



ICAI MANGALORE

INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

e- Bulletin



The Bulletin Board

Volume 10 | October 2015

- *Chairman's Message*
- *Branch Activities carried out in the month of October 2015*
- *Branch Activities Gallery*
- *Professional Updates*
- *Tips on Android App*
- *Managing Committee*

Thought for the Month:

If you focus on **results**,
you will never **change**.
If you focus on **change**,
you will get **results**.
~ **Jack Dixon**



Chairman's Message



CA Shivakumar K
Chairman
Mangalore Branch of SIRC of ICAI

Dear Esteemed Members,

Warm Greetings.

The month of October marks the onset of festive season with Dasara. From start of October till the end of November it is the time when entire country is tinged in colours of celebrations, enthusiasm and devotion. Dasara , the festival of 'Victory of good over evil' is replete with symbolism about vanquishing evil and wanton nature. May God purify our mind, cleanse our thoughts and shower his divine blessings to transform all gloom into brightness.

We have conducted many programs in the month of October at ICAI. In order to discuss recent issues in Service Tax and get proper inputs and value addition in handling Service tax matters and ST-3 returns filing we have conducted full day seminar on Service Tax on 10-10-2015. Thanks to CA.Roopa Nayak and CA.Lakshmi G K for their excellent presentation.

From 7-10-2015 to 12-10-2015 Crash course for CA IPCC students on 'Costing and Financial Management' and CA Final students on 'Advanced Management Accounting' was conducted by CA. K Hariharan from Chennai. On 12-10-2015 seminar on 'How to face CA examinations ?' was conducted by him for CA students which was well appreciated by all.

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Chairman's Message



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Government of India is gearing up to introduce GST at the earliest. Finance Minister has indicated that in winter season all matters of dispute will be discussed in length to arrive at consensus. The Government has published the reports on 'Empowered Committee on Business Process for GST' relating to registration, returns, payments and refund. In order to discuss the issues, we have conducted CPE seminar on GST on 16-10-2015. Thanks to Sri.K Bhaskar , Director, Deloitte, Bangalore and CA Shivakumar H for their valuable inputs. On 29-10-2015 CPE Study Circle meeting was held to discuss 'Business Process Report on GST'. Thanks to CA. Nandagopal shenoy, CA. Abdur Rahman Musba, CA. Ganesh Rao, CA. Colin. On 27-10-2015 there was live webcast on IT security issues in Information Systems Audit at Mahendra Archade , Mangalore.

It's my immense pleasure to inform that Mangalore branch and Udupi branch are jointly organizing Residential seminar on 20th 21st and 22nd of November at Eagle Eye Resort Chikkamagalur under the aegis of CPE Committee of ICAI. Mangalore branch is also organizing National Conclave for students on 15th and 16th of December at TMA Pai Conventional Centre. I cordially invite all the members for the programs.

ICAI has designed certificate courses to enable the members to specialize in respective subjects. I am happy to inform that the IT committee has agreed to conduct Certificate Course on FAFP from 10th-13th, and 17th -20th of December. I request the interested members to contact the Branch Co-ordinator and register their names.

The election of the Central and Regional Council will be held on 5th December at St. Aloysius College Mangalore. I request each one of you to note the instructions given in this bulletin, participate in the election and take this opportunity to make judicious choice of electing the right candidate. I urge all the members to cast their precious votes and help in electing the best candidates to the Councils.

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Chairman's Message



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Before winding up, I would like to pay rich tributes to Mahathma Gandhi, the Father of Nation and Sardar Vallabh Bhai Patel, the 'Iron man' of India, two great souls who inspired the whole world with their faith in truth and justice for mankind.

‘ Live as if you were to die tomorrow and Learn as if you were to live forever ‘

With warm regards,

Yours in Professional Service,

CA Shivakumar K

Brief Instructions for Regional Council and Central Council Election Voting's:

Vote for at least six preferences for central council and at least thirteen for regional council because in the end, the council is a team. While you vote, do ensure six points; a few of these are mandatory and few of these are convenient:

- 1. Stick to using numerals (1,2,3 etc) while marking your preferences.*
- 2. Do not skip preference sequence. Having a fifth preference after a third preference, does not mean anything.*
- 3. Do not give same preference to two candidates, say if you were to give first preference vote to two candidates, your vote will be invalid.*
- 4. Do not make any distinguishing mark, other than, marking preferences in the box allotted. It could render your vote invalid.*
- 5. Have your choices planned and noted on a piece of paper the day before you turn up at the booth.*
- 6. Carry your photo identity card and a pen on voting day.*

Branch Activities October 2015



Sl No	Date	Activity at Branch	CPE Hours/ Number of Participants
01	07.10.2015 to 12.10.2015	Crash Course for Costing and Financial Management & Information Technology	Students: 20
02	10.10.2015	CPE SEMINAR ON SERVICE TAX Topic: Post Budget Changes, Current Issues in Works Contract Speaker: CA Roopa Nayak , Bangalore Topic: Common errors in filing ST-3 Returns, Approach Detailed Entry wise tips to fill the returns S.T.-3 (Practical), Detailed Entry wise tips to fill the returns S.T.-3 (Practical Approach) Speaker: CA Lakshmi G K, Bangalore	Members: 54 Students: 14 Non member: 1 CPE Credit: 6 hours
03	16.10.2015	CPE Study Circle Meeting on GST Speakers: Mr. K Bhaskar, Director CA. Shivakumar H, Manager Indirect Tax team, Deloitte Bangalore	Members: 40 Students: 7 Non Members: 13 CPE Credit: 2 Hours
04	29.10.2015	CPE Study Circle Meeting Subject: Draft Business Process Report on GST Discussion Leaders: CA.Nandagopal Shenoy CA. Abdur Rahman Musba CA. Ganesh K Rao CA. Colin Oswald Rodrigues	Members: 14 Non Members: 4 CPE Credit: 2 Hours
05	27.10.2015	Topic: IT- Security Issues in Information System Audit Organised by CPE Committee Speakers: CA. Terry Thomas CA. Paul Jayakar	Members: 2 CPE Credit: 2 Hours



Branch Activities Gallery October 2015



Left: CA Roopa Nayak, Bangalore during the CPE seminar on Service Tax held on 10th Oct, 2015
Right: CPE Study Circle meet on GST held on 16th Oct, 2015 at Mahendra Arcade.



Left: CA Colin Oswald Rodrigues during the CPE Study Circle meet on draft business process report on GST held on 29th Oct, 2015
Right: CA Abdur Rahman Musba during the CPE Study Circle meet on draft business process report on GST



Left: CA Nandagopal Shenoy during the CPE Study Circle meet on draft business process report on GST
Right: CA Ganesh K Rao during the CPE Study Circle meet on draft business process report on GST



Professional Updates: Direct Taxes

Provision for ‘loss on transit-breakage’ being contingent in nature isn’t allowable: HC Seagram Distilleries (P.) Ltd. v. CIT [2015] (Delhi)

The disputed issue in the instant case is as under:

“Whether provision for loss on transit-breakages is allowable to a company engaged in manufacture and sale of Liquor?”

The Delhi High Court held as under:

It is not in dispute that as and when transit breakages do occur the resultant losses are allowable as revenue expenditure, given the nature of the business of the Assessee. The issue, however, is the justification for creating a provision for such breakages anticipating them in advance of the occurrence of the actual breakages.

If such transit breakages cannot be estimated with a reasonable degree of certainty then the liability on that score would be considered ‘contingent’. AS 29, itself, makes it explicit that no provision for a contingent liability would be recognized.

The Court is unable to discern any uniform scientific method followed by the Appellant in making provision for the breakages. Thus, the ‘liability’ on that score could at best be described as a ‘contingent liability’ as defined in AS-29. Thus, the provision is contingent in nature which is not allowable.

Amendment specifying aerial measurement of distance of agricultural land applies prospectively

CIRCULAR NO.17/2015 [F.NO.279/MISC./140/2015-IT], DATED 6-10-2015

Agricultural land is excluded from the definition of capital asset as per section 2(14)(viii) based on its proximity to municipality or cantonment board. The amendment made by the Finance Act, 2013 with effect from 1-4-2014 prescribed the measurement of the distance to be taken aerially. This method of measuring the distance has given rise to considerable litigation for a period earlier to 1-4-2014.

Now the CBDT has clarified that the above amendment specifying aerial measurement of distance of agricultural land would apply prospectively. Thus, for the period prior to assessment year 2014-15, the distance between the municipal limit and the agricultural land is to be measured having regard to the shortest road distance.



Professional Update: Direct taxes

Bombay HC rules in favour of 'Vodafone', quashes transfer pricing demand of 3700 crores

The disputed issue in the instant case of 'Vodafone' related to tax implication on the sale of its call centre business to Hutchison's India entity and assignment of call option to Vodafone International BV in 2007-08. The Tribunal in case of Vodafone India Services (P.) Ltd. v. ACIT [2014] 52 taxmann.com 241 (Mumbai – Trib) had held that the transaction of sale of call centre business was structured with the motive to "circumvent" the transfer pricing provisions and the transaction was in essence an international transaction between two related parties and, thus, would be subject to the transfer pricing provisions. On the issue related to the assignment of call option it held that assignment of call option would fall in the ambit of term 'transfer'. Thus, Tribunal held against the 'Vodafone'.

Now the Bombay High Court has ruled in favour of Vodafone and quashes the demand of around 3700 crores.

Now Form 15G/15H can be e-filed: payee to specify number of Form15G/15H filed during the year

NOTIFICATION NO.76/2015 [F.NO.133/50/2015-TPL]

CBDT has enabled e-filing of declaration in Form 15G or Form 15H, as the case may be. Hence, a payee who is claiming receipt of certain incomes without deduction of tax can e-file declaration to that effect to the payer.

Further, now payer has to allot a unique identification number (UIN) to each declaration received by him in Form No.15G and Form No.15H respectively during every quarter of the financial year and has to furnish the particulars of declaration along with the unique identification number in TDS return of said quarter.

Fee paid for conducting market research & advising on new technological developments in China is FTS

Guangzhou Usha International Ltd., In re[2015] (AAR – New Delhi)

In this case, it was held by the AAR- New Delhi that where Chinese subsidiary of Indian holding company provides services in China in connection with procurement of goods by Indian company from Chinese vendors, specialized services of market research and information on new developments in China with regard to technology/product/process upgrade etc. The fees received by Chinese company for providing such services would be chargeable to tax in India as 'Fee for Technical Services'.

Professional Updates: Direct Taxes



Tax department enables e-facility to view tax and computation sheet for demand raised by AO

When a taxpayer submits an objection to an outstanding demand appearing in his case in “My Account” on e-filing portal of Income-tax Department, he is not able to view anything further except his own objection. If the demand was raised by CPC then assessee has to verify it by comparing income – tax return with section 143(1) intimation.

Now CBDT has enabled the facility to view tax and computation sheet for demand raised by Assessing Officer in the e-Filing portal. Thus taxpayers can now verify their return with the computation sheet and reply accordingly.

To view the computation sheet, assessee has to simply use the following path

Login to the e-filing portal>e-file>Click on ‘Response to Outstanding Tax Demand’>Click on download button next to demand amount>Download the details in .pdf

Period of holding of shares received on conversion of debentures includes holding period of debentures

CIT v. Naveen Bhatia [2015] (Punjab & Haryana)

The disputed issue is as under:

“While reckoning the period for long term capital gains, assessee should take the date of purchase of convertible debentures instead of actual date of allotment of shares on conversion from debentures?”

The Punjab and Haryana High Court held as under:

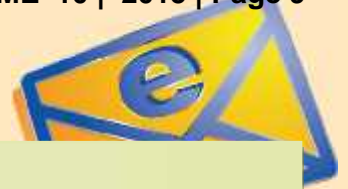
Section 47(x) provides that conversion of convertible debenture into shares would not constitute transfer for purpose of computation of income under the head capital gains. Section 49(2A) provides that for computing capital gains on sale of shares (received on conversion of convertible debentures), cost of acquisition of shares shall be cost of convertible debentures as date of acquisition of shares received on conversion of convertible debenture.

Returns filed for A.Y 2014-15 or in response to notices can also be validated through EVC

ORDER [F.NO.225/141/2015-ITA.II], DATED 6-10-2015

The CBDT vide Notification No. 1/2015, dated 15-4-2015 had introduced electronic Verification code (‘EVC’) system for validation of e-returns pertaining to A.Y 2015-16. To further facilitate the process of validation of returns now CBDT provides that returns filed on or after 1-4-2015 for A.Y. 2014-15 or in response to notice can also be validated through EVC.

Professional Updates: Direct Taxes



ISO certification fee can't be treated as 'FTS'

DIT v. TUV Bayren (India) Ltd [2015] (Bombay)

The disputed issue is as under:

“Whether ISO certification fees would be treated as Fees for Technical Services ('FTS') under Indian-German DTAA?”

The Bombay High Court held as under:

The process of ISO certification is in the form of audit of activities undertaken by the clients. The certificates are issued for specific and certain periods. Activities performed by assessee are neither technical nor managerial nor consultancy services. There is no advice given but insofar as this activity is concerned, the record indicates that the audit work and certification would not come within the realm of FTS. Therefore, there is nothing in the activities which could enable the revenue to bring them within the purview of section 9(1)(vii) and Article 12(4) of India-German DTAA.

Compensation paid to evacuate slum dwellers can't be held as payment of compulsory acquisition; No TDS

ITO v. Mumbai Metropolitan Regional Development Authority [2015] (Mumbai – Trib)

The disputed issue is as under:

“Whether compensation paid by assessee to evacuated illegal/unauthorized persons in form of squatters/hutments would be liable to TDS under the provision of section 194L/194LA?”

The Mumbai Tribunal held that there was no question of acquiring the land since occupants were unauthorized, illegal and they were not real owners of land. Land always belonged to the State and it was only encumbrance which was removed by assessee by making payment of certain compensation. Therefore provisions of section 194L/194LA would not apply in the instant case.

Professional Updates: Direct Taxes



Direct Taxes: Service-tax isn't includible in computing presumptive income under Sec.44BB: Delhi High Court

DIT v. Mitchell Drilling International (P.) Ltd. [2015] (Delhi)

The disputed issue is as under:

“Whether the amount of service-tax collected by assessee from its various clients should have been included in gross receipts while computing income under section 44BB?”

The High Court held as under:

Section 44BB had introduced the concept of presumptive income and states that 10% credit of the amounts paid or payable or deemed to be received by the assessee from specified activities shall be deemed to be the profits and gains chargeable to tax.

The purpose of this provision is to tax what can be legitimately considered as income of the assessee earned from its business and profession. The service-tax is not an amount paid or payable, or received or deemed to be received by the assessee for the services rendered by it. The assessee is only collecting the service-tax for passing it on to the government. Thus, for the purpose of computing the presumptive income of the assessee under section 44BB, the service-tax collected by the assessee on the amount paid for rendering services is not to be included in the gross receipt in terms of section 44BB(2) read with section 44BB(1).

Direct Taxes: Regrouping of figures in audited balance sheet not permissible after its submission to I-T dept.

It is inconceivable that after an audited balance sheet of a company is signed by its Directors and statutory Auditors, and submitted to the statutory authorities, including the ROC and the income tax authorities, the figures in such balance sheet for the closing stock of shares can simply be altered subsequently by adopting the device of ‘regrouping’ by the assessee, even by a Board resolution. That is a process unknown to the law. Even from the point of view of principles governing statutory accounts, such change cannot be simply given effect to in the balance sheet and P&L account for a subsequent year.

For instance, such a change, as was sought to be made by the Assessee in the instant case, to the value of the closing stock of shares by treating it as investment instead of stock-in-trade, would affect (and perforce necessitate changes) in the balance sheet and P&L accounts for at least two financial years. It is doubtful if this can at all be done particularly if the statutory authorities including the ROC and the income tax authorities have already been provided with (and perhaps acted upon or accepted) such signed audited accounts for a particular financial year.

Professional Updates

Company Law: *Compelling employee to surrender shares as per AOA isn't oppression or mismanagement*

Ram Saroop v. Hindustan Thompson associates (P.) Ltd. [2015] (CLB – New Delhi)

Where articles of association of company provided that on ceasing to be an employee of company its shares had to be surrendered, there was no oppression and mismanagement by company in directing petitioner to surrender shares allotted to him on his superannuation.

Company Law: *LLP's receiving FDI shall submit 'Annual return on foreign liabilities and assets'*

NOTIFICATION NO. FEMA.351/2015 RB, dated, 30-9-2015

All LLPs which have received Foreign Direct Investment in the previous year(s) including the current year shall be required to submit on or before 15th July of each year a report titled 'Annual Return on Foreign Liabilities and Assets' to the Reserve Bank of India

Indirect Taxes: *No service –tax on entrance fee collected by club which doesn't confer any access to services*

Cricket Club of India Ltd. v. CST [2015] (Mumbai –CESTAT)

Where collection of entrance fee by club from its members did not confer members any access to services, facilitates or advantages and was to meet expenses necessary for sustenance and survival of club and maintenance of its assets, then, entrance fee, not being a consideration, was not chargeable to service tax.

Indirect Taxes: *Now, coconut oil packed in small bottles isn't classifiable as hair oil: CBEC*

CIRCULARNO.1007/14/2015-CX, DATED 12-10-2015

CBEC had earlier clarified that coconut oil packed in containers upto 200ml may be considered as hair oil vide Circular No. 890/10/2009-CX. There are decisions where it was held that just because retail packs of Coconut oil are in sizes of 200ml or less, it cannot be presumed to be meant for use as a hair oil. In view of said judicial position, CBEC had now withdrawn said circular. It further stated that issue of classification shall now be decided by officers taking into consideration the facts of the case read with the judicial pronouncements.

Indirect Taxes: *Rectification application is maintainable if matter referred to third member doesn't accompany judicial findings*

Tata Steel Ltd. v. CST [2015] (Mumbai – CESTAT)

Where a matter is referred to Third Member for resolution of difference of opinion, both Judicial Member and Technical Member must have given their findings on said issues; if Member (Judicial) has not given his findings thereon, same results into rectifiable mistake for which rectification application is maintainable.

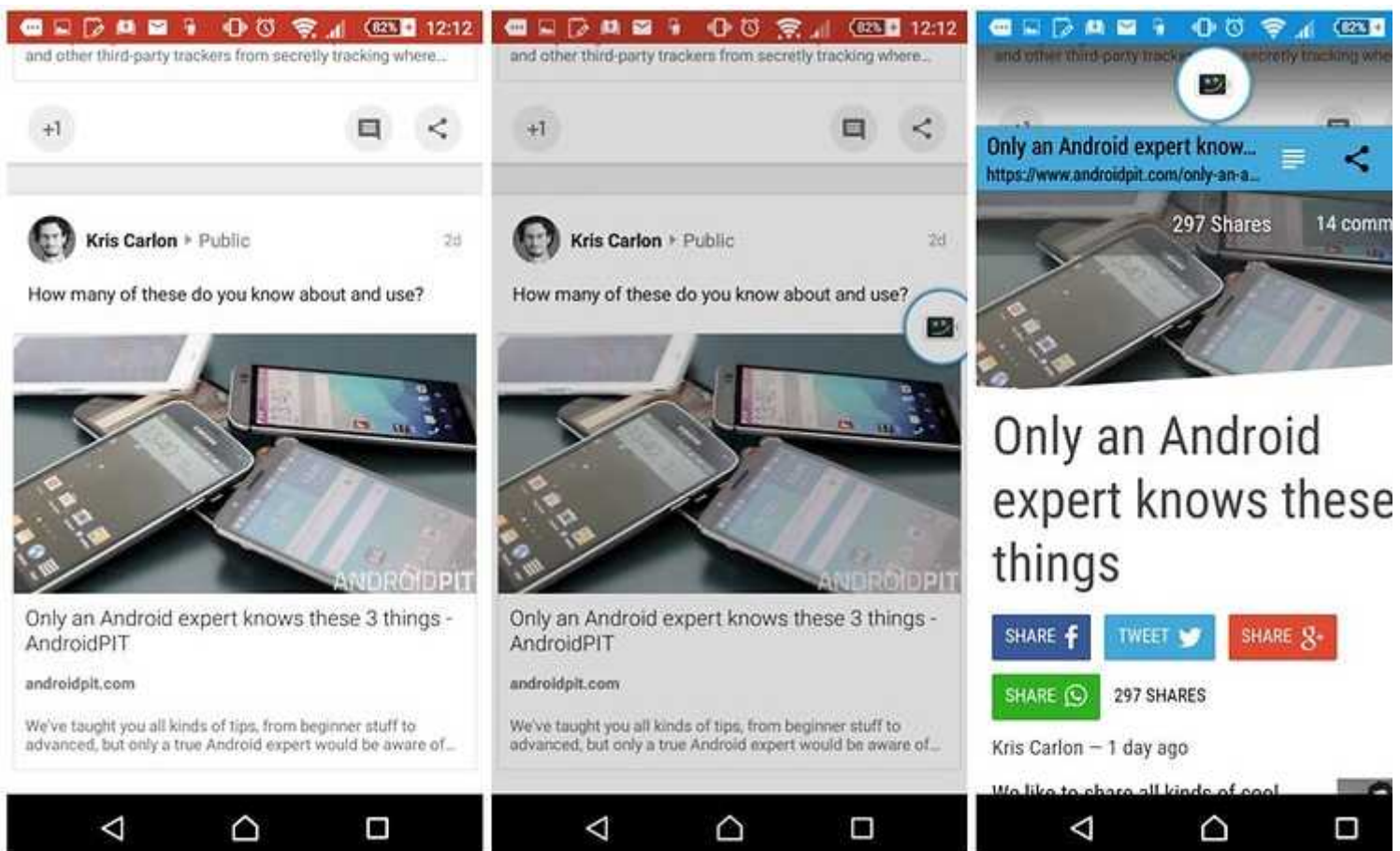
Tips on Android Applications



App Name: Link Bubble Browser

Link Bubble Browser is a previously paid-for app that recently went completely free. Link Bubble made a name for itself largely due to one clever feature: it loads webpages in the background. This means that instead of clicking through to a site or page, and having to wait for images and text to appear, Link Bubble will present it to you only once its ready.

Link Bubble Browser also offers an easy way to share links, or save websites for offline viewing with [Pocket](#) integration. It's a simple idea, which is executed well and saves time – a winning combination. Moreover, this application is available on google play for free of cost.



Courtesy: www.androidpit.com



Managing Committee 2015-16



Managing Committee

CA Shivakumar K, Chairman
 CA Keshava N Ballakuraya, Vice -Chairman
 CA Bhargava Tantri P, Secretary
 CA Chitra Chandramohan, Treasurer
 CA Shivananda Pai, SICASA Chairman
 CA Raviraj B, Member

Invitation for the Articles

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.

Q: Difference between gud CA & great CA?

Ans: A good CA knows the IT Act but a great CA knows the Income Tax Officer

Q: what is 143?

MBA student says it means " I love you", Engn student says it means ":I hate you"

Bio student says it means " I miss you"

CA student says :its a scrutiny assessment section under Income Tax Act, 1961



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

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