

The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)



Bangalore Branch of SIRC Newsletter

English Monthly

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Happy Independence Day

- 19.08.13
7th Corporate
Accountants Meet
- 31.08.13 & 01.09.13
All India
CA Students Conference



CPE - August 2013
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Chairman's Communique . . .

My Dear Fellow Members

We have completed the first season of the filing of I.T returns for the A.Y 2013-14 though the due date got extended to 5th of August 2013. Till date i.e 31st July 2013, a whopping 103 Lakh assesses have filed their Income Tax Returns, as per statistics published in the official e-filing website of the income tax department. This shows a quantum leap in online filing of I.T Returns when compared to the previous year. This shows the acceptance of the usage technology by the tax payers of the country. But in the future the Department need to have more robust servers to cater to the growing demand so that technology will not be a limiting factor for the enthusiasm of the citizens in filing of Income Tax Returns.

The Month of July :

Faculty Development Programme – Level I : One more path breaking initiative by Bangalore Branch !

We are extremely happy to share with you that at Bangalore branch we have undertaken a unique programme to identify new faculties to teach at the branch & strengthen their coaching skills. This programme was conducted to strengthen the teaching faculties for CPT/ IPCC/ Final Course at Bangalore Branch premises. This programme was conducted on 19th & 20th July 2013 was well received, and about thirty one participants attended this unique two day programme.

Half day workshop on Tax Audit:

As the season of tax audit is fast approaching and there are quite a few changes in the ITR forms and methodologies of Filing of Tax Audited Income tax Returns, also ICAI has published revised guidance note on tax audit. We had a overwhelming response for this half day workshop, 350+ members attended this programme. This workshop was also live telecasted in the MDP hall to facilitate the members who had come in large numbers to attend this workshop.

The Month Ahead

Enabling Service Tax Practice Level – 1

Two Day workshop :

Service tax is one of the new legislations of our country though just about 2 decades of its existence lot of far reaching changes has come in to the statute book especially by disbanding of the positive list and bringing about the concepts of negative list, declared services based taxation. Frequent changes in this law has resulted in varied interpretations leading lot of litigation. Constant updation of legal position resulting in these changes has indeed become paramount importance. Knowing the importance of the requirement of our members, Bangalore branch has scheduled 2 day workshop on Service tax. Members are requested to make use of this opportunity to update and enhance their knowledge.



Independence Day Celebrations :

On 15th August 2013 we shall be celebrating the 67th Independence day with pomp and glory. We should pay homage to the martyrs who fought in the freedom struggle to give us this free country. From the free india's first prime minister Pandit Jawaharlal Nehru's Speech "Tryst with Destiny" India has moved on to become one of the largest democracy in the world today. We should pledge ourselves to honesty, integrity and

independence, as professionals we owe to our motherland for the betterment of our nation and countrymen. At Bangalore Branch we have organized independence day celebrations for details of the program, please refer calendar of events.

CFO Meet :

The 7th Corporate Accountants meet organized under the aegis of The Committee for Members in industry (CMII), ICAI, New Delhi is scheduled on Monday, the 19th August 2013 between 6.30 PM to 9.00 PM at Hotel le- meridian. The Committee for members in industry is formed primarily to look after the interest of members in the industry. With large number of members joining the industry, as their career, responsibility of CMII has increased manifold. To improve the relationship between the Institute and the members working in the industry and to discuss the issues of contemporary importance and mutual concern, the CMII is organizing meetings of the members who are at the helm of affairs in the corporate world in all major cities. On these lines This meet is organized to have a better understanding of our fellow professionals working in different spheres of businesses.

All India CA Students Conference :

The mega event of the year for the CA students, All India CA Students Conference with a befitting theme "Adopt Adept & Achieve", organized by Board Of Studies of ICAI, New Delhi & hosted by Bangalore Branch of SIRC Of ICAI and SICASA, Bangalore will be held on Saturday the 31st August & Sunday the 1st September 2013 at Christ University Auditorium, Bangalore. Detailed programme is published elsewhere in this news letter. Apart from the technical deliberations the students will have opportunity to meet and network with the students from all over the country. Members are requested to register their articled assistants for this unique 2 day conference and join our hands in making this a Endeavour of Bangalore Branch a successful one.

With Best Wishes

CA Ravindranath S N
Chairman

CALENDAR OF EVENTS - August 2013

Date/Day	Topic /Speaker	Venue/Time	CPE Credit
02.08.13 Friday	CPE Teleconference Programme on “Valuation of investments by banks vis a vis Income Tax” by CA. R. K. Gupta, Jammu & “IRAC norms for banks” by CA. K. Sreedhar, Chennai	Branch Premises 11.00am to 01.00pm	2 hrs
03.08.13 Saturday	Two Day Workshop on Enabling Service Tax Practice-Level 1-Day 1 Co-ordinator: CA. Annapurna Kabra Fee: Rs.1,200/- For details visit www.bangaloreicai.org	Branch Premises 10.00am to 05.30pm	6 hrs
07.08.13 Wednesday	Fraud Detection and Forensic Accounting CA. Anand P. Jangid	Branch Premises 06.00pm to 08.00pm	2 hrs
10.08.13 Saturday	Two Day Workshop on Enabling Service Tax Practice-Level 1-Day 2 Co-ordinator: CA. Annapurna Kabra For details visit www.bangaloreicai.org	Branch Premises 10.00am to 05.30pm	6 hrs
14.08.13 Wednesday	CPE Teleconference Programme	Branch Premises 11.00am to 01.00pm	2 hrs
14.08.13 Wednesday	Cyber frauds and the role of Auditors CA. A. Rafeq	Branch Premises 06.00pm to 08.00pm	2 hrs
15.08.13 Thursday	Independence Day - Flag hoisting & Celebrations Chief Guest : Jnana Sagara CA. S. Krishna Swamy	Branch Premises 09.30am to 11.00am	—
19.08.13 Monday	7th Corporate Accountants Meet <i>No Delegate Fee</i>	Hotel Le-Meridien 6.30PM to 8.30PM	2 hrs
21.08.13 Wednesday	A new approach for managing work life balance Mr. Rajan Parulekar, Corporate Trainer, Bangalore	Branch Premises 06.00pm to 08.00pm	2 hrs
22.08.13 Thursday	Stock Market: Derivatives & Equities Concepts & Operations : Dr. B. Venkatachalam Accounting Procedures & Issues : CA. Sunil Surana Taxation & Issues : CA. D.S. Vivek Venue Address: Jain University Auditorium, 34, 1st Cross, J. C. Road, Bangalore-560027, Adjacent to Bangalore Stock Exchange Fees: Rs. 250/-	Jain University Auditorium, Bangalore-560027 05.30pm to 08.30pm	3 hrs
23.08.13 Friday	CPE Teleconference Programme	Branch Premises 11.00am to 01.00pm	2 hrs
28.08.13 Wednesday	Integrating Technology with Practice CA. B.P. Sachin Kumar	Branch Premises 06.00pm to 08.00pm	2 hrs
31.08.13 Saturday & 01.09.13 Sunday	All India CA Students Conference Organized by The Board of Studies, ICAI Hosted by Bangalore Branch of SIRC of ICAI & SICASA, Bangalore <i>Details on page No. 14</i>	Christ University Auditorium, Bangalore	—

Note: For all programmes High Tea shall be provided 30 minutes prior to the start of the programme at the respective venue.

FORTHCOMING EVENTS FOR THE FUTURE ... Continued Overleaf ...

Advertisement Tariff for the Branch Newsletter			
Colour full page	Inside Black & White		
Outside back	₹ 30,000/-	Full page	₹ 15,000/-
Inside back	₹ 24,000/-	Half page	₹ 8,000/-
		Quarter page	₹ 4,000/-
Advt. material should reach us before 22nd of previous month.			
		Editor	: CA. Ravindranath. S.N
		Sub Editor	: CA. Allama Prabhu M.S.
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FORTHCOMING EVENTS FOR THE FUTURE

Date/Day	Topic /Speaker	Venue/Time	CPE Credit
04.09.13 Wednesday	Snapshots on IFRS 10, 11 & 12 CA. Prahlad Halgeri	Branch Premises 06.00pm to 08.00pm	2 hrs
11.09.13 Wednesday	Negative List in Service Tax CA. Vidya Sarathy	Branch Premises 06.00pm to 08.00pm	2 hrs
18.09.13 Wednesday	Fraud Control CA. Ramachandran Mahadevan	Branch Premises 06.00pm to 08.00pm	2 hrs
25.09.13 Wednesday	Recent Amendments to FDI Regulations CA. Chidanand Urs	Branch Premises 06.00pm to 08.00pm	2 hrs
05.10.13 Saturday	2 Day Workshop on enabling Service Tax Practice-LEVEL 2 - Day 1 <i>Coordinator: CA. A. Saiprasad</i> <i>Fees: Rs.1,500/-</i>	Branch Premises 10.00am to 05.30pm	6 hrs
09.10.13 Wednesday	Taxation of Hotels / Restaurants: Concepts & Issues in - VAT / Luxury Tax - CA. Tata Krishna - Service Tax - CA. Bhanu Murthy J.S	Branch Premises 06.00pm to 08.00pm	2 hrs
12.10.13 Saturday	2 Day Workshop on enabling Service Tax Practice-LEVEL 2 - Day 2 <i>Coordinator: CA. A. Saiprasad</i> <i>Fees: Rs.1,500/-</i>	Branch Premises 10.00am to 05.30pm	6 hrs
16.10.13 Wednesday	Holiday on account of Bakrid	—	—
17.10.13 Thursday	Buy back of Shares : Procedures & issues under - the Companies Act,1956 - Sri. Gopinath M.R., Company Secretary - the Income Tax Act,1961 - CA.Naveen Khariwal G (including accounting issues) <i>Venue Address: Jain University Auditorium, 34, 1st Cross, J. C. Road, Bangalore-560027, Adjacent to Bangalore Stock Exchange Fees: Rs. 250/-</i>	Jain University Auditorium, Bangalore-560027 05.30pm to 08.30pm	3 hrs
18.10.13 Friday & 19.10.13 Saturday	National Conference on International Taxation* <i>under the aegis of</i> The Committee on International Taxation, ICAI, New Delhi <i>Coordinator: CA. Gurunath Kannathur</i>		12 hrs
23.10.13 Wednesday	Ramifications of the Amendments to the definitions of "Agricultural Income" and "Agricultural Land" under the Income Tax Act, 1961 CA. Ashok Raghavan	Branch Premises 06.00pm to 08.00pm	2 hrs
30.10.13 Wednesday	Taxation of Private Trusts CA. K.K.Chythanya	Branch Premises 06.00pm to 08.00pm	2 hrs
06.11.2013 Wednesday	Analysis of Sections 50D & 54GB of the Income Tax Act,1961 CA. Ganapatlal Kawad H.	Branch Premises 06.00pm to 08.00pm	2 hrs
09.11.2013 Saturday	Half day Workshop on VAT Audit CA. S. Venkataramani & CA. Sanjay M Dhariwal <i>Fees:Rs.500/-</i>	Branch Premises 09.30am to 1.30pm	4 hrs

FORTHCOMING EVENTS FOR THE FUTURE

Date/Day	Topic /Speaker	Venue/Time	CPE Credit
16.11.2013 Saturday	FRRB Awareness Programme* <i>under the aegis of FRRB, ICAI, New Delhi</i>	Branch Premises 10.00am to 05.30pm	6 hrs
13.11.2013 Wednesday	Goods Transport Services - Provisions & Issues under the Service Tax CA. Roopa Nayak	Branch Premises 06.00pm to 08.00pm	2 hrs
20.11.2013 Wednesday	Withdrawal & Revision of Audit Report - When? How? & Its Consequences CA. Sunil Bumralkar	Branch Premises 06.00pm to 08.00pm	2 hrs
21.11.13 Thursday	Intellectual Properties (Copyrights, Trade Marks, Patents etc.,) issues in - VAT & Service Tax - CA. Annapurna Kabra - Income Tax (DTAA etc) - CA. Rishi Harlalka <i>Venue Address: Jain University Auditorium, 34, 1st Cross, J. C. Road, Bangalore-560027, Adjacent to Bangalore Stock Exchange Fees: Rs. 250/-</i>	Jain University Auditorium, Bangalore-560027 05.30pm to 08.30pm	3 hrs
27.11.13 Wednesday	Issues in Accounting Standards CA. Ashok Kumar	Branch Premises 06.00pm to 08.00pm	2 hrs

* Delegate Fee and other Details will be published in our next issue

The Institute of Chartered Accountants of India

7th Corporate Accountants Meet at Bangalore

on **Monday, 19th August 2013**
at **Hotel Le Meridian**, Sankey Road, Bangalore
Timings - **6.30 PM to 9.00 PM**
followed by Dinner

2 hrs
CPE

Organised by
Committee for Members in Industry of ICAI

Hosted by
Bangalore Branch of SIRC of ICAI

Chief Guest
CA K Raghu
Vice President, ICAI

Will address members on avenues abroad for CA's & ICAI initiatives

CA Vijay Kumar Gupta
Chairman, CMII of ICAI

CA S N Ravindranath
Chairman, Bangalore Branch

Registration restricted to 200 Members on first come first serve basis.

For registration contact :

Jagadish Kumar NS, Asstt Secretary
080 - 30563541 / 42, Email - dcobangalore@icai.org

No Fee



TAX UPDATES JUNE 2013

CA. Chythanya K.K., B.Com, FCA, LL.B., Advocate

VAT, CST, ENTRY TAX, PROFESSIONAL TAX

PARTS DIGESTED:

- a) 60 VST – Part 4 & 5
- b) 61 VST – Part 1 to 4
- c) 18 KCTJ – Part 2 & 3
- d) 76 KLJ – Part 6

Reference / Description

[2013] 60 VST 554 (Gauhati – HC); Larsen & Toubro Ltd. v. State of Assam and Others - In the instant case the Honourable Gauhati High Court dealing with respect to the declaration required to be given by the sub-contractor under Rule 39(1) of Assam Value Added Tax Rules, 2005 read with Section 69(2) held that, as the Legislature has not given prescribed format of declaration, the declaration form given by sub-contractor giving relevant particulars to connect the payment of tax to the turnover can certainly be furnished.

[2013] 61 VST 218 (Mad. – HC); Summer India Textile Mills (P.) Ltd. v. CTO - In the instant case the Honourable Madras High Court held that where the dealer who has purchased raw materials and capital goods paying purchase tax at the rate higher than the actual rate to be paid under the Tamil Nadu VAT Act, then at the time of claiming input tax credit, he is entitled to claim the tax paid by him and the same cannot be restricted to actual rate.

It further held that if there had been a charging of tax by the seller at the rate over and above what is payable under the Act, all that the Department can do is to proceed against the seller of the goods for charging the purchaser

at a rate not legally permissible. Equally, once the purchaser proves actual payment of tax at a rate which is not as per the provisions of the Act, the question of proving the 'passing on the liability' does not arise.

[2013] 61 VST 252 (WBTT); Saturday Club Ltd. and another v. State of West Bengal and others - In the instant case the Honourable West Bengal Taxation Tribunal held that supply of food and drinks free of cost to employees in terms of service conditions is a privilege extended along with other perquisites and not a sale.

[2013] 61 VST 445 (Cal. - HC); Cipla Ltd. v. Dy. CCT - In the instant case the Honourable Calcutta High Court held that claim of stock transfer against 'F' form cannot be denied merely on the ground that declaration forms covered transactions for more than a calendar month.

2013-14 (18) KCTJ 14 (ACAR); PVR Bluoo Entertainment Ltd. [No. AR.CLR.CR.39/2012-13 dated 24.04.2013] - In the instant case Applicant has opened a 'Bowling alley' in Orion Mall. It collects shoe rentals from the customers who want to play the bowling game, which are required for playing the game. The Applicant has sought clarification as to whether the shoe rentals collected from participants is exigible to VAT under the KVAT Act, in terms of provisions of Section 2(29)(d) and if so, the rate of tax applicable.

The Authority for Advance Ruling ruled that the said transaction is a transfer of right to use the shoes and falls under the definition of 'sale' under Section 2(29)(d) of the Act. It

further ruled that consideration or rent received towards such transaction would be part of total and taxable turnover of the dealer and liable to tax under Section 4 of the Act.

The tax on transfer of right to use appears to be spreading its wings on all sides. The Apex court in BSNL 145 STC 91 has held that the tax is not on use of goods but on transfer of right to use. Applying this principle, the charges paid for use of shoes in bowling alleys are to be regarded as part of providing gaming services provided to customers. At the most, it is a charge for use for a very limited purpose and for a very short duration and not for right to use.

2013 (76) KLJ 241 (Kar. - Tri.) (DB); Concorde Motors (India) Ltd. v. State of Karnataka - In the instant case the Honourable Karnataka Tribunal held that charges collected for registration and insuring of car are post-sale charges not forming part of sale price and cannot be subjected to levy of tax.

It further held that obligation to get car registered and insured under the Motor Vehicles Act is on buyer-owner of car, therefore in rendering service of facilitating registration and insuring of car, seller-assessee acts as agent of buyer-owner.

Further dealing with the aspect of free of cost accessories (FOCA), the Tribunal held as follows:

- (a) Accessories meant for free supply would have suffered tax indirectly since the cost of supply is inbuilt in the sale price of the motor vehicle;
- (b) The nomenclature FOCA does not change the true nature of sale transaction. Simply it is called free supply but actually cost is inbuilt in sale price of car;

- (c) Even otherwise there is no restriction whatsoever under Section 11 of the KVAT Act for denial of input tax merely because it is given as free of cost.

It is a welcome decision as it upholds the proposition that even free of cost supplies are also made in the course of business and hence are eligible for input tax credit.

INCOME TAX

PARTS DIGESTED:

- a) 354 ITR – Part 2 to 5
- b) 215 Taxman – Part 3 to 6
- c) 23 ITR (Trib) – Part 5 to 7
- d) 24 ITR (Trib) – Part 1 to 4
- e) 142 ITD – Part 5 to 7
- f) 42 CAPJ – Part 5 & 6
- g) 45-A BCAJ – Part 3
- h) 61 TCA – Part 12
- i) 8 International Taxation-Part 6

Reference / Description

[2013] 354 ITR 180 (Delhi - HC); CIT v. Ansal Housing Finance & Leasing Co. Ltd. - In the instant case the Honourable Delhi High Court held that occupation of one's own property, in the course of business, and for the purpose of business, i.e. an active use of the property (instead of mere passive possession) qualifies as 'own' occupation for business purpose. Therefore, the Court held that the Assessee was liable to pay tax on the annual letting value of the unsold flats owned by it under the head 'income from house property'. It further held that levy of income tax in case of a person holding house property is premised not on whether the assessee carries on business, as landlord, but on the ownership. The incidence of charge is because of the fact of ownership.

With due respect, it may be stated that the aforesaid decision requires a

review. By no stretch of imagination, can a dealer be expected to have fictional income by holding his stock! It is like longer a dealer holds stock of built properties [for various reasons including those beyond his control], his incidence of tax on income increases by pressing section 22 into service. The word 'occupied' used in section 22 should be employed meaningfully to avoid an absurd proposition which creates income by holding stock rather than by selling stock!!!

[2013] 354 ITR 268 (Guj. – HC); Bipinkumar P. Khanderia v. Dy. CIT - In the instant Assessee filed a return of income for the AY 1994-95 before the Income Tax Officer, Rajkot, who was his Assessing Officer under normal circumstances. As the Assessee's case was subjected to search operations, his case was transferred to the Asst. CIT (Investigation), Rajkot and the return was processed under Section 143(3) of the IT Act. The assessee filed his return of income for the AY 1995-96 and the same was processed under Section 143(3) of the IT Act by the ITO, Rajkot. For the AY 1997-98, the Assessee filed his return of income before the ITO, Rajkot and the same was accepted under Section 143(1) of the IT Act without any scrutiny. This assessment was reopened under Section 147 of the IT Act. The reason for the notice was that the Assessee having been subjected to search operations, by virtue of notifications issued by the Department, the Asst. CIT (Investigation), Rajkot, was the proper officer who had the jurisdiction to assess the income of the Assessee. The Assessing having filed the returns before the wrong officer who had no jurisdiction the returns were non est. Therefore, the

Assessee had not filed any valid return; his income could be assessed under Section 147 of the IT Act.

The Honourable Gujarat High Court observed that it was not reflected from any of the record that the Assessee was ever made aware about the jurisdiction of the Assessing Officer. It may be that for the AY 1994-95, the return was processed under Section 143(3) of the IT Act by the Asst. CIT (Investigation), Rajkot. However, the fact that being subjected to search all subsequent returns had to go before the specified officer and not the ordinary Assessing Officer having jurisdiction over the Assessee's assessment was nowhere conveyed to him. There was no evidence to show that Assessee was mala fide intentions, filed returns before his original assessing authority. In view of the above, the Court held that the Department without ever questioning the filing of such returns before a wrong officer, had accepted the tax paid under those returns. Now it is not open for it to contend that such returns are invalid as having been filed before the wrong officer having no jurisdiction to accept them. Therefore, it was held that notice of reassessment was not valid.

[2013] 24 ITR (Trib) 262 (Kolkata); Dy. CIT v. Mcleod Russel India Ltd. - In the instant case the Assessee claimed that for the purpose of computing the books profits under Section 115JB of the Act, write back of past provision for diminution in the value of the investment and provision for contingency had to be reduced as representing amount withdrawn from reserve as per Explanation 1(i) to section 115JB. The Assessing Officer rejected the claim.

The Honourable Kolkata Tribunal held that when the assessee wrote



back and credited the amounts withdrawn from the provisions created in the earlier years, the same amounts to withdrawal from reserve entitling the Assessee to claim deduction under Clause (i) of the Explanation (1) to Section 115JB of the Act.

[2013] 33 taxmann.com 519 (Cochin – Trib.); [2013] 140 ITD (BN – LX) Part 7; ITO v. Electronic Controls & Discharge Systems (P.) Ltd. - In the instant case the Honourable Cochin Tribunal held that Assessee is not entitled to exemption under Section 10A in respect of deemed export to another SEZ.

[2013] 142 ITD 571 (Pune – Trib.); [2013] 33 taxmann.com 149 (Pune – Trib.); ITO v. Gajanan Agro Farms - In the instant case the Pune Tribunal dealing with the aspect of agricultural income in respect to the partnership firm held that ownership of land is not a prerequisite for having agricultural income and it would suffice if revenue is derived from agricultural activities carried out on an agricultural land situated in India. It further held that a firm can be agriculturist which derives revenue from agricultural activity. While holding so, it observed the following:

- (a) In the case of Narayan Bhimji Vadangale and another v. Hukumchand Chunilal Thole and another AIR 1992 SC 503, the Honourable Supreme Court has held that it cannot be said that a partnership firm being an inanimate person could not cultivate land personally and could not therefore be an agriculturist;
- (b) As per Explanation V to Section 60(1) of the Civil Procedure Code, 1908, the expression 'agriculturist' means a person who cultivates the

land personally and who depends for his livelihood mainly on income from agricultural land whether as owner, tenant, partner or agricultural labourer;

- (c) Explanation VI to Section 60(1) of CPC, mentions that an agriculturist will be deemed to cultivate the land personally if he cultivates the land by his own labour or by the labour of any member of his family or by servants or by labourers by wages payable in cash or in kind (not being a share of produce) or both;
- (d) Under Section 2(1A) of the IT Act only agricultural income is defined and is required to be a source of income. It is not necessary that in order to come within the ambit of the IT Act, the person has to be an agriculturist;
- (e) There is no bar in law on the farmer becoming a tenant to a landowner, and for the purposes of agricultural income it would suffice, if the farmer conducts agricultural operations on the land owned by someone else and derives income therefrom.

[2013] 142 ITD 618 (Chennai – Trib.); 33 taxmann.com 309 (Chennai – Trib.); Asst. CIT v. Evolv Clothing (P.) Ltd. - In the instant case the Honourable Chennai Tribunal held that 'systematic research' falls under the definition of 'technical services' under Explanation 2 of Clause (vii) to Section 9(1) of IT Act.

It further held that 'technical services' would imply an operation involving skilled precision which 'systematic research' also involves.

[2013] 32 taxmann.com 358 (Hyd. – Trib.); [2013] 8 International Taxation 768; Market Tools

Research (P.) Ltd. v. Asst. CIT - In the instant case the Honourable Hyderabad Tribunal held that functionally dissimilar companies can be taken as comparables only if segmental results in comparable line of activity are available.

[2013] 33 taxmann.com 107 (Mum. – Trib.); [2013] 8 International Taxation 771; Thyssenkrupp Industries India (P.) Ltd. v. Addl. CIT - In the instant case the Honourable Mumbai Tribunal dealing with the aspect of determining Arm's Length Price held as follows:

- (a) Amortization of value of investment, provision for doubtful debts, depreciation transferred from revaluation reserve, bill discounting, donation and fixed assets written off are non-operating expenses and, thus, these expenses cannot be included in operating cost at time of computing ratio of operating profit to total cost.
- (b) Where a comparable has two segments and its revenue from comparable segment is complete in itself and is not influenced by inter-segmental revenue, comparability in such a case has to be examined on segmental level and not on entity level.

[2013] 32 taxmann.com 308 (Ahm. – Trib.); [2013] 8 International Taxation 782; Mohan Balakrishnan v. Dy. CIT - In the instant case Assessee had received salary from a Polish Company. Assessing Officer had taxed gross income including tax deducted by the Polish Government. The Ahmedabad Tribunal held that the Assessee would be liable to tax with respect to net income, i.e. net income which it had received after deduction of tax from the Polish Company. ■

RECENT JUDICIAL PRONOUNCEMENTS IN INDIRECT TAXES

CA. N.R. Badrinath, Grad C.W.A., F.C.A.

CA. Madhur Harlalka, B.Com., F.C.A

SERVICE TAX

- The appellant was engaged in business promotion of foreign principal in India and provided services of an agent to an overseas Company for which he received consideration in convertible foreign exchange. The services so provided were considered as exports and Service Tax was not paid on the same. The revenue raised a demand for Service Tax along with interest and penalty. The decision was passed in favor of the appellant by considering the services provided as export of services. Export of service is not decided on the place of performance of service but on the place of the service recipient who makes the payment for such service. [*M/s. Sumitomo Corporation India Pvt Ltd vs Commissioner of Service Tax, Delhi, (2013-TIOL-1032-CESTAT-DEL)*]
- The services provided by the appellant club to its members were not liable to Service Tax as a club is formed due to mutuality of its members and there are no different legal entities. There has to be a service provider and a service receiver to attract Service Tax. The revenue cannot charge Service Tax when services were rendered by the club to its members but the same was attracted when services were rendered by a club to non-

members as two distinct parties were involved in the transaction.

[*Sports Club of Gujarat Ltd. vs Union of India & 3, 2013-TIOL-528-HC-AHM-ST*]

- The appellant discharged the Service Tax liability under the accounting code for education cess and therefore was asked to repay the Service Tax amount by the department. Held that the assessee is not liable to pay Service Tax which is already paid through a wrong accounting code. The matter should be solved with the PAO. [*Arcadia Share & Stock Brokers Pvt Ltd vs Commissioner of Central Excise & Customs, Goa, 2013-TIOL-1044-CESTAT-MUM*]
- The appellant was engaged in the construction of residential flats. Development & maintenance fees, property tax, water & electricity tariff were collected by the assessee from the buyer of the flat to discharge such payments towards outgoing expenses. The department contended that the activity undertaken by the appellant is 'Management, Maintenance and Repair services' and hence attracted Service Tax. The assessee contended that these charges were paid by him on behalf of the buyers and he made such payments only in the capacity of an executor. Moreover, all the individual service providers

discharged their respective Service Tax liability and the demand raised is not sustainable in law. The judgment was passed in favour of the assessee and unconditional waiver of pre deposit was granted. [*M/s. Hiranandani Constructions Pvt Ltd vs Commissioner of Central Excise, Thane-I, 2013-TIOL-1051-CESTAT-MUM*]

- The respondent was engaged in providing aircraft parts/equipment on lease for a fixed period and on payment of a fixed percentage on the value of the parts on a monthly basis. The appellant contended that the same would be covered under 'financial leasing services including equipment leasing and hire purchase'. The amendment in the definition of financial lease where there is an option to own the asset at the end of the lease period by the lessee, came w.e.f. 1-6-2007 whereas the period of dispute (2005-06 to May 2007) is prior to this. The respondent contended that the amendment was only a clarificatory amendment and even prior to it, operational lease agreements were not covered for taxation under section 65(105) (zm) read with section 65(12). He further stated that there is no option of transfer of ownership of the asset to the lessee at the end of the period in the agreement and hence they were not finance lease agreements. The judgment was passed in favour of the respondent by accepting that their agreements were operational lease agreements. It was so passed as any of their agreement clauses did not state the transferring of the effective ownership of the asset to the lessee at the end of the period neither was there any evidence to



show that the lease agreements covered 75% or more of the estimated economic life of the asset. **[Commissioner of Service Tax, Delhi vs M/s Lufthansa Technik Services India Pvt Ltd, 2013-TIOL-1041-CESTAT-DEL]**

- The appellants were hotels and restaurants and the dispute was whether VAT or Service Tax had to be levied for the food and services provided by them. As per Article 366 (29A) of the Indian Constitution, goods include food and any other article for human consumption or any drink (intoxicating or otherwise) or service for any consideration. Service is also included in the value of sale of goods and only VAT can be imposed by the State Government for the same. The Union Government cannot impose Service Tax on such transactions. If any payments had been made in such manner, refund could be claimed on it. **[Kerala Classified Hotels And Resorts Association and others vs Union of India and others, 2013-TIOL-533-HC-KERALA-ST]**

VAT

- The appellant was an authorized dealer of M/s. Tata Motors Limited. In order to increase the sales, the appellant provided cash

discount and Free of Cost Accessories (FOCA) to the customers. He claimed Input Tax Credit for such goods. The respondent contended that input credit on such goods cannot be allowed since they are sold free of cost. The appellant claimed that even though the goods are supplied free of cost to the customers, it is deemed to be included in the sale price of the car. The VAT invoices of such goods were available and hence, the amount of VAT for the same was eligible for Input Tax Credit. The nomenclature cannot change the true nature of the sale transaction. Further, there is no restriction prescribed by Section 11 of the KVAT Act for denial of such Input Tax Credit. The final order was passed in favor of the appellant and credit was allowed to be taken for FOCA. **[Concorde Motors (India) Limited, Bangalore vs State of Karnataka, 2013(76) Kar. L.J. 241 (Tri.) (DB)]**

- The appellant entered into a contract to supply certain materials to KSRTC. The appellant collected the freight and insurance charges in the tax invoice separately. The question was whether freight and insurance would form part of sale price for VAT purposes. Held that since the ownership of goods was

transferred to the buyer when the goods were entrusted to the transport agency, the same cannot be included in the sale price of goods and accordingly freight and insurance charges were not liable to VAT. **[Radhakrishna Agencies, Bangalore vs The Commissioner of Commercial Taxes, Karnataka, Bangalore and Others, 2013(76) Kar. L.J. 349(HC) (DB)]**

CENTRAL EXCISE

- The respondent imposed upon assessee interest on inadmissible CENVAT credit for the period from the date of credit to the date of reversal of credit and imposed penalty for the same. It was held that the liability to pay interest would arise even where there was no utilization of the credit. The word 'or' appearing between the words "taken" and "utilized" cannot be read as 'and'. Also it was held, where an amount of inadmissible CENVAT credit was taken by a manufacturer of excisable products or a provider of output service but later on reversed, he has to pay interest under Rule 14 for the said period and the case was dismissed in favour of the respondent.. **[M/s Dr. Reddy's Laboratories Ltd. Vs The Commissioner of Central Excise & Service Tax, Hyderabad, 2013-TIOL-934-CESTAT-BANG]**

BANGALORE BRANCH OF SIRC OF ICAI CONGRATULATES RANK HOLDERS OF CA FINAL EXAMS (MAY 2013)

Sl.No.	Reg.No.	Roll.No.	NAME	Marks obtained	Rank
1	SRO0280174	107081	NITIN KUMAR NAHAR	572	6
2	SRO0286455	105229	PALAK BHAWWALA	568	9
3	SRO0238362	105258	SIDDARTH.R.SUNDER RAM	560	13

IPCC AND FINAL PRE-EXAM CRASH COURSE FOR NOV 2013 EXAMS

We are glad to know that you have registered for IPCC / CA Final Course and would be appearing for NOV 2013 exams. Few of you might have taken coaching classes at our Institute. Many students have requested us for organizing special classes: Pre-exam crash course for the benefit of the students appearing for NOV 2013 examinations, apart from the regular coaching classes. Accordingly we have fixed up special sessions on the following subjects and have invited renowned faculty members to conduct the sessions.

IPCC Timings: 10.00 am to 06.00 pm				
S.No.	DATE	DAY	SUBJECT	MEMBERS OF THE FACULTY
1.	03.09.13	TUESDAY	AUDITING & ASSURANCE	CA. PUNARVAS JAYKUMAR
	04.09.13	WEDNESDAY	AUDITING & ASSURANCE	CA. PUNARVAS JAYKUMAR
2.	05.09.13	THURSDAY	INFORMATION TECHNOLOGY	CA. ANAND P. JANGID - BANGALORE
	06.09.13	FRIDAY	STRATEGIC MANAGEMENT	CA. ANAND P. JANGID - BANGALORE
3.	07.09.13	SATURDAY	INCOME TAX	CA. P. RAMASAMY - CHENNAI
	08.09.13	SUNDAY	INCOME TAX	CA. P. RAMASAMY - CHENNAI
	09.09.13	MONDAY	GANESHA CHATURTHI - HOLIDAY	
4.	10.09.13	TUESDAY	ADVANCED ACCOUNTING (GROUP -2)	CA. GAURAV RAJARAM - BANGALORE
	11.09.13	WEDNESDAY	ADVANCED ACCOUNTING (GROUP -2)	CA. CHINMAYA HEGDE - BANGALORE
5.	12.09.13	THURSDAY	BUSINESS LAW	Mr. BABU SANKARASUBRAMANIAN - CHENNAI
	13.09.13	FRIDAY	BUSINESS LAW	Mr. BABU SANKARASUBRAMANIAN - CHENNAI
6.	14.09.13	SATURDAY	COSTING & FINANCIAL MANAGEMENT	CA. K. HARIHARAN - CHENNAI
	15.09.13	SUNDAY	COSTING & FINANCIAL MANAGEMENT	CA. K. HARIHARAN - CHENNAI
7.	16.09.13	MONDAY	ACCOUNTING (GROUP -1)	CA. VINAYAK ASUNDI, BELGAUM
	17.09.13	TUESDAY	ACCOUNTING (GROUP -1)	CA. VINAYAK ASUNDI, BELGAUM
FINAL Timings: 10.00 am to 06.00 pm				
1.	16.09.13	MONDAY	FINANCIAL REPORTING	
	17.09.13	TUESDAY	FINANCIAL REPORTING	
2.	18.09.13	WEDNESDAY	ADVANCED AUDITING & PROF. ETHICS	CA. VIKAS OSWAL - BANGALORE
	19.09.13	THURSDAY	ADVANCED AUDITING & PROF. ETHICS	CA. VIKAS OSWAL - BANGALORE
3.	20.09.13	FRIDAY	ST. FINANCIAL MGMT	CA. SHANTHI GANAPATHI - CHENNAI
	21.09.13	SATURDAY	ST. FINANCIAL MGMT	CA. SHANTHI GANAPATHI - CHENNAI
4.	22.09.13	SUNDAY	DIRECT TAX LAWS	CA. SURESH T. G. - CHENNAI
	23.09.13	THURSDAY	DIRECT TAX LAWS	CA. SURESH T. G. - CHENNAI
5.	24.09.13	FRIDAY	CORPORATE AND ALLIED LAWS	CA.S. SRIKANTH - CHENNAI
	25.09.13	WEDNESDAY	CORPORATE AND ALLIED LAWS	CA.S. SRIKANTH - CHENNAI
6.	26.09.13	THURSDAY	ADVANCED MGMT ACCOUNTING	CA. K. HARIHARAN - CHENNAI
	27.09.13	FRIDAY	ADVANCED MGMT ACCOUNTING	CA. K. HARIHARAN - CHENNAI
	28.09.13	SATURDAY	NO SESSIONS	
7.	29.09.13	SUNDAY	QUANTITATIVE TECHNIQUES	CA. TARUN JAGDISH – KOZHICODE
8.	30.09.13	MONDAY	INDIRECT TAX LAWS	Mr. A.S. HARIHARA KUMAR - CHENNAI
	01.10.13	TUESDAY	INDIRECT TAX LAWS	Mr. A.S. HARIHARA KUMAR - CHENNAI
9.	02.10.13	WEDNESDAY	INFORM. SYSTEM CONTROL & AUDIT	CA. B. N. GANESH KUMAR - BANGALORE
	03.10.13	THURSDAY	INFORM. SYSTEM CONTROL & AUDIT	CA. B. N. GANESH KUMAR - BANGALORE

Registration on First Come First Served basis.

THE FEE FOR THE PRE EXAM CRASH COURSE IS AS FOLLOWS:

Final: All the Subjects	Rs.3500/-	IPCC : All the Subjects	Rs.3000/-
I Group Subjects	Rs.2000/-	I Group Subjects	Rs.2000/-
II Group Subjects	Rs.2300/-	II Group Subjects	Rs.1500/-
Single Subject	Rs.600/-	Single Subject	Rs.600/-

Mode of payment: CASH / DD in favour of "BANGALORE BRANCH OF SIRC OF ICAI" PAYABLE AT BANGALORE.

To register please contact: **080-30563500 / 511/ 512 / 513** blrregistrations@icai.org

CA. Ravindranath S. N.
Chairman

CA. Allama Prabhu M. S.
Secretary



IMPORTANT DATES TO REMEMBER DURING THE MONTH OF AUGUST 2013

5 th August 2013	Payment of Excise Duty for July 2013
	Payment of Service Tax for July 2013 by Corporates
6 th August 2013	E-Payment of Excise duty for July 2013
	E-Payment of Service Tax for June 2013 for corporates
7 th August 2013	Deposit of TDS/TCS Collected during July 2013
10 th August 2013	Monthly Returns for Production and Removal of Goods and CENVAT Credit for July 2013
	Monthly Return of excisable Goods Manufactured & Receipt of Inputs & Capital Goods by Units in EOU,STP,HTP for July 2013
	Monthly Returns of Information relating to Principal Inputs for July 2013 by Manufacturer of Specified Goods who Paid Duty of Rs.1 Crore or More during Financial Year 2012-13 By PLA/CENVAT/Both
	STPI Monthly Returns
15 th August 2013	Payment of EPF Contribution for July 2013
	Return of Employees Qualifying to EPF during July 2013
	Due date for filing of VAT 120 under KVAT Laws for July 2013
20 th August 2013	Monthly Return and Payment of Profession Tax Collected During July 2013
	Monthly Return and Payment of CST and VAT Collected During July 2013
21 st August 2013	Deposit of ESI Contributions and Collections for July 2013
22 nd August 2013	Due date for issue of Form 16B (TDS certificate relating to TDS on immovable property)
25 th August 2013	Consolidated Statements of Dues and Remittances Under EPF and EDLI for the July 2013
	Monthly Returns of Employees Joined the organisation during July 2013
	Monthly Return of Employees left the organisation during July 2013

Congratulations



CA. S. Prabhudev Aradhya has been elected as the 'Honorary Treasurer' of the prestigious Institution – Karnataka Chitrakala Parishath. He also has been nominated as the 'Rotary District Treasurer' of the Rotary District – 3190 for the year 2013 – 2014.

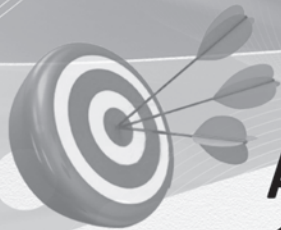
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All the programmes of Bangalore branch are live telecasted. To watch the programme, please visit :
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'ICAI TUBE' Bangalore branch's initiative of archiving and streaming of programs in the form of videos was well appreciated by the members. All the recorded programs of Bangalore branch are hosted in the Bangalore branch website, to watch these videos please visit
www.bangaloreicai.org/resources/icai-tube
for the benefit of the members.

We welcome your suggestion & feedback to serve you better.

Advt.



ALL INDIA CA STUDENTS CONFERENCE

Adopt, Adept & Achieve

On **Saturday, 31st August 2013** & **Sunday, 1st September 2013**

Venue :

**Christ University
Auditorium**

Hosur Road, Bangalore - 560 029

Organised by:

Board of Studies, ICAI, New Delhi

Hosted by:

**Bangalore Branch of SIRC of ICAI
Bangalore Branch of SICASA**

Registration

Rs.500/- per Student

Accommodation (if required)

Rs. 500/- per student extra.

Payment Mode Cash/DD/Cheque

To be drawn in favour of

"Bangalore Branch of SIRC of ICAI",
payable at Bangalore.

Download

Registration Form

from website

www.bangaloreicai.org

**For registration
queries contact**

Ms. Rajalakshmi /

Ms. Geethanjali D.

**Bangalore Branch of
SIRC of ICAI,**

'ICAI Bhawan', #16/O,

Millers Tank Bed Area,

Vasanthnagar,

Bangalore-560052,

Phone : **080 - 3056 3509 /**

3056 3513

Email : **blrsicasa@icai.org,**

Website: **www.bangaloreicai.org**

Day 1: Saturday, 31st August 2013

Time	Session	Particulars / Topics
08.45am	Registration	
10.00am to 11.30am	Inaugural Session	CHIEF GUEST: Sri R.K. Dubey , Chairman & Managing Director, Canara Bank GUEST OF HONOUR: Dr Fr Thomas C Mathew , Vice Chancellor, Christ University Presided by CA Subodh Kumar Agrawal , President, ICAI CA K. Raghu , Vice - President, ICAI CA Vijay Garg , Chairman, Board of Studies, ICAI CA IS Prasad , Co-Opted Member, Board of Studies, ICAI
11.45am to 01.00pm	Technical Session I CA Vijay Garg , Chairman, BOS ICAI Mr. Vijay Kapur , Director BOS, ICAI	i. e-learning & other initiatives by BOS ii. Interactive Session
02.00pm to 03.15pm	Technical Session II Two Student Speakers Chairman: CA Gururaj Acharya K	Accounting Standards i. Recognition based Standards ii. Disclosure based Standards
03.30pm to 04.45pm	Technical Session III Two Student Speakers Chairman: CA Padamchand Khincha H.	Income Tax i. Taxation of Gifts & Cash credits ii. Disallowances under the Income Tax Act
04.45pm to 05.45pm	Technical Session IV Two Student Participants Practice - CA Shyam Ramadhyani CA K.R. Girish Industry - CA Suresh Senapathy , CFO, WIPRO Ltd, Bangalore	Debate Practice v/s Industry
06.15pm	ENTERTAINMENT PROGRAM	
08:15	Dinner	

Day 2: Sunday, 01st September 2013

08.15am	Breakfast	
09.45am to 10.45am	by An Eminent Speaker of International Repute	How to be happy with what we earn by righteous means
10.45am to 12 noon	SPECIAL SESSION Speaker: CA T.N. Manoharan , Past President, ICAI Two CA Rank Holders	i. Unlock your potential – Create Values – Face Challenges ii. Passing the Exams with merit- sharing the success mantra
12.15pm to 01.30pm	Technical Session V Two Student Speakers Chairman: CA V. Raghuraman	Service Tax i. Joint Charge & Reverse Mechanism ii. Critical issues under Negative list regime
02.30pm to 03.45pm	Technical Session VI Chairman: CA T P Ostwal , Mumbai	International Taxation i. Basics of International Taxation ii. Basics of Transfer Pricing
04.00pm to 05.15pm	Technical Session VII Chairman: CA Vittal Raj , Chennai	Information Technology i. Using MS Excel for financial analysis and Reporting ii. ERP – Concept, Challenges & Solutions
05.15pm	Valedictory Session	

Advt.

Workshop on Search, Seizure & Survey



Inauguration



Co-ordinator CA. Prashanth G. S.



CA. D. R. Venkatesh



CA. A. Shankar



CA. B. P. Sachin Kumar



CA. V. Sridhar



CA. S. Ramasubramanian

Case Studies on International Taxation



CA. K.K. Chythanya



Group discussion



Group discussion

Speakers at Study Circle Meetings



CA. Tarun Jain



CA. Ashok Raghavan



CA. Annapurna Kabra



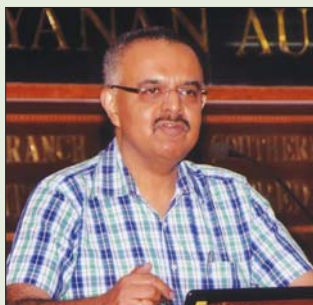
Mr. M. R. Gopinath



CA. B. P. Sachin Kumar



CA. Sanjay M. Dhariwal



Dr. K. Sriram



CA. Ganesh Kumar B. N.

President & Vice President, ICAI meeting with His Excellency The President of India



Union Minister for Minority Affairs CA. K. Rahman Khan, ICAI President CA. Subodh Kumar Agrawal and ICAI Vice President CA. K. Raghu, called upon His Excellency The President of India Shri Pranab Mukherjee in Rashtrapati Bhavan, Delhi on July 12, 2013



CA. K. Raghu, Vice President, ICAI presenting the bouquet to CA. Kumar Mangalam Birla during the meeting in presence of CA. Subodh Kumar Agrawal, President, ICAI on July 2, 2013 in Mumbai

Half Day Workshop on Tax Audit and Latest Guidance Note on Tax Audit



Co-Ordinator
CA. K. Gururaj Acharya



CA. S. Ranganath



CA. R. Satyanarayana Murthi



Cross section of participants

Two day Faculty Development Programme (FDP) Level-1



Inauguration



Co-ordinator
CA. Nanu R. Mallya



Group photo of the participants



CA. Jatin Christopher



CA. V. Raghuraman



CA. K. Gururaj Acharya

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