion (AMP) expenses can be made on the basis that there is an assumed “international transaction” with the AE because the advertisement expenditure of the Indian company is “excessive” explained.

The High Court held that the transfer pricing adjustment is not expected to be made by deducing from the difference between the ‘excessive’ AMP expenditure incurred by the assessee and the AMP expenditure of a comparable entity that an international transaction exists and then proceed to make the adjustment of the difference in order to determine the value of such AMP expenditure incurred for the AE. And, yet, that is what appears to have been done by the Revenue in the present case. It first arrived at the ‘bright line’ by comparing the AMP expenses incurred by MSIL with the average percentage of the AMP expenses incurred by the comparable entities. Since on applying the BLT, the AMP spend of MSIL was found ‘excessive’ the Revenue deduced the existence of an international transaction. It then added back the excess expenditure as the transfer pricing ‘adjustment’. This runs counter to legal position explained in *CIT vs. EKL Appliances Ltd. (2012) 345 ITR 241 (Del)*, which required a TPO “to examine the ‘international transaction’ as he actually finds the same”. In other words the very existence of an international transaction cannot be a matter for inference or surmise

CIT vs. Thyssen Krupp (Bombay High Court)

Transfer Pricing: An adjustment with respect to transfer pricing has to be confined to transactions with Associated Enterprises and cannot be made with respect to transactions with unrelated third parties.

The High Court held that in terms of Chapter X of the Act, re-determination of the consideration is to be done only with regard to income arising from International Transactions on determination of ALP. The adjustment which is mandated is only in respect of International Transactions and not transactions entered into by assessee with independent unrelated third parties. This is particularly so as there is no issue of avoidance of tax requiring adjustment in the valuation in respect of transactions entered into with independent third parties. The adjustment as proposed by the Revenue if allowed would result in increasing the profit in respect of transactions entered into with non-AE. This adjustment is beyond the scope and ambit of Chapter X of the Act.

CIT vs. Gujarat Reclaim & Rubber Products (Bombay High Court)

Commission earned by a non-resident agent who carried on business of selling Indian goods outside India cannot be said to be deemed income which has accrued and/or arisen in India. Circular No. 23 of 1969 & Circular No.786 of 2000 were withdrawn on 22/10/2009. The withdrawal of a Circular cannot have retrospective operation.

The High Court held that in *CIT vs. Toshoku Ltd. 125 ITR 525* the Apex Court held that the commission earned by the non-resident agent who carried on the business of selling Indian goods outside India, cannot be said to be deemed income which has accrued and/or arisen in India. Circular No. 23 of 1969 and its reiteration in Circular No.786 of 2000 were in force during the Assessment Years. It was only subsequently i.e. on 22nd October, 2009 that the earlier Circular of 1969 was withdrawn. However, such subsequent withdrawal of an earlier Circular cannot have retrospective operation as held in *UTI vs. P. K. Unny 249 ITR 612*.

Jaya Hind Sciaky vs. DCIT (Bombay High Court)

Though there is a difference between leasehold right and ownership right as per the Transfer of Property Act, a leasehold land in the possession of the assessee for a term of 95 years is “belonging” to the assessee and is liable for wealth-tax.

The High Court held that the word ‘belonging to the company’ has advisedly been used by the Parliament in Section 40(2) of the Act. In case the Parliament sought to equate the word ‘belonging to’ to mean ownership then in such a case, there would be no reason to use the word ‘belonging to’ and instead use the word ‘owner of’. The intent in using the word ‘belonging to’ is to include within the provisions of the Act, assets in possession of the Company without full ownership, but sufficient domain



over it, to exercise the powers which would otherwise normally vest in the owner on the valuation date. Therefore, the concept of less than full ownership is sought to be introduced by the use of the word 'belonging to'.

ITAT JUDGMENTS

Hema Hiren Dand vs. JCIT (ITAT Mumbai)

The object of introduction of Securities Transaction Tax (STT) was to end litigation on the issue of whether profit earned from delivery based sale of shares is capital gains or business profit. Merely because the assessee liquidates its investment within a short span of time, which had given better overall earning to the assessee, would not lead to the conclusion that the assessee had no intention to keep on the funds as investor in equity shares, but was actually intended to trade in shares.

The ITAT opined that the idea behind introduction of security transaction tax (STT) is to end the litigation on the issue, whether the profit earned from delivery based sale of shares is capital gains for business profit. Thus, w.e.f. 1/10/2004; on the share transactions subjected to STT, concessional tax rate of 10% (which has been increased to 15% from AY 2009-10) is applicable in respect of STCG whereas no tax is chargeable in respect of LTCG. It is also noted that the CBDT vide its Circular No. 4/2007, dated 15/6/2007 has also recognised possibility of two portfolios, i.e. one 'Investment portfolio' comprising of securities which are to be treated as capital assets and the other 'Trading portfolio' comprising of stock-in-trade which are to be treated as trading assets. In view of these facts, profit arising on shares in respect of delivery based transactions are liable to be taxed as capital gain and not as business income.

DCM Ltd. vs. DCIT (ITAT Delhi)

S. 14A/Rule 8D: The AO must give reasons before rejecting the assessee's claim. He must establish nexus between the expenditure & the exempt income. The disallowance cannot exceed the exempt income

The AO has neither recorded his satisfaction nor given reasons as to how the claim of expenditure in relation to tax free income has not been correctly made by the assessee as envisaged under section 14A(2). The AO has mechanically invoked Rule 8D. The AO has not established any nexus between the investments made and the expenditure incurred under the head interest expenditure and administrative expenses, before disregarding the disallowance *suo motu* made by the assessee. Disallowance u/s.14A cannot exceed the amount of exempt income.

(Note: In this case, ITAT, Delhi has taken a view that disallowance u/s. 14A cannot exceed tax-free Income)

Suvaprasanna Bhattacharya vs. ACIT (ITAT Kolkata)

S. 271(1)(c): A penalty notice u/s. 274 which does not strike out the irrelevant portion & which does not specify whether the penalty is for "concealment" or for "furnishing inaccurate particulars" renders the penalty order void

The ITAT held that the show cause notice u/s. 274 of the Act which is in a printed form does not strike out as to whether the penalty is sought to be levied for "furnishing inaccurate particulars of income" or "concealing particulars of such income". On this aspect we find that in the show cause notice u/s. 274 of the Act the AO has not struck out the irrelevant part. It is therefore not spelt out as to whether the penalty proceedings are sought to be levied for "furnishing inaccurate particulars of income" or "concealing particulars of such income".

Micro Ink Limited vs. ACIT (ITAT Ahmedabad)

Entire law on transfer pricing implications of (i) allowing excess credit to AE's on account of sale of goods and (ii) issue of corporate guarantee to AEs (after insertion of Explanation i(c) to s. 92B by FA 2012) explained.

The ITAT took a view that If the international transaction of exports of goods which has been benchmarked on TNMM basis is duly accepted by the TPO, making an adjustment for interest on excess credit allowed on sales to AEs will vitiate the picture, in as much as what has already been factored in the TNMM analysis, by taking operating profit figure which incorporates financial impact of the excess credit period allowed, will be adjusted again separately as well because the interest levy for late realisation of debtors is inextricably connected with the sales and is also part of operating income. When such an interest is includible in operating income and the operating income itself has been accepted as reasonable under the TNMM, there cannot be an occasion to make adjustment for notional interest on delayed realisation of debtors.

ITO vs. Superline Construction P. Ltd. (ITAT Mumbai)

S. 68 (bogus share capital): Despite statement of Mukesh C. Choksi &

Jayesh Sampat admitting bogus share capital, addition cannot be made in assessee-company's hands

The ITAT took a view that if the share application money is received by the assessee company from alleged bogus shareholders whose names are given to the AO then the department is free to proceed to reopen their individual assessments in accordance with law but it cannot be regarded as undisclosed income of assessee company.

Sesa Resources vs. ACIT (ITAT Panaji)

S. 195/40(a)(ia): In view of retrospective amendment to section 195 to provide that section 195 applies whether or not the non-resident person has a residence or place of business or business connection in India, commission to non-resident agents for services rendered outside India is liable for TDS u/s. 195 and has to suffer disallowance u/s. 40(a)(ia)

In respect of the issue as to whether the assessee was liable to deduct TDS u/s. 195 and whether the disallowance was liable to be made u/s. 40(a)(ia) of the Act, it is noticed that the provisions of section 195 has been amended by the introduction of the Explanation-II to the said section by the Finance Act, 2012, with retrospective effect from 1/4/1962, whereby it is clarified that 'the obligation to comply with sub-section (1) and to make deduction there under applies and shall be deemed to have applied and extends and shall be deemed to have always extended to all persons, resident or non-resident, whether or not the non-resident person has (i) a residence or place of business or business connection in India...' In view of the introduction of Explanation II to section 195, the disallowance would have to be restored.

CBDT

CBDT Enhances Monetary Limits for filing appeals by the Dept & gives it retrospective effect

The CBDT has, as a measure for reducing litigation, issued Circular 21/2015 dated 10/12/2015 increasing the monetary limits for filing of appeals by the department before the ITAT and High Courts and SLP before the Supreme Court. The notable aspect is that the CBDT has directed that the said instruction shall apply retrospectively to pending appeals and that all appeals below the specified tax limits should be withdrawn/ not pressed. However, appeals before the Supreme Court are to be governed by the limits operative at the time that the appeal was filed

CBDT directs Dept. to extend benefits of Amendments to section 43B retrospectively in light of Apex Court verdict in Alom Extrusions

Accordingly, w.e.f. 1/4/1988, the settled position is that if the assessee deposits any sum payable by it by way of tax, duty, cess or fee by whatever name called under any law for the time being in force, or any sum payable by the assessee as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees, on or before the 'due date' applicable in his case for furnishing the return of income under section 139(1) or the Act, no disallowance can be made under section 43B of the Act.

CBDT relaxes rules regarding furnishing of information in respect of Payments made to Non-Residents

The CBDT has issued a press release dated 17/12/2015 stating that Section 195 of the Income-tax Act ('the Act') empowers the Central Board of Direct Taxes to capture information in respect of payments made to non-residents, whether chargeable to tax or not. Rule 37BB of the Income-tax Rules has been amended to strike a balance between reducing the burden of compliance and collection of information under section 195 of the Act.

INTERNATIONAL TAXATION

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

Director, Income Tax vs. R & B Falcon Offshore Ltd. Co. [2015] 63 taxmann.com dated 14th September, 2015

Facts of the case

R & B Falcon Offshore Ltd. Co. has bought a rig to India from USA and it was ready for use at that time. The rig underwent temporary repairs work & certain preparatory activity was conducted before it was given for exploration of natural resources to M/s Petrom SA.

The lower authorities considered that the assessee had a "permanent



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establishment in India” under Article 5(2)(j) of the Double Taxation Avoidance Treaty between India and the USA since the same was used in India for more than 120 days considering the days of repairs done to rig.

CIT (Appeals) also was of the same view & dismissed the appeal of the assessee.

Issue

Whether assessee operating rig had PE in India and the income of an assessee in India, be treated as taxable in India if PE of an assessee exists in terms of Article 5(2)(a)(b)(c) beside 5(2)(j) of DTAA with USA?

Held

The HC considered Tribunal view that the installation or structure used for the exploration or exploitation of natural resources may constitute the PE. The attendant condition is that it must have been so used for a period of 120 days in any twelve-month period. The words “so used” clearly show that the installation or the structure should have been used for exploration or exploitation of natural resources for it to constitute a PE provided that it is used for either of activities for a period of more than 120 days for any twelve-month period.

The rig was not used for exploration or exploitation of the mineral oil when it was under repairs or being moved to the appointed place for exploitation of mineral oil. That activity was a preparatory activity so as to make the rig to be fit for exploitation of natural resources as per the requirement of Saipem SA. It was used for exploitation of mineral oil when it was positioned at the appointed place for exploitation of mineral oil. It is the admitted position that if the time is reckoned from its positioning at the appropriate place, the period is less than 120 days. Therefore, it is held that the assessee did not have the PE in terms of Article 5(2)(j).

Hence the result was in favour of assessee.

Income Tax Officer International Taxation-II vs. B A Research India Pvt. Ltd. [TS-683-ITAT-2015(Ahd) dated 30th November, 2015]

Facts of the case

The assessee is an Indian company manufacturing drugs in India & subsequently selling the drugs.

The assessee made payments to concerns in USA & Canada for providing analytical services and testing charges without deducting tax. The non-resident companies had no PE in India. These services were provided outside India, but were utilised for earning income from source in India.

The Assessing Officer did not accept the contention of the assessee and proceeded to hold the assessee in default for non-deduction of tax on the basis that the services provided are fees for included services & it is made available as per the Article 12(4)(b) of DTAA.

In an appeal CIT(A) held that the services provided to the assessee by the non-resident parties of USA and Canada did not fall within the purview of ‘included services’ under Article 12(4)(b) and, hence, there was no liability on the assessee to deduct TDS u/s.195 of the Act.

Aggrieved by the order of the CIT(A), the Revenue preferred an appeal before Ahmedabad Tribunal.

Issue

Whether a service, technical in nature, can be said to be “fees for included services” only when it has “made available” technical knowledge or skills to the recipient of services and such recipient can apply the same on his own?

Held

ITAT referred the appellant’s contention that Article 12(4)(b) of the DTAA between India and USA/Canada is not applicable since the non-resident parties did not ‘make available’ any technical knowledge, experience, skill, know-how or processes. In this case the concerns in USA and Canada were conducting tests on the drugs which were already researched and after analysing the drugs on the required parameters final reports were submitted to the assessee.

In the present case the samples were sent to the experts outside India and there is nothing on record suggesting that the services rendered to the assessee were made available to the assessee and also the assessee was able to apply the same of his own. In the absence of the same, such

service would not fall within the ambit of the included service under Article 12(4)(b) hence there was no liability on the appellant to deduct TDS u/s. 195

ITAT thus held that the service which is technical in nature can be said to be “fees for included services” only when it has “made available” technical knowledge or skills to the recipient of services, i.e. recipient of services can apply the same on his own.

In the result, appeal of the Revenue is dismissed.

Asst Commissioner Income Tax vs. Ms Meera & Ceiko Pumps Pvt. Ltd. [2015-TII-196-ITAT-HYD-INTL dated 30th November, 2015]

Facts of the case

The assessee company was engaged in the business of manufacture of hand pumps and its spares and execution of works contracts.

A payment was made to non-residents as Agency Commission for participating and obtaining export orders for supply of hand pumps spares and tools manufactured by the assessee without deducting tax on it.

AO claimed that since the amount paid by the assessee falls within the ambit of income deemed to accrue or arise in India, the assessee is bound to deduct tax as per the provisions of section 195 and as such no application as required u/s. 195(2) for Nil deduction or deduction rate was made to the AO. Therefore due to failure to comply with provisions of TDS the AO disallowed the amount of Agency Commission paid.

In an appeal the CIT(A) referring to the earlier similar cases held that the assessee is not under obligation to deduct tax on agency commission payment made to foreign agents and accordingly the disallowance made by AO u/s. 40(a)(ia) was deleted by CIT(A).

Aggrieved by the order of CIT(a), revenue preferred an appeal before Hyderabad Tribunal.

Issue

Whether when the assessee paid to a foreign national in respect of work carried out outside India, payment also made outside India, such payment would be taxable in India or would fall under the exception of section 9(1)(vii)(b)?

Held

ITAT held that the issue in dispute is squarely covered by the decision of the ITAT in assessee’s own case. The agreement entered into between the assessee and Non-resident agents clearly shows that the assessee has to dispatch hand pumps, spares etc. and agents has to clear the hand pumps, spares and other material dispatched by the assessee from the port situated outside the country. The agent has to make arrangements for transporting, storing, distribution, installation and commission of hand pumps. This clearly shows that agents rendered their services only outside Indian territory.

It held that when the assessee paid to a foreign national in respect of work carried out outside India, and the payment was also made outside India, such a payment would fall within the exception provided’ in section 9(1)(vii)(b) of the Income-tax Act. Therefore, the payment made by the assessee is not subject to any tax in India. Accordingly, there is no need for deduction of tax by the assessee.

Hence the result was in favour of Assessee.

Dy. Director of Income Tax vs. The BOC Group Ltd. [TII-195-2015 –ITAT-Kolkata-Tribunal] dated 30th November, 2015

Facts of the case

The assessee, a tax resident of United Kingdom, declared taxable income from business or profession and subjected the same to tax at the rate of 15% as per the DTAA, as against the regular tax rate applicable to a foreign company at the rate of 40%. The assessee did not calculate surcharge and education cess on the tax rate of 15% as per DTAA.

The assessee submitted that since the Article 2 which defines “tax” states income tax including surcharge and felt that separately surcharge and education cess was not to be applied on the tax rate of 15% which was inclusive of all applicable taxes and was of the opinion that no other tax other than 15% was payable.

The AO determined the tax to be payable at the rate of 40% being the rate applicable to foreign company and surcharge and education cess was also applied on the said rate.

On appeal, the CIT(A) held that the assessee had received the income in the nature of fees for technical services and in terms of Articles 13(2)



(a) and 13(4) (c) and the tax rate applicable would be 15%. Also, that the surcharge and education cess was not to be levied on the tax rate prescribed under DTAA at 15% on fees for technical services.

Aggrieved by this revenue preferred an appeal before Kolkata Tribunal.

Issue

Whether the surcharge and education cess is leviable when the tax rate is prescribed under DTAA?

Held

It is well settled that the education cess is nothing but an additional surcharge. Article 2 states that surcharge is included in income tax and hence the tax rate of 15% for fee for technical services which is prescribed in Article 13 shall have to be deemed to include surcharge.

Since education cess is nothing but an additional surcharge, the tax prescribed under DTAA @ 15%, in the instant case, shall be deemed to include surcharge and education cess. When a tax rate is determined under DTAA, then the tax rate prescribed thereon shall have to be followed strictly, without any additional taxes thereon in the form of surcharge or education cess.

DTAA benefit under Article 13 could not be denied to the assessee.

ITAT, thus, ruled in favour of assessee.

CIT vs. Taurus Shipping Services [2015-TII-77-HC – Ahmedabad – INTL] dated 1st December, 2015

Facts of the case

The assessee during the concerned year had acted as an agent of three vessels which had transported goods from Kandla Port to Vizag. The vessels had undertaken this freight transportation during the journey from Singapore to Dubai.

During assessment, the AO concluded that such transportation between Kandla to Vizag could not be considered as international traffic as defined in DTAA between India and Singapore.

On appeal, the Tribunal, however, ultimately held in favour of the assessee.

Aggrieved by this revenue preferred an appeal before Ahmedabad High Court.

Issue

Whether the exclusion clause of the definition of term 'international traffic' would apply to a case, where the transportation between two Indian ports was undertaken during a larger journey of vessels from Singapore to Dubai?

Whether the assessee is entitled to claim the benefit of Article 8 of the Indo-Singapore DTAA on transportation of vessel from Singapore to Dubai, by treating the said transaction as "international traffic"?

Held

The term 'International Traffic', as noted, is defined to mean any transport by a ship or aircraft operated by an enterprise by a contracting state. This definition, however, has an exception clause which excludes the transport when the ship or aircraft is operated "solely" between the places in the other contracting state.

Thus, any transaction by a ship or aircraft operated by enterprise or contracting state would be an international traffic. However, this would be not so if a ship or the aircraft is operated "solely" between the places in the other contracting state.

The case here was not that the journey being undertaken by such vessels in question were confined between the two ports in India either routinely or even in individual isolated case. Fact was that such transportation between 2 India ports was undertaking during a larger journey of the vessels from Singapore to Dubai. Being so, the requirement of such journey being "solely" between places in the other contracting state is not satisfied.

The exclusion clause of the definition of term 'international traffic', in this case therefore, would not apply.

In terms of Article 8 of the DTAA, profits derived by an enterprise of a contracting state from the operation of ships or aircraft in international traffic would be taxable only in that state. Hence the transport by the ships in question from Kandla to Vizag falls within the definition of the term 'international traffic', in terms of Article 8, the assessee would be entitled to the benefit of the DTAA.

Thus, Revenue's appeal dismissed.

SERVICE TAX

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

Rate of service tax on hire purchase contracts

Rate of service tax applicable on hire purchase contracts would be the rate prevailing on the date when the contract is entered into even if the rate of tax increases during the period of the hire-purchase contract. [*Jaylaxmi Credit Company Ltd. vs. CCE (2015) 39 STR 164 (Tri.-Ahmd.)* relying on *Art Leasing Ltd. vs. CCE (2007) 8 STR 162 (Tri.-Bang.)*].

Maintenance and repair services

'Software' being goods as held by the Supreme Court in *Tata Consultancy Services vs. State of AP (2004) 178 ELT 22 (SC)*, it was held that software maintenance services were liable for service tax under the category of Maintenance and repair services [*Choudhary International Pvt. Ltd. vs. CST (2015) 39 STR 170 (Tri.-Mum.)*].

Renting of immovable property services

The Tribunal in the present case while dealing with the issue of applicability of service tax on activities related to leasing/renting of vacant lands observed as follows:

- Giving of vacant land on lease/licence for construction of building or temporary structure at a later date to be used for furtherance of business or commerce would be liable for service tax only w.e.f. 1/7/2010 and not prior to that date. Further service tax would be payable even in cases where the agreement for lease/licence has been entered prior to 1/7/2010 since the taxing event is the provision of service and not the event of entering into agreement for provision of services;
- The service tax law does not make any distinction between long-term lease and short-term lease. Accordingly, the assessee's contention that long-term lease would not be liable for service tax under the category of renting of immovable property services is incorrect;
- Premium paid by lessee to lessor is for transfer of interest in property. Since levy of service tax is on renting of immovable property i.e. continuous enjoyment of the property and not on transfer of property no service tax would be payable on lease premium;
- Processing charges collected for allotment of land on lease basis would be liable for service tax under the category of 'Renting and immovable property' services. However, the services like processing and approval of building plan, map revision, malba charges connected with building of structures on the land allotted on lease basis have no nexus with the renting of immovable property for business or commerce, and as such, the activities in relation to the construction of building on the vacant land allotted on lease basis i.e. the charges of map approval, validation, map revision, malba charges, etc. would not attract Service Tax.
- Rent received from staff for letting out residential units or for giving of vacant land on lease for construction of residential complex not being for furtherance of business or commerce would not be liable for service tax under the category of renting of immovable property services.

Greater Noida Indl. Development Authority vs. CCE&ST (2015) 38 STR 1062 (Tri.-Del.)

Reverse charge mechanism

The appellants, a pharmaceutical company, sold products to distributors abroad who in turn sold it in their respective countries. The appellant did not give any discount on the list price of the products to the distributors but reimbursed certain marketing costs (registration, staff related expenses, promotional costs, etc.) to the distributors. It was held that the reimbursement of the marketing costs was not in the nature of discount since it was also for the benefit of the appellant also. Further it was held that the sales promotion expenses were for services consumed by the appellant in India and service tax would be payable on such expenses by the appellant as a recipient of services. [*Torrent Pharmaceuticals Ltd. vs. CST (2015) 39 STR 97 (Tri.-Ahmd.)*].



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The appellants, manufacturers of pharmaceutical products, had branches/representative offices abroad. These branches/offices did not stock the goods or sell the goods. They only facilitated the export business of the appellant. The branches/offices received services for which they incurred expenses towards salary, advertising, telecommunication expenses, etc. Such expenses were reimbursed by the appellants from its Head Office ('HO') in India. The Revenue raised a demand on the appellant's HO under the reverse charge mechanism, contending that –

- The HO and the overseas branches as distinct entities u/s. 66A(2);
- The overseas branches provided services to the HO in India;
- The remittances made by the HO to overseas branches are consideration for provision of services.

The Tribunal dismissed the contention and held that:

- Section 66A(2) providing that the permanent establishments in India and abroad of a business person are to be treated as separate persons is only for making an identification to determine whether a service is provided and consumed in India or abroad. It is not for deeming the overseas 'permanent establishment' of an assessee as a service provider to its own HO in India especially considering that –
 - Section 66A(1) above speaks of the service provider and service recipient as 'persons' which has to mean as different business persons.
 - If the overseas 'permanent establishment' of an assessee is treated as a service provider to its own HO in India then it will amount to charging service tax on an activity provided to one's own self and according to accepted legal position one cannot provide a service to one's own self.
 - Similarly placed branches of the assessee undertaking similar activities in India will not be held so.
- The foreign branches/establishments while procuring services abroad have not acted as 'facilitators' and the appellant's HO has not consumed those services in India, but the foreign branches / establishments have actually consumed those services abroad for which local VAT/GST of the respective foreign country has been paid.
- Payment of local VAT abroad will be an indicator to decide whether a service is provided/consumed outside India or within India. On a perusal of invoices it was noted that where the overseas service providers directly raised invoices on the appellant in India no VAT / GST was charged and the appellant paid service tax under reverse charge. But where the overseas service providers raised bills on the branch office for a service consumed abroad local VAT /GST applicable was charged and hence no service tax was paid by appellant as recipient of service.

Accordingly, it was held that service tax was not payable by the appellant's HO in India on the remittances made to the foreign branches of the appellant [Torrent Pharmaceuticals Ltd vs. CST (2015) 39 STR 97 (Tri.-Ahmd.)].

Valuation – Reimbursement

Reimbursement of actual travelling expenses received by the appellant from its service recipients would not form part of the taxable value in view of the Tribunal decision in case of *Reliance Industries Ltd. vs. CCE (2008) 12 STR 345* upheld by the Supreme Court in (2011) 23 STR J226 (SC) [Kirkoskar Pneumatic Co. Ltd. vs. CCE (2015) 38 STR 1198 (Tri.-Mum.)].

Obituary



CA. Dattatraya Narayan Tulpule

M. No. 2042 left for Heavenly Abode on 1/12/2015. May the departed soul rest in peace.

Demand

The assessee, a proprietary concern providing commercial training services was taken over by a private company. A show cause notice was issued to the private company after the takeover for a period prior to the takeover but order demanding service tax was made on the assessee. No SCN was issued on the assessee. The Tribunal held that in absence of SCN on the assessee, demand cannot be made on the assessee. [Narayana Coaching Centre vs. CCE (2015) 39 STR 33 (Tri.-Bang.)].

Limitation

In case of refund arising pursuant to an order of the Tribunal the time limit of one year has to be counted not from the date of payment of tax but from the date of the Tribunal order [CCE vs. Kusalva Finance Ltd. (2015) 38 STR 1163 (Tri.-Bang.)].

Demands only on assessment

The assessee in the present case had paid tax under protest due to coercion. The revenue had issued letter asking the assessee to pay interest on the amount of tax paid by it and was also threatened that on failure to pay the same, recovery proceedings u/s. 87 would be initiated. The said letter was challenged in a writ before the High Court wherein the High Court held that an amount can be held to be recoverable from the assessee only if the same has been assessed as payable by the Central Excise Officer under section 72 (Best Judgment Assessment) or under section 73 (in case of short levy/non-levy of tax). In the present case, since no such assessment as aforesaid was carried out, the High Court held that demanding of interest was not permissible within the four corners of the law [ICICI Bank vs. UOI (2015) 38 STR 907 (Bom.)].

Demands to be based on SCN – O-I-O cannot differ from SCN

Where the SCN had been issued and O-I-O confirmed the demand under the category of 'Business Support Services' but the Commissioner (Appeals) agreed that the demand under 'Business Support Service' is not sustainable but however he had in O-I-A confirmed the demand under the category of 'Business Auxiliary Services', the Tribunal held that the Commissioner (Appeals) had travelled beyond the scope of SCN and hence the impugned order was bad in law. [Deepak & Co. vs. CCE (2015) 38 STR 1010 (Tri.-Del.)].

Interest on delayed payment of service tax – not payable if there is balance in CENVAT credit

Where the appellant paid part of service tax on quarterly basis instead of monthly basis through CENVAT credit account, it was held that interest on service tax u/s. 75 is not payable since sufficient balance was available in the CENVAT Credit Account on monthly basis. Further, it was also held that the limitation of time bar to issue the SCN for demanding service tax would also be applicable for demanding interest. [Oil and Natural Gas Corporation Ltd. vs. CCE&ST (2015) 38 STR 867 (Tri.-Ahmd.)].

Rebate/Refund on Exports – time limit to be calculated from receipt of money

A service transaction in case of export of service would be complete when services have been provided to offshore client and payment for such services is recovered in convertible foreign exchange. Accordingly, the relevant date for filing of refund claim would be from the date on which payment is received in convertible foreign exchange. [Alan Infrastructures Pvt. Ltd. vs. CCE (2015) 38 STR 1087 (Tri.-Del.)].

Refund

Where the Tribunal had rejected the stay application filed by the department against the order of CCE(A) granting refund to the assessee, the High Court held that withholding of refund on the grounds that the appeal was yet to be decided on merits by the Tribunal was held to be incorrect [Madura Coats Pvt. Ltd. vs. CCE (2015) 39 STR 188 (Kar.)].

Where the assessee filed refund claim within the time limit but before a wrong authority and later filed the same with the correct authority after the period of limitation, the Tribunal held that the date of filing refund claim before the wrong authority could be taken as the date of filing for the purpose of determining limitation. Accordingly it was held that the refund claim was not barred by limitation [CCE&ST vs. Gimpex Ltd. (2015) 39 STR 143 (Tri.-Bang.)].

Refund – Time Limit

In the present case the Tribunal held that –

- With regard to the refund of unutilised CENVAT credit under Notification No. 5/2006-CE (NT) dated an EOU has an option to file the refund claim either on a quarterly basis or on a monthly basis
- Further since the said notification issued under Rule 5 of the CENVAT



Credit Rules, 2004 does not link the refund procedure prescribed therein to provisions of section 11B of the CEA, 1944 nor does it specify any time limit within which the refund claims have to be filed, hence in such circumstances provisions of time limit specified u/s. 11B would not be applicable to such refund claims.

[*Quality BPO Services Pvt. Ltd. vs. CST (2015) 39 STR 230 (Tri.-Ahmd.)*].

Revision u/s. 84 not permissible when matter is in appeal

The appellant claimed refund of service tax paid on input services used for exports which was partly allowed and partly rejected by the adjudicating authority. Against that part of the order of the adjudication authority rejecting the refund, the appellant preferred an appeal to the Commissioner (Appeals). During the pendency of the appeal the Commissioner initiated revision proceedings u/s. 84 against that part of the adjudicating authority's order that allowed the refund and *disallowed* the refund. On appeal, the Tribunal held relying on *CCE vs. Shiva Builders (2011) 22 STR 513 (P&H)* that during the pendency of the appeal before the Commissioner (Appeals) the power of revision cannot be exercised by the Commissioner even if it is in respect of any other issue [*Nuware Systems Pvt. Ltd. vs. CST (2015) 134 (Tri.-Bang.)*].

Centralised Registration – (i) available as recipient of service, and also (ii) denial by letter is appealable

The assessee liable to pay service tax as a recipient under GTA service had made an application for grant of centralized registration which was rejected by the Department *vide* a simple letter. The assessee filed an appeal against the said letter before the CCE(A) which was allowed by CCE(A). The Revenue filed an appeal against the order passed by CCE(A) on the ground that department's letter was not an appealable order and that a recipient of service is not entitled to the benefit of centralised registration. On appeal the Tribunal observed –

- The letter communicating non-grant of centralised registration was an appealable order;
- Even a recipient of service is entitled to obtain a centralised registration.

[*CCE vs. Maharashtra State Bureau of Text Books Production & Curriculum Research (2015) 39 STR 235 (Tri.-Mumbai)*].

Appeal – Commissioner (Appeals) to consider new grounds/facts and evidence

The powers of the Commissioner (Appeals) are co-extensive with the powers of adjudicating authority in view of the fact that the Commissioner (Appeals) has the power of enhancement of the demand and penalties and hence he has to consider new grounds/facts and evidence before passing his order [*Ashirwad Sales Corporation vs. CCE (2015) 38 STR 1155 (Tri.-Mumbai)*].

Pre-deposit compulsory post 6/8/2014

Post 6/8/2014 Tribunal cannot entertain an appeal unless the appellant has made a pre-deposit of 7.5%/10% as the case may be [*Netambit Infosource & E Services Pvt. Ltd. (2015) 38 STR 1177 (Tri.-Del.)*].

Pre-deposit

In a writ challenging the constitutionality of the provisions of Section 35F which requires an assessee to make a pre-deposit of 7.5% in order to file an appeal before the CCE(A)/Tribunal and 10% in case of a second appeal before the Tribunal the High Court observed as follows:

- The requirement of pre-deposit of 7.5% or 10% cannot be held as arbitrary or violative of Article 14 of the Constitution and hence the same was valid. However, the amended provision has not ousted the powers of High Court under Article 226 of the Constitution to dispense with the requirement of pre-deposit in appropriate cases;
- As regards the assessee's argument that since the *lis* in its case had commenced in 2013 by way of issuance of SCN i.e. much prior to the amendment of section 35F the High Court held that in view of the express language of section 35F of the Act pre-deposit of 7.5%/10% would be necessary in every appeal which have been filed after 6/8/2014. the only category to which the provisions will not apply would be those appeals which are pending before the appellate authority prior to the commencement of Finance (No. 2) Act, 2014.

[*Ganesh Yadav vs. UOI (2015) 39 STR 177 (All.)*]

No pre-deposit when the matter is remanded

The Tribunal while remanding the matter for fresh adjudication cannot ask for pre-deposit. [*Suvidha Signs Studios Pvt. Ltd. vs. CCE (2015) 39 STR 196 (Del.)*]

CENVAT Credit

CENVAT credit cannot be denied on the ground that the invoices raised by the service provider did not give full details viz. description of the services, especially when there is no dispute of the fact of payment of service tax by the service provider and the fact of availment of service by the service recipient. [*U. G. Sugar & Industries Ltd. vs. CCE (2015) 38 STR 852 (Tri.-Del.)*].

CENVAT credit on 'Outdoor catering services' received before 1/4/2011 is admissible even if payment is made after April 2011 though such services were excluded from the definition of 'input services' w.e.f. 1/4/2011. [*Hindustan Coca Cola Beverages Pvt. Ltd. vs. CCE&ST (2015) 38 STR 855 (Tri.-Del.)*].

CENVAT credit on "business auxiliary services" received by a manufacturer of excisable goods prior to 10/9/2004 is not admissible in terms of Rule 3(1) of the CENVAT Credit Rules, 2004 even though the invoices were raised and payments were released post 10.09.2004 [*Elecon Engineering Co. Ltd. vs. CCE (2015) 38 STR 874 (Tri.-Ahmd.)*].

Where the assessee had availed CENVAT credit on steel, racks, bolts etc procured by it for construction of mobile towers which were used by the assessee for providing "Passive Telecom Infrastructure" to other telecom companies (i.e. allowing the other telecom companies to put up their antenna on its towers), the Tribunal held that the said items would qualify as inputs under Rule 2(k)(ii) of the CENVAT Credit Rules and accordingly, the CENVAT credit of duty paid thereon would be admissible to the assessee [*Reliance Infratel Ltd. vs. CCE (2015) 38 STR 984 (Tri.-Mum.)*].

CENVAT credit of service tax paid on 'rent', 'stock insurance' and 'commission paid for sale of goods post clearance from the factory' is admissible [*Dhampur Sugar Mills Ltd. vs. CCE (2015) 38 STR 1004 (Tri.-Del.)*].

Payment of amount specified u/s. 73A [service tax collected but not leviable] has to be made in cash and not through CENVAT credit since Rule 3(4) of the CENVAT credit rules does not provide for utilisation of CENVAT credit for such payments [*Jaipur Cricket Pvt. Ltd. vs. CST (2015) 38 STR 1193 (Tri.-Mumbai)*].

Where the assessee has paid tax on exempted services it cannot be said that the assessee has provided any exempted services and hence restriction on availment of credit under Rule 6(2) was not applicable in its case. Assessee cannot be forced to avail the benefit of exemption notification [*Deloitte Haskins & Sells vs. CCE (2015) 38 STR 1220 (Tri.-Mumbai)*].

(i) Credit of service tax paid on rent-a-cab services availed prior to 1.4.2011 is admissible in view of the Board Circular No. 943/4/2011-CX dated 29/4/2011.

(ii) Credit of service tax paid on Air-travel agent's services is admissible in view of the Tribunal decision in case of Goodluck Steel Tubes Ltd. (2015) 38 STR 1232 (Tri.-Mumbai).

[*Innovasynth Technologies (I) Ltd. vs. CCE (2015) 38 STR 1232 (Tri.-Mumbai)*].

CENVAT credit on Housekeeping and gardening services to maintain their factory premises in an eco-friendly manner is admissible. [*CCE&ST vs. Rane TRW Steering Systems Ltd. (2015) 39 STR 13 (Mad.)*]

Personal Column

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- (i) CENVAT credit on Manpower Recruitment Service cannot be denied merely because the name of the service was not mentioned since the category "Manpower recruitment agency" is mentioned in the invoice.
- (ii) CENVAT credit on outdoor catering service [authorised presumably, for supply of food to employees] for the period 1/4/2011 – 31/3/2012 was held as not admissible since it was excluded from the definition of input service w.e.f. 1/4/2011.

[Bajaj Motors Ltd. vs. CCE (2015) 39 STR 85 (Tri.-Del.)].

Where the appellant paid service tax on full value of transportation charges instead of 25% of the value of transportation charges as per Notification No.13/2008, the Tribunal held that CENVAT credit of duty paid on full value would be allowed as per Rule 3 of Cenvat credit Rules and the contention of the department that CENVAT credit on only 25% of the value should be allowed is not sustainable. [H. One India Pvt. Ltd. vs. CCE, C&ST (2015) 39 STR 87 (Tri.-Del.)].

CENVAT Credit on maintenance of photocopying machine used in the office was admissible being activity related to business [Nirma Ltd. vs. CCE (2015) 39 STR 145 (Tri.-Ahmd.)].

CENVAT credit on following services is admissible–

- Renting of furniture for use by new recruits
- Housekeeping services used for up-keep of the premises
- Annual maintenance contract for maintenance of UPSs and computer networks
- Food coupons for provision food to office staff during office hours

[C-Cubed Solutions Pvt. Ltd. vs. CCE, C&ST (2015) 38 STR 853 (Tri.-Bang.)].

VCES

Where the assessee had already been issued a show cause notice for non-payment of service tax under the category of Goods Transport Agency Services, Maintenance & Repair Services and Business Auxiliary Services, the rejection of declaration filed by him under the VCES, 2013, in respect of the same services for the subsequent period was held to be correct in view of the second proviso to section 106(1) of the said scheme which barred the assessee from making such declaration [Durgapur Diesel Sales & Services vs. Supdt. CCE (2015) 38 STR 1129(Cal.)]

• • •



Ahmedabad: 15th Meeting of Gyansetu Study Circle on 19/12/2015. (L-R): CA. Ankit Chopra, CA. Pradeep Tulsian, CA. Sunil Patodia, Chairman, WIRC, CA. Nalin Thakkar, Faculty, CA. Amrish Patel, Branch Chairman, CA. Mohit Tibrewal



Akola: CA. Ramesh Chaudhari addressing Seminar on MVAT Audit held on 30/11/2015. (L-R): CA. Mithun Tekade, CA. Umesh Agrawal, Faculty, CA. Kamal Baheti, CA. Deepak Agrawal



Dhule: Seminar on Use of Technology in CA Office on 11/12/2015. (L-R): CA. Rajaram Kulkarni, Shri Sandip Bora, Faculty, CA. G. B. Modi, Branch Chairman, CA. Anil Gujrathi



Jamnagar: CA. Parag Sumaria, Branch Chairman presenting memento to CA. Manoj Fadnis, President, ICAI on 20/12/2015. (L-R): CA. Kaupil Doshi, CA. Sagar Shah, CA. Dilip Apte, Vice Chairman, WIRC, CA. Bharat Bhatt, CA. Sheela Dattani



Jalgaon: Discussion Meet on Use of IT - Potential Growth for CA on 11/12/2015. (L-R): CA. Kaushal Mundada, Branch Chairman, CA. Ashwinkumar Patil, Shri Satish Bora, Faculty



Nagpur: Seminar on Direct Taxes held on 28/11/2015. (L-R): CA. Sandeep Jotwani, CA. Sudha Bhushan, CA. Kirti Agrawal, Branch Chairperson, CA. J. S. Uberoi, Chief Guest, CA. Shardul Shah, RCM, CA. Swapnil Ghatge, CA. Kirit Kalyani, CA. Umang Agrawal



Pimpri Chinchwad: Interactive Meet with Members on 24/12/2015. (L-R): CA. Maheshwar Marathe, CA. Prasadh Saraaf, Branch Chairman, CA. Sunil Patodia, Chairman, WIRC, CA. Dilip Apte, Vice Chairman, WIRC, CA. Vinod Inamdar, CA. Sunil Karbhari, CA. Pankaj Patni, CA. Baban Dangale, CA. Santosh Sancheti



Rajkot: Seminar on Foreign Trade Policy held on 28/11/2015. (L-R): CA. Niketa Mody, Branch Chairperson, Shri S. V. Modi, CA. Sharad Anada



Sangli: Seminar on 28/11/2015. (L-R): CA. Anil Joshi, Branch Chairman, CA. Jayant Adhyapak, Faculty, CA. Anand Desai



Solapur: Group photograph taken during the 1st International Study Tour to Bangkok held on 22-27/11/2015



Vapi: Seminar on Implementation of the Companies Act, 2013 held on 15/11/2015. (L-R): CA. Avinash Rawani, Faculty, CA. Yagnesh Desai, Faculty, CA. G. B. Laddha, Shri Parthiv Mehta



Vasai: Regional Conference for CA Students 2015 held on 9-10/12/2015. (L-R): CA. Unmesh Narvekar, CA. K. B. Kothari, CA. Ramanand Gupta, Chief Guest Shri V. V. Laxminarayana, Joint Commissioner of Police, Thane, CA. Umesh Mestry, Branch Chairman, CA. Preksha Jain, CA. Madhav Khisti, Vasai WICASA & Conference team

Intensive Course on Construction Industry held from 7th to 11th December, 2015



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Other Speakers



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CA. Paras Savla

Seminar on Industry Connect held on 19th December, 2015



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Other Speakers



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Intensive Study Course on Information Technology held from 7th to 11th December, 2015



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Mr. Anil Singh



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Workshop on Fundamental & Technical Research held on 28th November, 2015



CA. Aumkar Gadgil, Shri Sumeet Bagadia, Faculty, CA. Hrishikesh Wandrekar

Other Speakers



CA. Ashok Ajmera



Mr. Akash Jain



Shri Prakash Gaba

S. Vaidyanathan Iyer Memorial Lecture held on 18th December, 2015



CA. Shardul Shah, RCM, Shri Harish Mehta, Faculty, Dr. Purvish Parikh, Faculty, CA. Jignesh Nagda

Seminar on Information Technology held on 18th & 19th December, 2015



CA. Shardul Shah, RCM, CA. Mitesh Katira, Faculty, CA. Gaurav Save

Other Speakers



CA. Nikunj Shah



Shri Rushabh Shah



CA. Pratik Singhi



National Convention for CA Students held on 24-25/12/2015 at Ahmedabad. (L-R): CA. Harsh Jani, CA. Satyendra Jha, Mr. Sunny Shah, CA. Amrish Patel, Branch Chairman, Shri Bhupendra Patel, Chief Guest, AIDA Chairman, Shri Chirag Patel, Guest of Honour, CA. Anchal Agrawal, Mr. Naresh

Seminar on Issues under MVAT & CST held on 28th November, 2015



CA. Nidhi Pandya, CA. Madhukar Khandekar, Faculty, CA. Vivek Shah

Other Speakers



CA. Mayur Parekh



CA. Sujata Rangnekar



CA. C. B. Thakar

Seminar on Concurrent Audit on Banks held on 28th November, 2015



CA. Gaurav Save, CA. Abhijit Sanzgiri, Faculty, CA. S. K. Patel, CA. Amol Kamat

Other Speakers



CA. Dhananjay Gokhale



Shri Jayaram



CA. Giriraj Soni

Lecture Meeting on E-Initiatives of GOI in Tax Department held on 30th November, 2015



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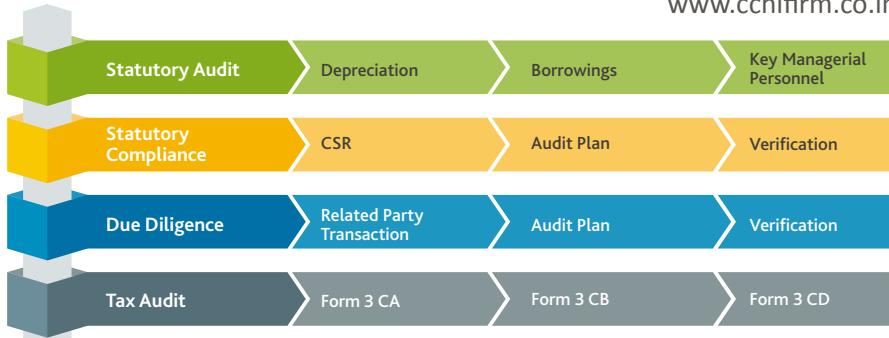
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