



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

Western India Chartered Accountants Newsletter

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Dear Professional Colleagues,

'Once you start working on something, don't be afraid of failure and don't abandon it. People who work sincerely are the happiest.' – Chanakya

Happiness is a journey and not a destination. Friends, I am happy to share that the response to the forthcoming ICAI International Conference hosted by Western Region at Mumbai has been really wonderful as the registrations are closed much in advance of the Conference. I look forward to meeting with our members at ICAI International Conference.

During November 2019, we organised various programs for members as well as students to disseminate knowledge. Considering the need of members and timely sharing of knowledge we organised a seminar and a lecture meeting on GST Annual Returns and Audit Report and Seminar on Transfer Pricing which were very well received by members. We had an interactive lecture meeting with Respected Principal Chief Commissioner Income Tax I-Shri Satish Kumar Gupta along with Chief Commissioner of Income Tax – Shri Ravindra Sai on E Assessment under Income Tax Act – Procedures & Issues where they presented the norms of faceless, jurisdiction less income Tax Assessments. They have also resolved all the issues of participants and answered their queries. A full house audience took the benefit of this interaction. Lecture meetings on Procedure under Settlement Commission, Valuation, Deemed Conveyance & Recent Amendments in Co-operative Societies Act geared towards strengthening the knowledge of members were also conducted. A Seminar on Corporate Tax Issues arising on account of IND AS helped members to upgrade their knowledge. The lecture meeting on 'Sustaining Happiness with Mindfulness and Ethical Values' hosted by Mulund CA CPE Study Circle was insightful. The same was also attended and appreciated by CA. Prafulla Chhajer, Hon'ble President, ICAI. All the study groups also organised their meetings during the past month. We had an interactive meet with Commissioner of Income Tax – TDS, Mumbai, for formulating guidelines towards TDS on E-Commerce Transactions. We have released the noteworthy eighth publication of WIRC on 'Illustrative Ind AS financial Statements'. I compliment the Ind AS Committee of WIRC and all the contributors for bringing out an excellent publication.

'Efforts and courage are not enough without purpose and direction.' To encourage newly qualified rank holders and members, we had organised a felicitation program where Padmashri Prof. G. D. Yadav, CA. Sachin Patil, IRS, CA. Nimit Mehta, IPS guided them on the values in the profession and shared their success stories. Further, a panel discussion on professional opportunities in different areas was organised to guide the young CA members.

The Sub Regional Conference at Goa saw the presence of Hon'ble Shri Shripad Naik, Union Minister of State for Ayush (Independent Charge) & Minister of State for Defence. The Western Maharashtra Regional Conclave at Sangli saw the presence of Shri Sanjay Kaka Patil, Member of Parliament. Both the conferences were very well received by the participants and we appreciated their dynamism in hosting and organising the conferences.

Education is the most powerful weapon for changing the world. WIRC along with WICASA has organised various seminars and practical training for students on various topics including GST in various parts of Mumbai. We firmly believe that 'Knowledge is Power' and that proper training to CA Students will not only upgrade their knowledge but also benefit the members in turn. We, along with WICASA, have planned the National Students Conference on the theme 'Path for Success – Learn, Adapt and Accelerate' at Shanmukhananda Auditorium, Sion, Mumbai on January 7 & 8, 2020. I request members to encourage their article students to participate in this knowledge gaining students' conference.

'Climbing to the top demands strength, whether it is to the top of Mountain Everest or top of your career'. – APJ Abdul Kalam. We have conducted Faculty Development program along with the University of Mumbai where the faculties of various colleges of University of Mumbai were trained on GST to impart their knowledge to students. We are also conducting career counselling programs in various commerce colleges to create awareness about CA Course.

WIRC has planned various programs viz. Conference on Capital Market, Start-ups, Pharma Industry, Corporate Social Responsibility – CSR, Procedure under Income Tax Act including Mock Tribunal, various workshops on Technology, National Conference on International Taxation, Residential Refresher Course on GST. The details of these programmes are available in this newsletter as well as on the WIRC website. I request members to participate in large numbers and take benefit of all these programmes. I look forward to meeting you at the programmes.

'The fragrance of flowers spreads only in the direction of wind, but the goodness of a person spreads in all directions.'

'Year's end is neither an end nor a beginning but a going on, with all the wisdom that experience can instill in us'. I wish your Holidays & New Year 2020 be filled with joy, happiness and love!

With Best Wishes,

CA. Priti Paras Savla
Chairperson

Forthcoming
Events
Page 3

Law Updates &
Miscellaneous
Page 5



Lecture Meeting on Valuation



CA. Drushti Desai, RCM, CA. Ushma Shah, Faculty, CA. Priti Savla, Chairperson, WIRC, CA. Ravishu Shah, Faculty, CA. Arun Prithwani

Felicitation of Rank Holders and New Members



CA. Chintan Patel, RCM, CA. Sachin Patil, IPS, Padmashri Prof. G.D. Yadav, CA. Priti Savla, Chairperson, WIRC, CA. Nimit Mehta, IRS, CA. Jayesh Kala, RCM



Lecture Meeting on Procedure under Settlement Commission



CA. Abhishek Katre, Shri H.C. Jain, IRS-Former, Vice Chairman IT Settlement Commission, Mumbai, CA. Jayesh Kala, RCM, CA. Niraj Gupta

Seminar on Young Members - Professional Opportunities in Different Areas



CA. Mahek Vikamsey, Faculty, CA. Vyomesh Pathak, Moderator, CA. Litesh Gada, Faculty, CA. Nitin Dadoo, Faculty.

Lecture Meeting on Deemed Conyance in Co operative Societies & Recent Amendments in Co-operative Societies Act



CA. Dhvani Karia, CA. Mukul Varma, Faculty

Forthcoming Events



ICAI Tower, Bandra Kurla Complex, Mumbai

Date & Day	Time & Fees	Topic(s)	Speaker(s)	Regional Council Members (Chief Co-ordinators)	Co-ordinators
14/12/2019 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Conference on start ups - Funding, Government Tax Incentives & Regulatory Aspects (For Young Members) Sharing success of Story of Start up Funding & Investments in Start up Government Incentives for Start up Tax & Regulatory aspects	Shri Vineet Sethi <i>CEO, Niyo Global</i> CA. Mitesh Shah CA. Jignesh Kenia CA. Bhavesh Thakkar CA. Lokesh Kanwar CA. Vyomesh Pathak	CA. Rakesh Alshi 9819427242 CA. Jayesh Kala 9820010113 CA. Anand Jakhotiya 9325444644	CA. Gautam Mota 9594339949 CA. Rahul Soni 9773123976 CA. Abhishek Katre 9821968858
14/12/2019 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Conference on Capital Market Impact of Economy reforms on Capital Market Market Trends in 2020 Strategy for Picking Miltenberger Stock Identification of Medium to Long term trends using Technical and Fundamental Contemporary updates in Global Financial Markets affecting Varied Financial Instruments of a Portfolio (Including Currency Equity, Commodity, Cryptos etc.)	Mr. Vikram Kotak Mr. Rajesh Bhatia CA. S.P. Tulsian CA. Ashish Chaturmohta CA. Aman Chugh	CA. Kamlesh Saboo 9819195333 CA. Vimal Agrawal 9320617447 CA. Abhijit Kelkar 9422126890	CA. Nilesh Chhadva 9819097298 CA. Charu Ved 9322241386 CA. Jitendra Khandol 9825944024 CA. Piyush Agarwal 9833542416
21/12/2019 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Seminar on Pharma Industry & Sectors Overview of Chemical and Pharma Industry Overview of Pharma Industry – Banking Perspective Accounting & Ind AS in Pharma Industry Capital Market – Analysis on Pharma Industry Income tax issues GST impact on Pharma Industry	Shri Rajendra Gogri CA. Pramod Ghorpade CA. Santosh Maller Eminent faculty CA. Abhitan Mehta CA. Mandar Telang	CA. Murtuza Kachwala 9833015334 CA. Yashwant Kasar 9822488777 CA. Hitesh Pomal 9824049402	CA. Ravi Jain 9819349431 CA. Amol kamat 9823018763 CA. Anisa Shaikh 9867313969
23/12/2019 Monday 3 CPE Hrs	05.00 p.m. to 8.00 p.m. ₹ 590/- (Incl. GST)	Interactive Meeting with ROC & Ease of Doing Business in India Recent Amendments in Companies Act alongwith a Talk on Ease of Doing Business Initiative by MCA	Shri Manmohan Juneja <i>Regional Director, ROC</i> Shri Manoj R. Das <i>ROC, Mumbai</i> CA. Anand Bathiya	CA. Vishal Doshi 9824059901 CA. Drushti Desai 9820335923 CA. Chintan Patel 9099921163	CA. Rajesh Dholu 9833828892 CA. Vinit Vyas 9930766805 CA. Milind Joshi 9930033939
28/12/2019 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Conference on Corporate Social Responsibility Keynote address on CSR CSR in India & Globally evolving trends Legal Regulatory Framework of CSR Accounting & Documentation in CSR	Shri Chandrakant Gogri Eminent Faculty CA. Hasmukh Dedhia CA. N. Jayendran	CA. Manish Gadia 9820537986 CA. Shilpa Shinagare 9820053395 CA. Balkishan Agarwal 9377110634	CA. Bipeen Mundade 9223290561 CA. Abhijit Totade 9819659151 CA. Amish Sangoi 9867757972
28/12/2019 Saturday 3 CPE Hrs	10.00 a.m. to 1.00 p.m. ₹ 590/- (Incl. GST)	Seminar on Arbitration Recent amendments in the Arbitration & Conciliation including Case Studies	Adv. Vikram Nankani*	CA. Drushti Desai 9820335923 CA. Murtuza Kachwala 9833015334 CA. Vishal Doshi 9824059901	CA. Girish Shekhar 9820812584 CA. Alpesh Doshi 9892504512 CA. Virav Dedhia 9819296261

* Subject to Confirmation



Date & Day	Time & Fees	Topic(s)	Speaker(s)	Regional Council Members (Chief Co-ordinators)	Co-ordinators
11/01/2020 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Procedure under Income Tax Act Filing of Appeals - CIT(A) Recovery Proceedings Prosecution & Compounding under Income tax act Mock Tribunal	CA. Bhadresh Doshi CA Neel Khandelwal CA. Sheetal Shah CA. Sanjiv Brahme CA. Jayant Bhatt	CA. Sushrut Chitale 9821112904 CA. Lalit Bajaj 9867692321 CA. Arpit Kabra 9819007027	CA. Nitin Ombavat 9773397805 CA. Mayur Momaya 9867952010 CA. Aniket Kulkarni 9821690559

Date & Day	Time & Fees	Topic(s)	Speaker(s)	Regional Council Members (Chief Co-ordinators)
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The Dukes Retreat, Lonavala

14/12/2019 Saturday 15/12/2019 Sunday 12 CPE Hrs	10.00 a.m. to 6.00 p.m. Early Bird Discount till 7th December Occupancy Triple ₹ 7,965/- Double ₹ 8,850/- (Incl. GST) (Fees & All Meals) after 7th December Triple ₹ 8,762/- Double ₹ 9,735/-	Residential Referesh Course on GST • Group Discussion and Presentation Paper 1 "Case Studies in supply, composite supply, Mixed supply, Exemptions & Place of Supply" • Group Discussion and Presentation Paper 2 "Case Studies in Input Tax Credit & valuation" • Important Recent Decisions & Latest Developments in GST SC decision Mutuality Uttarakhand HC decision section 17(5) works contract Madras HC decision on Tran credit of Cess ITC amendment w.e.f. 9th October	CA. A. R. Krishnan Adv. Nishant Shah Adv. L. Badrinarayan	CA. Umesh Sharma 9822079900 CA. Yashwant Kasar 9822488777 CA. Arpit Kabra 9819007027
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IMC, Churchgate, Mumbai – 400 020

20/12/2019 Friday 21/12/2019 Saturday 12 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 3,304/- (Incl. GST) Before 14th December, 2019 ₹ 3,776/- (Incl. GST) After 14th December, 2019	National Conference on International Taxation Organised by Committee on International Taxation of ICAI Hosted by WIRC of ICAI For More Details & Registration online visit www.wirc-icai.org	Eminent Faculties	CA. Rakesh Alshi 9819427242 CA. Jayesh Kala 9820010113 CA. Vikash Jain 9327715892
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National Conference for CA Students at Mumbai**Date: 7th & 8th January, 2020 • Time: 10.00 am To 5.30 pm****Venue: Sri Shanmukhananda Chandrasekarendra Saraswathi Auditorium, Sion East, Mumbai, 400022****Registration Fees :****₹ 200/- per student till 25th December 2019 • ₹ 500/- per student after 25th December 2019****Members are requested to encourage their students for participation in the CA Students Conference****ICAI Tower Reference Library**

Members please note that we have an up-to-date reference library on the 5th floor at ICAI Tower, BKC, Mumbai. We request Members to take advantage of the same and use the library for furthering their knowledge.

Car Parking Facility at ICAI Tower, BKC

Members can avail the car parking facility at ICAI Tower, BKC on presentation of ICAI Membership Card subject to availability of space.



DIRECT TAX – LAW UPDATE

CA. Haresh P. Kenia, CA. Deepak Lala



Section 119 of The Income-Tax Act, 1961 - Central Board of Direct Taxes - instruction to subordinate authorities - extension of due date of Filing Income Tax Return and tax Audit Report for Assesseees of Jammu & Kashmir and Ladakh

CBDT Order [F. No. 225/306/2019-ITA-II], Dated 31-10-2019

On consideration of reports of disturbances in internet facility in certain areas of Jammu and Kashmir, the Central Board of Direct Taxes (CBDT), hereby further extends the 'due-date' for filing of Income-tax Returns/Tax Audit Reports to 30th November, 2019 in respect of all categories of income-tax assesseees in the Union Territory of Jammu and Kashmir and Union Territory of Ladakh who were/are required to file the Income-tax Returns/Tax Audit Reports by the due date specified under section 139(1) of the Act read with orders of CBDT under section 119 of the Act dated 23-7-2019 and 27-9-2019.

Income-Tax (Twelfth Amendment) Rules, 2019 - Amendment in Appendix-II

Notification No. 95/2019 [G.S.R. 825(E) (F. No. 370142/15/2019-TPL)], Dated 6-11-2019

In exercise of the powers conferred by section 139A, read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes has by the Income-tax (12th Amendment) Rules, 2019, substituted the words and letters "Permanent Account Number", wherever they occur, with the words "Permanent Account Number or Aadhaar Number" in the Income-tax Rules, 1962, in Appendix-II. This amendment shall be deemed to have come into force from the 1st day of September, 2019.



INTER FIRM CA CRICKET TOURNAMENT

The Annual Inter Firm limited overs Cricket Tournament for Members, present article students and also students who have completed their articles and have appeared for November, 2019 CA exams.

Days & Dates	: Friday, 10th & 17th January, 2020
Venue	: Oval Maidan, Churchgate, Mumbai
Fees	: Rs. 17,700/- (incl. GST) Per Team

Firms (2 or 3 firms can also form a team, minimum 5 CA Members) interested in participating in the tournament are requested to send in their entries by way of letter giving the names and membership/ WRO Nos. of the participants. Enrolment will be restricted to twenty four teams strictly on first-come-first-serve basis.

Chief Co-ordinators :
 CA. Jayesh Kala, RCM 9820010113
 CA. Arpit Kabra, RCM 9819007027

Co-ordinators:
 CA. Shardul Sonawane 9619269941
 CA. Hem Dave 9930771846
 CA. Ameya Dighe 9967098737
 CA. Nilesh Dedania 9820087367



- All players required in white cricket dress and sports shoes and team has to bring their own cricket kit
- Played with red leather ball

DIRECT TAX – RECENT JUDGMENT

CA. Paras K. Savla, CA. Hemant R. Shah



TRIBUNAL DECISIONS

Surplus from assignment of loan to third party was not cessation or extinguishment of liability within the meaning of section 41(1) of the Income Tax Act, 1961

Cable Corporation of India Limited Vs DCIT (ITAT Mumbai)

[Appeal No.:ITA No. 7417/Mum/2010, Date of Order:30/04/2019, A.Y. 2000-01]

Surplus resulting from assignment of loan at present value of future liability was not cessation or extinguishment of liability as loan was to be repaid by the third party and therefore could not be brought to tax in the hands of the assessee U/s 41(1).

Assessee was in the line of manufacturing of cable and trading thereof and not in the purchase and sale of shares and securities. It had borrowed a sum of Rs.12 crores from M/s MPPL to be repaid over a period of 100 years and the amount was utilized for the purchase of shares. The liability of loan of Rs.12 crores to be discharged over a period of 100 years was assigned to the third parties M/s CPPL by making a payment of Rs. 0.36 crores in terms of present value of the future liability and the surplus resulting from assignment of loan liability was credited to the Profit & Loss Account under the head Income from Other Sources. However, while computing the total income, the said income was reduced from the income on the ground that the surplus of Rs.11.64 crores represented the capital receipt and therefore not taxable. AO held the surplus Rs.11.64 Cr. resulting from the assignment of loan to M/S CPPL under the tripartite

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agreement between the assessee, M/S MPPL and M/S CPPL as a revenue receipt liable to tax. It was held the loan was utilized for purchasing shares which was capital asset in the business of the assessee and the surplus resulting from assignment of loan was a capital receipt not liable to be taxed either U/s 28(iv) or U/s 41(1). More so, the surplus resulting from assignment of loan at present value of future liability was not cessation or extinguishment of liability as the loan was to be repaid by the third party and therefore could not be brought to tax in the hands of the assessee.

INTERNATIONAL TAXATION

CA. Hinesh Doshi, CA. Ronak Soni



DLF Limited vs. ITO, Ward-3(2), International Taxation [TS-625-ITAT-2019(DEL)] dated 10th October, 2019

Facts:

The assessee company engaged in the business of real estate, made overseas payments in the nature of hiring of aircraft, payment to consultancy firm, survey of aircraft and routine services, aircraft maintenance, crew support services, advertisement rights of cricket ground, security deposit to NR without deducting TDS.

AO stated that the assessee was in default as he did not deduct TDS on these payments which were in nature of Royalty or Fee for Technical Service.

Aggrieved, the assessee filed an appeal.

Issue:

Whether TDS was required to be deducted on overseas payments made to consultancy and aircraft hiring charges paid to non-resident?

Held:

ITAT ruled that the payment made towards hiring of aircraft did not fall into the category of royalty as no income deemed to accrue or arise in India and thus was not liable to be taxed in India.

In respect of payment made to a UK consultancy firm for professional services rendered in connection with IPO issue, ITAT ruled that the payment was covered under Article 15 of the India-UK DTAA since the remittance had been made to a NR partnership firm. Thus, tax was not required to be withheld on the concerned payment.

ITAT held that the payment made for survey of aircraft and routine services as well as for aircraft maintenance and crew support services were not in nature of FTS since 'make available' condition of knowledge or technical expertise was not fulfilled and hence no tax was to be deducted.

In respect of payment made for advertisement right of cricket ground, ITAT held that the payment cannot be characterized as Royalty and such payment were covered under DTAA not chargeable to tax u/s 5(2) r.w.s. 9 of the Income Tax Act.

ITAT also held that since payee was resident of UAE and does not have PE in India, tax would not be deductible.

ITAT held that the payment of security deposit was evidenced as indeed being security deposit as the entire amount was received back in the subsequent year, there was no obligation on the part of the appellant to withhold tax on such remittance.

ITAT, thus ruled in favour of the assessee.

M/s Integra Software Services Pvt. Ltd v. The Joint Commissioner of Income Tax [TS-640-ITAT-2019(CHNY)] dated 11th October 2019

Facts:

The assessee company engaged in the business of e-publishing, undertook various editorial services, multilingual typesetting and data conversion against which payment was made to non-residents in USA, UK, Germany and Spain for editing, indexing, proof reading, etc.

The assessee failed to file certificates in form 15CA and 15CB for these transactions.

Revenue held that the payment made to USA and UK were not liable for tax deduction citing "make available" clause of DTAA. However, the payments made to Germany and Spain were considered liable for tax deduction as there was no make available clause in the respective DTAA's.

Aggrieved, both the parties filed an appeal.

Issue:

Whether the payments made to the non-residents comes under the definition of technical services under Section 9(1) (vii)?

Whether TDS was deductible on these transactions u/s 195?

Held:

ITAT held that the assessee is not liable to deduct tax u/s 195 on copy editing, indexing and doing proof reading services.

ITAT held that these services required only knowledge in the language and did not require necessary expertise in the subject matter of text and hence could not be classified as technical services.

Relying on the co-ordinate bench decision in Cosmin Global Ltd, ITAT held that translation work was held not to be a technical service.

ITAT opined that the violation of Section 195(6) of the Act and failure to file certificates in Form 15CA and 15CB was punishable separately under Section 271I of the Act. However, there could not be any disallowance under Section 40(a) (ia) of the Act.

ITAT, thus, ruled in favour of the assessee.

FEMA

CA. Manoj Shah, CA. Sudha G. Bhushan,
CA. Mitesh Majithia



Foreign Exchange Management (Debt Instruments) Regulations 2019 and Foreign Exchange Management (Non Debt Instruments) Rules 2019

Notification No. S.O.3715(E) dated October 15, 2019 issued by the Ministry of Finance

The amendments to Section 6 of the Foreign Exchange and Management Act, 1999 (FEMA) in relation to capital account transactions, as proposed in the Finance Act, 2015 have been notified with effect from October 15, 2019 vide aforesaid notification. Pursuant to the said amendment, the Reserve Bank of India (RBI) will govern capital account transactions involving debt instruments and the Central Government (CG) will govern capital account transactions involving non-debt instruments. The intention is to enable CG to exercise control on capital flows as equity.

As per the amended provisions, the powers of RBI in respect of capital account transactions (except those involving debt instruments) have now been transferred to Central Government.



Notification No. S.O.3722(E) dated October 16, 2019 issued by the Ministry of Finance

In exercise of the powers conferred by section 6(7) FEMA as mentioned above, the Central Government has determined the classification of debt instruments and non-debt instruments vide aforesaid notification.

Notification No. FEMA 396/2019-RB dated October 17, 2019 issued by the Reserve Bank of India

As per Section 6(2) of FEMA, the RBI may in consultation with CG specify –

- Any class or class of capital account transactions involving debt instruments, which are permissible.
- The limit up to which foreign exchange shall be admissible for such transactions.
- Any conditions that may be placed on such transactions.

Accordingly, RBI has on October 17, 2019 has notified the Foreign Exchange Management (Debt Instruments) Regulations, 2019, in supersession of the Foreign Exchange Management (Transfer of Issue of security by a person resident outside India) Regulation, 2017. The regulation supersedes erstwhile FEM (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2017.

TRANSFER PRICING

CA. Bhavesh Dedhia, CA. Bhavya Goyal,
CA. Shazia Khatri



Reach Data Services India Private Limited vs. Office of Income Tax [TS-1012-ITAT-2019(Mum)-TP]

Reach Data Services India Private Limited ('the Assessee') is engaged in the business of providing network and support services to M/s Reach Network India Pvt. Ltd. ('RNIPL', a domestic company). The Assessee had shown trade receivables of INR 21 crs from its related party i.e. RNIPL. In the course of assessment proceedings, the Assessing Officer ('AO') imputed interest on the said outstanding receivable and proposed an adjustment under Section 92C of the Act. The AO was of the view that RNIPL was an Associate Enterprise ('AE') within the meaning of Section 92A(2)(a) of the Act and that the transactions of the Assessee with RNIPL were within the purview of TP provisions. Further, the AO alleged that the transaction was determined by their parent holding company i.e. M/s Reach Holdings, Mauritius and accordingly the service transaction between the Assessee and RNIPL were in the nature of "deemed international transactions." The CIT(A) during appellate proceedings upheld the view taken by the AO. Aggrieved, the Assessee filed an appeal before the ITAT.

ITAT considering the facts and circumstances, observed that neither the Assessee nor RNIPL is a non-resident, therefore the transaction does not fall within the basic meaning of an "international transactions" as envisaged in Section 92B(1) of the Act. With regard to "deemed international transaction" as envisaged in Section 92B(2) of the Act, it presupposes a transaction entered into with a person other than AE. Since the transaction between the Assessee and RNIPL is a transaction between AE, the same does not satisfy prerequisite condition contemplated in sub-section 2 of Section 92B of the Act. Accordingly, the ITAT deleted the adjustment proposed by the AO as unsupported by principles.

CORPORATE LAWS

CA. Premal Gandhi, CA. Rahul Joglekar



The Ministry of Corporate Affairs has notified the Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019 wherein various provisions related to CIRP of financial service providers, filing of application fee, liquidation process, insolvency professional etc

SEBI has decided to categorize the modification in contract specification parameters in commodity derivatives contract such as Category A for non-material modification, category B for material modification which can be made at exchange level and Category C for modifications which can be made only approval from SEBI

Continuous disclosures and compliances by listed entities under SEBI (Issue and Listing of Municipal Debt Securities) Regulations, 2015 - Circular No. SEBI/HO/DDHS/Cir/P/134/2019, Dated 13-11-2019

Introduction of Cross-Margining facility in respect of offsetting positions in correlated equity indices - Circular No. SEBI/HO/MRD/DOP1/CIR/P/2019/128, Dated 8-11-2019

GOODS AND SERVICES TAX

CA. Rajiv Luthia



CBIC vide Notification No. 50/2019 - CT dated 24th October, 2019 has extended the due-date for filing Form GST CMP 08 (Return by composition Tax dealer) for quarter July-September, 2019 by four days from 18th October, 2019 till 22nd October, 2019.

CBIC vide Notification No. 51/2019 - CT dated 31st October, 2019 notify jurisdiction of Jammu Commissionerate over union Territory of Jammu & Kashmir and Union territory of Ladakh.

CBIC vide Notification No. 52/2019 - CT dated 14th November, 2019 has extended the due date for filing GSTR 1 for registered person (whose aggregate turnover in preceding financial year or during current financial year is less than or equal to 1.5 crore) whose principal place of business is in state of Jammu & Kashmir for quarter July -September, 2019 till 30th November, 2019.

CBIC vide Notification No. 53/2019 - CT dated 14th November, 2019 has extended the due date for filing GSTR 1 for registered person whose aggregate turnover in preceding financial year or during current financial year is more than 1.5 crore and whose principal place of business is in state of Jammu & Kashmir for each months of July to September, 2019 till 15th November, 2019.

CBIC vide Notification No. 54/2019 - CT dated 14th November, 2019 has extended the due date for filing GSTR 3B for registered person whose principal place of business is in state of Jammu & Kashmir for each months of July to September, 2019 till 20th November, 2019.

CBIC vide Notification No. 55/2019 - CT dated 14th November, 2019 has extended the due date for filing GSTR 7 (Return by person required to pay TDS) for registered person whose principal place of business is in state of Jammu & Kashmir for each months of July to September, 2019 till 15th November, 2019.

CBIC vide Notification No. 26/2019 - CT (Rate) dated 22nd November, 2019 has inserted following Explanation in Notification 11/2017-CT (Rate) dated 28th June, 2017



“Explanation- For the purposes of this entry, the term “bus body building” shall include building of body on chassis of any vehicle falling under chapter 87 in the First Schedule to the Customs Tariff Act, 1975”

CBIC vide Circular 123/42/2019-CT dated 11th November, 2019 has clarified following with respect to Rule 36(4)

- This being a new provision, the restriction of claim/eligibility of ITC is not imposed through the common portal and it is the responsibility of the taxpayer that ITC is availed in terms of the said Statute & rule and therefore, the availment of restricted credit in terms of Rule 36(4) of CGST Rules shall be done on self-assessment basis by the tax payers
- The restriction on availment of ITC is only for Invoice/Debit Note required to be uploaded under section 37(1). ITC for IGST on import, on RCM, ISD Credit etc. which are outside the ambit of section 37(1), provided eligibility conditions for availment of ITC are met in respect of the same
- The restriction of 36(4) will be applicable only on the invoices / debit notes on which credit is availed after 09.10.2019.

Whether the said restriction is to be calculated supplier wise or on consolidated basis?

- The restriction imposed is not supplier wise. The credit available under Rule 36(4) is linked to total eligible credit from all suppliers who are required to upload invoice u/s 37(1).
- Accordingly, those invoices on which ITC is not available under any of the provision (say under sub-section (5) of section 17) would not be considered for calculating 20 per cent. of the eligible credit available

GST-ADVANCE RULINGS

CA. C. B. Thakar, CA. Jinal Maru



Case: VIJAY BABURAO SHIRKE [2019-TIOL-314-AAR-GST (MAHARASHTRA)]

The applicant is owner of the specialized & trained horses and makes them participate in the horse races organized by various clubs across India. The participation of such specialized, trained horses makes the event popular, interesting & valuable. It encourages more attendance from the public, broadcasting by the media and advertising / sponsorship. The horse owner also awarded prize money if his horse wins the race. Thus, there is direct and individual benefit to both the owner and race organizer. Accordingly, the activity satisfies all the criteria's of the definition of “supply” and the prize money is consideration received by the owner for providing specialized & trained horses in the race. Thus, the AAR held that prize money received is taxable supply liable to GST.

Case: GURDEEP SINGH SACHAR Vs. UOI & “Dream 11 Fantasy Pvt. Ltd” [2019- 6- TMI-1008] (PIL- BOMBAY HIGH COURT)

The PIL filed against the company “Dream 11 Fantasy Pvt. Ltd” for evading payment of GST and violation of rule 31A of CGST Rules,2017 on the Online fantasy games organized by them was dismissed by the court. The Bombay HC relying on various SC decisions in case of *K. R. Lakshmanan (Dr.) v. State of T.N.,(1996) 2 SCC 226*, *R.M.D. Chamarbaugwala & Anr. vs. Union of India & Anr* distinguished online fantasy games as “Game of skill” & not classified as “Game of chance” so as to

attract GST & provisions of rule 31A. It held that success in Dream 11’s fantasy sports depends upon user’s exercise of skill based on superior knowledge, judgment and attention, and the result thereof is not dependent on the winning or losing of a particular team in the real world game on any particular day. It is undoubtedly a game of skill and not a game of chance.

CO-OPERATIVE HOUSING SOCIETIES

CA. Ramesh Prabhu, CA. Mukul Varma



MCS Act, 1960:

Draft Rules to amend Maharashtra Cooperative Societies(Election to committee) Rules, 2019 is notified to invite the suggestion and objections to the societies having less than 250 members by 24th November , 2019.

MAHARERA

CA. Ashwin Shah, CA. Vyomesh Pathak



Mandatory Requirement of Quoting Membership Number

- MahaRera vide its Circular No. 26/2019 dated 1st November, 2019 has mandated the quoting of Membership Number of Self Regulatory Organization by the Promoter while registering the project on or after 1st December, 2019
- Registration of Project shall not be granted unless the mandatory requirement of quoting membership number of SRO is disclosed by the Promoter.
- Till date Two SRO (Self Regulatory Organization) namely NAREDCO and CREDIA MCHI has been allotted SRO Registration by MahaRera.

Conversion of Conciliation Application into Complaint

- MahaRera vide its Order No. 12/2019 dated 23rd October, 2019 has provided the following situation wherein the Conciliation application shall be converted into Complaint.
- If any of the party do not attend before conciliation forum even after giving consent then the said application shall be converted into complaint.
- If conciliation is unsuccessful even after attendance of both the parties then it would be converted into complaint.
- It will get converted into compliant for even successful conciliation which are not implemented and not complied with.
- At any juncture of conciliation process, conciliation forum or authority may suo moto convert the same into complaint.
- Such conversion of conciliation application into official complaint under abovementioned scenario will not require payment of Rs.5000/- as complaint fees but conciliation fee of Rs.1000/- paid shall suffice the requirement.

Maharashtra Real Estate Regulatory Authority (General) (Second Amendment) Regulations, 2019 has been notified on 24th Oct, 2019 making every registered project of MahaRERA to mention the name of Self Regulatory Organisation (SRO) on the website. Presently, MahaRERA has registered NAREDCO-Maharashtra, CREDAI-MCHI and CREDAI-Maharashtra as the SRO.



INSOLVENCY AND BANKRUPTCY CODE

CA. Pravin Navandar, CA. Viral Doshi



Rules for Financial Service Providers in relation to Insolvency and Liquidation Proceedings application to Adjudicating Authority

As per existing frame work under section 3(7) the Insolvency & Bankruptcy Code, 2016 ("IBC") the definition of corporate person doesn't include the Financial Service Providers. The emergency of having a resolution process under IBC for non-banking companies, the government instituting an interim resolution device for systemically important financial service providers (FSPs) other than banks finance companies and other major FSPs.

The Ministry of Corporate Affairs ("MCA") has notified the Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019 (Rules) on 15th November 2019 to provide a generic **framework for insolvency and liquidation proceedings of systemically important Financial Service Providers ("FSPs") other than banks**. The Rules shall apply to such FSPs or categories of FSPs, as will be notified by the Central Government under section 227 from time to time in consultation with appropriate regulators, for the purpose of their insolvency and liquidation proceedings.

The Rules provide that the provisions of the Code relating to the Corporate Insolvency Resolution Process (CIRP), Liquidation Process and Voluntary Liquidation Process for a corporate debtor shall, mutatis mutandis, apply to a process for an FSP, subject to modifications, as under (Key points):

- a. The CIRP of an FSP shall be initiated only on an application by the appropriate regulator.
- b. On admission of the application, the Adjudicating Authority ("AA") shall appoint the individual, who has been proposed by the appropriate regulator in the application for initiation of CIRP, as the Administrator.
- c. While conducting a proceeding of an FSP, the Administrator shall have the same duties, functions, obligations, responsibilities, rights, and powers of an insolvency professional, interim resolution professional, resolution professional or liquidator, as the case may be. He shall be appointed or replaced by the Adjudicating Authority on an application made by the appropriate regulator in this behalf.
- d. The appropriate regulator may constitute an Advisory Committee of three or more experts to advise the Administrator in the operations of the FSP during the CIRP. An interim moratorium shall commence on and from the date of filing of the application for initiation of CIRP by the appropriate regulator till its admission or rejection by the Adjudicating Authority.
- e. The provisions of interim-moratorium or moratorium shall not apply to any third-party assets or properties in custody

or possession of the FSP, including any funds, securities and other assets required to be held in trust for the benefit of third parties.

- f. The Administrator shall take control and custody of third-party assets or properties in custody or possession of the FSP and deal with them in the manner, to be notified by the Central Government under section 227.
- g. The license or registration which authorises the FSP to engage in the business of providing financial services shall not be suspended or cancelled during the interim-moratorium and the CIRP.
- h. Upon approval of the resolution plan by the Committee of Creditors, the Administrator shall seek 'no objection' from the appropriate regulator to the effect that it has no objection to the persons, who would be in control or management of FSP after approval of the resolution plan.
- i. The appropriate regulator shall issue 'no objection' on the basis of the 'fit and proper' criteria applicable to the business of the FSP without prejudice to the provision of Section 29A of the Code.
- j. The FSP shall obtain prior permission of the appropriate regulator for initiating voluntary liquidation proceedings.
- k. The Adjudicating Authority shall provide the appropriate regulator an opportunity of being heard before passing an order for liquidation or dissolution of the FSP

It is pertinent to note that the government will notify specific categories of FSPs that do not fall under the systemically important category and shall be resolved under the normal provisions of the Code as ordinarily applicable to corporate debtors.

Notification dated 18 November 2019: In exercise of the powers conferred by section 227 of the Insolvency and Bankruptcy Code, 2016, the Central Government in consultation with the Reserve Bank of India has notified the insolvency resolution and liquidation proceedings of the categories of financial services providers (**Non-banking finance companies which include housing finance companies**) with asset size of Rs 500 crore or more, (as per last audited balance sheet) of financial service providers shall be undertaken in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 with the Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019.

As per the said notification, only the Reserve Bank can now direct resolution of non-banking financial companies (NBFCs for with assets worth at least Rs 500 crore) under the insolvency law to help in addressing defaulting cases in the Non-Banking Financial Companies sector.

For more details on updates, visit www.wirc-icai.org



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