



ICAI MANGALORE

INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

e- Bulletin



The Bulletin Board

Volume 01 | January 2016

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Thought for the Month:

"If you are depressed, you live in the past..

If you are anxious, you live in the future..

But, if you are at peace... You live in the present."

-Lao Tzu



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Chairman's Message



CA Shivakumar K
Chairman
Mangalore Branch of SIRC of ICAI



Dear Esteemed Members,

Warm wishes. The first month of the year is always special, cheerful and pleasant; it starts with New Year day which is first of many special days and celebrations that follow. It is the time to begin with new hope, aspirations and resolutions in anticipation of great year ahead. We at ICAI Mangalore began 2016 in that positive note.

On 16-01-2016, in a CPE study circle meeting CA.Ganesh Rao addressed us on 'Service Tax on Works Contract and Construction Services'. On 23-01-2016 we had an interactive meeting with Sri.Subhas Korangrapady, ACIT, CPC, Bangalore, about issues in CPC processing of Income Tax Returns. There after CA.Muralimohan enlightened the members on 'Recent Changes in Income Tax Rules relating to PAN'. We are thankful to all of them for sharing their knowledge.

On 26-01-2016, as a part of Republic Day celebration, CA.Chandramohan, Past Chairman of the branch hoisted the tricolour at ICAI Bhavan, Padil and addressed the gathering. On this occasion, SICASA, Mangalore had organised Inter-Office 'Republic Day Cup' Cricket Tournament at St.Aloysius Centenary Ground. More than 30 teams participated with sportive spirit and great enthusiasm; Thanks to all for the overwhelming response to the event.

One batch of Orientation Programme and GMCS-1 were also held during the month. The triennial election to the managing committee of our branch is scheduled to be held on 20-02-2016. We have already sent notice inviting nominations and General Body meeting in this respect. I request members to come forward, join hands and lead the branch to greater heights.

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Chairman's Message



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Friends, life is a journey; in this journey every day is precious as none of us know when or where our journey will end. At the same time, hardly we know the purpose of this journey. The learned say that the **purpose of life** is four-fold: to achieve Dharma, Artha, Kama, and Moksha. While the final purpose is Moksha or liberation from worldly woes, the journey derives energy from Desire or Kama and progresses through Means or Artha. But at the base of all purposes is the first purpose, dharma, which means to act virtuously and righteously and live our journey morally and ethically throughout our **life**. That is why Dr.Baba Saheb Ambedkar, the father of our Constitution has said “**Cultivation of mind should be the ultimate aim of human existence.**”

While wishing all of you success in your life's journey, I pray and wish that our Minds function virtuously both in our professional and personal lives and we build our lives and careers on the path of righteousness – A clear conscience gives us a good night's sleep.

With warm regards,

Yours in Professional Service,

CA Shivakumar K

Branch Activities January 2016



Sl No	Date	Activity at Branch	CPE Hours/ Number of Participants
01	16.01.2016	Service Tax on Works Contract and Construction Services Discussion Leader: CA. K. Ganesh Rao, Mangalore	Members: 40 CPE Credit: 2 Hours
02	18.01.2016 to 22.01.2016	49th Batch of Orientation Programme for IPCC Students	Students: 26
03	19.01.2016 to 02.02.2016	24th Batch of GMCS -1	Students: 49
04	23.01.2016	Topic: Issues in CPC processing of I.T Returns- Interaction with Sri.Shubhas Korangrapady, ACIT, CPC, Bangalore Topic: Recent changes in Income Tax Rules relating to PAN Discussion Leader: CA. Muralimohan	Members:56 CPE Credit: 2 Hours
05	24.01.2016	Republic Day cup 2K16- Match among CA Firms in Mangalore	Participants: 370
06	26.01.2016	Republic Day Cup 2016 – Udupi SICASA vs. Mangalore SICASA	Participants: 370
07	26.01.2016	Republic Day Celebration – flag Hoisting at ICAI Bhawan, Padil, Mangalore	Students: 30 Members: 8
08	27.01.2016	83rd batch of ITT	Students : 22
09	30.01.2016	CPE National Live Webcast on Cyber Security & Data Analytics for Auditors Address by the Chairman, CA. Babu Abraham Kallivayalil Chairman, CPE Committee, ICAI CPE Committee Cyber Security by CA. R. Vittal Raj Data Analytics for Auditors by CA. Mathew A Thomas	Members: 2 CPE Credit: 2 hours



Branch Activities Gallery January 2016

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Left: Speaker CA K Ganesh Rao leading the discussion during the CPE Seminar on Service Tax held on 16th Jan 2016
Right: Sri Shubhas Korangrapady, ACIT, CPC- Bangalore during the CPE Seminar held on 23rd Jan 2016



Left: Speaker CA Murali Mohan leading the discussion on Changes in Income Tax Rules relating to PAN during CPE Seminar held on 23rd Jan 2016
Right: Republic day celebration at the Branch and Flag Hoisting by CA Chandramohan K Y on 26th Jan 2016 at ICAI Bhawan, Padil, Mangalore



Left: Students group photograph at 24th Batch of GMCS-1 held at ICAI Bhawan, Padil, Mangalore
Right: Students group photograph at 49th Batch of orientation Programme held at ICAI Bhawan, Padil, Mangalore



Professional Updates: Direct Taxes

Quantitative adjustment' in AMP exp. Prohibited under TP provisions

Maruti Suzuki India Ltd. v. CIT [2015] (Delhi)

For the purpose of Chapter X of the Income-tax Act, the transfer Pricing Adjustment envisaged is “price adjustment”, i.e., substitution of transaction price of international transaction with arm length (‘ALP’) and not a “quantitative adjustment”.

Thus, Chapter X does not permit quantitative adjustment in AMP expense by first determining whether the AMP spend of the assessee on application of the bright line test (BLT), is excessive, thereby evidencing the existence of an International transaction involving the Associated Enterprises.

ITAT suggests amendment to section 145A to align it with CENVAT Credit Scheme

Sunshield Chemicals (P.) Ltd. v. ITO [2015] (Mumbai – Trib.)

Section 145A was brought into statute in 1998 when MODVAT scheme was prevalent but now as CENVAT credit scheme is in operation, should be aligned thus, section 145A of the Act with the present regime of indirect taxation which Parliament alone in its wisdom can do to keep pace with the developments taking place in economy.

10 million USD penalty levied on Satyam for violating US Securities Exchange Act won't attract TDS

Satyam Computer Services Ltd., In re [2015] (AAR - New Delhi)

US Court levied penalty on Satyam Computers for violating the provisions of US Securities Exchange Act, 1934.

The Satyam Computers approached Authority for advance Ruling (‘AAR’) to determine whether it would be liable to deduct tax under section 195 while paying such penalty.

It was held by the AAR that penalty payable by Satyam Computers pursuant to Final Decree of US Court would not be liable to tax deduction at source under the provisions of section 195 of the Income-tax act as such payment can never attract any tax.

Investment in ‘HDFC Retirement Saving Fund’ eligible for section 80C deduction from AY 2016-17

NOTIFICATION NO. 91/2015 [F.NO. 178/21/2014- ITA.I], DATED 8-12-2015

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.



Professional Update: Direct taxes

CBDT raises monetary limit for filing of appeal by revenue

CIRCULAR NO.21/2015, DATED 10/12/2015

CBDT has revised monetary limits for filing of appeal by revenue before the tribunal, High Court and SLP before Supreme Court.

Now, the appeals/SLP's shall not be filed by revenue in cases where the tax effect does not exceed the monetary limits given hereunder:-

S. No.	Appeals in Income-tax matters	Monetary Limit (In Rs.)
1.	Before Appellate Tribunal	10,00,000
2.	Before high Court	20,00,000
3.	Before Supreme Court	25,00,000

This instruction will apply retrospectively to pending appeals and appeals to be filed henceforth in High Courts/Tribunals. Appeals before the Supreme Court will be governed by the instructions on this subject, operative at the time when such appeal was filed.

CBDT provides new facility of pre-filing TDS data for online rectifications

PRESS RELEASE, DATED 10-12-2015

Central Board of Direct Taxes has simplified the process of online rectification of incorrect TDS details filed in the Income Tax Return.

Taxpayers were required to fill in complete details of the entire TDS schedule while applying for rectification on the e-filing portal of the Income –tax Department (www.incometaxindiaefiling.gov.in). Errors due to incomplete TDS details in rectification applications were leading to delays in processing of such applications thereby causing hardships to the taxpayers.

To avoid this inconvenience a new facility has been provided for pre-filing of TDS schedule while submitting online rectification request on the e-filing portal. This is expected to considerably ease the burden of compliance on the taxpayers seeking rectification due to TDS mismatch.

Voyage of vessel between Indian ports during course of international voyage deemed as international traffic

CIT v. Taurus Shipping Services [2015] (Gujarat)

Journey of a vessel between two Indian ports would be deemed as “international traffic” under Article 8 of India-Singapore DTAA if the same was part of a larger journey between two foreign ports. When a ship or aircraft is operating ‘solely’ between places in a contracting state only then such transport could be excluded from scope of “international traffic” and not when it was a part of international voyage.



Professional Updates: Direct Taxes

Interest on interest having an element of default isn't permissible deduction under section 36(1) (iii)

CIT v. Ramesh Chandra Bhati [2015] (Rajasthan)

Section 36(1)(iii) allows deduction of only that part of amount paid as interest, which is interest on money borrowed and which can be genuinely regarded as interest. Hence, when principle amount borrowed stood repaid while interest remained payable, interest on interest, having an element of default, could not be allowed to be deducted.

Gold Bond Scheme turns into a blockbuster with collection of 63,000 applications worth Rs.246.20 crore

PRESS RELEASE, DATED 27-11-2015

The Prime Minister Shri Narendra Modi had launched Sovereign Gold Bond scheme (SGB) on 5th November 2015. The main objectives of the scheme is to reduce the demand for physical gold and shift a part of the gold imported every year for investment purposes into financial savings through gold Bonds. This scheme saw an overwhelming response from the investors throughout the country and initial figures show that about 63,000 applications were received for a total of Rs. 246.20 crore by the Banks and Post Offices for 917 kgs of gold. It may be noted that this overwhelming response has been received from the retail investors who are the focus of this scheme.

Government notifies Rules to facilitate electronic communication with tax-payers *NOTIFICATION NO.89/2015 [F.NO.133/79/2015-TPL]/GSR 923(E), DATED 2-12-2015*

Government notifies new Rule 127 in Income Tax Rules, 1962 for the purpose of Sec 282. It specifies the addresses to which notice, summons, requisitions, order and other communication may be sent or transmitted by post or electronically.

As per the new rule, following email address can be used for electronic communications by the department:

- (a) Email address available in the income-tax return
- (b) Email address available in the last income-tax return furnished by the addressee.
- (c) Email address of the company as available with MCA.
- (d) Email address made available by the addressee to the income-tax authority or any person authorized by such income-tax authority.



Professional Updates:

Legal heir of director was entitled to file plea to seek ownership and transfer of shares in his name

Neo Finance (P.) Ltd. v. Rakesh Soni [2015] CLB – Mumbai

Where upon death of director of company, petitioner being legal heir filed company petition seeking declaration of ownership over shares and their transfer in his name, petition would be maintainable.

Where respondents had without any sufficient cause, refused to transmit shares in name of petitioner and rectify Register of Members, it constituted an act of oppression.

Director in non-remunerative & non-executive position cannot be said to hold a place of profit

Jagran Prakashan Ltd. v. Union of India [2015] (Delhi)

Being a director in a non-remunerative and non-executive position in other companies does not amount to being in employment of those companies or holding a place of profit in those companies.

Committee headed by Dr. Subramanian recommends GST rate between 15% and 15.5%

PRESS RELEASE, DATED 4-12-2015

Government has recently released the Report on the Revenue Neutral rate and structure of rates for the Goods and Service Tax (GST). This report is prepared and submitted by committee headed by Dr. Arvind Subramanian, Chief Economic Advisor of India. The term revenue neutral rate (RNR) is referred to that single rate which preserves revenue of Centre and States at current levels. Three different approaches are recommended (namely, Macro Approach, Indirect Tax Turnover approach and Direct tax Turnover approach) to determine the RNR. Range of 15-15.5% is recommended for RNR, with a strong preference for the lower end of the range.

Professional Updates



Service Tax: No penalty if assessee had bona fide belief that charitable institutions not covered under commercial training Centre

Sadhana Educational & People Development Services (P.) Ltd. v. CCE [2015] (Mumbai – CESTAT)

Where appellant-institution was under bona fide belief that being a charitable trust it was not covered by expression 'Commercial Training and Coaching Centre', though related notification was amended retrospectively to cover such institution, longer period of limitation could not be invoked for raising demand; further, benefit of waiver of penalty would be available to appellant.

Service Tax : Commission earned on sale of goods of foreign co. in India not liable to service-tax for period prior to Oct.1,2014

Lubrizol India (P.) Ltd. v. CCE & ST [2015] (Mumbai – CESTAT)

Commission on sale of goods of foreign company in India amounts to 'export', as service is provided to Foreign Service recipient to be used in their country though such services result in sale of product in India. But as per rule 9(c) of the Place of Provision of Services Rules, 2012 effective from 1-10-2014, services in question would be taxable in India. Prior thereto, Place of Provision rule 3 would apply and since location of service recipient is outside India, service tax would not be liable.

Service Tax: Even wrongly paid interest and penalty can be adjusted against tax dues payable under VCES

ASK Me Enterprise v. Union of India [2015] (Gujarat)

Where assessee had paid interest/penalty wrongly without any knowledge of VCES, then, on filing declaration under VCES, assessee could file application for correction of accounting codes and seek adjustment of wrongly paid interest/penalty against 'tax dues' under VCES.

Service Tax: No service-tax on handling charges if it was included in value of goods liable to VAT

Automotive Manufacturers (P.) Ltd. v. CCE & C [2015] (Mumbai-CESTAT)

Where 'handling charges' incurred in connection with procurement of goods were included in value of goods sold and sales tax/VAT liability was discharged, service tax would not be levied.

Indirect taxes: Credit of EC can't be used to pay SHEC

Diamond Power Infrastructure Ltd. v. CCE & ST [2015] (Ahmedabad –CESTAT)

As per First Proviso to rule 3(7)(b) of the CENVAT Credit Rules, 2004, credit of EC on excisable goods and EC on taxable services can be used only for payment of EC on finished excisable goods or EC on taxable services, hence, credit of EC cannot be used for discharging SHEC.

Professional Updates



Indirect taxes: No denial of Cenvat credit on input services availed prior to initiation of manufacturing activity

Shree Cement Ltd. v. CCE [2015] (New Delhi – CESTAT)

A manufacturer of excisable goods could not be denied cenvat Credit of duty paid on input services availed prior to start of manufacturing activity since plain reading of rule 3 and rule 7 clarified that there would be no restriction if assessee avails Cenvat Credit on procurement of inputs prior to start of manufacture.

Indirect taxes: No penalty due to non-supply of docs without establishing that they had any revenue implication

Rohan Motors Ltd. v. CST [2015] (New Delhi – CESTAT)

Before levying penalty for non-supply of documents, department must show that (a) specific documents were demanded; (b) documents were relevant or had revenue implication and (c) assessee failed to supply the same.

Indirect taxes: Activity of consultancy and software implementation services couldn't be deemed as sales; liable to service tax

State of Karnataka v. IBM India (P.) Ltd. [2015] (Karnataka)

Business consultancy services and enterprise resource planning (ERP) software implementation services provided by an assessee engaged in development and sale of software, etc., could not be considered as sale as there was no transfer of any goods involved and entire consideration received from customer had been subjected to service tax.

Indirect taxes: No SSI exemption on branded tobacco even if it is cleared under own brand name: SC

CCE v. Virat Crane Industries Ltd. [2015] (SC)

Once tobacco is sold under any brand name (brand name that belongs to assessee or third party), tobacco becomes 'branded tobacco' and is not 'specified goods' under Annexure to SSI-exemption notification and, therefore, ineligible for SSI-exemption.

Indirect taxes: 'Milk-n-Nut' candy can't be treated as sugar confectionary, rules Supreme Court

CCE v. S.K. Industries [2015] (SC)

Milk-n-nut which was preparation of vegetables, fruits, nuts and parts of plants was classifiable under Chapter Heading 2001.10; and it could not be treated as sugar confectionery classifiable under Chapter Heading 1704.90.

Indirect taxes: No denial of credit on capital goods which was used by job-worker to manufacture semi-finished goods

CCE v. Kyungshin industrial Motherson Ltd. [2015] (Madras)

Semi-finished goods removed under job-work without payment of duty do not amount to "exempted final product" under Rule 6 of cenvat rules; hence, credit of capital goods exclusively used in such job-work cannot be denied.

Professional Updates

Indirect taxes: Time –limit to file refund claim to be counted from date of realization of export proceeds and not from date of invoice

AAM Services India (P.) Ltd. v. CCE [2015] (Mumbai – CESTAT)

In case of service exporter, time-limit of 1 year for filing refund claim of cenvat credit will be computed from date of realization of export proceeds. Refund can't be denied even if application was not filed within one year from date of raising of invoices for export services rendered.

Indirect taxes: CBEC exempts excise duty on raw material and parts used in manufacturing of shipping vessels

NOTIFICATION NO.44/2015-C.E, DATED 24-11-2015

Now the shipbuilding industry is exempted from paying customs and central excise duties on all raw material and parts used in the manufacturing of ships/vessels/ tugs and pusher crafts, etc.

Indirect taxes: No need to affix MRP on goods declared to be 'not for retail sale'; excise duty payable on transaction value

CCE v. Control & Switchgears Contractors Ltd. [2015] (SC)

When assessee had declared on goods that they were not meant for retail sale, there was no requirement to affix MRP, thus, goods were to be valued based on transaction value under section 4 of Central Excise Act.

Indirect taxes: Highest MRP to be taken to determine excise duty when different MRPs of various areas are affixed on same pack

Sarup Tanneries Ltd. v. CCE [2015] (SC)

In case three different MRPs are affixed on 'same package' even though for 'different areas', goods will be assessed to duty as per Explanation 2(a) to section 4A taking highest MRP as the basis.

Indirect taxes: Gold Bar recovered from gold mud held as primary gold; exempt from excise duty

CCE v. Hindalco Ind Ltd. (Unit: Birla Copper) [2015] (SC)

Gold bar' recovered from 'gold mud' is a 'primary gold' derived from 'mud form of gold'; hence, same is exempt from duty and exemption cannot be denied merely because 'gold mud' was, in turn, recovered from 'anode slime'.

Indirect taxes: Floor covering of jute with plastic coating is classifiable as textile product not as plastic product

CC & CE v. S.P.L. Siddhartha Ltd. [2015] (SC)

Plastic laminated jute fabrics, meant for floor coverings, are dominantly jute products; hence, they are classifiable as 'floor covering made of jute with plastic coating' under Heading 5904 and not as 'plastic product' under Chapter 39.

Indirect taxes: Charges paid for installation and commissioning of machine at buyer's site isn't includible in excisable value

CCE v. Official Liquidator for Brimco Plastic Machinery (P.) Ltd. [2015] (SC)

Transaction value is determined at time of clearance of goods at factory; hence, installation and commissioning charges for Erection, Commissioning, Installation, etc. of machines at buyer's site cannot be included in value.

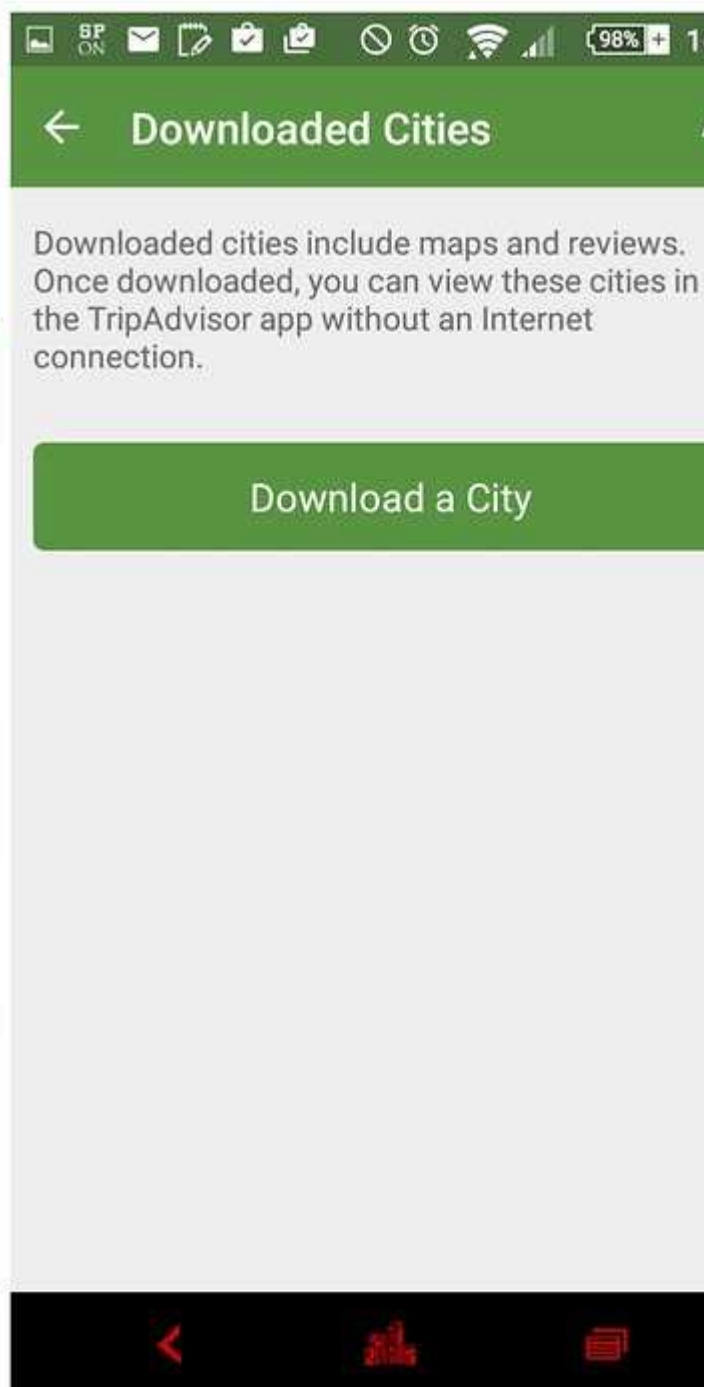
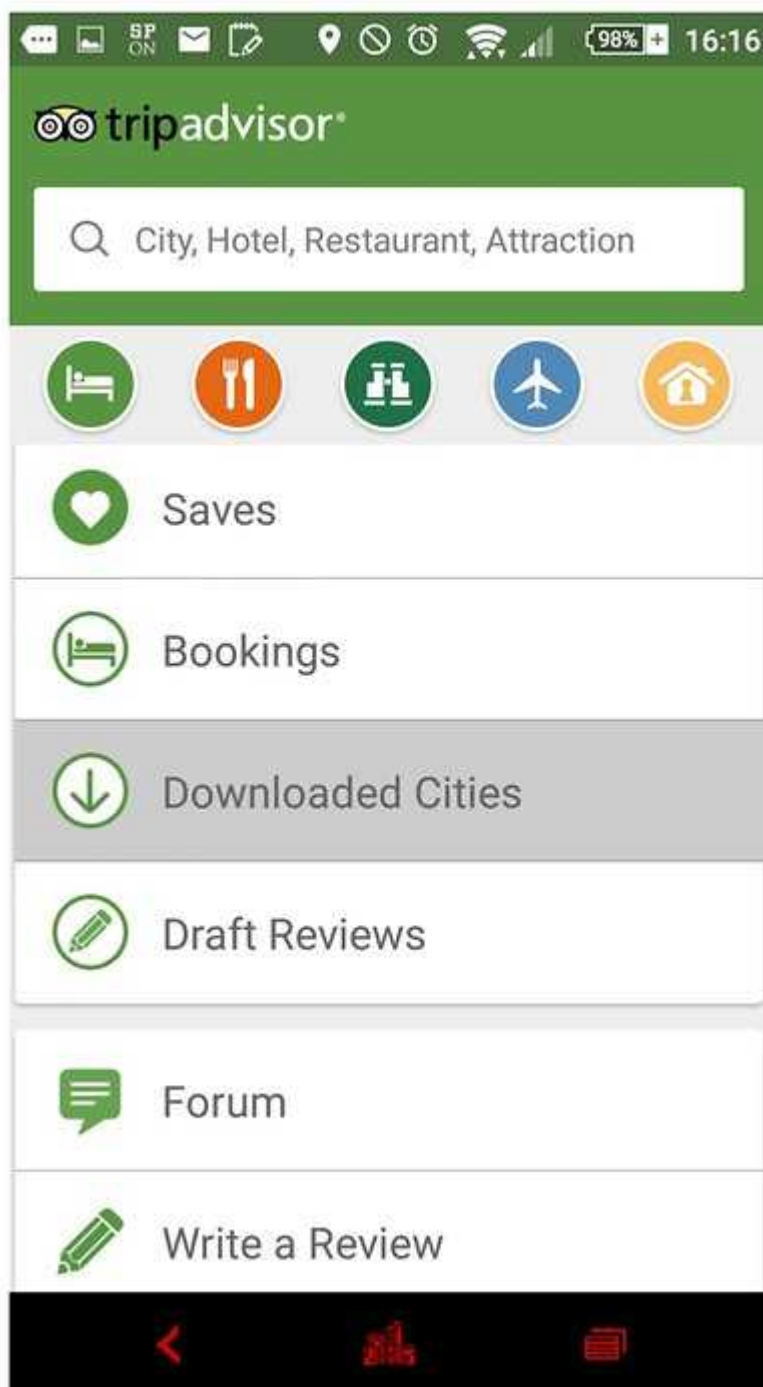
Tips on Android Applications



Best offline travel app: Trip Advisor Hotels Flights

TripAdvisor is the rightful king of travel apps. Supported by a thriving community, it offers reviews, photos and feedback from fellow travelers, then ranks attractions and activities based on what those people say.

TripAdvisor used to have dedicated City Guides which could be downloaded externally, but now all of this functionality is baked into the one app, including offline access to reviews, maps and photos of more than 300 cities. If you're travelling, you shouldn't be without TripAdvisor Hotels Flights.





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.

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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