



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

Western India Chartered Accountants Newsletter

Issue 12, Vol. 45, Mumbai, Total Pages 12, January 2020, Price Rs. 15

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Driven by Values



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Dear Professional Colleagues,

The year 2019 was a year of various challenges - economically, financially, politically, socially and environmentally. The members and people at have witnessing the changes and new challenges in one way or the other in each sphere. To keep the requirements of the dynamic environment various changes and amendments have been carried in several laws. At times new or amended

laws requires the changes in the way business is required to be carried. E.g. recently introduced the Personal Data Protection Bill, 2019 obligates various persons to provide for protection of personal data of individuals. As a professional we need to keep abreast of the same. We at WIRC have tried our level best to play our role to disseminate knowledge to our members and students and equip them to face these challenges through learning via seminars and conferences.

In the words of Abdul Kalam, "Learning gives creativity, creativity leads to thinking, thinking provides knowledge, and knowledge makes you great." An erudite person's knowledge is not confined only to books and scholarly tomes but gained through a conscious effort to add to his existing repository through practical application on a sustained and continued basis.

During the month of December, we hosted the ICAI International Conference where participant members across the globe enriched their knowledge on the topics of professional interest including technology, ethics etc. WIRC also hosted a National Conference on International Taxation which was well appreciated by participants. We also organised a Residential Refresher Course on GST with the new concept of group discussions and paper presentations. The Conference on Capital Market, Conference on Start-ups - Funding, Government Tax Incentives & Regulatory Aspects, Seminar on Pharma Industry, and Seminar on Corporate Social Responsibility were well attended by participants. Our interactive Meeting with ROC & 'Ease of Doing Business in India' was positively acknowledged and we hope for better results in the upcoming months.

We had opportunity to inaugurate Accountancy Museum at MMK College of Commerce and Economics, Mumbai, the first time ever in the history of WIRC. Various career counselling programs have been organised in Mumbai and across the region to create awareness amongst upcoming students. We have also promoted Commerce Wizard in numerous schools and colleges. We have correspondingly conducted an interactive meeting with principal of colleges.

My compliments to Ahmedabad branch for organising excellent Sub Regional Conference which was attended by members in large numbers. I appreciate the efforts of Navi Mumbai, Ahmednagar, Baroda branches for hosting various regional programs. I congratulate Bhavnagar branch for inauguration of new premises. My compliments to Pune branch - WICASA for hosting wonderful International Conference for CA students and Aurangabad, Pimpri Chinchwad and Thane branch for hosting National Conferences for members.

We are entering into a new decade. I believe the upcoming 2020s decade will build up on the past decade and create new transformations. The last few years have seen entire new economies created on the back of a digital evolution and revolution. This digital decade has changed the way we function professionally and personally and this will continue on all fronts. Our expertise and skills will need to evolve in the way that digital and data technology are being implemented. WIRC has always been at the cutting edge of technology in terms of educating its members and students.

I am confident that we will continue this tradition in this new decade and continue to create tremendous opportunities for our members across the Region. I wish all members and students a happy new year and look forward to continued progress of our profession in the upcoming decade.

For the New Year and the years to come, I convey in the words of Swami Vivekananda, "उत्तिष्ठत। जाग्रत। प्राप्य वरान्निबोधत।" meaning 'Arise. Awake. And stop not till the goal is reached.

"A New Year. A New Start. In this New Year, may all your dreams turn into reality and all your efforts into great achievements. Happy New Year 2020!". The 2020 is the leap year, 20th year of the 3rd millennium, the 20th year of the 21st century, and the 1st year of the 2020s decade.

We shall be celebrating our Republic Day on 26th January, the day on which Constitution of India came into force. Readers. This date was chosen as Republic Day as the Purna Swaraj resolution was proclaimed on January 26, 1930. On this occasion let us resolve to always follow the path laid down by our great freedom fighters reminiscing the words of our first President Dr. Rajendra Prasad who in his speech on 26th January 1950 said 'It is up to us to preserve and protect the independence that we have won and to make it really bear fruit of the man in street. Let us launch this new enterprise running our Independent Republic with confidence, with truth and non-violence and above all with heart within and God above.'

With Best Wishes,

Priti Savla

CA. Priti Paras Savla
Chairperson

Forthcoming
Events
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Law Updates &
Miscellaneous
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Conference on Start ups, Funding Government Tax Incentives & Regulatory aspects



CA. Jayesh Kala, RCM, Mr. Vineet Sethi, CEO, Niyo Global, CA. Priti Savla, Chairperson, WIRC, CA. Arpit Kabra, RCM, CA. Gautam Mota



National Conference on International Taxation



CA. Drushti Desai, RCM, CA. Priti Savla, Chairperson, WIRC, CA. Nihar Jambusaria, Chairman, CITAX-ICAI, Mr. Uday Ved, Faculty, CA. Bhavesh Dedhia Faculty





Date & Day	Time & Fees	Topic(s)	Speaker(s)	Regional Council Members (Chief Co-ordinators)	Co-ordinators
Mumbai Cricket Association, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051					
11/01/2020 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 2,950/- (Incl. GST) Before 4th January ₹ 3,540/- (Incl. GST) After 4th January	<p>Conference on Effective Corporate Governance – Necessity For Trusts</p> <p>Inaugural Session</p> <p>Business Ethics & Corporate Governance Governance Issues & Challenges</p> <p>Preparation by an Independent Director for Board Contribution including on Business Model</p> <p>Audit Committee – Strengthening an organisation</p> <p>Panel Discussion on Role of Audit Committee - Internal Financial Controls - Internal Audit-Challenges & Usefulness - Statutory Auditor-Backbone of Audit Committee</p> <p>Risk Management & Stakeholder's Engagement</p> <p>Risk Management Practices—Role of Independent Directors</p> <p>Panel Discussion on - Stakeholders' Committee - CSR—Is it a responsibility or compliance? - Performance Evolution of Board & Directors - Statutory Compliance - is it now optimum</p> <p>Valedictory Session</p>	<p>Mr. Ajay Tyagi * <i>Chairman, SEBI</i></p> <p>Ms. Grace Koshie <i>Chairperson, Federal Bank</i></p> <p>CA. Pradip P. Shah <i>Chairman, BASF India Ltd</i></p> <p>CA. Milin Mehta</p> <p>CA. M. M. Chitale <i>Past President – ICAI</i></p> <p>CA. Nirmal Jain <i>MD, India Infoline</i></p> <p>CA. Jyotin Mehta <i>Independent Director & Ex. VP CIA, Voltas Ltd.</i></p> <p>Moderator, CA. Kamlesh Vikamsey <i>Past President - ICAI</i></p> <p>Mr. Nehal Vora <i>MD, CDSL Ltd.</i></p> <p>CS. Parvatheesam <i>Kanchinadham</i> <i>CS & CLO, Tata Steel Ltd.</i></p> <p>Other Eminent Panellists</p> <p>Mr. Ashishkumar Chauhan <i>MD & CEO - BSE</i></p>	<p>CA. Vishal Doshi 9824059901</p> <p>CA. Rakesh Alshi 9819427242</p> <p>CA. Umesh Sharma 9822079900</p>	<p>CA. Gautam Mota 9594339945</p> <p>CA. Niraj Gupta 9820101393</p> <p>CA. Vinit Gada 8655840548</p>
ICAI Tower, Bandra Kurla Complex, Mumbai					
11/01/2020 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	<p>Procedure under Income-tax Act</p> <p>Filing of Appeals - CIT(A)</p> <p>Recovery Proceedings</p> <p>Prosecution & Compounding under Income tax Act</p> <p>Mock Tribunal</p>	<p>CA. Bhadresh Doshi</p> <p>CA. Neel Khandelwal</p> <p>CA. Sheetal Shah</p> <p>CA. Sanjiv Brahme</p> <p>CA. Jayant Bhatt</p>	<p>CA. Sushrut Chitale 9821112904</p> <p>CA. Lalit Bajaj 9867692321</p> <p>CA. Arpit Kabra 9819007027</p>	<p>CA. Nitin Ombavat 9773397805</p> <p>CA. Mayur Momaya 9867952010</p> <p>CA. Aniket Kulkarni 9821690559</p>
25/01/2020 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	<p>Seminar on Frauds, Forensic Audit & Cyber Security</p> <p>Overview of Fraud and Forensic Audit</p> <p>Types of Fraud and Recognising Fraud Indicators</p> <p>Cyber Security and Digital Forensics</p> <p>Case studies and approach to forensic audit</p>	<p>Eminent Faculty</p> <p>CA. Kartik Radia</p> <p>Mr. Sachin Dedhia</p> <p>Eminent faculty</p>	<p>CA. Yashwant Kasar 9822488777</p> <p>CA. Arpit Kabra 9819007027</p> <p>CA. Vikash Jain 9327715892</p>	<p>CA. Rajesh Dholu 9833828892</p> <p>CA. Chintan Rambhia 9867383060</p> <p>CA. Ritesh Hibare 9773418343</p>



Date & Day	Time & Fees	Topic(s)	Speaker(s)	Regional Council Members (Chief Co-ordinators)	Co-ordinators
18/01/2020 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Seminar on Mergers and Acquisitions in Ind-AS era – Accounting perspectives and key tax aspects Business Combinations [Ind AS – 103] – Accounting Challenges and Opportunities Business Combinations [Ind AS – 103] – M&A tax perspective and impact Financial Instruments [Ind AS 32+107+109] – Accounting intricacies with Case Studies Key Updates/ Industry Issues	CA. Shrenik Baid CA. Sunder Iyer CA. Anil Talreja CA. Vishal Yeole CA. Abhishek Pachlangia Eminent Speaker	CA. Rakesh Alshi 9819427242 CA. Drushti Desai 9820335923 CA. Balkishan Agarwal 9377110634	CA. Sachin Maher 9833982729 CA. Piyush Agarwal 9833542416 CA. Mukund Mall 9322224142
31/01/2020 Friday 3 CPE Hrs	5.00 p.m. to 8.00 p.m. ₹ 590/- (Incl. GST)	Seminar on Labour Laws The Employees Provident Fund & MP Act, 1952, Employees State Insurance Act, 1948, The Maharashtra Shops & Establishment Act, 2017, The Payment of Bonus Act, 1965 & The Payment of Gratuity Act, 1972	Adv. Ramesh L Soni	CA. Kamlesh Saboo 9819195333 CA. Shilpa Shinagare 9820053395	CA. Bipeen Mundade 9223290561 CA. Harsh Dedhia 9892444121
01/02/2020 Saturday	11.00 a.m. onwards	Live Screening on Union Budget 2020 ALL ARE CORDIALLY INVITED			
7 & 8/02/2020 Friday Saturday 12 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 2,950/- (Incl. GST) Before 31st Jan ₹ 3,304/- (Incl. GST) After 31st Jan	Conclave on Internal Audit Inauguration and Key Note Address Evolving Role of Internal Auditor in Corporate Governance Collaboration among the Three Lines of Defense Innovation & Effectiveness in conducting Internal Audits Auditing the right risks: Adopting a risk-based approach Navigating the linkage between ERM and Corporate Governance Practical challenges faced in ERM Implementation Role of Internal Audit in Fraud Prevention and Detection Panel Discussion: Improving Audit Committee performance — Is Internal Auditing Stepping up to the Plate? Transforming the Audit in the Digital Age Cybersecurity: IT Governance & Third Parties Data Protection & Strategies in a Post GDPR World Panel Discussion: Internal Audit – What does the Future Hold; Sharing Best Practices / Success Stories		CA. Murtuza Kachwala 9833015334 CA. Abhijit Kelkar 9422126890 CA. Chintan Patel 9099921163	CA. Alpesh Doshi 98925045112 CA. Virav Dedhia 9819296261 CA. Keval Mamania 8080117040
15/02/2020 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Conference on Insolvency & Bankruptcy Code and Mock NCLT For more details visit www.wirc-icai.org	Eminent Faculties	CA. Vikash Jain 9327715892 CA. Manish Gadia 9820537986 CA. Vimal Agrawal 9320617447	CA. Ravi Jain 9819349431 CA. Vinit Vyas 9930766805 CA. Rahul Soni 9773123976
22/02/2020 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Seminar on Charitable Organisations Registration of Charitable Trusts Various forms of trusts & their registration including Section 80G /12AA Recent Developments in Taxation of Charitable Trusts FCRA Regulations & Compliances Indirect Taxation for Trusts	CA. Vipin Batavia CA. Paras Savla CA. Rajesh Kadakia CA. Shariq Contractor CA. Sunil Gabhawalla	CA. Rakesh Alshi 9819427242 CA. Jayesh Kala 9820010113 CA. Hitesh Pomal 9824049402	CA. Amish Sangoi 9867757972 CA. Sanjay Nikam 9820446329 CA. Girish Shekhar 9820812584



UNION BUDGET 2020

**2
CPE Hrs**

**A Lecture Meeting on The Finance Bill, 2020 - Direct Tax Provisions
Clause wise Analysis - CA. Gautam Doshi, Past Chairman, WIRC**

Tuesday, 4th February, 2020 • 6.00 p.m. to 8.00 p.m.

at C.C.I. East Lawns, Churchgate, Mumbai 400 020. (Entrance next to Asiatic Stores & Kaysons)

10 CPE Hrs

Women RESIDENTIAL REFRESHER COURSE

Date : 15/02/2020 Saturday & 16/02/2020 Sunday

Venue: The Retreat Hotel & Convention Centre, Malad West

For more details visit www.wirc-icai.org

Fees

**Early Bird Discount till
31st January**

Occupancy

Double ₹ 5074/- | Triple ₹ 4484/-

After 31st January

Double ₹ 5664/- | Triple ₹ 5074/-

(Incl. GST) (Fees & All Meals)

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



Annual INDOOR SPORTS 2020

DAY & DATE SUNDAY, 9TH FEBRUARY, 2020

Venue Andheri Sports Complex, Andheri (W)

Time 10.00 a.m. to 6.00 p.m.
(Registration 9.30 a.m. to 10.00 a.m.)

Fees ₹ 708/- for Chess, ₹ 944/- for Badminton, Table Tennis, Carrom (Singles & Doubles)
Incl. of GST (including breakfast & lunch)

Chief Co-ordinators CA. Lalit Bajaj 9867692321
CA. Arpit Kabra 9819007027

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

Members are invited to participate in Annual Indoor Sports Meet of 2020 of WIRC. Badminton (Singles & Doubles), Table Tennis (Singles & Doubles). Carrom (Singles & Doubles), Chess, will be played. Please send in your entries at the earliest.

**SEPARATE FACILITIES
FOR LADIES & GENTS MEMBERS**



DIRECT TAX – LAW UPDATE CA. Haresh P. Kenia, CA. Deepak Lala



Prescribed class of persons under clause (XI) of the proviso to section 56(2) (x) of the Income Tax Act- New Rule 11 UAC - [267 Taxman (St.) 15]

The Central Government, in exercise of powers conferred by clause (XI) of the proviso to section 56(2) (x) r.w.s 295, vide Notification No. G.S.R. 836 (E) [NO. 96/2019(F. No. 370142/29/2019-TPL)], Dated 11-11-2019, gives the Income tax (13th Amendment), Rules, 2019. It shall come in force from 01/04/2020. It shall be applicable from assessment year commencing on the 1st day of April, 2020 and subsequent assessment years. It inserts new Rule, 11UAC. It gives the prescribed class of person for the purpose of clause (XI) of the proviso to section 56 (2) (x) of the Income-tax Act.

It provides that the provision of Section 56(2)(x) does not apply to any immovable property, being land or building or both, received by a resident of an unauthorized colony in the National Capital Territory of Delhi, where the Central Government by notification in the Official Gazette, regularized the transaction of such immovable property based on the latest Power of Attorney, Agreement to Sale, Will, possession letter and other documents including documents evidencing payment of consideration for conferring or recognizing right of ownership or transfer or mortgage in regard to such immovable property in favour of such resident. It also defines the term "resident" & "unauthorized colony".

Section 194M and section 194N – Amendment in Rules 30,31,31A, from 26Q and Form No. 27Q, New Form No. 16D and Form No. 26QD - [267 Taxman (St.) 16]

The Central Board of Direct Taxes, in exercise of powers u/s. 295 r.w. section 194M & section 194N, vide Notification No. G.S.R. 858 (E) [NO. 98/2019(F.NO. 370142/30/2019-TPL)], Dated 18-11-2019, gives Income Tax (14th Amendment), Rules, 2019. It came into force from the date of its publication in the Official Gazette.

It inserts new Rule (2C) to Rule 30, prescribing the time limit of payment of 30 days from the end of the month in which deduction u/s. 194M is made and also prescribes a challan-cum-statement in Form No. 26QD for the payment of TDS.

It inserts new Rule (6C) to Rule 30 prescribing the mode of payment being amount to be paid electronically within the time limit prescribed under rule (2C) in respect of tax deducted u/s. 194M of the Income tax Act.

It inserts new Rule (3C) to Rule 31 of the Income tax Rules prescribing Form No. 16D being certificate of tax deducted at source u/s. 194M and also prescribing the time limit of 15 days from the due date for furnishing the challan-cum-statement in Form No. 26QD.

It inserts new clause (ix) to Rule 31A(4) of the Income tax Rules requiring deductor to furnish particulars of amount paid or credited on which tax was not deducted in view of exemption provided in clause (iii) or clause (iv) of the proviso to section 194N or in view of the notification issued under clause (v) of the proviso to Section 194N.

It inserts new Rule (4C) to Rule 31A requiring every person responsible for deduction of tax u/s. 194M to furnish to the Principal Director General of Income-tax(Systems) and others, a challan-cum-statement in Form No. 26QD electronically within 30 days from the end of the month in which deduction is made.

It inserts new Form No. 16D in Appendix – II of the Income tax Rules.

It amends Form No. 26Q in Appendix – II of the Income tax Rules.

It inserts new Form No. 26QD in Appendix – II of the Income tax Rules.

It amends Form No. 27Q in Appendix – II of the Income tax Rules.

DIRECT TAX – RECENT JUDGMENT CA. Paras K. Savla, CA. Hemant R. Shah



JUDICIAL PRONOUNCEMENTS

SUPREME COURT DECISIONS

TDS credit can be claimed by the assessee (deductee) despite failure on the part of deductor to upload correct details in Form 26AS : (SC)

PCIT Vs Tata Communications Ltd. (Bombay High Court)

[Appeal No.: ITA No. 1746 of 2016, Date of Order: 22/01/2019]

The Hon. Bombay HC held that in case, the deductor has failed to upload the correct details in Form 26 AS, the benefit should be given to the assessee on the basis of evidence produced before the Department.

On Appeal, the Supreme Court has also affirmed the above view of High Court.

TRIBUNAL DECISIONS

Blue Chip Developers (P) Ltd. Vs ITO (ITAT Delhi)

Approval taken from the higher Authority for proceedings under section 148 Notice by writing merely "YES" word is invalid:

[Appeal No.: ITA No. 1061/Del/2019, Date of Judgement/Order : 02/12/2019, A.Y 2009-10]

In the present case, the approving authority has given approval to the reopening of assessment in a mechanical manner without due application of mind by only mentioning in Column No. 12 'YES', in the Reasons for Initiating the Proceedings U/s 147 and For obtaining the Approval of the Addl. Commissioner of Income Tax. In view of the above, the reassessment is not sustainable in the eyes of law and needs to be quashed.

INTERNATIONAL TAXATION CA. Hinesh Doshi, CA. Ronak Soni



Lahmeyer International GmbH vs Assistant Commissioner of Income Tax [TS-630-ITAT-2019(DEL)] dated 09th October, 2019

Facts:

The assessee, a non-resident company, incorporated in Germany, engaged in engineering consulting services such as planning, designing and consulting in relation to complex infrastructure projects in India.

The assessee earned revenues as FTS which was partially taxed at 20% on a gross basis u/s 115A, in respect of the contracts where a Permanent Establishment ("PE") was formed in India and the remaining portion was taxed at 10% on gross basis under Article 12 of the India-Germany DTAA, in respect of contracts, where no PE was formed in India.



AO contended that entire receipts should be taxed at 20% by applying principle of 'Force of Attraction [FOA]' as it constituted a PE in India.

Aggrieved, the assessee filed an appeal before ITAT.

Issue:

Whether revenue from FTS should be taxed at 20% on gross basis u/s 115A?

Whether the principle of Force of Attraction ["FOA"] was applicable in the instant case?

Held:

ITAT enunciated that for applying 'FOA', there should be some common link to each of the contracts/projects such as common expats, nature of the contract/projects, the commonality of the location, contracting parties etc. which was absent in this case.

ITAT held that the assessee constituted PE in India only w.r.t Phase II of the contract with Jammu and Kashmir State Power Development Corporation ("JKSPDC") ["Baglihar Project PE"] and w.r.t other non PE contracts assessee's personnel either performed service at the client's location or at its home office in Germany.

ITAT rejected Revenue's plea that the FTS received by the assessee from rendering of technical services and other contracts was directly or indirectly to the PE constituted in India under the contract with JKSPDC and hence it was formed for the purpose of deliberate avoidance of tax.

ITAT accepted the treatment given by assessee for offering tax at 20% in one project and 10% in rest of the projects.

Thus, the appeal was allowed in favour of the assessee.

Tata Consultancy Service Ltd, vs Assistant Commissioner of Income Tax [TS-665-ITAT-2019(Mum)] dated 30th October, 2019

Facts:

The assessee, an Indian company, is engaged in the business of export of computer software, providing e-Solutions, Business Process Outsourcing (BPO) activities and other management consultancy activities.

The assessee claimed in its return of income, deduction of Foreign Tax Credit ("FTC") in respect of State Taxes paid in overseas countries like US, Denmark, Norway, Canada, etc.

CIT(A) had bifurcated the FTC into three parts i.e., taxes paid in USA, other DTAA countries and non-DTAA countries and allowed credit only in respect of tax paid in USA.

Aggrieved, the assessee filed an appeal before ITAT.

Issue:

Whether foreign tax credit is available in respect of taxes paid overseas in all countries?

Held:

ITAT observed that where the respective treaty provides for benefit of foreign tax paid even in respect of income on which the assessee had not paid tax in India, it would still be eligible for tax credit u/s. 90 of the IT Act.

The DTAA's of Canada and Finland does not provide for such benefit unless the income was subjected to tax in both the countries.

Relying on the HC decision of Reliance Infrastructure Ltd, ITAT held that FTC is granted for all overseas countries except in case of Canada and Finland.

Thus, the appeal was allowed in favour of the assessee.

FEMA

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



Foreign Exchange Management (Non Debt Instruments) Rules 2019

Notification No. S.O.4355(E) dated December 05, 2019 issued by the Ministry of Finance

The Ministry of Finance, Government of India has on December 5, 2019 issued Foreign Exchange Management (Non-Debt Instruments) (Amendment) Rules, 2019 to amend certain provisions of Foreign Exchange Management (Non-debt Instruments) Rules, 2019

For details of amendments, please refer notifications available at:
<http://egazette.nic.in/WriteReadData/2019/214520.pdf>

Foreign Exchange Management (Export of Goods and Services) Regulations, 2015

Notification No. FEMA 23(R)/(2)/2019-RB dated December 09, 2019 issued by the RBI

RBI has issued the Foreign Exchange Management (Export of Goods & Services) (Amendment) Regulations, 2019 to amend Foreign Exchange Management (Export of Goods and Services) Regulations, 2015 to provide for re-export of leased aircraft/helicopter and/or engines/auxiliary power units (APUs) re-possessed by overseas lessor and duly de-registered by the Directorate General of Civil Aviation (DGCA) on the request of Irrevocable Deregistration and Export Request Authorisation (IDERA) holder under 'Cape Town Convention' subject to permission by DGCA/Ministry of Civil Aviation for such export/s without furnishing the declaration of export.

Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016

Notification No. FEMA 14(R)/(1)/2019-RB dated November 13, 2019 issued by the RBI

RBI has issued the Foreign Exchange Management (Manner of Receipt and Payment) (Amendment) Regulations, 2019 to amend Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016.

For details of amendments please refer aforesaid notification available on RBI website at

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11737&Mode=0>

Foreign Exchange Management (Deposit) Regulations, 2016

Notification No. FEMA 5 (R)/(3)/2019-RB dated November 13, 2019 issued by the RBI

RBI has issued the Foreign Exchange Management (Deposit) (Third Amendment) Regulations, 2019 to amend Foreign Exchange Management (Deposit) Regulations, 2016..

For details of amendments please refer aforesaid notification available on RBI website at

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11736&Mode=0>



TRANSFER PRICING

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



Special Bench hold Transfer Pricing provision under Section 92 applicable to entities claiming tax holidays - M/s Doshi Accounting Services Private Limited vs. DCIT [Special Bench Ruling - TS-1086-ITAT-2019(Ahd)-TP]

Ahmedabad ITAT Special Bench in case of M/s Doshi Accounting Services Private Limited held that arm's length price on international transactions deserved to be determined under Section 92 of the Act even if an assessee is eligible for tax exemption at rate of 100 percent under Section 10A/10B of the Act. While pronouncing the said "ratio" ITAT observed as under:

- There is no express provision under the Act restricting the application of Section 92 of the Act where such income is eligible for deduction under Section 10A of the Act;
- The proviso to Section 92 of the Act itself reflect intend of the statute to invoke TP provision even in case of assessee is entitled to deduction under Section 10A of the Act. Thus, there is no need to refer to the intention or purpose of the statute or application of reasonable construction.
- The purpose of introducing Section 10A of the Act is to bring foreign exchange in India while granting tax exemption is only an incidental object. Thus, where the amount of revenue or expenses does not correspond to arm's length price, the same will adversely affect the inflow of foreign exchange. Accordingly, if contention that Chapter X should not be applied to assessee claiming Section 10A benefit is upheld, the main object of inserting Section 10A in the statute will stand unaccomplished.
- Proposition laid down by Hon'ble Bombay High Court in case of *Vodafone India Services P. Ltd.*, (361 ITR 531) would not be applicable in this case, as there was no income accruing in the case of Vodafone as defined under the Section 2(24) of the Act whereas in the case on hand there is an income accruing to the assessee from the export of services.
- The question of two views about the interpretation to Section 10A of the Act vis-à-vis Chapter X in the given facts and circumstances does not arise as none of the provision has either been made subject to each other or superseded by each other.

CORPORATE LAWS

CA. Premal Gandhi, CA. Rahul Joglekar



CIRCULAR NO. SEBI/HO/DDHS/DDHS/CIR/P/2019/161 dated 24th December 2019 providing Guidelines for filing of placement memorandum - InvITs proposed to be listed.

CIRCULAR NO. CIR/CMD1/162/2019 dated 24th December 2019 providing Format on Statement of Deviation or Variation for proceeds of public issue, rights issue, preferential issue, Qualified Institutions Placement (QIP).

GOODS AND SERVICES TAX

CA. Rajiv Luthia



CBIC vide Notification No. 57/2019 - CT dated 26th November, 2019 has extended the due-date for filing Form GSTR-1 (Return of outward supplies) for registered persons (whose aggregate

turnover in preceding financial year or during current financial year is more than 1.5 crores) whose principal place of business is in state of Jammu & Kashmir for quarter July –September, 2019 till 30th November, 2019.

CBIC vide Notification No. 58/2019 - CT dated 26th November, 2019 has extended the due date for filing GSTR-1 for registered persons (whose aggregate turnover in preceding financial year or current year is more than 1.5. crores)whose principal place of business is in state of Jammu & Kashmir for the month of October,2019 till 30th November, 2019.

CBIC vide Notification No. 59/2019 - CT dated 26th 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 October, 2019 till 30th November, 2019.

CBIC vide Notification No. 60/2019 - CT dated 26th 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 30th November, 2019.

CBIC vide Notification No. 61/2019 - CT dated 26th 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 the month of October, 2019 till 30th November, 2019.

GST-ADVANCE RULINGS

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



The Maharashtra Goods and Services Tax Act,2017

Circulars

The Commissioner of Goods and Services Tax, Maharashtra State, has issued Circular bearing no. 53T of 2019 dated 21.11.2019 by which guidelines for Tax payers and GST Practitioners in user Acceptance Testing of new returns offline tools and online new version of forms is clarified.

The Commissioner of Goods and Services Tax, Maharashtra State, has issued Circular bearing no. 54T of 2019 dated 28.11.2019 by which taxability of unmanufactured tobacco for different periods under MVAT Act, sold in sealed packets under brand name, is clarified.

The Commissioner of Goods and Services Tax, Maharashtra State, has issued Circular bearing no. 55T of 2019 dated 30.11.2019 by which instruction for Go live of SAP based filing of appeal applications under MVAT Act and CST Act is clarified.

Case: Sukee Printpack LLP [2019- TIOL - 330] (Karantaka AAR)

The applicant is involved in printing and supply of paper and paper boards and is also involved in printing under job work. The applicant approached the AAR seeking to know whether the activities carried out by it fall under supply of goods or supply of services & the applicable rate of tax under each category. The AAR held as under :

In case the Applicant Supplies paper and paper board printed with content supplied by the recipient of the goods made using physical inputs including paper belonging to the recipient :

- if the final printed material is a book, journal or periodical and if the material on which the printing is done is provided by the customers, then the activity is covered under Entry 26(i)(d) of Not. No 11/2017-CT(R), liable to 5% GST



- b) if the final printed material is a book, journal or periodical but involves job work of printing of all goods falling under Chapter 48 or 49 attracting GST at 6% then the activity would be covered under Entry No 26(ia)(b) of Not. No 11/2017-CT(R), liable to 12% GST
- c) If the job work of printing made on materials belonging to other is not covered by these two items, then the same is covered under Entry No 26(iii) of Not. No 11/2017-CT(R), liable to 18% GST

CO-OPERATIVE HOUSING SOCIETIES

CA. Ramesh Prabhu, CA. Mukul Varma



MCS Act, 1960

Notice to invite the Panel of Election officer is issued by Maharashtra State Cooperative Election Authority vide notification Outward No. SCEA/Desk-3A/Election/C & D Class/ Panel Guidelines/8339/2019, Dated 2nd December, 2019.

INSOLVENCY AND BANKRUPTCY CODE

CA. Pravin Navandar, CA. Viral Doshi



In the matter of:

Ms. PoojaBahry –, liquidator , M/s. Shree Ram Lime Products Pvt. Ltd. OC Gee Ispat Pvt. Ltd. CD.

Pronounced by Hon'ble NCLT, New Delhi bench

Ratio Decided: Whether Capital Gain shall be taken into consideration as the liquidation cost ?

Liquidator, prayed for directions in respect of steps to be taken after liquidation. The secured creditors have relinquished their charge over the mortgaged properties. Liquidator proposed to proceed with the distribution. The Liquidator faced with a question that whether Capital Gain Tax attracted on sale of such secured assets be included in the Liquidation Cost, if so then she would first have to make provision for the capital gains and deduct the amount before proceeding further. The I.T. dept. claimed that the capital gain has to be deposited first as per provisions of Section 178 of the Income Tax Act, 1961.

The NCLT denied the arguments presented by the Department and opined that the distribution of the assets should be made as per the provisions of u/s, 53(1)(e). The dues of Government, Income tax would qualify for being an operational debt.

Assets liquidated are those released by secured creditors under the code where he is to effect the sale through SARFAESI Act provisions and appropriate the entire amount towards its dues, without any liability to first pay the capital gain. It is only upon residual liquidity that the distribution of assets has to be made according to the operational creditors – (tax authorities herein) in terms of the provisions of the code. If the capital gain is first to be provided for and then be included as liquidation cost, it would create an anomalous situation in the secured creditor getting a lesser remittance than what could have realised had they not realised the security into the common corpus. It is for this purpose that the provisions of section 178 of the code have been amended giving priority to the waterfall mechanism over government dues.

Hence tax liability arising out of the sale shall be distributed in accordance with the provisions of Section 53 of the Code and applicability of Section 178 or 194IA of the IT Act will not have an overriding effect on the waterfall mechanism provided

u/s. 53 of the code and that capital gain shall not be taken into consideration as the liquidation cost.

Recent Notifications regarding the Insolvency and Bankruptcy Code, 2016:

- 1) IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019
<https://ibbi.gov.in/uploads/legalframework/2019-11-22-171205-h10bx-8573c02ee31bba941201aff84b95ae4.pdf>
- 2) IBBI (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019
<https://ibbi.gov.in/uploads/legalframework/2019-11-22-172331-pdm3h-40c64dd41380b7d710b874a8d1152fe6.pdf>
- 3) The Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019
<https://ibbi.gov.in/uploads/legalframework/8e0ab9331455200b402d91257113805c.pdf>
- 4) The Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019
<https://ibbi.gov.in/uploads/legalframework/17662452f16d75fe4c221f39e303033f.pdf>
- 5) The Insolvency and Bankruptcy Code (Second Amendment) Bill, 2019.

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

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Inauguration of Accountancy Museum at Mumbai



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Printed and published by Shri Abhay Nath Tiwari, on behalf of Western India Regional Council of The Institute of Chartered Accountants of India and printed at Finesse Graphics & Prints (Pvt) Ltd., 309, Parvati Industrial Estate, Sunmill Compound, Lower Parel, Mumbai – 400 013 and published at Western India Regional Council of the Institute of Chartered Accountants of India, ICAI Tower, Plot No. C-40, G Block, Opp. MCA Academy, Next to Standard Chartered Bank, Bandra Kurla Complex, Bandra East, Mumbai - 400051.

Editor: CA. Priti Savla

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