



ICAI MANGALORE
INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

e- Bulletin

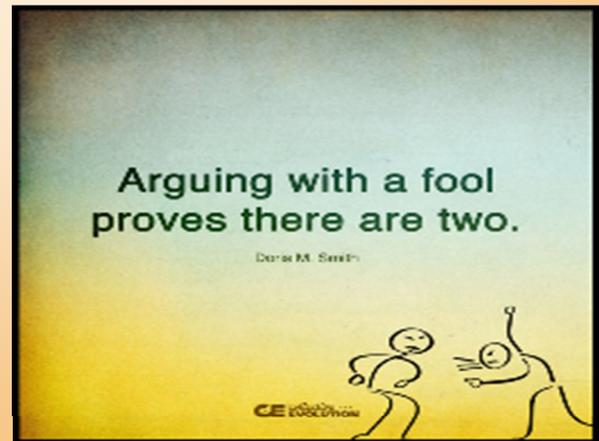


The
Bulletin Board

Volume 07 | July 2016

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Thought for the Month:



✓ **Quality**

✓ **Trust**

✓ **Integrity**

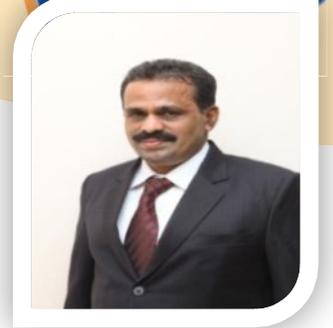


Mangalore Branch of SIRC of ICAI | ICAI Bhawan | Padil | Mangalore – 575007

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Chairman's Message

CA Keshava Ballakuraya
Chairman
Mangalore Branch of SIRC of ICAI



Dear Members,

The month of July is significant for professionals as we are celebrating both CA Day and Doctor's Day. Both CAs and Doctors contribute to the society by taking care of financial health and health of body and mind. Our Institute has completed its 67th year of magnificent existence on this Chartered Accountants Day on 1st July. The ICAI was established with a vision to empower the accountancy profession, and it is still moving forward by leaps and bounds, with its roots growing longer and deeper every day. We, the CA fraternity, should also hold our heads high, to be the proud partners in nation building. The legacy of the Indian Accountancy Profession has been handed over to all of us with the faith that we will nurture it and help it reach new heights. So, I believe, it is our responsibility to come together and contribute to the profession in the best way possible.

CA Day Celebrations

Nelson Mandela, once said, "What counts in life is not the mere fact that we have lived. It is what difference we have made to the lives of others that will determine the significance of the life we lead."

The society has given us a lot, love, respect, status, identity and a good life. What we are, we are only because of the society in which we have grown and built our life around. So, it is our duty to make some time to give back to the society and express gratitude for all that we have today.

I am happy to say that we have dedicated this year's CA day for this cause. We started with a Walkathon from Mahendra Arcade, promoting our "Go Green" initiative and anti-drug campaign- "Say Nope to Dope". We also planted saplings and cleaned the vicinity of ICAI Bhawan, Padil under the Swachh Bharath Abhiyaan. We had the Flag Hoisting ceremony at 9.30, which was done at all the branches PAN India Level. Later, we had the Blood Donation Camp in association with the Indian Red Cross Society, where 52 members and students have donated blood. We also had the Blood Donation Camp in Puttur in association with IRCS and Rotary Campco Blood Bank, Puttur where 15 members and students have donated blood. As a part of CA Day celebration, we have also visited Old Age Home and arranged for lunch with the inmates. The members and students visited Government School at Mullakkad, Mangalore and donated literacy kits. I congratulate all the members and students for actively participating in all the CA Day events, which continued through the day.

On the occasion of CA day, we felicitated our senior members, CA B.N.R Pai, CA U. K. Nayak and CA Seetharam Shetty in recognition of their invaluable contribution to the profession and society at large. We also felicitated the 3 toppers from IPCC as well as 3 toppers from CPT for their remarkable achievement. It was an immense pleasure to have Captian Ganesh Karnik, opposition party chief whip for Karnataka Legislative Assembly, serving as the MLC as the chief guest on CA Day. He spoke to the gathering on how chartered accountants could be partners in nation building and contribute to the nation's growth.

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Chairman's Message



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We ended the celebrations with cultural programme. I believe each one of us present, was mesmerised watching the Yakshagana Puppet Show by the internationally renowned Shri Ganesha Yakshagana Gombeyata Mandali, Uppinakudru. It was a visual treat to watch Bhaskar Kogga Kamath of the group demonstrate the art of puppeteering for the knowledge of the audience and also to emphasize the need to preserve this dying art form.

Events during the month

Our ICAI has been chosen by the Government of India to create awareness about the Income Declaration Scheme 2016. The agenda is an effort to align the ICAI vision with the "Swachh Bharath" mission, that is, cleanliness not just physically, but holistically also. As a part of this endeavor our branch has conducted the Citizen and Member Awareness Programme on Income Declaration Scheme 2016, on 02.07.2016 at ICAI Bhawan, Mahendra Arcade, Karangalpadu. The speakers for the session were CA Srinivas Kamath S. , Bendoorwell and CA Sriram V Rao, and on behalf of the Income Tax Department, S. Srinivas, Deputy Commissioner of Income Tax. Office bearers of Kanara Chambers of Commerce and Industry, Mangalore were also present. There was a live webcast of Special Address by Hon'ble Finance Minister, Shri Arun Jaitley and CA Girish Ahuja.

One day seminar on Corporate Law changes was conducted on 9th July with session speakers CA K. Gururaj Acharya and CS Raviprasad. Half day seminar on Draft Model GST Law on 12th July with session speakers CA Madhukar Hiregange, Chairman of Indirect Tax Committee and CA Nandagopal Shenoy.

Live Webcast on "Advanced Features of MS Word and MS-Power Point" was held on 15th July.

We are honoured to have jointly organised "Jnana Pragathi", State Level Conference on 16th and 17th July, 2016 at Bangalore, as co-hosts along with the Bangalore, Bellary, Hubli, Kalaburagi, Mysore and Udupi branches, and the event was a huge success.

Study Circle Meeting on GST- Registration, Credit & Return by CA Daphny D'Souza was held on 23rd July. One day workshop on Internal Control over Financial Reporting framework was held on 25th July at OMPL Training Centre by CA. K. Gururaj Acharya, mainly for the CAs of the industry.

It was a pleasure for me and CA Shivananda Pai B, to have been invited as guest speakers, at the Alva's College, Moodbidri on 28th July for the Orientation Programme for IPCC students about the course and the profession and to see so many more students pursuing the course with enthusiasm. On the same day, we had live webcast on CST and VAT provision including principles of CST involved in IGST under model GST law.

One Day CPE Workshop on Impact of Accounting Standards on Industries and Comparison of Ind AS and IFRS by CA Mohan R Lavi and CA George Victor was conducted on 30th July for the members of the industry.

I would like to convey my heartfelt gratitude to all the speakers for the various sessions conducted by them during the month.

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Chairman's Message



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Student activities

“Life survives on changes. So instead of avoiding it, take every change as a challenge. Either it will give you success or will teach you how to succeed.”

A wonderful term of 15 months by the outgoing SICASA committee has come to an end and they have handed over the baton to the new SICASA committee. I congratulate the outgoing committee for their commendable job. Hats off to their unparalleled team spirit and enthusiasm. They have surpassed all expectations and taken the Mangalore Branch to new heights of glory. I heartily convey my best wishes to the new committee for the succeeding term.

Final Examination Results

The results of the CA Final Examination were announced on 18th July. Out of the 180 students who appeared for the exam from the Mangalore Centre, 59 have cleared at least one of the groups and out of the 59, 21 cleared both the groups at once and about 13 cleared one of the groups, resulting in a total of 34 aspirants coming out as qualified Chartered Accountants from Mangalore. This is one of the best results Mangalore has seen over the past decade. I congratulate all the students who have cleared the exam and wish them a bright and successful future ahead.

I am happy to see that the Crash Course conducted at our branch has borne fruit, with many of the Crash Course participants clearing the exam. It is an inspiration for us, to continue to work for the growth of the students and the branch as a whole.

A smooth sea never made a skilled sailor.

The students who couldn't clear the exams this time shouldn't lose their heart at this temporary setback. CA profession can be best described as, “Living a few years of your life like most people won't, so that you can spend the rest of your life like most people can't.” I urge the students to keep their focus only on the course and work hard to get qualified as soon as possible, because a very bright future awaits them.

I wish you all a wonderful and prosperous professional year ahead.

With warm regards,
CA Keshava N Ballakuraya

Branch Activities July 2016



| Sl No | Date | Activities at Branch | CPE Hours/ Number of Participants |
|-------|------------|---|---|
| 1 | 01.07.2016 | <p>Chartered Accountants Day Celebration</p> <p>Activities carried out at Mangalore:</p> <ol style="list-style-type: none"> 1. Walkathon from our Mahendra Arcade Branch to Padil promoting our “Go Green” initiative and anti-drug campaign- “Say Nope to Dope 2. Sapling 3. Flag Hoisting 4. Blood Donation in association with the Indian Red Cross Society 5. CA Day function Captian Ganesh Karnik, opposition party chief whip for Karnataka Legislative Assembly, serving as the MLC as the chief guest 6. Entertainment program Puppet show by Uppinakudru team 7. Honoring 3 Senior Chartered Accountants 8. Felicitated the 3 toppers from IPCC as well as 3 toppers from CPT 9. Lunch with inmates of Old age home at Vatsalya Dhama Vriddhashrama, Kodialbail 10. Distribution of Literacy kits Government School at Mullakkad, Mangalore | <p>Members: 150</p> <p>Students:100</p> |
| | 01.07.2016 | <p>Chartered Accountants Day Celebration</p> <p>Activities carried out at Puttur :</p> <p>Blood Donation Camp in Puttur in association with IRCS and Rotary Campco Blood Bank</p> | <p>Members: 5</p> <p>Students:20</p> |
| 2 | 02.07.2016 | <p>Citizen & Member Awareness Programs on Income Declaration Scheme, 2016 Ministry of Commerce & Industry, Ministry of Finance, Government of India and The Institute of Chartered Accountants of India Hosted By Mangalore Branch of SIRC of ICAI</p> <p>Topic: Income Declaration Scheme 2016- Salient features</p> <p>Speakers: CA S. Srinivas Kamath, Bendoorwell, Mangalore, CA Sriram V Rao, Mangalore, S. Srinivas, Deputy Commissioner of Income Tax and Parimelazgan, Income Tax officer, Mangalur</p> <p>Address by Shri Arun Jaitley, Hon'ble Finance Minister, Govt. of India (webcast). Issues on Income Declaration Scheme 2016 by CA. (Dr.) Girish Ahuja (webcast)</p> | <p>Members : 35</p> <p>CPE Credit : 2 Hrs</p> |
| 3 | 13.07.2016 | ITT Batch Started | Students : 41 |

Branch Activities July 2016



| SI No | Date | Activities at Branch | CPE Hours/ Number of Participants |
|-------|------------|---|--|
| 4 | 09.07.2016 | <p>One day Seminar on Companies Act, 2013 organized by “Committee of Capacity Building of Members in practice” (CCBMP), ICAI Hosted by Mangalore Branch of SIRC of ICAI</p> <p>Topic: Companies Act- The Journey 2013 to 2016 key changes impacting Audit and Accounts Speaker: CS Raviprasad</p> <p>Topic: CARO 2016- Understanding & Implementation, Audit Report Speaker: CA K Gururaj Acharya</p> | <p>Members : 57 Students : 27 Non Members: 3 CPE Credit : 6 Hrs</p> |
| 5 | 12.07.2016 | <p>Half day Seminar on Draft Model GST</p> <p>Updates on Draft Model GST Law Transition to GST- areas requiring change in mindset Speaker: CA Madhukar N. Hiregange, Chairman, Indirect Taxes Committee, ICAI</p> | <p>Members : 50 Students : 18 Non Members : 5 CPE Credit : 3 Hrs</p> |
| 6 | 15.07.2016 | Orientation Course | Students : 42 |
| 7 | 15.07.2016 | <p>Live Webcast Topic: Advanced Features of MS Word and MS Power Point Organized by Young Members Empowerment Committee of ICAI Speaker: Vijay Agarwal</p> | <p>Members : 4 CPE Credit : 3 Hrs</p> |

Branch Activities July 2016



| Sl No | Date | Activities at Branch | CPE Hours/ Number of Participants |
|-------|----------------------------|---|---|
| 8 | 23.07.2016 | Study Circle Meeting Topic: GST- Registration, Credit & Return Discussion Leader: CA Daphny D'souza | Members : 11 CPE Credit : 2 Hrs |
| 9 | 25.07.2016 | CPE Workshop Topic: Internal Financial Controls Speaker: CA K Gururaj Acharya, Bangalore | Members : 15 |
| 10 | 28.07.2016 | Orientation programme for IPCC Students at Alva's college, Moodbidri Guest Speaker: CA Shivananda Pai B | Students : 100 |
| 11 | 28.07.2016 | Live Webcast Topic: CST and VAT Provisions including principles of CST involved in IGST- under Model GST Law organized by "Indirect Taxes Committee", ICAI Speakers: CA S Venkatramani and CA Arun Agarwal | Members : 10 CPE Credit : 2 Hrs |
| 12 | 30.07.2016 | CPE Workshop on Impact of Accounting Standards on Industries and comparison of Ind AS and IFRS organized by by "Committee of Capacity Building of Members in practice" (CCBMP), ICAI Hosted by Mangalore Branch of SIRC of ICAI Topic: Impact of Ind AS on Financial Statements of Banks & NBFCs Speaker: CA Mohan R Lavi Topic: Comparative analysis of Indian GAAP with that of IAS/IFRS, Ind AS & ICDS Speaker: CA George Victor | Members : 26 Students : 5 Non Members : 2 CPE Credit : 6 Hrs |
| 13 | 16 -07-2016 and 17-07-2016 | Bangalore branch organised "Jnana Pragathi", State Level Conference at Bangalore, as co-hosts along with the Mangaluru, Bellary, Hubli, Kalaburagi, Mysore and Udupi branches, | BangaloreBranch Programme |



Branch Activities July 2016



| SI No | Date | Activities at Branch for the Students | CPE Hours/ Number of Participants |
|-------|------------|---|---|
| 1 | 01.07.2016 | Chartered Accountants Day Celebration: Activities carried out were the following: Walkathon, Planting of Saplings, Flag Hoisting, Blood Donation Camp, Swach Bharat Abhiyan in the vicinity of ICAI Bhawan, Lunch with inmates of an Old age home and Puppet Show to entertain the members and students by Uppinakuduru team. | Students : About 100 |
| 2 | 13.07.2016 | ITT Batch Started | Students : 41 |
| 3 | 15.07.2016 | New batch of 15 days Orientation Course | Students : 42 |
| 4 | 22.07.2016 | Study Circle - Service Tax On Education Related services Speaker - Sowmya Mallya Chairperson - CA.Sabana | Students : 41 |
| 5 | 22.07.2016 | SICASA Outgoing Committee of Anwesh Shetty, Kedarnath Shenoy, Deepak Acharya, Deepika Vasani, Alvita D'Souza, Sathwik Rai, Vaishnavi Rai, Jaison D'Souza Handing over the charge to the New SICASA Committee of Venkataramana Kini, Nischal Mallya, Sathyapriya R, Sanchitha Kamath, Flenil D'Souza, Rowena D'Souza, Imdadulla Khan | |
| 6 | 28.07.2016 | Orientation programme for IPCC Students at Alva's college, Moodbidri Chief Guest: CA Keshava N Ballakuraya Guest Speaker: CA Shivananda Pai B | Students : 100 |
| 7 | 29.07.2016 | Half Day Seminar <ul style="list-style-type: none"> • Topic: Taxability On Salary Speaker : Karthik Prabhu Session Chairman: CA Anatha Padmanabha • Topic: Personality Development Speaker: Dr. K. Rajesh Nayak | Students : 33 |



Branch Activities Gallery July 2016



Awareness Programme on IDS, 2016 at Mahendra Arcade, Karangalpad, Mangalore.



Live Webcast of Special Address by Hon'ble Finance Minister, Shri Arun Jaitly and CA Girish Ahuja



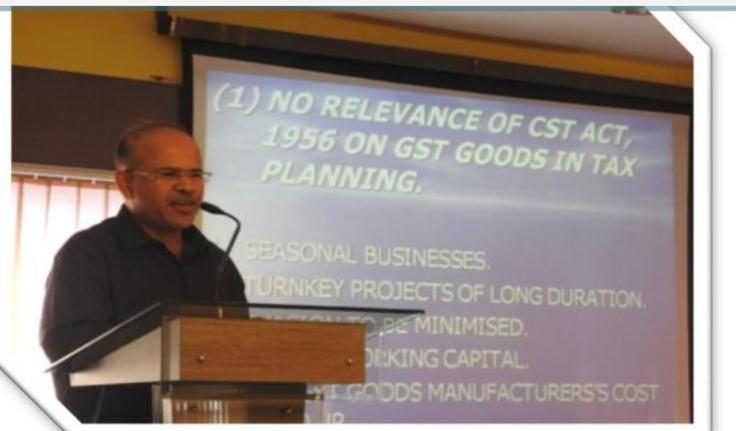
One day Seminar on Corporate Law changes



CA K Gururaj Acharya, Session Speaker during One day Seminar on Corporate Law changes



CA Madhukar Hiregange, Session Speaker during the Half day Seminar on Draft Model GST Law



CA Nandagopal Shenoy, Session Speaker during the Half day Seminar on Draft Model GST Law

Branch Activities Gallery July 2016



Study Circle Meeting on GST by
CA Daphny D'Souza



Work Shop on Internal Control over Financial Reporting
framework by CA K Gururaj Acharya



Orientation Programme for IPCC Students at Alva's
Moodbidri



CA Shivananda Pai, Guest Speaker at the Orientation
Programme for IPCC Students



CPE Workshop on Impact of Accounting Standards
on Industries and Comparison of Ind AS and IFRS



CA Mohan L Lavi speaking at the CPE Workshop

Branch Activities Gallery July 2016



Planting of Saplings on CA Day

Walkathon promoting Go Green and anti drug campaign on CA Day



Swachh Bharath Abhiyan in the vicinity of ICAI Bhawan Padil



Flag Hoisting Ceremony on CA Day at ICAI Bhawan



Blood Donation Camp at Puttur



Blood Donation Camp at Mangalore



Lunch with inmates of an old age home

Branch Activities Gallery July 2016



Figure 2 Literacy Kits distributed at Govt. School, Mullakkad, Mangalore on CA Day



Captain Ganesh Karnik, MLC, lighting the lamp as Chief Guest on the CA Day



Felicitations of Senior member, CA B N R Pai on CA Day



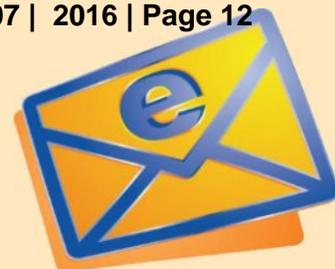
Figure 1 Felicitations of Senior member, CA U K Nayak on CA Day



Felicitations of Senior member, CA Seetharam Shetty on CA Day



Gombe Aata on CA Day



Professional Updates: Direct Taxes

Amendment in Section 206C of the Income Tax Act vide Finance Act 2016

Circular No. 23/2016, dtd. 24-06-2016

To clarify the issue regarding applicability of the provisions to levy TCS where sale consideration received is partly in cash and partly in cheque the aforesaid circular was issued.

The circular lays down that TCS will not apply if the cash receipt does not exceed Rs. 2 lakhs even if the sale consideration exceeds Rs. 2 lakhs. The circular further laid down that TCS is to be collected only on the cash component of the sales consideration and not on the whole of sale consideration.

Clarification on dates for furnishing 15G/ 15H by the payers

Notification No. 9/2016, dtd. 09-06-2016

The above notification has stated the due dates for quarterly furnishing of 15G/ 15H declarations received by the payers from 01-04-2016 onwards as the following:

- | | |
|---|--|
| 1. Quarter ending on 30 th June | – 15 th July of the same financial year |
| 2. Quarter ending on 30 th September | – 15 th October of the same financial year |
| 3. Quarter ending on 31 st December | – 15 th July of the same financial year |
| 4. Quarter ending on 31 st March | – 30 th April of financial year immediately following the financial year in which declaration is made |

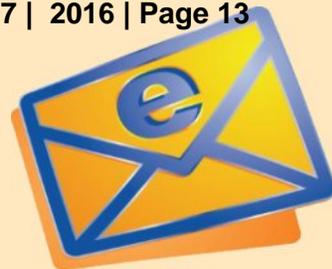
Exemption from TDS- No deduction in certain cases

Notification No. 47/2016, dtd. 17-06-2016

Central Government has notified that no deduction of tax under Chapter XVII of the Income Tax Act, 1961 shall be made on the payments of the nature specified in the aforesaid notification, in case such payment is made by a person to a bank listed in the Second Schedule to the RBI Act, 1934, excluding a foreign bank, or to any payment systems company authorized by the RBI.

Payments covered under the Notification are the following:

- a) Bank guarantee commission
- b) Cash management service charges
- c) Depository charges on maintenance of DEMAT account
- d) Charges for warehousing services for commodities
- e) Underwriting service charges
- f) Clearing charges (MICR Charges) including interchange fee or any other similar charges by whatever name called charged at the time of settlement or for clearing activities under the Payment and Settlement Systems Act, 2007.
- g) Credit card or Debit card commission for transaction between merchant establishment and acquirer bank.



Professional Updates: Direct Taxes

Threshold Limit of Tax Audit under Section 44AB and Section 44AD clarification

Press Release dtd. 20-06-2016

If an eligible person opts for presumptive taxation scheme as per Section 44AD(1) of the Act, he shall not be required to get his accounts audited if total turnover or gross receipts of the relevant previous year does not exceed two crore rupees. However, section 44 AB of the Income Tax Act makes it obligatory for every person carrying on business to get his accounts audited if his total sales, turnover or gross receipts exceed one crore rupees. The higher threshold of two crore is given only to the assessee opting for presumptive taxation scheme of 44AD of the Act.

Applicability of ICDS notified under Section 145(2)

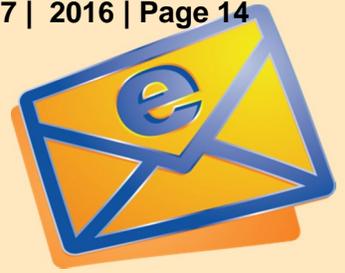
Press Release, dtd. 06-07-2016

The revision of Tax Audit Report is being made for ensuring the compliance with the provisions of ICDS and for capturing the disclosures mandated by the ICDS. However, some of the tax payers have filed their return of income and obtained Tax Audit Report without incorporating the compliance with ICDS and related disclosures in the absence of the revised Tax Audit Report. Considering these facts, it has been decided that the ICDS shall be applicable from 01-04-2016 i.e., PY 2016-17. Notification to this effect will be issued.

Restriction on disclosure of Data relating to valid declaration under IDS

Notification No. 56/2016, dt. 06-07-2016

The Central Government having regard to all the relevant factors, directs that no public servant shall produce before any person or authority any such document or record or any information or computerized data or part thereof as comes into his possession during the discharge of official duties in respect of a valid declaration made under 'The IDS, 2016'.



Professional Updates: Direct Taxes

INCOME DECLARATION SCHEME

The Finance Act, 2016 has introduced the Income Declaration Scheme, 2016 which aims at unearthing of black money. The scheme is an opportunity to persons who have not paid full taxes in the past to come forward and declare the undisclosed income and pay tax, surcharge and penalty totaling to forty five per cent of such undisclosed income declared.

The scheme is in effect from 1st June 2016 and will remain open up to the date to be notified by the Central Government in the Official Gazette. The Central Government vide Notification No. 32/216, F. No. 142/8/2016-TPL dt. 19-05-2016 has appointed the 30th day of September 2016 as the date on or before which a person may make a declaration under this scheme. The scheme is proposed to be made applicable in respect of undisclosed income of any financial year up to 2015-2016.

Tax on such declared income is proposed at 30% as increased by surcharge at the rate of 25% of tax payable to be called as Krishi Kalyan Cess. A penalty at the rate of 25% of tax payable is also proposed to be levied.

Payment of the above tax, surcharge and penalty to be made on or before a date notified by the Central Government in the Official Gazette and non-payment up to the date so notified shall render the declaration to be void. Further, non-payment will also make the undisclosed income declared as chargeable to tax under the provisions of the Income Tax Act in the previous year in which such declaration is made.

It is proposed to provide that declarations made under the scheme shall be exempt from wealth-tax in respect of assets specified in declaration. No scrutiny and enquiry under the Income Tax Act and Wealth Tax Act shall be undertaken in respect of such declarations and immunity from prosecution under such acts will be provided. Further, immunity from the Benami Transactions (Prohibition) Act, 1988 is also proposed for such declarations subject to certain conditions.

Declarations under the scheme made by misrepresentation or suppression of facts, shall be treated to be void.

The declaration shall be made of the income for any assessment year prior to the assessment year beginning on the 1st day of April, 2017-

- a) For which the assessee has failed to furnish a return under section 139 of the Income Tax Act.
- b) Which the assessee has failed to disclose in a return of income furnished by such assessee under the Income Tax Act before the date of commencement of this Scheme.
- c) Which has escaped assessment by reason of the omission or failure on the part of the assessee to furnish a return under the Income Tax Act or to disclose fully and truly all material facts necessary for the assessment or otherwise.

Where the income chargeable to tax is declared in the form of investment in any asset, the fair market value of such asset as on the date of commencement of this scheme shall be deemed to be the undisclosed income. The FMV shall be determined in such manner as may be prescribed.



Professional Updates: Direct Taxes

CASE LAWS

Advance received in ordinary course of business cannot be Deemed dividend

ITO v. Bhimji Nanaji Patel (2016) (Mum Trib)

Assessee borrowed money and paid interest to a company where he had a stake of 50% and was also a director of such company. AO treated the money borrowed as deemed dividend under section 2(22)(e).

Held: Since 28% of gross total income was from money lending carried on in the ordinary course of business and 43% of the total funds deployed were by way of loans and advances on which interest was earned, it was held that assessee borrowed in the ordinary course of business of the company and hence section 2(22)(e) could not be applied.

Advances received prior to becoming a beneficial share holder

Dy. CIT v. Encore Technologies (P) Ltd. (2016) (Delhi Tribunal)

Assessee had in its books of account, opening balance of advance received from Company S. During the year under assessee subscribed to the equity shares of such company S. AO was of the view that shareholding of assessee being more than 10% and there being accumulated profits in the books of S, advance received was liable to be treated as deemed dividend in terms of Section 2(22)(e).

Held: Conditions to section 2(22)(e) to be met simultaneously. Assessee had received the advance at a point of time when assessee was not the beneficial shareholder of S and thus, the conditions of Section 2(22)(e) were not fulfilled.

Adjustment entries not to be treated as loan or deposit for the purpose of Section 2(22)(e)

CIT v. Schutz Dishman Bio- Tech (P)(Ltd.)(2016)(Guj HC)

Assessee made certain advances to a third party holding 22.23 percent in assessee. Revenue treated this as Deemed Dividend and since no TDS was done, section 201 of the Income tax act was invoked.

Held: CIT(A) rightly reversed the order of AO by holding that looking to the large number of adjustment entries in the accounts between two entities, the amounts were not in the nature of loan or deposits, but merely adjustments and application of section 2(22)(e) did not arise.



Professional Updates: Direct Taxes

CASE LAWS

Capital Grant wrongly treated as revenue receipt

Asstt. CIT v. Tamil Nadu Industrial Development Corporation Ltd. (2016)(Chenn Trib)

Assessee, a PSU, received capital grant from Central Government but the same was wrongly treated as revenue receipt. Subsequently, on realizing the mistake a revised return was filed treating such income as capital receipt. AO added back the same by treating the grant as revenue receipt.

Held: AO was not justified in adding the amount to the assessee's income as revenue receipt since capital grant received was wrongly treated as revenue receipt and assessee rectified the mistake by filing a revised return.

Interest on Fixed Deposit is Capital Receipt in certain cases

CIT v. Facor Power Ltd. (2016)(Del HC)

Assessee company incorporated to generate, receive and produce electric power by establishing thermal power plant had declared no business income in the relevant year as no business activity was carried out as the project was under implementation. AO noted that assessee had received an amount from Bank as interest on fixed deposits but the said amount was not declared in the return as "income from other sources", instead assessee had reduced the said interest amount from the capital work in progress. Assessee justified its action by providing that the interest was earned on FDRs which were placed with the bank as margin money for procurement of various capital goods for setting up of the power project. AO however, made an addition as "Income from Other Sources"

Held: There was a fact finding that money placed in the fixed deposit was linked with the setting up of the power plant. Revenue generated on account of interest on such FDRs would be in the nature of a Capital Receipt and not a revenue receipt.

Nature of Advances received from clients

Asstt. CIT v. Pawan Kumar Jhunhunwala

Certain sums were shown as Advance from Clients in the liability side of the Balance Sheet. AO sought to bring to tax the amount so received as advance since assessee followed cash system of accounting.

Held: Amount received was to meet the expenses on behalf of the clients who paid the advances. Amounts spent were debited to these clients and balance amounts had been carried forward to the next year. Since solicitor received money of principal in his capacity as an agent and that also in a fiduciary capacity, he remained liable to account by this money to his client and hence the amount did not become income of assessee. Order on this issue passed by the Commissioner under Section 263 in this regard was quashed.



Professional Updates: Direct Taxes

CASE LAWS

Non Compete fees- Whether Business income or Capital Gain

Trans Global PLC v. Director of IT (2016)(Kol Trib)

Assessee was a non resident company from UK. It received non-compete fee which was not offered to tax. Notice under Section 263 was issued to assessee asking for charging receipt of such fees as Capital Gains.

Held: Non-compete agreement clearly showed that by any stretch of imagination, it could not be held that there was a transfer within the meaning of section 2(47). Non-compete fee was a business receipt assessable under section 28(va) but in term of Article 7 of DTAA, as the assessee was not having permanent establishment in India, it was not liable to tax in India.

Disallowance under 14A cannot exceed exempt income

K. Ratanchand & Co. v. ITO (2016)(Ahd Trib)

Assessee was in the business of buying and selling of shares. Exempt dividend income earned was incidental to business. AO made a disallowance under 14A to the extent of Rs. 4,04,204/- whereas the exempt dividend income earned was only Rs. 58,963/-

Held: Even assuming some expenditure to be disallowed but the disallowance should not exceed the quantum of exempt income. Therefore, the addition made could not be more than the exempt income earned.

Allowability of Depreciation on Goodwill

Asstt. CIT v. Johnson Matthey Chemicals India Pvt. Ltd & Others. (2016)(Pat Trib)

Assessee purchased a business from a third party. Certain amount was paid as Goodwill. Depreciation was claimed on the same. AO disallowed the claim

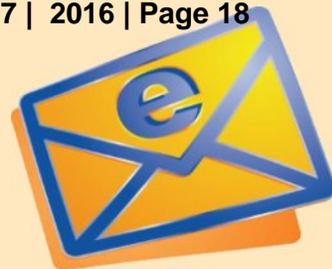
Held: Depreciation in respect of intangible asset constituting goodwill is allowable.

Expenditure on increase in authorized capital

Asstt. CIT v. Johnson Matthey Chemicals India Pvt. Ltd & Others. (2016)(Pat Trib)

Assessee incurred expenditure of certain amount towards filing fees and stamp duty payment for increasing its authorized capital. Out of this expenditure, certain amounts were claimed as a deduction under section 35D. AO disallowed the same.

Held: It is a well settled law that expenditure claimed for capital expansion is capital in nature. Hence the same is not allowable.



Professional Updates: Direct Taxes

CASE LAWS

Interest free advances to subsidiaries and deduction u/s. 36(1)(iii)

KSS Ltd. v. Dy. CIT (2016)(Mum Trib)

Assessee had given interest free advances to its subsidiary. Deduction was claimed in respect of interest expenditure. AO disallowed proportionate interest under section 36(1)(iii) on the ground that assessee diverted interest bearing funds to its subsidiaries.

Held: Since assessee had sufficient interest free funds, AO was not justified in disallowing proportionate interest under section 36(1)(iii) on the presumption that assessee diverted interest bearing funds to its subsidiaries.

Business deduction under section 36(1)(va) for Employee's PF and ESI contribution deposited after due date

Trinity Auto Components Ltd. v. Dy. CIT (2016)(Pune Trib)

AO disallowed under section 2(24)(x) read with section 36(va) on account of Employee's Provident Fund and ESIC. Since the assessee had deposited the said amounts after due date, though before the due date of filing the return of income.

Held: All the amounts had been paid before the due date of filing the return of income. In this regard, reliance was placed on the decision of CIT v. Alom Extrusions Limited (SC) and following the said ratio, the assessee was entitled to the claim of deduction in respect of the contributions which had been deposited before the due date of filing the return of income. The addition was deleted accordingly.

Business Expenditure- Ad hoc disallowance- Commission payments

Dy. CIT v. Vodafone Mobile Services Ltd. (2016)(Delhi Trib)

Assessee claimed certain amount as commission. Assessee submitted that there were no adverse claims in this regard by the auditors and hence no addition was called for. AO however disallowed 10% of this commission.

Held: There was no basis for making any disallowance and the same was solely on ad hoc basis. Further, AO failed to bring any evidence in support of the commission income to be bogus and it is well settled law that no ad hoc disallowance can be made unless AO brings any specific detail on record which may call for disallowance.

Interest on Service Tax- Deduction

Gillco Developers & Builders (P) Ltd. v. Dy. CIT (2016)(Chd Trib)

AO disallowed interest on late payment of Service tax by holding that these expenses were in the nature of penalty disallowable under section 37(1).

Held: Amount on account of interest on delayed payment of tax could not be termed as penalty for infringement of any law. In fact, the law itself provide under these provisions to allow the assessee to pay taxes delayed to a limited extent, however, with interest at a prescribed rate. Penalty provisions are provided elsewhere under the law and interest paid cannot be disallowed.

Announcements



The new SICASA Committee has taken over on the completion of the term of the Old Committee



The Old Sicasa Committee



The New Committee



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

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