

ICAI MANGALORE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

e- Bulletin





Volume 12 | December 2016

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Thought for the Month:

Change your attitude and it will change your life.



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Chairman's Message

CA Keshava Ballakuraya Chairman Mangalore Branch of SIRC of ICAI

Dear Members,



The year 2016 has been a glorious one and the last month of this year even more magnificent for our branch given the success of Parva- National Conference on GST and Lakshya-Student's sub-regional conference. It is a feeling of pride to see the success of these mega events and also a feeling of gratitude for the immense support and contribution received from all of you.

Several months of preparations and lot of efforts has gone into turning the idea of Parva into reality. I feel a sense of fulfilment when I look back and see the stages through which we passed and to finally witness the success of PARVA. Over the two days we have had deep insights into several issues of GST. We thank Indirect Taxes Committee of ICAI for giving us the opportunity to host the National Conference and special thanks to CA Madhukar Hiregange, Chairman of Indirect Taxes Committee for his guidance and support.

When the idea for this event was just forming, we knew we had a long path ahead. But now that idea has turned into reality, I owe a huge debt of gratitude to all of you. The credit of the magnificent success of this event goes to each one of you who have worked day and night for the conference and also to the delegates, for helping us to share the maximum benefit of the event to maximum number of people. We had participation of over 843 members, delegates and students. I thank the chief guests for inauguration of Parva- Mr Akshaya Kumar Sahoo, Director, Finance, of MRPL, Dr. M Subramanyam, the Commissioner of Central Excise and Service Tax, Mangalore, CA Madhukar Hiregange, Chairman of Indirect Taxes Committee and CA Babu Thevar, SIRC Member and Ex-officio member of our Branch and the chief guest for valedictory function CA Ullas Kamath, Managing Director of Jyothi Laboratories Ltd for accepting our invite. I congratulate the galaxy of experts whom we have had the privilege of experiencing over these two days for making this conference very special. They will always be a unforgettable part in our journey of transition to GST.

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Chairman's Message



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I thank the speakers of PARVA – CA Madhukar Hiregange, Advocate Shailesh P Sheth from Mumbai, Advocate K. Vaitheeswaran from Chennai, CA Ashok Batra from New Delhi and CA A. Jatin Christopher from Bengaluru for sharing their knowledge with us and make our GST journey easier. I am also grateful to Sri C P Dasa, the Vice Chairman and Trustee of the Akshaya Pathra Foundation for the spiritual session. I thank everyone in registration, logistics, sponsorship, cultural, reception, stage management, Master of Ceremony and food committees for their time and efforts in making this event a huge success. I specially thank the members who have attended Parva from various parts of the country, such as Latur, Goa, Rajahmundry, Coimbatore, Trivandum, Kozhikode, Vishakapatnam, Tirpur, Kannur, Bangalore and our neighbouring districts. I thank our own members for being a part of Parva. I also thank all the delegates representing the accounting fraternity, industry and business organisations and other professionals of our region and students for participating in large numbers. I thank the members and students who participated with great enthusiasm in the cultural programme. It was a treat to watch the wonderful performances.

We are now set to begin the next chapter in our book. Our book will start off from the outline we created, for therein lies the beauty of our journey. This conference has instilled in us a confidence to welcome the New Era of GST and to excel in the coming years in our own domain, like we have excelled in our previous endeavours.

Citizen's Council Mangalore Chapter in association with ICAI conducted a special lecture on 'Decoding Demonetization – causes, effects and way ahead' at T. V. Raman Pai Convention Centre on 4th December with CA M. R. Venkatesh, Chennai as speaker. We have attended 48th Regional Conference of SIRC of ICAI at Tirupati on 6th & 7th December where Mangalore branch was felicitated with the best branch award. My heartiest congratulations to the previous committee headed by CA Shivakumar K on their achievement of taking Mangalore branch to new heights.

We had session on recent changes/ developments in profession and change in curriculum by CA Babu Abraham Kallivayalil, Chairman, Board of Studies & Member, Central Council, ICAI and session on Internal Financial Control for SLCC (new GN of ICAI) for small and less complex companies by CA Vijay Kumar M. P. ICAI Central Council Member on 13th December. I thank both the Central Council members for accepting our invitation and interacting with the members.

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Chairman's Message



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I am at joy to see the success for another mega event Lakshya in the same month. I congratulate the SICASA committee for a wonderful job done in organizing and hosting Lakshya-Aim for excellence. I am thankful to all of you for supporting us and encouraging the students to participate in huge numbers. Over 656 students participated in Lakshya. We have conducted mock test for CPT students and also 15 days orientation and GMCS batches.

December brings with it the joy of Christmas celebrations. I wish you all a Merry Christmas, may the ringing bells of Christmas fill your life with music of happiness and prosperity.

As the year comes to an end, I hope all your aspirations and plans for 2016 have come true and may the coming year bring you all success in all aspects of life.

Wishing all of you Happy New year 2017.

With warm regards, CA Keshava N Ballakuraya

Believe you can and you are halfway there.
-Theodore Roosevelt

Branch Activities December 2016



Sl No	Date	Activities at Branch for Members	CPE Hours/ Number of Participants
1	02.12.2016 to 03.12.2016	Two days National Conference on GST "Parva" organized by Indirect Taxes Committee, ICAI. Hosted by Mangalore Branch of SIRC of ICAI Guests present for Inauguration- Sri Akshay Kumar Sahoo, Director, Finance, MRPL; CA Madhukar N Hiregange, Chairman, Indirect Taxes Committee, ICAI; Dr. M Subramanyam, IRS, Commissioner of Central Excise and Service Tax, Mangaluru and CA Babu Thevar SIRC Member and Ex Officio Member Mangalore branch. Key Note Address- Role of CA in GST by CA Madhukar Hiregange Technical Session on Taxable event for levy of GST and the persons liable to pay tax by Sri Shailesh P Sheth, Advocate, Mumbai Technical Session on Principles of valuation under GST, Point of taxation and place of supply by Sri K Vaitheeshwaran, Advocate, Chennai. Spiritual Session by C P Dasa, Vice President and Trustee of Askhaya Pathra Foundation Technical Sessions on Import Export under GST and Understanding and Maximising input credit by CA Ashok Batra, New Delhi Technical Sessions on Impact of GST on Industry and Transitional provisions and possible solutions by CA A Jatin Christopher, Bengaluru	Members: 468 Students: 289 Non members: 86 CPE Credit: 12 Hrs
2	13.12.2016	Seminar on Recent Changes/ developments in profession and change in curriculum by CA Babu Abraham Kallivayalil, Chairman, Board of Studies & Member of Central Council, ICAI Seminar on Internal Financial Control for SLCC (New GN of ICAI) for small and less complex companies by CA M P Vijayakumar, Member, Central Council of ICAI	Members: 48 CPE Credit: 4 Hrs
3	04.12.2016	Citizen's Council Mangalore Chapter in association with ICAI conducted a special lecture on 'Decoding Demonetization- Causes, effects and way ahead' at T V Raman Pai Convention Centre	Members: 65 Others: 430



Branch Activities December 2016



Sl No	Date	Activities at Branch for the Students	Number of Participants
1	13.12.2016 and 14.12.2016	 Lakshya Sub regional Conference How to excel in CA Examination by CA Babu K Thevar Success Mantras by CA M P Vijaykumar International Financial Reporting Standards by Flenil D'Souza and Rohan Tauro	Students: 656
2	12.12.2016	Mock Test for December 2016 CPT	Students: 30
3	30.12.2016	Advanced ITT	Students: 27
4	06.12.2016	05th Batch of Orientation Course for IPCC students	Students: 41
5	07.12.2016	01st Batch of GMCS	Students: 41





INAUGURATION OF THE NATIONAL CONFERENCE ON GST-"PARVA"



PRAYER AT THE NATIONAL CONFERENCE



CA MADHUKAR HIREGANGE DELIVERING THE KEY NOTE ADDRESS



SPIRITUAL SESSION BY SRI C P DASA OF THE AKSHAYA PATRA FOUNDATION



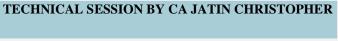
TECHNICAL SESSION BY ADVOCATE SHAILESH P SHETH



VAITHEESHWARAN









MASTERS OF CEREMONIES AT THE NATIONAL CONFERENCE



VALEDICTORY SESSION OF THE NATIONAL CONFERENCE



CA ULLAS KAMATH AS THE CHIEF GUEST AT THE VALEDICTORY SESSION

CULTURAL PROGRAMME AT THE NATIONAL CONFERENCE























CA STUDENTS' SUB REGIONAL CONFERENCE LAKSHYA



CA BABU ABRAHAM SPEAKING AT A SEMINAR



CA M P VIJAYA KUMAR SPEAKING AT A SEMINAR



CITIZENS COUNCIL PROGRAMME ON DECODING DEMONITIZATION



OUR CHAIRMAN SPEAKING AT THE CITIZENS COUNCIL PROGRAMME



CA M R VENKATESH, MAIN SPEAKER AT THE CITIZENS COUNCIL PROGRAMME



COMMISSIONER OF INCOME TAX SRI NAROTAM MISHRA AT THE CITIZENS COUNCIL PROGRAMME



MANGALORE BRANCH COMMITTEE BEING FELICITATED FOR WINNING THE BEST BRANCH AWARD AT THE 48TH REGIONAL CONFERENCE OF SIRC OF ICAI, TIRUPATHI

Professional Updates & News: Direct Taxes



Pradhan Mantri Garib Kalyan Yojana, 2016

Sec. 199C

- 1. Any person may make a declaration in respect of any income, in the form of cash or deposit in an account maintained by the person with specified entity on or before 01.04.2017.
- 2. No deduction will be allowed in respect of any expenses, allowance or set off of any losses from the above undisclosed income.
 - (Specified Entity shall mean- RBI, Any Banking Company or a Co-operative bank, Any Head Post Office or Sub Post Office or any other entity as may be specified by the Central Government)

Sec. 199D

- 1. A person shall pay tax @ 30% on the Income Disclosed under Section 199C.
- 2. Pradhan Mantri Garib Kalyan Cess shall be levied @ 33% on above tax.

Sec. 199E

A person shall liable to pay penalty @ 10% on the Income Disclosed under Section 199C. This penalty is in addition to Tax calculated under section 199D.

Sec. 199F

- 1. A person shall deposit an amount not less than 25% of Income disclosed u/s 199C in the Pradhan Mantri Garib Kalyan Deposit Scheme, 2016.
- 2. The deposit made by any person shall not bear any interest and amount will be blocked for 4 years from the date of deposit.

Sec. 199G

Declaration must be made by the person authorized u/s. 140 of the Act.

Sec. 199H

- 1. Tax, Surcharge and Penalty shall be paid before filing declaration u/s. 199C
- 2. Deposit u/s. 199F shall be made before filing declaration u/s. 199C
- 3. Declaration shall be accompanied with the proof of deposit of Tax, Surcharge, Penalty and Deposit made u/s. 199F

Sec. 1991

Income disclosed under section 199C shall not be included for any assessment year.

Sec. 199K

Tax, Surcharge and Penalty shall not be refundable.

Sec. 199M

If declaration made by misrepresentation or suppression of facts or without payment of tax, surcharge, penalty and deposit made u/s. 199F, such declaration shall be void.





Reduction in coupon rate on 54EC bonds from 6% to 5.25%

Interest rate for bond series has been amended wef 01.12.2016 as detailed below:

- 1. Application money to be credited in NHAI's collection accounts on or after 1st of December 2016 will be 5.25% P. A. till maturity of bonds
- 2. Application money to be credited in NHAI's collection accounts on or before 30th November 2016 will remain 6% P. A. till maturity of bonds.

No Limit on holding of Gold Jewellery and ornaments from explained sources

Government of India by way of a press release on 1st of December 2016 has clarified the following points with regard to holding of Gold Jewellery and Ornaments:

- 1. There is no limit on holding of gold jewellery or ornaments by anybody provided it is acquired from explained sources of income including inheritance
- 2. Vide circular dated 11.5.1994, instructions have been issued in the matter of search and seizure of gold jewellery.
- 3. Jewellery and ornaments to the extent of 500 gms for married lady, 250 gms. for unmarried lady and 100 gm for male member will not be seized, even if prima facie, it does not seem to be matching with the income record of the assesse.
- 4. Officer conducting search has discretion not to seize even higher quantity of gold jewellery based on factors including family customs and traditions.

No Tax on Jewellery acquired out of disclosed sources or exempt income

On rumors which are making rounds that all gold jewellery including the ancestral ones shall be taxed @ 75% plus Cess and a further penalty of 10% in the wake of the passage of Taxation Laws (Second Amendment) Bill, 2016 at the Lok Sabha.

Government has clarified that the amendment bill has not introduced any new provision regarding chargeability of tax on jewellery. The bill only seeks to enhance the applicable tax rate under section 115BBE of the Income-tax Act, 1961 from existing 30% to 60% plus surcharge of 25% and cess thereon. This section only provides rate of tax to be charged in case of unexplained investment in assets.

Professional Updates & News: Direct Taxes



No Reopening for mere increase in Turnover due to demonetization

Circular No.40/2016 dated 9th of December, 2016

CBDT has clarified vide the above circular that mere increase in the turnover because of use of digital means of payment or otherwise, in a particular year cannot be a sole reason to believe that income has escaped assessment in earlier years.

<u>Declaration under Direct Tax Dispute Resolution Scheme can be filed till 31.01.2017</u> Notification No. 124/2016 dated 29th December 2016

In view of the representations received from various stakeholders and for the convenience of the taxpayers, the last date for availing the Direct Tax Dispute Resolution Scheme, 2016 has been extended up to 31st January 2017 vide the aforesaid Notification dated 29th of December 2016.

<u>CBDT amends Pattern for investment by Recognised Provident Fund</u> Notification No. 122/2016 dated 27th December 2016

CBDT vide the above notification has amended sub rule 2 of rule 67 and has called these rules as the Income Tax (36th Amendment) Rules, 2016. This amendment shall change the pattern of the investment to be made by a Recognized Provident Fund.

Accept payment under PMGKY in old Bank notes of Rs. 500 and Rs. 1000 F. NO. 385/17/2016-IT(B) dated 27th December 2016

CBDT vide its press release dated 22.12.2016 had clarified that up to 30.12.2016, payments towards tax, surcharge, penalty and deposit under the Pradhan Mantri Garib Kalyan Yojana (PMGKY) can be made in old Bank Notes of rupees 500 and 1000 issued by RBI.

2nd FAQs on Direct Tax Dispute Resolution Scheme, 2016

Circular No. 42 of 2016

The Direct Tax Dispute Resolution Scheme, 2016 incorporated as Chapter X of the Finance Act, 2016 provides an opportunity to tax payers who are under litigation to come forward and settle the dispute in accordance with the provisions of the Scheme. The provisions of the Scheme have been clarified vide Circular No. 33 of 2016 dated 12.09.2016. Subsequently, further queries have been received from the field authorities and other stakeholders. The Central Government has considered the queries and decided to clarify the same in the form of questions and answers.

Enhancements and improvements to Income Tax e-Nivaran Module

F. No. System/ITBA/Instruction/e-Nivaran/2016-17

In continuation of ITBA e-Nivaran Instruction No. 1, dated 02-05-2016 and ITBA e-Nivaran Instruction No. 2, dated 29-08-2016, various enhancements and improvements have been done in e-Nivaran module based on the feedback received from various field offices.





Furnishing and Verifying Form 27BA to remove TDS payment defaults

Notification No. 12/2016

Vide the above Notification; CBDT has laid down the procedure for the purpose of furnishing and verifying Form 27BA for removing of default of Short Collection and/ or Non Collection of Tax at Source.

Form 27BA is the certificate from an accountant under the first proviso to sub section (6A) of section 206C which shall be furnished to the Director General of Income Tax (Systems) or the person authorized by the Director General of Income Tax (Systems).

Procedure for furnishing and verifying of Form 26A

Notification No. 11/2016

Vide the above Notification; CBDT has laid down the procedure for the purpose of furnishing and verifying Form 26A which is used for removing of defaults of Short Deduction and/ or Non Deduction of Tax at Source.

Form 26A is the certificate from an accountant under first proviso to sub section (1) of section 201which shall be furnished to the Director General of Income Tax (Systems) or the person authorized by the Director General of Income Tax (Systems)

Direct Taxes Case Laws



<u>Capital Gains- Transfer u/s. 2(47)- Land Development Agreement</u> Suresh Kumar D. Shah v. Dy. CIT (2016)

Assessee entered into a development agreement handing over his land to a developer. However, due to a dispute which was referred to a Arbitral Tribunal, which decreed that the land was not parted by the assessee and in fact the developer also admitted that the assessee was in the continuous enjoyment of the property. According the AO, there was a deemed transfer and charged capital gains.

Held: From the decree, it was clear that property was never with the developer and the agreement was cancelled. No transfer took place with regard to the land given for development since physical possession was with the assessee and transfer cannot be said to have taken place in the year of cancellation of agreement of development.

<u>Charitable Trust- Registration under Section 12AA- Necessity of Deed of trust</u> CIT v. Tsurphu Labrang (2016)(Del HC)

Supreme spiritual head of Karma Kagyu Lineage, made a declaration of trust on stamp paper setting out the entire history of the trust along with aims, objects and purposes. It was stated that the objects of the trust were wholly charitable and religious. The issue in this case was grant of registration. This was disallowed for the reasons: (i) absence of trust deed, (ii) difference between objects at the time of establishment of trust and as at present, and (iii) whole time trustee was meeting his personal needs out of the trust funds.

Held: A formal deed of trust is not necessary for the grant of registration u/s. 12AA. It is not necessary that present aims and objects of the trust should be the same as at the time of its establishment. The stage of examining, if the income of the trust was being applied for its objects, would arise only when a return of income was filed by the trust and this would not affect the grant of registration. Section 13 does not debar the main whole time trustee from meeting their basic needs from the funds of the institution/trust, particularly when they are not deriving any monetary benefit from the institution/ trust. The objects of the trust were charitable and registration was to be granted to the same.

Head of Income- Business or Capital Gains

ABC India Ltd. v. ACIT (2016)(Kol Trib)

Assessee sold old trucks at the rate of Rs. 15,000 each. AO doubting genuineness of the sale price estimated the price to be Rs. 50,000 and made additions to the total income of the assessee. Held: Assessee had reduced the WDV of the relevant block from the sale price of the truck. Authorities had treated the Sale price to be Rs. 50,000 and had treated the difference of Rs. 35,000 as income. In case of any sale of the assets pertaining to the block of assets the sale price should be reduced from the relevant block by the amount of sale and only when the block ceases to exist after such adjustment, the excess should be treated as "Capital Gains". The excess cannot be treated as business income.

Direct Taxes Case Laws



Disallowance under section 14A- Expenditure against exempt income

Empire Packages (P) Ltd. v. Dy. CIT (2016)(Chand Trib)

Assessee made certain investments in the shares of various companies. AO took the view that the income earned, if any, from these investments, would be in the nature of dividend, which was exempt and therefore, expenditure incurred in relation to such investment should be disallowed. Assessee contended that it had not incurred any expenditure with regards to such investment. Held: AO had to record satisfaction that the interest bearing funds had been used to earn tax free income and that the satisfaction must be based upon credible and relevant evidence. AO was not justified in invoking disallowance under Section 14A without proving any nexus between interest bearing funds and investment.

Income from House Property- Property acquired under a licence

Bombay Plaza Pvt. Ltd. v. ACIT (2016) (Kol Trib)

Assessee acquired a property under a license and granted different portions of the space of the property under sub license to various parties. Consideration received from sub license was offered as business income and license fees paid to the main owner was claimed as deductible expenditure. AO however treated this to be Income from House Property on the grounds that assessee was a deemed owner as per Section 27(iiib) of the Income Tax Act.

Held: It is evident from the leave and license agreement that assessee did not have exclusive possession of the property and the agreement did not create an interest in the property to the assessee. Parties intended the agreement to be a license and assessee had granted sub license to various parties. Section 27(iiib) did not get attracted to the assessee agreement as it did not comprise a lease. Therefore, it could be safely concluded that assessee carried a systematic and regular activity in the nature of business and income from granting the premises on sub license was to be assessed as Business Income.

Depreciation rate- Higher depreciation

Dy. CIT v. Nalwa Steel and Power Ltd.

Assessee had during the relevant year set up a new wire rod mill and also incurred a further cost on electrical installation for wire rod. The installations were inseparable part of the Plant and Machinery used in production. Assessee claimed depreciation @ 15% on these installations as applicable to Plant and Machineries and also claimed additional depreciation of 10% therein. AO treated these installations to be furniture and fittings and denied 15% depreciation and also the additional depreciation.

Held: Assessee was engaged in manufacturing and the installation formed an integral part of the assessee's plant used for manufacture. Hence depreciation applicable in case of Plant and Machinery is available and also the additional depreciation on such installations is allowed.

Other Updates



Service Tax

<u>Up to Rs. 2000/- payment no service tax on Debit/ Credit card merchant discount</u> Notification No. 52/2016- Service Tax

Vide the above Notification; the Government seeks to amend Exemption Notification No. 25/2012 dated 20.06.2012 so as to exempt services by an acquiring bank, to any person in relation to settlement of an amount up to two thousand rupees in a single transaction transacted through credit card, debit card, charge card or any other payment card service.

Indirect tax assessments will not be reopened for mere increase in sales F. No. 137/155/2012- Service Tax

Under digital mode payment due to the transparency of all the transactions nothing would remain undisclosed resulting in enhanced turnover in the books of the assesses. This has led to an apprehension that increased turnover due to digital means of payments may lead to demands for the earlier period. It is clarified by CBEC that, past assessments will not be reopened for this reason alone.

<u>ICAI</u>

ICAI Code of Conduct for elected, Co-opted and Nominated Representatives No. ICAI/ESB/2016/02

The ICAI Code of Conduct for elected, Co-opted and Nominated Representatives has been issued. This shall apply to elected and nominated members of the Council, Regional Councils and Managing Committees of Branches; and also to members nominated by the Institute to other bodies, Co-opted members of the Committees of Council, Regional Councils, Branches and Committees of Overseas Chapters, Conveners/ Deputy Conveners of Study Circles and CPE Chapters, and any other organs or establishments of Institute within or outside India.







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

The Managing Committee of Mangalore Branch of SIRC of ICAI invites articles, writeups 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.



Feed back on this e-bulletin can be sent to the editorial team @ <u>icaiebulletin@gmail.com</u>

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