



The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)

HAPPY
NEW YEAR
2019

Western India Chartered Accountants Newsletter

JANUARY 2019 Vol. 45 | No. 01



✓ Excellence ✓ Independence ✓ Integrity



Respected Members,

Warm greetings for a **Happy and Prosperous 2019**. This year promises landmark and progressive changes for us as we welcome the new era and the developments it brings.

2018 also marked the end of the term of the Councils i.e., the change of guard at our apex. ICAI Elections were conducted

pan-India and I am pleased to state that the electoral process was well-conducted and concluded smoothly. I compliment members – both in practice and in industry – for their support to this system.

The novel concept of decentralised counting of votes was well appreciated as it saved time and resources, while at the same time many members were able to witness this unique process. I take this opportunity to thank our Hon'ble President CA. Naveen N. D. Gupta and Vice President CA Prafulla Chhajed for their support and encouragement in the new initiative and the overall conduct of our elections at the highest standards possible. The remarkable efforts put in by our Officers and staff was commendable and I appreciate all the efforts put in by everyone to make the entire electoral process a complete success. Here, I also take the opportunity to wish our future leaders all the success for their endeavours and they can be rest assured of our support in every initiative.

We continue to make regular representations and have interactions with the GST Council. We take pride that both proactive bodies continue to work on the same page i.e., towards the systematic development and progress of the nation. Our interactions are landmark indicators of our ever enhancing professional Excellence, Independence and Integrity which is our proud ethos and which we continue to embrace.

The esteemed GST Council has time and again considered our inputs towards the processes to be made easier, less cumbersome and simplified. The efforts to reduce the number of varied rates has already begun and in the near future we will witness a GST which is, in reality, **One nation One tax** and may be, very soon - **One rate**. Looking at the overall grid, we can give full marks to the Government for their constant efforts towards fine tuning their landmark reforms for the betterment of all.

It was an honour to meet **Mr. Othmar Hardegger, Hon'ble Consul General of Switzerland, Mumbai**. He was briefed on the progress India has made towards the ease of doing business across sectors. He was pleased and happy with India's current socio-economic progress and assured that in the near future the constructive partnerships, conducive to mutual economic growth between Switzerland and India, would increase. This meeting was also a positive networking event, with an enthusiastic delegation of Swiss and Indian entrepreneurs.

It is important to realise that interactions and networking with other professionals are critical for our own growth. Henceforth, let us attend events & seminars with the goal of meeting new people to build a stronger base of professional contacts.

The preparations for the forthcoming budget are progressing steadily and we have put forth our pre-budget recommendations to the Central and State Governments. These professional insights will go far in cementing our commitment towards Nation Building.

We are speedily implementing and executing our plans for taking the education of our students to the next level. 2019 will also see the steady implementation of our new course curriculum, which has received sincere appreciation from all. At the same time, our increased focus on reaching out to colleges and schools is helping to create a clear mandate for pursuing our curriculum.

As we draw open the curtains for 2019, we are once again enthused to make new resolutions in every arena for the upcoming year. Let us move forward by learning from our actions in the past year while making positive resolutions for the year in prospect. Along with my esteemed members in the Council, I pray for good health and prosperity on the professional and personal front for all our members and students. I also extend best wishes to our students for the ensuing results of our exams.

With Best Wishes,

CA. Sandeep K.C. Jain
Chairman

Forthcoming
Events
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CA. Dhiraj Khandelwal



Felicitation and exchange of views on ease of doing business in India with Mr. Othmar Hardegger, Consul General of Switzerland, Mumbai



Galaxy of Speakers at Regional Banking Conclave, Hotel Taj Santacruz, Mumbai



Seminar on 'Mergers and Acquisitions' jointly with IMC, ICSI & BSE



Mr. Manoj Sonawala, CA. Sandeep Jain, Chairman, WIRC, Mr. Ashishkumar Chauhan, MD & CEO, BSE Ltd., Mr. M. K. Sharma, Ex-Chairman, ICICI Bank Ltd., Mr. Shaunak Thacker, Chairman, IMC Law Committee, Dr. Rajesh Agarwal, Regional Director, ICSI, Mr. Ajit Mangrulkar, Director General, IMC

Felicitation and Interaction with Heads of various Educational Institutions





ICAI Tower, Bandra Kurla Complex, Mumbai

Date & Day	Time & Fees	Topic(s)	Speaker(s)	Regional Council Members (Chief Co-ordinators)	Co-ordinators
12/01/2019 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Seminar on Ind AS • Ind AS 115 : Revenue from Contract with Customers • Ind AS 116 : Lease • Ind AS 20 : Government Grant - Ind AS 40 Investment Property • Discuss Division III to Schedule III to the Companies Act 2014 - Format of Financial Statements for NBFCs.	CA. Yagnesh Desai CA. Yagnesh Desai CA. Mayur Chokshi CA. Mayur Chokshi	CA. Priyam Shah 9824096112 CA. Vikrant Kulkarni 9881880073 CA. S. G. Mundada 9422080814	CA. Sachin Holmukhe 9820561266 CA. Rakesh Tulsian 9869765455 CA. Aditi Chaturvedi 9768350383
19/01/2019 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Seminar on Formation & Taxation of Charitable Organisation • Formation, Registration of Charitable Trusts/Societies/ Companies & Important Compliance under MPT Act • Registration u/s. 12AA and approval u/s. 80G of the Income-tax Act • Taxation of Charitable Organisation under Income-tax Act • GST Provisions applicable to Charitable Organisation	CA. Suhas Malankar CA. Vijay Joshi CA. C. N. Vaze Eminent Faculty	CA. Vishnu Agarwal 9324544607 CA. Pradeep Agrawal 9898560967 CA. Hardik Shah 9825510422	CA. Ankit Singhvi 9869041003 CA. Abhishek Shah 9773050495 CA. Bipeen Mundade 9223290561
02/02/2019 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Seminar on Project Finance • Introduction to Project Finance, technical and financial aspects of preparation of a Project • Contents of Project report • Case-study • Understanding Means of Finance	CA. Amit Godse Eminent Faculty CA. Amit Godse Eminent Faculty	CA. Priyam Shah 9824096112 CA. Vikrant Kulkarni 9881880073 CA. S. G. Mundada 9422080814	CA. Virag Shah 7043154500 CA. Keval Mamania 8080117040 CA. Parul Saraf 9821102477
09/02/2019 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Seminar on Business Restructuring • Key provisions of Merger, Demerger & Re-organisation • Key Tax Aspect of Share Purchase Agreements • Key Aspects and Issues under FPI and ARC Regulations • Key Aspects of Carry Forward / Set off of Losses	CA. Soniya Sankhesara CA. Nilay Shah CA. Rohan Shah CA. Sumeet Agrawal	CA. Vishnu Agarwal 9324544607 CA. Pradeep Agrawal 9898560967 CA. Hardik Shah 9825510422	CA. Mukund Mall 9322224142 CA. Rajeshree Sahal 9773864017 CA. Mahima Chawla 9029970866
09/02/2019 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Seminar on Real Estate / SME Financing • Credit Rating (Importance of Rating & its Preparation) • Working Capital Finance (Understanding the need of WCL, Taking Decision on most Appropriate Source) • Equity IPO for SME (Understanding the Issues in SME listing, Negotiation and Documentation) • Stressed Assets Funding (Restructuring & Alternative fund Raising options)	CA. Sanjay Agarwal CA. B. L. Maheshwari Ms. Rachana Bhusari Mr. Amit Agarwal	CA. Priyam Shah 9824096112 CA. Vikrant Kulkarni 9881880073 CA. S. G. Mundada 9422080814	CA. Dimple Khetan 9820537523 CA. Priya Sahal 9619725787 CA. Nidhi Pandya 7506358911
16/02/2019 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Seminar on Transfer Pricing • Transfer Pricing in the post BEPS world – Action Plans 8-10, 13 • Identification of Functions, Assets and Risk Analysis from review of documentation • Making reliable and accurate adjustments for computing ALP • Recent judicial pronouncements	Eminent Faculty CA. Namrata Dedhia CA. Harshal Bhuta Eminent Faculty	CA. Vishnu Agarwal 9324544607 CA. Pradeep Agrawal 9898560967 CA. Hardik Shah 9825510422	CA. Dhavni Karia 9819900489 CA. Amish Sangoi 8108005951 CA. Nikita Mall 9969873294
23/02/2019 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Workshop on Drafting of Agreements, Deeds and Documents • Drafting of Agreement for Development, Agreement for Sale, M.O.U. etc. • Drafting of Documents Relating to Redevelopment of Property of Co-operative Society • Drafting of Lease Deed, Tenancy Agreement, Leave and Licence Agreement • Drafting of Documents relating to Transfer of Premises in Co-operative Society • Important Provisions of Bombay Public Trust Act and Drafting of Trust Deed	Adv. P. A. Jani Adv. Pravin Veera Adv. Mahesh Shah Adv. Nirav Jani CA. Vipin Batavia	CA. Priyam Shah 9824096112 CA. Vikrant Kulkarni 9881880073 CA. S. G. Mundada 9422080814	CA. Aniket Kulkarni 9821690559 CA. Swati Chavan 9967537989 CA. Vinit Vyas 9930766805



ICAI Tower, Bandra Kurla Complex, Mumbai

Date & Day	Time & Fees	Topic(s)	Speaker(s)	Co-ordinators
02/03/2019 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Seminar on Limited Liability Partnership • Taxation of LLP • Structuring and Mergers using LLP • LLP Act & Drafting of LLP Agreement • Conversion of Partnership and Pvt Ltd to LLP	CA. Vishal Palwe CA. Shripal Lakdawala CA. Vivek Shah CS. Rahul Sahasrabudhe	CA. Milind Joshi 9930033939 CA. Bhushan Ramani 9819666708 CA. Eshaan Shah 8000202820
09/03/2019 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Seminar on International Taxation on Foreign Remittances • Law and Procedure for Foreign Remittances • Business Profits • Royalty and Fees for Technical Services • Capital Gains, Interest and Other Income	CA. Hiten Sutar CA. Neetu Vinayek CA. S. Sriram* Adv. Amar Gehlot*	CA. Ritesh Hibare 9773418343 CA. Abhishek Katre 9821968858 CA. Hetal Kothari 7738226617
16/03/2019 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Seminar on Prevention of Money Laundering Act • Introduction & Updating on the current changes in India's PMLA regulatory framework including the recent developments • Recent Judicial Pronouncements & Case Studies • Strengthening Compliance Oversight with a Risk-based Approach & Dealing with Cybercrime • Use of technology in detection and prevention of Money Laundering	CA. Dilip Shah <i>Past Chairman, WIRC</i> Adv. Hiten Venegavkar CA. K. N. Bhat Mr. Anand Sagar*	CA. Y. R. Desai 9820448365 CA. Meet Dangarwala 9833732843 CA. Girish Shekhar 9820812584

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Annual INDOOR SPORTS 2019

DAY & DATE SATURDAY, 9TH FEBRUARY, 2019

Venue Goregaon Sports Club, Link Road, Goregaon (W)

Time 11.00 a.m. to 6.00 p.m.
(Registration 10.00 a.m. to 11.00 a.m.)

Fees ₹ 600/- for Chess, ₹ 800/- for Badminton, Table Tennis, Carrom (Singles & Doubles) (including breakfast & lunch)

Co-ordinators CA. Ashok Manghnani 9820395195
CA. Mahesh Chhabria 9867565118
CA. M. Kalahasthi 9029006759
CA. Mandar Date 9819487770

Members are invited to participate in Annual Indoor Sports Meet of 2019 of WIRC. Badminton (Singles & Doubles), Table Tennis (Singles & Doubles). Carrom (Singles & Doubles), Chess, will be played. Please send in your entries at the earliest.

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DIRECT TAX

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



Income-tax (Twelfth Amendment) Rules, 2018 – Amendment in Rule 114, Forms 49A & 49AA

Notification No. GSR 1128(E) [No. 82/2018 (F. No. 370142/40/2016-Tpl (Part-I)], Dated 19/11/2018

Budget 2018 amended Sec 139A of the I-T Act making it mandatory for non-individuals who did not have PAN but conducted transactions of Rs 2.5 lakh or more in a single FY to apply for PAN. Non-individual entities who have do not have PAN but conduct a transaction of Rs 2.5 lakh or more in a single financial year will now mandatorily have to get a PAN before May 31 of the following financial year. This is as per the above notification. An amendment has been made in Rule 114 of the income tax rules. The amendment will come into effect from December 5, 2018.

Section 90 of the Income-tax Act, 1961 – Double Taxation Agreement – Amendment in Double Taxation Avoidance Agreement between India & China

Pib Press Release, Dated 26/11/2018

The Government of the Republic of India and the Government of the People's Republic of China have amended the Double Taxation Avoidance Agreement (DTAA) for the avoidance of double taxation and for the prevention of fiscal evasion with respect to taxes on income, by signing a Protocol on 26/11/2018.

Besides other changes, the Protocol updates the existing provisions for exchange of information to the latest international standards. Further, the Protocol incorporates changes required to implement treaty related minimum standards under the Action reports of Base Erosion & Profit shifting (BEPS) Project, in which India had participated on an equal footing. Besides minimum standards, the Protocol brings in changes as per BEPS Action reports as agreed upon by the two sides.

Section 194A of the Income-tax Act, 1961, Read with Rule 31A of the Income-tax Rules, 1962 – Deduction of Tax at Source – Interest other than Interest on Securities - TDS in Case of Senior Citizens

Notification No. 06/2018 [F. No. pr.dgit(S)/Cpc(Tds)/Notification/2018-19], Dated 6/12/2018

It has been brought to the notice of CBDT that in case of Senior Citizens, some TDS deductors/Banks are making TDS deductions even when the amount of income does not exceed fifty thousand rupees. The same is not in accordance with the law as the Income-tax Act provides that no tax deduction at source under section 194A shall be made in the case of Senior Citizens where the amount of such income or, the aggregate of the amounts of such income credited or paid during the financial year does not exceed fifty thousand rupees. (Please refer to the third proviso to sub-section 3 of section 194A). Under sub-rule (5) of Rule 31A of the Income-tax Rules, 1962, the Director General of Income-tax (Systems) is authorized to specify the procedures, formats and standards for the purposes of furnishing and verification of the statements or claim for refund in Form 26B and shall be responsible for the day-to-day administration in relation to furnishing and verification of the statements or claim for refund in Form 26B in the manner so specified. In exercise of the powers delegated by the Central Board of Direct Taxes (Board) under sub-rule (5) of Rule 31A

of the Income-tax Rules, 1962, the Principal Director General of Income-tax (Systems) hereby clarifies that no tax deduction at source under section 194A shall be made in the case of Senior Citizens where the amount of such income or, the aggregate of the amounts of such income credited or paid during the financial year does not exceed fifty thousand rupees.

JUDICIAL PRONOUNCEMENTS

TRIBUNAL DECISIONS

Vinod Soni vs. ITO (ITAT Delhi)[Date of Pronouncement: 10th December, 2018] A.Y.2014-15

The exemption of Rs. 50 lakh in section 194-IA(2) is applicable w.r.t. the amount related to each transferee and not with reference to the amount as per sale deed. Each transferee is a separate income tax entity and the law has to be applied with reference to each transferee as an individual transferee/person.

It is also noted that Section 194-IA was introduced by Finance Act, 2013 effective from 1/6/2013. It is also noted from the Memorandum explaining the provisions brought out alongwith the Finance Bill wherein it was stated that "in order to reduce the compliance burden on the small tax payers, it is further proposed that no deduction of tax under this provision shall be made where the total amount of consideration for the transfer of an immovable property is less than fifty lakhs rupees."

ACIT vs. Subhodh Menon (ITAT Mumbai)

Section 56(2)(vii) is a counter evasion mechanism to prevent money laundering of unaccounted income & does not apply to bona fide business transaction done out of business exigency. The difference between alleged fair market value of share and the subscribed value of shares cannot be assessed as income U/s. 56(2)(vii)(c)

As explained hereinabove, shares were issued by the company to comply with a covenant in the loan agreement with State Bank of India which required the promoters to increase the total net worth of the company to Rs. 150 crores by 31 March, 2010. Therefore, the shares were issued by the company for a bonafide reason and as a matter of business exigency. Circular No.1/2011 dated 6 April, 2011 issued by the CBDT explaining the provision of section 56(2)(vii) specifically states that the section was inserted as a counter evasion mechanism to prevent money laundering of unaccounted income. In paragraph 13.4 thereof where it is stated that "the intention was not to tax transactions carried out in the normal course of business or trade, the profit of which are taxable under the specific head of income"

INTERNATIONAL TAXATION

(CA. Hinesh Doshi & CA. Ronak Soni)



DLF Projects Ltd. vs. Deputy Commissioner of Income Tax, Circle-1 (1) [TS-689-ITAT-2018(DEL)] dated 27th November, 2018

Facts

The assessee made payment to a Cyprus company for supply of manpower in accordance with the Manpower Supply agreement and claimed these expenses as "Project Management Expenses" after deducting TDS on 5% markup.

The assessee had not deducted TDS u/s. 195 on the actual cost component which was in the nature of reimbursement of salaries and TDS was deducted u/s. 192 by the Cyprus company.

AO disallowed the expenses u/s. 40 (a)(i) due to non-deduction of TDS u/s. 195 of the Act.



CIT (A) deleted the disallowance and held that the assessee was not required to deduct tax.

Aggrieved, the Revenue appealed before Delhi ITAT.

Issue

Whether TDS u/s. 195 is applicable on the reimbursement of entire amount of manpower supply charges or only on markup element?

Held

ITAT observed that the employees are under full management and supervision of the assessee and further there was no responsibility of Cyprus company with regard to the services performed by seconded employees.

ITAT noted that the invoice raised by the Cyprus company showed a clear bifurcation of reimbursement and mark up on which TDS has been deducted by the assessee.

Relying on SC ruling in case of GE India Technology Cen P. Ltd., ITAT upheld the CIT (A)'s order that since the reimbursement of actual manpower expenses had no element of income, TDS was not required to be deducted.

ITAT further held that Cyprus company had only supplied manpower to the assessee and it was not the case of making available any technical knowledge, experience, skill, know-how, or process to the assessee and accordingly was outside the purview of FIS/FTS as per DTAA.

ITAT concluded that it is only the markup which is liable to tax u/s. 195 and not the reimbursement of actual cost of manpower supply charges and thus ruled in favour of the assessee.

ONGC as representative Assessee of Computer Modelling Group of Canada v DDIT, International taxation [TS-671-ITAT-2018(DEL)] dated 19th November, 2018

Facts

The assessee, resident of Canada, received license fees from ONGC for acquisition of certain specified licenses relating to 'Reservoir Synch Technology' and claimed the receipt as non-taxable.

AO contended that the license fees received was covered within the definition of Royalty as per explanation 2 to section 9(1)(vi) and was taxable in India u/s. 115A of the Act.

CIT (A) upheld the AO's order. Aggrieved, the assessee appealed before Delhi ITAT.

Issue

Whether annual membership cum license fees received by the assessee is taxable as Royalty under 9(1)(vi) of the Income Tax Act or under Article 12(3) of India -Canada DTAA?

Held

ITAT noted that as per the Article 12 of DTAA, the main emphasis is on payment for "the use of or right to use any copyright' of various nature, which connotes an exclusive rights to use any 'copyright' in an article and said use of copyright has to be given to the end user.

ITAT ruled that as observed from agreement, no use or right to use any copyright of any nature been given by the assessee to ONGC.

Relying on the co-ordinate bench ruling in Adobe Software Systems, Ireland wherein the definition of 'Royalty' was analyzed which was similar to the definition as per India-Canada DTAA r.w. Indian Copyright Act, 1957.

ITAT concluded that amount received by the assessee cannot be characterized as 'Royalty' as there is no sale or license of the copyright in any kind of software or technology and therefore the same is outside the purview of taxation in view of India-Canada DTAA.

ITAT did not analyze the impact of section 9(1)(vi), as the transaction was not taxable under India-Canada DTAA and the treaty being more beneficial. It followed Delhi HC Judgement of Infrasoftware Ltd and Alcatel Lucent Canada wherein it was held that the amendment in domestic law cannot be read into the Treaty. ITAT, thus, ruled in favour of the assessee.

Sophos Technologies Private Limited vs. Deputy Commissioner of Income Tax Circle 4 (1) (1) – TS -676-ITAT-2018(AHD)] dated 16th November 2018

Facts

The assessee company procures anti-virus sourced from Kasperkey, Russia and anti-spam software sourced from Commtouch Software Ltd, Israel and bundled with assessee's own Unified Threat Management Software and sold to the end customers as a bundled product.

The royalty in respect of anti-virus and antispam software is paid only when the end customer of the bundled software activates the license key.

The assessee makes provision for the royalty that it may have to pay upon activation of key.

AO disallowed u/s. 40 (a)(i) the provision of royalty payable as TDS was not deducted.

Aggrieved, the assessee filed an appeal before ITAT.

Issue

Whether payment made for anti-virus and anti-spam qualifies as royalty under Article 12 of DTAA?

Held

ITAT relied on Saira Asia Interiors (P.) Ltd. and stated that the liability to deduct tax by purview of Article 12 (1) under the treaty was at the point of time when the royalties were paid to the resident of the other Contracting State.

ITAT clarified that the sale of bundled software to the distributor was not a point of time when the royalty in respect of the bundled product became payable but the point was when the end product is activated.

ITAT had observed that the assessee had discharged the tax liability as and when the activation of key had taken place.

ITAT deleted the disallowance u/s. 40 (a)(i) and thus ruled in favour of the assessee .

**GOODS AND SERVICES TAX
(CA. Rajiv Luthia)**



CBIC vide Notification No. 62/2018 dated 29th November, 2018 extends due date for filling GSTR 3B as follows

Taxpayer having principal place of business in	Month	Due date
Srikakulam district in the State of Andhra Pradesh	September, 2018 & October, 2018	30th November, 2018



Cuddalore, Thiruvarur, Puddukottai, Dindigul, Nagapatinam, Theni, Thanjavur, Sivagangai, Tiruchirappalli, Karur and Ramanathapuram in the State of Tamil Nadu	October, 2018	20th December, 2018
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CBIC *vide* Notification No. 63/2018 dated 29th November, 2018 extends due date for filing GSTR 1 as follows for taxpayer having aggregate turnover above Rs. 1.5 Crore

Taxpayer having principal place of business in	Month	Due date
Srikakulam district in the State of Andhra Pradesh	September, 2018 & October, 2018	30th November, 2018
Cuddalore, Thiruvarur, Puddukottai, Dindigul, Nagapatinam, Theni, Thanjavur, Sivagangai, Tiruchirappalli, Karur and Ramanathapuram in the State of Tamil Nadu	October, 2018	20th December, 2018

CBIC *vide* Notification No. 64/2018 dated 29th November, 2018 extends due date for filing GSTR 1 as follows for taxpayer having aggregate turnover upto Rs. 1.5 Crore

Taxpayer having principal place of business in	Quarter	Due date
Srikakulam district in the State of Andhra Pradesh	July, 2018 to September, 2018	30th November, 2018

CBIC *vide* Notification No. 65/2018 dated 29th November, 2018 extends due date for filing GSTR 4 (return by composition Taxpayer)

Taxpayer having principal place of business in	Quarter	Due date
Srikakulam district in the State of Andhra Pradesh	July, 2018 to September, 2018	30th November, 2018

CBIC *vide* Notification No. 66/2018 dated 29th November, 2018 extends due date for filing GSTR 7 (return by registered person required to deduct tax as source) for months of October, 2018 to December, 2018 to 31st January, 2019.

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



The Maharashtra Goods and Services Tax Act, 2017

Commissioner of Goods and Services Tax, Maharashtra State, has issued:

Circular No. 35T of 2018 dated 3/12/2018 by which modifications to the procedure for interception of conveyances for inspection of goods in movement and detention, release and confiscation of such goods and conveyances is clarified.

Circular No. 36T of 2018 dated 3/12/2018 by which modifications to the procedure for interception of conveyances for inspection of goods in movement and detention, release and confiscation of such goods and conveyances is further clarified.

Circular No. 37T of 2018 dated 3/12/2018 by which change in periodicity of filing Profession Tax Returns for the year 2018-19 is clarified.

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



(A) VAT Audit

The Joint Commissioner (Legal) has, vide his letter dated 7/12/2018, opined & clarified to the Gujarat Sales Tax Bar Association, in respect of liability for VAT Audit for the period 1/4/2017 to 30/6/2017 as under,

1. If Total Turnover is more than Rs.1 Crore & Taxable Turnover is Exceeding Rs. 20 Lacs, or
2. If the Taxable Turnover is more than Rs.25 Lacs or,
3. If the amount of Tax Credit carried forward as on 30/06/2017 is more than Rs.5 Lacs

This clarification has created lots of ripples in the Trade & Industry.

(B) Guj. High Court Judgements

Mangalam Alloys Ltd vs. Commissioner of Central Excise, Ahmedabad –III, R/Tax Appeal Nos. 1088 and 1089 of 2018, dated 5th September, 2018 (Gujarat High Court)

The Burden of Proof to establish genuineness of transaction is on the dealer. If the department proves the evidences of Transport of Goods to be Fake/ Incorrect & the dealer is not able to substantiate & prove the transaction, the dealer is not entitled to ITC.

Shivsagar Seva Sangh Ltd vs. State of Gujarat, Sp. Civil Application No. 13126/2018, dated 10/10/2018 (Gujarat High Court)

When the Tribunal gives decision in favour of dealer, refund of amount paid by way of Pre-Deposit, before the Tribunal, cannot be denied by the Department on the excuse of the Department having preferred an appeal to the High Court, especially when the High Court has not granted any Stay.

RSPL Ltd. vs. Union of India, Special Civil Application No.22056 of 2017, dated 16th October, 2018 (Gujarat High Court).

Sec.140(5), which provides for Transitional Credit of Taxes paid under earlier laws, in respect of Goods & Services in transit, is not unconstitutional & unreasonable, because of non inclusion therein of taxes paid on Capital Goods.

CORPORATE LAWS (CA. Rahul Joglekar)



MCA notification No. GSR 1157(E) Dated 3rd December 2018 – Companies (cost records and audit) Amendment Rules, 2018

MCA has notified the aforesaid Rules, to amend the Cost Records and Audit Rules 2014. Certain amendments to the Non-regulated sectors requiring maintenance of cost records have been made. It is also clarified that where extension for holding AGM has been taken, Form CRA-4 can be filed within



the extended timelines. For a complete text of this notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/CompaniesAmendmentRulesCostAndAudit_03122018.pdf

SEBI Circular No. CIR/CFD/CMD-1/142/2018 dated 19th November 2018 – Disclosure of reasons for delay in submission of financial results by listed entities

SEBI has mandated that if any listed entity does not submit its financial results in accordance with the timelines specified in Regulation 33 of Listing Regulations, the listed entity shall disclose detailed reasons for such delay to the stock exchanges within one working day of the due date of submission for the results as required under Regulation 33. For complete text of this circular, please refer the link: https://www.sebi.gov.in/legal/circulars/nov-2018/disclosure-of-reasons-for-delay-in-submission-of-financial-results-by-listed-entities_41040.html

SEBI Circular No. SEBI/HO/CFD/CMD1/CIR/P/2018/000000149 dated 7th December 2018 – Disclosure of significant beneficial ownership in the shareholding pattern

SEBI has mandated that all listed entities shall disclose details pertaining to significant beneficial owners with effect from the quarter ending March 2019. The disclosure is to be made as per the format specified in the aforesaid circular. For complete text of this circular, please refer the link: https://www.sebi.gov.in/legal/circulars/dec-2018/disclosure-of-significant-beneficial-ownership-in-the-shareholding-pattern_41245.html

FEMA

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



External Commercial Borrowings (ECB) Policy – Review of Hedging Provision

A.P. (DIR Series) Circular No. 15 dated November 26, 2018

It has been decided to reduce the mandatory hedge coverage from 100% to 70% for ECBs raised under Track I of the ECB framework by eligible borrowers given at para 2.4.2(vi) of Master Direction No. 5 dated January 1, 2016 viz. companies in infrastructure sector, Non-Banking Financial Companies-Infrastructure Finance Companies (NBFC-IFCs), NBFCs-Asset Finance Companies (NBFC-AFCs), Holding Companies and Core Investment Companies (CICs), Housing Finance Companies regulated by the National Housing Bank, Port Trusts constituted under the Major Port Trusts Act, 1963 or Indian Ports Act, 1908, for a maturity period of 3 to 5 years.

Congratulations!



*CA. G. S. Pannu
has been appointed as the
Vice President of ITAT*

It is also clarified that ECBs falling within the aforesaid scope but raised prior to the date of this circular will be required to mandatorily roll-over their existing hedge(s) only to the extent of 70% of outstanding ECB exposure.

Gist of selected Compounding Orders passed by Reserve Bank of India

Sr. No.	Subject Matter	Contraventions Compounded
1.	Foreign Direct Investment – FEMA Notification No. 20	The applicant company was engaged in business of wholesale trading in India and providing maintenance services in relation to eye care products. The company had 100% FDI. It carried out financial leasing of Ophthalmic Surgical Equipment (through wholesale trading), from March 2006 to October 2015. A company having foreign investment and engaged in financial leasing was required to meet the minimum capitalization norms, which the applicant company failed to do, thus contravening Regulation 5(1) read with Annexure B of Schedule I of Notification No. FEMA 20/2000RB.

CO-OPERATIVE & MAHARERA
(CA. Ramesh Prabhu)



- (1) New Cooperative Housing Chapter XIII-B to MCS Act, 1960 by issuing the ordinance on 30th Oct, 2018 was converted into MCS (Amendment) Bill, 2018 and presented to the Assembly. Due to some of the issues raised by the MLAs, the bill was withdrawn by the Minister.
- (2) Stamp duty cannot be collected on old documents when the same is not payable at the relevant time.: Bombay High Court in Notice of Motion(L) 1918 of 2018 in Suit No. 3394 of 2008, held that previous or antecedent documents cannot be brought to stamp retrospectively by the sub-registrar while the present documents are presented for registration.
- (3) SC upheld the SRA TDR policy of Maharashtra Govt: In Civil Appeal 10192 of 2010 Janhit Manch Vs State of Maharashtra, SC upheld the Bombay High Court decision approving the Slum TDR policy.
- (4) MahaRERA order No. 5/2018 dated 26th Nov, 2018 has made it mandatory for every promoter to submit quarterly a quality assurance certificate from the Project Engineer in form 2A.
- (5) MahaRERA Circular No. 21/2018 dated 26th Nov 2018, makes it mandatory on every promoter to disclose information of all the professionals and agencies involved including the Chartered Accountants.


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

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(*GST as applicable)



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020- 25678300



AS-12 Accounting for Government Grants and Ind AS - 20 – A Comparative

CA. Ravinder Pawar

AS-12	Ind AS-20
It does not cover Government assistance	It covers Government assistance. Such Government assistance should be disclosed
For Depreciable Assets: Its Capital approach (less from asset) or even deferred For Non - Depreciable Assets: Its Capital Reserve if conditions complied. Deferred if conditions are complied	Government grants should be recognized as income, on a systematic and rational basis, over the periods necessary to match them with the related costs." As a corollary, and by way of abundant precaution, the Standard reiterates that government grants should not be credited directly to shareholders' interests This means crediting to Capital Reserve or reduction from asset is not allowed
Promoters Contribution: Credited to Capital Reserve under the head shareholders' funds	Promoters Contribution: Grants should be recognized as income, on a systematic and rational basis, over the periods necessary to match them with the related costs
Non - Monetary Grants: NMG are recorded at concessional price (acquisition cost) or nominal value	Non - Monetary Grants: NMG are recorded at Fair Value only
Does not cover Forgiven loans	Covers Forgiven loans as a grant
No guidance on concessional loans as per AS-12	Concessional loans are treated at par with Ind AS-109 Financial Instruments effective Interest method
Giving back the grant by the entity is known as "Refund of Government Grant"	Giving back the grant by the entity is known as "Repayment of Government Grant"
"Refund of Government Grant" as per AS-12 as well as by AS-5 is known as <u>Extra Ordinary activities</u>	Repayment of Government Grant" as per Ind AS-12 is known as <u>change in Accounting estimates</u>
Grants for the compensation of past losses or grants for immediate financial support should be transferred to Extra-ordinary a/c	Grants for the compensation of past losses or grants for immediate financial support should be transferred to P/L a/c

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CA. Pranav Damania, Faculty CA. Atul Jain, Faculty, CA. Hetal Kothari

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CA. Y. R. Desai, CA. Milan Mody, Faculty

Seminar on Valuation Standards & Rules



CA. Eshaan Shah, CA. Apeksha Kukreja, Faculty, CA. Mitul Shah

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CA. Darshana Kadakia



CA. Bhakti Shah



CA. Ushma Shah



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CA. Zeel Gala



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Adv. Ramesh L. Soni, Faculty, CA. Ritesh Hibare

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