



ICAI MANGALORE

INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

The Bulletin Board

e- Bulletin



Volume 05 | May 2015

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Thought for the Month:

"A positive attitude may not solve all your problems, but it will annoy enough people to make it worth the effort."

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NATIONAL CONFERENCE



JNANA DEEVIGE

Spreading the Light of Knowledge

SAVE THE DATE

26 27

June 2015

Mangaluru

Chairman's Message



CA Shivakumar K
Chairman
Mangalore Branch of SIRC of ICAI



Dear friends,

Warm wishes. At the outset I am thankful to each one of you for your continuous support and encouragement for the activities of the Branch.

The seminar on Companies Act 2013 & Two days of workshop on 'International Taxation' was a resounding success. We remain grateful to all our resource persons who have shared their knowledge, expertise and perception with the participants.

I am extremely happy to invite you all to the two days of National Conference 'Jnana Deevige' conducted under the aegis of CPE Committee of ICAI, New Delhi, to be held on 26th & 27th of June at T.V.Raman Pai Convention Centre, Kodialbail, Mangalore. I am sure that two days of deliberations from renowned speakers on wide variety of subjects of professional interest will definitely enrich us with abundant knowledge.

Friends, May is the month of many historical events. It is also a month of great celebrations as well. May 1st is celebrated as Worker's Day and May 10th as Mother's Day. New York Stock Exchange was established in the month of May; whereas, Christopher Columbus, the man who discovered America died in poverty on May 20th. Alexander the Great who conquered the world deceased on May 18th and Napoleon Bonaparte who had won number of battles expired in exile on 5th May.

Life itself is a miracle and filled with duality and dilemma. In this respect, the Three Final Wishes of 'Alexander the Great' and reasons behind his wishes are really thought provoking.

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Chairman's Message



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Alexander on his death bed briefed that-“ I want everyone to understand the three lessons I have learned in my life. Let my physician carry my coffin alone is to let people realize that a physician cannot really cure people's illness when they face death. I hope people will **learn to treasure their lives**. My second wish is to tell people not to be like me in pursuing wealth. I spent my whole life pursuing wealth, but I was wasting my time most of the time. My third wish is to let people understand that I came to this world in empty hands and I will leave this world, also in empty hands.”

Friends, Life is precious. Let every sunrise inspire us with great thinking, appreciate what we have, pursue what our heart desires in life and share them with our fellow being.

Let our days be filled with noble ideas, concrete action, reflection and inspiration.

With warm regards,

Yours in Professional Service,

CA Shivakumar K

In order to carry a positive action we must develop here a positive vision- Dali Lama

Branch Activities May 2015



Sl No	Date	Activity at Branch	CPE Hours/ Number of Participants
01	06.05.2015	Companies Audit 2014-15, All you need to know- Companies Act 2013 Speaker: CA. Jomon K. George, Ernakulam	Members: 48 Students: 5 CPE Credit: 3 hours
02	12.05.2015	Live Webcast- Finance Act 2015	Members: 13 CPE Credit: 2 Hrs
	12.05.2015	Awareness programme for Chief Executive officers of Co-operative Societies – Mangalore and Bantwal Taluk By: CA. Shivakumar K	Participants: 52
03	13.05.2015	Awareness programme for Chief Executive officers of Co-operative Societies –Puttur Taluk By: CA. Umesh Rao M, Moodabidri	Participants: 30
04	15.05.2015	Live Webcast- Issues in Service Tax in Hotel, Tourism, Restaurant, Taxi, Cab operator	Members: 4 CPE Credit: 2 hrs
05	15.05.2015	CA Career Guidance programme for II PUC students of Excellent PU College, Moodabidri By: CA. Umesh Rao M, Moodabidri	Students: 100
06	18.05.2015	41st Batch of Orientation Programme	Students: 41
07	20.05.2015	Live Webcast- Reporting by Auditors under section 143 of the Companies Act	Members: 2 CPE Credit: 2 hrs
08	20.05.2015	3rd Batch of GMCS-II	Students: 41
09	22.05.2015	Income Computation and Disclosure Standard Speaker: CA. Kiran A. Vasant	Members: 30 Students: 3 CPE Credit: 3 hours
10	25.05.2015	Commencement of Advanced ITT Batch	Students: 20
11	25.05.2015	19th Batch of GMCS- I	Students: 42
12	31.05.2015	CPT Mock test for June 2015 Examination	Students: 124
13	29.05.2015 to 30.05.2015	Two Days Seminar on Basics in International Taxation <u>Day 1- 29.05.2015</u> Topic: Introduction to International Taxation Speaker: CA. Kusuma Yathish Topic: Concepts of Residential Status Speaker: CA. Zain Ahmed Khan Topic: Concept of Permanent Establishment and Business profits Speaker: CA. Kusuma Yathish Topic: Concept of Royalty and Technical Service <u>Day 2- 30.05.2015</u> Topic: Limitation of Benefits & Tax credits Speaker: CA. Narendra Jain Topic: Certification u/s 195, Form 15 CA & 15 CB considering TRC & PAN Speaker: CA. Cotha S. Srinivas	Members: 67 CPE Credit: 12 Hours

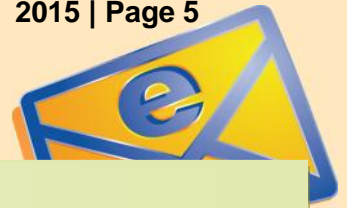
Branch Activities Gallery May 2015



Study Circle meeting on Company Audit 2014-15 in respect of Companies Act, 2013 Speakers: CA. Jamon K George conducted on 06th May 2015 at ICAI Bhawan, Mahindra Arcade, Mangalore.



Left: CA Kiran Vasanth, speaking at the Inauguration of Orientation Programme for IPCC Students on 18th May 2015 at ICAI Bhawan, Padil, Mangalore
Right: CA Shivkumar K, Chairman speaking at the Inauguration of GMCS-II on 20th May 2015 at ICAI Bhawan, Padil, Mangalore.



Professional Updates

Direct Taxes: Lok Sabha Passes Finance Bill, 2015

The Hon'ble Finance Minister had presented the Finance Bill, 2015 in Lok Sabha on February 28, 2015. Now the Lok Sabha has passed the Finance Bill, 2015 with certain changes. Originally the Finance Bill, 2015 proposed to provide relief from MAT only to FIIs without extending such relief to foreign companies. Now exemption from MAT has been proposed to be provided to foreign companies as well. Key changes made to the Finance Bill, 2015 are given hereunder:

(1) MAT exemption to foreign companies:

The Finance Bill, 2015 proposed to provide relief from MAT only to FIIs without extending such relief to foreign companies. Thus, the foreign companies were liable to pay MAT on capital gains arising from transfer of securities and income arising from royalty, interest or FTS even if such income was not chargeable to tax or was taxable at lower rate in India by virtue of applicable double taxation avoidance agreements ('DTAA') or any provision of the Income – tax Act.

Therefore, the Finance Bill, 2015 as passed by Lok Sabha proposes to provide relief from MAT to foreign companies as well. Capital gains from transfer of securities, interest, royalty and FTS accruing or arising to foreign companies have been proposed to be excluded from chargeability of Mat if tax payable on such income is less than 18.5%.

(2) Increase in limit of section 80D deduction to individuals:

The Finance Bill, 2015 had increased the limit of deduction under section 80D to Rs. 25,000 for any member of HUF. It omitted to increase such limit for individuals. Accordingly, necessary changes have been proposed to rectify such omission.

(3) Residential status of company: The Finance Bill, 2015 presented earlier proposed to amend section 6 to provide that a company would be deemed to be resident in India if its place of effective management, at any time in that year, was in India. In other words, the concept of Control or Management (wholly in India) was replaced with place of Effective Management (at any time in India).

Now the Finance Bill, 2015 as passed by the Lok Sabha has proposed to omit the word 'at any time' which leads to a company being deemed to be resident in India if its place of effective management is in India.

(4) Subsidies included in definition of income:

Any subsidy which is not reduced from the actual cost of the asset in view of provisions of Explanation 10 to section 43(1) has been proposed to be included in the definition of income.

(5) Interest on loan taken to acquire an asset:

Interest on borrowing used for acquisition of an asset has been proposed to be disallowed as revenue expenditure till the date on which asset is put to use

Professional Updates



Direct Taxes: No denial of section 54F relief on pretext of two houses when assessee had gifted one of them orally under Muslim law

Smt. Sajida Begum v. ITO [2015] 56 taxmann.com 269 (Bangalore – Trib.)

The assessee had sold a vacant site and purchased another vacant site. He deposited the balance capital gain in the Capital Gains Account Scheme to claim deduction under section 54F. The AO denied relief under section 54F on the ground that the assessee was owner of two residential houses at the time of sale of vacant land.

The assessee contended that she was not owner of two houses as she had made an oral gift ('HIBA') by which, one of the properties was given as a gift to her daughter before the date of transfer of land. The AO rejected the explanation taking a view gift had not been executed by a registered document. The CIT(A) confirmed the order of AO.

The tribunal held that assessee herein was a Muslim and under the Mohammedan Law, essentials of a gift are declaration of gift by the donor and acceptance of the gift by the donee and delivery of possession. This rule of Mohammedan law is unaffected by the provision of section 123 of the Transfer of Property Act, 1882. Thus, oral gift made by the assessee could not be disregarded and the assessee was entitled to relief under section 54F.

Direct Taxes: Rental income taxable as business income if main object of Co. as per MOA is to earn income by letting out properties

Chennai Properties & Investments Ltd. v. CIT [2015] 56 taxmann.com 456 (SC)

If the main object of assessee – company as per Memorandum of Association is to acquire properties and earn income by letting out of same property, said income is to be brought to tax as business income and not as income from house property.

Direct Taxes: Delay in filing e-TDS return due to technical default in software of department won't attract penalty on assessee

State Bank of India v. Jt.CIT (TDS) [2015] 56 taxmann.com 311 (Cuttack – trib.)

Where assessee could not file e-TDS statements in Form Nos. 24Q and 26Q within prescribed time on account of technical defect in software of department, delay in filing statements being beyond control of assessee, impugned penalty order passed under section 272A(2)(k) deserved to be set aside.

Direct Taxes: Provision for leave salary is a contractual liability and not a statutory liability; not hit by section 43B disallowance

Aditya Birla Nuvo Ltd. v. Asstt. CIT [2015] 56 taxmann.com 168 (Mumbai – Trib.)

Provision for leave salary is not a statutory liability but only a contractual liability which is payable only if employee resigns or retires from service. Hence, provision for leave salary couldn't be subject to disallowance under section 43B.

Professional Updates



Direct Taxes:

CIT (A) should adopt market rates in valuers directory/stamp duty reckoner in absence of sale instance in same area

Pfizer Ltd. v. Dy. CIT [2015] 56 taxmann.com 260 (Mumbai – Trib.)

Where no sale instances were available of same area, Commissioner (Appeals) was right in working out Fair Market Value of land by relying upon rate mentioned in Indian Valuers Directory and reference Book and Stamp Duty Ready Reckoner and annual rate of appreciation method.

Direct Taxes:

Electrical installation in hotel building had to be treated as plant; entitled to 25% depreciation

CIT v. Express Resorts & Hotels Ltd. [2015] 56 taxmann.com 171/230 taxman 424 (Gujarat)

The High Court held that electrical installations were part of plant and entitled to 25% depreciation. It referred to the judgment of the Apex Court the case of Anand Theatres [2000] 110 Taxman 338 wherein it was held that sanitary fittings and the electrical installations were “plant”. It is held that electrical installations and sanitary fittings which by themselves were “plant” for the purpose of depreciation in the scheme of section 32, could not be regarded as “building” when such fitting were fitted to the building

Direct Taxes:

HC allows section 54F relief even if sale proceeds not deposited in CG scheme as assessee intended to invest

CIT v. K Ramachandra Rao [2015] 56 taxmann.com 163/230 Taxman 334 (Karnataka)

The issue that arose for consideration of the High Court was that when the assessee had invested the entire sale consideration in construction of a residential house within three years from the date of transfer, could he be denied exemption under section 54F on the ground that he did not deposit the said amount in capital gains account scheme before the due date of filing return under section 139(1)?

The High Court referred to sub-section (4) of section 54 which stipulates that if the amount of net consideration which is not utilized by assessee for the purchase or construction of the new asset before the date of furnishing the return of income under section 139 shall be deposited by him before furnishing such return [in any case not later than the due date of filing return under section 139(1)] in capital gains account Scheme.

It held that if the intention of assessee is not to retain cash but to invest in construction or any purchase of the property and if such investment is made within the period stipulated therein, then section 54F(4) is not at all attracted. Therefore, the contention, that the assessee had not deposited the amount in the capital gains account scheme and, therefore, he was not entitled to the benefit of section 54F even though he had invested the money in construction within stipulated time, was incorrect.

Professional Updates



ICSI unveils two Secretarial Standards approved by Govt.; applicable from July 1, 2015

PRESS RELEASE, DATED 23-4-2015

ICSI has issued Secretarial Standards approved by the Central Government. ICSI is the pioneer and the only institution in the world so far to have issued Secretarial Standards. The MCA has accorded it its approval to the Secretarial Standards on Meetings of the Board of Directors (SS-1) and Secretarial standards on general meetings (SS-2) specified by the ICSI. They have been notified in the official Gazette and will take effect from July 1, 2015. Section 11(10) of the Companies Act, 2013 mandates companies to observe Secretarial Standards with respect to General and Board Meetings specified by the ICSI. Secretarial Standards shall apply to all companies, except 'One Person Companies'. Section 205(b) provides that Company Secretary has to ensure that the company companies with the applicable Secretarial Standards

Mere visits of officers of Foreign Service provider to India won't impose ST liability on service provider

CCE&ST v. Jacobs Engineering UK. Ltd.[2015] (Karnataka)

A foreign company having no business establishment or operations in India cannot be asked to pay service tax on services provided by it to Indian recipient merely because of visits of its officers to India in course of providing service.

Service provider and service receiver must act in unison to claim wrongly paid service tax

Srinivasa Enterprises v. Office of the Jt. CCT [2015] (Karnataka)

Where service tax has been wrongly paid on a non-taxable service, refund claim thereof must be filed by service provider and service recipient should co-operate with service provider filling refund claim

Burden of proof to take credit lies on assessee; failure to prove receipt of inputs would lead to denial of credit

Harsaran Dass Sita Ram v. CCE [2015] (Punjab & Haryana)

Burden of proof to take credit lies on assessee; hence, where department found that input supplier did not have manufacturing facilities and was passing on credit without supply of goods and even assessee failed to prove receipt and consumption of goods in his factory, credit could not be allowed to assessee.

Goods cleared on job-work basis can't be considered as exempted goods: Cenvat Rule 6 inapplicable thereto

CCE v. Customs Excise & Service tax, Appellate Tribunal [2015] (Madras)

Goods cleared without payment of duty on job-work basis under Notification 214/86-C.E., dated 25-3-1986 cannot be considered as 'exempted goods' and, therefore, job-worker is entitled to credit of inputs used therein and rule 6 of the CENVAT Credit Rules, 2004 cannot be invoked to demand reversal/payment.

Doctrine of unjust enrichment won't apply where price charged for services is inclusive of all taxes

CCE v. Roopa Ram Suthar [2015] (New Delhi – CESTAT)

Where prices are inclusive of all taxes, refund of excess tax, if any, paid by service provider cannot be hit by 'doctrine of unjust enrichment', as there is no specific collection of service tax.



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.

A man applied for a job as an industrial spy. Together with several other applicants, he was given a sealed envelope and told to take it to the fourth floor. As soon as the man was alone, he stepped into an empty hallway and opened the envelope. Inside, a message read:

"You're our kind of person. Report to the fifth floor Personnel Office."



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

icaiebulletin@gmail.com

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