



The Institute of
Chartered Accountants
of India

(Set up by an Act of Parliament)

WESTERN INDIA CHARTERED ACCOUNTANTS NEWSLETTER

OCTOBER 2016 | Vol. 42 | No. 10

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for more information & updates

Together
We Can...

“

Proactive

”

*To attain the unattainable,
to go from ordinary to extraordinary,
you have to become proactive.
A proactive member, team and organisation
can make the impossible possible.*

**SHAKTI - THE POWER
OF CA WOMEN**

15th October, 2016

**REGIONAL BANKING
SUMMIT**

19th November, 2016

... Change the
World

YUVA - THE WAY AHEAD



SEMINAR ON GST



MY PRINCIPAL - MY TEACHER



Dear Colleagues,

Success, like failure, is a proactive choice. As members of this great Institution, we choose to have a 'can do' attitude, we choose to be prepared every day because at the end of the day we sincerely believe that by being proactive we can actually bring a change together.

Actions are what define an organisation and its people. As an Institution, ICAI is renowned all over the world as an institute which is ahead of its time. For example, we have been proactively raising awareness about the 'Income Declaration Scheme' and educating members about the 'Goods and Services Tax' long before it became part of the mainstream. The main reason for our continuous rise professionally, academically and socially is because we are proactive. We don't wait for a person or circumstances to take us forward but proactively plan and prepare in advance, thus ensuring we are ready for all possibilities and opportunities that may come our way.

Interactive Session with Mr. Arun Jaitley: Union Finance Minister Mr. Arun Jaitley interacted with members on the 'Income Declaration Scheme' and 'Gold Monetisation Scheme' event. Also present were Ms. Rani Singh Nair, Chairperson, Central Board of Direct Taxes (CBDT), our esteemed ICAI President, CA M. Devaraja Reddy, ICAI Vice President, CA Nilesh Vikamsey and other dignitaries whom we thank for their support. This session was indicative of a new, proactive facet of the Government.

Focus on Courses: To ensure members are ahead of the learning curve across areas of knowledge, WIRC organised two study courses as well as a seminar on GST this month which saw spirited attendance by members. As professionals we are keen learners and to ensure that momentum is maintained, WIRC organised a broad-based seminar on 'Mutual Funds, PMS and Capital Market', which gave a deep insight to members on various segments of the capital market. Refresher courses on MVAT, International Taxation and Internal Audit were also organised.

Campus Orientation Programme: WIRC is proud to induct new members into the profession. The orientation programme is conducted to give positive insights to the newly qualified Chartered Accountants. The programme saw more than 1,000 enthusiastic participants listen to Chief Guest CASachin Patil, Deputy Commissioner of Police (Cyber-crime), who held everyone spellbound with his motivating lecture.

YUVA: This unique competition based on the 'Yuva - The Way Ahead : Learn Excel Inspire' programme saw young Chartered Accountant members make presentations on topics like 'IFC for SMEs' and 'A Model GST Law' to be adjudged as the best presentation. The respected judges were CA Bhavna Doshi and CA Mitil Chokshi. The winners for the topic 'IFC for SMEs' were CA Manish Agrawal and CA Soumil Singhvi and the winners for the topic 'A Model GST Law' were CAMayank Bang and CA Deep Kakad.

Guru Devo Bhava: WIRC organised a special programme on 5th September, commemorating teachers called 'My Principal, My Teacher'. WIRC felicitated large firms along with their articles, GMCS and Coaching faculties as a small token of gratitude for their contribution to our ongoing education system.

WIRC Regional Conference: Our Regional Conference is based around our theme of 'Together We Can', wherein we will cover the various challenges which our profession is gearing up to face in the near future. The impact of these evolutionary changes in the profession coupled with the expectations of Regulators and of society from Chartered Accountants will be addressed, and I am sure we can make this Regional Conference a true success by planning, implementing and working together.

CHAIRPERSON'S COMMUNICATION



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CA. Shruti Shah, *Chairperson*
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.....

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Recent Judgments **Pg 12**



Together
We Can...

CA. SHRUTI SHAH

OCTOBER 2016

Western India Chartered Accountants Newsletter

03



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 |
|---|---|
| Guests of Honour: | CA. M. Devaraja Reddy, President-ICAI CA. Nilesh Vikamsey, Vice-President-ICAI |
| Goods and Services Tax - The final frontier | CA. Sushil Solanki, IRS, Ex-Commissioner Service Tax CA. Bharat Goenka, Co-Founder & Managing Director, Tally Solution Pvt. Ltd. |
| Reforms in Income Tax | CA. T. P. Ostwal |
| Role of CAs, Regulators – An Industry perspective | CA. Ranganayakulu, Executive Director, Legal SEBI CA. Dinesh Nandwana, Managing Director & CEO of Vakrangee Ltd. |
| Audit, 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. |

Office Bearers

| | |
|------------------------------|---------------------------------|
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Regional Council Members

| | |
|-------------------------------|-------------------------------------|
| CA. Sandeep Jain 9819788099 | CA. Sushrut Chitale 9821112904 |
| Chairman, PD Committee, WIRC | CA. Priti Savla 9321426883 |
| CA. Sarvesh Joshi 9822022292 | CA. Priyam Shah 9824096112 |
| Convenor, PD Committee, WIRC | CA. Satyanarayan Mundada 9422080814 |
| CA. Vishnu Agarwal 9324544607 | |

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 of Manipal Global Education |
| 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. Khushroo Panthaky, Senior Partner, Walker Chandiok & Co. LLP |

Money Matters - Lets 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
CA. Prashant Jain*, Chief Investment Officer, HDFC Mutual Fund
CA. Nilesh Shah*, Managing Director, Kotak Mutual Fund
CA. Ridham Desai, Managing Director, Morgan Stanley, India
CA. Anil Singhvi, CNBC Awaaz

* Subject to confirmation

| | | |
|-------------------------|---------------------|---------------------|
| Platinum Sponsor | Gold Sponsor | Supported by |
| | | |

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 Madkholkar 9820075966 CA. Amol Kamat 9823018763 CA. Abhijit Totade 9819659159 |



SHAKTI – The Power of CA Women National Women's Conference

Organised by: Women Members Empowerment Committee of ICAI

Hosted by: WIRC of ICAI

Khushi Kunverji Vikamsey Auditorium, ICAI Tower, Near Standard Chartered Bank, BKC, Mumbai
15th October, 2016 – Saturday | 10.00 a.m. to 6.00 p.m.

6
CPE Hrs

FEES
₹ 600/-

| Topics | Speakers | Chief Co-ordinators / Mobile Nos. |
|--|---|--|
| Inauguration Reaching at Top – Sharing the Success Story Changing Landscapes & Opportunities for Women CAs Technical Session – Ethics in Profession Women Health, Yoga & Stress Management GST – the Game Changer Panel Discussion - Smart Scaling Up <ul style="list-style-type: none"> Panel Moderator Women as Entrepreneurs – Potential & Challenges Taste of Technology <ul style="list-style-type: none"> Power of Business Intelligence Importance of Data Analytics Self Grooming | CA. Zarin Daruwala , CEO, Standard Chartered Bank CA. Jay Chhaira , Chairman, WMEC, ICAI CA. Kemisha Soni , Vice Chairperson, WMEC, ICAI Ms. Anjali Jain CA. Bhavna Doshi , Past CCM & Past Chairperson of WIRC CA. Ashu Sood , CFO, Aamby Valley Ltd. Ms. Kruti Parekh CA. Rupal Haria CA. Payal Agrawal Ms. Sangeeta Dedhia , IMA Certified (London), Make up Artist | CA. Priti Savla 9321426883 CA. Shilpa Shinagare Treasurer, WIRC 9820053395 CA. Drushti Desai 9820335923 Co-ordinators / Mobile Nos. CA. Meenakshi Gupta 9820654322 CA. Pinky Kedia 9869030652 CA. Rinkle Gorwara 9821688806 CA. Shweta Jain 9920737198 CA. Vandana Dodhia 9820029281 |
| Programme Chairman | CA. Jay Chhaira , Chairman, Women Members Empowerment Committee-ICAI | |
| Programme Co-Chairman | CA. Kemisha Soni , Vice Chairperson, Women Members Empowerment Committee-ICAI | |
| Programme Convenor | CA. Shruti Shah , Chairperson – WIRC of ICAI | |

For Inquiry call on 022-3367 1421/424 / 0120-3876873 / 9920737198

To Register click following link: <http://wirc-icai.org/onlineevents.aspx> or <http://www.wirc-icai.org/EventDetailsNew.aspx?id=2623>



New Members Meet and Felicitation of Rank Holders & S. Vaidyanath Aiyar Memorial Lecture Yogi Sabhagruha, Swami Narayan Temple, Dadar (E)

| Date, Day & CPE Hrs | Time & Fees | 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. | Cultivating Mindfulness | Shri Nipun Mehta, Member, President's Advisory Council on Faith-Based and Neighborhood Partnerships and Founder, ServiceSpace | CA. Pradeep Agrawal 9898560967 CA. Kamlesh Saboo, Secretary, WIRC 9819195333 CA. Sandeep Jain 9819788099 |
| Students who have secured rank in May 2016 examination of CPT, IPCC & Final CA from the Western Region shall be felicitated | | | | |

Seminar on GST

Mayor's Hall, All India Local Self Government Institute, Juhu Lane, Andheri (West)

| Date, Day & CPE Hrs | Time & Fees | Topic(s) | Speaker(s) | Chief Co-ordinators / Mobile Nos. | Co-ordinators / Mobile Nos. |
|---|--|---|--|--|--|
| 22/10/2016 Saturday 6 CPE Hrs | 10.00 a.m. to 6.00 p.m. ₹ 1,500/- | <ul style="list-style-type: none"> Basic Concept of GST, Concepts 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 Provisions Registration, Payment, Return and Refund | CA. A. R. Krishnan CA. Sagar Shah CA. Sunil Gabhawalla CA. Jinit Shah | CA. Manish Gadia 9820537986 CA. Umesh Sharma 9822079900 CA. Sushrut Chitale 9821112904 | CA. Harsh Bajaj 9821044319 CA. Amar Bafna 9833298662 CA. Jayesh Shah 9819043921 CA. Kamal Dhanuka 9833836221 CA. Shirish Pandit 9820133126 |

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. |
|---|--|---|--|--|---|
| 22/10/2016 Saturday 6 CPE Hrs | 10.00 a.m. to 6.00 p.m. ₹ 1,200/- | Seminar on Assessment under I. Tax • Scheme of Assessment under I.Tax (Self Assessment, Regular Assessment, Best Judgment) Notices, Section 292 BB etc. • Appeal before CIT(A) • Dispute Resolution Scheme • Rectification of Mistakes & Power Relating to amendments in order | CA. Mahendra Sanghavi CA. Sanjeev Lalan CA. Vimal Punamiya | CA. Rakesh Alshi 9819427242 CA. Umesh Sharma 9822079900 CA. Balkishan Agarwal 9377110634 | CA. Shantesh Warty 9819947969 CA. Viral Chheda 9833594045 CA. Swati Bhatkar 9967537989 |
| 05/11/2016 Saturday 3 CPE Hrs | 10.00 a.m. to 1.00 p.m. ₹ 600/- | Workshop on Company Law Compliance / ROC • Company Law Compliance / ROC | CA. Avinash Rawani | CA. Priti Savla 9321426883 CA. Purushottam Khandelwal 9825020844 CA. Balkishan Agarwal 9377110634 | CA. Y. R. Desai 9820448365 CA. Manisha Bhonsale 8097443088 CA. Vidhyut Jain 9892414386 |
| 12/11/2016 Saturday 3 CPE Hrs | 10.00 a.m. to 1.00 p.m. ₹ 600/- | Seminar on VAT Audit • 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 Arrangement • Preparation of Wills and Documents in relation to HUF & Family Arrangements • Tax Planning through HUF and Family Arrangement | 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 |

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. |
|---|--|---|--|--|---|
| 05/11/2016 Saturday 6 CPE Hrs | 10.00 a.m. to 6.00 p.m. ₹ 1,200/- | Seminar on Real Estate (Regulation and Development) Act 2016 • Law and Practice – Overview of Act • Registration of Projects – Requirements and procedure, Obligations of Promoters, Obligations of allottees • Dispute resolutions through Regulatory Authority and Appellate Tribunal • Role and Professional Opportunities for CAs...certification, filing returns, representation before authority and audit | CA. Tarun Ghia, CCM CA. Shripal Jain Adv. Anand Patwardhan CA. Ramesh Prabhu | CA. Shilpa Shinagare Treasurer, WIRC 9820053395 CA. Hardik Shah Vice Chairman, WIRC 9825510422 CA. Abhijit Kelkar 9422126890 | CA. Aniket Kulkarni 9821690559 CA. Prajakta Patil 9819041003 CA. Kalpesh Kothari 9029371777 |
| 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 * Subject to confirmation | CA. Hemant Thanvi CFO, IEDCL Shri GVAS Murthy President Idea Cellular Ltd. Shri Pervez Umrigar* MD & CEO, Peak Infrastructure Eminent Faculty CA. N. Jayendran CA. Naresh Sheth* | CA. Drushti Desai 9820335923 CA. Sarvesh Joshi 9822022292 CA. Pradeep Agrawal 9898560967 | CA. Mehul Sheth 9820297310 CA. Pritee Panchal 9819844965 CA. Nandan Khambete 9969955696 |

ICAI Tower, Near Standard Chartered Bank, BKC, Mumbai (Classroom)

| Date, Day & CPE Hrs | Time & Fees | Topic(s) | Speaker(s) | Chief Co-ordinators / Mobile Nos. | Co-ordinators / Mobile Nos. |
|---|--|---|--|---|---|
| 22/10/2016 Saturday 6 CPE Hrs | 10.00 a.m. to 6.00 p.m. ₹ 1,200/- | Seminar on Fraud Investigation & Reporting <ul style="list-style-type: none"> • Cyber Crime & Digital Evidence • Evidence & Law in Forensic • Fraud Investigation – Corporate & Financial • Reporting • Data Analytics in Forensic Audit | Adv. Prashant Mali CA. Mansi Mehta | CA. Kamlesh Saboo Secretary, WIRC 9819195333 CA. Priti Savla 9321426883 CA. Lalit Bajaj 9867692321 | CA. Bipeen Mundada 9223290561 CA. Arun Prithwani 9820917280 CA. Mayur Momaya 9867952010 |
| 12/11/2016 Saturday 6 CPE Hrs | 10.00 a.m. to 6.00 p.m. ₹ 1,200/- | Seminar on Cyber Crime <ul style="list-style-type: none"> • Presentation on Cyber Crime • Online Frauds, Data Theft & Identity Theft, Impact of Social Media • E-mail & Mobile Hacking Live, Laptop Hacking Live, Safety and Security Measures, Cyber Law, Feedback | Shri Shailesh Jaria Shri Vinith Jain | CA. Aniket Talati 9825551448 CA. Lalit Bajaj 9867692321 CA. Rakesh Alshi 9819427242 | CA. Vikram Joshi 9821733286 CA. Nikita Mall 9969873294 CA. Murtuza Ghadiali 9967128452 |
| 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 <ul style="list-style-type: none"> • 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, Retd. Jt. Registrar, CIDCO CA. Ramesh Prabhu | CA. Shilpa Shinagare Treasurer, WIRC 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 <ul style="list-style-type: none"> • 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* CNBC AWAAZ CA. Lalit Chatnani CA. Manish Tibrewal Adv. Vimochan Naik | CA. Kamlesh Saboo Secretary, WIRC 9819195333 CA. Hardik Shah Vice Chairman, WIRC 9825510422 CA. Sandeep Jain 9819788099 | CA. Rakesh Tulsian 9869765155 CA. Mukul Maheshwari 9320151201 CA. Mukund Mall 9322224142 |

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)

TRANSFER PRICING – Notified Tolerance Limit u/s. 92C(2) of Income-tax Act [240 Taxman (st.) 58]

The Central Government *vide* Notification No. SO2425(E) (No. 57/2016 – F. No. 500/1/2014-APA-II) dated 14/7/2016 notified that where the variation between the arm's length price determined under Section 92C and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed one per cent of the latter in respect of wholesale trading and three per cent of the latter in all other cases, the price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm's length price for Assessment Year 2016-17.

Explanation – For the purpose of this notification, "wholesale trading" means an international transaction or specified domestic transaction of trading in goods, which fulfils the following conditions, namely:

- i) Purchase cost of finished goods is eighty per cent or more of the total cost pertaining to such trading activities; and
- ii) Average monthly closing inventory of such goods is ten per cent or less of sales pertaining to such trading activities.

ASSESSMENT u/s. 143 – General – Compulsory Manual Selection of Cases for Scrutiny During Financial Year 2016-17 [240 Taxman (st.) 59]

The CBDT *vide* Notification No. 4/2016 (F. No. 225/176/2016/ITA-II) dated 13/7/2016, hereby lays down the following procedure and criteria for manual selection of returns/cases for compulsory scrutiny during the financial year 2016-17. This instruction is in supersession to the earlier instruction on the above subject. The detailed procedure and criteria are available at the above citation of the magazine.

INCOME DECLARATION SCHEME (AMENDMENT) RULES, 2016 – Amendment in Form-1 [240 Taxman (st.) 68]

The CBDT *vide* Notification No. 2477(E) (No. 60/2016 – F. No. 142/8/2016-TPL) dated 20/7/2016, in exercise of its powers u/s. 199(1) and (2) of Finance Act, 2016 makes further amendments to the Income Declaration Scheme Rules, 2016. These rules may be called The Income Declaration Scheme (Amendment) Rules, 2016. It also amended the Form-1, wherein it substitutes serial numbers 1 and 2 of the form.

DEPRICIATION ALLOWANCE – Notified Backward Areas u/s. 32(1) (iia) and Section 32AD (1) First Proviso of Income-tax Act [240 Taxman (st.) 69]

The Central Government *vide* Notification No. 2478(E) [No. 61/2016 (F. No. 142/13/2015-TPL)] dated 20/07/2016, hereby notifies backward areas under the first proviso to clause (iia) of sub-section (1) of section 32 and sub-section (1) of Section 32AD of the said Act. The Notified Backward Areas in the States of Telangana, West Bengal and Bihar have been stated in detail in the above citation.

SECTION 119 OF THE INCOME-TAX ACT, 1961 – Income Tax Authorities – Instructions to Subordinate Authorities – Extension of Due Date for Filing Returns of Income from 31/7/2016 to 31/8/2016. In Case of assessee in State of Jammu and Kashmir Order [F. No. 225/195/2016/ITA.II], dated 29/07/2016.

On consideration of reports of dislocation of general life in

certain areas of the State of Jammu & Kashmir, the CBDT, in exercise of powers conferred under Section 119 of the Income-tax Act, 1961 ('Act') hereby extends the due date for filing returns of income from 31st July, 2016 to 31st August, 2016, in case of Income-tax assessee in the State of Jammu & Kashmir who are required to file their return under Section 139(1) of the Act by the said due date. **For more details visit www.wirc-icai.org.**

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

Notifications

- (i) The Government of Maharashtra has issued notification dated 24/8/2016 by which amendment is effected to change delegated authority.
- (ii) The Government of Maharashtra has issued notification u/s. 41(5) dated 6/9/2016 by which further conditions about taxation of liquor under said Section are notified.
- (iii) The Government of Maharashtra has issued one more notification dated 16/9/2016 by which increase in rate of tax in respect of Schedule C, Schedule D-10 (Petrol) and Schedule E goods is notified. In general rate of 5.5% is enhanced to 6% and 12.5% is enhanced to 13.5% from 17/9/2016.

Circulars

1. The Commissioner of Sales Tax has issued Circular bearing No. 21T of 2016 dated 24/8/2016 wherein submission of application under Settlement Act – Electronically and further updated FAQs on Settlement of Arrears in Disputes Act, 2016 are given.
2. The Commissioner of Sales Tax has issued Circular bearing No. 22T of 2016 dated 26/8/2016 by which changes in procedures and returns filing in new automation process is explained.
3. The Commissioner of Sales Tax has issued Circular bearing No. 23T of 2016 dated 2/9/2016 wherein facility to submit the application for registration through e-Seva Kendra and help desk for new return submission is given.
4. The Commissioner of Sales Tax has issued Circular bearing No. 24T of 2016 dated 3/9/2016 by which clarifications under Settlement of Arrears in Disputes Act, 2016 are given.
5. The Commissioner of Sales Tax has issued Circular bearing No. 25T of 2016 dated 7/9/2016 wherein facility to submit the application for registration and availing the online services for returns, e-payment and CST declarations through e-Seva Kendra is explained.
6. The Commissioner of Sales Tax has issued one more Circular bearing No. 26T of 2016 dated 8/9/2016 by which clarification about grant of Administrative Relief to developers is given.

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

Refund for Edible Salt

Vide Notification No. (GHN-42) VAT2016-S. 40(1)(10)-TH, u/s. 40(1), announcement is made to grant refund to the dealers manufacturing edible salt for purchases used in manufacturing during the period 1/4/2016 to 26/5/2016, subject to conditions prescribed therein.

Important Gujarat High Court Judgments

- I. If tax free finished goods get manufactured unintentionally or incidentally during the manufacturing process, proportionate ITC of raw material need not be reversed.
M/s. Aarya Lumbars P. Ltd. Tax Appeal No. 216/2015. Decision dated 28/7/2016.
- II. Discount is deductible in the year in which discount is allowed.
Ambuja Cement Ltd. Tax Appeal Nos. 19032 & 19086/2015. Decision dated 24/6/2016.
 - a. Powers u/s. 34(8)(a) can't be utilised for unlimited period.
 - b. Powers u/s. 34(8)(a) can be invoked only if some proceedings are pending in dealer's case
 - c. Internal verification by the Department can't be considered as pending proceedings.**Dhanani Import-Export P. Ltd. Tax Appeal Nos. 9519-9520/2016. Decision dated 21/7/2016.**
- III. Notifications issued u/s. 8(5) of the CST Act continue to remain valid till their cancellation on 31/3/2006, despite amendment w.e.f. 11/5/2002, withdrawing powers of State Governments to issue notifications granting exemptions/concession of tax even without 'C' Form.
TATA Chemicals Ltd. Tax Appeal No. 2342/2009. Decision dated 18/7/2016.
- IV. Amendments in limitation period will be applicable to all pending cases on the date of amendment & all old pending cases shall have to be completed within amended limitation period only.
Aspee Agro Equipment P. Ltd. S.T.R. 2/2005. Decision dated 4/7/2016.
- V. Eligibility Certificate issued by KVIC to the dealer, on the basis of which the dealer has availed the benefits, can't be cancelled with retrospective effect.
Shree Shiv Shakti Oil Mill. Tax Appeal No. 444/2015. Decision dated 19/7/2016.

CORPORATE LAWS

(Contributed by CA. Rahul Joglekar)

MCA (www.mca.gov.in)

MCA Notification No. SO (E) dated 12th September, 2016 – Amendment in Schedule V of the Companies Act, 2013

MCA has amended the Schedule V of the Companies Act, 2013 with the aforesaid notification. New Section II in Part II with respect to payment of managerial remuneration in case of no profit or inadequacy of profits has been substituted in place of the old Section II. Certain other requirements with respect thereto have also been specified. For complete text of the notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/Notification_12092016.pdf.

CENTRAL EXCISE

(Contributed by CA. Jayesh Gogri)

Notifications

Tariff

Withdrawal of exemption on ethanol manufactured from sugarcane molasses for its supply to the public sector Oil Marketing Companies (OMC)

Unconditional exemption given to production of ethanol from molasses of sugarcane for supply to the public sector OMCs has been withdrawn. Furthermore, CENVAT credit allowed on duty paid molasses by way of non-reversal of such credit has also been omitted.

(Notification Nos. 30/2016-CE and 41/2016-CE (NT) dated 10th August, 2016)

Changes in warehousing procedure for EOU/STP/EHTP units covered by Notification No. 22/2003-CE

Goods brought into EOU/SEZ/STP/EHTP units enjoy conditional Exemption from Excise Duty and specified Additional Excise Duty vide Notification No. 22/2003-CE dated 31st March, 2003. In view of dispensation of bonded warehousing requirements for these units, the said Notification has been amended. Some of the key features of the amendment are as under:

- Units engaged in trading shall not be allowed to remove the goods outside the premises of the unit for the purposes of jobwork
- Condition of following rewarehousing procedure during supply or transfer of goods processed, manufactured, produced or packaged goods to another unit in SEZ, STP, EHTP Unit has been removed
- Condition relating to rewarehousing procedure for transfer etc. of capital goods has been deleted

(Notification No. 31/2016-CE dated 24th August, 2016)

Amendments to Mega Exemption Notification No. 12/2012-CE dated 17th March, 2012

Central Excise Duty is levied @8% on Aviation Turbine Fuel (ATF). Now, with effect from 26th August, 2016, ATF used by operators or cargo operators from the Regional Connectivity Scheme (RCS) airports will be subject to concessional rate of 2% for a period of 3 years.

Round copper wire and tin alloys used in manufacture of Photovoltaic (PV) ribbon which are used in manufacture of solar PV cells or modules were conditionally exempt from excise duty subject to certification by prescribed authority. Now, with effect from 2nd September, 2016, revised condition stipulates that if the goods would be used outside the factory, procedure laid down in Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001 has to be followed.

Articles of goldsmiths' or silversmiths' wares, not bearing a brand name; Strips used in the manufacture of articles of jewellery and precious and semi-precious stones enjoy unconditional exemption as of now. With effect from 8th September, 2016, a condition has been prescribed, to avail exemption. Appropriate duty of excise/customs and service tax must have been paid on inputs and input services and Credit of the same shall be taken neither by the manufacturer nor the buyer. Moreover, appropriate duty of excise/customs and service tax shall include nil duty or concessional duty whether or not read with any relevant exemption notification.

(Notification No. 32/2016-CE dated 26th August, 2016, Notification No. 33/2016-CE dated 2nd September, 2016 & Notification No. 34/2016-CE dated 8th September, 2016)

Non-Tariff

Provision to file Revised Return under Central Excise made operative w.e.f. 17th August, 2016

Facility to file revised return (except ER-8) by all assesseees (incl. EOU) has been prescribed *vide* Notification No. 8/2016 – CE (NT) dated 1st March, 2016, from a notified date. Due date for filing such revised return is end of the calendar month in which the original return is filed, provided such original return has been filed on or before the due date of submission. Now, such revised return provision is made effective from 17th August, 2016.

(Notification No. 42/2016-CE (NT) dated 11th August, 2016)

SERVICE TAX

(Contributed by CA. Rajiv Luthia)

SYNOPSIS OF NOTIFICATIONS, CIRCULARS & LETTERS

Central Government, *vide* Notification No. 37/2016-ST dated 18th August, 2016, has invested all Principal Commissioners (who have been given additional charge of a Chief Commissioner) with the powers of the Chief Commissioner.

Central Government, *vide* Notification No. 38/2016-ST dated 30th August, 2016, has amended Notification No. 6/2012-ST dated 20th June, 2012 by inserting Entry No. 5A whereby abatement of 90% is granted to the services of transport of passengers, with or without accompanied belongings, by air, embarking from or terminating in a Regional Connectivity Scheme Airport. The said abatement is subject to non-availment of CENVAT Credit. The said abatement is available for a period up to 1 year from the date of commencement of operations of the Regional Connectivity Scheme Airport as notified by the Ministry of Civil Aviation.

Entry No. 62 of Mega Exemption Notification No. 25/2012-ST dated 20th June, 2012 grants exemption to services provided by Government or a local authority by way of allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the financial year 2015-16 on payment of licence fee or spectrum user charges.

Central Government, *vide* Notification No. 39/2016-ST dated 2nd September, 2016, has amended the said entry to extend the exemption to such service provided during any period prior to 1st April, 2016.

Entry No. 5(a) of Mega Exemption Notification No. 25/2012-ST dated 20th June, 2012 grants exemption to services by a person by way of renting of precincts of a religious place meant for general public. **Central Government, *vide* Notification No. 40/2016-ST dated 6th September, 2016**, has amended the said entry whereby the exemption is restricted to precincts of religious place meant for a general public owned or managed by an entity registered as a charitable or religious trust u/s. 12AA or a trust or an institution registered u/s. 10(23C)(v) or a body or an authority covered u/s. 10(23BBA) of the Income-tax Act, 1961.

CBEC, *vide* Circular No. 199/09/2016-ST dated 22nd August, 2016, has clarified that the activity of construction of tube wells is exempted under Entry Nos. 12 (e) & 25 (a) of Mega Exemption Notification No. 25/2012-ST dated 20th June, 2012 since the phrase "water supply" contained under the said entries is a general phrase. It will involve providing users, access to a source of water. The source may be natural or artificial like tanks, wells, tube wells etc. Providing users access to such a source will involve construction of the source (if artificial) and the transmission of water to the user. It will involve activities like drilling, laying of pipes, valves, gauges etc, fitting of motors, testing etc. so as to eventually result in the supply of water. Similarly the word plant has to be understood and interpreted

with reference to the context. A plant for water supply need not necessarily involve a huge assembly of machinery and apparatus, for the reasons explained.

CBEC, *vide* Circular No. 200/10/2016-ST dated 6th September, 2016, has clarified that all immovable property of the religious place located within the outer boundary walls of the complex (of buildings and facilities) in which the religious place is located should be treated as being located in the precincts of the religious place. The immovable property located in the immediate vicinity and surrounding of the religious place and owned by the religious place or under the same management as the religious place may be considered as being located in the precincts of the religious place and extended the benefit of exemption under Entry No. 5 (a) of Notification No. 25/2012-ST dated 20th June, 2012.

FEMA

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

Grant of Permanent Residency Status to Foreign Investors

Press Release dated August 31, 2016 issued by the Government of India

The Union Cabinet chaired by the Prime Minister Shri Narendra Modi has on August 31, 2016 given its approval to the scheme for granting Permanent Residency Status (PRS) to foreign investors, which will be subject to the relevant conditions as specified in the Foreign Direct Investment (FDI) policy notified by the Government from time-to-time. Under the scheme, suitable provisions will also be incorporated to the Visa Manual for the grant of PRS to foreign investors under this scheme.

The PRS will initially be granted for a period of 10 years with multiple entry facility which can be reviewed for another 10 years if the PRS holder has not come to any adverse notice. The scheme will be applicable only to foreign investors who fulfil the eligibility conditions, his/ her spouse and dependents. In order to avail this scheme, the foreign investor will have to invest a minimum of ₹ 10 crores to be brought within 18 months or ₹ 25 crores to be brought within 36 months and the foreign investment should result in generating employment to at least 20 resident Indians every financial year.

The PRS will serve as a multiple entry visa without any stay stipulation and the PRS holders will be exempted from the registration requirements. The PRS holders will also be allowed to acquire a residential property for dwelling purpose. The spouse/dependents of the PRS holder will be permitted to take up employment in private sector (in relaxation to salary stipulations for Employment Visa) and undertake studies in India.

Cabinet approves simplification and liberalisation of the FDI Policy, 2016 in various sectors

Press Release dated August 31, 2016 issued by the Government of India

The Government of India had on June 20, 2016 decided to radically liberalise and simplify the FDI regime, with the objective of providing major impetus to employment and job creation in India. Consequently, the Department of Industrial Policy & Promotion (DIPP) has issued a Press Note No. 5 (2016 Series) dated June 24, 2016 to give effect to the aforesaid decisions of the Government and to amend the Consolidated FDI Policy Circular of 2016 dated June 7, 2016.

The Union Cabinet chaired by the Hon'ble Prime Minister Shri Narendra Modi has now on August 31, 2016 given its *ex-post-facto* approval to the FDI policy amendments announced by the Government on June 20, 2016. Changes introduced in the FDI policy include increase in sectoral caps, bringing more activities under automatic route and easing of conditionalities for foreign investment. The FDI policy in following sectors has been amended:

- Food Products manufactured/produced in India
- Defence
- Review of entry routes in Broadcasting Carriage Services
- Pharmaceutical
- Civil Aviation Sector
- Private Security Agencies
- Animal Husbandry
- Single Brand Retail Trading

Further for establishment of branch office, liaison office or project office or any other place of business in India if the principal business of the applicant is Defence, Telecom, Private Security or Information and Broadcasting, it has been decided that approval of RBI would not be required in cases where FIPB approval or licence/permission by the concerned Ministry/Regulator has already been granted.

With these changes most of the sectors have now been brought under automatic route for FDI, except a small negative list.

For more details on the Press Release, please refer to the Press Release available at <http://pib.nic.in>.

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

Income Tax

ITA. No. 291/Mum/2015 delivered on 12/8/2016

Jitendra Kumar Soneja vs. Income Tax Officer, Ward 6(3)(3).

Represented by CA. Subhash Chhajed & CA. Sunil T. Vankawala

Compensation received by a co-operative housing society flat owner from a redeveloper cannot be taxed in his hands, according to above recent order of the Income tax Appellate Tribunal's (ITAT) Mumbai bench. However, the ITAT held that another sum of money received by the flat owner for payment of rentals during the redevelopment work would not be taxed only to the extent it was actually utilised for rent payments. Any surplus would be treated as "income from other sources".

Going a step further, ITAT stated that while the compensation was a capital receipt and not taxable, it would be reduced from the cost of acquisition of the flat. This would have a tax impact, in case the flat (or rather the redeveloped flat) was subsequently sold.

Housing Policy

Hon'ble CM Shri Devendra Fadnavis has released the Housing Policy for redevelopment of MHADA buildings, transit camps and suburban tenanted buildings on 2nd September, 2016. The highlights of the policy are:

- (1) Development Control Rules 33(5) will be amended to provide minimum area of 35 sq. metres (376 Sq. Feet) carpet plus 35% of fungible FSI on the existing area to the members.
- (2) The sharing of the built-up area with MHADA has been relaxed for the plot of land having less than 2,000 Sq.

metres. The societies/builders may pay the premium for the additional FSI taken from MHADA for redevelopment of property having less than 2,000 Sq. metres. The FSI shall be restricted to 3. For plot beyond 2000 Sq. metres, the FSI of 4 shall be given in Which case, the MHADA need to be given share in the built-up area after providing the existing owners and the incentive of the builders are kept aside as per the prevailing formula.

- (3) The tenanted buildings in suburban also will be permitted to be developed as per the DCR 33(7) Which are applicable to cessed buildings in South Mumbai.
- (4) MHADA Transit Camps in Mumbai. MHADA's Transit Camps are situated at 40 places in Mumbai City and Suburbs. And now according to new policy MHADA has decided to give them these tenements by recovering the price according to MHADA's tenement Sale Policy.

Audit Manual

The Committee constituted by the Commissioner for Co-operation and Registrar of Co-operative Societies, Maharashtra have submitted the revised Audit Manual for Co-operative Audit to the Government for approval and very shortly, the Government shall publish it . All the Co-operative audits for the year 2016-17 will have to be done as per the revised Co-operative Audit Manual.

Representation to Co-operative Commissioner

WIRC has represented the Co-operative Commissioner *vide* letter dated 24th August, 2016 to extend the date for uploading the audit report for the year 2015-16 as the online system of Co-operative department. www.mahasahakar.maharashtra.gov.in was not in operation for more than a week. Another detailed representation to the Commissioner was made regarding the various issues raised in different WIRC interactive meetings conducted across Maharashtra like Ahmednagar, Pune, Nashik, Navi Mumbai, Thane, Kalyan Dombivali and different Study Circles through Committee for Co-operatives and NPO sector of ICAI. Both the representations are uploaded on the Co-operative section of WIRC.

Sahakar, Pannan Aani Vastroudyog Vibhag, Maharashtra

www.mahasahakar.maharashtra.gov.in

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Regular updates on Co-operative section

The Co-operative section of WIRC is being updated regularly with latest notifications and circulars. You are requested to visit the same and get the required information.

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Obituary

CA. Balmukund T. Nagori

M. No. 003219 left for Heavenly Abode on 7/9/2016. May the departed soul rest in peace.

DIRECT TAX

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

Supreme Court

S. 50C – No question arises for referring valuation to valuation officer where agreement value is higher than value adopted for stamp duty purposes

Sale value of immovable property being land and building was more than value adopted for the purpose of stamp duty. However Assessing Officer has referred matter to Valuation Officer. SLP dismissed on the ground that there was no question of referring valuation of plot to Valuation Officer – *PCIT vs. Shanubhai M. Patel* [2016] 73 taxmann.com 151 (SC).

S. 28(1) Receipt of share capital for construction is not business income

Assessee developed a complex for the benefit of shareholders. It received share capital received from various shareholders towards the construction. It was held that such receipts are not taxable as business receipts *G. S. Homes & Hotels (P.) Ltd. vs. DCIT* [2016] 73 taxmann.com 120 (SC).

High Courts

S. 145A Provisions of Section have no application in cases where assessee provides service

Section 145A covers cases where the amount of tax, duty, cess or fee is actually paid or incurred by the assessee to bring the goods to the place of its location and condition as on the date of valuation. Thus, on the plain reading of Section 145A(a)(ii) of the Act, it is self-evident that the same would not apply to the service tax billed on rendering of services – *CIT vs. Knight Frank (India) (P.) Ltd.* [2016] 72 taxmann.com 300 (Mumbai).

S. 147 On receipt of information from investigation wing, Assessing Officer is not required to establish escapement of income for issue of reassessment notice

It was observed that when the tax officer authority is armed with the tangible material in the form of specific information received by the Investigation Wing, is justified in issuing a notice for reassessment. The additional material available on hand can't show that income of the assessee has escaped assessment and therefore, once the reasonable belief is formulated by the authority on the basis of cogent tangible material, the function of the assessing authority at this stage is to administer the statute and what is required at this stage is a reason to believe and not establish fact of escapement of income – *Peass Industrial Engineers (P.) Ltd. vs. DCIT* [2016] 73 taxmann.com 185 (Gujarat).

ITAT

S. 2(14) Call option to buy share is not a capital asset

Usually no right in the shares is given away by way of 'call option', albeit only right to buy the shares at a strike price within a stipulated time period is given which may not be termed as "capital asset" under Section 2(14), because, without exercising the option no actual asset is created – *Praful Chandaria vs. ADIT* [2016] 73 taxmann.com 14 (Mumbai-Trib.).

S. 45 Receipt of corpus fund from builder or developer is capital receipts

It was held that the receipt of corpus fund is towards hardship caused to assessee on redevelopment, and hence it was held as capital receipt not liable to be taxed. However it held that corpus receipt shall be reduced from the cost of flat. In respect of rent received by the flat owner during the period of relocation,

it had held that actual rent paid is allowed as deduction against receipt of such rent from builder/developer – *Jitendra Kumar Soneja vs. ITO TS-459-ITAT-2016(Mum)*. For more details visit www.wirc-icai.org.

INTERNATIONAL TAXATION

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

Batlivala & Karani Securities (India) (P) Ltd. vs. Deputy Commissioner of Income-tax, Circle-5, Kolkata [[2016] 71 taxmann.com 142 (Kolkata-Trib.)] dated 8th July, 2016

Facts of the case

The assessee is a stockbroker company. It carried on business of brokerage on behalf of institutional clients. During relevant year the assessee had made payments to two of its wholly owned subsidiaries namely, B&K (U.K.) and B&K (Singapore) for rendering marketing support services.

The Assessing Officer opined that payments made by assessee to its subsidiary companies amounted to fee for technical services and hence taxable in the hands of non-resident. He thus held that assessee should have deducted tax at source while making said payments.

The Commissioner (Appeals) confirmed order of Assessing Officer. Aggrieved by the order of CIT(A) assessee preferred an appeal to Kolkata Tribunal.

Issue

Whether the payments made by the assessee to its subsidiary company amounted to fee for technical service & also whether taxable in the hands of non-resident?

Held

It is found from the Article 12 of Singapore Treaty and Article 13 of the UK Treaty defining the term 'fees for technical services', the consideration paid for rendering of managerial, technical or consultancy services would be covered under the said definition only if such services make available any technical knowledge, experience, know-how, or processes. Thus, no technical service was being made available to the assessee by its subsidiaries and as a result, the payments made to subsidiaries would not fall within the definition of fees for technical services.

Since the payment made by the assessee to its subsidiaries is not fees for technical services, then the same would be construed as only business income in the hands of the subsidiaries which would get taxed in India only in the event of existence of permanent establishment (PE) in India. The Assessing Officer had categorically stated in more than one place in his order that the Singapore and UK subsidiaries do not have any PE in India.

In view of the aforesaid findings, Assessing Officer has to be directed to delete the disallowance made under Section 40(a)(i) in respect of payments made to foreign subsidiaries. Accordingly, the appeal of assessee is allowed. For more details visit www.wirc-icai.org.

SERVICE TAX

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

Commercial Training and Coaching Services

The appellant in the present case had entered into an agreement with M/s. Aptech Ltd. whereby it was required to impart training in computer based multi-media and animation. It collected fees from students directly in the name of M/s. Aptech Ltd. and M/s. Aptech Ltd. shared 80% of the fees with the

appellant on which the appellant paid service tax. The revenue had sought service tax demand on the differential 20% retained by M/s. Aptech Ltd. on the grounds that service tax was on gross amount charged. On appeal the Hon'ble Tribunal held that u/s. 67 of the Act, the gross value charged for the service has to be considered as the value for payment of service tax since the appellant has received only 80% of the amounts paid by students as considered for its coaching service, demand of service tax from the appellant on the difference 20% of amount which was retained by M/s. Aptech Ltd. is unsustainable. [Kunal IT Services Pvt. Ltd. vs. CCE (2015) 40 STR 560 (Tri.-Mum.)].

Outdoor Catering Services

Where the appellant, an institute of hotel management, had undertaken to prepare cooked food and supply the same to various schools under mid-day meal scheme of the Government for which it received fixed payments, the Hon'ble Tribunal held that demand of service tax from the appellant under the category of outdoor catering service was not permissible since appellant was not an outdoor caterer as he was not preparing the meals or serving the same in the school premises but was preparing the same at its own premise and supplying it to the schools. [Ambedkar Institute of Hotel Mgmt. vs. CCE (2015) 40 STR 823 (Tri.-Del.)].

Refund

Where a refund claim is received by the department the normal presumption is that it should be examined and verified and if is liable to be rejected a show cause notice containing all grounds which can cause rejection should be issued to the claimant. Thus where a refund claim was allowed by the CCE(A) subject to certain verification, initiating of new proceedings by the department raising new grounds for rejection which were not raised in the previous litigation was held to be incorrect [The second round of litigation is void]. If the revenue was aggrieved by the order of CCE(A) the only recourse available to it was to have filed an appeal [Sonar Impex vs. CCE (2015) 40 STR 793 (Tri.-Bang.)].

Refund of accumulated CENVAT credit on input service used for exports would be admissible under Rule 5 of CENVAT Credit Rules, 2004 only if the service provider is not able to utilise such credit for discharging its tax liability in domestic business. Hence it is difficult to ascribe any particular date as the relevant date for computing limitation period as envisaged under section 11B of Central Excise Act, 1944 and hence no time limit would apply to such refund claim. [Affinity Express India Pvt. Ltd. vs. CCE (2015) 40 STR 808 (Tri.-Mum.)].

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INFORMATION TECHNOLOGY UPDATE CORNER

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

#CyberSecurity#AntiFraud SWIFT – The global provider of secure financial messaging services - announced the introduction of Daily Validation Reports, a new tool designed to supplement customers' existing fraud controls. Based on SWIFT's records of customers' messages, the Daily Validation Reports will give customers an accurate summary of their message flows, affording them an independent means of verifying their messaging activity and detecting any unusual patterns, thereby enhancing their ability to identify possible fraud attempts and improving the likelihood they can cancel any fraudulent transfers. Finance messaging giant SWIFT has planned these new measures to help banks combat fraud after a gang broke into Bangladesh's Central Bank in February and stole \$74 million—and was only caught because one of them made a typo in a \$19.5 million transfer. Read more: <https://goo.gl/Xxa70s>.



#FinTech #Innovations #MarketplaceLenders #MPL: The financial technology sector, specifically the emerging category of Marketplace Lenders (MPLs), has disrupted traditional banking practices like loans and payments. The regulators therefore have the unenviable task of regulating fintech innovations in a way that reduces systemic risks while also allowing for their further development. At the World Economic Forum, a discussion was initiated with startups, regulators, bank and insurers. The result is 12 things regulators could do to catch up with fintech innovations, taking into account the various stakeholders. Read more: <https://goo.gl/Kh2f2e>.

#CypherPunk #CryptoAnarchists: This is a very interesting read on how the #CypherPunk revolution evolved and the evolving threat-risk scenario. The cypherpunk revolution: How the tech vanguard turned public-key cryptography into one of the most potent political ideas of the 21st century. Read more: <https://goo.gl/3UMXkM>.



#DigitalSign e-Hastakshar: C-DAC's On-line Digital Signing Service - E-Hastakshar offers on-line platform to citizens for instant signing of their documents securely in a legally acceptable form, under the Indian IT Act, 2000 and various Rules and Regulations therein. Government of India vide its Gazette Notification (REGD. NO. D. L.-33004/99 dated 28th January, 2015) has announced a method that facilitates Certifying Authority to offer e-Sign service to citizens who have Aadhaar ID. Citizens with Aadhaar ID will be able to upload their documents to eSign service to obtain them digitally signed. C-DAC through its e-Hastakshar initiative enables citizens with valid Aadhaar

ID and registered mobile number to carryout digital signing of their documents online. Benefits of e-Hastakshar are: Secure online service, no physical verification required, no need of hardware tokens, multiple ways to authenticate, privacy is preserved. Read more: https://esign.cdac.in/digital_sign.html.

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CA. Ajay Dave

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Voltas, a TATA Group Company, is India's largest air conditioning company and one of the world's premier engineering solutions providers and project specialists with a turnover of INR 5,859 crores in 2015-16. Voltas is headquartered in Mumbai, with regional offices in several major cities in India. Its overseas offices are in UAE (Abu Dhabi, Dubai), Qatar (Doha), Kingdom of Saudi Arabia (Jeddah) and Singapore.

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Kindly post your application before 31st October 2016 with details of education, work experience and remuneration at aditirao@voltas.com. Those who have applied in last one year need not apply again.

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