



ICAI MANGALORE
INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

The
Bulletin Board

e- Bulletin



Volume 8 | August 2017

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Thought for the Month:

**The roots
of education
are bitter, but
the fruit is
sweet.**



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Chairman's Message



CA Bhargava Tantri P
Chairman
Mangalore Branch of SIRC of ICAI



Dear Members,

Warm Wishes and Greetings for the festive season.

August month is significant because of the host of festivities starting from Vara Mahalakshmi to Sri Krishna Jayanti and Ganesha Chaturthi, and also most importantly we all celebrated Indian Independence on August 15th.

August is also significant as the first returns under the New Era in Taxation - GST- Goods and Services Tax, were uploaded.

On the morning of August 15th, Mangalore Branch organised hoisted the National Flag. CA Venkatesh Padiyar, Faculty for the Crash Course hoisted the National Flag and gave the Independence Day message.

Programmes for enriching knowledge of GST were conducted. On 16th of August a Half day Seminar on Transitional Provisions and Return Compliances under GST was conducted. CA Annapurna Kabra from Bangalore explained in a simple and lucid manner which was well appreciated by the Members.

CA Daphny D'Souza gave a live demo of GST return filing in a study circle meeting on 30th of August.

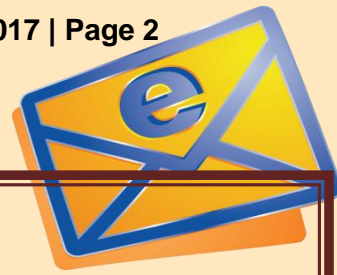
On 12th August, a Full day CPE Seminar on Recent issues in Tax Audit, ICDS and Penalty provisions was held. CA Gururaj Acharya from Bangalore dealt at length the provisions of ICDS and its reporting in Form 3CD. CA Prashanth G.S. explained in detail the implications of newly introduced Penalty provisions under Income Tax with regards to Demonetisation, misreporting and under reporting.

The new SICASA committee are already in full swing with a flurry of activities.

On 8th August a full day Seminar on Tax Audit was conducted where our Past Chairmen CA Murali Mohan Bhat and CA Giridhar Kamath alongwith CA Rashmi Nahata dealt with various issued under Tax Audit and guided the Students.

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Chairman's Message



On 13th August Indoor Sports Tournament was conducted in US Mallya Indoor Stadium. Chess, Badminton, Carrom, Table Tennis and Dart and other games were conducted. About 140 students participated and it was a grand success. Kudos to team SICASA for conducting this event in a professional and sportive manner.

On 24th August, branch level Quiz Contest was held. Karthik Prabhu and Shailesh Krishna won the Contest and represented Mangalore Branch in Regional Level.

As one of the Shubhashita says-

*“Chintaneeya hi Vipadaam Aadaaveva Pratikriya I
NaKoopā Khananam YuktamPradepte Vahnina Gruhe II”*

One should foresee the effects of a problem and decide how to react to them well in advance. It is improper to dig a well when the house is on fire.

As we are all stepping into new taxation regimes which are more compliance oriented, let us all prepare well for the correct implementation of the laws as our responsibility as guardians of the economy is more and the Society looks at us for right guidance.

Jai ICAI, Jai Hind

CA BHARGAVA TANTRI P.



Branch Activities August 2017



SI No	Date	Activities at Branch for Members	CPE Hours/ Number of Participants
1	03.08.2017	CPE study circle meeting on Filing of Returns under GST Law by CA Daphny D Souza	Members: 39 Students: 25 Others: 10 CPE Credit: 2 Hours
2	12.08.2017	CPE Seminar on Recent Updates on Tax Audit, ICDS and Penalties Topic on ICDS and Changes in Tax Audit Report taken up by CA Gururaj Acharya K, Bangalore Topic on Penalties for Concealment, Misreporting and Underreporting of Income and Issues relating to Demonetisation by CA Prashanth GS Bangalore	Members: 66 Students : 18 Others:01 CPE Credit: 6 Hours
3	15.08.2017	Independence Day Celebration	Members: 12 Students: 42
4	16.08.2017	Half Day Seminar on GST Topic on Practical issues under the GST Law, Transitional Provisions and Return Compliances under GST by CA Annapurna Kabra, Bangalore	Members: 39 Students: 22 Others: 03 CPE Credit: 3 Hours



Branch Activities August 2017



Sl No	Date	Activities at Branch for the Students	Number of Participants
1	05.08.2017	Crash course for Final Students appearing for November 2017 Exam- Strategic Financial Management	Students: 20
2	07.08.2017	ITT Batch commenced	Students: 54
3	08.08.2017	Full day Seminar on Tax Audit by CA Murali Mohan Bhat, CA Giridhar Kamath and CA Rashmi Nahata	Students: 60
4	12.08.2017	Crash course for Final Students appearing for November 2017 Exam- Information System and Control Audit	Students: 10
5	12.08.2017	Crash course for IPCC Students appearing for November 2017 Exam- Advanced Accounting	Students: 31
6	16.08.2017	Crash course for Final Students appearing for November 2017 Exam- Financial Reporting	Students: 31
7	21.08.2017	2 nd Batch of ICITSS- Orientation Course	Students: 40
8	23.08.2017	Crash course for Final Students appearing for November 2017 Exam- Quantitative Technique	Students: 28
9	26.08.2017	Crash course for IPCC Students appearing for November 2017 Exam- Auditing	Students: 28
10	29.08.2017	Crash course for IPCC Students appearing for November 2017 Exam- Indirect Taxes	Students: 16
11	29.08.2017	Crash course for Final Students appearing for November 2017 Exam- Corporate Law	Students: 18



Branch Activities Gallery
August 2017



INDEPENDENCE DAY CELEBRATION AT PADIL



CA GURURAJ ACHARYA SPEAKING AT THE SEMINAR ON TAX AUDIT



FELICITATION OF CA PRASHANTH G S, SPEAKER AT THE SEMINAR ON TAX AUDIT

Branch Activities Gallery
August 2017



CA ANNAPURNA KABRA, SPEAKER FOR THE SEMINAR ON GST



CA DAPHNY DSOUZA SPEAKING AT THE STUDY CIRCLE MEET ON GST



STUDENT SEMINAR ON TAX AUDIT

Branch Activities Gallery
August 2017



CA GIRIDHAR KAMATH SPEAKING AT THE STUDENT SEMINAR ON TAX AUDIT



CA MURALI MOHAN BHAT SPEAKING AT THE STUDENT SEMINAR ON TAX AUDIT



CA RASHMI NAHATA SPEAKING AT THE STUDENT SEMINAR ON TAX AUDIT



News and Updates

Direct Taxes

Exemption from certain clauses of Section 9A (3) to certain funds

Notification No. 77/2017 dated 3rd August, 2017

Vide the above Notification, the Central Government has notified that conditions specified in clauses (e), (f) and (g) of sub section (3) of Section 9A shall not apply in case of an investment fund set up by a Category-I or Category-II foreign portfolio investor registered under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014, made under the SEBI Act, 1992

CBDT notifies countries and specified territories for Section 9A

Notification No. 78/2017 dated 3rd August, 2017

Central Government vide the above Notification has notified a list of one hundred and twenty one countries for the purpose of Clause (b) of Sub Section (3) Section 9A of the Income Tax Act, 1961. Section 9A deals with treating the activity of an eligible fund manager acting on behalf of an eligible investment fund to be outside the scope of Business Connection in India. Sub Section (3) of Section 9A defines Eligible Investment Fund and Sub Section (4) of the Section defines Eligible Fund Manager for the aforesaid purpose.

Section 54EC- CBDT allows Indian Railway Finance Corp. Ltd. to issue Bonds

Notification No. 79/2017 dated 8th August 2017

The CBDT vide the above Notification, notifies that any bond redeemable after three years and issued by the Indian Railway Finance Corporation Limited, a company formed and registered under the Companies Act, 1956 on or after the date of the publication of the above Notification in the Official Gazette, as long term specified asset for the purpose of Section 54EC.



News and Updates

Direct Taxes

CBDT notifies revised Form No. 29B for MAT audit

Notification No. 80/2017 dated 18th August 2017

Existing Form No. 29B has been substituted vide the above Notification. In this regard the professionals are advised to wait for the release of the new schema and utility to submit the report in the modified format. Further, any upload using the old form will not be valid with immediate effect.

Modification to the Rate of disputed demand for Stay before CIT is prospective:

CBDT

F. No. 404/72/93-1TCC dated 25th August, 2017

Vide O. M. dated 31/07/2017, modifications were made to O. M. dated 29/02/2016 to the effect that the standard rate prescribed in O. M. dated 29/02/2016 stood revised to 20% of the disputed demand from 15%, where the demand was contested before CIT (A). In this regard, the Board has clarified that the modification effected by O. M. dated 31/07/2017 are prospective in nature and matters already decided as per Boards O. M. dated 29/02/2016 shall not be reviewed merely on the grounds of the aforesaid modification.



News and Updates

Companies Act

Commencement of sub-sections (8) to (10) of Section 212 of Companies Act, 2013

Notification dated 24th August 2017

Vide the above Notification, the Central Government has appointed the 24th day of August 2017 to be the date on which the provisions of sub-section (8), (9) and (10) of Section 212 of the Companies Act shall come into force. Section 212 deals with Investigation into Affairs of Company by Serious Fraud Investigation Office. Sub-section (8), (9) and (10) of Section 212 deals with procedure of arrest of persons believed to be guilty of any offence punishable under sections referred to in sub section (6) of the Section.

Companies (Arrest in connection with Investigation by SFIO) Rules, 2017

Notification dated 24th August 2017

In exercise of powers conferred under sub-section (1) of Section 469 read with Section 212 of the Companies Act, 2013, the Central Government has notified the Companies (Arrest in connection with Investigation by SFIO) Rules, 2017 which shall come into force from the date of its publication in the Official Gazette.

National Company Law Tribunal (Amendment) Rules, 2017

Notification dated 23rd August, 2017

In exercise of powers conferred by sub-section (1) and sub-section (2) of Section 469 of the Companies Act, 2013 the Central Government has notified certain rules so as to amend the National Company Law Appellate Tribunal Rules, 2016 namely National Company Law Appellate Tribunal (Amendment) Rules, 2017.



News and Updates

GST

ECO to pay GST on services provided by way of house-keeping

Notification No. 23/2017- Central Tax (Rate) & Notification No. 23/2017- Integrated Tax (Rate)

Vide the above Notification; the Central Government seeks to amend Notification No. 17/2017- Central Tax (Rate) dated 28th June, 2017. Post the above notification, an Electronic commerce operator shall pay the tax on intra state supply of services by way of housekeeping such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub section (1) of section 22 of the CGST Act.

GST RCM provisions amended & explanation for LLP inserted

Notification No. 22/2017- Central Tax (Rate) & Notification No. 22/2017- Integrated Tax (Rate)

The Central Government vide the above Notification seeks to amended Notification No. 13/2017- Central Tax (Rate) dated 28th June, 2017. Post the above notification, Reverse Charge Mechanism shall not apply in case of GTA who pays the GST @ 12% (CGST @ 6%). Further, the Notification also gives clarity on treatment of an LLP by inserting clause (e) to the June 28th Notification, which considers a Limited Liability Partnership to be a Partnership firm or a firm for the purpose of this Notification.

CGST exemption on services by Fair Price Shops to Government / FIFA etc.

Notification No. 21/2017- Central Tax (Rate) & Notification No. 21/2017- Integrated Tax (Rate)

Central Government vide the above Notification seeks to amended Notification No. 12/2017- Central Tax (Rate) to exempt services provided by fair price shops to Government and those provided by and to FIFA for FIFA U-17. The Notification has also substituted “Restructured Weather Based Crop Insurance Scheme (RWCIS)” and “Pradhan Mantri Fasal Bima Yojana (PMFBY)” for “Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme” and “National Agricultural Insurance Scheme” respectively.



News and Updates

GST

Reduction in rate on specified supplies of Works Contract Services

Notification No. 20/2017- Central Tax (Rate) & Notification No. 20/2017- Integrated Tax (Rate)

Vide the above Notification, the Central Government seeks to amend Notification No. 11/2017- Central Tax (Rate) to reduce CGST rate on specified supplies of Works Contract Services, job work for textile & textile products, printing service of books, newspapers etc; admission to planetarium. Further the aforesaid notification also provides an option to GTA & transport of passengers by motorcab service providers to avail full ITC & discharge GST @ 12% (CGST 6%)

Notification of extension of filing GSTR 3B

Notification No. 24/2017- Central Tax dated 21st August 2017

Vide the above Notification, the Central Government has amended the earlier Notification on filing of GSTR 3B to the effect of extending the due date of filing the 3B return to 25th of August 2017.

GST rate on specified parts of tractors reduced from 14% to 9%

Notification No. 19/2017- Central Tax (Rate) & Notification No. 19/2017- Integrated Tax (Rate)

The Central Government on the recommendations of the Council vide the above Notification, has brought down the GST rate of specified parts of tractors like from 14% to 9%.

CBEC clarifies on furnishing of Bond/ Letter of Undertaking for Export

Circular No. 5/5/2017- GST

Vide the above Circular; the CBECE has given a proper clarification on issues related to furnishing of Bond/ Letter of Undertaking for Export by giving references to Notification No. 16/2017- GST dated 7th July, 2017; Circular No. 2/2/2017- GST dated 5th July, 2017 and Circular No. 4/4/2017- GST dated 7th July 2017. This was due to a large number of communications being received from field formations and exporters citing variation in the interpretation of the Notifications and Circulars issued in the month of July in this regard.



Recent Case Laws

Income Declaration Scheme, 2016- Applicability- Search carried on from 30/6/16 to 2/7/16

Surendra Pal Singh Sahni v. DGIT (2017) (Raj HC)

Search was carried in case of assessee from 30-06-2017 to 02-07-2016 and benefit of IDS 2016 was denied. On filing a writ petition, single judge dismissed the same. Assessee filed special appeal before the division bench. Contention of assessee was that the proceedings under 132 were initiated after the launching of IDS and clause (ii) covered cases only prior to the launching of the scheme which was 01-06-2016, in that view of the matter the authority had misinterpreted the provisions and the assessee had been deprived of his legitimate and legal right of exercising power under the scheme.

Held: Government had granted the benefit of the scheme only to the persons who were not covered under section 132 and other proceedings. If the class which had been debarred under the scheme and any person acquiring the same debar during the scheme could be granted the benefit of the scheme, the answer in was 'no'. The terms were not which were prohibited by law prior to launching of the scheme. If anybody acquired any disqualification during the scheme, had to be treated equal otherwise that would create two class. It was held that the scheme of 2016 would not override the provisions of Income Tax and the scheme which had come by way of limited purpose could not prevail over the Income Tax Act. In that view of the matter, the order passed by the designated authority was just and proper. Court was in complete agreement with the view taken by the single judge. No interference was called for. Assessee's appeal was dismissed.

Income Chargeability- Unclaimed dividend under the head 'Statutory Reserve Fund'

CIT v. Kallappanna Awade Ichalkaranji Janata Sahakari Bank Ltd. (2017)(Bom HC)

AO noted that assessee had shown certain amount as unclaimed dividend under head 'statutory Reserve Fund'. Assessee's contention was that it was unclaimed dividend of share holder on which tax had already been paid. AO however added the amount to assessee's income.

Held: The dividend had not been charged to profit and loss account and formed part of appropriation of income as it was not debited to profit and loss account. The unclaimed dividend which had been transferred to Reserve Fund, had already borne Income Tax. Thus, bringing the same to tax would amount to double taxation.



Recent Case Laws

Exemption under Section 10 (10C)- Allowability

S. Sevugan Chettiar v. Pr. Chief CIT (2017) (Mad HC)

Assessee, an employee of the ICICI Bank, opted for voluntary retirement under Optional Early Retirement Scheme filed his return of income for relevant year and assessment was finalized. Later on, assessee came to know that pursuant to a judgment of supreme court, he having opted for voluntary retirement under Early Retirement Option Scheme was entitled to exemption under Section 10(10C). Pursuant to this information he filed a revised return. However, the revised return was refused to be accepted as it was beyond the time period stipulated under Section 139(5)

Held: Assessee a retired employee of bank having opted for voluntary retirement under early retirement option scheme shall be entitled to exemption under Section 10(10C), even though revised return claiming exemption had been filed belatedly due to circumstances beyond control of assessee. Technically should not stand in the way while giving effect to the order passed by the SC. The Board also issued a circular on 13-04-2016 with a view to grant relief to the retirees of the ICICI Bank under the Early Retirement Option Scheme. Therefore, relief should be granted to the assessee.

Exemption under Section 10(37)- Land acquisition- Payment of Compensation made on agreed terms- Allowability

UOI v. Infopark Kerala (2017)(SC)

The Controversy raised was as to whether the payment of Compensation on agreed terms in respect of the land acquired assessee would be entitled for exemption under Section 10(37).

Held: Even if the amount of compensation is paid on agreed terms, it would not change the character of the acquisition from that of compulsory acquisition to the voluntary sale. The exemption provided under the Income Tax Act would be available and such negotiations would be confined to the quantum of compensation only.

Charitable Trust- Registration u/s. 12A- Conditions precedent- Assessee not filing returns for earlier years

CIT v. Shirdi Sai Darbar Charitable Trust (2017)(P&H HC)

Assessee filed an application for registration u/s. 12AA. CIT(E) denied registration on the grounds that it had not filed any return of income for earlier years. It further recorded that accounts were not audited and accounts were not genuine.

Held: The CIT(E) had to satisfy two conditions while granting registration under section 12AA. Firstly, whether the objects of the assessee were charitable in nature and, thus, the activities were genuine. It could not be concluded on the basis that the assessee had not filed its IT Returns in earlier years that the activities of the assessee were not genuine. No adverse remarks had been recorded by the CIT(E) with regard to the objects contained in the Memorandum of the assessee-trust to come to the conclusion that its activities were not genuine. Thus, it had been rightly directed by the tribunal to the CIT(E) to grant registration under Section 12AA.



Recent Case Laws

Disallowance under Section 14A- Expenditure against exempt income- No dividend earned

CIT v. Chettinad Logistics (P.) Ltd.(2017)(Mad HC)

There was no dividend income which did not form part of total income of the assessee that was earned in relevant assessment year, therefore, addition made by AO relying on Section 14A was completely contrary to provisions of that section. Rule 8D only provides for a method to determine the amount of expenditure incurred in relation to income, which does not form part of total income of assessee and it cannot go beyond what is provided in section 14A.

Business Loss- Treatment of derivatives loss as colourable devise

ITO v. PKS Holdings (2017)(Kol Trib.)

Assessee engaged in dealing in securities claimed deduction of derivatives loss. AO noticed as evidence by broker ledger for a period of 9 years that the assessee had entered into derivative transactions only between 27-2-2007 and 31-3-2007. Each and every F&O scrip was purchased and sold on the same day. Also each and every transaction resulted in loss in odd figures. However, the assessee paid the broker in round figures. Further, margin requirement as per SEBI Regulations was not followed. Accordingly, AO considered derivative transactions as a sham and a make belief affair arranged in order to manufacture bogus loss.

Held: AO disallowed the loss not on the basis of any incriminating documents or bringing any adverse evidence on record, but with the observation that the transactions in question failed to satisfy the test of human probability and the objectives of the transactions was tax evasion. AO did not doubt genuineness of the transactions. Even in the remand report filed before CIT(A), the AO had accepted veracity of the documents filed by the assessee in support of the loss. Therefore, AO was not justified in treating derivatives loss as bogus loss as the same was real but speculative one deserving special treatment in items of set off in accordance with Explanation to Section 73.

Business Income- Non compete fee- Taxability

CIT v. Anjum G. Balakhia (2017)(Guj HC)

While finalizing assessment on 26-11-2002, certain amount received by assessee as non-compete fee was taxed under section 45 read with section 55(2) by AO. CIT(A) dismissed assessee's appeal holding that section 28(iv) was applicable in assessee's case. Allowing assessee's appeal Tribunal held that section 28(iv) was not applicable. Revenue was before HC.

Held: Tribunal was right in holding that provisions of section 28(iv) were not applicable in case of assessee. Tribunal was right in holding that amount of non compete fees received by assessee was not taxable as capital gains under Section 45 read with Section 55(2)



Managing Committee 2017-18



Managing Committee

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