



# ICAI MANGALORE

INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

## The Bulletin Board

## e- Bulletin



Volume VII | August 2018

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*Thought for the Month:*

*Listening is a positive act: you have to put yourself out to do it.*

*-David Hockey*



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## Chairman's Message



*CA B Shivananda Pai*  
*Chairman*  
*Mangalore Branch of SIRC of ICAI*

31.08.2018

Dear Professional Colleagues,  
Greetings of the season.



The festival season has set in. Our members have been passionately performing their professional functions. The extension of due dates for filing income tax returns for non Tax audit cases, gave some relaxation from the work pressure. But to some members it has derailed their planned work. Nevertheless, I understand from the corridors, that this year the members are taking extra care while finalizing the financial statements, as the returns under new Law i.e GST reconciliation is being done for the first time.

Today the GST is driven by the technology only. Hence we as the professionals who guide our clientele, on GST and other taxation matters, we can not afford to lag behind in adapting the technology. We are planning to conduct a certificate course in technology. The detailed communication will be set, once we get approval.

During the month Independence day was celebrated at the branch. Senior Member CA H.R Shetty hoisted the national flag and addressed the members and students. During this occasion, members visited Orphanage at Ramakrishna Tapovan, Polali. Donated Cloths to the inmates. Special thanks to CA Keshava Ballakuraya for his generous contribution towards the noble cause.

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# Chairman's Message



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We have organised a One day CPE Seminar on Tax Audits under Income Tax with CA. Mohan R Lavi, Bangalore and CA. T. G. Suresh, Chennai as resource persons. A One day CPE workshop of Company audit was also conducted having CA. K Sripriya and CA. Vedavalli Sriram, Chennai as resource persons. Further Half day CPE seminar on Audit under GST Act was held by Dr. B.V Muralikrishna, Joint Commissioner (Appeals), Department of Commercial Taxes, Bangalore. Various Crash Courses for students were held in branch office at Mahendra Arcade which was well attended by students.

The committee is planning to have a One day CPE seminar on GST Audit - Approach, Practical Issues and Challenges in the mid of September.

*With Best regards*

*CA Shivananda Pai B.*

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## Branch Activities August 2018



Sl No	Date	Activities at Branch for Members	CPE Hours/ Number of Participants
1	11.08.2018	<p>One Day CPE Seminar On Tax Audit            Topic: Tax Audit Reports 44AB            Speaker: CA. Mohan R Lavi , Bangalore            Topic: Issues Under Tax Audit            Speaker: CA T.G. Suresh , Chennai.</p>	<p>Members: 61            Students: 45            Others: 1            CPE Credit: 6Hours</p>
2	18.08.2018	<p>One Day CPE Workshop On Company Audit            Topic: Technical Topic 1 – Audit of Private Limited Companies.            Speaker: CA.K Sripriya, Central Council Member, ICAI.            Topic: Technical Topic 2 – CARO, Schedule III (Key Aspects),            Cash Flow Statements and Deferred Taxes.            Speaker: CA. Vedavalli Sriram, FCA, Chennai.</p>	<p>Members: 43            Students: 20            Others: 43            CPE Credit: 3 Hours</p>
3	21.08.2018	<p>Half Day CPE Seminar On Audit Under GST Act            Topic: 1<sup>st</sup> Session: Audit Under GST            Speaker : Dr. B.V. Murali Krishna, Joint commissioner (Appeals),            Dept. of Commercial Taxes, Bangalore</p>	<p>Members: 43            Students: 20            Others: 43            CPE Credit: 3 Hours</p>





Sl No	Date	Activities at Branch for the Students	Number of Participants
1	17-08-2018 To 21.08.2018	Crash Course August 2018 examination Subject: Information Technology & Strategic Management Faculty: CA Venkatesh Padiyar	Students: 6
2	02.08.2018 To 07.08.2018	Crash Course August 2018 examination Subject: Strategic Financial Management(old) Subject: Strategic Financial Management(new syllabus) Faculty: CA Chinmaya Hegde	Students: 14
3	10.08.2018 To 14.08.2018	Crash Course August 2018 examination Subject: Financial Reporting(old syllabus) Subject: Financial Reporting(new syllabus) Faculty: CA Chinmaya Hegde	Students: 13
4	17.08.2018 To 23.08.2018	Crash Course August 2018 examination Subject: Corporate & Allied Laws Faculty : CA Punarvas Jayakumar	Students : 22
5	26.08.2018 To 30.08.2018	Crash Course August 2018 examination Subject: Advanced Auditing & Professional Ethics Faculty: CA Venkatesh Padiyar	Students : 11
6	01.08.2018	18 <sup>th</sup> Batch of ITT Course	Students:27
7	27.08.2018	19 <sup>th</sup> Batch of ITT Course	Students: 27
8	27.08.2018	20 <sup>th</sup> Batch of ITT Course	Students: 26







**Branch Activity Gallery**  
**August 2018**



**CA Mohan R Lavi at One day CPE Seminar on Tax Audit on 11-08-2018**



**CA T.G Suresh at One day CPE Seminar on Tax Audit on 11-08-2018**



**CA Vedavalli Sriram at One day CPE Workshop On Company Audit on 18-08-2018**



**CA Sripriya Kumar at One day CPE Workshop On Company Audit on 18-08-2018**



## Branch activity gallery August 2018



**Interaction session  
on Audit under GST  
Act on 21-08-2018**

**Independence Day  
celebration. Flag hoisted  
by CA H.R Shetty**





## News and Updates

### Central Excise

#### Case laws

- In **2018-TIOL-2666-CESTAT-MAD**, the Chennai bench of the Tribunal held that CENVAT credit of service tax paid for gardening services, housekeeping services and postal services during the period 2007-2009 is admissible to the assessee as the expression “activities relating to business” has wide ambit and credit of tax paid in respect of any input service forming part of cost of final product was held to be eligible for credit.
- In **2018-TIOL-2671-CESTAT-ALL**, re-iterating the principle that an assessment cannot be done at the end of the receiver of inputs, Allahabad bench of the Tribunal held that the assessee is entitled to entire amount of CENVAT credit paid to the seller on inputs and capital goods received by it and set aside the demand raised against the assessee for recovery of excess CENVAT credit availed by it.
- In **2018-TIOL-2521-CESTAT-MAD**, Chennai bench of the Tribunal re-iterated that CENVAT Credit of Basic Excise Duty can be utilized for payment of EC and SHE cess as they are duties of excise and rule 3(4) clearly lays down that CENVAT Credit availed under Rule 3(1) can be utilised for payment of any duty of excise on any final product.
- In **2018-TIOL-1569-HC-MAD-CX**, where an order-in-original was passed by placing reliance on an interim order passed by Mumbai bench of the Tribunal in another case and ignoring settled judicial precedents, Madras HC set aside the order-in-original so passed and remanded back the matter to adjudicating authority for fresh consideration.

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## News and Updates

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- In **2018-TIOL-1747-HC-MAD-CX**, Madras HC set aside a second SCN issued on same facts and transactions where already one SCN was issued as i) the officer who issued the first SCN had full knowledge of facts and thought it fit to propose confiscation and imposition of penalty only and ii) issuance of a second SCN would mean reviewing an earlier stand, which is impermissible under law.
- In **TS-361-HC-2018(MAD)-EXC**, Madras HC quashed an adjudicating order rejecting rebate claim without affording opportunity of personal hearing to assessee as being in complete violation of principles of natural justice as the process of personal hearing is inbuilt in any adjudicatory process and cannot be dispensed with.
- In **TS-376-CESTAT-2018-EXC**, Mumbai bench of the Tribunal set aside order confirming demand of duty on alleged clandestine removal of goods without observance of principles of natural justice since copies of relied upon documents (RUDs) in the impugned SCN were not supplied to the assessee.
- In **TS-393-HC-2018-DEL-EXC**, Delhi HC upheld granting of anticipatory bail to the respondent assessee involved in alleged violation provisions of central excise law as the investigation initiated against the assessee two years ago was still not complete and there was no incriminating evidence showing complicity of the assessee in the alleged violation of central excise law

## News and Updates



### Service Tax

- In **TS-377-HC-2018(DEL)-ST**, the Delhi HC disposed of the writ petition in the matter of imposition of service tax on license fee and application fee for alcoholic liquor for human consumption pursuant to the decision of GST Council during its 26<sup>th</sup> meeting wherein it was decided that no service tax is to be levied on the aforesaid fees.
- In **TS-382-CESTAT-2018-ST**, Delhi bench of the Tribunal set aside the service tax demand on construction of women hostel and civil services officers institute for and on behalf of Government of India on the ground that the said activity was not commercial in nature to fall under 'commercial or industrial construction service' category.
- In **TS-385-CESTAT-2018-ST**, Chandigarh bench of the Tribunal set aside service tax demand on amount paid to railways under reverse charge, for approvals and supervisions required for construction of sidings as i) the service was in discharge of sovereign statutory function, ii) the payment thereof was deposited in the consolidated fund of the Government of India and not retained by the railways and iii) the activity being in relation to railways is exempt from the whole of the service tax leviable under section 66B of the Finance Act, 1994 *vide* Notification No. 25/2012-ST dated 20 June, 2012.
- In **2018-VIL-624-CESTAT-BLR-ST**, Bangalore bench of the Tribunal held that no service tax is leviable on the activity of laying of internal roads and approach roads to the compound of the building as it constitutes a separate and exclusive activity and does not form part of the contract for construction of a factory/ building which is taxable under Circular No.B1/6/2005-TRU.

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## News and Updates



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- In **2018-VIL-583-CESTAT-CHE-ST**, Delhi bench of the Tribunal held that renting of hoardings cannot be brought within the fold of advertising agency services as the said category of service concerns and involves creativity and specifically seeks to include “advertising consultant” and it would be too farfetched to bring in renting of hoardings within the scope of such service.
- In **2018-VIL-375-DEL-ST**, the Delhi HC held that when service tax was paid on an activity under a mistaken notion which was later clarified by Central Board of Excise and Customs to be a non taxable activity, the refund cannot be denied on the ground of limitation as at the relevant time service tax was not payable for any of the functions or work undertaken or performed by the appellant and the general principle of limitation will be applicable from the date of discovery of mistaken payment.

### **VAT/Sales Tax/Entry Tax Case Laws**

- In **2018-VIL-357-DEL**, the Delhi HC held that the petitioner is entitled to interest on refund calculable from the date when its appeal was allowed by the Court and a procedural step, i.e. filing of a form cannot in any manner fix the period or periods of limitation.
- In **2018-VIL-371-ALH**, the Allahabad HC held that when there exists a *bona fide* dispute (raised by the appellant) regarding liability of tax and the tax was deposited under protest on insistence of the department thereon, it cannot be said to be the admitted taxable turnover of the assessee.
- In **2018-VIL-384-KER**, the Kerala HC held that there can be no ITC claim by buyer and the state is under no obligation to grant the same where the selling dealer does not pay tax to the State Government.
- In **TS-392-HC2018(MAD)-VAT**, the Madras HC held that writ remedy is an exception and not available without exhausting appellate remedy under section 27 of Tamil Nadu VAT Act against assessment revision order.



## Managing Committee 2018-19



Managing Committee

**CA Shivanand Pai, Chairman**  
**CA Ananthapadmanabha, Vice-chairman**  
**CA Raviraj B, Secretary**  
**CA K Subramanya Kamath, Treasurer**  
**CA Abdur Rehman Musba, Chairman**  
**Mangaluru SICASA**  
**CA Aravinda Krishna, Member**  
**CA EdyllD;silva, Member**  
**CA BharagvTantri, Immediate Past**  
**Chairman**

*from Left to Right- CA. Aravinda Krishna ( Member), CA. Abdur Rahman Musba ( chairman SICASA, Mangalore), CA. K. Subramanya Kamath ( Treasurer), CA. Ananthapadmanabha( Vice Chairman), CA. Shivanand Pai ( Chairman), CA. Keshava Ballakuraya ( Past chairman), CA. Raviraj B ( Secretary), CA. EdyllD'Silva( Member) , CA. Bhargava Tantri ( Immediate Past Chairman)*

*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](mailto:icaiebulletin@gmail.com).*

*Feedback on this e-bulletin can be sent to the editorial team @ [icaiebulletin@gmail.com](mailto:icaiebulletin@gmail.com)*

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*CA Prasanna Shenoy M | CA Gautham Nayak M | Committee Members*