



ICAI MANGALORE

INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

e- Bulletin



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Thought for the Month:



Mangalore Branch of SIRC of ICAI | ICAI Bhawan | Padil | Mangalore – 575007

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Chairman's Message



CA Keshava Ballakuraya
Chairman
Mangalore Branch of SIRC of ICAI

Dear Members,

April has been a very eventful month for all of us. Ugadi/Gudi Padwa is celebrated as New Year's Day in mid-southern states of India. The name Ugadi is derived from the name "Yuga Adi", which means 'the beginning of a new age'. It is believed that Lord Brahma, the creator according to Hindu tradition, began creation on this day. I would like to wish you all a very happy Ugadi/ Vishu/ Gudi Padwa. May this year bring you all success, happiness and prosperity.

Also, 22nd April, the annual Earth day is celebrated across the globe. It is a reminder about the importance of environmental protection and we too should contribute in the best way possible for a better tomorrow. We are amidst one of the warmest summers India has faced in a long time. But the scorching heat has not slowed us down. We have emerged through successfully finishing the bank audit and filing of service tax returns within the limited timeframe. Despite the busy schedule, it was very exciting to see you all participate with great enthusiasm in the activities conducted at the institute.

CPE study circle meeting on Recent Development in GST perception of Trade and Industry with CA. Nandagopal Shenoy as discussion leader and Budget changes under VAT with CA. K. Ganesh Rao as discussion leader was held on 20th April.

A public meeting was held by Kanara Chamber of Commerce and Industry on 23rd April where session on GST – Recent Developments was presented by Shri M. S. Prithvi, Deputy Commissioner, Central Excise and Service Tax and session on preparedness by commercial taxes department towards introduction of GST by Dr. B. V. Muralikrishna, JCCT, Division- 1, Bangalore. A panel discussion on concerns of trade and industry was conducted where CA Abdur Rehman Musba, CA Colin O. Rodrigues and myself along with the above two officials were the panelists.

The committee members attended the Orientation Programme of SIRC of ICAI on 25th and 26th of April at Tirupathi. It was a great opportunity for the managing committee members to interact and exchange ideas with members from various parts of Southern India. The Managing committee members gained experience which will definitely help us to carry on the activities of the branch more effectively.

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Chairman's Message



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Branch also hosted live webcast on “Unexplored power of excel- tips and text formulas” on 27th April.

The Co-operative Societies today are playing vital role in strengthening the National economy. Besides arranging for credit facilities for agricultural purposes they are catering to the other needs of the society as well. They are engaged in production, distribution, consumption, house building, banking, export and import, transport, etc. A good management and control of the societies in general is essential for their successful functioning and for that purpose the Government has been aiding them with trained and experienced personals and also with financial assistance. The importance of Co-operative audit is hardly to be over-emphasized in the present day society. Greater responsibility has fallen on the shoulders of the Co-operative Auditors who are the watchdogs of the Co-operative movement. In this regard, we had conducted a workshop on co-operative society audit on 29th and 30th April at Padil. I sincerely appreciate CA B. V. Raveendranath and CA Umesh Bolmal, and also our own member CA Prasanna Shenoy and CA Y Ganesh for the very informative technical sessions conducted by them. I would also like to express my gratitude to the Departmental Deputy Director of Co-operative Audit, Sri M. H. Vittal Sheregar who spoke about departmental expectations from the Chartered Accountants.

We have conducted crash course and mock tests for the benefit of both IPCC and Finals students. I would like to thank the faculty for their time and efforts taken to help the students to face the exams effectively. Study circle meeting was conducted on filing of ST-3 Returns on 18th April and one day seminar for students was on 29th April.

I am excited to inform you about the activities that we are planning to conduct in the month of May 2016-

- Women empowerment Committee installation
- CPE Seminar on Changes in Indirect Taxes - Union Budget 2016-17
- CPE Residential Seminar jointly with Udupi Branch of SIRC of ICAI at Heritage Resort, Coorg from 27th to 29th May.

I look forward to your active participation.

The World Health day is celebrated on April 7th of every year. It goes without saying that it is important to take care of the health.

He who has health has hope and he who has hope has everything.

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

Branch Activities April 2016



SI No	Date	Activities at Branch for the Members	CPE Hours/ Number of Participants
01	20.04.2016	<p>CPE Study Circle meeting on GST and VAT</p> <p>Recent Development in GST perception of Trade and Industry- Discussion Leader CA Nandagopal Shenoy, Mangalore</p> <p>Budget changes under VAT- Discussion Leader CA K Ganesh Rao, Mangalore</p>	<p>Members: 25 Others:2 CPE Credit: 2 Hours</p>
02	23.04.2016	<p>Seminar on Goods and Service Tax organized by Kanara Chamber of Commerce and Industry</p> <p>GST – Recent developments by Shri M. S. Prithvi, DC, Central Excise and Service Tax</p> <p>Preparedness of Commercial Taxes Department towards introduction of GST by Dr. B V Muralikrishna, JCCT, Division-1, Bangalore.</p> <p>Panel discussion on concerns of trade and industry with Shri M. S. Prithvi, Dr. B V Muralikrishna, CA Abdul Rahman Musba and CA Keshava Ballakuraya as the panelists and CA Coline O Rodrigues as the Moderator</p>	<p>Members: 7 Others:80</p>
03	27.04.2016	<p>Live Webcast on Unexplored Power of Excel- Tips and Text formulas organized by Young Members Empowerment Committee (YMEC), ICAI Speakers: CA Vijay Agarwal, Excel MVP</p>	<p>Members: 20 Students: 2 CPE Credit: 2 Hrs</p>
04	29.04.2016 TO 30.04.2016	<p>Two day CPE Workshop on Issues relating to Co-operative Sector was inaugurated by the Departmental Deputy Director of Co-operative Audit, Sri M. H. Vittal Sheregar Speakers: CA Prasanna Shenoy, Mangalore, CA Y Ganesh, Udupi, CA Umesh Bolmal, Belgaum, CA B V Ravindranath, Sagar</p>	<p>Members: 35 Students: 5 Others: 1 CPE Credit: 12Hrs</p>



Branch Activities April 2016



SI No	Date	Activities at Branch for the Students	CPE Hours/ Number of Participants
01	01.04.2016 TO 03.04.2016	IPCC Crash Course for May 2016 Examination Subject: Indirect Taxation	Students: 13
02	04.04.2016 TO 06.04.2016	Final Crash Course for May 2016 Examination Subject: Information System Control and Audit	Students: 33
03	07.04.2016 TO 09.04.2016	IPCC Crash Course for May 2016 Examination Subject: Information Technology and Strategic Management	Students: 30
04	10.04.2016 TO 11.04.2016	Final Crash Course for May 2016 Examination Subject: Indirect Tax	Students: 23
05	12.04.2016 TO 16.04.2016	Mock Test for IPCC Students	Students- Grp I - 18 Grp II - 07
06	12.04.2016 TO 16.04.2016	Mock Test for Final Students	Students: Grp I - 09 Grp II- 10
07	18.04.2016	Study circle meeting	Students: 26
08	29.04.2016	One Day Seminar	Students: 38



Branch Activities Gallery
April 2016



Study Circle meeting on GST & VAT



Discussion Leader CA Nandagopal Shenoy at the Study Circle meeting



Discussion Leader CA K Ganesh Rao at the Study Circle meeting



Public meeting by KCCI



Inauguration of Workshop on Issues relating to Co-operative Sector



CA Prasanna Shenoy as a speaker at the Workshop on Issues relating to Co-operative Sector

Branch Activities Gallery
April 2016



CA Raveendranath as a speaker at the Workshop on Issues relating to Co-operative Sector



CA Umesh Bolmal as a speaker at the Workshop on Issues relating to Co-operative Sector



CA Y Ganesh as a speaker at the Workshop on Issues relating to Co-operative Sector



Managing Committee with ICAI President CA Devraj Reddy and BOS Chairman CA Babu Abraham



Recognition of Mangalore Branch at the Managing Committee members Orientation Programme, Tirupathi



Professional Updates: Direct Taxes

Investment in Stock Certificate as defined in the Sovereign Gold Bonds Scheme, 2015 notified as eligible form of investment by a charitable trust

Notification No. 21/2016 dated 23/03/2016

Accumulated income or income set apart for the purpose of application on a later date of a charitable trust shall not be included in the total income of the previous year provided the money so accumulated or set apart is invested or deposited in the forms or modes as specified in Section 11(5). Rule 17C provides for such forms or modes. Vide the above notification Rule 17C has been amended to include investment in Stock Certificate as defined in the Sovereign Gold Bonds Scheme as an eligible form/ mode of investment.

Income Tax Return forms for Assessment Year 2016-17 notified

Notification No. 24/2016 dated 30/03/2016

The CBDT has notified the forms for filing of Income Tax Returns for A. Y. 2016-17. These return forms are available on the official website of the Department, <http://www.incometaxindia.gov.in>

Income from sale of old and unyielding rubber trees

Asstt. CIT v. Harrison's Malayalam Ltd. (2015) (Coch Tribunal)

AO took a view that Rule 7A would apply in case of proceeds from sale of old rubber trees and taxed 35% of the proceeds as Business Income.

It was held that Rule 7A applies only to a person carrying on the combined activity of growing rubber trees and also manufacturing or processing of field latex or coagulum obtained from rubber plant and is not applicable in the aforesaid case. Hence the proceeds were not taxable.

Taxing of interest received due to late payment of amount due to assessee firm

Mehta Construction Co. v. ITO & Vice Versa (2015)(Del Tribunal)

Interest earned on account of delay in payment of money to assessee was treated as Income from other sources by the AO.

It was held that interest received on account of delay in the payment could not be taxed separately but only as income from business and hence was taxed under the head for Business Income.



Professional Updates: Direct Taxes

Application of rule 8D without considering computation made by the assessee **SCIL Capital India Pvt. Ltd. v. DCIT (2015) (Mum Tribunal)**

Assessee on its own motion offered disallowance u/s. 14A in relation to exempt income. However, AO made the disallowance u/s. 14A invoking rule 8D.

Held, It was evident from the Assessment order that AO straightaway applied rule 8D without recording any reasoning for his dissatisfaction which were against the mandate of provisions of section 14A. Therefore, matter was restored back to the AO with a direction that AO would give opportunity to the assessee to place on record all the relevant facts including its accounts and then examine the computation made by the assessee. Rule 8D would be invoked only if AO did not agree with the computation made by the assessee and only if the AO recorded his dissatisfaction with the reasoning of the same by way of a speaking order.

Non applicability of Rule 8D in case of Interest free funds used for investments **Principal CIT v. India Gelatine and Chemicals Ltd. (2015) (Guj HC)**

Assessee suo motu offered an amount of Rs. 2lakhs on account of section 14A since certain sums were invested in shares and mutual funds. AO however disallowed Rs. 14,06,934 by applying rule 8D since assessee was not able to justify that investments were made from interest free funds. Both CIT (A) and Tribunal were against the revenue's disallowance.

It was held that CIT (A) and the Tribunal had categorically found on the basis of material on record that assessee had interest free funds out of which the investment was made. Further, since investment was from the said interest free funds, rule 8D was not applicable and hence Tribunal was justified in deleting disallowance made by the AO u/s. 14A in its entirety.

TDS on payments of overseas freight

Principal CIT v. India Gelatine and Chemicals Ltd. (2015)(Guj HC)

AO disallowed certain sum u/s. 40(a)(ia) for non deduction of TDS on overseas freight. CIT (A) deleted such disallowance and Tribunal confirmed such deletion of the CIT (A). Revenue went on further appeal to High Court.

It was held that as per section 172, payment made to a non-resident shipping company would not be covered in section 194C or section 195. Further, since it was an undisputed fact that payment was in fact made to a non resident shipping company, the tribunal had rightly deleted the disallowance made by the AO for non deduction u/s. 40(a)(ia).



Professional Updates: Direct Taxes

Loss suffered on sale of office space whether revenue or capital

Abhishek Engineers (P) Ltd. v. ITO (2015)(Ahd Tribunal)

Assessee was in real estate business and acquired an office space for re sale purpose. The same was let out for a short period and ultimately sold on loss. The said loss was claimed as business loss. AO disallowed the same and treated it as Short term Capital Loss. CIT (A) affirmed the order of AO.

It was held at the tribunal that assessee had never accounted the office space as a stock in trade in the accounts. Hence the loss was never to be claimed as a business loss and the asset had to be a capital one.

Depreciation on vehicles not owned by Assessee

Minda Acoustic Ltd. v. Addl. CIT (2015)(Del Tribunal)

AO disallowed depreciation on vehicles which were registered in the name of M Ltd. In appeal, assessee explained that vehicles were transferred to it by M Ltd. as part of a business on going concern basis and as such vehicles were de facto owned by the assessee and used for its business. CIT (A) did not accept such plea and confirmed the disallowance.

Tribunal held that technicality of registration of name cannot come in the way of assessee's eligibility for depreciation as long as asset is de facto owned by assessee and used for business. The conditions for eligibility to claim depreciation were satisfied and hence the AO was directed to delete disallowance of depreciation.

Delay in payment of Employee's contribution to PF, ESI etc

Asstt. CIT v. Sarabhai Machinery Pvt. Ltd. (2015)(Ahd Tribunal)

CIT (A) deleted the disallowance on account of delay in payment of the employee's contribution to the Provident Fund and ESI.

The case of CIT v. Gujarat State Road Transport Corporation (2014) was followed wherein it was held that employee's contribution not credited to a relevant fund before the due date mentioned in Explanation to Section 36(1)(va) was not eligible for deduction in computing income under section 28. The order of AO was thus restored back.

Compensation paid to developer on cancellation of earlier development agreement

Chandralok Fabrics v. Dy. CIT (2015)(Mum Tribunal)

Compensation of Rs. 67,10,357/- paid to a developer for cancellation of development agreement was disallowed by AO. On appeal, CIT (A) allowed Rs. 50 Lakhs on the ground that the property would not have been a salable one had the compensation not been paid. Assess went on further appeal.

It was held that there was an encumbrance and assessee had to pay Rs. 50 Lakhs to the developer to free such encumbrance. Hence there were no errors in the findings of the CIT (A).



Professional Updates: Direct Taxes

Deductibility of Advances and deposits written off in the books of accounts

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

AO noticed certain bad debts and advances written off by the assessee and called upon the assessee to furnish details of such write offs. Assessee had advanced some amount to a supplier but later the contract with the supplier did not take off and the supplier refused to refund the advanced money. Further, amount paid to a land lord as refundable rent deposit was not refunded on the assessee vacating the premises. These were the two amounts written off as bad. AO disallowed the claim made by the assessee and CIT (A) confirmed the disallowance on the grounds of failure to produce evidence.

It was held that the amounts need to be allowed as a deduction. As per Section 36(1)(vii), if a debt becomes bad and had actually been written off in the books of account, it is to be allowed. Deduction could not be denied on the only reason of non furnishing evidence since the amounts had actually been written off in the books of account of the assessee.

Business Income- Profits chargeable to tax under Section 41(1) or Section 68

Glen Williams v. ACIT (2015)(Bang Tribunal)

In the course of Assessment proceedings, AO called for confirmations of creditors. The AO was unable to receive confirmations from the creditors wherever a letter u/s. 133(6) was sent. Since no confirmation was received and AO was not satisfied with the replies of the Assessee, additions were made. CIT (A) also confirmed the additions. However, from the orders of both the AO and CIT (A) it was not clear whether additions were made u/s. 68 or 41(1).

It was held that section 68 could not be applied since creditors did not arise out of transactions in the relevant previous year. Further, there were no records showing any cessation or remission of liability by the creditors or even a unilateral act by the assessee in that regard, hence Section 41(1) also could not be invoked. The addition was directed to be deleted.



Professional Updates: Service Taxes

Point of Taxation in case of change in the liability or extent of liability under Reverse Charge to be Date of Invoice

Notification No. 21/2016- Service Tax dated March 30, 2016

Proviso in Rule 7 of Point of Taxation Rules, 2011 has been inserted to provide that where there is a change in provisions relating to the services taxed under reverse charge but service has already been provided, invoice has been issued and the payment has not been received, then in such case the point of taxation would be the date of issuance of invoice.

As per the aforesaid Rule 7, POT in respect of persons required to pay tax as a recipient shall be the date on which payment is made.

Certain services exempted when provided by Government or a local authority

Notification No. 22/2016- Service Tax dated April 13, 2016

Central Govt. vide the above Notification has amended the Mega Exemption Notification (Notification No. 25/2012- Service Tax) by amending Entry No. 39 of the notification and by inserting 10 more entries from Entry No. 54 to Entry No. 63. All the new insertions and amendment to Entry 39 are provided for the purpose of exempting certain services provided by Government or a local authority.

Effective from 1st of April, 2016, in clause (iv) of Section 66D (a) of the Finance Act, 1994, the words support services were substituted by the words 'any services' thereby making all the services provided by the Government to a business entity to be taxable. Having said 'Any Service', it appeared that all such services which are in the nature of Sovereign rights would also come under the purview of Service tax. Hence to put rest to the anxiety of taxability of all Govt. services the aforesaid Notification was introduced.

Inclusion of interest amount or other consideration payable to Government or a local authority by a business entity

Notification No. 23/2016- Service Tax dated April 13, 2016

Central Government vide the above notification has inserted a proviso to Rule 6(2)(iv) of the Service Tax (Determination of Value) Rules, 2006. As per the said proviso, the aforesaid clause of the aforesaid rule shall not apply to any service provided by Government or a local authority to a business entity where payment for such service is allowed to be deferred on payment of interest or any other consideration.

The aforesaid rule talks about excluding from the value of any taxable service, interest on delayed payment of any consideration for the provision of services or sale of property, whether movable or immovable.



Professional Updates: Direct Taxes

POT for services provided by Govt. or local authority to business entity

Notification No. 24/2016- Service Tax dated April 13, 2016

In case of services provided by the Government or Local authority to any business entity, the point of taxation shall be the earlier of dates on which,-

- a) Any payment, part or full, in respect of such service becomes due, as specified in the invoice, bill, challan or any other document issued by the Government or local authority demanding such payment ; or
- b) Payment for such service is made.

ST-3 Return filing date extension

Order No. 1/2016- Service Tax dated 25/04/2016

The Central Government had extended the date of filing ST-3 returns to 29/04/2016 from 25/04/2016 owing to certain difficulties being faced by the taxpayers in the Aces application.

Every Wednesday declared as taxpayer's day

Letter F. No. DGST/19/2015 dated 12.04.2016

CBEC vide the above letter to ICAI has informed that every Wednesday would be taxpayers day wherein heads of all offices in the field will meet the taxpayers/ other stakeholders from 9 AM to 1 PM without any prior appointment in order to address their grievances relating to Central Excise, Service Tax, Customs etc.

Exemption under Entry 12 of Notification No. 25/2012- ST

Shapoorji Pallonji And Company Pvt. Ltd. v. CST, Patna (2016)(PAT HC)

Assessee filed a writ petition before the High Court challenging levy of service tax on construction of academic building project at IIT, Patna which was awarded to the assessee by NBCCL.

The High Court analyzing the provisions of the entry 12 of Notification No. 25/2012 ST dated 20.06.2012 read with the definition of 'Governmental Authority', held that the service provided by the assessee is exempt from service tax in terms of the above referred notification



Announcements

Residential Seminar at Heritage Resort, Coorg



Under the aegis of Continuing Professional Education Committee of the ICAI

Hosted by :

Mangalore Branch of SIRC of ICAI

Jointly with

Udupi Branch of SIRC of ICAI

27th, 28th & 29th May 2016

Details of Programme

27.05.2016	1.00 pm. 2.00 to 5.00pm.	Check in at Heritage Resort, Coorg Technical Session - Service Tax changes and Recent case laws under Service Tax Speaker : CA. Rajesh Kumar T.R
	5.15 to 6.45pm.	Technical Session - Recent Changes under Accounting Standard Speaker : CA. Kiran Vasant
28.05.2016	6.45 onwards 10.00 to 1.15p.m.	Entertainment, Camp Fire and Dinner Technical Session- (with a short tea break) Recent Issues under Direct Taxes Speaker: CA. V. Ramnath
	2.15 to 3.45 p.m.	Technical Session- Issues under recent changes under CARO Speaker: CA. Ananthanarayana Pai
29.05.2016	4.00 pm onwards Morning	Sight seeing and Dinner Breakfast & check out Enroute to Mangalore visit tourist place, lunch and back

Registration fees

Members - on twin sharing basis - Rs.9000/-
Spouse - Rs.8000/-
Children above 12 years - Rs.3000/-
Children below 12 years - Rs.2000/-



Contact:

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CA Bhargava Tantri, Vice Chairman - 9448383225

CA Shivanand Pai, Secretary - 9844129730





Managing Committee 2016-17



Managing Committee

CA Keshava N Ballakuraya, Chairman
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 @

icaiebulletin@gmail.com

Editorial Team:

**CA Prasanna Shenoy M | CA Gautham Nayak M | CA Madhav Shenoy S |
 CA Shravan Dota | CA Vignasha M | CA Akshay Shet | Committee Members**

