



The Institute of
Chartered Accountants
of India

(Set up by an Act of Parliament)

WESTERN INDIA CHARTERED ACCOUNTANTS NEWSLETTER

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Together
We Can...



Respect



*Respect, Consideration and Care
inspire an organisation to work
towards a common goal together*

**CONFERENCE ON
GST**

11th November, 2016

**SEMINAR ON
REGIONAL BANKING SUMMIT**

19th November, 2016

**31st REGIONAL
CONFERENCE OF WIRC**

10th & 11th December, 2016

... Change the
World



INTERNATIONAL CONFERENCE AT HYDERABAD



BRANCH CO-ORDINATION MEETING



INFORMATION TECHNOLOGY SUMMIT 2016



Dear Colleagues,

Respect means different things for different people. It includes valuing a person's ideas, feelings and independence. By truly understanding, putting yourself into the other person's shoes, so to speak, you show care, consideration and respect for that person. This is a tremendous morale booster and creates a positive cycle wherein people in an organisation start genuinely supporting each other and working together. Ultimately, respect works wonders in putting the organisation on a fast track to success.

National Women's Conference: 'Shakti the Power of CA Women' was the central theme of this Conference. A holistic Conference, it gave insights into tapping woman power by successful women Chartered Accountants and women entrepreneurs as well as pointers on remaining healthy, mentally and physically. The programme was held on Sharad Poonam which was celebrated with garba which saw enthusiastic participation by members in attendance.

GST Beginners Course: Union Minister of State for Finance and Corporate Affairs, Shri Arjun Ram Meghwal was present at the valedictory ceremony of the five day GST Beginners Course. The course gave a thorough grounding to attending members about the upcoming GST, providing them the requisite knowledge base to support their professional responsibilities.

GST Study Course: Three Study Circles comprising Andheri (E), Andheri (W) and Vile Parle jointly organised a GST Study Course which was well appreciated by all and is an excellent example of believing and implementing our motto of 'Together we can'.

Committee Meetings: The half yearly review saw all the various committees evaluate the progress of their plans till date but more importantly to chalk out and concretise their plans for the rest of the year.

Information Technology Summit 2016: WIRC organised the Summit as a complete package ensuring that the most relevant topics for finance professionals were addressed by experienced professionals from top companies. Relevant topics ranging from challenges and opportunities to the importance of data and its protection to future trends were illustrated from the finance profession point of view.

Students Football Tournament: WIRC is a firm believer in healthy mind in a healthy body and to inculcate this ethos from the foundation stage itself we organise a number of sports activities for our students. Expanding our range of activities from cricket, badminton, etc., WIRC for the first time ever, organised a 'Students Football Tournament' which saw enthusiastic participation.

WIRC Regional Conference: Our Conference this year will present a perfect combination of regulatory insights, new information technology opportunities and inputs from the seniors of our profession. This is a unique knowledge offering and all members should take advantage and attend in large numbers.

At WIRC we understand that by giving respect we gain the voluntary co-operation of all. We don't have to use a lot of time, energy and resources trying to accomplish goals because when people respect one another there are fewer conflicts and everyone works better together.

Dear friends, the festive season has begun and team WIRC takes this opportunity to wish all members and students a joyous and Happy Diwali 2016.

CA. SHRUTI SHAH

CHAIRPERSON'S COMMUNICATION



OFFICE BEARERS

CA. Shruti Shah, *Chairperson*
CA. Hardik Shah, *Vice Chairman*
CA. Kamlesh Saboo, *Secretary*
CA. Shilpa Shinagare, *Treasurer*

EDITORIAL BOARD

CA. Shruti Shah, *Editor*

MEMBERS

CA. Vishnu Agarwal
CA. Sarvesh Joshi
CA. Sandeep Jain
CA. Lalit Bajaj
CA. N. C. Hegde, *Ex-Officio*

Forthcoming Events **Pg 4**

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Recent Judgments **Pg 12**



Together
We Can...



31st REGIONAL CONFERENCE OF WIRC

12
CPE Hrs

Days & Dates	Saturday, 10th & Sunday, 11th December, 2016
Venue	Hotel The Lalit, Andheri (E), Mumbai
Time	9.00 a.m. to 6.00 p.m. (Registration & breakfast 9.00 a.m. to 9.30 a.m.)
Fees	₹ 4,000/- before 30th November, 2016 & ₹ 4,250/- after 30th November, 2016 (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)

Saturday, 10th December, 2016	
Topic	Speakers
Chief Guest	Mrs. Smriti Zubin Irani <i>Minister of Textiles, Govt. of India</i>
Guests of Honour	CA. M. Devaraja Reddy, President-ICAI CA. Nilesh Vikamsey, Vice-President-ICAI
Goods and Services Tax - The Final Frontier	Mr. Bharat Goenka, Co-Founder & Managing Director, Tally Solution Pvt. Ltd.
Reforms in Income Tax	CA. T. P. Ostwal, Global Tax Expert, Member, Sub-Committee, United Nations
Role of Chartered Accountants Regulators	Mr. Ranganayakulu, Executive Director, Legal SEBI Ms. Sangita Choure, I. A. & A. S., Principal AG (Audit)-I Mah. Dr. Sathyan David, CGM, Reserve Bank of India Moderated by: CA. Neel Majithia, Partner, Majithia & Associates
Auditing, Standards - The Technology Way	CA. Sunil Chandiramani, Founder & CEO at NYKA, Advisory Services
Impact of Technology 24x7	CA. Ninad Karpe, Managing Director & CEO Aptech Ltd.

Sunday, 11th December, 2016	
Topic	Speakers
Shaping India as Developed Economy	Dr. Subramanian Swamy, Member of Parliament*
Companies Act - Our Roles and Responsibilities - Let's Gear up	CA. Sudhir Soni, National Director & Partner Assurance Services E&Y
Start-ups and Stand-ups - A New Way to Start your Practice	CA. T. V. Mohandas Pai*, Chairman, Manipal Global Education CA. Mahinder Chugh, President, Keiretsu Forum Mumbai
Ind-AS - Points to Ponder	CA. Y. H. Malegam, Past President, ICAI CA. M. M. Chitale, Past President, ICAI CA. V. S. Parthasarathy, Group CFO & CIO, Mahindra & Mahindra Group CA. N. V. N. Ramsai, Executive Director, Indian Oil Corporation Ltd. Moderated by: CA. Khushroo Panthaky, Senior Partner, Walker Chandiok & Co. LLP
Money Matters - Let's Ride the Bull @ India Nivesh Pathshala	CA. Raamdeo Agrawal, Managing Director & Co-Founder, Motilal Oswal Financial Services Ltd. CA. Navneet Munot, Executive Director & Chief Investment Officer, SBI Mutual Fund CA. Sunil Singhania, Chief Investment Officer, Equities Reliance Mutual Fund Mr. Ramesh Damani, Member, Bombay Stock Exchange CA. Ridham Desai, Managing Director, Morgan Stanley, India Moderated by: CA. Anil Singhvi, CNBC Awaaz

Office Bearers			
Chairperson	CA. Shruti Shah	9892407988	Vice Chairman
			CA. Hardik Shah
			9825510422
Secretary	CA. Kamlesh Saboo	9819195333	Treasurer
			CA. Shilpa Shinagare
			9820053395

Chief Co-ordinators			
CA. Sandeep Jain	9819788099	CA. Sushrut Chitale	9821112904
<i>Chairman, PD Committee, WIRC</i>		CA. Priti Savla	9321426883
CA. Sarvesh Joshi	9822022292	CA. Priyam Shah	9824096112
<i>Convenor, PD Committee, WIRC</i>		CA. Satyanarayan	
CA. Vishnu Agarwal	9324544607	Mundada	9422080814

* Subject to confirmation

Platinum Sponsor	Gold Sponsor	Supported by

Conference on GST

Yogi Sabhagruha, Dadar East

Date, Day & CPE Hrs	Time & Fees	Topic(s)	Speaker(s)	Chief Co-ordinators / Mobile Nos.	Co-ordinators / Mobile Nos.
11/11/2016 Friday	10.00 a.m. to 6.00 p.m.	<ul style="list-style-type: none"> Basic Concept of GST, Concept of CGST, SGST & IGST, Concept of Destination Base Tax, Taxes Subsumed, Levy & Composition, Meaning and Scope of Supply Time and Value of Supply and Place of Supply Input Tax Credit and related Transitional Provision Registration, Payment and Return including related Transitional Provision 	CA. A. R. Krishnan CA. Sunil Gabhawalla CA. S. S. Gupta CA. Rajiv Luthia	CA. Manish Gadia 9820537986 CA. Umesh Sharma 9822079900 CA. Drushti Desai 9820335923 CA. Lalit Bajaj 9867692321	CA. Shailesh Ghedia 9869437888 CA. Jayesh Shah 9819043921 CA. Harsh Bajaj 9821044319 CA. Parth Navandhar 9819873691 CA. Vinay Bhushan 9769134554

Chain Seminar on GST

MCF (Mandpeshwar Civic Federation), Prem Nagar, Borivali (West)
Jointly with Borivali (Central) CPE Study Circle

Date & CPE Hrs	Time & Fees	Topic(s)	Speaker(s)	Chief Co-ordinators / Mobile Nos.	Co-ordinators / Mobile Nos.
16, 19, 23, 25 & 26/11/2016 20 CPE Hrs	5.00 p.m. to 9.00 p.m. ₹ 3,000/-	<p>Wednesday, 16th November, 2016</p> <ul style="list-style-type: none"> Basics of GST, Dual Model of GST [CGST, SGST & IGST], Taxable event in GST Regime vs. Existing Regime, Enabling Constitutional Amendments, GST Council and its role Charging Provisions, Schedules, Taxable Person, Understanding of Important Definitions, Levy, meaning & scope of Supply, e-Commerce & Aggregators <p>Saturday, 19th November, 2016</p> <ul style="list-style-type: none"> Time & Place of Supply (Goods) Including Transitional Provisions Time & Place of Supply (Services) Including Transitional Provisions <p>Wednesday, 23rd November, 2016</p> <ul style="list-style-type: none"> Input Tax Credit & Transitional Provisions Including ISD, Transfer of Input Tax Credit Valuation of Supply (Goods & Services), Job Work related Provisions, Exemption etc. <p>Friday, 25th November, 2016</p> <ul style="list-style-type: none"> Registration, Returns, Payment Including TDS/TCS, Composition Levy and Refund Model GST Law vs. Present Service Tax Model GST Law vs. Present VAT <p>Saturday, 26th November, 2016</p> <ul style="list-style-type: none"> GST Impact & Preparedness – For Trading & Manufacturing Sectors, for Service Sector, for Chartered Accountants as Opportunity Study on Impact on Various Sectors – Builders / Works Contractors, Infrastructure, Information Technology / Software, Hotel, Hospitality & Restaurants 	<p>CA. Girish Raman</p> <p>CA. Naresh Sheth</p> <p>CA. Mandar Telang</p> <p>Eminent Faculty</p> <p>CA. S. S. Gupta</p> <p>CA. Rajiv Luthia</p> <p>CA. Janak Vaghani</p> <p>CA. Ashit Shah</p> <p>CA. Rajat Talati</p> <p>CA. Divyesh Lapsiwala</p> <p>CA. Udayan Choksi</p>	<p>CA. Manish Gadia 9820537986</p> <p>CA. Vishnu Agarwal 9324544607</p> <p>CA. Kamlesh Saboo <i>Secretary, WIRC</i> 9819195333</p>	<p>CA. Yashesh Jakhelia 8454878798</p> <p>CA. Hiren Mehta 9820923609</p> <p>CA. Dushyant Bhatt 9820019436</p> <p>CA. Vipul Shah 9821028868</p>

Seminar on GST

6th Floor Auditorium, Thakur Polytechnic College, 90 Feet Road, Thakur Complex, Kandivali (East)
Jointly with Borivali Kandivali East CPE Study Circle

Date, Day & CPE Hrs	Time & Fees	Topic(s)	Speaker(s)	Chief Co-ordinators / Mobile Nos.	Co-ordinators / Mobile Nos.
19/11/2016 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	<ul style="list-style-type: none"> Basic Concept of GST, Concept of CGST, SGST & IGST, Concept of Destination Base Tax, Taxes Subsumed, Levy & Composition, Meaning and Scope of Supply Time and Value of Supply and Place of Supply Input Tax Credit and related Transitional Provision Registration, Payment and Return including related Transitional Provision 	<p>CA. Dilip Phadke</p> <p>CA. A. R. Krishnan</p> <p>CA. S. S. Gupta</p> <p>CA. Govind Goyal</p>	<p>CA. Shilpa Shinagare <i>Treasurer, WIRC</i> 9820053395</p> <p>CA. Kamlesh Saboo <i>Secretary, WIRC</i> 9819195333</p> <p>CA. Vishnu Agarwal 9324544607</p> <p>CA. Sandeep Jain 9819788099</p>	<p>CA. S. P. Natani 9820461621</p> <p>CA. Ashish Bakliwal 9004315053</p> <p>CA. Navneet Lahoti 9022544488</p> <p>CA. Arpit Kabra 9819007027</p> <p>CA. Shyam Gupta 9869789649</p>



S. Vaidyanath Aiyar Memorial Lecture & New Members Meet and Felicitation of Rank Holders

Yogi Sabhagruha, Swami Narayan Temple, Dadar (E)

Date, Day & CPE Hrs	Time	Topic(s)	Speaker(s)	Chief Co-ordinators / Mobile Nos.
21/11/2016 Monday 2 CPE Hrs	4.00 p.m. to 7.00 p.m.	Gandhi – 3.0 Bridging the Internet and the Inner net	Shri Nipun Mehta, Member, President's Advisory Council on Faith-Based and Neighbourhood Partnerships and Founder, ServiceSpace	<p>CA. Pradeep Agrawal 9898560967</p> <p>CA. Kamlesh Saboo, <i>Secretary, WIRC</i> 9819195333</p> <p>CA. Sandeep Jain 9819788099</p>

Students who have secured rank in May 2016 examination of IPCC & Final CA from the Western Region shall be felicitated

Regional Banking Summit

ICAI Tower, Near Standard Chartered Bank, BKC, Mumbai (Khimji Kunverji Vikamsey Auditorium)

Date, Day & CPE Hrs	Time & Fees	Topic(s) & Speaker(s)	Chief Co-ordinators / Mobile Nos.	Co-ordinators / Mobile Nos.
19/11/2016 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	<ul style="list-style-type: none"> Inaugural session – Eminent Personalities Role of CAs in Banking – CA. Keki Mistry, Vice Chairman & CEO, HDFC Panel Discussion – Monetary Policy Transmission – CA. Sunil Sanghai, MD, HSBC, Shri Kishor Kharat*, MD, IDBI, Dignitary from RBI Panel Discussion – Revitalising Distressed Assets & Financing of Non-Performing Assets – CA. Sanjay Jain, President & COO, ARCIL, Shri Sudhir Dayal, GM, SBI, Shri Rashesh Shah*, Chairman, Edelweiss SME Finance and Micro-Finance – Funding options – Including Loans in Foreign Currency – CA. N. S. Venkatesh, ED, Laxmi Vilas Bank, Shri Chhatrapati Shivaji*, Chairman, SIDBI, Dignitaries from IDFC / RBL Latest Technology/Practices, Payment bank etc. – Eminent Personalities <p>* Subject to confirmation</p>	CA. Kamlesh Saboo Secretary, WIRC 9819195333 CA. Balkishan Agarwal 9377110634 CA. Sushrut Chitale 9821112904 CA. Priyam Shah 9824096112 CA. Priti Savla 9321426883	CA. Ashok Jain 9833512888 CA. Mahesh Madholkar 9820075966 CA. Jayesh Kala 9820010113 CA. Amol Kamat 9823018763 CA. Abhijit Totade 9819659159

J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade, Mumbai

Date, Day & CPE Hrs	Time & Fees	Topic(s)	Speaker(s)	Chief Co-ordinators / Mobile Nos.	Co-ordinators / Mobile Nos.
12/11/2016 Saturday 3 CPE Hrs	10.00 a.m. to 1.00 p.m. ₹ 600/-	Seminar on VAT Audit <ul style="list-style-type: none"> Certification, Reporting, Accounting and Reconciliation of Turnover Determination of Turnover of Sales and Purchases 	CA. Dilip Phadke	CA. Kamlesh Saboo Secretary, WIRC 9819195333 CA. Hardik Shah Vice Chairman, WIRC 9825510422 CA. Sarvesh Joshi 9822022292	CA. Kalpesh Kothari 9029371777 CA. Dhvani Karia 9819900489 CA. Mihir Mehta 9773393007 CA. Heenal Shah 9819758647
26/11/2016 Saturday 3 CPE Hrs	10.00 a.m. to 1.00 p.m. ₹ 600/-	Seminar on HUF & Family Arrangements <ul style="list-style-type: none"> Preparation of Wills and Documents in relation to HUF & Family Arrangements Tax Planning through HUF and Family Arrangements 	Adv. Pravin Veera CA. Paras Savla	CA. Vishnu Agarwal 9324544607 CA. Sandeep Jain 9819788099 CA. Pradeep Agrawal 9898560967	CA. Gaurav Save 9969001607 CA. Nikhil Damle 9820170436 CA. Aalok Mehta 9892001645
17/12/2016 Saturday 3 CPE Hrs	10.00 a.m. to 1.00 p.m. ₹ 700/-	Seminar on Internal Audit <ul style="list-style-type: none"> Overview of Internal audit – Manufacturing sector Overview of Internal audit – Pharma sector 	CA. Purav Gala Eminent Faculty	CA. Priti Savla 9321426883 CA. Priyam Shah 9824096112 CA. Purushottam Khandelwal 9825020844	CA. Sachin Holmukhe 9820561266 CA. Prajakta Patil 9819041003 CA. Ketan Sarage 9920761105
24/12/2016 Saturday 3 CPE Hrs	10.00 a.m. to 1.00 p.m. ₹ 700/-	Seminar on Arbitration & Competition Act <ul style="list-style-type: none"> Arbitration - An emerging era for profession Competition Act – Recent developments and case studies 	Dr. CA. Rajkumar Adukia CA. Devarsh Patel	CA. Drushti Desai 9820335923 CA. Purushottam Khandelwal 9825020844 CA. Umesh Sharma 9822079900	CA. Susanna Cherian 7045144985 CA. Dhawal Acharya 9819411101 CA. Nitin Jaisinghani 9967539598
30/12/2016 Friday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	Seminar on Valuation <ul style="list-style-type: none"> Valuation of equity shares – Concept, approaches, selection of methods, requirements under various laws & situations DCF – A method of valuation – Overview, review of Financial projections, Determination of WACC & Computation of DCF value Drafting Reports and Proposals Case studies <p>* Subject to confirmation</p>	CA. Sujal Shah* CA. Pratik Singhi CA. Anagha Thatte CA. Pinkesh Billikmorla	CA. Priti Savla 9321426883 CA. Purushottam Khandelwal 9825020844 CA. Priyam Shah 9824096112	CA. Shrenik Doshi 7710077038 CA. Hrishikesh Wandrekar 9892919239 CA. Likhit Dixit 9664189378

ICAI Tower, Near Standard Chartered Bank, BKC, Mumbai

Date, Day & CPE Hrs	Time & Fees	Topic(s)	Speaker(s)	Chief Co-ordinators / Mobile Nos.	Co-ordinators / Mobile Nos.
15/11/2016 Tuesday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	Make in India – Make in Maharashtra Summit Opportunities in Maharashtra – Role of CAs • Inauguration • Ease of Doing Business, steps taken by Central Government/Maharashtra Government • Maharashtra Electronics Policy, 2016 • Maharashtra Textile Policy, 2011 and A-Tuff Policy of Central Government • Maharashtra Package Scheme of Incentives, 2013 as applicable to SSI & MSI • Maharashtra Package Scheme of Incentives, 2013, as applicable to Large, Mega & Ultra Mega Project • Maharashtra Government Information & Technology Policy – 2015	Shri Vijay Singhal, <i>IAS, Development Commissioner, Industries, Govt. of Maharashtra</i> Shri Vikas Jain, <i>Additional Director of Industries, Govt. of Maharashtra</i> Shri Sanjay Korbu, <i>Joint Director of Industries, Govt. of Maharashtra</i> Eminent Faculty CA. G. B. Modi CA. Milind Gujrathi CA. G. B. Modi	CA. Kamlesh Saboo <i>Secretary, WIRC</i> 9819195333 CA. Vishnu Agarwal 9324544607 CA. Sandeep Jain 9819788099	CA. Ankit Sanghvi 9820689003 CA. Aditi Chaturvedi 9768350383 CA. Aniket Kulkarni 9821690559
19/11/2016 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	Seminar on Co-operative Business Enterprise.....a New Dimension to Co-op. Practice • Business that can be set up under Co-operative business as start-up venture. • Documentations like project report, drafting bye-laws and different regulations applicable • Registration process.....A step-by-step practical approach • Fund raising and support system in collective business venture	CA. Chandrashekar Iyer CA. Prakruti Upadhyay Shri Subhash Patil, <i>Retd. Jt. Registrar, CIDCO</i> CA. Ramesh Prabhu	CA. Shilpa Shinagare <i>Treasurer, WIRC</i> 9820053395 CA. Vikrant Kulkarni 9881880073 CA. Satyanarayan Mundada 9422080814	CA. Milind Joshi 9930033939 CA. Nehal Turakhia 9833991898 CA. Hiral Mehta 9892592283
26/11/2016 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	Workshop on Media & Entertainment Industry • Overview, Growth of Media and Entertainment Industry and Opportunities for Professionals • Financial Reporting and Controls in Media and Entertainment Industry • Revenue Stream and Audit in Media and Entertainment Industry • Legal Aspect, IPR and Compliance in Media and Entertainment Industry	CA. Anil Singhvi* <i>CNBC AWAAZ</i> CA. Lalit Chatnani CA. Manish Tibrewal Adv. Vimochan Naik	CA. Kamlesh Saboo <i>Secretary, WIRC</i> 9819195333 CA. Hardik Shah <i>Vice Chairman, WIRC</i> 9825510422 CA. Sandeep Jain 9819788099	CA. Rakesh Tulsian 9869765155 CA. Mukul Maheshwari 9320151201 CA. Mukund Mall 932224142
17/12/2016 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	Seminar on Co-operative Credit Society • Formation of Co-op. credit Society incl. Multi State Co-op. Cr. Society • Audit of Co-op. Credit Societies • IRAC norms and Audit Classification • Accounting and Auditing Standards applicable to Co-op. Credit Societies	Eminent Faculty CA. D. A. Chougule CA. D. A. Chougule CA. Sandeep Welling*	CA. Shilpa Shinagare <i>Treasurer, WIRC</i> 9820053395 CA. Vikrant Kulkarni 9881880073 CA. Satyanarayan Mundada 9422080814	CA. Sunil Sharma 9769949829 CA. Devang Doshi 9967923276 CA. Neha Patel 9833678901
24/12/2016 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	Seminar on Elections in Co-operatives • Overview of SCEA – Its Role & Function • Election to Committee Rule 2014 & Various Circulars • Practical Aspects to Co-operative Election, Co-operative Society Election • Role & Opportunities for CAs • Q & A	Shri Madhukar Choudhari Shri Anand Jogdand Adv. S. B. Patil CA. Ramesh Prabhu Eminent Faculty	CA. Shilpa Shinagare <i>Treasurer, WIRC</i> 9820053395 CA. Abhijit Kelkar 9422126890 CA. Balkishan Agarwal 9377110634	CA. Ami Dabhalia 9819004021 CA. Dhruv Gaglani 9619796967 CA. Arun Prithwani 9820917280
30/12/2016 Friday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	Seminar on Post Assessment Issues under IT Act • Appeals before CIT (Appeals) – Appealable orders, Procedure in appeal, Additional evidence, powers of CIT (Appeals) • Concealment Penalties – Proceedings and issues relating to representation in Penalty Proceedings • Mock Tribunal * Subject to confirmation	CA. Sanjeev Lalan Eminent Faculty Eminent Faculty	CA. Rakesh Alshi 9819427242 CA. Vikrant Kulkarni 9881880073 CA. Satyanarayan Mundada 9422080814	CA. Mayur Momaya 9867952010 CA. Vidhyut Jain 9892414386 CA. Jayesh Vora 9820274272

ICAI Tower, Near Standard Chartered Bank, BKC, Mumbai

Date, Day & CPE Hrs	Time & Fees	Topic(s)	Speaker(s)	Chief Co-ordinators / Mobile Nos.	Co-ordinators / Mobile Nos.
18/11/2016 Friday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	Seminar on Infrastructure Industry • Energy sector – Renewable, thermal, hydro and transmission • Telecom – Tower and service • Road Sector • Bankers perspective on infrastructure sector • Issues under Ind AS • Indirect Tax – GST Implications	CA. Hemant Thanvi <i>CFO, IL&FS</i> Shri G.V.A.S. Murthy <i>President, Idea Cellular Ltd.</i> Shri Pervez Umrigar <i>MD & CEO, Peak Infrastructure</i> Shri Gopal Agarwal <i>Sr. VP, SBI Caps</i> CA. N. Jayendran CA. Naresh Sheth	CA. Drushhti Desai 9820335923 CA. Sarvesh Joshi 9822022292 CA. Pradeep Agrawal 9898560967	CA. Mehul Sheth 9820297310 CA. Pritee Panchal 9819844965 CA. Nandan Khambete 9969955696
17/12/2016 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	Seminar on MVAT Act • Various Issues under MVAT Act	CA. Rajat Talati & Other Eminent Faculty	CA. Rakesh Alshi 9819427242 CA. Lalit Bajaj 9867692321 CA. Aniket Talati 9825551448	CA. Leena Talathi 9820923371 CA. Akshay Tambe 9892701496 CA. Viral Chheda 9833594045
24/12/2016 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	Seminar on Package Scheme Incentives, 2013 • Make in India and Professional opportunities for CAs • Package Scheme Incentives, 2013 Maharashtra and comparison with other leading States • MSME Act and important provision relating to MSMEs • Start ups in India and provisions related to startup • Accounting treatment related to Government grants, incentives and technical issues <i>* Subject to confirmation</i>	CA. Bhavesh Thakkar CA. Bhavesh Thakkar CA. Maheshwar Marathe* CA. Yeshwant Kasar* CA. Kusai Goawala*	CA. Sushrut Chitale 9821112904 CA. Sarvesh Joshi 9822022292 CA. Abhijit Kelkar 9422126890	CA. Y. R. Desai 9820448365 CA. Viral Mehta 9819030563 CA. Bipeen Mundade 9223290561
30/12/2016 Friday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	Workshop on Practice Skills • Practice of the future - global perspective & Indian scenario (serving industry size, skills etc) • Moving towards specialization in practice • Use of technology in practice developments • Journey towards professional excellence <i>* Subject to confirmation</i>	CA. Anand Bathiya CA. Bhavesh Vora CA. Maitri Chheda* Shri Bashesh Gala	CA. Sushrut Chitale 9821112904 CA. Priyam Shah 9824096112 CA. Aniket Talati 9825551448	CA. Ritesh Hibare 9773418343 CA. Swati Bhatkar 9967537989 CA. Neeti Mishra 9324679343

Penal provisions for the members of the Institute who had not complied with their CPE Hours requirements for the block period of 3 years (1/1/2014 to 31/12/2016)

In order to function the system of mandatory CPE effectively, the Council of the Institute of Chartered Accountants of India has decided that the members who fail to comply with their CPE Hours requirement for the current block of 3 years (1/1/2014 to 31/12/2016) are appropriately sanctioned. Therefore, the Council of the Institute has decided as under :

All the members are required to complete their CPE Hours requirements for the block period of 3 years (1/1/2014 to 31/12/2016) by 31st December, 2016.

Any shortfall in the CPE credit for the calendar years 2014, 2015 and 2016 should be met by the members by 31st December, 2016.

The names of the members who fail to comply with their CPE Hours requirements for the block period of 3 years by 31st December, 2016 would be hosted on the website of the ICAI for information of public at large.

Further, the ICAI will not be responsible in any way for any action taken by any of the regulatory authorities on the basis of the names hosted on the website for allotting the professional work to them as sole proprietor or to their partnership firm.

To strike out the name/s from the list so hosted on the website, the member/s shall have to make up any shortfall in their CPE credit hours for the above block period of 3 years by obtaining twice the amount of the shortfall. Such addition shall be in addition to the regular CPE Hours requirement for the particular calendar year in which they are making up the shortfall.

The members are requested to note the above. The members are also requested to comply with the CPE Hours requirements for the current year by 31st December, 2016.

DIRECT TAX

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

Income Declaration Scheme, 2016 – Acceptance of IDS Declarations on basis of Acknowledgment Number of PAN Applications – Instruction No. 10 of 2016 [F. No. 142/8/2016-TPL], Dated 28/9/2016

There can be few cases where the assessee may not have PAN but would like to file declaration under the Scheme towards the date of closure of the Scheme. In such cases, the assessee may not get PAN by the date of closure of the Scheme i.e. 30/9/2016. It has been decided that in such cases a declaration under the Scheme can be filed manually before the jurisdictional Pr. Commissioner/Commissioner by quoting the date and acknowledgment number of PAN application form. However, the jurisdictional Pr. Commissioner/Commissioner shall issue Form-2 only after the allotment of PAN to the declarant. The time limit provided for issuance of Form-2 under sub-Rule (3) of Rule 4 of the Income Declaration Scheme Rules, 2016 in such cases shall apply from the date on which PAN has been allotted to the declarant. In case, PAN allotment could not be made due to non-compliance/non-furnishing of documents by the declarant, the declaration shall be treated as invalid.

Section 145 of The Income-tax Act, 1961 – Method of Accounting – Revised Income Computation and Disclosure Standards (ICDS) Notified Under Section 145(2) – Notification No. SO 3079(E) [No. 87/2016 (F. No. 133/23/2015-TPL)], dated 29/9/2016

The Central Government has notified the revised income computation and disclosure standards to be followed by all assesseees (other than an individual or a Hindu undivided family who is not required to get his accounts of the previous year audited in accordance with the provisions of section 44AB of the said Act) following the mercantile system of accounting, for the purposes of computation of income chargeable to income-tax under the head "Profits and gains of business or profession" or "Income from other sources". The notification shall apply to the assessment year 2017-18 and subsequent assessment years.

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

Maharashtra Value Added Tax Act, 2002

Ordinances

- The Maharashtra Government has issued Maharashtra Ordinance No. XXIII of 2016 dated 17/9/2016 by which Maharashtra Settlement of Arrears in Disputes Act, 2016 has been amended for removal of certain conditions in the Scheme.
- The Maharashtra Government has also issued Maharashtra Ordinance No. XXIV of 2016 dated 30/9/2016 by which time limit of Settlement Scheme under Maharashtra Settlement of Arrears in Disputes Act, 2016 is extended till 15/11/2016.

Circulars

- The Commissioner of Sales Tax has issued Circular bearing No. 27T of 2016 dated 21/9/2016 in which further updated FAQs on Settlement of Arrears in Disputes Act, 2016 are given.
- The Commissioner of Sales Tax has issued Circular bearing No. 28T of 2016 dated 23/9/2016, in which clarification about Grant of Administrative Relief Scheme is given.
- The Commissioner of Sales Tax has issued Circular bearing No. 29T of 2016 dated 29/9/2016 by which Special Amnesty Scheme for closed units and units which can't be revived as per Maharashtra Industrial Policy, 2013, is explained.
- The Commissioner of Sales Tax has issued Circular bearing No. 30T of 2016 dated 1/10/2016 by which extension of due date for filing refund application for the year 2014-15 was given.

- The Commissioner of Sales Tax has issued Circular bearing No. 31T of 2016 dated 1/10/2016 by which clarification about extension of time limit under Settlement Act, 2016 and clarification on certain other issues is given.

GUJARAT VAT

(Contributed by CA. Kishor R. Gheewala)

G R. Cell

The Department was following the System of getting the cases pre-audited in case of specified cases, including First Appeal Cases Granting Reliefs exceeding prescribed limits, refund exceeding prescribed limits etc. Honourable Gujarat High Court has held the said system as illegal and against the provisions of law. Consequent upon this, the Department has evolved a new System of Government Representative Cell (G R. Cell) for scrutiny of such cases before Finalisation of the same by the concerned authorities.

Gujarat High Court Important Judgments

In case of Shri Associates, Spl. C.A. No. 10687/2016, decision dated 11/8/2016, it is held that amount paid as deposit as per Court Interim order cannot be considered as a payment of tax.

In case of Bhailal Amin General Hospital, Tax Appeal No. 1637/2009, decision dated 1/8/2016, it is held that in case of Medical Stores in Hospitals run by Charitable Trusts, the Trusts are not "Dealers".

CENTRAL EXCISE

(Contributed by CA. Jayesh Gogri)

Notifications

Non-Tariff

Duty exemption under Central Excise (Removal of goods at concessional rate of duty for Mfg. of excisable & other goods) Rules, 2016 can be opted on furnishing of security

Vide Union Budget 2016-17, Central Excise (Removal of goods at concessional rate of duty for Mfg. of excisable & other goods) Rules, 2016 had been notified to simplify removal of goods at concessional rate of duty whereby duty exemption shall be granted based on self-declaration without having any approval from the Central Excise Department. Now, amendment seeks to re-allow submission of security for availing the benefit under these rules.

(Notification No. 46/2016-CE (NT) dated 26th September, 2016)

Circulars

Clarification on Service Tax Certificate for Transportation of Goods by Rail (STTG Certificate)

CBEC *vide* Notification No. 45/2016 – Central Excise (N.T.) dated September 20, 2016 prescribed amendments to Rule 9 of CENVAT Credit Rules, 2004. Due to these amendments, CENVAT Credit can be claimed on the basis of Service Tax Certificate for Transportation of goods by rail issued by the Indian Railways.

CBEC has prescribed procedure for availing CENVAT credit of service tax paid on transportation of goods by rail which is as follows:

- In cases where service tax has been paid by consignor and he intends to avail credit, he can avail the same on strength of Service Tax Certificate for Transportation of goods by railway (STTG Certificate) issued in his name
- If the consignee intends to avail credit, consignor shall request Railways for issuance of consignee-wise STTG Certificate duly indicating Railway Receipts details

(Circular No. 1048/36/2016-CX dated 20th September, 2016)

Instructions

Instruction regarding immunity granted to a person from prosecution and penalty *vide* order of settlement

Section 32(K)(2) of the Central Excise Act, 1944 is made applicable to service tax matters and customs, immunity granted to a person from prosecution, penalty and fine shall be withdrawn if such person fails to pay any sums specified under order of settlement within the stipulated time.

In this regard, it has been brought to the notice of the Board that the conditions subject to which the immunity has been granted have not been complied with by the applicants in some cases, thereby rendering the order of settlement void.

Now, the board has instructed field formations to closely monitor and ensure strict compliance with the conditions stipulated in the order of settlement commission. In cases of any violations, the jurisdictional Commissioner should initiate necessary action under the relevant law after bringing it to the notice of the Commission.

(Instruction No. F. 275/29/2016-CX. 8A dated 21st September, 2016)

For more details visit www.wirc-icai.org

SERVICE TAX (Contributed by CA. Rajiv Luthia)

SYNOPSIS OF NOTIFICATIONS, CIRCULARS & LETTERS

Central Government, *vide* Notification No. 41/2016-ST dated 22nd September, 2016, has granted exemption to taxable service provided by State Government Industrial Development Corporations/Undertakings to industrial units by way of granting long term (30 years or more) lease of industrial plots from levy of Service Tax. The said exemption is applicable only to the one time upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for such lease.

In exercise of the powers conferred by Section 11C of the Central Excise Act, 1944 read with Section 83 of the Finance Act, 1994, **Central Government, *vide* Notification No. 42/2016-ST dated 26th September, 2016**, has granted retrospective exemption to the services by way of advancement of Yoga provided by entities registered u/s. 12AA of Income-tax Act, 1961 during the period from 1st July, 2012 to 20th October, 2015.

Central Government, *vide* Notification No. 43/2016-ST dated 28th September, 2016, has amended Service Tax Return Form ST-3 in view of levy of Krishi Kalyan Cess (KKC), amendment to Rule 6(3) of the CENVAT Credit Rules, 2004 etc.

CBEC, *vide* Circular No. 201/11/2016-ST dated 30th September, 2016, has revised the monetary limit to ₹ 2 crore for arrests and prosecution in Central Excise to maintain uniformity of practice in Central Excise and Service Tax. CBEC has once again reiterated that arrest and prosecution should not be resorted to in cases of technical nature i.e. where the additional demand of duty/tax is based totally on a difference of opinion regarding interpretation of law.

CBEC has once again emphasised that since an arrest impinges on the personal liberty of an individual, this power should be exercised with great responsibility and caution and only after a careful examination of the legal and factual aspects indicated in the preceding paragraphs.

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

Foreign Investment in other Financial Services sector

A.P. (DIR Series) Circular No. 8 dated October 20, 2016 and Notification No. FEMA.375 / 2016-RB dated September 9, 2016

Presently, foreign investment in Non-Banking Finance Companies (NBFCs) engaged in the 18 specified activities is

permitted up to 100%, under the automatic route subject to certain specified conditions, including minimum capitalisation norms.

Consequent to the approval of Union Cabinet chaired by the Prime Minister Shri Narendra Modi has on August 10, 2016 to allow foreign investments in "Other Financial Services", the RBI has not allowed foreign Investments under automatic route in "Other Financial Services" regulated by any financial sector regulators such as Reserve Bank of India, Securities and Exchange Board of India, Insurance Regulatory and Development Authority, Pension Fund Regulatory and Development Authority, National Housing Bank or any other financial sector regulator as may be notified by the Government of India in this regard. Such foreign investment shall be subject to conditionalities, including minimum capitalisation norms, as specified by the concerned Regulator/ Government Agency.

Other salient features of the revised regulatory framework are as under:

- In financial services activities which are not regulated or partly regulated by any financial sector regulator or where there is lack of clarity regarding regulatory oversight, foreign investment will be allowed up to 100% under the Government approval route.
- Foreign investment in an activity which is specifically regulated by an Act, will be restricted to foreign investment levels/limits, if any, specified in that Act.
- Downstream investment by any entity engaged in "Other Financial Services" will be subject to extant sectoral regulations and provisions of Principal Regulations.

To give effect to the above decision, the RBI has issued Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Thirteenth Amendment) Regulations, 2016 *vide* Notification No. FEMA.375/2016-RB dated September 9, 2016 to amend the Foreign Exchange Management (Transfer of Issue of security by the Person Resident outside India) Regulation, 2000.

For further details, refer aforesaid circular available on RBI website at <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10623&Mode=0>.

CO-OPERATIVE SECTION (Contributed by CA. Ramesh Prabhu)

Empanelment CAs as Enquiry Officers under sections 83 and 88 of MCS Act, 1960

Divisional Joint Registrar invited the applications from interested Chartered Accountants to empanel as Enquiry officers under sections 83 and 88 of the MCS Act, 1960. The detailed advertisement and the application form is uploaded in the co-operative section of WIRC website. The last date for submission of the application is 5th November 2016.

Webcast of Co-operative Commissioner on 7th October, 2016 arranged by CCONPO of ICAI

Considering the various representations made by the WIRC of ICAI, CCONPO of ICAI and other stakeholders regarding the technical and practical issues faced by the auditors regarding compliance of 100% audit for the year 2015-16, a webcast was arranged. Number of suggestions made by WIRC as well as CCONPO of ICAI have been accepted by the commissioner. All are requested to watch the same for better clarification on: icai.estv/07102016.

Supreme Court : The society to transfer the shares to nominee as per the Co-operative Law. Civil Appeal 4646 of 2006

Indrani Wahi vs. Registrar of Co-operative Societies and others delivered on 10th March, 2016. The case is pertaining to sections 69 and 70 and Rules 127 and 128 of West Bengal Co-operative Societies Act, 1983. A father nominates his daughter as per West Bengal Cooperative societies Act for his flat. The nominee

(married daughter) filed a civil petition before the Hon'ble Supreme Court against the order of Hon'ble Kolkata High Court which had ruled against her. In the concluding para of the Supreme Court judgment it is stated that "in so far as the present controversy is concerned, we therefore hereby direct the Co-operative society to transfer the share or interest of the society in favour of the appellant. It shall however be open to other members of the family (only the son, since the wife of the original member had died to pursue his case of succession or inheritance, if he is so advised in consonance with law".

In the case of judgment by Hon'ble Mumbai High Court, in the similar case : Second Appeal No. 357/1986 *Ramdas Shivram Sattur vs. Rameshchandra @ Ramchandra* and others, it is held that the nominee is only a trustee as per section 30 of the MCS Act, 1960 and does not create a new law of succession. In the said judgment it is stated that section 30 does not lay down any special rule of succession of properties of a deceased member overriding the general rules of inheritance prescribed by the personal law of the member of a co-operative society. The Division Bench went on to observe, "In other words, Section 30 of the said Act does not at all deal with devolution of immovable properties of deceased members. The learned Single Judge in case of *Gopal Vishnu Ghatnekar vs. Madhukar Vishnu Ghatnekar* reported in AIR 1982 Bombay 482 (supra) has correctly pointed out that upon the plain reading of the section, it is clear that the intention is to provide for who has to deal with the society on the death of a member and not to create a new rule of succession. The learned Single Judge proceeded to observe that the purpose of nomination is to make certain the person with whom the society has to deal and not

to create interest in the nominee to the exclusion of those who in law are entitled to the estate of a deceased member. Equally pertinent is the observation made in judgment *Mody, J.* that the society has no power except provisionally and for a limited purpose to determine the dispute about who is the heir or legal representative of a deceased member. Section 30 only provides for a proper discharge of the society without involving the society in a litigation which may take place as a result of disputes between the heirs." The Division Bench has placed reliance on the judgment of the Supreme Court in case of *Smt. Sarbati Devi and another vs. Smt. Usha Devi*, (AIR 1984 S.C. 346) dealing with the scope of Sections 39 and 44 of the Insurance Act, 1938 holding that "A mere nomination made under Section 39 does not have the effect of conferring on the nominee any beneficial interest in the amount payable under the life insurance policy on the death of the assured. The nomination only indicates the hand which is authorised to receive the amount, on the payment of which the insurer gets a valid discharge of its liability under the policy. The amount, however, can be claimed by the heirs of the assured in accordance with the law of succession governing them.

Thus the nominee still continues to be the trustee. However, when there is a nomination, as per the section 30 of the MCS Act, 1960 read with Rule 25 of the MCS Rules, 1961 provides for a proper discharge of the society without involving the society in a litigation which may take place as a result of disputes between the heirs to transfer the shares of the deceased in the name of the nominee.



INFORMATION TECHNOLOGY UPDATE CORNER

The IT Update Corner' is intended to keep members abreast with news and views on the topic with short-url link to read the update in detail on the source webpage.



#AI #MachineLearning – AI and machine learning on social media data is giving hedge funds a competitive edge. There's a lot of new data being produced that we can take advantage of, and a lot of asset managers and hedge funds have become data hoarders. Data from legal department, news wires, Twitter, analyst reports - you can take all of these different sources and combine it. Last year has seen number of client trials by large fund managers with several hundred billion AUM. In coming future, these tools become more reliable and mature. Read more: <https://goo.gl/ZwAQeV>.

#CyberAttack #Hack #IoT #InternetOfThings An army of million hacked IoT devices almost broke the internet. A massive Distributed Denial of Service (DDoS) attack against Dyn, a major domain name system (DNS) provider, broke large portions of the Internet on Friday 21st October, 2016, causing a significant outage to a ton of websites and services, including Twitter, GitHub, PayPal, Amazon, Reddit, Netflix, and Spotify. Dyn reported a huge army of hijacked internet-connected devices could be responsible for the massive attack. This time hackers attacked Dyn that many sites and services are using as their upstream DNS provider for turning internet protocol (IP) addresses into human-readable websites. An online tracker of the Mirai botnet suggests there are more than 1.2 Million Mirai-infected devices on the Internet, with over 166,000 devices active right now. Read more: <https://goo.gl/2Z5JBC>.



#OpenSource #Free #Alternatives While there are many good reasons to consider open source applications, the ability to avoid or reduce these fees continues to be a primary factor for many users. Check this list of 100 Open Source Alternatives for Accounting, Audio Recording/Editing, Business Intelligence, Business Process Management, CAD, Customer Relationship Management, Database, Desktop Publishing, Development Tools, Email/Collaboration/Groupware, Enterprise Resource Planning (ERP), Foreign Language, Gateway Security Appliances, Graphics/Drawing/Mathematics, Music, Office Productivity, Operating System, PDF Tools, Point of Sale (POS), Project Management, Reporting, Screenplay Writing, Video Tools, Web Site Design. Read more: <https://goo.gl/kOKahi>.

#ICEGOV #Conference: 10th International Conference on Theory and Practice of Electronic Governance 2017, New Delhi, 2-9 March, 2017. Conference Theme: Building Knowledge Societies: from Digital Government to Digital Empowerment. ICEGOV is a series of International Conferences on Theory and Practice of Electronic Governance taking place annually around the world. The series focuses on the use of technology to transform the working of Government and its relationships with citizens, businesses and other non-state actors in order to improve public governance and its contribution to public policy and development (EGOV). Patron: Ministry of Electronics and Information Technology, Government of India. Collaboration: USESCO. Read more: <http://www.icegov.org/>.



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CA. Ajay Dave

DIRECT TAX

(Contributed by CA. Paras K. Savla & CA. Hemant Shah)

JUDICIAL PRONOUNCEMENTS

SUPREME COURT

Vatsala Shenoy vs. JCIT (Supreme Court)

Section 50B: Important law explained on what constitutes a “slump sale” and whether capital gains on liquidation of a firm are chargeable to tax

The assessee, however, are attempting the wriggle out from payment of capital gain tax on the ground that it was a “slump sale” within the meaning of Section 2(42C) of the Act and there was no mechanism at that time as to how the capital gain is to be computed in such circumstances, which was provided for the first time by Section 50B of the Act with effect from April 1, 2000. However, this argument fails in view of the fact that the assets were put to sale after their valuation. There was a specific and separate valuation for land as well as building and also machinery. Such valuation has to be treated as that of a partnership firm which had already stood dissolved.

HIGH COURT DECISIONS

Shreemati Devi vs. CIT (Allahabad High Court)

Attitude of the Revenue in not returning seized assets despite assessee having succeeded in appeal is clearly arbitrary and shows an attitude of undue harassment to the assessee in the garb of public Revenue. Interest of public revenue does not authorise Revenue Authorities to work without any authority and create or cause all kinds of harassment to innocent people on the pretext of statutory authority:

Aforesaid attitude on the part of respondents is clearly arbitrary and shows an attitude of undue harassment to petitioner in the garb of public Revenue. Interest of public revenue does not authorise Revenue Authorities to work without any authority and create or cause all kinds of harassment to innocent people on the pretext of statutory authority, Revenue Authorities cannot claim liberty/privilege so as to deprive an individual, his property and that too in a manner, which has been found quite unreasonable and wholly without jurisdiction.

TRIBUNAL DECISIONS

ACIT vs. Jawaharlal Agicha (ITAT Mumbai)

Section 2(47)(v): Entire law on whether entering into a “joint development agreement” (JDA) with the builder and handing over possession/power of attorney amounts to a “transfer” and gives rise to capital gains explained. Chaturbuj Dwarkadas Kapadia 260 ITR 491 (Bom.) explained/ distinguished

It is generally seen that there may be several stages or events arising in a joint development arrangement made between owner of the land and the developer. For the purpose of determining the actual date of transfer of the land by the land owner, all these stages/events needs to be collectively analysed and after evaluating overall effect of the same the actual date of transfer is determined. These stages/events may be described as date of entering into JDA, date of executing power of attorney authorising the developer for taking various approvals/permissions etc., handing over the possession of the land to the developer for various purposes, receipt of part/full sale consideration from the developer, date of execution of power of attorney in favour of developer authorising him for the sale of developed units to the customers at his absolute discretion; and transfer of developed units to the customers etc. There may be few more stages/events to complete the transaction. Though, one single event may trigger the process of transfer but may not necessarily complete it also. Whether the transfer has, in substance, taken place, can be determined by analysing

the inter-play and effect of all these stages/events combined and put together. For example, possession may be given for various purposes, viz. possession given to a contractor, or to a tenant also, but such an event in itself cannot be regarded as “transfer” of land. Possession of land may also be handed over as licensee only for the purpose of development of real estate on land. Here again, it shall not give rise to “transfer”. Thus, when the possession is given along with other legal rights to the developer resulting into entitlement of the developer for full use and enjoyment of the property as well as its further sale after converting it into developed units at its full, own and sole discretion, then it may result into ‘transfer’ provided other conditions also suggest so. Thus, handing over of the possession has to be necessarily coupled with the intention of transferring the rights of ownership and enjoyment of the property to the developer. Handing over of the possession for the limited purpose of developing the land while still retaining the ownership and control of various legal rights upon the property by the land owner would not fall in clause (v) of section 2(47).

Gajanan Constructions vs. DCIT (ITAT Pune)

Section 234E: Entire law on whether fee for late filing of TDS returns can be levied prior to 1/6/2015 and whether the Intimation issued u/s. 200A is appealable explained

It is clear that the prescribed authority has been vested with the power to charge fees under Section 234E of the Act only with regard to levy of fees by the substitution made by Finance (No. 2) Act, 2015 w.e.f. 1/6/2015. Once the power has been given, under which any levy has to be imposed upon taxpayer, then such power comes into effect from the date of substitution and cannot be applied retrospectively. The said exercise of power has been provided by the statute to be from 1/6/2015 and hence, is to be applied prospectively. There is no merit in the claim of Revenue that even without insertion of clause (c) under Section 200A(1) of the Act, it was incumbent upon the assessee to pay fees, in case there is default in furnishing the statement of tax deducted at source. Admittedly, the onus was upon the assessee to prepare statements and deliver the same within prescribed time before the prescribed authority, but the power to collect the fees by the prescribed authority vested in such authority only by way of substitution of clause (c) to Section 200A(1) of the Act by the Finance Act, 2015 w.e.f. 1/6/2015. Prior to this, the Assessing Officer had no authority to charge the fees under Section 234E of the Act while issuing Intimation u/s. 200A of the Act. For more details visit www.wirc-icai.org

INTERNATIONAL TAXATION

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

Assistant Commissioner of Income-tax vs. BSR & company [2016] 72 taxmann.com 12 (Mumbai-Trib.) dated 8th July, 2016

Facts of the case

The assessee is a firm of Chartered Accountants. In the course of assessment proceedings the AO observed that the assessee had made payments to various entities on account of professional fees outside India without deducting tax at source thereon.

Assessee explained that the payments were made to various non-residents and these payments were not in the nature of income chargeable to tax in India and therefore it was not required to deduct tax at source thereon in terms of Section 195 of the Act.

Aggrieved by the order the assessee preferred an appeal before the learned CIT(A)-3. The learned CIT(A) disposed the appeal allowing the assessee relief deleted the disallowance under Section 40(a)(i).

Aggrieved by the order of the learned CIT(A), the Revenue has preferred this appeal before the Tribunal.

Issue

Whether these services rendered by non-resident companies were independent personal services?

Whether since overseas companies had no fixed base in India, payments made to them were not chargeable to tax in India so as to require deduction of tax at source?

Held

ITAT observed that the payments have been made to 7 different professional entities based in 4 different countries. In so far as the payments that are made to KPMG LLP, USA and KPMG LLP, Canada are concerned, the same has been made on account of professional services rendered in relation to taxation and transfer pricing. Undisputedly, the professional services have been rendered by the aforesaid entities outside India. The stand of the Revenue is devoid of any support because there is no material to establish that any technical knowledge, skill, etc. has been made available to the assessee so as to consider it as falling within the purview of Article 12 of Indo-US Double Taxation Avoidance Agreement.

It was also an established fact that such non-resident recipients do not have permanent establishment in India and, therefore, it can be treated as independent personal services covered by Article 15 of the Indo-US Double Taxation Avoidance Agreement. As a consequence and in the absence of any fixed base in India, such income cannot be held chargeable to tax in India.

The requirement of rendering services in India in order to attract Section 9(1)(vii) of the Act was removed by insertion of Explanation by the Finance Act, 2010 with retrospective effect from 1/4/1976. The impugned income was not subject to tax deduction at source in India as per the prevailing legal position. Taxability of a sum in the hands of recipient, on account of a subsequent retrospective amendment would not expose the assessee-payer to an impossible situation of requiring deduction of tax at source on the date of payment. Therefore, on this count also the assessee cannot be held to be in default in not deducting tax at source so as to trigger the disallowance under Section 40(a) (i) of the Act.

The disallowance has been rightly deleted by the CIT (Appeals) and in result the Revenue's appeal was dismissed.

Commissioner of Income Tax vs. M/s. M.R.M Plantation Pvt. Ltd. INC [I.T.A. 2946 & 2947/MDS/2014 dated 9/10/2015] Madras High Court 13th June, 2016

Facts

M/s. M.R.M Plantation Pvt. Ltd. is a company incorporated in India and its branch in Malaysia. It has business income generated in India as well as income from plantation in Malaysia. The assessee did not offer income from Malaysian plantation for tax for the relevant assessment year intending that the permanent establishment was in Malaysia.

During the assessment proceedings, the Assessing Officer referring to Article V(3)(e) of the existing DTAA between India and Malaysia, contended that the plantation income from Malaysia is taxable in India stated & thereby added to the income.

The assessee's referring to Article V(2)(g) contended that Income from Penang branch of Malaysian Plantation is income derived from plantation in Malaysia and immovable property at Malaysia and thereby not taxable.

Issue

Whether the income from Malaysian plantation would be taxable in India?

Held

The question considered by the Court was whether on the facts and in the circumstances of the case and in law, the Income Tax Appellate Tribunal is correct in law in holding that the income from rubber plantations situated in Malaysia, is to be taxed in Malaysia when control and management of the plantation situated in Malaysia is controlled in India.

As per Article V(2)(g) of the DTAA, the term permanent establishment shall include a "farm of plantation" and hence income from plantation from Malaysia cannot be subjected to tax in India.

The income derived was from the plantation in Malaysia would be a permanent establishment in terms of DTAA [Article V(2) (g)] and that the provisions of DTAA agreement, override the provisions of the Income-tax Act and such provisions of DTAA is binding on the department.

The High Court ruled in favour of the assessee. **For more details visit www.wirc-icai.org**

SERVICE TAX

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

Management, maintenance & repairs

Management, maintenance and repairs of roads carried out during the period 16/6/2005 to 25/7/2009 is retrospectively exempted from payment of service tax under Section 97(1) of the Finance Act, 2012 and hence service tax demand pertaining to the same period is not sustainable. Further the High Court observed that where the levy of duty was *per se* found illegal, writ jurisdiction of the High Court can be invoked for setting aside the demands. [*MP. Audhyogik Kendra Vikas Nigam vs. CCE (2015) 40 STR 875(M.P.)*].

Abatement

Where the appellant had inadvertently availed CENVAT Credit on input services and had also claimed the benefit of abatement under Notification No. 1/2006 but had subsequently reversed the CENVAT credit during the appellate stage, the Tribunal held that by reversing the CENVAT Credit the appellant had complied with the conditions of Notification No. 1/2006 and hence the benefit of abatement under notification cannot be denied [*Punj Lloyd Ltd. vs. CCE (2015) 40 STR 1028(Tri-Del.)*].

Associated Enterprises

In case of payments made to overseas enterprises the book entry crediting/debiting the associated enterprise would be relevant for ascertaining the due date for payment of service tax even if as per the mutual agreement the payment is to be made at a later date [*General Motors (I) Pvt. Ltd. vs. CCE (2015) 40 STR 962 (Tri.-Mum.)*].

Best Judgment Assessment

Best Judgment Assessment under section 72 could be invoked only for ascertaining the quantum of liability where the actual tax liability cannot be determined with mathematical precision on account of non-availability of relevant documents or financial records. There cannot be best judgment assessment (guess work) with regard to taxable event, category of taxable services provided [*Shubham Electricals vs. CST (2015) 40 STR 1034(Tri.-Del.)*].

Show Cause Notice

Where the SCN had failed to allege specific category of taxable services under which the appellant was liable to pay service tax, the Tribunal held that the SCN was vague and incoherent and hence liable to be set aside [*Shubham Electricals vs. CCE (2015) 40 STR 1034(Tri.-Del.)*].

Limitation

Invoking of extended period of limitation on the ground that the appellant had not paid service tax and filed ST-3 returns without establishing wilful misstatement or separation of fact is incorrect [*Punj Llyod Ltd. vs. CCE (2015) 40 STR 1028(Tri.-Del.)*].

Refund

Where the appellant, an exporter of goods, claimed refund of service tax on terminal handling charges, bill of lading charges availed for export of goods which was sought to be denied by the department on the grounds that the input service provider had paid service tax on these input service under the category of business auxiliary services and not under the category of port services, the Tribunal held that for granting of refund under Notification No. 41/2007 the exporter is not required to verify the registration certificates of the input service provider and hence refund of service tax paid on any services used in relation to export of goods is admissible [*SRF Ltd. vs. CCE (2015) 40 STR 980 (Tri.-Del.)*].

Remand

Where the matter has been remanded by the Tribunal for the re-quantification of the service tax demand, it is always open for

the authority to decide the question of penalty imposable, in case of confirmation of demand and the same cannot be restricted by the Tribunal by giving any direction that no penalty should be imposed in such remand proceedings. Discretion to impose penalty cannot be taken by the Tribunal [*CST vs. Zak Traders & Exhibitions Pvt. Ltd. (2015)40 SRT 873(Mad.)*].

Recovery of Service Tax

Recovery of tax u/s. 87 can be resorted to only after the amount is adjudicated to be due to the Government after hearing SCN issued to the assessee demanding such tax [*Gopal Builders vs. DGCEI (2015) 40 STR 888(Guj.)*].

Retrospective amendment

Any amendment to a notification will have only prospective effect unless specifically made retrospectively by the appropriate authority. No notification can be given retrospective by an executive instruction [*CCE vs. Kay Trading (2015) 40 STR 340 (Tri.-Del.)*]. **For more details visit www.wirc-icai.org**

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Personal Column

G. P. Kapadia a leading reputed CA firm in Mumbai requires "Article Assistant" in our Audit/Taxation/International Taxation/FEMA Department. Interested candidates may send their CV's on hr@gpkapadia.com or call on 022 4083 3423 / 447.

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AN APPEAL TO MEMBERS OF WIRC OF ICAI FOR CONTRIBUTION TO CABF

Chartered Accountants Benevolent Fund (CABF) established in 1962 by ICAI, is one of the largest bodies providing welfare and support to the Chartered Accountants fraternity. It provides financial assistance for medical treatment, education, maintenance or any other similar purpose to necessitous persons of the CA fraternity. Financial assistance in lump sum is also given to the widows/relatives of the deceased member in case of accidental/unnatural death at age below 55 years. A considerable number of members/family is already getting such assistance from CABF.

To continue this endeavour, CABF invites contribution from our CA members. The contribution can be made in the form of:

- 1. **Life Membership** – ₹ 2,500/-
- 2. **Ordinary Membership** – ₹ 500/- annually
- 3. **Voluntary Contribution** – An honourable amount up to any extent

All subscription and contribution made towards CABF is eligible for deduction under Section 80 (G) of Income-tax Act, 1961.

Please contribute generously towards the Fund through at par cheque/DD favouring "Chartered Accountants Benevolent Fund" and send it to WIRC for onward submission to the said Fund.

Congratulations!



CA. Shri P. L. Kulkarni Membership No. 011519 has been coopted as Expert CA Director by Rajarambapu Sahakari Bank Ltd. Peth, (Dist. Sangle) a Scheduled Co-operative Bank for a period of 5 years commencing from 2016-17.

SEMINAR ON GST



FOOTBALL TOURNAMENT





**MEETING ON
STUDY CIRCLE CO-ORDINATION**



2ND COURSE ON GST



SEMINAR ON COMPANIES ACT



SEMINAR ON GST



**LECTURE MEETING ON STRETCH
MANAGEMENT (JOY 24x7)**



**SEMINAR ON ASSESSMENT UNDER
IT ACT**



SEMINAR ON IFC



POP THE QUESTION



**SEMINAR ON OPPORTUNITIES
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