



# The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)



## Western India Chartered Accountants Newsletter

SEPTEMBER 2018 Vol. 44 | No. 09



✓ Excellence ✓ Independence ✓ Integrity

Respected Colleagues,

As we know, India is one of the fastest growing economies in the world. Economically and financially we have progressed steadily. An important reason for this is the strong and constant support of Chartered Accountants who contribute their knowledge, expertise and time towards building one of the most robust system of good governance. With this spirit in our hearts, we celebrated the essence of our freedom on Independence Day.

Our inputs towards policy making has seen strong reforms being conceived, created and implemented. Similarly, our hand-holding and constructive feedback during the implementation of reforms like the GST, RERA and Insolvency have seen its rough edges being smoothed out to make the process easier. Rest assured we will not rest on our laurels but continue to offer our expertise in the service of the nation.

The Regional Conference was successfully organised on 24th & 25th August at Hotel Sahara Star and inaugurated at the worthy hands of CA. M. M. Junejaji, Regional Director (Western Region), Ministry of Corporate Affairs, CA. Naveen N. D. Gupta, Hon'ble President, ICAI, CA. Prafulla Chhajed, Hon'ble Vice-President, ICAI in the august presence of Hon'ble Past Presidents, Central Council Members, Past Chairpersons of WIRC, my dedicated colleagues in the Regional Council and around 1,100 members.

The Conference witnessed dignitaries from various fields addressing our members and sharing their experience. It not only created a clear understanding of how to improve ourselves across all fronts by enhancing our professional knowledge but also gave clarity on achieving the desired results in the new opportunities. With the theme of 'Enhance & Achieve' the Conference was much appreciated by the members in attendance for its high quality content as well as the productive peer-to-peer interactions which followed.

My sincere thanks especially to ZOHO, our platinum sponsor for their support and NSDL, GIC Re, MCX, Vedanta, Taxmann, Gulf Oil Ltd., SBI Mutual Fund,

Toyota and others along with Sahara Star for their patronage of this mega event.

The orientation and placement programmes for newly qualified Chartered Accountants and the Industrial Training and articleship placements for students were conducted successfully. Many large public and private organisations and CA firms participated in the placement programmes and selected a large number of young members at very lucrative remunerations. I express gratitude to the participating organisations and staff for the immaculate execution of this programmes.

I am proud to state that in line with our goal of supporting members, ICAI has created a new job portal which is designed as a platform to connect both job seekers and employers in accounting and finance sectors. This site will truly make a positive difference as it has been designed by the profession, for the profession.

On the occasion of Teacher's Day on 5th September, I take this opportunity to thank our mentors who have always guided us at every step.

This month being graced by auspicious festivals, we are sure to achieve the desired results in all our professional endeavours and happiness in our personal lives.

We pay our homage and respect to the great leader and visionary – Bharat Ratna Late Shri Atal Bihari Vajpayee who truly took our country to greater heights of glory.

We have always volunteered and put our best foot forward in helping our fellow citizens. Once again, it is time for us to take a step forward and work together to help the distressed in Kerala. The recent floods have created havoc and economically decimated the State. I request members to contribute in the best possible way to alleviate the suffering of the people in Kerala. The details of how you can contribute and provide support is given elsewhere in the newsletter.

With Best Wishes,

CA. Sandeep K.C. Jain  
Chairman

Forthcoming  
Events  
Page 3

Law Updates &  
Miscellaneous  
Page 6

### OFFICE BEARERS

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CA. Dhiraj Khandelwal



### 33rd Regional Conference at Hotel Sahara Star, Mumbai



CA. Sarvesh Joshi, RCM, CA. Dhiraj Khandelwal, CCM, Adv. Parthasarathy R., Speaker, CA. Aniket Talati, RCM



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Mr. Prashant Jain, Panelist, Mr. Madhusudan Kela, Panelist, CA. Raamdeo Agrawal, Panelist, Mr. Ravinder Bansal, Moderator, CA. Navneet Munot, Panelist, Mr. Mrugank Paranjape, Panelist



ICAI Tower, Bandra Kurla Complex, Mumbai

Date & Day	Time & Fees	Topic(s)	Speaker(s)	Chief Co-ordinators	Co-ordinators
08/09/2018 Saturday <b>6</b> CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	<b>Workshop on Tax issues arising on account of Ind AS</b> <ul style="list-style-type: none"> <li>Implementation of Ind AS – Impact on Corporate Tax</li> <li>Revenue Recognition (Ind AS 115)</li> <li>Property, Plant, Equipment (Ind AS 16) – Intangible Assets (Ind AS 38)</li> <li>Borrowing Costs (Ind AS 23) – Government Grants (Ind AS 20) &amp; MAT Impact</li> </ul>	CA. Hiten Sutar CA. Neelam Mange CA. Tarak Dharod CA. Manmay Chandawalla CA. Hemantkumar Salian	CA. Sushrut Chitale 9821112904 CA. Satyanarayan Mundada 9422080814 CA. Drushti Desai 9820335923	CA. Virag Shah 7043154500 CA. Zubin Haria 9930562512 CA. Aditi Chaturvedi 9768350383
22/09/2018 Saturday <b>6</b> CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	<b>Seminar on Business Restructuring in relation to Taxation, SEBI and FEMA Laws</b> <ul style="list-style-type: none"> <li>Key Taxation Aspects under Slump Sale / Asset Sale / Slump Exchange / Share Sale</li> <li>Key Tax and Regulatory Aspects of AIF and FVCIs</li> <li>SEBI Takeover Regulations - Informal Guidance and Case Studies</li> <li>Key Aspects under FEMA Inbound Investment</li> <li>Key Aspects under FEMA Outbound Investment</li> </ul>	CA. Devarsh Patel CA. Amit Dhoot CA. Rashmin Pandya CA. Hardik Shah CA. M. Jagannathan	CA. Rakesh Alshi 9819427242 CA. Purushottam Khandelwal 9825020844 CA. Balkishan Agarwal 9377110634	CA. Eshaan Shah 9408190992 CA. Girish Maru 9004049320 CA. Ratan Jain 9820027879
29/09/2018 Saturday <b>6</b> CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	<b>Seminar on Project Finance</b> <ul style="list-style-type: none"> <li>Sources of Finance – Concept of Working Capital &amp; its Significance in Debt Financing</li> <li>Preparing a detailed Project Report (Assessment of Technical &amp; Economic Feasibility)</li> <li>Case Study on preparing an excel model to submit with the project report</li> <li>Credit Appraisal – A Banker’s Perspective</li> </ul>	CA. Vivek Shah CA. Amit Godse CA. Amit Godse CA. Yashesh Shroff	CA. Aniket Talati 9825551448 CA. Pradeep Agrawal 9898560967 CA. Priti Savla 9321426883	CA. Aniket Kulkarni 9821690559 CA. Akash Bagrecha 9930904266 CA. Keval Mamania 8080117040
06/10/2018 Saturday <b>6</b> CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	<b>Seminar on Media and Entertainment Industry</b> <ul style="list-style-type: none"> <li>Media and Entertainment Industry – Trends and Crystal-Gazing in the Future</li> <li>Direct Tax - Cross Border Transactions, Mergers and Acquisitions Landscape, New-age Transfer Pricing Reporting, Growing Complexities in Media and Entertainment Industry</li> <li>Legal Aspects on Intellectual Property Rights, Copyright related to Media and Entertainment Industry</li> <li>Ind AS – Impact on Media and Entertainment Industry including Practical Aspects</li> </ul>	CA. Jehil Thakkar CA. Prashant Bhojwani Adv. Amit Thurkal CA. Govind Ahuja	CA. Sarvesh Joshi 9822022292 CA. Kamlesh Saboo 9819195333 CA. Umesh Sharma 9822079900	CA. Rakesh Tulsyan 7021176211 CA. Nitin Ombavat 9773397805 CA. Vikram Joshi 9821733286
09, 10, 11 & 12/10/2018 Tuesday, Wednesday, Thursday & Friday <b>12</b> CPE Hrs	5.00 p.m. to 8.00 p.m. ₹ 2,065/- (Incl. GST)	<b>Study Course on How to Prepare for Insolvency &amp; Bankruptcy Code Examination</b> <b>Tuesday, 9th October, 2018</b> <ul style="list-style-type: none"> <li>Insolvency &amp; Bankruptcy Code – I (CIRP)</li> </ul> <b>Wednesday, 10th October, 2018</b> <ul style="list-style-type: none"> <li>Insolvency &amp; Bankruptcy Code – II (Liquidation)</li> </ul> <b>Thursday, 11th October, 2018</b> <ul style="list-style-type: none"> <li>Insolvency &amp; Bankruptcy Code – III (Non-Corporate)</li> </ul> <b>Friday, 12th October, 2018</b> <ul style="list-style-type: none"> <li>Case Study/ Case Laws</li> </ul>	CA. Apurva Bookseller CA. Dhiren Shah CA. Devang Sampat CA. Rajan Agarwal	CA. Kamlesh Saboo 9819195333 CA. Vikrant Kulkarni 9881880073 CA. Hardik Shah 9825510422	CA. Ajeet Taparia 9920710121 CA. Hetal Kothari 7738226617 CA. Amish Sangoi 9867757972



ICAI Tower, Bandra Kurla Complex, Mumbai

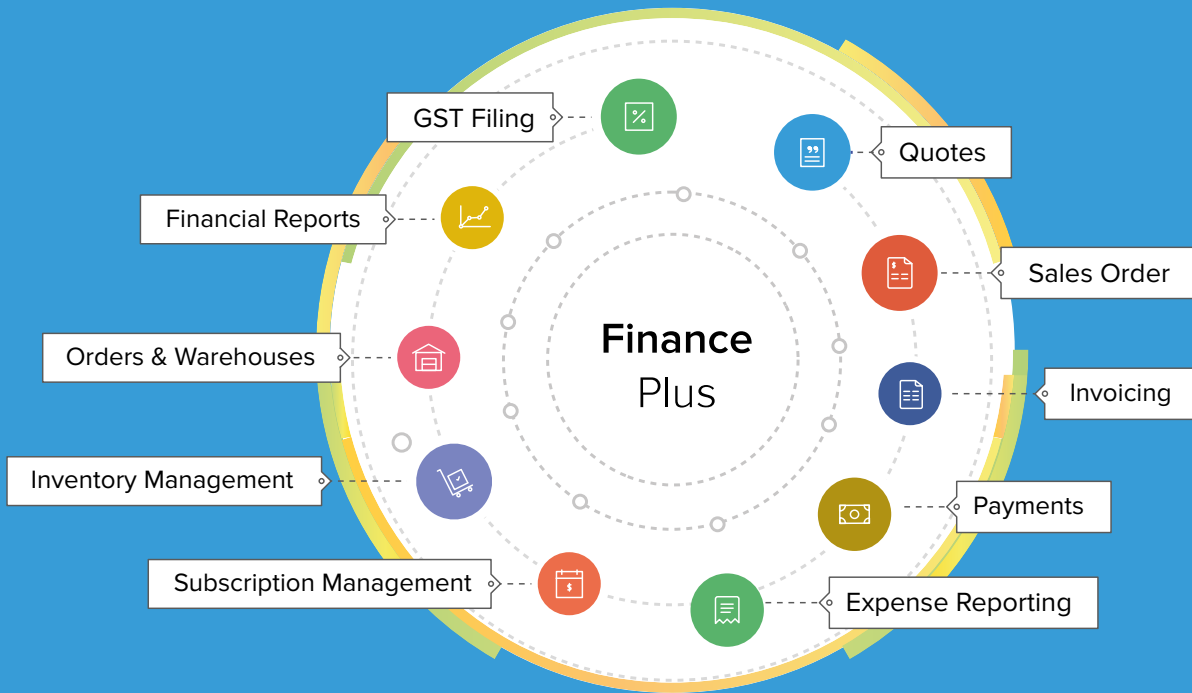
Date & Day	Time & Fees	Topic(s) & Speaker(s)	Chief Co-ordinators	Co-ordinators
13/10/2018 Saturday <b>6 CPE Hrs</b>	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	<b>Seminar on Transfer Pricing</b> <ul style="list-style-type: none"> <li>Overview of Transfer Pricing – Latest Developments including CbCR &amp; Master File</li> <li>Transfer Pricing Case Studies &amp; Recent Judgments</li> <li>Functions, Assets &amp; Risk Analysis, along with Value Chain Analysis</li> <li>BEPS Action Plans 8-10 along with Draft Guidance on Profit Splits</li> </ul>	CA. Vispi Patel CA. Chaitanya Maheshwari CA. Mehul Shah CA. Chintan Mehta	CA. Priyam Shah 9824096112 CA. Purushottam Khandelwal 9825020844 CA. Shilpa Shinagare 9820053395 CA. Meera Joisher 9819354164 CA. Vinit Vyas 9930766805 CA. Bipeen Mundade 9223290561
20/10/2018 Saturday <b>6 CPE Hrs</b>	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	<b>Seminar on Pharma Industry</b> <ul style="list-style-type: none"> <li>Accounting &amp; IND AS</li> <li>Direct Tax &amp; Transfer Pricing</li> <li>GST Issues</li> <li>Capital Markets</li> <li>Finance &amp; Bank Facilities</li> </ul>	CA. Jigar Parikh* CA. Umesh Gala CA. Rajiv Luthia CA. Ajay Parmar Eminent Faculty	CA. Priti Savla 9321426883 CA. Abhijit Kelkar 9422126890 CA. Hardik Shah 9825510422 CA. Y. R. Desai 9820448365 CA. Bhushan Ramani 9819900489 CA. Girish Shekhar 9820812584
27/10/2018 Saturday <b>6 CPE Hrs</b>	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	<b>Value Driven – Risk based Internal Audit</b> <ul style="list-style-type: none"> <li>Standards on Internal Audit (Importance of Standards and Compliance)</li> <li>Value Delivered &amp; Key Outcome (Internal Audit as Value Driver, Value Delivered by IA, Key Result Areas of IA and Observation &amp; Key Outcomes)</li> <li>Stakeholder Management &amp; Soft Skills (ACM &amp; Statutory Auditors)</li> <li>Communication &amp; Report Writing (Presentation of findings, Root Cause, Impact, Recommendations, Management Actions &amp; Observations &amp; Report Rating)</li> </ul>	CA. Manindra Prakash CA. Sandeep Gupta CA. Huzeifa Unwala CA. Swaminathan	CA. Sarvesh Joshi 9822022292 CA. Balkishan Agarwal 9377110634 CA. Vikrant Kulkarni 9881880073 CA. Ritesh Hibare 9773418343 CA. Dhavni Karia 9819900489 CA. Nehal Turakhia 9833991898
27/10/2018 Saturday <b>6 CPE Hrs</b>	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	<b>Seminar on Actuarial Accounting</b> <ul style="list-style-type: none"> <li>IFRS 17 – Life Insurance</li> <li>Ind AS 102 Share based Payments</li> <li>IFRS 17 – General Insurance</li> <li>Proportionality in Employee Benefits Valuation</li> </ul>	Shri Kamlesh Gupta CA. Nandan Nadkarni Shri Subasree Shri Suresh Sindhi CA. Mayur Ankolekar	CA. Lalit Bajaj 9867692321 CA. Abhijit Kelkar 9422126890 CA. Umesh Sharma 9822079900 CA. Abhishek Katre 9821968858 CA. Parul Saraf 9821162477 CA. Rahul Soni 9773050495
03/11/2018 Saturday <b>6 CPE Hrs</b>	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	<b>Seminar on Concurrent Audit</b> <ul style="list-style-type: none"> <li>Introduction to concurrent Audit &amp; KYC / AML compliances with practice examples</li> <li>Usage of CBS system for concurrent audit</li> <li>Advances exposure norms and IRAC norms</li> <li>Forex related areas including advances / deposits and highlights if FEMA / RBI regulations</li> </ul>	CA. Jignesh Nagda CA. Giriraj Soni CA. Dhananjay Ghokhale Mr. Jayaraman	CA. Manish Gadia 9820537986 CA. Priyam Shah 9824096112 CA. Shilpa Shinagare 9820053395 CA. Swati Bhatkar 9967537989 CA. Sunil Sharma 9769949829 CA. Amol Kamat 9823018763
17/11/2018 Saturday <b>6 CPE Hrs</b>	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	<b>Seminar on Fraud &amp; Forensic Accounting</b> <ul style="list-style-type: none"> <li>Data Analysis for forensic Investigation &amp; Audit</li> <li>Forensic review in Insolvency &amp; Bankruptcy code</li> <li>Contemporary digital frauds</li> <li>Cyber forensics</li> </ul>	CA. Mahesh Bhakti CA. Kinnari Gandhi Dr. Omkar Nath CA. Mauli Shah	CA. Aniket Talati 9825551448 CA. Sushrut Chitale 9821112904 CA. Lalit Bajaj 9867692321 CA. Milind Joshi 9930033939 CA. Nidhi Pandya 7506358911 CA. Nikita Mall 9969873294
24/11/2018 Saturday <b>6 CPE Hrs</b>	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	<b>Valuation Standards and Rules</b> <ul style="list-style-type: none"> <li>Introduction to Indian Valuation Standards and Valuation Standards 102,103, 301,302</li> <li>Valuation Standards on Documentation (IVS 201, 202) and IVS 303 on Valuation of Financial Instruments</li> <li>Registered Valuer Rules</li> <li>Valuation Techniques</li> </ul>	CA. Bhakti Shah CA. Apeksha Kukreja Eminent Faculty CA. Ushma Shah	CA. Drushti Desai 9820335923 CA. Manish Gadia 9820537986 CA. Pradeep Agrawal 9898560967 CA. Mahima Chawla 9029970866 CA. Vijayta Jaiswal 9322874586 CA. Mukund Mall 932224142



Indian CAs are known to go the extra mile and not only educate themselves professionally but also technologically. With most professionals now communicating, working, reading and doing research through various gadgets the time has now come for us to decrease our over reliance on paper. The Maharashtra Government's courageous step of banning plastic shows us the way ahead. I am sure that we can take inspiration from this, replace the paper newsletter with the digital medium and move ahead to create a better India for future generations. Let us join hands and save the environment by mailing your choice to receive the e-Newsletter on [wirc@icai.in](mailto:wirc@icai.in)

# ZOHO Finance Plus

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## DIRECT TAX

(CA. Haresh P. Kenia, CA. Deepak Lala,  
CA. Paras K. Savla & CA. Hemant R. Shah)



### Revision of monetary limits for filing Appeals by the Department (256 Taxman, (st) 8)

The CBDT *vide* Circular No. 3/2018 dated 11/7/2018 raised threshold limit for filing appeal before ITAT, High Courts & Supreme Courts. The revised limit is in supersession of Board Circular No. 21 of 2015 dated 10/12/2015 wherein monetary limits & other conditions for filing departmental appeals were specified.

In order to reduce litigation on Income-tax matters, the CBDT has sharply increased the threshold limits for filing before judicial authorities as under:

Sr. No.	Appeals /SLPs in Income-tax Matters	Monetary Limit (₹)
1.	Before Appellate Tribunal	20,00,000
2.	Before High Court	50,00,000
3.	Before Supreme Court	1,00,00,000

Among the other clarifications, the CBDT has specifically clarified the following:

- "Tax Effect" shall be tax including applicable Surcharge & Cess.
- "Tax Effect" in the cases of section 115JB OR 115JC, separate formula specified in the circular.
- It also clarifies that the departmental representatives/ counsel brings to the notice of the Tribunal/Court, the provisions of sections 268A(4) of the Income-tax Act.
- It is clarified that the monetary limits of ₹ 20 lakh for filing appeals before the ITAT would apply equally to cross objections u/s. 253(4) of the Income-tax Act. Similarly, reference to High Courts & SLPs/ Appeals before Supreme Court below the monetary limit ₹ 50 lakh & ₹ 1 crore respectively should be pursued for dismissal as withdrawn/not pressed.

This circular will apply to SPLs/Appeals/Cross objection/ references to be filed henceforth, in SC/HCS/Tribunal and it shall also apply retrospectively to pending SLPs/appeals/Cross objections/ references. Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed.

### JUDICIAL PRONOUNCEMENTS

#### TRIBUNAL DECISIONS

##### *A.C.I.T. vs. M/s. Ridhi Portfolion (P) Ltd. (ITAT Kolkata)*

Expenditure incurred to earn exempt income computed u/s. 14A can't be added while computing book profit

[Appeal No.: IT (SS) Nos. 106 to 109/Kol/2016, date of Order: 16/2/2018, A.Y. 2010-11]

A similar issue relating to addition on account of expenditure disallowed u/s. 14A while computing book profit u/s. 115JB of the Act has been decided by the Special Bench of this Tribunal at Delhi in the case of *ACIT vs. Vireet Investment Pvt. Ltd. (ITA No. 502/Del/2012 dated 16/6/2017)* wherein it was held that the expenditure incurred to earn exempt income computed u/s. 14A of the Act could not be added while computing book profit u/s. 115JB of the Act. In the case of *CIT vs. Jayshree Tea Industries Ltd. (ITAT No. 47 of 2014 dated 19/11/2014)*, Hon'ble Kolkata

High Court has also expressed a similar view by holding that the provision of section 115JB in the matter of computation is a complete code in itself and resort need not and cannot be made to section 14A of the Act.

## TRANSFER PRICING

(CA. Bhavya Goyal)



### CBDT Notification No. 33/2018-Amendment in Form 3CD

CBDT amends Form 3CD with effect from August 20th, 2018 *vide* Notification No. 33/2018. The amended Form 3CD seeks details regarding secondary adjustments u/s. 92CE, interest deduction limitations u/s. 44B, GAAR, GST, Specified Financial Transactions ('SFT'), deemed dividend, CBCR etc.

#### Transfer Pricing Litigation update

**Case name:** Dialogic Network (India) Pvt Ltd. ITA 7280/Mum ITAT/2012

Recently the Mumbai Tribunal in the above case decided on the issue of comparability of 26 companies for software development services and Information Technology Enabled Services/Back office support ('ITES').

#### Brief Facts and Ruling

The Transfer Pricing Officer rejected the appellant's TP analysis for AY 2008-09 and identified a set of fresh companies for both Software and ITES segment. The rejection of a few companies selected by the TPO was argued on before the Hon'ble ITAT. The Hon'ble ITAT agreed to the arguments of the appellant and rejected 26 companies on the basis of functional dissimilarity, product based companies, failing the initial filters applied by the TPO etc. Also regarding the argument of the revenue on cherry picking of comparables, the ITAT observed that it is well settled by various judgments that assessee argues on a subset and if it falls within the range, then they do not need to argue further.

## GOODS AND SERVICES TAX

(CA. Rajiv Luthia)



**Central Government, *vide* Notification No. 28/2018-Central Tax dated 19th June, 2018** has made following amendment to CGST Rules, 2017 namely:

- In Rule 58 (Records to be maintained by owner or operator of godown or warehouse and transporters) sub-rule (1A) is inserted, whereby a transporter who has registered in more than one State or union territory having same PAN, he may apply for Unique common enrolment number by submitting FORM GST ENR-02, using any one of his GSTIN numbers. Upon furnishing relevant details, unique common enrolment number shall be generated & communicated transporter. Further it is provided that once transporter has obtained a unique common enrolment number, he shall not be eligible to use any of the Goods and Services Tax Identification Numbers for the purposes of the said Chapter XVI.
- Rule 138C regarding Inspection & Verification of goods amended by inserting proviso, whereby power is given to Commissioner to increase the time limit by further period not exceeding 3 days for recording final inspection report in part B of Form GST EWB-03.
- Rule 142 regarding Notice & order for demand of amounts payable under the Act amended, whereby the proper officer is now required to issue a summary order for section



129 (Initiation and conduct of proceedings in respect to Anti Profiteering investigation) & Section 130 (Providing Confidentiality of Information to Proper Officer) and upload the same electronically in FORM GST DRC-07, specifying therein the amount of tax, interest & penalty payable by person chargeable with tax.

- FORM GST ENR -2 which stands for application of unique common enrolment number is notified under Rule 58(1A).

### MAHARASHTRA VAT & GST (CA. C. B. Thakar)



#### The Maharashtra Goods and Services Tax Act, 2017

##### Circulars

1. The Commissioner of Goods and Services Tax, Maharashtra State, has issued Circular bearing No. 18T of 2018 dated 31/7/2018 by which announcement of Special Campaign for pending GST Migration cases is clarified.
2. The Commissioner of Goods and Services Tax, Maharashtra State, has issued Circular bearing No. 19T of 2018 dated 10/8/2018 by which extension for Special Campaign for pending GST Migration cases is given.
3. The Commissioner of Goods and Services Tax, Maharashtra State, has issued Circular bearing No. 20T of 2018 dated 13/8/2018 by which list of taxpayers communicated to GSTN for IT redressal is published.

### GUJARAT GST & VAT (CA. Kishor R. Gheewala)



#### IMPORTANT JUDGMENTS

##### (a) "No Reversal for Capital Goods ITC"

Hon'ble Gujarat High Court has, in Tax Appeal No. 53 of 2018, has confirmed, *vide* Order dated 2/2/2018, the Hon'ble GVAT Tribunal's Decision, in case of M/s. Meghamani Organics Ltd, 2017 GSTB Part-I Page No. 29, holding to the effect that the proportionate tax credit @ 2% of the capital goods, in respect of goods sold in the course of inter-State Trade & Commerce, cannot be reduced under the Notification Entry dated 29/6/2010, issued u/s. 11(6), of the GVAT Act, as the Capital Goods are neither covered under the term "input" nor under the term "raw material".

##### (b) ITC for Taxable by Product

Hon'ble GVAT Tribunal has, in case of M/s. Ashima Ltd., R.A. No. 33 & 34 of 2016 decided on 17/04/2017, reported at 2017 GSTB Part - I, Page 12, held that the proportionate tax credit, in respect of the sale of taxable by product, is admissible, even though the main product is tax free.

##### (c) No Forfeiture of Tax under CST

Hon'ble GVAT Tribunal has, in case of Advance Systek Pvt. Ltd., S.A. No. 339-340, of 2016 decided on 17/4/2017, reported at 2017 GSTB Part - I, Page 17, set aside the forfeiture of tax under the CST Act by holding that no such provision for forfeiture of excess collected tax is provided under the CST Act.

### SERVICE TAX (CA. A. R. Krishnan & CA. Girish Raman)



#### Management, Maintenance or Repair Service

On a question whether the assessee was providing the Management, Maintenance or Repair Service under section

## CA Required as

# Accounts Officer

### About MKCL

**Maharashtra Knowledge Corporation Limited (MKCL)** is a reputed organization in design, development and delivery of Learning, Governance and Empowerment technologies, products, solutions and services to its ever growing customer base within India and abroad.

### Eligibility

**Place of Posting: Pune**

The applicant must be a qualified **Chartered Accountant (CA)** with 3 years of post-qualification experience preferably from a service industry. This Accounts Officer shall report to the CFO.

The candidate should be well versed with day to day accounting, costing, knowledge of G.S.T and Income Tax, financial reporting, vendor payments, scrutinizing ledger accounts, fixed assets, filing returns and statutory payments, generating MIS and reports as per requirements.

**Last date to apply is September 30, 2018.**



For more details, visit:

<http://mkcl.org/careers>



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65(105)(zzg) by collecting amount collected as maintenance charges from prospective flat buyers, for maintaining the building, the High Court after analyzing the various provisions of Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 ["MOFA"] held as under:

- (i) Under the statute (MOFA) a builder is liable to collect and pay all outgoings until he forms a co-operative society [Para 28]
- (ii) The builder is not a contractor simpliciter for maintaining an immovable property. The maintenance is a statutory obligation superimposed in a contract to sell immovable property [Para 27]

Hence the deposit for maintenance collected by a builder is not liable for service tax under maintenance and repair services

[CST *v/s.* Shri Krishna Chaitanya Enterprises (2018) 14 GSTL 533 (Bom.).]

#### CENVAT Credit

Assessee sold goods to buyers on ex-factory basis. It arranged C & F agency services for a buyer at his request. The C & F agency charged the assessee and the assessee recovered the charges from the buyer. It claimed credit of the service tax charged by the C & F agency. The Hon'ble Tribunal disallowed the credit and held as under:

- (i) The actual recipient of C & F agency service is the buyer of goods, for whom such services are arranged and mere routing the billing through the appellant would not make the appellant a recipient of the service;



- (ii) The assessee has not booked the C & F charges as expenditure but it was booked as C & F charges recoverable;
- (iii) The amount is also not includible in the value of final product since the goods are sold ex-factory.

Accordingly, the Tribunal disallowed the credit. [*Manikgarh Cement v/s. CCE (2018) 14 GSTL 263 (Tri.-Mum.)*].

### CORPORATE LAWS (CA. Rahul Joglekar)



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

#### MCA Notification GSR 725 (E) dated 31st July 2018 – Companies (Accounts) Amendment Rules, 2018

MCA has issued the aforesaid notification to make amendments to the Companies (Accounts) Rules, 2014 issued under the Companies Act 2013. It is now provided that the Board's report shall give a disclosure, as to about maintenance of cost records as specified by the Central Government and a statement that the company has complied with provisions relating to the constitution of Internal Complaints Committee under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. It has also provided relaxations to Small and One Person Company by giving separate disclosures in the Board's report. For complete text of the notification, please refer the link: [http://www.mca.gov.in/Ministry/pdf/companisAccountsRules\\_31072018.pdf](http://www.mca.gov.in/Ministry/pdf/companisAccountsRules_31072018.pdf).

### INTERNATIONAL TAXATION (CA. Hinesh Doshi & CA. Ronak Soni)



#### Deputy Director of Income tax vs. Morgan Stanley Asia (Singapore) Pte.TS-384-ITAT-2018 (Mumbai- Tribunal) dated 18th July, 2018

##### Facts

- The assessee, a tax resident of Singapore deputed one of its employees to India to set up its associate concern – MSAS India on the basis of a contract between these parties.
- Salary was paid by the assessee in Singapore and MSAS India was cross Charged for the same.
- The AO contended that this payment was FTS as the employee deputed to India was highly qualified having vast technical experience and expertise and that the role of the assessee was more than just an employer.
- AO also noted that the remittances of the amount to the assessee had been done on a single day, whereas salary is paid on monthly basis.
- Therefore, the total remittances on account of reimbursement of salary was treated as FTS by the AO and further mark up of 23.3% on the reimbursed amount was charged.
- The CIT(A) upheld the AO's order. Aggrieved, the assessee appealed before Mumbai ITAT.

##### Issue

Whether reimbursement of salary to foreign counterpart qualifies as Fees for Technical Services?

Whether deputing employees is covered under the 'making available' clause of tax treaties?

##### Held

ITAT noted that the contract between the two parties clearly provides that salary is paid by the Singaporean assessee on behalf of MSAS India and the same is recharged by the assessee to MSAS India. There was no profit element involved in the impugned payment.

ITAT held that payment by MSAS India being a pure reimbursement of salary cost would be covered under the exception mentioned in Explanation 2 to Sec. 9(1)(vii) and will not be taxable as fees for technical service under the domestic law.

ITAT relied on Delhi ITAT ruling in United Hotels Ltd. wherein it was held that for each deputed person, the amount received by it is income chargeable under the head "salary" and therefore, it cannot be termed as "fees for technical services"

Merely providing employees without 'make available' technical knowledge, expertise, skill, know-how or process etc. cannot be FTS as per Article 13(4) of Indo-UK DTAA. ITAT also relied on the Co-ordinate Bench ruling in Mark & Spencers Reliance India (P) Ltd. wherein it was held that expatriation of employee under secondment agreement without transfer of technology would not fall under the term "make available" and will not be taxable under the treaty.

ITAT held that salary being taxed in the hands of the employee, it cannot be taxed again in the hands of the assessee.

Therefore, ITAT held that reimbursement of salary was not FTS under the Act as well as India-Singapore DTAA.

### FEMA

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



Gist of some Compounding Orders passed by Reserve Bank of India

Sr. No.	Subject Matter	Contraventions Compounded
1.	Foreign Direct Investment - FEMA Notification No. 20	<p>The applicant company was engaged in business of other information technology and computer service activities.</p> <p>There was transaction of transfer of shares of company from resident holder to non-resident.</p> <p>The company contravened the provisions of Regulation 4 of FEMA 20 by taking on record the said transfer without certified FC-TRS.</p> <p>(Indian entity shall not record in its books any transfer of security provided that RBI may on an application made to it and for sufficient reasons, permit an entity to issue any security to a person resident outside India or to record in its books any transfer of security. Thus, only after receipt of confirmation of RBI, company can take transfer of shares from resident to non-resident in its records.)</p>





**CO-OPERATIVES**  
**(CA. Ramesh Prabhu)**



- (1) Maharashtra Co-operative Societies (Election to Committee) (First Amendment) Rules, 2018, notified *vide* Notification No. CSA-2015/CR72/13-C on 6th August, 2018.
- (2) Audit Fees: Assistant Govt. Pleader (AGP) of High Court Bench of Aurangabad has given his opinion to the Co-operative Commissioner regarding the audit fees to be charged in respect of few societies in the interim order passed on 2/5/2016 by Hon'ble High Court in the Writ Petition No. 596/2015, WP No. 2871/20013 and WP No. 9355/2015. As per the opinion dated 13/10/2016 given by AGP, the societies/petitioners shall be required to pay the audit fees as prescribed in the circular dated 15/5/1992 in the cases where the fees have been lowered in the new notification dated 29/10/2014.
- (3) Bombay High Court on 31st July 2018 directed MahaRERA to provide in its software to accept complaints against unregistered projects. MahRERA *vide* circular dated 14th August, 2018 have provided the bank details to make the payment for lodging complaints about unregistered projects.
- (4) Bombay High Court in Second Appeal (Stamp) 9717 of 2018 & Civil Application No. 683 of 2018 filed by Lavasa Corporation Ltd. held on 7th August, 2018 that long lease is equal to sale and is covered under RERA.

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



**APPEAL FOR KERALA**

Dear Members,

The recent floods in the state of Kerala has caused extensive devastation. Large number of people have lost their lives and thousands have been rendered homeless.

Kerala needs our help to tide over the natural calamity that has fallen upon them to survive and rebuild their lives. ICAI has decided to stand with our distressed fellow countrymen and actively participate in the national effort to support them at this difficult time.

ICAI has opened a bank account exclusively for the purpose of collecting donations from the members so that the same can be remitted to the Prime Minister's National Relief Fund. The banks details are as under:

**ICAI Kerala Flood Relief Fund**  
**Saving Bank Account No. 158001000886**  
**ICICI Bank, Sector 62, Noida (U.P.)**  
**IFSC Code : ICIC0001580**

Let's come together and pledge to support to our brothers and sisters in this time of calamity when they desperately need our support.

We request you to contribute through cheque/demand draft/direct online transfer in favour of ICAI Kerala Flood Relief Fund and send cheque/demand drafts to us alongwith the details of donors as under.

The collected amount will be given to Prime Minister's National Relief Fund (PMNRF). Contributions towards PMNRF are exempt from Income Tax under section 80 (G). Kindly give your Name, Membership Number, Address, Amount and date of contribution, bank transaction number (for online transaction), PAN details so that receipts could be obtained from PMNRF for the donors. The contribution/letter/email can be sent to:

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