



ICAI MANGALORE
INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

e- Bulletin



The Bulletin Board

Volume 02 | February 2016

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Thought for the Month:



When the world says
Give up.
Hope whispers...
Try it one more time



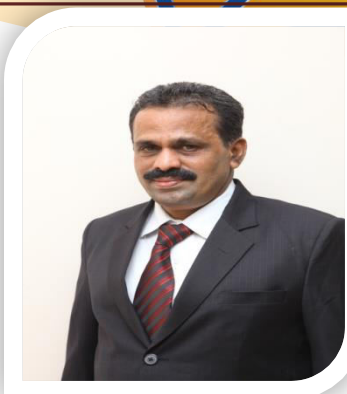
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Chairman's Message



CA Keshava Ballakuraya
Chairman
Mangalore Branch of SIRC of ICAI



Dear Members,

I salute the Institute of Chartered Accountant of India for giving me a way of life and recognition in the society which I shall always treasure. I salute the past chairmen who are the pillars of our branch, and kept the branch growing towards greater heights.

First of all, I congratulate our newly qualified CAs and heartily welcome them to the member fraternity.

In June 1971, four members of the ICAI residing in Mangalore received a letter from the ICAI headquarters that they were appointed as members of the managing committee of the to-be-formed Mangalore branch, and in August 1971, the Mangalore branch was officially set up. CA K.N Basri was the founder chairman and S.S.Kamath was founder treasurer of the branch.

Mangalore branch is the second branch to be set up in Karnataka and the fifth branch to be set up in southern India. The first office was set up in a small rented place above Udaya Printers building at Kodialbail. The branch, which was started with about 50 members of the ICAI and about 30 students is now one of the vibrant branches in the southern region with over 550 members and 1500 students.

In the year 1995, we moved to our own premises at Mahendra Arcade, under the chairmanship of CA Prakash Basri, due to collective efforts of our senior members and the committee. In February 2014, we all witnessed the inauguration of Padil Building magnificent temple of learning under the chairmanship of CA Jagannath Kamath and CA. Nithin J Shetty as a Chairman of Building Committee. I was one of the committee members during that time. What we are enjoying today are the fruits of the selfless efforts and dedication of the past chairmen and members of the fraternity who have generously contributed to the branch in all ways. The Past Chairmen have come out with flying colours in all their branch endeavours and set a high standard of performance.

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Chairman's Message



Contd.....

I salute my predecessor chairpersons who have mentored me and given me the opportunity to serve the institute for the past years. Now they have passed the baton to my hands and bestowed upon me this huge responsibility to continue the legacy of serving the branch by keeping up to the standards set by them. I am extremely happy that Sri.CA. S.S.Kamath, Past Chairman of our branch was the guest of honour in the takeover function held on 27th February 2016.

I am fairly confident that with the support and team work of the new expanded committee, we are going to have an eventful year ahead. I also solicit the support and co-operation of all my fellow members in all the branch activities up ahead.

We as a committee, have come up with an action plan for the year, for both members and students. CPE Seminars and Study Circles will be conducted every month at the institute; two days National Conference on Indirect Taxes. We will try to involve maximum possible number of members and students.

I congratulate CA. Shivakumar for getting the award for Best Branch of SIRC for the year 2015 jointly with Trichur branch of SIRC under the Medium Category for the year 2015. He is also been a successful chairman for conducting the National Conferences for Members and Students “Jana Devige” and “Jnana Sathra”

After taking over we have conducted the CPE TV Live Budget Telecast and CPE National Live Webcast on Highlights of Tax proposals of Union Budget 2016-17 on 29-02-2016.

As said by Paulo Coelho (Kwaylo), when a person really desires something, all the universe conspires to help that person to realise his dream. I am confident that the senior members and past chairmen will guide us in our future endeavours and help us achieve the same.

I wish to quote Henry Ford's words.....“Coming together is a beginning, staying together is progress, and working together is success”.

Thank you one and all.

With warm regards,

Yours in Professional Service,

CA Keshava Ballakuraya

Branch Activities February 2016



SI No	Date	Activity at Branch	CPE Hours/ Number of Participants
01	01.02.2016 to 15.02.2016	6 th Batch of GMCS-II	Students: 17
02	03.02.2016 to 17.02.2016	25th Batch of GMCS -1	Students: 20
03	06.02.2016	CPE Seminar on Companies act & Income Tax Act Search and Survey' under the Income Tax Act Speakers: CA. Prashanth G.S, Bangalore CA.Raghav Narayan, Bangalore CS.Ulhas S Bhat, Mangalore	Members: 90 Students: 26 CPE Credit: 6 Hours
04	25.02.2016	Career Counseling Programme at Sri. Bhuvanendra College, Karkala Speakers: CA. Shivanand Pai. B	
05	27.02.2016	Crash course for May 2016 examination Subject: Financial Reporting	Students : 16
06	27.02.2016	Annual Day Celebration Music and Entertainment by Gururaj and Team Installation of New Office Bearers Felicitation to newly qualified CA's Dinner	Participants: 100
07	29.02.215	Group discussion on Union Budget 2016-17 Discussion Leader: CA. Shivanand Pai B CA. Keshava Ballakurya CA. Bhargava Tantri	Members: 12 CPE Credit: 2 Hours
08	29.02.2016	CPE National Live Webcast on Highlights of Tax Proposals of Union Budget, 2016-17 By: CA. (Dr.) Girish Ahuja	Members: 12 Students: 8 CPE Credit: 2 hours





Branch Activities Gallery February 2016



Left: Speaker CA Raghav Narayanan, Bangalore during the CPE Seminar held on 06th Feb 2016 at ICAI Bhawan
Right: Speaker CS Ulhas Bhat, Mangalore during the CPE Seminar held on 06th Feb 2016 at ICAI Bhawan



New managing Committee take over during the Annual day celebrations held at ICAI Bhawan on 27th Feb 2016

Glimpse of Annual Day Celebrations held on 27th Feb 2016





Professional Updates: Direct Taxes

Sum advanced to son/daughter of shareholder not held as deemed dividend

Manoj Murarka v. Asstt. CIT [2016] (Kolkata – Trib.)

Assessee was a shareholder in a company holding 41 per cent of shares. Son and daughter of assessee had overdrawn certain amount from the company. The Assessing Officer ('AO') treated above amount as deemed dividend and added same in income of assessee. On appeal, the CIT(A) deleted the addition made by AO.

The assessee was of the view that his son and daughter were not shareholders in the lending company. The deemed dividend, if any, could be assessed only in the hands of the shareholders and not otherwise. The Tribunal held that this argument was taken by the assessee even before the lower authorities and the revenue had not brought on record any contrary evidence to this fact. Hence the provisions of section 2(22)(e) could not be invoked in respect of amount overdrawn by the son and daughter.

Central Government has notified the 'HDFC Retirement Savings Fund' as a pension fund for the purposes of deduction under section 80C of the Income-tax Act for the assessment year 2016-17 and onwards.

No disallowance if cash exceeding 20,000 is directly deposited in bank account of supplier

Rampada Panda v. ITO [2016] (Kolkata – Trib.)

Assessee, engaged in retail trading of poultry feeds, made certain cash payments in excess of Rs. 20000 for purchase of poultry feeds. The payments were made by assessee by directly depositing the cash into the bank account of supplier.

Assessing Officer (AO) disallowed the said payments under section 40A(3). The disallowance made by AO was also confirmed by the Commissioner(Appeals).

It was held by the ITAT that provisions of section 40A(3) could not be made applicable in the instant case since assessee had directly deposited the amount in bank account of supplier, which were acknowledged by concerned supplier by crediting it into ledger account of assessee and, further, genuineness of the payments had also not been doubted by revenue.



Professional Update: Direct taxes

No additional depreciation if manufactured goods were consumed for construction activity

Stefon Constructions (P.) Ltd. V. CIT [2016] (Mumbai – Trib.)

The assessee was engaged in laying pile foundation on job work basis, which were required in construction activities. It had purchased new machinery, which enabled it to fabricate piles of standard size. The assessee had claimed additional depreciation on the cost of newly purchased machinery as he was of the view that pre - fabricated piles resulted in manufacture of new article or thing, the AO and CIT(A) rejected the claim of assessee.

The Tribunal held as under:

In civil construction contracts ‘concrete slabs’ are produced separately and then they are fitted at the required places. It does not mean that the civil contractor is manufacturing or producing the ‘concrete slabs’. The production of concrete slabs either separately or on the structure itself by the civil contractor forms part of construction activity only, since they are merely two different ways of construction. The same analogy would apply to the present case also.

It would not make any difference when the piles are constructed inside the bore at project site itself or the pre-fabricated piles are fitted into the bore, by producing the piles at a different place. Ultimately, the assessee is executing its contract work of piling and the new machinery would enable it to complete the work fast. The assessee could not be considered to be engaged in the business of manufacture or production of an article or thing. Accordingly, it was not eligible for additional depreciation.

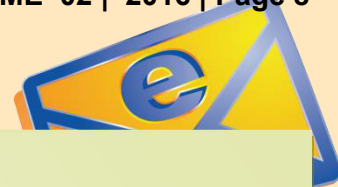
Excess ‘deferred tax liability’ in balance sheet couldn’t be added back in income of taxpayer

Jt. CIT v. Kanco Enterprises Ltd. [2016] (Kolkata – Trib.)

The assessee showed deferred tax liability higher than deferred tax asset in balance sheet.

The Assessing Officer held that excess liability shown in balance sheet had to be added back in total income of the assessee.

It was held by the Tribunal that the deferred tax liability had not come to reduce the total income declared by the assessee in the return of income. Therefore, addition of excess deferred tax liability in total income was liable to be deleted since deferred tax liability was never an item of expenditure in profit and loss account.



Professional Updates:

CBDT notifies forms for accumulation of income by a trust

NOTIFICATION NO. SO 127(E) [F.NO.142/16/2015-TPL], DATED 14-1-2016

CBDT has notified Form No. 9A and Form No. 10 for the purposes of accumulation of income by a charitable or religious trust.

Now CBDT would issue refunds up to Rs. 5,000 without adjustment of outstanding tax liability

OFFICE MEMORANDUM [F.NO.312/109/2015-OT], DATED 14-1-2016

In order to provide relief to the small taxpayers, CBDT has directed that refunds up to Rs. 5,000 and refunds in cases where arrear demand is up to Rs. 5000/- would be issued without any adjustment of outstanding arrears.

Govt. establishes Centralized Registration Centre for processing name reservation requests under Cos Act

NOTIFICATION NO. [F.No.A-42011/03/2016-Ad.II].DATED 25-1-2016

The Government has established a Central Registration Centre (CRC) for processing and disposal of applications for reservation of names under the provisions of the Companies Act, 2013. CRC shall have territorial jurisdiction all over India, the CRC shall function under the administrative control of Registrar of Companies, Delhi (ROC Delhi), who shall act as the Registrar of the CRC until a separate Registrar is appointed to the CRC.

The CRC shall process applications for reservation of name i.e., e-Form No. INC - 1 filed along with the prescribed fee as provided in the Companies (Registration of Offices and Fees) Rules, 2014.

Processing and approval of name or names proposed in e-Form No. INC-29 shall continue to be done by the respective Registrar of Companies having jurisdiction over incorporation of Companies having jurisdiction over incorporation of companies under the Companies Act, 2013 as per the provisions of the Act and the rules made thereunder.

Secretarial Standards Board of ICSI unveils guidance notes on SS-1 and SS-2

PRESS RELEASE, DATED 18-1-2016

The Secretarial Standard Board ('SSB') of the Institute of Company Secretaries of India recently came up with Guidance Notes on Board and General Meetings, respectively, on the basis of relevant provisions of the Companies Act, 2013 as amended up to 30th November, 2015 and rules, circulars, clarifications etc. issued by the Ministry of Corporate Affairs as on that date. The Guidance Note in addition to providing an explanation for the SS stipulates certain additional provisions to be kept in mind when conducting board and general meetings.



Professional Updates:

Charges recovered by employer for extending car facility to employees isn't liable to service – tax

J.P. Morgan Services India (P.) Ltd., In re [2016] (AAR – New Delhi)

Perquisite extended by employer by way of car provided for personal and official use to employees, against payment of cost incurred by employer, does not amount to service under section 65B(44) (b), as it is in course of employment and therefore, excluded from scope of service.

Processing fees paid to foreign bank for arranging borrowings is liable to service-tax under reverse charge

JSW Steel Ltd. v. CST [2016] (Chennai-CESTAT)

Processing fee paid to foreign banks for arranging External Commercial Borrowings, is liable to service tax under reverse charge under Banking and other Financial Services.

Services of professional Tea tasters are taxable under business auxiliary services

Container Tea & Commodities v. CCE [2016] (Chennai – CESTAT)

The activity undertaken by professional Tea tasters to market 'tea' among foreign buyers is covered under the scope of Business Auxiliary Service (BAS), not commission agency service. Hence, the assessee provides the services of BAS for their clients and therefore, taxable.

Construction of independent houses without common facilities couldn't be held as 'construction of complex services'

CCE & ST v. A.S. Construction Company [2016] (New Delhi – CESTAT)

Where assessee was constructing independent residential buildings, which were not connected in plinth, had separate boundary wall, entrance and separate electricity and water connection, then in absence of any common facilities, such activity could not prima facie be regarded as Construction of Companies of complex service

Commission earned by bank on sale of bonds is taxable under 'Business Auxiliary Services'.

CST v. ICICI Bank Ltd. [2016] 65 taxmann. com 242 (Mumbai – CESTAT)

Where assessee – bank acted as 'agency bank'/'receiving office' for sale of bonds issued by RBI, brokerage/commission earned would be taxable under head 'business auxiliary service'.

Professional Updates



Commission agent's services are ineligible for credit as he isn't not 'sales promotion agent'

Gujarat State Fertilizers & Chemicals Ltd.(Fiber Unit) v. CCE, C&ST [2016] (Gujarat)

Where principally agreement is to appoint agent/ stockist for storing and selling goods of assessee, such stockist would be 'commission agent' and not 'sales promotion agent'; hence, commission so paid to him is ineligible for credit.

No denial of exemption due to non-reversal of credit and violation of Cenvat Credit Rules

Sunflag Filaments Industries v. C, CE&ST [2016] (Ahmedabad – CESTAT)

If assessee has not lapsed/reversed credit under rule 11 of CENVAT Credit Rules, 2004 on opting for exemption, then, for violation of CENVAT Credit Rules, action may be taken under CENVAT Credit Rules, but, exemption itself cannot be denied.

Sale of 100% shareholding in subsidiary Co. could not be treated as 'Slump Sale'

UTV Software Communications Ltd.v. Asstt. CIT [2016] (Mumbai – Trib.)

Assessee-company sold its entire shareholding in its subsidiary company 'UHEL' to a third party.

Assessee worked out capital gains under section 48 on such transaction.

However, the Assessing Officer ('AO') opined that the said transaction would amount to slump sale of an undertaking and capital gains had to be computed under section 50B.

The Commissioner (Appeals) upheld the order of Assessing Officer. Aggrieved-assessee filed the appeal before the Tribunal.

The Tribunal held in favour of assessee as under-

- (1) As per section 2(42C), transfer of shares will not result into transfer of undertaking making it a slump sale for section 50B.
- (2) If impugned transaction would be regarded as slump sale, the consideration should have been received by UHEL, and not by the assessee because it was UHEL which had been transferred and being a distinct legal entity it was entitled for the sale consideration on its transfer. However, this was not the case since the sales consideration was received by assessee on transfer of shares of UHEL.
- (3) What the assessee had transferred was the shares in UHEL and this transfer of shares could not be considered as slump sale of an undertaking within the provisions of section 2(42C).



OBITUARY



CA C.T.J Gonsalves Chartered Accountant

CA CTJ Gonsalves, a stalwart of our profession, a professional who was held in high esteem by one & all. On the 8th of this month his journey on this earth ended when he was called to his heavenly abode. He was a few months away from his 75th Birthday. He had been keeping indifferent health for some time. He lost his dearly beloved wife a couple of years ago and it was perhaps hard for him to come to terms with this loss.

He was in practice for 50 years. Together with CA U BabuNayak he founded the firm Gonsalves & Nayak way back in 1966. This was the 1st firm of Chartered Accountants in Mangalore and it was also the first firm of Chartered Accountants to be empanelled with the C.A.G. He was a successful Chartered Accountant who strode the professional stage like a colossus for 5 long decades. He was a man of unimpeachable integrity. He was blessed with a sharp intellect, a brilliant mind, beautiful handwriting and a mastery over the English Language.

He leaves behind his son CA Sunil, daughter Dr.Sarita & son Sudip who is an engineer based in the U.S daughter in law CA Adelyne & son in law Dr.Geover His legacy is being carried forward by his able son CA Sunil

In the passing away of CA CTJ Gonsalves, the Mangalore Branch has lost a doyen of the profession and expresses its heartfelt condolences to the family.



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

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.

Question: What would you describe the term "exchange of opinions"?

Answer: That's a situation when you have your opinion and go with it to your boss. Then you return with his opinion



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

icaiebulletin@gmail.com

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