



ICAI MANGALORE
INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

e- Bulletin



Volume 05 | May 2016

The
Bulletin Board

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Thought for the Month:

**NO GOAL
WAS EVER
MET
WITHOUT
A LITTLE
SWEAT.**



✓ **Quality**

✓ **Trust**

✓ **Integrity**



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Chairman's Message



CA Keshava N Ballakuraya
Chairman
Mangalore Branch of SIRC of ICAI



Dear Members,

It is always a pleasure to address you all through this forum, to share my thoughts and also to share the updates of our branch. May is an important month for the students, the month of ICAI exams. It is the time when they have to make the best of their efforts as great future awaits them. The very old and simple saying that *"there is no substitute for hard work"* has been proven right time and again.

This summer may have taught us a very valuable lesson. We may have seen the extreme affects of water scarcity at other parts of our nation so many times before. But past couple of months in Mangalore, have shown us, what the future could be if we continue to waste water. Let us all make a continuous effort to preserve water. *"No one saves us but ourselves. No one can and no one may. We ourselves must walk the path."* - Gauthama Buddha

ICAI has decided to implement its go-green initiative to protect the earth's ecosystem. As an initial step, it has been decided to shift the publication of newsletters at Regional and Branch levels to the digital mode in a phased manner. Our Branch, for the past several years has been circulating only the E-Bulletin, as a step towards environmental awareness.

The activities at the institute are continuing at high spirits with support from all of you. Mangalore Branch inaugurated its Women's Empowerment Committee on 09th May 2016. Dr. Meera Aranha, G.M. Karnataka Bank Ltd was the chief guest. CA. Shyamala Shenoy spoke on the future programme of the Women's Empowerment Committee.

"To awaken the people, it is the women who must be awakened. Once she is on the move, the family moves, the village moves, the nation moves"

.- Pandit Jawaharlal Nehru

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Chairman's Message



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Each year we celebrate International Women's day on March 8th with a determination to commemorate the achievements of women, and to acknowledge the special status they deserve in society. The significant question is what difference has it made to the position of women. Have women become really strong, and have their long term struggles ended?

As Malala Yousafzai, the Nobel Peace Prize winner says, "One child, one teacher, one book, and one pen can change the world." And nowhere is it truer as in the case of women. That's why in the *Manusmriti*, which in ancient India, was considered a divine code of conduct, it is said, "*Yatra naryastu pujanya ramante tatra Devata, yatra itaastu na pujanya sarvaastatrafalaah kriyaah*". Where women are respected, there the Gods make their home; where they are not respected, all human action remain unproductive.

Empowering women in all respects and thus rebuilding the society would take the nation on a path of greater development, as Swami Vivekananda says, "*Countries and Nations which do not respect women have never become great nor will ever be in future*". Our small initiative towards this object, Women Empowerment Committee purports to conduct programmes for Women members and students, to create awareness, opportunities, make representations to the Government, and such other objects, under the directions of ICAI. I urge women members of our branch to use this forum effectively.

Dr. Meera Aranha spoke on the Subject "NPA in Banking Sector" during the seminar conducted later that day.

Seminar on Union Budget Changes on Indirect Taxes 2016-17 organized by Indirect Taxes Committee of ICAI was hosted by our branch on 14th of May. Sri Shailesh Sheth, Mumbai and Sri Naveen Kumar, Bangalore, Senior Advocates, were the speakers for the seminar. Sri Shailesh Sheth took us through the issues of taxation in Jewellery Industry in detail, which was a treat in itself. I thank both the speakers for an excellent presentation.

Kanara Chambers of Commerce and Industry celebrated its Platinum Jubilee on 16th May 2016 at TMA Pai International Convention Centre. It was an immense pleasure to meet Shri Suresh Prabhu, Hon'ble Minister of Railways, Government of India, who was the Chief Guest that day.

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Chairman's Message



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Live webcast on Cenvat Credit Rules with CA Ashok Batra as the speaker was held on 18th May.

The residential seminar at Heritage Resorts, Coorg, on 27, 28 and 29th of May was a grand success owing to the active member participation. The breathtaking beauty of the hills, estates and cottages and added to that the slow drizzle of rain, it was a day to remember. It was a great opportunity to strengthen the bonds within our CA Fraternity. Seminars like this, brings us all together to share our knowledge and experience, in a less formal setting, away from our normal office stress and busy schedule, with lot of opportunity for recreation also. I would like to convey my gratitude to the members for being a part of this seminar and thanks to the wonderful speakers CA Rajesh Kumar T R, CA V Ramnath, CA Ananthanarayana Pai and CA Kiran Vasanth for their enriching sessions. And most importantly, I convey my heartfelt thanks to CA Amar Sharma, for the arrangements at Coorg and making our stay most comfortable. We are taking away with us not only the knowledge but also the amazing memories of time spent with our fellow members.

To give short snap of the next month, there would be a One Day CPE Seminar, on ICDS and Key Budget Changes in Direct Law 2016. Also, plan is underway to conduct Seminar/Workshop on Changes in Corporate Law and Tax Audit updates.

I would like to highlight that amidst exam commitments, SICASA has conducted study circles and half-day seminars for students. Now, as the exams are over, I expect more and more activities and participation of students in larger numbers in SICASA activities. I would request my fellow members to encourage students to participate in SICASA activities.

With great delight I would like to announce that Mangalore branch will be conducting the National conference on Indirect Taxes on 2nd and 3rd December 2016. Mangalore Branch is conducting National Conference on Indirect Taxes for first time under the aegis of Indirect Taxes Committee. *Unity is strength. When there is teamwork and collaboration, wonderful things can be achieved.* I request all of you to send in your suggestions as well as to participate in the planning process to help make this event a success.

With warm regards,
Yours in Professional Service,
CA Keshava N Ballakuraya

Branch Activities May 2016



Sl ag No	Date	Activities at Branch for the Members	CPE Hours/ Number of Participants
01	05.05.2016	Live Webcast on Unexplored Power of Excel organised by Young Members Empowerment Committee (YMEC), ICAI Speaker: CA Vijay Agarwal, Excel MVP	Members: 13 CPE Credit: 3 hrs
02	07.05.2016	Discussion among CA's on "Revised CA Curriculum" Discussion Leaders: CA Kiran Vasanth, Mangalore and CA Abdur Rahman Musba, Mangalore	Members: 8 CPE Credit: NIL
03	09.05.2016	Inauguration of Women Empowerment Committee and CPE Study Circle Meeting Topics: NPA in Banking Sector and Bridge between trader and back office Speakers: CA (Dr.) Meera Aranha, GM, Karnataka Bank Ltd and CA. Dhara Thakkar, ICICI Bank, Hyderabad	Members: 23 CPE Credit: 2 hrs
04	14.05.2016	One day CPE Seminar on Union Budget Changes in Indirect Taxes 2016-2017. Organised by Indirect Taxes Committee of ICAI Topics: Budget Changes on applicability of Central Excise on Jewellery Industry, Budget changes in Service Tax- other than services provided by government or a local authority, Budget changes on services provided by Government or a local authority, Budget changes in Cenvat Credit, Budget changes in Central Excise and Customs Act- Other than the above Speakers: Sri. Shailesh Seth, Advocate, Mumbai and Sri. K.S. Naveen Kumar, Advocate	Members: 64 Students: 3 Others: 3 CPE Credit: 6 hrs
05	16.05.2016	Platinum Jubilee celebration of Kanara Chamber of Commerce and Industry, Mangalore. Meeting of the Chairman with Mr. Suresh Prabhu, Hon'ble Railway Minister who was the Chief Guest of the Program	Members: 30
06	18.05.2016	Live Webcast on Cenvat Credit Rules organised by Indirect Taxes Committee of ICAI Speaker: CA Ashok Batra	Members: 10 CPE Credit: 2 hrs
07	27.05.2016 to 29.05.2016	3 days CPE Residential Seminar Organised by CPE Committee, ICAI New Delhi and hosted by Mangalore branch along with Udupi branch at Heritage Resort, Coorg. Topics: Service Tax changes and Recent case laws under Service Tax, Recent changes under Accounting Standards, Recent issues under direct taxes, Issues under recent changes under CARO Speakers: CA Rajesh Kumar T R, CA Kiran Vasanth, CA V. Ramnath, CA Ananthanarayana Pai.	Members: 34 CPE Credit: 9 hrs

Branch Activities May 2016



SI No	Date	Activities at Branch for the Students	CPE Hours/ Number of Participants
01	23.05.2016	Study Circle meeting Topic: Appeals in Service Tax Speaker: Lavita Fernandes Session Chairperson: CA Sabana	Students: 28
02	31.05.2016	Half day Seminar on MAT U/s 115JB & CSR under Companies Act 2013 Topics- Corporate Social Responsibility – Speaker: Miss Vanessa Session Chairperson: CA Pearl D'Costa MAT u/s. 115JB and MAT Credit under section 115JAA & Tax Planning Speaker: Manoj S Bangera & Srikanth Shenoy Session Chairperson: CA Gautham Pai	Students: 52



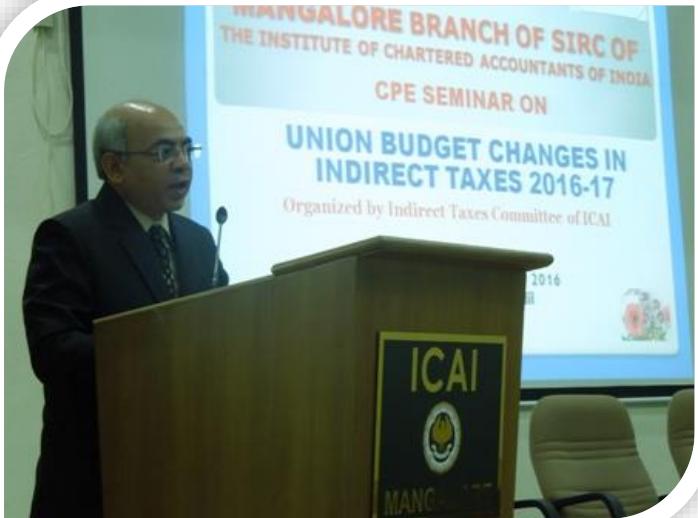
Branch Activities Gallery May 2016



INAUGURATION OF WOMEN'S EMPOWERMENT COMMITTEE



DR MEERA ARANHA BEING FELICITATED BY THE CHAIRMAN



SRI SHAILESH SETH SPEAKER AT THE CPE SEMINAR ON UNION BUDGET CHANGES IN INDIRECT TAXES



SRI K. S. NAVEEN KUMAR SPEAKER AT THE CPE SEMINAR ON UNION BUDGET CHANGES IN INDIRECT TAXES



CHAIRMAN AND SECRETARY OF THE BRANCH MEETING CA SURESH PRABHU, HON'BLE MINISTER OF RAILWAYS, GOVERNMENT OF INDIA



**Branch Activities Gallery
May 2016**



**CA RAJESH KUMAR T R, SPEAKER AT THE
RESIDENTIAL SEMINAR WITH CHAIRMAN OF THE
MANGALORE BRANCH**



**CA V RAMNATH, SPEAKER AT THE
RESIDENTIAL SEMINAR**



**CA ANANTHANARAYANA PAI, SPEAKER AT THE
RESIDENTIAL SEMINAR**



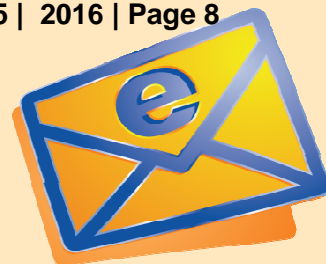
**CA KIRAN VASANTH, SPEAKER AT THE
RESIDENTIAL SEMINAR**



**GROUP PHOTO TAKEN
AT THE RESIDENTIAL SEMINAR,
HERITAGE RESORTS, COORG**



**CA AMAR SHARMA FELICITATED FOR THE
ARRANGEMENTS MADE AT THE RESIDENTIAL
SEMINAR VENUE**



Professional Updates: Direct Taxes

Chargeability of Capital Gains- Income arising from Transfer of Unlisted Shares to be Taxed as Capital Gains

Letter F. No. 225/12/2016/TTA. II dtd. 02-05-2016

For determining the tax treatment of income arising from transfer of unlisted shares for which no formal market exists, it has been decided that the income would be considered under the head 'Capital Gain', irrespective of period of holding, with a view to avoid disputes/litigation and to maintain uniform approach.

Amendment in Atal Pension Yojana

Press Release dated 29-04-2016

Following amendment has been made vide Government Notification F. No. 16/1/2015 PR dated 22nd March, 2016.

“Option to the spouse of the subscriber to continue contribution to APY on death of subscriber before the age of 60 years.”

The spouse would continue contributing in the spouse's name and shall be entitled to receive the same pension amount as that of the subscriber until the death of the spouse.

Commencement of Limitation for Penalty Proceedings under Sections 271D and 271E **Circular No. 09/DV/2016 (Departmental View), dtd. 26-04-2016**

There are conflicting interpretations of various High Courts on the issue whether the limitation for imposition of penalty under sections 271D and 271E of the Income Tax Act, 1961 (“the Act”) commences at the level of the Assessing Officer or at the level of the range authority i.e. the Joint Commissioner/ Addl. Commissioner.

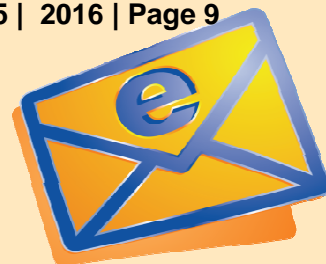
For the sake of clarity and uniformity, the conflict is resolved by way of a “Departmental View” The judgment by The Hon'ble Kerala High Court in the case of Grihalaxmi Vision v. Addl. CIT is taken to be the “Departmental View”. The judgment says that, the initiation of the penalty proceedings is only with the issuance of the notice issued by the Joint Commissioner and not with the passing of the order of assessment by the Assessing Officer.

Limitation for Penalty Proceedings u/s. 271D and 271E

Circular No. 10/2016 dtd. 26-04-2016

The intent of the above circular is to clarify the confusion on whether the limitation for imposition of penalty under sections 271D and 271E of the Income Tax Act, 1961 (“the Act”) is determined under section 275(1)(a) or 275(1)(c) of the Act.

The circular states that the period of limitation of penalty proceedings under section 271D and 271E of the act is governed by the provisions of section 275(1) (c) and not 275(1) (a) as laid down in the judgment of The Hon'ble Delhi High Court in the case of Commissioner of Income Tax v. Worldwide Township Projects Ltd by stating the penalty under the aforesaid sections to be independent ones and not dependent on the income that may be assessed or finally adjudicated.



Professional Updates: Direct Taxes

Payment of Interest on Refund under Section 244A of Excess TDS Deposited under Section 195

Circular No. 11/2016 dtd. 26-04-2016

Issue of eligibility for interest on refund of excess TDS to a tax deductor has been a subject matter of controversy and litigation. The Hon'ble Supreme Court of India in the case of Tata Chemical Limited held that refund due and payable to the assessee is debt owed and payable by the Revenue. Further, the judgment laid down that the state having received the money without right, and having retained and used it, is under obligation to refund it with interest.

In view of the aforesaid judgment, it is a settled matter that resident deductor is entitled for refund and as per the aforesaid circular the amount needs to be refunded with interest under Section 244A of the Income Tax Act, 1961.

Employees contribution to Provident Fund

ITO v. U.P.State Sugar Corporation Ltd. (2015) (Luck Tribunal)

Assessee was unable to furnish any proof and explain that the payment of employee's contribution to Provident Fund was made within the time. AO therefore made the addition under section 2(24) (x) read with section 36(1) (v). CIT (A) deleted the addition. On appeal by revenue,

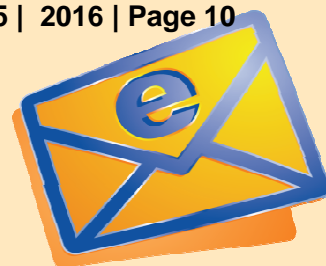
Held: Since the assessee could not establish that the payments of employee's share were made within the statutory time limit allowed, the disallowance made by the AO was justified and the issue was thus decided against the assessee

Exemption u/s. 10(37)

P. Ramaswamy Shamshabad v. ITO (2015) (Hyd Tribunal)

Assessee filed return admitting capital gains on sale of Agricultural Land and claimed exemption under Section 54F. AO denied the exemption on reason of assessee owning two houses. In the course of appeal proceedings, assessee raised additional ground that the amount of capital gain was not taxable on the reason of compulsory acquisition by Government under section 10(37). The CIT (A) dismissed the additional ground raised on the reason that the claim was not made at the time of assessment. Assessee submitted that it had wrongly offered capital gains on the sale of the land since the transfer was due to compulsory acquisition by HUDA and the same was not taxable under the provision of section 10(37).

Held: Since nothing was on record to show that the land acquired by HUDA was in fact an agricultural land, the matter was restored to AO to reexamining. Further, AO was directed to examine the applicability of Section 10(37).



Professional Updates: Direct Taxes

Depreciation Allowability – Bills of assets purchased not produced

ACIT v. Amol Agarwal (2016) (Jod)

AO noticed assessee's failure to produce details of addition to fixed assets of computer and stone crusher plant. Depreciation of Rs. 1,01,272/- was thus disallowed. The CIT (A) deleted such additions since payments towards the purchase of these assets were made through account payee cheque and assessee vide a letter had submitted a copy of bills of fixed assets acquired. CIT(A) also observed that it was not a case of the AO that the assets on which disallowance was made were used for purposes other than assessee's business. Revenue went on appeal.

Held: AO should have given weightage to the audited accounts and the tax audit report where the Auditor had given true and correct information in Form 3CD read with Form 3CB. Payments were made through account payee cheque. In such situation, only non availability of vouchers could not be a reason for making disallowance of depreciation. The order of CIT (A) was upheld and the ground of appeal of the revenue was rejected.

Business deduction under section 36(1) (vii) - Bad Debts

Ushodaya Enterprises (P) Ltd. v. Asstt. CIT (2015) (Hyd Tribunal)

Certain sums were debited towards prior period expenses. The same were debited by the AO and assessee explained them to be credit notes issued to customers towards billing mistakes pointed out. AO's claim for disallowance was on the grounds that the expenses were of prior period and assessee followed mercantile system of accounting. CIT (A) upheld the disallowance. Assessee went on appeal.

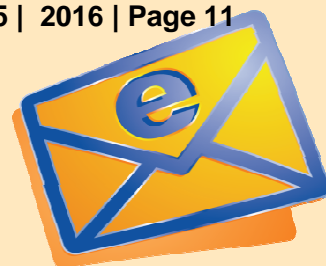
Held: There was no dispute that the amounts written off were income declared in earlier assessment years. The AO was directed to delete the addition made by relying on an identical judgment by the same tribunal in the assessee's case for AY 2007-08.

Objectives stated in Form 10 alleged to be non Specific

Rogikalyan Samiti v. Asstt. CIT (2016)(Chd Tribunal)

Assessee Society registered under Section 12A could not utilize funds to the extent of 85 percent and to comply with the requirements of Section 11(2), filed Form 10 stating the object of accumulation as "Salary and Welfare of Patients". AO took the object to be too vague stating the accumulation to be unnecessary since there were enough funds with the assessee to meet the aforesaid objective. On this basis, AO concluded that accumulation was not lawful and assessed the assessee as an AOP. CIT (A) upheld the order of AO. Aggrieved assessee filed an appeal before Tribunal.

Held: Hiring of staff and utilization of funds for welfare of patients were two objects of the society. Therefore, the objects mentioned in Form 10 were within the scope of the objects of the society. Stating of objects plainly without elaborating cannot be a reason to deny the benefit. Further, availability of funds in future for the aforesaid objectives given in Form 10 are not relevant for the purpose of granting the benefit of accumulation of income. Thus AO was not justified in denying benefit.



Professional Updates: Direct Taxes

Disallowance u/s. 14A- Expenditure against exempt income

Asstt. CIT v. D. B. Realty (P) Ltd. (2016) (Mum 'D' Tribunal)

AO made disallowance of administrative expenses under section 14A since assessee held investments and had also borrowed funds. Before CIT (A) assessee submitted that investments were in the form of shares in subsidiary companies and capital in a partnership firm. Further, it was also submitted that the aforesaid expenses were to be incurred even in the absence of the investments. Assessee however agreed for 5% disallowance of fixed/semi variable expenses. CIT (A) accepted the contention of assessee and revenue went on appeal. Held: Though the decision of CIT (A) was objected, the revenue was unable to point out deficiencies in the method adopted by the assessee. Order of CIT (A) was confirmed.

Business Expenditure- Contractor Expenses- Whether bogus?

Asstt. CIT v. SVE Engineers (P) Ltd. (2015) (Chenn Tribunal)

Assessee engaged in manufacturing /trading of material handling equipments claimed direct expenses which were paid to EI and TC. AO observed that the expenses claimed as payments made to the aforesaid parties were bogus as it was evident from the journal entries made at the end of the Financial Year and accordingly disallowed the same. CIT(A) deleted the disallowance. Revenue went on appeal.

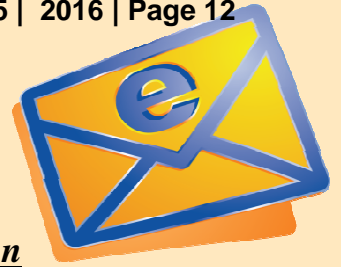
Held: Assessee proved genuineness by producing cogent evidence including the identity of the parties. Also the evidence regarding payments made were produced. Assessee was discharged of the burden cast upon it as there were no evidence to suggest the bogus nature of the expenditure. The assessee was also able to show the commercial expediency to incur the expenditure for the purpose of business and thus the order of CIT (A) was upheld.

Foreign Travel Expenses

CIT v. HMA Data Systems (P) Ltd. (2015)(Karn)

Assessee claimed expenditure relating to travel abroad by managing director and his wife. AO disallowed the expense on the ground that there was no business activity justifying travel of MD and his wife on business purpose. CIT (A) and Tribunal confirmed such additions.

Held: Assessee could not substantiate the claim by producing cogent evidence like business visa, proof of any meeting abroad with regard to the expenditure incurred towards the foreign travel of MD and his wife. Therefore orders of AO were upheld.



Professional Updates: Companies

Companies (Accounting Standards) Amendment Rules, 2016- Clarification **General Circular No. 4/2016**

With regard to the clarification sought by Stakeholders regarding the period for which the accounts would need to be prepared using the Accounting Standards, as amended through the Companies (Accounting Standards) Amendment Rules, 2016, the Ministry has clarified vide the above circular that it would be applicable on or after the date of notification.

Delegation of Powers to Regional Directors to Appoint Inspectors for Inspection **Notification No. SO 1626(E)**

In exercise of power, conferred by Section 458 (1) of the Companies Act, the Central Government hereby delegates the power to appoint Inspectors for inspection of books and papers of a company to the Regional Directors.

Constitution of Investor Education and Protection Fund **Notification No. SO 1647(E)**

The Central Government has constituted the Investor Education and Protection Fund Authority consisting of six individuals vide the above Notification.

News on Companies Law

1. Company Law has stringent penal provisions against fraud:

Government has said that the company law has stringent penal provisions to deal with fraud and also sufficient provisions to ensure the firms to be traceable and their financial transactions to be properly reported. According to the Corporate Affairs Minister, the auditors are required to report to the CG on frauds above a prescribed threshold.

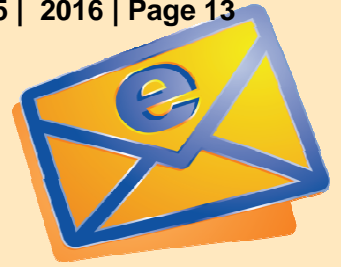
The Minister replied on negative to a question on unscrupulous persons setting up shell companies and further added on the need of DIN, allotted on the basis of identification and address proof to be the directors of a company.

The law also requires physical verification of registered office addresses of companies by professionals and intimation to the ROC in the event of setting up or change in the registered office.

The minister further added on the declaration regarding fulfillment of all requirements for registration under the Companies Act and rules to be given by the persons named in the AOA by stating that a false statement in this regard will be punishable under Section 448 of the 2013 Act.

2. Develop early warning system to detect frauds- Parliamentary Panel to MCA

The failure of MCA to develop a fool proof early warning system to detect frauds has led a Parliamentary Panel to urge them to put in place a “Coherent and efficacious” fraud prediction framework within a period of one month and the committee has directed MCA for apprise it about the progress in the matter.



Professional Updates: Service Tax

Review of Order twice is not permitted

Instruction F. No. 390/Review/36/2014-JC dtd. 17-03-2016

As per the provisions of section 129A(2) or section 129D of the Customs Act, 1962, section 35B(2) or section 35E of the Central Excise Act, 1944 and section 86(2A) or section 86(2) of the Finance Act, 1994 power of review of Commissioner (Appeals) order or order of Principal Commissioner/ Commissioner as an adjudicating authority vests with the Committee of Commissioners and Committee of Chief Commissioners respectively and there is no provision for reviewing the same order twice.

In this regard, Field Formations are instructed to abide strictly by the provisions mentioned in law for reviewing the orders and counter check revenue figures in the disputed demands before taking a view whether a case is fit for preferring an appeal.

News on Service Tax

1. No retro service tax on spectrum, mines

In a breather to telecom and mining companies, the finance minister has clarified that the service tax proposed on auctioning of natural resources, including telecom spectrum, will be imposed prospectively for transfer of rights by the Government taking place after April 1.

2. Railways under lens for Rs. 300 crores service tax evasion.

Indian Railways has come under the scanner of revenue authorities for alleged Service Tax evasion of about Rs. 300 crore on a few services offered by it. The railways has been asked to share details of income from all its 16 zones, especially through tatkal, ticket cancellation and bed roll charges, official sources said.

3. Krishi Kalyan Cess (KKC) w.e.f. 01-06-2016

The KKC will be introduced @ 0.5% on all taxable services w.e.f. 01-06-2016. Following are the points in relation to the new cess to be introduced:

- a) Cenvat Credit of KKC shall be allowed to provider for payment of output KKC
- b) Output KKC cannot be paid by utilizing the Cenvat Credit of ST
- c) KKC to be charged separately on Invoice



Managing Committee 2016-17



Managing Committee

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CA Bhargava Tantri, Vice -Chairman
CA Shivananda Pai B, Secretary
CA Raviraj B, Treasurer
**CA Anantha Padmanabha K, SICASA
 Chairman**
CA Aravinda Krishna B, Member
CA K Subramanya Kamath, Member
CA Abdur Rahman Musba, Member

The Managing Committee of Mangalore Branch of SIRC of ICAI invites articles, write-ups and other similar materials in the areas of Accounting, taxation or any other subject of professional interest for publishing in its e-bulletin. The articles submitted for consideration of publication should be of 2,000- 4,000 words typed double space on A4 size paper with 1 inch margin all around. Soft copy of the article may be sent to icaiebulletin@gmail.com.

Feed back on this e-bulletin can be sent to the editorial team @

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