

WESTERN INDIA CHARTERED ACCOUNTANTS NEWSLETTER



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CHARTERED ACCOUNTANTS
OF INDIA**

(Set up by an Act of Parliament)

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RISE**

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CHAIRMAN'S COMMUNICATION

Respected Members,

The universal truth is that to succeed you have to prepare yourself in advance and then develop a tough outlook to steer your way through demanding times.

Historically, the month of September has always been a busy and demanding one. This year, too, it is not different with the novel and tethering compliance schedule and the rollout of the first tranche of the intricate GST returns.

Our Regional Conference, attended by national as well as international delegates, was an excellent ensemble of current topics and eminent speakers, who deliberated and interacted with the members at the Conference. This year's edition of the Regional Conference of WIRC was

very well appreciated by our members in attendance.

I am proud to state that the first ever GST Reference Manual was launched by WIRC during this event at the hands of CA. Kewal Handa, Chairman, Union Bank of India in the presence of by CA Nilesh Vikamsey, President, ICAI.

WIRC has been working towards uniting the whole region digitally for a long time. We have succeeded towards this goal when for the first time, WIRC programmed a live Facebook feed for the Regional Conference. The live feed was viewed by thousands of members and students across region and reached 64,000 people. This is in line with WIRC objective where programmes in Mumbai can be attended and taken advantage of even by the mofussil areas of the Region through the digital medium.

The Conference was designed to also address questions and provide deeper understanding to our members regarding nuances pertaining to the new regulations. At the same time, it was also perceived that these challenging developments have opened a host of opportunities for the profession.

As I have mentioned earlier, we are always standing by to support our regulators at every level, who have always reposed the highest level of confidence in our service and commitments. Hence, even this month saw a series of interactions and discussions with various Regulators to ensure proper channelisation of our concerted efforts for the common goal i.e. smooth and effective governance.

We had the privilege to call upon Shri Rakesh Bhaskar, IRS, Principal Commissioner of Income Tax, Mumbai, for an interactive meeting pertaining to various issues on Income Tax.

A refresher course and seminar on Transfer Pricing was also conducted to keep members up-to-date with current developments. In line with our goal to keep abreast with the latest and updated changes via education, we have continuously endeavoured to host GST-centric learning platforms through our seminars and with novel visions and ideas of delivering the best.

The month of August, once again tested the spirit of Mumbai and its citizens. I am proud of the ICAI, BKC staff, and all members who stood strong on the day of the deluge to help the citizens. I am elated with the spirit of this city where, in the face of diverse adversities, we emerge with an even more resolute spirit.

We celebrate the birthday of Mahatma Gandhiji, the Father of the Nation, and we shall collectively propel his vision – "The best way to find yourself is to lose yourself in the service of others."

I wish all members and their families a very Happy Diwali and a prosperous New Year.

With Warm Regards,

CA. Vishnu Agarwal
Chairman



32nd Regional Conference at Hotel Grant Hyatt, Mumbai





ICAI Tower, Bandra Kurla Complex, Mumbai

Date, Day & CPE Hrs	Time & Fees	Topic(s)	Speaker(s)	Chief Co-ordinators / Mobile Nos.	Co-ordinators / Mobile Nos.
07/10/2017 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/-	Seminar on Mergers & Acquisitions <ul style="list-style-type: none"> • Corporatisation of Non-Corporate Entity, Conversion of Proprietary Concern & Partnership to Company and Corporate Restructuring • Legal & Tax Implications • Stamp Duty Aspects • Accounting Implications • Restructuring Case Studies 	CA. Umesh Gala CA. Anup Shah Adv. Sharad Abhayankar CA. N. Jayendran CA. Ajay Agashe	CA. Priti Savla 9321426883 CA. Shilpa Shinagare 9820053395 CA. Purushottam Khandelwal 9825020844	CA. Ashish Bakliwal 9004315053 CA. Jayesh Kala 9892001113 CA. Navneet Lahoti 9324236755
07/10/2017 Saturday 3 CPE Hrs	10.00 a.m. to 1.00 p.m. ₹ 300/-	Seminar on Mock Tribunal <ul style="list-style-type: none"> • How to Practice and appear before Tribunal • Mock Tribunal 	CA. G. S. Pannu, <i>Hon'ble ITAT Member</i> ITAT Members	CA. Aniket Talati 9825551448 CA. Priti Savla 9321426883 CA. Purushottam Khandelwal 9825020844	CA. Vishesh Sangoi 9819281830 CA. Milind Joshi 9930033939 CA. Bipeen Mundade 9223290561
28/10/2017 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/-	Seminar on Concurrent Audit of Banks <ul style="list-style-type: none"> • Introduction to Concurrent Audit & KYC / AML compliances with Practical Examples • Advanced Exposure Norms and IRAC Norms • Forex related issues including Advances/ Deposits and highlights of FEMA/RBI Regulations • Usage of CBS System for Concurrent Audit 	CA. Nayan Kothari CA. K. V. S. Shyamsunder CA. Heneel Patel CA. Sandeep Welling	CA. Priti Savla 9321426883 CA. Sarvesh Joshi 9822022292 CA. Kamlesh Saboo 9819195333	CA. Y. R. Desai 9820448365 CA. Kanchan Goel 9987705466 CA. Aniket Kulkarni 9821690559
01/11/2017 03/11/2017 06/11/2017 08/11/2017 10/11/2017 13/11/2017 18 CPE Hrs	5.00 p.m. to 8.00 p.m. ₹ 2,000/-	Study Course on International Tax for Beginners Wednesday, 1st November, 2017 <ul style="list-style-type: none"> • Domestic Tax Provisions <i>vis-à-vis</i> International Tax Friday, 3rd November, 2017 <ul style="list-style-type: none"> • Introduction to International Tax Policy, Concepts and Principles Monday, 6th November, 2017 <ul style="list-style-type: none"> • Overview of DTAA Provisions Wednesday, 8th November, 2017 <ul style="list-style-type: none"> • TDS on Payments to Non-Residents under Section 195 – Law and Procedures Friday, 10th November, 2017 <ul style="list-style-type: none"> • Base Erosion Profit Shifting (BEPS) and Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) Monday, 13th November, 2017 <ul style="list-style-type: none"> • Basics of International Transfer Pricing 	CA. Paresh Shah CA. Jimit Devani CA. Nitu Vinayek CA. Namrata Dedhia CA. Harshal Bhuta CA. Bhavesh Dedhia	CA. Priti Savla 9321426883 CA. Pradeep Agrawal 9898560967 CA. Drushti Desai 9820335923 CA. Shilpa Shinagare 9820053395	CA. Vivek Shah 9819633348 CA. Vaibhav Gupta 9987565356 CA. Abhishek Katre 9821968858 CA. Shipra Mittal 8080000809
04/11/2017 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/-	Seminar on Pharma Industry with GST <ul style="list-style-type: none"> • Overview of Pharma industry • Impact in accounting & Ind AS in Pharma Industry • Pharma Industry latest development & impact on Capital Market • Pharma sector facilities from Banking & Financial Institution • Issues in Income-tax • Issues in Transfer Pricing • GST impact on Pharma Industry 	CA. Sudhir Valia* CA. Tejas Parikh CA. Chunky Shah* CA. Chetan Gandhi* CA. Abhitan Mehta CA. Vaishali Mane CA. Ankit Chande*	CA. Sandeep Jain 9819788099 CA. Priyam Shah 9824096112 CA. Rakesh Alshi 9819427242	CA. Vinit Vyas 9930766805 CA. Bhushan Ramani 9819666708 CA. Prajakta Patil 9819041003 CA. Gautam Mota 9594339945 CA. Vandana Dodhia 9820029281

Help in building a tax-compliant nation, Support Operation Clean Money

In the light of demonetisation, Income Tax Department (ITD) initiated Operation Clean Money (OCM) or Swachh Dhan Abhiyan on 31st January 2017 with the objective, to create a tax compliant society through a fair, transparent and non-intrusive tax administration. In this regard, Operation Clean Money Portal (<https://www.cleanmoney.gov.in/>) was launched by the Union Minister of Finance, Shri Arun Jaitley, wherein, section on citizen engagement was included. (Refer 'Clean Money Participants' section).

We, at ICAI, are thereby pledging our support for the mission. In this regard, we urge you to actively participate in Operation Clean Money by extending your support and filling up your credentials [membership no. and DOB] under the 'Most Important' section of ICAI Website by clicking at "Operation Clean Money – Take a Pledge!"

For more information, visit www.cleanmoney.gov.in or for any queries, suggestions, feedback, reach out at cleanmoneyquery@incometax.gov.in



ICAI Tower, Bandra Kurla Complex, Mumbai

Date, Day & CPE Hrs	Time & Fees	Topic(s)	Speaker(s)	Chief Co-ordinators / Mobile Nos.	Co-ordinators / Mobile Nos.
11/11/2017 Saturday 	10.00 a.m. to 6.00 p.m. ₹ 1,416/-	Seminar on Media & Entertainment Industry with GST <ul style="list-style-type: none"> • Know the industry & trends that will impact the media industry (Current issues – Business models, Cash flows, Vehicle for investments, etc. Digitisation impact on media industry) • Direct Taxation (Direct tax issues in media and entertainment industry, including: Cross-border taxation of entertainers, Sportsmen and News channels, Transfer Pricing provisions, etc.) • GST issues in media and entertainment Industry • Revenue Accounting (Accounting and Auditing aspects – Revenue recognition, Multi rights, valuation, etc.) 	CA. Ashesh Jani CA. Prashant Bhojwani CA. M. S. Mani CA. Govind Ahuja	CA. Pradeep Agrawal 9898560967 CA. Abhijit Kelkar 9422126890 CA. Hardik Shah 9825510422	CA. Riya Agarwal 9820101808 CA. Rakesh Tulsyan 7021176211 CA. Meera Joisher 9819354164
18/11/2017 Saturday 	10.00 a.m. to 6.00 p.m. ₹ 1,416/-	Seminar on Information Technology with GST Technical Session – 1 IT & GST – Leveraging Technology for Successful Implementation <ul style="list-style-type: none"> • Information Technology infrastructure for the Goods and Services Tax • GST Software for Business Technical Session – 2 Big Data & Data Analytics <ul style="list-style-type: none"> • Impact of Big Data and Data Analytics in Business Development • To Improve Operating Efficiency, Analytics is a way out Technical Session – 3 Data Security and Data Science <ul style="list-style-type: none"> • “Protect-Detect-Investigate” in Data Security Technical Session – 4 Crypto currencies & Market Capitalisation & Crypto currency Security <ul style="list-style-type: none"> • Security Regulation within the Crypto Currency Business <ul style="list-style-type: none"> • Crypto-currency & Blockchain Technology Panel Discussion <ul style="list-style-type: none"> • The role of accountancy and finance professionals to bridge the gap between the IT department and the stakeholders – Moderator CA. Ninad Karpe, Chairman, Western Region at Confederation of Indian Industry in Mumbai 	Eminent Faculty Eminent Faculty Shri Sumit Puri* <i>CIO, Max Healthcare</i> Shri Vijay Kumar* <i>Former Head of Analytics, SBI</i> Shri Kanwal Mookhey* <i>CISA, CISSP, CISM - IOIS</i> Prof. M. K. Bhandari* <i>Director at Law, SVKM's NMIMS</i> Shri Hemanth Kumar* <i>CIO, Unocoin</i> Shri Sunita Sindwani* <i>GM, Export-Import Bank of India</i> Shri Raghunath Reddy* <i>Senior Vice President-IT, UTI AMC Ltd.</i> Shri Mukesh K. Jain* <i>Group CIO Reliance Capital</i>	CA. Aniket Talati 9825551448 CA. Sarvesh Joshi 9822022292 CA. Purushottam Khandelwal 9825020844	CA. Gaurav Save 9969001607 CA. Amol Kamat 9823018763 CA. Parul Saraf 9821162477
25/11/2017 Saturday 	10.00 a.m. to 6.00 p.m. ₹ 1,416/-	Seminar on Arbitration & Competition Act <ul style="list-style-type: none"> • Arbitration – An Emerging Era for Profession • Competition Act – Recent Developments and Case Studies 	Eminent Faculties	CA. Sushrut Chitale 9821112904 CA. Rakesh Alshi 9819427242 CA. Lalit Bajaj 9867692321	CA. Vikram Joshi 9821733286 CA. Dhvani Karia 9819900489 CA. Nidhi Pandya 7506358911
02/12/2017 Saturday 	10.00 a.m. to 6.00 p.m. ₹ 1,416/-	Seminar on Valuation <ul style="list-style-type: none"> • Overview of Valuation • Methods of Valuation (Asset Approach, Income Approach & Market Approach) • Case Studies – Valuation <ul style="list-style-type: none"> • IND – AS Valuations • Documentation (Valuation Reports, Engagement Letter, Management Representation) 	CA. Sujal Shah CA. Bhakti Shah* Eminent Faculty CA. Mihir Kenia* CA. Darshana Kadakia	CA. Kamlesh Saboo 9819195333 CA. Satyanarayan Mundada 9422080814 CA. Sandeep Jain 9819788099	CA. Mukund Mall 9322224142 CA. Nikita Mall 9969873294 CA. Aditi Chaturvedi 9768350383

* Subject to confirmation



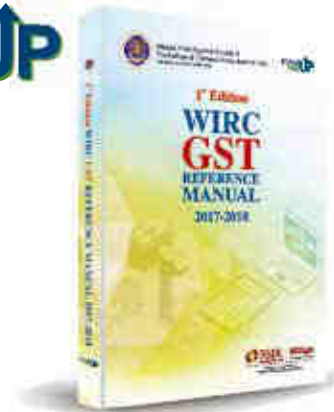
**Western India Regional Council of
The Institute of Chartered Accountants of India**



**1st Edition
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2017-18**

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WIRC Website : <http://www.wirc-icai.org>

32nd Regional Conference of WIRC

2nd & 3rd September, 2017 | Hotel Grand Hyatt, Mumbai



For the first time the WIRC regional conference has been covered Live on Facebook session by session having reachability of 64,724 viewers. This has enabled virtual reach to the conference for large number of audience. There has been large number of positive comments which is quite encouraging for us.

WIRC will take forward such initiatives in forthcoming events for benefit of members and students at large.



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 link to read the update in detail on the source webpage.

#SEC #CorporateFilingSystem #Hacking #Equifax Hackers may have profited from SEC corporate filing system attack. Breach of U.S. Securities and Exchange Commission's Edgar filing system that houses corporate filings occurred in 2016. Regulator says hack was a result of software vulnerability. But it wasn't until last month that the agency concluded the cybercriminals involved may have used their bounty to make illicit trades. The SEC's disclosure comes just two weeks after credit-reporting company Equifax Inc. said it had been a victim of a hack that may have led to the theft of personal data on 143 million Americans. Read more at: <https://goo.gl/eDbDyX>.



#EmailSecurity #Hacking #PersonalInformation Heather Adkins, Director of information privacy and security at Google, who built Google's security team over the last 10 years, told a conference on Monday, "I deleted all the love letters from my husband because I never want anyone to see them,". Personal information should never be put into emails, she said. Read more at: <https://goo.gl/eoykFK>.



#CCleaner #Backdoor #Malware The group of unknown hackers who hijacked CCleaner's download server to distribute a malicious version of the popular system optimization software targeted at least 20 major international technology companies with a second-stage payload. The target companies included Google, Microsoft, Cisco, Intel, Samsung, Sony, HTC, Linksys, D-Link, Akamai, VMware. According to the researchers from Kaspersky, the CCleaner malware shares some code with the hacking tools used by a sophisticated Chinese hacking group called Axiom Read more at: <https://goo.gl/kag6Hd>.



#SEBI #TechSurveillance #Intelligence #AntiMoneyLaundering Cracking down on the misuse of the stock market for money laundering, regulator SEBI said it has stepped up "focused inspection" of suspected brokers and other entities. Inspections conducted of books of account, records and other documents pertaining to various market intermediaries such as venture capital funds, portfolio managers, mutual funds and investment advisors including to check compliance with respect to anti-money laundering (AML), combating of financing terrorism (CFT) and KYC norms. Read more at: <https://goo.gl/66SnFB>.



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DIRECT TAX
(Contributed by

CA. Haresh P. Kenia & CA. Deepak Lala)



Filing of appeal or application for reference by Income-tax authority – Revision of monetary limits for filing of appeals by the department before Income Tax Appellate Tribunal, High Courts and Supreme Court – Amendment in Circular No. 21/2015 dated 10/12/2015 [248 Taxman (st) 37]

Letter [F. No. 279/MISC-142/2007-ITJ-(PT)] dated 17/7/2017

The Board has received the references that in certain cases appellate authorities are dismissing appeals without going into the merits of the case by relying on the definition of ‘tax effect’ as defined in Circular No. 21/2015, which prescribes the monetary limit for filing appeals before various appellate authorities. In certain situations where income is computed under the provisions of section 115JB or section 115JC for the purposes of determination of ‘tax effect’, and the additions made under provisions other than sections 115JB or section 115JC do not impact book profit, the appellate authorities are not considering the said additions for the purpose of ‘tax effect’ as defined in para 4 of Circular No. 21/2015. The matter has been examined by the Board and the following para may be read as para 4.1 after the para 4 of the Circular No. 21/2015.

“4.1 Where income is computed under the provisions of section 115JB or section 115JC for the purpose of determination of ‘tax effect’, tax on the total income assessed shall be computed as per the following formula –

$$(A - B) + (C - D)$$

Where,

A = the total income assessed as per the provisions other than the provisions contained in section 115JB or section 115JC (herein called general provisions).

B = the total income that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of the disputed issues under general provisions.

C = the total income assessed as per the provisions contained in section 115JB or section 115JC.

D = the total income that would have been chargeable had the total income assessed as per the provisions contained in section 115JB or section 115JC been reduced by the amount of disputed issues under the said provisions.

However, where the amount of disputed issue is considered both under the provisions contained in section 115JB or section 115JC and under general provisions, such amount shall not be reduced from total income assessed while determining the amount under item D.”

Amendment in Form No. 3CEFA – Application for opting for Safe Harbour [248 Taxman (st) 39]

The Central Government vide Notification No. GSR 891(E) [No. 62/2017 (F. No. 370142/2017 – TPL)] dated 18/7/2017 gives Income-tax – (Twenty First Amendment) Rules 2017. It came into force and deemed to have come into force from the first day of April 2017. It amends Form No. 3CEFA under the heading Eligible International Transaction and inserts the Item No. 10 with regard to International Transaction in respect of receipt of low value adding intra group services as referred to in Item (x) of Rule 10TC.

It also amends Sr. No. 3 of the Form with regard to international Transaction in respect of the provisions of knowledge process

outsourcing services referred to in item (iii) of Rule 10TC. It inserts item (e) being “Employee cost in relation to operating expenses declared”.

It also amends Sr. No. 4 of the Form with regard to advanced intra-group loans as refer to in Item (iv) of Rule 10TC. It inserts Item (e), being “Currency of denomination of the amount of loan for each loan transaction”. It also inserts Item No. (f), being “Whether credit rating of AE has been done? If Yes, the credit rating rank and the name of the credit rating agency”.

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

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



The Maharashtra Goods and Services Tax Act, 2017

Notifications

The Government of Maharashtra has issued following notifications.

1.	No. MGST-1017/ C.R.139/Taxation-1 dated the 18th August, 2017	GST-Reduction in tax rate of Tractor Parts-Amendment to Notification No. MGST-1017/ CR-104/Taxation-1 dated 18th August, 2017
2.	No. JC(HQ)-1/ GST/2017/Noti/ 18/ ADM-8 dated the 21st August, 2017	Extension of the date for filing of return in FORM GSTR-3B for the month of July, 2017
3.	No. MGST-1017/C.R.140(A)/ Taxation-1, dated 22nd August, 2017	Amendment to Notification No. 11-2017 - State Tax (Rate) to reduce SGST rate on specified supplies
4.	No. MGST-1017/C.R. 140(B)/ Taxation-1, dated 22nd August, 2017	Amendment to Notification No. 12-2017- State Tax (Rate) to exempt services provided by Fair Price Shops to Government
5.	No. MGST-1017/C.R.140(C)/ Taxation-1, dated 22nd August, 2017	Amendment to Notification No. 13-2017- State Tax (Rate) to amend RCM provisions for GTA and to insert explanation for LLP
6.	No. MGST.1017/ C.R.140(D)/ Taxation-1, dated 22nd August, 2017	Amendment to Notification No. 17-2017-State Tax (Rate) to make Electronic Commerce Operator responsible for payment of SGST
7.	No. VAT-1517/ CR-136 (A)/ Taxation-1 dated 24th August, 2017	MVAT-Reduction in tax rate of Natural Gas from 13.5 per cent to 3 per cent
8.	No. VAT. 1517/C.R. 136 (B)/Taxation-1 dated 24th August, 2017	Taxation of Undenatured-neutral and Extra neutral alcohol for human consumption
9.	No. MGST-1017/C. R.148/ Taxation-1 dated 30th August, 2017	GST-Maharashtra Goods and Services Tax (6th Amendment) Rules, 2017



10.	No. MGST-1017/C. R. 150/Taxation-1. dated 7th September, 2017	Waiver of late fee for all the Registered persons who have not filed GSTR-3B within due date for the month of July, 2017
11.	No. JC(HQ)-1/ GST/2017/Noti/ 18/ ADM-8 dated 5th September, 2017	Extension of due date for submission of GSTR-1, GSTR-2 and GSTR-3 for the month of July and August, 2017
12.	No. MGST. 1017/C.R.146/ Taxation-1 dated 7th September, 2017	Constitution of the State Level Screening Committee for Anit-profiteering
13.	No. JC(HQ)-1/ GST/2017/Noti/ 18/ ADM-8 dated the 13th September, 2017	GST-Extension of time limit for submission of return in FORM-GSTR-1, 2, and 3 for the month of July, 2017
14.	No. JC(HQ)-1/ GST/2017/Noti/18 / ADM-8 dated the 13th September, 2017	GST-Extension of time limit for submission of return in FORM-GSTR-6 by Input Service Distributor for the month of July, 2017

GUJARAT VAT & GST

(Contributed by CA. Kishor R. Gheewala)



Natural Gas – Tax Remission

Natural Gas is kept outside the GST Regime. Accordingly, it has been taxable @ 15% under GVAT Act, without any benefit of ITC and hence, VAT so payable is becoming a part of cost of manufacture. *Vide* Notification No. (GHN-76) VAT-2017/S 41(1)(18), dated 5th September, 2017, remission of tax @ 9% is declared for Natural Gas supplied to dealers of the State, The effective rate of VAT shall now be 6%. The benefit of Remission is not admissible

- For use in generation of electricity, or
- For use in manufacturing of Fertilizer, or
- On the sales in the course of Inter-state Trade and Commerce.

TDS

Vide Notification No. (GHN-82) GSTR-2017(4)/S.1(3) TH, dated 15/9/2017, provisions of TDS u/s. 51(1) of GGST Act have been made applicable w.e.f. 18th September, 2017. However, as per the proviso, the liability to make TDS shall be w.e.f. a date to be notified subsequently.

Tribunal Member Age Limit

Vide Notification No. (GHN-77)VAR-2017(46)/TH, dated 5th September, 2017, proviso to Rule 4(2) of GVAT Rule 2006, empowering to extend the Retirement Age limit of 65 years for Tribunal Members by 2 years, is extended to 3 years for the Member of Tribunal of the Rank of High Court Judge.

CORPORATE LAWS

(Contributed by CA. Rahul Joglekar)



MCA (www.mca.gov.in)

MCA circular 10/2017 dated 13th September 2017 – Clarification regarding obligation with the Indian Accounting Standards (Ind AS) and Rule 4 of Companies (Indian Accounting Standards) Rules 2015–payment banks, small finance banks which are subsidiaries of Corporates

MCA has clarified that where the holding company in respect of subsidiaries which are payment banks or small

finance banks, shall follow Ind AS as per the corporate sector roadmap. The subsidiaries which are payment banks or small finance banks shall follow the banking sector roadmap stipulated by RBI. For complete text of the notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/CompaniesIndianAccountingStandardsGSR365E_14092017.pdf.

MCA Notification SO 2751(E) dated 24th August 2017 – Commencement of sub-sections (8) to (10) of section 212 of Companies Act 2013

The Government has notified 24th day of August, 2017 as the date on which the provisions of sub-sections (8), (9) and sub-section (10) of section 212 of the said Act shall come into force. These provisions deal with various provisions related to the Serious Fraud Investigation Office (SFIO). For complete text of the notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/Commencementnotification_25082017.pdf.

GST

(Contributed by CA. Rajiv Luthia)



Central Government *vide* Notification No. 10/2017– Central Tax dated 28th June, 2017 has notified Rule Nos. 27 to 138 of Central Goods & Services Tax Rules, 2017. They shall come into force from 1st July, 2017.

CBEC *vide* Notification No. 11/2017– Central Tax dated 28th June, 2017 has amended Notification No. 6/2017 dated 19th June, 2017. In the said notification clause (ii) - Bank account based one time password (OTP) has been substituted with Electronic verification code generated through net banking login on the common portal. And newly inserted clause (iii) electronic verification code generated on the common portal. This notification shall deemed to have come into force w.e.f 22nd June, 2017.

CBEC *vide* Notification No. 12/2017- Central Tax dated 28th June, 2017 has notified that a registered person having annual turnover up to the limit specified herein below in the preceding financial year shall mention Harmonised System of Nomenclature (HSN) code of the digit mentioned in column 3 in their tax invoice.

Serial No.	Section	Rate of Interest
1.	50(1) – Interest on delayed payment of Tax	18%
2.	50(3) – Undue or incorrect claim of Input tax credit	24%
3.	54(12) – Refund to assessee as a result of appeal or proceeding	6%
4.	56 – Refund not credited beyond 60 days from application u/s. 54	6%
5.	56 (proviso) – Refund arises from order passed by adjudicating authority or Appellate Authority or Tribunal & not credited within 60 days	9%

This notification shall come into force w.e.f 1st July, 2017.

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



FEMA

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



Consolidated FDI Policy, 2017

DIPP (Dept. of Industrial Policy & Promotion) has come out with FDI Policy Circular of 2017 and it has taken effect from 28th August, 2017.

Some of the noteworthy features of new FDI policy (as compared to previous policy) are as under:

- New instrument by the name 'Convertible Note (CN)' can be issued by a Startup Company. Startup Company can receive money under this instrument initially as debt, which is repayable at the option of the holder or which is convertible into equity shares within a period not exceeding five years from the date of issue. Though initially CN shall be in the nature of 'debt', the policy doesn't have any reference to rate of interest etc., and hence it seems that such note cannot be in the nature of interest bearing loan. The issue of such CN has to be for an amount of ₹ 25 lakhs or more in a single tranche. Issue of shares against such CN has to be in accordance with Schedule 1 of Notification No. 20 (FDI Schedule) of FEMA. i.e. pricing and valuation norms needs to be adhered to. The reporting guidelines shall be prescribed by RBI. RBI shall also prescribe pricing guidelines for transfer of such CN from Non-Resident to Resident as well as to Non-Resident.
- In the absence of FIPB, the investment in sectors under Government approval route shall now be considered by respective Administrative Ministry/Department. In case of doubt with respect to concerned Ministry/Department, DIPP shall identify the Administrative Ministry or Department where the applications will be processed.
- Reporting of downstream investments has to be carried out on Foreign Investment Facilitation Portal in the form available at www.fifp.gov.in (instead of FIPB) within 30 days of such investment, even if capital instruments have not been allotted along with the modality of investment in new/existing ventures (with/without expansion programme)
- Guidelines for e-filing of applications, filing of amendment applications and instructions to applicants are available at Foreign Investment Facilitation Portal – www.fifp.gov.in

CO-OPERATIVE SECTION

(Contributed by CA. Ramesh Prabhu)



Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2017 has been enacted on 7th September, 2017 repealing earlier Act of 1948: An Act to provide for the regulation of conditions of employment and other conditions of service of workers employed in shops, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments and for matters connected therewith or incidental thereto.

As per GR dated 18th September, 2017, the Government has relaxed the requirement of Occupation certificate or completion certificate to apply for the Deemed Conveyance.

F. No. 332/04/2017-TRU: Tax Research Unit of Ministry of Finance has issued FAQ on the GST (Goods and Services Tax) Tax applicability on Co-operative Housing Societies to the

various contributions made by the members. The contribution made by members up to ₹ 5,000/- per month including parking charges, interest on delayed payment, sinking fund, repair fund, service charges etc. for common expenses are exempted from GST.

DIRECT TAX

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



Cost awarded to Revenue on delay in granting refund

Refund was granted to assessee along with interest, however there was delay in granting refund, department was awarded costs of ₹ 10,000 to be paid to assessee – *Arjun Das vs. ITO* [2017] 85 taxmann.com 44 (Delhi).

Rejection of department's application for condonation of delay of 1,371 days – High Court also made other serious observations

It was observed that revenue is giving regular explanations that if Advocate fails to inform or seek instructions, the officials are not to be blamed as they are not conversant with procedural or substantive law. It only means that the Department or Revenue official in-charge can claim that he is not obliged to attend the case or give any instructions to the Advocate or the arguing Advocate and his responsibility is over the moment the appeals and papers are handed over to the Panel Advocate. It is this disturbing trend. Such explanations or reasons are routinely assigned though there is a full-fledged legal wing or branch in the Department.

If the number of appeals filed by the Revenue are approximately thousand per year or more, then, we expect the Revenue to appoint and depute responsible officials and to follow up the legal cases and matters in this Court. The officers cannot pass on the buck to some junior level employees or clerical staff. This is routinely happening inasmuch as the Departmental heads have not been attending the cases by taking a periodical review of the proceedings or appeals lodged in this Court. They hand over the papers to Advocates and thereafter are not bothered about the outcome of these appeals. It is for the Revenue or the Department to take the necessary action but they do not feel obliged to do so. They expect the Court to condone serious lapses in their functioning by accepting above cause as sufficient. The cause as set out and the explanation as forwarded today, on affidavit and belatedly, reflects total negligence and callousness of the Revenue officials. Their attitude shows that they are not at all vigilant and interested in pursuing the cases filed by the Department involving a tax effect of crores of rupees. They expect the Court to be lenient and liberal and pardon them every time. It is this approach of the Revenue officials, which is not only strongly deprecated in the earlier order but the Court has refused to uphold it after it was noticed that this is the position in almost every matter.

This is no explanation for the delay of 1,371 days and if for all these years the Revenue officials have not noticed the lodging, filing or pendency of an appeal, a conditional order of the Registry, then, it must set its own house in order by sacking and removing the delinquent and negligent officials or penalising them otherwise so as to subserve larger public interest - *CIT vs. Reliance Industries Ltd.* [2017] 84 taxmann.com 313 (Mumbai).

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INTERNATIONAL TAXATION

(Contributed by

CA. Hinesh Doshi & CA. Ronak Soni)



The Deputy Director of Income Tax (International Taxation) vs. Smt. Sumana Bandyopadhyay & Anr. [TS-281-HC-2017(Cal)] dated 13th July, 2017

Facts

The assessee was a marine engineer and earned salary from two concerns, Great Offshore Limited and Bibby Ship Management (Singapore) Pte. Ltd. The assessee in his return had declared total income. The assessee had the status of non-resident under Section 6 of the Income-tax Act, 1961.

The assessee had received the salary in a Non-Resident (External) bank account, commonly referred to as NRE account.

Under scrutiny assessment, the salary income was added to assessee's income with the reason that the sum was received by him in the NRE account directly from his employers and this constituted receipt of the said sum in India.

On appeal, CIT(A) and ITAT sustained the finding of the AO and rejected the contention of the assessee that the said income was exempted, having been received from outside India in foreign currency.

Aggrieved assessee filed an appeal before Calcutta HC.

Issue

Whether salary received in NRE account will be taxable in India on receipt basis despite services rendered outside India?

Held

Calcutta HC noted that Revenue argued that the salary was received by the assessee in the NRE account directly from his employers and this constituted receipt of the said sum in India. Revenue contended this attracted Section 5(2)(a).

HC accepted assessee's reliance on past cases, where it was held that salary earned by NR for services rendered outside India cannot be said to be deemed to accrue or arise in India u/s. 5(2)(b).

HC opines that the interpretation given by the Karnataka HC to Section 5(2)(b) would also apply to Section 5(2)(a).

HC relied on CBDT Circular No. 13/2017 issued by Ministry of Finance on April 11, 2017 which provides that salary accrued to a non-resident seafarer for services rendered outside India on a foreign going ship shall not be included in total income merely because such salary was credited to NRE account in India. HC stated that the Circular was clarificatory in nature and applicable for construing the provisions for the relevant AY.

HC thus ruled in assessee's favour.

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SERVICE TAX

(Contributed by

CA. A. R. Krishnan & CA. Girish Raman)



CENVAT Credit

CENVAT credit on works contract service post 1/4/2011 availed for modernisation and repair of factory, cannot be claimed if VAT is paid on such works contract service and service tax is paid only on labour component of the said service. [*Concast Ferro Inc. vs. CC, CE & ST (2017) 49 STR 69 (Tri-Hyderabad)*].

Intellectual Property Services

Where the assessee contracted with various foreign group companies who made available technical knowledge/technical information, technical know-how and trade secrets to the assessee for it to manufacture its products the Tribunal held that the technical know-how or information was not an intangible property under any Indian law like trademarks, designs and patents and hence the services provided by the foreign companies to the assessee cannot be covered under the taxable service of 'Intellectual Property Services'. [*Asea Brown Boveri Ltd. vs. CCE & ST (2017) 49 S.T.R. 209 (Tri.-Bang.)*].

Mining services vs. site formation services

Where the assessee's scope of work under its contract with its client consisted of site preparation, making holes for blasting, excavation of rejects and incidental ore and transportation to designated dumps as per mining excavation plans for a composite rate, the Tribunal held that the contract was a composite contract for entire activities from site formation to segregation of ores. It could not be considered as a service contract *simpliciter* for 'site formation service'. Hence the services would be liable for service tax only under 'mining services' w.e.f. 1/6/2007 and not under 'Site formation services' prior to 1/6/2007. [*Hazaribagh Mining & Engineering Pvt. Ltd. vs. CCE, C & ST (2017) 49 STR 289 (Tri.-Kol.)*].

Contractual obligation to reimburse tax to a person would not for such person be considered as any amount collected as representing tax to be deposited [Section 73A].

The assessee, a life insurance company, paid service tax under reverse charge mechanism on the commission paid to its non-corporate agents but recovered 60.3% of the tax paid from the agent under its contract with the agents. The Revenue sought to recover the amount reimbursed by the agents u/s. 73A(2) which provides for depositing any amount collected by any person from any person as representing service tax whether or not the tax was payable. The Tribunal held that the contractual obligation to reimburse the tax paid to a person is not tax collected by the person warranting recourse to Section 73A of Finance Act, 1994. [*HDFC Standard Life Insurance Co. Ltd. vs. CCE (2017) 49 S.T.R. 301 (Tri.-Mumbai)*].

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