



# ICAI MANGALORE

INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

## The Bulletin Board

## e- Bulletin



Volume 06 | June 2015

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### Thought for the Month:

The positive thinker  
sees the **invisible**,  
feels the **intangible** and  
achieves the **impossible**.



# Chairman's Message



***CA Shivakumar Koikuli***  
***Chairman***  
***Mangalore Branch of SIRC of ICAI***



Dear Esteemed Members,

Warm wishes. I am extremely happy that the National Conference 'Jnana Deevige' held on 26<sup>th</sup> and 27<sup>th</sup> of June 2015, organised under the aegis of CPE Committee of ICAI and hosted by Mangalore Branch was a resounding success. We are thankful to each one of you for your participation and overwhelming support to the programme. Special thanks to Sri. CA. Babu Abraham Kallivayallil, Chairman of CPE committee, ICAI, for giving us the opportunity to host the programme. We are grateful to every well wisher of our Branch who has contributed towards the success of the programme.

The pursuit of knowledge is never ending. The day we stop seeking knowledge is the day we stop growing. Knowledge is light, vision and power. The power is gained by sharing knowledge with one another. The learned speakers have gracefully shared their knowledge and thrown light on various topics of professional interest. The cultural programme performed by the students, members and their family turned out to be unique and well appreciated by all.

We are happy to inform that, the branch has acquired 31 new computers for its ITT lab at Padil and the New ITT lab has been fully operational since the 10<sup>th</sup> of June. Special thanks to Information Technology Centre, ICAI, New Delhi, for their permission and our ITT Co-ordinator Mrs. Rajani Udupa and her team for their co-operation. We would also like to thank Sri. P. Chandrakanth Pai and Sri.Praveen Udupa, our new ITT faculty members, for strengthening our hands in building and operating the new ITT Lab. With this we are confident to meet the ever growing requirements of the students.

In the month of June, branch successfully conducted two batches of Orientation Programme, one batch of GMCS-1 and another of GMCS-2. Credit for this success goes to the Co-ordinator CA. M.N. Pai and his team

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# Chairman's Message



**Contd.....**

On the 21<sup>st</sup> of June we celebrated International Yoga Day at ICAI Bhavan, Mahendra Arcade, Mangalore. Renowned Yoga teacher Sri. Gopalakrishna Delampady addressed the students and members about the benefits of Yoga.

The Institute completed its 66<sup>th</sup> year of glorious existence on July 1<sup>st</sup> 2015-the CA Day. We have been celebrating this day, over the years, as part of our tradition. But this year we are planning to celebrate it during the entire month of July, with host of activities like honoring senior members of the profession, distribution of food/books/clothes to under privileged, tree plantation, Swachh Bharath Abhiyan, organising tax awareness programme etc.

Friends, life does not expect us to be perfect in everything we do; we have to do the best we can. This is our sacred human responsibility. Let us all work in such a way that it will bring accolades to the profession. I am sure that our collective efforts will certainly create a marked impact.

With warm regards,

Yours in Professional Service,

***CA Shivakumar Koikuli***

*The future belongs to those who believe in the beauty of their dreams –  
Eleanor Roosevelt*

## Branch Activities June 2015



Sl No	Date	Activity at Branch	CPE Hours/ Number of Participants
01	10.06.2015	ITT Batch started	Students: 61
02	17.06.2015	ITT Batch started	Students: 60
03	05.06.2015 to 09.06.2015	42nd Batch of Orientation Programme	Students: 42
04	09.06.2015 to 23.06.2015	04 <sup>th</sup> Batch of GMCS-II	Students: 40
05	10.06.2015 to 24.06.2015	20 <sup>th</sup> Batch of GMCS- I	Students: 39
06	29.06.2015 to 03.07.2015	43 <sup>rd</sup> Batch of Orientation Programme	Students: 40
07	26.06.2015 to 27.06.2015	<p><b>NATIONAL CONFERENCE - JNANA DEEVIGE</b> Organised by- Continuing Professional Education Committee of ICAI Hosted by Mangalore Branch of SIRC of ICAI <b>Day 1- 26.06.2015</b> <b>Inaugurated by</b> Sri H Kumar, Managing Director of MRPL</p> <p>Sri C.A Babu Abraham Kallivayellil, Chairman of CPE Committee of ICAI presided over the function.</p> <p><b>Guests of Honor</b> Sri P. Jayaram Bhat, Managing Director of Karnataka Bank Ltd Sri P.R. Aruloli, Chairman, SIRC of ICAI</p> <p>C.A Cotha Srinivas &amp; C.A Nithin Mahadevappa, SIRC Members were also present.</p> <p>Sri.CA.Devaraja Reddy, Vice President of the Institute, addressed the delegates In a special session before lunch</p> <p><b>Key Note Address by:</b> Dr. M. Govind Rao, Former member of Finance Commission Topic: <b>The Role of Chartered Accountants in Tax Policy in the Emerging Environment.</b></p> <p><b>Eight technical Sessions by expert in the relevant field.</b></p> <p><b>Valedictory Session:</b> Chief Guest: Sri. B.K. Srivastava, Executive Director, Corporation Bank</p>	<p>No. of Participants: Members: 342 Students: 364 Others: 2 CPE Credit: 12 Hrs</p>



## Branch Activities Gallery June 2015



Left: Inauguration ceremony of 42<sup>nd</sup> Batch of IPCC Orientation Programme  
Right: Group pictures of students as well as the orientation team in 43<sup>rd</sup> batch of IPCC Orientation Programme



Inauguration ceremony of First batch of ITT at ICAI Bhawan, Padil, Mangalore on 10<sup>th</sup> June 2015 in the presence of past chairmen and Branch Managing Committee Members



## Branch Activities Gallery June 2015



Glimpse of **NATIONAL CONFERENCE - JNANA DEEVIGE**, Organised by- Continuing Professional Education Committee of ICAI and Hosted by Mangalore Branch of SIRC of ICAI





## Professional Updates

**Direct Taxes: CBDT prescribes procedure to provide online response to outstanding tax demands**

**CIRCULAR NO.8/2015 DATED 14-5-2015**

The CBDT had prescribed Standard Operating Procedure for Verification and Correction of Demand available or uploaded by AOs in CPC Demand Portal. Further, a facility had been made available to taxpayers on the E-filing website ([www.incometaxindiaefiling.gov.in](http://www.incometaxindiaefiling.gov.in)) to provide online responses to such demands.

The actions required to be performed by the taxpayers and the AO were as under:

### **I. Actions to be performed by taxpayers**

- (i) Log in to the e-filing website and then to go to the e-file menu and click on 'Response to Outstanding Tax Demand'. Taxpayer has to select one of the following options:
  - (a) Demand is correct;
  - (b) Demand is partially correct;
  - (c) Disagree with demand;
- (ii) If taxpayer selects "Demand is correct" then he would get option either to adjust his demand along with interest from any demand due with interest from any demand due with department or pay demand immediately.
- (iii) If taxpayers selects "Demand is partially correct" then he would be required to enter the "Amount which is correct" and "Amount which is incorrect". Taxpayers are also required to fill up one or more reasons from the list provided therein after entering amount in the column "Amount which is incorrect".
- (iv) If taxpayers select option of "Disagree with demand", he must furnish the detail of disagreement with demand along with the reasons as provided therein.
- (v) A transaction ID would get generated after the successful submission of response by the taxpayer; taxpayer can also view his response submitted through the "View" link provided on the e-filing portal.

### **II. Action to be performed by Department**

AO or CPC Bangalore after verification of response submitted should reduce/remove/ confirm the demand. However, following cases are to be verified on priority basis:

- (i) Taxpayer has furnished information in response to notice u/s 245 to adjust demand with any refund due; or
- (ii) Taxpayer has requested for reduction/ removal of demand; or
- (iii) Information regarding demand reduction/ removal is available with department; or
- (iv) Details are already available in the system, such as additional TDS credits reported by deductor.



## Professional Updates



**Direct Taxes: Sum Received in lieu of relinquishment of right to sue 'Coca-Cola' was capital receipt: ITAT**

*Satyam Food Specialties (P.) Ltd. v. Dy. CIT [2015] taxmann.com 194 (Jaipur – Trib)*

The issue that came up before the Tribunal was whether compensation received on relinquishment of right to sue would be a capital receipt or it would be taxable under section 28 of the Income-tax Act?

The Tribunal held that since real intent, objective and purpose of payment of compensation as per settlement agreement was to ensure withdrawal of all pending litigations by assessee and was neither in lieu of surrender of any agency or agreement for non-competition, thus, compensation would neither fall in ambit of section 28(ii)(c) nor under section 28(va) and it was only a capital receipt.

**Contribution made to mutual concerns by non-members for commercial reasons, can't be taxed**

*Dy. CIT v. Bombay Gymkhana Ltd. [2015] 56 taxmann.com 466 (Mumbai – Trib.)*

Tribunal held that the companies had partly sponsored the events, apparently as a part of their respective sales promotion activities. On the other hand, the objective of the assessee in receiving contributions was to meet part of the expenditure incurred in organizing the events and there was no intention to earn any income out of the contributions. Hence, such contributions could not be taxed as income in the hands of the assessee.

**Direct Taxes: Renovation exp. Incurred by Co. on leasehold premises taken from shareholder couldn't be held as deemed dividend**

*CIT v. Vir Vikram Vaid [2015] 55 taxmann.com 431/230 Taxman 212 (Bombay)*

The assessee had leased out its premises to a company in which he was holding 76.26% shares. Company incurred expenses towards construction and improvement of leasehold premises which it continued to use. The revenue was of the view that expenditure on such improvement was for benefit of the assessee and, therefore, invoked provisions of deemed dividend.

The High Court held that as per the provisions of section 2(22), the payments made by the company had to be by way of advance or loan to the shareholders. In the instant case, the asset of assessee got enhanced in value by virtue of repairs and renovation made by the company, yet it could not be brought within definition of advance or loan nor could it be treated as payment by company on behalf of assessee-shareholders or for individual benefit of such shareholders, said sum could not be treated as deemed dividend in hands of assessee.

**Corporate Law: Secretarial Standards 1 and 2 would apply to meetings in respect of which notices are issued after June 30, 2015**

*CIRCULAR NO. A&PD: SS, DATED 13-5-2015*

The Secretarial Standards (SS-1 and SS-2) would apply to Board Meetings and General Meetings, in respect of which Notices are issued on or after July 1, 2015



## Professional Updates



***Service Tax: Validity of charges of suppression or evasion isn't question of law; can't be adjudicated in writ***

***Delhi Airport Metro (P.) Ltd. v. CST [2015] 56 taxmann.com 347 (Punjab & Haryana)***

Issue of invocability of extended period or validity of charge of suppression or validity of charge of intention to evade is a 'question of fact' or at least, 'a mixed question of law and fact' and not a pure question of law'; hence, same cannot be adjudicated in writ.

***Service Tax:***

***Writ can't be filed against order of Commissioner (Appeals) dismissing appeal due to expiry of limitation period***

***Star Enterprises v. Jt. C, CCE, C&ST [2015] 56 taxmann.com 383 (Andhra Pradesh)***

Time-limit for pursuing appeal before Commissioner (Appeals) is rigid one and cannot be extended by Courts; if appeal before Commissioner (Appeals) is dismissed as barred by limitation being beyond his permissible period of condonation, even writ petition cannot be maintained against adjudication order.

***Mentioning wrong notification number wouldn't lead to rejection of refund claim without hearing assessee***

***Monarch Catalyst (P.) Ltd. v. CCE [2015] 56 taxmann.com 421 (Mumbai – CESTAT)***

Refund claim cannot be rejected merely because assessee has by mistake cited wrong notification number; department must issue notice and grant hearing to assessee to rectify said mistake.

***Service Tax: Claim for Cenvat refund must be filed within one year from 'date of export'***

***CCE v. Celebrity Designs India (P.) Ltd. [2015] 56 taxmann.com 304 (Madras)***

Refund application under rule 5 of CENVAT Credit Rules must be filed within 1 year from 'date of export' as per section 11B; hence, refund claim filed beyond that period but within 1 year from 'last date of concerned quarter' is time – barred

***Cenvat credit allowed for outdoor catering service used by employees if cost thereof is borne by co.***

***Hindustan Coca Cola Beverages (P.) Ltd. v. CCE [2015] 56 taxmann.com 378 (Mumbai – CESTAT)***

Rule 2(1)(C) of CENVAT Credit Rules excludes services 'primarily for personal use or consumption of any employee', i.e., 'services, cost of which is included as part of salary of employee on cost to company basis'; outdoor catering service used by all employees in general whose cost is borne by company, are not excluded and are eligible for credit.

***Credit denied as assessee failed to establish existence of transporter who had supplied inputs to him***

***CCE v. Vardhaman Strips (P.)Ltd. [2015] 56 taxmann.com 277 (Punjab & Haryana)***

Where assessee claimed that inputs were transported by a transporter, assessee had to prove existence of said transporter and if such transporter was found to be bogus/non-existent, credit could not be allowed.

## Professional Updates



### **Materials used in railway tracks meant for handing raw materials/finished goods inside plant are capital goods**

*Jayaswal Neco Ltd. v. CCE [2015] (SC)*

Materials used in 'railway tracks' meant for transporting hot metal from blast furnace to pig casting machines for manufacturing pig iron and also for handling raw materials and processed/finished goods, are eligible for credit as 'capital goods'. It is for the reason that use of such railway tracks inside plant not only helps in process of manufacturing, but it is inseparable and integral part of said process inasmuch as without transportation of hot metal to pig casting machines, for which railway tracks are used, there cannot be manufacturing of pig iron.

### **Changes in rate of Service tax with effect from 01<sup>st</sup> June 2015**

Section 66B of finance Act, 1994 was amended by Finance Act, 2015 so as to increase rate of service tax from 12% to 14%. This new rate of 14% shall be applicable from June 1, 2015. Education Cess and Secondary & Higher Education Cess shall not be levied on taxable services w.e.f. June 1, 2015. Swachh Bharath Cess of 2% is yet to be notified by the Government.

### **Finance Minister's relief to Foreign Investors**

Finance Minister Arun Jaitley said capital gains made by the Foreign Investors will be exempt from MAT, but however he did provide relief for the past liabilities. The Minister said all capital gains from sale of securities as well as royalties, interest, technical services fee earned by foreign companies will be exempt from MAT, if the normal rate on such income is lower than 18.5 per cent. The debt funds benefit the most as MAT on interest would have been costly for them.

### **No ICDS on LPG Subsidy and Such other welfare subsidies:**

CBDT, by notifying ICDS made it applicable to all persons having income under the head "Profits and gains of business or profession" or "Income from other sources" following Mercantile System of Accounting. Further, by inserting sub-clause (xviii) to section 2(24) of the act, the income definition was amended to provide that any assistance in the form of subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee will be treated as income. However, as per the Press Release dt. 05.05.2015, it was brought out that ICDS will not apply to individuals not having any income chargeable under the head "Profits and gains of business or profession" and receiving LPG subsidy or any other subsidy for the welfare of the individual.

### **GST amendment bill passed by Lok Sabha**

On May 6, 2015, Lok Sabha passed Constitutional Amendment Bill to introduce Goods and Services Tax in India. The Bill was not passed in its original form as introduced in the Lok Sabha. Certain minor amendments in nature of errata were made in the bill. Apart from that, the Bill incorporated new sub-clause (5) under clause 18. The original clause 18 proposed to levy an additional tax of maximum 1% on inter-State supply of goods to compensate States on account of loss of revenue. Now the inserted sub-clause (5) has proposed that for the purposes of said clause 18, State shall include Union Territories with Legislatures. Hence, Now, Union Territories with Legislatures will also be eligible to receive such 1% amount.

## Professional Updates



### **Restrictions on Chartered Accountants on signing of Audit Reports under Income Tax Act, 1961 w.e.f 01.06.2015**

It has been proposed to revise the definition of accountant in Explanation below section 288(2) of the act on lines of definition of Chartered Accountant in the Companies Act, 2013. Hence a lot of restrictions have been place debarring Chartered Accountants from auditing the books of accounts of their relatives. This is done to ensure the independence of the auditors as the audit/ certification function under the income tax act is mainly provided for protecting the interest of the revenue.

It is therefore very relevant to know the definition of relative for this purpose. The newly inserted Explanation to Sec.288 defines the expression “relative” in relation to an individual to mean –

- a) Spouse of the individual
- b) Brother or sister of the individual
- c) Brother or sister of the spouse of the individual
- d) Any lineal ascendant or descendant of the individual
- e) Any lineal ascendant or descendant of the spouse of the individual
- f) Spouse of a person referred to in clause (b), clause (c), clause (d) or clause (e)
- g) Any lineal descendent of a brother or sister of either the individual or the spouse of the individual.

However, the good news is that, there is no debar to represent an assessee before any income tax authority or the appellate tribunal even if such CA is a relative within the above definition of such assessee.

### **Refund of excess self-assessment tax paid by assessee would be entitled to interest**

*CIT v. Punjab Chemical and Crop Protection Ltd. [2015] (Punjab & Haryana)*

It was held by the High Court that once self- assessment tax paid gets adjusted against the tax determined by the Assessing Officer upon assessment, it takes the imprint of a tax paid in pursuance of notice of demand issued under section 156. Therefore, assessee was entitled to interest under section 244A (1) (b) on excess self-assessment tax paid by it.

### **No TDS from sum paid to ‘All India Tennis Association’ for seeking approval to conduct tennis tournament**

*International Merchandising Corporation v. ADIT [2015] (Delhi – Trib.)*

The Tribunal held that the payment made to AITA in order to obtain necessary sanction/ approval for conducting tennis tournament was not covered under any of the specific TDS provisions under Chapter XVIIB of the Act. Therefore, sum paid to AITA could not be disallowed.

### **Subscription received by NASSCOM from its members was not liable to ST under Club or Association Services**

*National Association of Software & Service Companies (NASSCOM) v. CST [2015] (New Delhi – ESTAT):* Subscription received by assessee, an apex body, from members, being software companies, for promotion of common objectives was not liable to service tax under ‘Club or Association Services’.

### **Karnataka VAT: Segregation of value of goods and labour in works contract isn’t permissible under Composition Scheme**

*Suzlon Infrastructure Ltd. v. State of Karnataka [2015] (Karnataka)*





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

*Husband sat in his room throwing darts at his wife's photo but not even a single one hit the TARGET.*

*From another room wife asks the husband: "What are you doing?"*

*Husband replies: "Missing you"*



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

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

**Editorial Team:**

CA Prasanna Shenoy M | CA Gautham Nayak M | CA Madhav Shenoy S |  
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