



# ICAI MANGALORE

INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

## The Bulletin Board

## e- Bulletin



Volume IV | May 2018

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*Thought for the Month:*

*Positive anything is better than negative nothing*

*-Elbert Hubbard*



**Quality**



**Trust**



**Integrity**

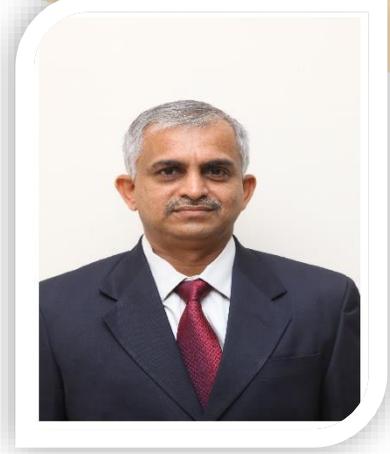
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## Chairman's Message

**CA B Shivananda Pai**  
**Chairman**  
**Mangalore Branch of SIRC of ICAI**



31.05.2018

Dear Professional Colleagues,

*उद्यन्तुशतमादित्या उद्यन्तुशतमिन्दवः।  
 नविनाविदुषांवाक्यैर्नश्यत्याभ्यन्तरंतमः॥*

May a hundred suns rise, may (there) rise hundred moons. (But) without listening to the words of the wise men (the knowledgeable resource persons), the internal darkness (ignorance) cannot be annihilated.

True to these words of Subhashita, our profession is always striving to upgrade our knowledge by listening to the resource persons in various streams of knowledge. All our programs have been conceived on these lines of enrichment of knowledge.

The proposed two days national conference '**Swadhyaya**' under the aegis of the Professional Development Committee of the Institute is rescheduled to **6<sup>th</sup> and 7<sup>th</sup> of July 2018** from 29<sup>th</sup> and 30<sup>th</sup> of June 2018. The conference will be held at prestigious venue of Mangalore, Dr. T. M. A. Pai International Convention Centre. The organising committee have selected the topics for the conference that are relevant to the members in practice as well as in Industry. The resource persons are of international repute who are handpicked from various parts of the country to share their knowledge. Please register yourselves for the conference. I again request you to spread words about the conference amongst your associates who are away from Mangalore, and prevail upon them to attend the conference.

## Chairman's Message



A full day seminar on Recent developments under Income Tax Act was held on 19<sup>th</sup> of May, 2018. CA Sridhar Kamath from Udupi, CA Prasanna Shenoy from Mangalore and CA Sriram V Rao from Mangalore were the resource persons. Good deliberation and very interactive sessions proved our local resource persons at par with the subject experts of National repute. Kudos to Young members of the Profession.

*With Best regards*

*CA Shivananda Pai B.*

## Branch Activities May 2018



Sl No	Date	Activities at Branch for Members	CPE Hours/ Number of Participants
1	19.05.2018	<p>One day CPE Seminar on Recent Developments under Income Tax Act</p> <p>Topics and speakers:</p> <ol style="list-style-type: none"> <li>1. Recent Developments and Issues under Capital Gain by CA Sridhar Kamath, Udupi</li> <li>2. E- Assessment by CA Sridhar Kamath, Udupi</li> <li>3. Penalties under Income Tax Act and GAAR Provisions by CA Sriram V Rao, Mangalore</li> <li>4. Recent Amendments and Recent Case Laws, Practical issues on ITR and other forms by CA M Prasanna Shenoy</li> </ol>	<p>Members: 80</p> <p>Students: 03</p> <p>CPE Credit: 6 Hrs</p>



## Branch Activities May 2018



Sl No	Date	Activities at Branch for the Students	Number of Participants
1	21.05.2018	08 <sup>th</sup> Batch of ICITSS- Orientation Course	Students: 40
2	21.05.2018	03 <sup>rd</sup> Batch of AICITSS Course	Students: 40
3	21.05.2018	13 <sup>th</sup> Batch of ITT Course	Students: 27



Branch Activities Gallery  
May 2018



**CA Sridhar Kamath at the One day CPE Seminar  
on 19.05.2018**



**CA Prasanna Shenoy at the One day CPE  
Seminar on 19.05.2018**



**CA Sriram V Rao at the One day CPE Seminar on  
19.05.2018**



## News and Updates

### **Karnataka notifies GST Appellate authority for Advance Ruling**

#### **Notification No. FD 47 CSL 2017, dated 25.04.2018**

In exercise of the powers conferred by Section 99 of the Karnataka GST Act, 2017, the Government of Karnataka hereby constitutes Karnataka Appellate Authority for Advance ruling for Goods and Service Tax consisting of-

1. The Principal Chief Commissioner, Bengaluru, GST 8v CX Zone, Bengaluru and
2. The Commissioner of Commercial Taxes (Karnataka), Bengaluru.

for hearing appeals against the advance ruling pronounced by the Advance Ruling Authority.

### **Late Fee waiver for those who were unable to file GSTR- 3B due to technical issues of TRAN- 1 filing**

#### **Notification No. 22/2018- Central Tax**

In exercise of the powers conferred by Section 128 of the CGST Act, 2017, the Central Government vide the above notification hereby waives the late fees payable under Section 47 of the CGST Act for failure to furnish the return in Form 3B by the due date for each of the months from October 2017 to April 2018, for the class of registered persons whose declaration in Form GST Tran- 1 was submitted but not filed on the Common Portal on or before the 27<sup>th</sup> day of December, 2017.

Provided that such registered persons have filed the declaration in Form GST Tran- 1 on or before the 10<sup>th</sup> day of May, 2018 and the return in Form GSTR- 3B for each of such months, on or before May 31<sup>st</sup>, 2018.

### **CAs cannot do valuation of unquoted equity shares under DCF Method**

#### **Notification No. 23/2018 dated 24<sup>th</sup> May, 2018**

Income Tax Rule 11UA deals with valuation of Jewellery, archaeological collections and shares and securities for the purpose of Section 56. As per clause (b) of Sub Rule 2 of the aforesaid rule earlier merchant bankers and chartered accountants were allowed to do valuation of unquoted equity shares under Discounted Free Cash Flow Method, but vide the above notification, it is provided that now only merchant bankers can do the valuation of unquoted equity shares under the discounted free cash flow method and chartered accountants are no more allowed to do the same.



## News and Updates

### **Income- Capital or Revenue?**

#### **CIT v. Capgemini India (P) Ltd. (2018) (Bom HC)**

Assessee received grant of land for setting up of a unit with the object of creating employment for 3,000 people. AO taxed the same as revenue receipt

**Held:** Subsidy received in the form of land was capital in nature as purpose/ object of giving subsidy was to generate employment and hence not in the nature of revenue.

### **Mutuality principal of income**

#### **Anakapalle Rural Electric Co-operative Society Ltd.**

Assessee was a consumer co-operative society formed with an objective to make electric energy available to its members and other consumers in its area at a low cost as practicable. It made a claim that since consumers and contributors of its society were same, the surplus arising out of the activity carried on by society does not fall within the ambit of section 4 on the basis of mutuality. AO held that since there was no bye law regarding distribution of assets on dissolution of society, section 69B of AP Co-operative Societies Act, 1964 would be applicable and in such case, the surplus would be vested with the Registrar who shall hold it in trust and shall transfer it to the reserve funds of the society registered with the similar objects.

**Held:** Merely because there was no clause or no rule with regard to distribution of assets of assessee consumer society on its closure, it could be presumed that the surplus would be distributed amongst the non members. Further, assessee had amended the bye laws and placed before the CIT (A), after it got itself registered with the Registrar of Societies to enable the assessee to distribute the surplus assets among its members before completion of the appellate proceedings. Therefore, assessee was a mutual association and the income of the society would not be chargeable to tax under section 4.

### **Exemption under Section 10(23C)(vi)- Educational Institution**

#### **Mallikarjun School Society v. Chief CIT (2018)(UK HC)**

Assessee Society engaged in imparting education applied for exemption under Section 10(23C)(vi). CCIT denied exemption on the ground that surplus of the society was utilized for expansion/ addition of school building. Assessee contended that building constituted an integral part of educational institution and addition thereto would further advance object of the Society.

**Held:** As evident from memorandum of assessee, the society had been primarily established to impart education. Every school is required to provide latest facilities to the students and for this purpose, construction of new building was essential. Surplus earned by the Society was pumped again for raising the infrastructure as to impart education in an effective manner. CCIT hence came to a wrong conclusion that the society was making systematic profit and denial of exemption under section 10(23C)(vi) was not therefore justified.



## News and Updates

### **Charitable Trust- Exemption under Section 11**

#### **ITO v. Lata Mangeshkar Medical Foundation (Pune Trib.)**

Assessee, a charitable trust registered under section 12A was running a hospital. It had filed its return of income claiming exemption under section 11. AO denied the exemption on a ground that assessee trust had issued donation receipts which were not voluntary donations but medical fees charged by the trust

**Held:** The assessee had conclusively proved that the donations given by the persons were much less than the concession given to them. In the case of Mrs. K, donation given by her was Rs. 9,000 whereas the concession given to her for the medical treatment was Rs. 24,342. In the case of Mr.D, the concession given to him was Rs. 12,862 while the donation given by him was only Rs. 5,100. Similarly, the AO had no material to prove that the assessee had demanded donations. Therefore, exemption could not be denied on the ground that the assessee trust had issued donation receipts and had evaded tax.

### **Whether there was a violation of provisions of Section 13(1)(c)**

#### **ITO v. Lata Mangeshkar Medical Foundation (Pune Trib.)**

Assessee, a charitable trust registered under 12A which was running a hospital was denied the benefit of Section 11 on the ground that it had violated provisions of section 13(1)(c) by paying remuneration to the trustees.

**Held:** It was found that remuneration was paid to one of the trustees looking after housekeeping department of the assessee's hospital and the said trustee also had enough experience in the field. Further, the trustee was appointed in the place of another individual who was paid similar remuneration. The various evidences furnished by the assessee showed that the trustee was actually looking after the house keeping activity of the trust.

Similarly, in the case of another trustee who was being paid a remuneration of Rs. 50,000/- per month for looking after the general administration of the hospital. It was brought to record that, another individual in a similar hospital was paid Rs. 1,00,000/- per month who was handling general administration. Thus the remuneration paid to the trustee of the assessee's hospital was much less and there was no violation of Section 13(1)(c) in respect of the payments made. Further the payments made were also not excessive and unreasonable.

### **Business expenditure- Commission- Allowability**

#### **CIT v. Hind Nihon Proteins (P) Ltd.**

Assessee made certain commission payment which was disallowed by AO. The commission had been paid to two partnership firms in which the parties related to directors of assessee were partners. CIT (A) confirmed addition while tribunal deleted it.

**Held:** The reasoning given by the ITAT and the factual matrix being contrary to the reasoning given by the AO and CIT (A), the impugned order could not be treated as perverse. The findings should be such which is to be arrived at without any material, or upon a view of the facts which could not reasonably be entertained or the facts found are such that no person acting judicially and properly instructed as to the relevant law would have come to that determination. This test and benchmark is to be satisfied. It was not possible to hold so in the present case, and interfere. It was held that decision of Tribunal was not perverse.



## Managing Committee 2018-19



Managing Committee

**CA Shivanand Pai, Chairman**  
**CA Ananthapadmanabha, Vice-chairman**  
**CA Raviraj B, Secretary**  
**CA K Subramanya Kamath, Treasurer**  
**CA Abdur Rehman Musba, Chairman**  
**Mangaluru SICASA**  
**CA Aravinda Krishna, Member**  
**CA EdyllD;silva, Member**  
**CA BhargavTantri, Immediate Past**  
**Chairman**

*from Left to Right- CA. Aravinda Krishna ( Member), CA. Abdur Rahman Musba ( chairman SICASA, Mangalore), CA. K. Subramanya Kamath ( Treasurer), CA. Ananthapadmanabha( Vice Chairman), CA. Shivanand Pai ( Chairman), CA. Keshava Ballakuraya ( Past chairman), CA. Raviraj B ( Secretary), CA. EdyllD'Silva( Member) , CA. Bhargava Tantri ( Immediate Past Chairman)*

*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](mailto:icaiebulletin@gmail.com).*

*Feedback on this e-bulletin can be sent to the editorial team @ [icaiebulletin@gmail.com](mailto:icaiebulletin@gmail.com)*

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*CA Prasanna Shenoy M | CA Gautham Nayak M | Committee Members*