



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

# WESTERN INDIA CHARTERED ACCOUNTANTS NEWSLETTER

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for more information & updates

Together  
*We Can...*



*Inside all of us is the power to*

... Change the  
*World*



**SEMINAR ON POST ASSESSMENT  
ISSUES UNDER IT ACT**



**68TH REPUBLIC DAY CELEBRATION**



**ICAI TOWER,  
BKC, MUMBAI**



**REGIONAL MEET OF ICAI MEMBERS IN PUBLIC SERVICE**



Dear Colleagues,

Our goals at the beginning of the year were clear. We created a 13 point agenda for the development of Members, Students and the Region at large and these 13 points became the focus areas for the year. We wanted to make this year as the 'Year of Action'. I'm pleased to state that with the enthusiastic support of Regional Council Members, Branches and Study Circles who stood united in their belief that 'Together We Can' we transformed the year into one that was vibrant and dynamic.

**Member Outreach Programme:** Many Chartered Accountants join in the service of the nation by joining the Government services. To create stronger ties as well as better understanding WIRC organised a 'Regional Meet for Members in Public Service' in the presence of ICAI Vice-President CA. Nilesh Vikamsey. The event went far in forging stronger inter-personal connections.

**Seminars & Conventions:** The seminar on 'Post Assessment Issues under IT Act' was a highly detailed inter-action in which Chartered Accountant ITAT members were present at the Mock Tribunal to give relevant and practical inputs.

WIRC organised a Women's Conference in Surat as part of its campaign to increase awareness, knowledge and role of women Chartered Accountants.

**National Students' Conventions** were organised in Mumbai, Amravati, Pimpri Chinchwad and Pune wherein many students got clear insights into the profession, the role of Chartered Accountants and more importantly understanding into how to achieve their goal of becoming a Chartered Accountant.

**UDAAN:** This youth festival was organised with group activities and various competitions including singing, dancing, talent performances and a cultural night which saw enthusiastic participation. The festival inculcated the concepts of friendly competitive spirit as well as the importance of honing one's talent to perfection.

**M. L. D'Souza Rotating Trophy:** The annual friendly M. L. D'Souza Cricket Match took place between the Chartered Accountants XI and Commissioner of Income Tax XI. Dignitaries and officials from Income Tax Department participated in this match. The Chief Commissioner & many senior personalities from the Income Tax Department graced the occasion in the presence of ICAI Vice-President CA. Nilesh Vikamsey.

**CMII Awards:** It is a really proud moment for WIRC to see that CA. Deeparani Vinayak Narvekar, CA. Archana Amit Moghe, CA. Satish Kumar Jain, CA. Anand Ashok Desai, CA. Dhaval Umeshbhai Shah & CA. Apurva Bipin Shah received awards at national level. I congratulate all the awardees. I also take this opportunity to thank all the members in the industry who have been very actively participating, guiding and mentoring at various levels.

From the beginning of the year till date, our whole WIRC team was confident of achieving our 13 point agenda because our core belief was "Together We Can". The strength of this motto saw everyone – Members, Students and Staff – working together towards achieving common goals. And now, at the end of an exhilarating year, we find that we have achieved our goals to 'Change the World'.

I wish to state that all the programmes in the entire year were successful only due to the unconditional support of ICAI President CA M. Devaraja Reddy, our Vice-President CA. Nilesh Vikamsey, the Central Council Members, Office Bearers CA. Hardik Shah, Vice Chairman, CA. Kamlesh Saboo, Secretary, CA. Shilpa Shinagare, Treasurer and all other Regional Council Colleagues, and all Members and Students. I am grateful for their whole-hearted support during my tenure as Chairperson WIRC of ICAI 2016-17 and am sure they will continue to extend their complete support and loyalty to our new Chairman and Office Bearers in keeping with our motto, "Together We Can".

Let us remember that 'Success is not only measured by what we accomplish, but more so by the endeavour of all concerned to strive as a team, with courage against overwhelming odds to cross the finish line together'.



## 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*

Focus on Memories **Pg 4 & 15**

Forthcoming Events **Pg 7**

Law Updates **Pg 10**

Recent Judgments **Pg 13**

Together  
*We Can...*

## Accelerate infrastructural growth by perceiving current and future needs of members and students

WIRC ensured that relevant infrastructure was in place to well support the dreams, aims & ambitions of members and students.

- Inauguration of the Kalyan-Dombivali Branch and students' reading room; training centres for CPT, IPCC and Finals classes at Cuffe Parade and BKC; new reading room at Vikhroli in Mumbai; increased connectivity and frequency of BEST buses; Co-ordinating the Metro line near ICAI Tower; new reading rooms at Nashik and other Branches; renovated the Dadar library RVG Reading Room for students; increased the capacity at Cuffe Parade premises.
- We also initiated designated grievance day every week.



## Organise regular interactive 'member – regulator' sessions

To ensure efficiency of working, communication and understanding, WIRC organised interactive sessions between members and regulators.

- Interactive meet with ITAT members; meeting with Shri Rajiv Jalota, IAS, Commissioner of Sales Tax, Maharashtra State and with Deputy Sales Tax Commissioners; meeting with officials of the TDS department and with Ms. Rani Singh Nair, Chairperson, Central Board of Direct Taxes (CBDT)
- WIRC interacted with dignitaries like Ms. Sushma Swaraj, External Affairs Minister; Minister of State for Finance. Shri Arjun Ram Meghwal; CA. Dr. Kirit Somaiya, MP, BJP; Shri Sudhir Munganitwar, Maharashtra Minister for Finance and Adv. Ashish Shelar, MLA, President, BJP, Mumbai Unit.



## Establish audio/video knowledge library of WIRC lectures and seminars

Lessons from veterans of the profession are important learnings which need to be collected and made accessible for all those interested in improving their knowledge of the profession. To that end, efforts have been made to collect and update relevant material to disseminate to interested members and students. These CDs are now available at our publication counters.



## Create awareness and involve members in industry through Study Groups like BFSI, Ind-AS, Indirect Taxes, ISA, FAFP, Co-operatives etc. to ensure that WIRC remains the collective think tank of our profession

- Study Group have made a valuable contribution in terms of inspiring members to excel in their core-competence areas & build further competences & exposing them to members with rich and valuable experience at senior levels in industry as CEO, CXO, Senior Management, General Management. They have also contributed significantly towards concept paper & Development of research paper. CA. Archana Moghe, Member of BFSI Study Group Won All India CA Professional Achiever Award from ICAI-CMII.



## Interacting with the Government to explore and create professional opportunities for our members

WIRC, as an active partner in 'Nation Building', made several representations to the Government for the better functioning of national procedures.

- Meeting with Shri Chandrakant Dada Patil, Minister of Co-operation, Maharashtra; Shri Shekhar Charegaonkar, Chairman, Maharashtra State Co-operatives Council; Shri Sudhir Mungantiwar, State Cabinet Minister of Finance, Planning, and Forests.
- Union Finance Minister Mr. Arun Jaitley interacted with members at the 'Income Declaration Scheme' and 'Gold Monetisation Scheme' events.
- WIRC interacted with Shri Kalraj Mishra, Union Minister of Micro, Small and Medium Enterprises and Shri Dilip Gandhi, BJP MP in Ahmednagar.



## Increase brand visibility of Chartered Accountants and project a positive image of the Institute

To bring our Institute and profession to light in a positive manner to the layman, WIRC conducts regular branding exercises.

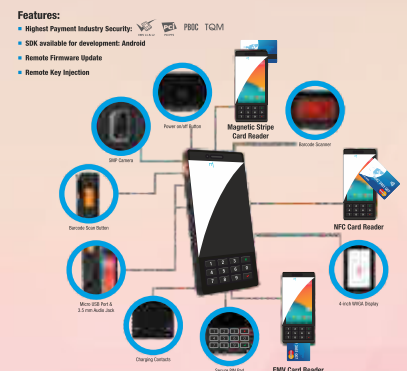
- Landscaping and beautification of the RG Area at ICAI Tower, BKC; traffic island near ICAI Bhawan in Baroda; CSR activities and CSR initiatives and 'Swachh Bharat' initiatives.



## Improve services by expediting administrative concerns

WIRC is constantly looking at solving administrative issues to improve the services provided to all.

- Supporting our Hon'ble Prime Minister Shri Narendra Modi's demonetisation drive, WIRC is in the process of installing Point of Sale (PoS) machines for credit, debit cards and other modes of e-payments to make transactions more easy and efficient for members and students.
- Also supported Central Committees in implement Digital Transformation & Making Various Forms available online.



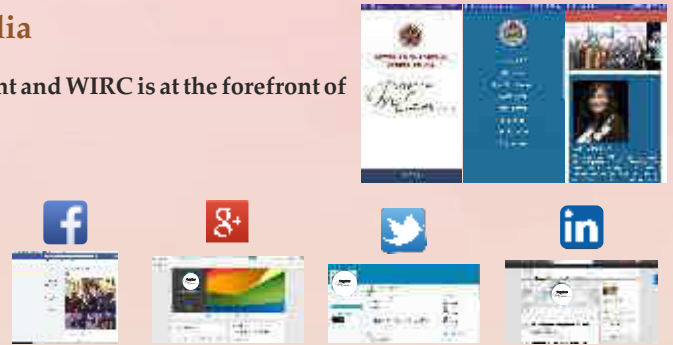
## Make our website rich in content

The WIRC website today is faster, brighter and more informative than ever before. To increase awareness, the most important announcements are posted on the home page for attention as soon as you open the site. Visitors can then choose whether to peruse the announcements or navigate away.

## Enhance our interactions with members *via* social media

Social media brings communications and interactions at the speed of light and WIRC is at the forefront of harnessing this technology.

- WIRC Mobile app received great reviews and increasing downloads
- WIRC programmes are uploaded on social media to spread knowledge and understanding across the Region.
- Whatsapp used extensively for alerts, interactions, awareness and the dissemination of relevant and time critical information.



## Initiate workshops to improve communication, presentation and management skills of Chartered Accountants

Chartered Accountants are deemed experts in their chosen profession by the world at large. To give them a professional edge and hone their skills, WIRC conducted these specialised workshops.

- 'Clash of Titans', a presentation competition for young members; 'YUVA' competition where young Chartered Accountants make presentations; workshop on professional skilling; Orientation programme; Business Model Innovation lectures to spark risk-taking spirit; lecture meeting on goal setting and achieving for members.



## Launch knowledge programmes to boost members' entrepreneurial skills

Seminar on 'Start-up of Companies' was organised to help members understand requirements for start-up companies and the assistance one can gain from the Government to support entrepreneurial ventures.



## Organise professional guidance sessions between industry experts, senior members and young members

Experts of the profession have a lot of practical knowledge which greatly assist the young members in their path to professional success.

- ICAI hosted the SAFA-IFAC Regional PAIB Forum; presentation on 'Abu Dhabi Global Market-Investment Opportunity'; 6th XBRL Asia Round Table Meeting & National Conference on XBRL; lecture meeting on 'Professional Opportunities for CAs by WIRC Past Chairman, CA Shailesh Haribhakti; Adv. Amit Mehta speech on 'Deemed Conveyance on Co-operative Societies'; meeting with former SEBI Chairman Mr. M. Damodaran on 'Role and Responsibility of Independent Directors'; seminars on various subjects like 'Mutual Funds, PMS and Capital Market'; Information Technology Summit 2016 and Banking symposium.



## Conduct professional counselling sessions for women members

Women Chartered Accountants are increasing in number and it is important that they receive the best information to help them maintain an optimum work-life balance while forging new paths in the profession.

- National Women's Conferences give insights into tapping woman power by successful women Chartered Accountants and women entrepreneurs as well as pointers on remaining healthy mentally and physically.
- WIRC organised more than 15 such Women Conferences.
- We also inaugurated Women Wing at various Branches & Study Circles.
- WIRC is also proud have three women Chairperson at Branch level viz: Aurangabad, Pune and Vapi.



Continued on Page 15

ICAI Tower, Near Standard Chartered Bank, BKC, Mumbai (Class Room)

Date, Day & CPE Hrs	Time & Fees	Topic(s)	Speaker(s)	Chief Co-ordinators / Mobile Nos.	Co-ordinators / Mobile Nos.
11/02/2017 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	<b>Seminar on Audit &amp; Compliance Applicable to Stock Brokers &amp; Depository Participants</b> <ul style="list-style-type: none"> <li>Recent SEBI / Exchange / FMC / Depository Circulars applicable to stock brokers / Commodity brokers / Depository participants</li> <li>System Audit (CTCL Audit) of Stock brokers</li> <li>Issues in Audit of Stock brokers / Commodity brokers / Depository participants</li> <li>Issues in Taxation of Stock brokers &amp; Commodity brokers</li> </ul>	CA. Ravi Ramaiya  CA. Shardul J. Shah  CA. Kaushik Jethwa  CA. Dhiren Dalal	CA. Kamlesh Saboo 9819195333 CA. Priti Savla 9321426883 CA. Umesh Sharma 9822079900	CA. Likhit Dixit 9664189378 CA. Devang Doshi 9967923769 CA. Hrishikesh Wandrekar 9892919239
18/02/2017 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	<b>Budget 2017 – Important Tax Implications</b> <p><b>Direct tax</b></p> <ul style="list-style-type: none"> <li>Domestic tax provisions</li> <li>International tax provisions</li> <li>Individual tax provisions</li> </ul> <p><b>Indirect taxes</b></p> <ul style="list-style-type: none"> <li>Indirect tax provisions</li> <li>Key GST provisions</li> </ul> Panel discussion	CA. Pritin Kumar CA. Vishal Palwe CA. Utpal Doshi  CA. Udayan Chokshi  Moderators: CA. Utpal Doshi Shri Rupak Swaminathan Shri Samir Shah	CA. Rakesh Alshi 9819427242 CA. Aniket Talati 9825551448 CA. Vikrant Kulkarni 9881880073	CA. Abhishek Katre 9821968858 CA. Shrenik Doshi 7710077038 CA. Sunil Sharma 9769949829
04/03/2017 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	<b>Seminar on Project Finance</b> <ul style="list-style-type: none"> <li>Role of CA in fund raising activities for Project Financing</li> <li>Debt Syndication, Understanding the basics of Debt Syndication and making of proposals</li> <li>Bank loan credit rating, what are the broad parameters looked by rating agency</li> <li>Trade Finance, what is Trade Finance and how does it work</li> </ul>	CA. Snehal Kamdar  CA. Snehal Kamdar  Eminent Faculty  CA. Alok Mishra	CA. Sushrut Chitale 9821112904 CA. Purushottam Khandelwal 9825020844 CA. Abhijit Kelkar 9422126890	CA. Yash Bansal 9619977988 CA. Prajakta Patil 9819041003 CA. Bhushan Ramani 9819666708
04/03/2017 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	<b>Seminar on LLP</b> <ul style="list-style-type: none"> <li>Taxation of LLP</li> <li>Formation &amp; Conversion of LLP</li> <li>The LLP Act, 2008 Drafting of LLP Agreement</li> <li>Conversion of Partnership Firm and Private Limited Company into LLP</li> </ul>	Eminent Personalities	CA. Sandeep Jain 9819788099 CA. Priyam Shah 9824096112 CA. Abhijit Kelkar 9422126890	CA. Vikram Joshi 9821733286 CA. Viral Mehta 9819030563 CA. Adesh Gupta 9819806769
11/03/2017 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	<b>Seminar on RERA Redevelopment and Income-tax on Co-op Societies</b> <ul style="list-style-type: none"> <li>Overview of RERA and Professional Opportunities for CAs</li> <li>Conveyance / Deemed Conveyance of Co-op Housing Societies wrt MHADA, SRA &amp; CIDCO Societies</li> <li>Redevelopment of Housing Societies</li> <li>Taxation of Co-op Societies wrt Taxation of Redevelopment</li> </ul>	Eminent Personalities	CA. Shilpa Shinagare 9820053395 CA. Vikrant Kulkarni 9881880073 CA. Hardik Shah 9825510422	CA. Dhaval Acharya 9819411101 CA. Ketan Sarage 9920761105 CA. Mihir Mehta 9773393007

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.
18/02/2017 Saturday  6 CPE Hrs	10.00 a.m. to 6.00 p.m.  ₹ 1,200/-	<b>Seminar on Audit of Co-Op Societies</b> • Accounts and Audit Provisions under MCS Act, 1960 • Audit Reporting & Audit classification under MCS Act 1960 • Dispute Resolution under MCS Act 1960 • Post Audit Compliance under MCS Act, 1960	Eminent Personalities	CA. Shilpa Shinagare 9820053395 CA. S. G. Mundada 9422080814 CA. Priyam Shah 9824096112	CA. Swati Bhatkar 9967537989 CA. Kalpesh Kothari 9029371777 CA. Nitin Jaisinghani 9967539598
25/02 & 26/02/2017 Saturday & Sunday  12 CPE Hrs	10.00 a.m. to 6.00 p.m.  ₹ 2,400/-	<b>Faculty Development programme on Co-operatives</b> • Soft Skill Training • Technical Presentation on the topic	Eminent Personalities	CA. Shilpa Shinagare 9820053395 CA. Sushrut Chitale 9821112904 CA. Abhijit Kelkar 9422126890	CA. Kamal Naulakha 9869431440 CA. Prachi Kulkarni 9819179198 CA. Ameet Chheda 9967564433
04/03/2017 Saturday  6 CPE Hrs	10.00 a.m. to 6.00 p.m.  ₹ 1,200/-	<b>Seminar on Internal Audit</b> • Standards on Internal Audit • Enterprise Risk Management • Fraud Investigation • Quality Assurance of Internal Audit	Eminent Faculty CA. Delzad Jivaasha Eminent Faculty CA. Moiz Boxwala	CA. Sandeep Jain 9819788099 CA. Manish Gadia 9820537986 CA. Purushottam Khandelwal 9825020844	CA. Y. R. Desai 9820448365 CA. Shipra Mittal 8080000809 CA. Mayur Momaya 9867952010
11/03/2017 Saturday  6 CPE Hrs	10.00 a.m. to 6.00 p.m.  ₹ 1,200/-	<b>Seminar on Fraud &amp; Forensic Accounting</b> • Window to the world of Fraud- Forensic Accounting; Use of simple Forensic Tests • Novel Methods of Investigation • Case Studies on Fraud, Interviewing and Field Investigations	Eminent Personalities	CA. Aniket Talati 9825551448 CA. Lalit Bajaj 9867692321 CA. Sarvesh Joshi 9822022292	CA. Nikita Mall 9969873294 CA. Sajjan Agrawal 9322281706 CA. Rohit Gupta 9820420895
18/03/2017 Saturday  6 CPE Hrs	10.00 a.m. to 6.00 p.m.  ₹ 1,200/-	<b>Seminar on Bank Branch Audit</b> • Audit of Advances – Funded & Non Funded • Income recognition, Asset Classification & Provisioning Norms (NPAs) • LFR & Certifications • Audit in CBS Environment	CA. Shrinivas Joshi  CA. Parag Hangekar  CA. Abhay Kamat CA. Ashutosh Pednekar	CA. Balkishan Agarwal 9377110634 CA. Sarvesh Joshi 9822022292 CA. Hardik Shah 9825510422	CA. Aniket Kulkarni 9821690559 CA. Kunal Parikh 9892429993 CA. Ajeet Taparia 9920710121
25/03/2017 Saturday  6 CPE Hrs	10.00 a.m. to 6.00 p.m.  ₹ 1,200/-	<b>Seminar on Annual Capital Market Summit 2017</b> <b>Theme:</b> Think Tank – Innovations, Reforms & Disruptions in Finance, Markets, Economy, Industry, Companies with Sectoral Analysis • Finance & Financial Reporting, Markets, Funds Management, Industry, Research, Investment Banking, M&A, Global Markets, Fundamental, Technicals Analysis, Investments, Tax Planning, Demonetisation, Reforms etc.	Mr. Kisan R. Choksey, <i>Trustee, The Stock Exchange</i> CA. Manoj Alimchandani CA. Nipun Mehta CA. Ajay Parmar CA. Naresh Makhijani CA. Jayesh Gandhi, <i>CEO, CXO'S</i> and Eminent Personalities	CA. Manish Gadia 9820537986 CA. Hardik Shah 9825510422 CA. Pradeep Agrawal 9898560967	CA. Archana Moghe 8879770419 CA. Kinner Mehta 9819824641 CA. Mayur Parkeria 9823178406 CA. Namrata Shah 9224876552
01/04/2017 Saturday  6 CPE Hrs	10.00 a.m. to 6.00 p.m.  ₹ 1,200/-	<b>Seminar on Mergers &amp; Acquisitions</b> • Overview on Mergers & Acquisitions • Valuations and M&A • Accounting considerations in M&A scenarios • Tax and regulatory mergers, demergers and restructuring	CA. Sujal Shah CA. Parag Ved CA. Rajiv Shah  CA. Anup Shah	CA. Rakesh Alshi 9819427242 CA. Drushti Desai 9820335923 CA. Balkishan Agarwal 9377110634	CA. Mukund Mall 9322224142 CA. Ankit Vora 9664040146 CA. Pritee Panchal 9819844965
01/04/2017 Saturday  6 CPE Hrs	10.00 a.m. to 6.00 p.m.  ₹ 1,200/-	<b>Seminar on Private Equity</b> • <b>PE in India:</b> KEYNOTE Address by a well-known PE investor • Pitching the PE Investors • Valuation of Deals and Final Negotiations • Buy-out and Pipe deals by PE funds (Roundtable session) • Hot Sectors and What PE's would like to invest in (Roundtable session)	CA. Shailendra Jindal & Eminent Personalities	CA. Kamlesh Saboo 9819195333 CA. Purushottam Khandelwal 9825020844 CA. Priti Savla 9321426883	CA. Siddharth Gupta 8080443380 CA. Sakshi Gupta 9819854320 CA. Meera Joiser 9819354164



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.
04/03/2017 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	<b>Seminar on Audit of General Insurance</b> • Fundamental Principles, Concepts and legal and technical aspects of General Insurance products • Powers and functions of IRDA and important provisions given by IRDA Act. • Accounting principles, policies and accounting issues of General Insurance companies under various modules • Principles on valuation of various types of Investments and Forms and contents of financial statements • Techniques and Procedures for Claim Settlement (including claims under arbitration) under various products of General Insurance and its accounting treatment (including year and provisions) • Underwriting Principles and Process • Rights and duties of Auditors, significant Audit areas, Audit procedures and Audit issues in General Insurance business • Role of appointed Actuary, Auditor's reliance on Actuary for Actuarial valuation of liabilities • Various types of reinsurance and co-insurance contracts outstanding loss provision under the same • Frauds in General Insurance and Specific Control Procedures to control such frauds		CA. Shilpa Shinagare 9820053395 CA. Drushti Desai 9820335923 CA. Vikrant Kulkarni 9881880073	CA. Nehal Turakhia 9833991898 CA. Mamta Parsekar 9820613536 CA. Ashish Bakliwal 9004315053
18/03/2017 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	<b>Seminar on Bank Branch Audit</b> • Audit Planning & Documentation • LFR & Certifications • Income Recognition, Asset Classification & Provisioning Norms (NPAs) • Audit of Advances – Funded & Non Funded	CA. Niranjan Joshi CA. Manish Sampat Eminent Faculty CA. Shriniwas Joshi	CA. Kamlesh Saboo 9819195333 CA. Pradeep Agrawal 9898560967 CA. Lalit Bajaj 9867692321	CA. Abhijit Totade 9819659151 CA. Amol Kamat 9823018763 CA. Gaurav Save 9969001607
25/03/2017 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,200/-	<b>Seminar on PMLA</b> • Introduction & Updating on the current changes in India's PMLA regulatory framework including the recent demonetisation • Recent Judicial Pronouncements & Case Studies • Strengthening Compliance Oversight with a Risk-based Approach & Dealing with Cybercrime • Forensic Investigations under PMLA, Approach & methodology & Case Studies	CA. Dilip M. Shah Adv. Nitee Punde CA. K. N. Bhat CA. Kinjal M. Shah	CA. Sandeep Jain 9819788099 CA. Priyam Shah 9824096112 CA. Abhijit Kelkar 9422126890	CA. Dhvani Karia 9819900489 CA. Milind Joshi 9930033939 CA. Bipeen Mundade 9223290561

Information Technology Update Corner

CA. Ajay Dave

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.

#StartUps India is a key topic at the World Economic Forum's Annual Meeting 2017. India is in the midst of a start-up boom. Supported by a range of Government initiatives, new companies are popping up all over the country. In fact, for the sheer number of new tech outfits, India is now the third largest tech start-up hotspot in the world, according to a report by NASSCOM and Zinnov. The Government's Start-up India initiative promotes entrepreneurship and innovation across the country. India's astonishing start-up boom – all you need to know in 5 charts. Read more: <https://goo.gl/kd7HOJ>.



#Blockchain #DigitalTradeChain: A group of seven large European banks has signed a memorandum of understanding (MoU) to develop a blockchain-powered cross-border trade finance platform for small and medium-sized companies in Europe. The Digital Trade Chain, in essence, the distributed ledger will record, track and secure transactions by connecting all participants – the buyer and seller, their individual banks and the logistics transporter, among others – digitally via an online interface and mobile applications. Read more: <https://goo.gl/sJCqls>.



#ArtificialIntelligence #AI #RegTech #RegulatoryTechnology The incoming new administration in USA is promising to work to "dismantle the Dodd-Frank Act and replace it with new policies to encourage economic growth and job creation." A complete dismantling of Dodd-Frank would mean that banks would have to overhaul the compliance processes that they have spent billions of dollars to put in place over the past six years. Manually, this would be a daunting task. But yet another revamping of regulatory system would also be coinciding with the rise of cognitive computing technology assisting in regulatory compliances. Read more: <https://goo.gl/J1cNlu>.



#GeM Government e-Marketplace (GeM) has been developed by DGS&D with technical of NeGD (MeitY). The portal has been launched on 9th August, 2016 and is now fully functional. Department of Expenditure (DoE) has already amended the GFR by enabling Government users to make purchases of common use goods and services. Visit the website to check pan-India open tenders for goods and services. Website: [gem.gov.in](http://gem.gov.in).



#MyGov #DigitalIndia Government of India invites suggestions for Union Finance Budget 2017 and be part of democratic process of nation building. Post your suggestions on: [mygov.in](http://mygov.in).



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## DIRECT TAX

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

### Taxation Laws (Second Amendment) Act, 2016 [243 Taxman (st.) 61]

An Act further to amend the Income-tax Act, 1961 and Finance Act, 2016, is passed on 15/12/2016. This Act may be called the Taxation Laws (Second Amendment) Act, 2016. It amends section 115BBE and sub-section (1) has been substituted with effect from 1/4/2017 applicable for assessment year 2017-18. It also amends section 271AAB which deals with the penalty where search has been initiated. It also inserts new section 271AAC which deals with penalty in respect of certain income.

The section 2(9) of Finance Act, 2016 is also amended. The new Chapter-IXA is inserted to the Finance Act, 2016 namely "TAXATION AND INVESTMENT REGIME FOR PRADHAN MANTRI GARIB KALYAN YOJANA, 2016". It contains section 199A to section 199R containing provisions regarding declaration of undisclosed income, charge of tax and surcharge, penalty, deposit of undisclosed income, manner of declaration, time for payment of penalty, surcharge, deposit, tax etc. not refundable, undisclosed income declared not to be included in total income, undisclosed income declared not to affect finality of completed assessment, declaration not admissible in evidence against declarant and scheme not to apply to certain persons. One may refer to the above citation for further details.

### Tax on income from Securitisation Trusts – Section 115TCA – Insertion of Rule 12CC and Form Nos. 64E & 64F [243 Taxman (st.) 29]

The CBDT *vide* Notification No. SO 3573(E) [No. 107/2016 (F. No. 370142/28/2016 – TPL)] dated 28/11/2016, in exercise of the powers u/s. 295 r.w.s 115TCA(4) of the Income-tax Act hereby gives Income-tax (Thirty Third Amendment) Rules, 2016 it came in to force from 1/6/2016. It substitutes rule 12CC relating to Statement u/s. 115TCA(4) of the Income-tax Act relating to tax on income from securitisation trust. It also inserts the Form No. 64E relating to Statement of income paid or credited by securitisation trust to be furnished u/s. 115TCA of the Income-tax Act. It also inserts Form No. 64F relating to Statement of income distributed by a securitisation trust to be provided to the investors u/s. 115TCA of the Income-tax Act.

For more details visit [www.wirc-icai.org](http://www.wirc-icai.org)

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

### MVAT ACT, 2002

#### Notification

- The Commissioner of Sales Tax has issued Notification dated 13/12/2016, under section 10(4) of the MVAT Act, whereby delegation of powers to Additional Commissioner of Sales Tax is specified.
- The Commissioner of Sales Tax has issued Notification dated 13/12/2016, under section 10(6) of the MVAT Act, whereby delegation of powers to Deputy Commissioner of Sales Tax is specified.
- The Commissioner of Sales Tax has issued Notification dated 13/12/2016, under section 10(6) of the MVAT Act, whereby delegation of powers to different authorities is specified.
- The Commissioner of Sales Tax has issued Notification dated 19/12/2016 by which the 'Advance Ruling Authority' is constituted.

### MVAT Rules, 2005

- The Government of Maharashtra has issued Notification dated 22/12/2016 under Rule 61 MVAT Rules, 2005 by which IDFC Bank is added to accept Bank Guarantee.
- The Government of Maharashtra has issued Notification dated 28/12/2016 under section 20(6) by which late fee is exempted for filing returns for the period ending on or before 31/3/2016.
- The Government of Maharashtra has issued one more Notification dated 30/12/2016 under Entry 5(a) by which Entries in Schedules D-5 and D-10 are amended.

### Circulars

- The Commissioner of Sales Tax has issued Circular bearing No. 38T of 2016 dated 30/12/2016 clarifying about Administrative relief scheme to newly registered dealer i.e. after 25/5/2016.
- The Commissioner of Sales Tax has issued Circular bearing No. 1T of 2017 by which the full/partial exemption of late fees u/s. 20(6) of MVAT Act, 2002 is clarified.
- The Commissioner of Sales Tax has issued Circular bearing No. 2T of 2017 dated 6/1/2017 by which distribution of Provisional login ID and password by GST to existing dealers for enabling them to log on the GST common portal for GST enrolment is clarified.
- The Commissioner of Sales Tax has issued one more Circular bearing No. 3T of 2017 dated 11/1/2017 by which date of filing of VAT Audit Report in Form 704 for the year 2015-16 is extended till 9/2/2017.

## GUJARAT VAT

(Contributed by CA. Kishor R. Gheewala)

### Time Limits Extended

- *Vide* Public Circular No: GUJKA/ VAT-15/ 16-17/ o.t.w.192/ 167, dated 20/12/2016, time limit for submitting Annual Return for F.Y. 2015-16 is extended from 31/12/2016 to 28/2/2017. Time limit for obtaining VAT Audit Report for F.Y. 2015-16 is also extended up to 28/2/2017 *vide* Public Circular No : GUJKA/ VAT-17C/ 16-17/ o.t.w.193/ 168, dated 20/12/2016.
- *Vide* Public Circular No: VAVEK/GUJKA/ VAT-15/16-17/o.t.w.189/164 dated 25/11/2016, time limit for Form No. 203-A, for Textile Policy Incentive Scheme is extended from 30 days to 45 days, in line with similar extension of time limit for regular return in Form 201.
- *Vide* Public Circular No: VAVEK/GUJKA/ VAT-86/16-17/ o.t.w.190/165 dated 26/11/2016, payment of tax in excess of ₹ 50000/-, otherwise than e-payment is permitted up to 15/12/2016 for period up to October, 2016.
- *Vide* G. R. No: GST/102014/2241/th- dated 7/12/2016, time limit for SAMADHAN SCHEME is extended from 31/12/2016 to 31/3/2017 along with several amendments in the Original Scheme.

### EXEMPTION FROM TAX

*Vide* Notification No. (GHN-72)VAT-2016-S.5(2)(52)-TH: dated 19th December, 2016, u/s. 5(2) of the GVAT Act., a New Entry No. 114 is inserted to grant exemption from tax to Point of Sale (POS) Terminal Machine (swipe machine for cashless transaction).

*Vide* Notification No. (GHN-01) VAT-2017 -S.5 (2) (53) – TH: dated 13th December, 2016, u/s. 5(2) of the GVAT Act., the

period of exemption is extended from 14/1/2017 to 14/1/2018 to Technical Grade Urea under Entry No. 101.

## CORPORATE LAWS

(Contributed by CA. Rahul Joglekar)

MCA ([www.mca.gov.in](http://www.mca.gov.in))

**MCA Notification No. GSR 08(E) dated 4th January 2017– Exemption to Specified IFSC Private company under section 462 of the Companies Act, 2013**

MCA has notified certain relaxations or modifications and adaptations from the application of certain provisions of the Companies Act 2013 to an unlisted public company which is licensed to operate by the RBI or SEBI or IRDA from the International Financial Services Centre located in an approved multi services Special Economic Zone. For complete text of the Rules, please refer the link: [http://www.mca.gov.in/Ministry/pdf/IFSC\\_Public\\_04012017.pdf](http://www.mca.gov.in/Ministry/pdf/IFSC_Public_04012017.pdf).

**MCA Notification No. SO 4167(E) dated 26th December 2016 – Commencement of sections 248 to 252 of Companies Act, 2013**

MCA has notified that sections 248 to 252 of Companies Act, 2013 shall come into force from 26th December 2016. These sections deal with Power of Registrar to remove name of company from Register of Companies and related provisions.

**MCA Notification No. GSR 1174(E) dated 26th December 2016 – Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016**

MCA has notified the aforesaid Rules to lay down the procedures for removal of names of companies from the Register of Companies. The Rules lay down how applications for removal of names can be made by the companies. Requirement of other regulatory approvals is also required under these Rules. For complete text of the Rules, please refer the link: [http://www.mca.gov.in/Ministry/pdf/Rules\\_28122016.pdf](http://www.mca.gov.in/Ministry/pdf/Rules_28122016.pdf).

**MCA Notification No. GSR 1147(E) dated 15th December 2016 – National Company Law Tribunal (Procedure for reduction of share capital of Company) Rules, 2016**

MCA has notified the aforesaid Rules to lay down the procedures for reduction of share capital of companies. This notification also deals with the form of application for reduction of capital, issue of notice and directions by NCLT, representation by Central Government etc. For complete text of the Rules, please refer the link: <http://www.mca.gov.in/Ministry/pdf/NCLTRules2016.pdf>.

## CENTRAL EXCISE

(Contributed by CA. Jayesh Gogri)

Notifications

Tariff

**Removal of exemption provided under Notification No. 2/2011-CE dated 1st March, 2011 to Articles other than jewellery**

“Articles, other than jewellery, of gold, silver, platinum, palladium, rhodium, iridium, osmium, or ruthenium manufactured or sold under a brand name” enjoys the benefit of paying concessional rate of duty @ 6% *vide* Notification No. 2/2011-CE dated 1st March, 2011. Now, with effect from 5th January, 2017, such exemption is withdrawn. (Notification No. 01/2017-CE dated 5th January, 2017)

**No Excise Duty to be paid on Plain (unmodified) Tamarind Kernel Powder for the period commencing from 19th July, 2011 to 18th July, 2016**

In view of general trade practice, excise duty payable under section 3 of Central Excise Act, 1944 on Plain (unmodified) Tamarind Kernel Powder falling under tariff ID 1302 is waived for the period 19th July, 2011 to 18th July, 2016. (Notification No. 01/2017-CE (NT) dated 11th January, 2017)

For more details visit [www.wirc-icai.org](http://www.wirc-icai.org)

## SERVICE TAX

(Contributed by CA. Rajiv Luthia)

**SYNOPSIS OF NOTIFICATIONS, CIRCULARS & LETTERS**

**Central Government, *vide* Notification No. 1/2017-ST dated 12th January, 2017**, has made following amendments to Mega Exemption Notification No. 25/2012-ST dated 20th June, 2012:

Presently Entry No. 29(g) grants exemption to services rendered by business facilitator or a business correspondent to a banking company with respect to few activities related to Basic Savings Bank Deposit Account covered by Pradhan Mantri Jan Dhan Yojana in the banking company's rural area branch. The said entry is now amended to extend the exemption to all activities related to any bank account.

Presently Entry No. 34 grants exemption to services received from a service provider located in non-taxable territory by a person located in a non-taxable territory. The said entry is amended w.e.f. 22nd January, 2017, whereby the exemption shall not apply to services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.

All the following Notifications are effective from 22nd January, 2017.

**Central Government, *vide* Notification No.2/2017-ST dated 12th January, 2017**, has amended Rule 2(1)(aa) of the Service Tax Rules, 1994 whereby the definition of “aggregator” shall not include person who enables a potential customer to connect with persons providing services by way of renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes on fulfilling following conditions:

- (a) The person providing services by way of renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes has a service tax registration; and
- (b) Whole of the consideration for services provided by such service provider is received directly by such service provider and no amount, which forms part of the consideration of services of such service provider, is received by the aggregator directly from either recipient of the service or his representative.

Central Government, *vide* Notification No. 2/2017-ST & 3/2017 both dated 12th January, 2017, has prescribed that in relation to services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India, the person-in-charge of conveyance or his agent (i.e. person in India who complies with sections 29, 30 or 38 read with section 148 of the Customs Act, 1962 with respect to such goods) shall be the person liable to pay Service Tax and the entire Service Tax liability shall be discharged by him.

**Central Government, *vide* Notification No. 4/2017- dated 12th January, 2017** has amended Entry No.11 of Notification No. 26/2012-ST dated 20th June, 2012 whereby in respect of tour

operator services, the abatement is reduced to 40% hence service tax would be payable on 60% of the gross value of such taxable services. The said abatement is subject to following conditions:

- i) CENVAT Credit in respect of inputs & capital goods used for providing such service shall not be taken; and
- ii) Gross amount charged shall include charges for accommodation and transportation required for such tour and the same shall be indicated on bill.

### FEMA

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

**Purchase and sale of securities other than shares or convertible debentures on an Indian company by a person resident outside India**

*A.P. (DIR Series) Circular No. 23 dated December 27, 2016*

Presently, Securities and Exchange Board of India (SEBI) registered Foreign Institutional Investors (FIIs), Qualified Foreign Investors (QFIs), registered Foreign Portfolio Investors (FPIs) and long term investors registered with SEBI are permitted to purchase securities on repatriation basis and subject to such terms and conditions as may be specified by the SEBI and the RBI from time-to-time.

With a view to provide flexibility in regard to the manner in which non-convertible debentures/bonds issued by Indian companies can be acquired by FPIs, RBI has now allowed FPIs to transact in such instruments either directly or in any other manner as per the prevalent/approved market practice.

**Exchange facility of foreign citizens**

*A.P. (DIR Series) Circular No. 24 dated January 3, 2017*

RBI had *vide* A.P. (DIR Series) Circular No. 20 dated November 25, 2016 allowed foreign citizens to exchange foreign exchange for Indian currency notes up to a limit of ₹ 5,000/- per week till December 15, 2016 and extended up to December 31, 2016 *vide* A.P. (DIR Series) Circular No. 22 dated December 16, 2016. This timeline has further been extended till January 31, 2017.

**Evidence of Import under Import Data Processing and Monitoring System**

*A.P. (DIR Series) Circular No. 27 dated January 12, 2017*

In order to enhance ease of doing business and reduce transaction cost, RBI has decided to discontinue submission of hardcopy of Evidence of Import documents i.e. Bill of Entry (BoE) with effect from December 1, 2016 as the same is available in Import Data Processing and Monitoring System (IDPMS). For the revised procedures, please refer aforesaid circular available at <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10824&Mode=0>.

The extant instructions and guidelines for Evidence of Import in lieu of Bill of Entry will apply *mutatis mutandis*. The evidence of import in lieu of BoE in permitted / approved conditions will be created and uploaded by the AD Category-I bank in the form of BoE data as per message format "Manual BoE reporting" in IDPMS. The AD category-I bank shall follow up with the importer in case where relevant evidence of import data is not available in IDPMS against ORM on due dates or if BoE data is not settled against ORM within the prescribed period.

Internal inspectors and IS auditors (including external auditors appointed by AD category-I bank) should carry out verification and IS audit and assurance of the "BoE Settlement" process in IDPMS. Data process followed by the bank for "BoE Settlement"

should be preserved in terms of the guidelines under Cyber Security Framework in the bank. However, in respect of cases which are under investigation by investigating agencies, the data, process and/or documents may be destroyed only after obtaining clearance from the investigating agency concerned.

For more details visit [www.wirc-icai.org](http://www.wirc-icai.org)

### CO-OPERATIVE SECTION

(Contributed by CA. Ramesh Prabhu)

**FAQ on Real Estate (Regulation and Development) Act, 2016**

Ministry of Housing & Urban Poverty Alleviation, Government of India has published a FAQ booklet on Real Estate (Regulation and Development) Act, 2016. The booklet was also given to all State Government Authorities in the review meeting on RERA held at New Delhi on 17th January, 2017. The booklet is uploaded in Co-operative section of Website of WIRC of ICAI and also available in the link given below.

<http://www.mhupa.gov.in/writereaddata/1564.pdf>

**Circulars issued by Co-operative Commissioner on Management of Housing and Premises societies**

- (a) Outward No. Griha/D-3/Circular/No. Objection Certificate/14-SaAa/Dated 1st January, 2017.

Office of the Commissioner for Co-operation & Registrar, Co-operative Societies, Maharashtra State, Pune 1, issued above circular providing the guidelines, format, time limit, actions to be taken by the Managing Committee and the Registrar etc in respect of to issue No Objection Certificate to the members by Co-operative Housing and Premises Societies for various reasons viz. to sell the flat, mortgage, repairing, letting etc.

- (b) Outward No. Griha/D-3/redevelopment/circular/2016, dated 1st January, 2017.

Office of the Commissioner for Co-operation & Registrar, Co-operative Societies, Maharashtra State, Pune 1, issued above circular providing the guidelines and directions to the society and the Registrar to make the flat purchasers in the redeveloped building as the member of the society or to allow to form a separate society, if there is a separate building of new flat purchasers in the redeveloped building.

- (c) Outward No. Housing/K-79(2)/2016, dated 1st Jan., 2017.

Office of the Commissioner for Co-operation & Registrar, Co-operative Societies, Maharashtra State, Pune 1, issued above circular providing the guidelines and directions to the society and the Registrar in respect of effective implementation of the directive of Section 79 of Maharashtra Co-operative Societies Act, 1960 by Co-operative Societies otherwise, necessary panel actions against the Committee including levy of penalty of ₹ 5,000/-, dismissal and disqualification of the Committee members as per sections 146 and 147 of the MCS Act, 1960.

All the above three circulars in Marathi and Liberal English version is uploaded in Co-operative section of Website of WIRC of ICAI and available in Marathi in the link given below.

<https://sahakarayukta.maharashtra.gov.in/1065/GR/-/Circulars--/-Laws-and-Acts>

For more details visit [www.wirc-icai.org](http://www.wirc-icai.org)

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## DIRECT TAX

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

### S. 2(22)(e) Applicability of deemed dividend in case of loans to karta of HUF

In the annual returns filed with the ROC, the HUF is shown as the registered and beneficial shareholder. In view this it was held that even when as the shares are issued in the name of the Karta, the HUF is not the "registered shareholder", provisions of s. 2(22)(e) will apply to loans paid to the HUF. Even if it is assumed that the Karta is the registered shareholder and not the HUF, as per Explanation 3 to s. 2(22), any payment to a concern (i.e. the HUF) in which the shareholder (i.e. the Karta) has a substantial interest is also covered – *Gopal And Sons (HUF) vs. CIT [2017] 77 taxmann.com 71 (SC)*.

### S. 4 Amount received from holding company

The voluntary payments made by the parent Company to its loss making Indian company can also be understood to be payments made in order to protect the capital investment of the Assessee Company. Accordingly it was held that payment made to subsidiary is not revenue receipts – *Siemens Public Communication Network (P.) Ltd. vs. ACIT [2017] 77 taxmann.com 22 (SC)*.

### S. 234B/C Non-applicability of advance tax provisions in respect of salary income

The non-compete fees received by assessee was held to taxed as salary income and accordingly it was also held that In case of receipt by way of salary, question of payment of advance tax does not arise and, consequently, provisions of sections 234B and 234C also have no application in such a case – *IAN Peter Morris vs. ACIT [2016] 76 taxmann.com 271 (SC)*.

### Value of evidence found with third party

The entries in the loose papers and electronic data were not regularly kept during course of business, have no evidentiary value against third parties. On the basis of the materials which have been placed on record, it was opined that no case is made out to direct investigation against any of the persons named in the documents found during search operation – *Common Cause (A Registered Society) vs. UOI [2017] 77 taxmann.com 245 (SC)*.

## High Courts

### Section 200A(1) penalty u/s. 234E

As per the amendment made to the Finance Act, 2015, with effect from 1/6/2015, a provision for appeal has been inserted under Section 246A against an order under Section 200A(1). Since the appellate remedy has already been provided, the impugned provision of the Act is not unreasonable and arbitrary. *Sree Narayana Guru Smaraka Sangam Upper Primary School vs. UOI [2017] 77 taxmann.com 244 (Kerala)*.

## ITAT

### S. 115JB Book profits

The assessee-company is entitled to the benefit of indexation while calculating long term capital gains, exempt u/s. 10(38) which are to be considered for the purpose of computing tax liability u/s. 115JB of the Act.

It was also held that amount of disallowance under section 14A has to be added back to book profits for purpose of computing tax liability, however, amount of addition should be restricted

to actual disallowance made under Section 14A – *Karnataka State Industrial Infrastructure Development Corporation Ltd. vs. DCIT [2016] 76 taxmann.com 360 (Bengaluru - Trib.)*.

For more details visit [www.wirc-icai.org](http://www.wirc-icai.org)

## INTERNATIONAL TAXATION

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

### Xansa India Ltd. vs. DCIT [TS-597-ITAT-2016(DEL)] dated 26th September, 2016

#### Facts

The assessee, Xansa India Limited, a subsidiary of Xansa Plc (UK based Company). The parent company had rendered management, business advisory services, provided assistance in engagement of overseas consultants to explore the possibilities of acquisition of businesses to the assessee.

The assessee did not deduct tax at source under section 195 of the IT Act while making such payment, as payment for consideration for services of managerial, technical or consultancy nature would be regarded as 'Fees for technical/included services' only if technical know-how, skill or process is "made available" to the payer. In absence thereof, the consideration cannot be termed as "Fee for technical services".

The assessee had also made payments for reimbursement of subsistence allowance paid by Xansa Plc. to its employees positioned overseas. But the AO noted that since 75% of the expenses are supported by the evidence of the actual expenditure it is allowed by the Learned. Assessing Officer and to the extent of 25% of the amount merely declaration has been furnished and hence disallowed the expense for not deducting TDS on the payments made.

The Assessing Office disallowed such payment u/s. 40a(i) of the Act for non-deduction of tax at source.

The assessee aggrieved with the order of the Assessing Officer preferred an appeal before the CIT. The CIT ruled in favour of assessee and said that the AO was wrong invoking the provisions of section 40(a)(i). The AO appealed to the Delhi ITAT.

#### Issue

Whether the assessee was liable to deduct tax on the foreign payments made? And whether the disallowance under Section 40(a)(i) of the said I.T Act should be invoked?

#### Held

ITAT holds that the expenditure is not taxable as it is pertaining to the payment made to UK Company for provision of the management services in relation to advice and guidance on key management decisions to explore the possibilities of the acquisition of the businesses which does not satisfy the make available clause.

ITAT also held that the subsistence allowance is supported by the evidence of the actual expenditure incurred for official purposes to the extent of 75% and for the balance 25%, employees have submitted a declaration of having spent in the said amount in the course of travel abroad.

Reimbursement of expenses to the employees by employer on the basis of self-declaration for small amounts, for which it is difficult and sometimes cumbersome to obtain, supporting by employees, is common prevalent practice and it is not a disallowable expenditure. Therefore, also we reject the contention of revenue that balance 25 % expenditure is without any basis and evidence.

Hence the ITAT deletes the disallowance under Section 40(a)(i).

For more details visit [www.wirc-icai.org](http://www.wirc-icai.org)

### SERVICE TAX

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

#### CENVAT Credit

Assessee constructed a mall and registered under construction and renting services in 2011. It sold 20% of constructed area. It availed 80% credit on input services and capital goods used for construction of mall for the period June, 2007 to March, 2011. Revenue denied credit since the services have only resulted in an immovable property which is neither excisable nor service taxable allowing the CENVAT credit the Tribunal held –

The appellant had declared their intention of availing credit on input services for discharging the service tax liability on renting the units in the mall in 2011. There is no prohibition or restriction on taking pre-registration credit. i.e. prior to 2011.

Differentiating the decision in *Bharti Airtel Ltd. vs. CCE (2014) 35 STR 865 (Bom.)* and relying on –

- *CCE vs. Sai Samhita Storages, (2011) 23 STR 341 (AP).*
- *CCE vs. Navaratna S.G. Highway Prop. Pvt. Ltd., (2012) 28 STR 166 (Tri.-Ahmd.).*
- *Mundra Ports & SEZ Ltd. vs. CCE, (2015) 39 STR 726 (Guj.).*

Tribunal held credit allowable [ratio being without the immovable property renting services (taxable) cannot be rendered].

The credit was allowed under clause (i) of Rule 2(l) i.e., 'any service used for providing an output service'

Tribunal also observed, pre 1/4/2011 services used for "setting up" of premises was allowed as input service. Post 1/4/2011, the words "setting up" was deleted. Hence CENVAT credit on input services used for construction of mall is eligible.

[*Vamona Developers Pvt. Ltd. vs. CCCE & ST, (2016) 42 STR 277 (Tri.-Mum.)*].

Post 1/4/2011, credit on services [e.g., outdoor catering, health and fitness, etc.] used primarily for personal use or consumption of an employee is not allowed. However, Tribunal on facts found that outdoor catering services, club or Association services and health and fitness services was utilised for business activity and hence allowed CENVAT credit. [*Reliance Industries Ltd. vs. CCE, (2016) 45 STR 383 (Tri.-Mum.)*].

In *CCE vs. Cadila Healthcare Ltd. (2013) 30 STR 3 (Guj.)*, the Gujarat High Court held that CENVAT credit on commission paid to foreign agents (sales promotion) is not allowable. An explanation was inserted to definition of input service w.e.f. 3/2/2016 which read

"Explanation – For the purpose of this clause, sales promotion includes services by way of sale of dutiable goods on commission basis."

The Tribunal held that the explanation would have a retrospective effect and allowed CENVAT credit on commission

## Personal Column

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paid to foreign agents. [*Essar Steel India Ltd. vs. CCE & ST, (2016) 42 STR 869 (Tri.-Ahmd.)*].

Assessee an advertising agency booked spots on television on behalf of their clients (advertiser). The television channel billed the agency along with broadcaster's service tax. The advertiser's name was also mentioned in the invoice. The agency paid the television channel along with service tax and the advertiser reimbursed the agency. The revenue denied credit contending the broadcaster's services are input services for ad agency and that the invoice of broadcaster is not on advertiser but on the agency. The Tribunal allowed credit and held –

- Agencies by definition work on behalf of their client.
- Advertising agency has engaged the broadcaster for the purpose of advertisement and has merely acted as a conduit for transfer of money from the advertiser to the broadcaster.
- The invoices of the broadcaster clearly show the name of advertiser and name of the advertising agency is mentioned and is an agent in the said invoice. Hence, invoices of the broadcaster is issued in the name of advertiser

[*Zapak Digital Entertainment Ltd. vs. CST, 2016-TIOL-3323-CESTAT-Mum.*].

The assessee provided taxable and exempt services for April – September, 2008 and reversed 'proportionate credit' after the end of the financial year and intimated the department. The credit reversed was ₹ 5,06,736/-. The Revenue demanded 8% of exempt service [₹ 1,62,52,969/-] under Rule 6(3)(i) of the CENVAT Credit Rules, 2004 since intimation of proportionate option:

- Was mandatory;
- Was filed belatedly and not before exercising option;
- And exercising the option belatedly amounts not exercising the option.

The Tribunal held -

- Condition of filing declaration is only directory and not mandatory.
- Most of the details required to be intimated were already available with department.
- Rule 6 cannot be used as tool of oppression to extract the amount which is much beyond the remedial measure and what cannot be collected directly, cannot be collected indirectly, as well.
- Substantive compliance was made by the assessee i.e., calculation of the amount of CENVAT Credit reversible on annual basis and payment of the amount before the prescribed date (30th June). Hence substantial benefit cannot be denied.
- In the garb of Rule 6, the provisions of Section 93 of the Finance Act, 1994 (power of Central Government to grant exemption to services in public interest) cannot be overridden and/or the exemption provided under Section 93 of the Finance Act, 1994 cannot be negated by the CENVAT Credit Rules, which is a delegated legislation and subservient to the main Act.

Hence the demand was set aside. [*Tata Technologies Ltd. vs. CCE, (2016) 42 STR 290 (Tri.-Mum.)*].

For more details visit [www.wirc-icai.org](http://www.wirc-icai.org)





## Students Activities

### National Conventions and Conferences

WICASA organised 20 National Conventions & Regional Conferences across the region. Ahmedabad Branch of WICASA hosted all Regional Student Conference for the first time in which 2,500 students participated. WIRC also witnessed record participation of more than 3,500 students at Pune



### Career Counselling Program

- Various Career counselling programs had been conducted by WIRC and WICASA along with its branches and Study Circle
- Around 21000+ students participated in the career counselling programs organized across the region.

### Quiz and Elocution Competition

- Quiz and Elocution Competition was organized at the Mumbai City level and also at different branch levels.
- Regional level competition was also organized in which 19 branches of WIRC participated.



### My Principal My Teacher

- WIRC felicitated Principal of large firms, faculties of GMCS & WIRC Learning centre.



### Crash Course

- Various crash courses for CPT, IPCC and CA. Final students were conducted all over the region for both May and November Exam students.
- The courses received strong attendance and excellent feedback from students.
- Seniors faculties like Dr. Girish Ahuja, CA Parveen Sharma, CA Rajkumar Adukia and other renowned faculties- Jignesh Chheda, CA Dani Khandelwal, CA Yashwant Mangal led the students towards their goal.

### Industrial Visits

- Around 96 Industrial Visit camps were organized by various branches of WICASA at different industrial places and factories where students were given knowledge of the production processes, do's and don't's, cautions, associated risks and hazards and other aspects.



## VIBRANT BRANCHES



AURANGABAD



BARODA



ICHALKARANJI



AHMEDABAD



AHMEDNAGAR



BHAVNAGAR



BHUJ



DHULE



GANDHIDHAM



JALGAON BRANCH

JALGAON



KALYAN DOMBIVALI



LATUR



NASHIK



PUNE



RAJKOT



SOLAPUR



VASAI





AKOLA



BHARUCH



GOA



THANE



JAMNAGAR



KOLHAPUR



NAGPUR



NANDED



NAVI MUMBAI



NAVSARI



PIMPRI CHINCHWAD



RATNAGIRI



SANGLI



SATARA



VAPI

## Some Views of Branches

### NASHIK

TOGETHER WE CAN....., TOGETHER WE DID!!!

It's so very true - Himalaya didn't rise its heights in one day.

As the year passed by where we all truly dedicated ourselves for the betterment and strengthening of the Institute, I am happy and glad to reach at this juncture where we, all "Together", able to pursue new heights and horizons for the Institute.

Nashik Branch and its WICASA team achieved lots of its planned goals under the apt vision of Chairperson WIRC CA Shruti Shah & her elite team of Regional Council Members. This support and thorough guidance was path breaking for Nashik branch. We were able to attain new heights only due to the continuous support & feeling of togetherness.

As discussed in the orientation meeting, this year was really the year of action. Nashik Branch has really achieved new heights by starting unique thinks under the apt leadership & guidance of TEAM WIRC. Some of these at glance are CPT extensive coaching for the aspiring students, air conditioned additional reading room, zoning of exam centre etc. Further, many of the infra projects like Mural at branch premises, Past Chairman's Gallery etc. have been accomplished this year under the leadership & support of TEAM WIRC.

While putting down my pen, I am convinced that support and help of Chairperson WIRC, CCMs & RCMS has really made the theme of WIRC a year of to be engraved in golden letters. Really TOGETHER WE DID!!!

### PUNE

With the theme "together we can..." chosen by Chairperson WIRC for the year, we could witness lot of reforms, initiatives and changes at Regional Level. Pune branch of WIRC of ICAI had a theme "Leading Change" for the year. I take the opportunity to thank WIRC for its support to the activities, supports and initiatives taken by the branch.

I can end up saying.... together we can do best, together we can serve better, together we can create history, together we can partner in nation building and TOGETHER WE CAN LEAD THE CHANGE.

### AHMEDNAGAR

"Together We Can...." It was really a great theme. It is applicable not only for our organization very well but it applies in our day to day life too. Ahmednagar Branch of WIRC of ICAI worked on lots of project which are based on this theme. One of the mega event was SUB REGIONAL CONFERENCE held at SHIRDI. This Conference was really an event of "Together We Can" because it is hosted by five different Branches together. It was really an event of "Together We Can" because of this theme this had happened for first time in the history of WIRC that five small Branches came together and successfully executed a mega event. This theme had created a very special bond amongst the members of Branches but it indeed had helped in giving different dimensions to the relationships in between the Branches and the same time in between the local to region and national level too.

It was a great pleasure and a pride for our Branch to work under such an intellect theme which had very positive results.  
I hope this will continue for long time.

### THANE

Thane Branch has successfully organised Students National Convention for second consecutive year with 800+ registrations. We thank Chairperson WIRC CA Shruti Shah and Chairman WICASA CA Pradeep Agarwal for gracing the occasion and guiding the students. Together we achieved IT.

### KOLHAPUR

"Shruti mam, Paradiji you are the cause, you are the reason, Alome we are powerless but together with your boost of power make it happen" "together we can"

### BHUJ

Theme "Together We Can" - in reference to theme, We want to share that, "YES Together we have the Power to make a Difference" When people come together for the right purpose and under the right leadership, what results is sheer magic.

and this magic is being seen and felt in our branch and As being a new Branch, it has helped, motivated, encouraged and learnt a lot.

Respected Mam and Sir under your chairmanship we have what ever we see in the branch would not have been without your supports.

In the first year itself, Branch Could organise Big activities, Like RRC, SRC (Jointly With Other Branches of Saurashtra & Kutch), Certificate Course on Bank Branch Audit, Which have added Feathers in Our Hat, and we feel proud, that we could do something for the Members & students of Bhuj.

At every step you'll have supported us, in helping us, where we had difficulties and doubts, and made it easier. We found you'll down to earth and very friendly and cooperative in nature.

I am Privileged and Honored to get chance to work under your leaderships.

Once Again I thank You from bottom of my heart for all supports

### KALYAN DOMBIVLI

Team WIRC under the leadership of dynamic Chairperson CA Shruti Shah which has supported all our Branch activities right from the Inauguration Programme of our Branch which was the First and most Important event in the History of our Branch. WIRC supported us all the way right from designing the programme, explaining the protocols, share the past experiences and also in financial terms. As it was our first year of operations and the entire team including the office bearers were new every now and then we approach WIRC to seek guidance on various issues and every time the entire WIRC team of all the office bearers and also the entire staff was really supportive to us which made our first year a memorable one. Therefore in our onward journey also, we will continue to say Together We Can. Let's join our hands to make a better tomorrow for the profession.

WICASA Team being newborn baby was well supported at its infant stage by very active WICASA WIRC Chairman CA Pradeep Agarwal which enabled WICASA team of Kalyan Dombivli branch to carry our various activities in short time.

### AURANGABAD

TOGETHER WE CAN face any challenges as deeper as ocean & as high as sky. Yes the continued support & valued guidance from WIRC help us to smooth functioning at branch throughout the year & proved our self of the challenging task of leadership at branch. Some unique programs organised during the year jointly with WIRC and other branches for the benefits of members & students making the year a memorable one proving the theme of TOGETHER WE CAN.

Together  
We Can

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