

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

● 09.08.2014
Seminar on
Tax Audit



● 22.08.2014 & 23.08.2014
Two Day National Conference on
Indirect Taxes

CPE - August 2014
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Chairman's Communique . . .



Dear Professional Colleagues,

The economy of India is the tenth largest in the world by nominal GDP and the third largest by purchasing power parity (PPP). The country is one of the G-20 major economies and a member of BRICS. On a per-capita-income basis, India ranked 141st by nominal GDP and 130th by GDP (PPP) in 2012, according to the IMF. India is the 19th-largest exporter and the 10th-largest importer in the world. The economy slowed to around 5.0% for the 2012-13 fiscal year compared with 6.2% in the previous fiscal. According to Moody's, the Economic Growth Rate of India would be 5.5% in 2014-15. We the Chartered Accountants, as the partners in nation building, must contribute to the development of the nation, and one such platform is the website initiated by our Hon'ble Prime Minister Sri. Narendra Modi, where the public is allowed to give suggestions to the Government. We must participate in large numbers by giving innovative suggestions to Government.

India, our great nation's Independence Day greetings!

On behalf of Bangalore Branch of SIRC of the ICAI, I extend a warm welcome to all of you for the auspicious event on Friday, 15th August at the Branch, to hoist our national flag and the following Independence Day celebrations of our **Incredible India**.

The month to remember: July 2014

In addition to the regular study circle meetings, **CAs' Day was being celebrated on 01st July 2014**. As a Corporate Social Responsibility, on this auspicious occasion, we have distributed scholarship to more than 50 deserving CA students and rendered a helping hand to educate the students hailing from the lower strata of society by distributing school uniforms and shoes.

As a regular feature of the Branch, **Union Budget Analysis** – a public awareness programme, with the able leadership of the two stalwart moderators CA. T. V. Mohandas Pai and CA. H. Padamchand Khincha was conducted and was a resounding success.

Convocation Ceremony for nearly 1,100 Chartered Accountants was conducted in the august presence of our beloved President, CA. K. Raghu, Vice President- ICAI, Chairman-BOS, Chairman - SIRC, eminent regional & central council members, enhancing the level of confidence of those newly qualified CAs, enabling them to be a proud member of our prestigious institute.

I am happy to inform you that a programme on **Clause by Clause Discussion on Finance Bill 2014** conducted on 18th July, was also a grand success making us aware of the recent amendments in direct and indirect tax areas of practice.

Important programmes for the month ahead: August 2014

Investor Awareness Programme: on 01st August 2014 was very well received and the presentation of papers made by the eloquent speakers were commendable.

Seminar on Professional Opportunities and recent development in Co-operative sector and changing paradigm of NPOs organised by the committee for Co-operatives and NPO Sectors, ICAI under the efficient leadership of the said committee Chairman CA. Rajkumar S. Adukia was an informative programme enhancing the knowledge of our members in the field of Co-operative Sector and NPOs.

Seminar on Tax Audit will be conducted on 09th August 2014. The eminent speakers will throw light on the various amendments to be kept in mind while conducting tax audit. Members are requested to participate in this programme which is beneficial to all the Chartered Accountants involved in Tax Audit.

An Interactive Session with Commissioner CPC (Income Tax) with a session on **Issues on TDS** is being organised at the Branch on 13th August.

Two day National Conference on Indirect Taxes is being organised by IDT Committee, ICAI on 22nd and 23rd August 2014. Expert and experienced faculty members are being invited to present the papers. Request the members to participate in this event and derive maximum benefit out of the same. September month being a very busy month for members, only study circle meetings are being organised.

I sincerely request all the members to participate in the programmes and make each one of them a grand success paving way for the improvement in quality of our profession.

With warm regards,

A handwritten signature in blue ink, appearing to read 'Babu K Thevar'.

CA. Babu K Thevar
Chairman

CALENDAR OF EVENTS - AUGUST & SEPTEMBER 2014

| Date/Day | Topic /Speaker | Venue/Time | CPE Credit |
|--------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|---------------|
| 01.08.2014 Friday | Investor Awareness Programme | Branch Premises 05.00pm to 08.30pm | 3 hrs |
| 02.08.2014 Saturday | Seminar on Professional Opportunities and Recent Development in Co-operative Sector and Changing Paradigm of NPOs <i>Delegate Fees: Rs.450/-</i> | Branch Premises 10.00am to 05.30pm | 6 hrs |
| 06.08.2014 Wednesday | Internal Audit - Controls and Compliance CA. Venkatesh Padiyar | Branch Premises 06.00pm to 08.00pm | 2 hrs |
| 09.08.2014 Saturday | Seminar on Tax Audit <i>In association with Basavanagudi CPE Study Circle</i> <i>Delegate Fees: Rs. 900/- (till 08th Aug 2014)</i> Rs.1,000/- (on 09th Aug 2014 - Spot Registration) <i>Details at Page No: 4</i> | Sri. Devraj Urs Bhavan Auditorium Opp. B'lore Br., ICAI 09.30am to 05.45pm | 6 hrs |
| 13.08.2014 Wednesday | Issues on TDS CA. G.S. Prashanth Followed by an Interactive Session with Sri. R.K. Mishra, CPC (Income Tax) Commissioner & Officials | Branch Premises 05.30pm to 06.45pm 06.45pm to 8.30 pm | 3 hrs |
| 15.08.2014 Friday | Independence Day Flag hoisting & Celebrations <i>Chief Guest: Capt. Dr. Rajendra</i> <i>Guest of Honour: CA. Prabhudev Aradhya S, Past Chairman, B'lore Br.</i> | Branch Premises 09.30am to 11.00am | — |
| 20.08.2014 Wednesday | Popularising the Concept of One Person Company (OPC) under the Companies Act 2013 CA. P. R. Suresh | Branch Premises 06.00pm to 08.00pm | 2 hrs |
| 22.08.2014 Friday & 23.08.2014 Saturday | Two Day National Conference on Indirect Taxes <i>Organised by Indirect Taxes Committee (IDT), ICAI</i> <i>Hosted by Bangalore Branch of SIRC of ICAI</i> <i>Delegate Fees: Rs.3000/- (till 18th August 2014)</i> Rs. 3500/- (after 18th August 2014) <i>Details at Page No: 5</i> | Hotel Le-Meridien, Sankey Road, Bangalore 09.30am to 05.30pm | 12 hrs |
| 27.08.2014 Wednesday | Tax related provisions in Constitution of India CA. Mohan Kumar B. N. | Branch Premises 06.00pm to 08.00pm | 2 hrs |
| 03.09.2014 Wednesday | Anatomy of Financial Statement Fraud CA. V. Guruprasad | Branch Premises 06.00pm to 08.00pm | 2 hrs |
| 06.09.2014 Saturday | One Day Awareness Programme on Financial Reporting Practices <i>Delegate Fee: Rs.600/-</i> | 9.30am to 5.30pm Branch Premises | 6 hrs |
| 10.09.2014 Wednesday | Union Budget 2014 - Amendments in Service Tax CA. A. Saiprasad | Branch Premises 06.00pm to 08.00pm | 2 hrs |
| 17.09.2014 Wednesday | Rent a CFO - Practitioners' Perspective CA. Mohan Kumar B. S. | Branch Premises 06.00pm to 08.00pm | 2 hrs |
| 24.09.2014 Wednesday | Accounting & Taxation aspects of Capital Market Transactions CA. Lakshmi Prasad J. | Branch Premises 06.00pm to 08.00pm | 2 hrs |

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

Advertisement Tariff for the Branch Newsletter

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| Advt. material should reach us before 22nd of previous month. | | | |

Editor : **CA. Babu K. Thevar**
Sub Editor : **CA. Pampanna B.E.**

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One Day Seminar on

“TAX AUDIT”

6 hrs
CPE

in association with Basavanagudi CPE Study Circle

on **Saturday, 9th August 2014** Between **09.30 am & 5.45 pm**

at **Sri. Devraj Urs Bhavan Auditorium**

Opp. Bangalore Branch of ICAI, Vasanthnagar, Bangalore-52

| | Time | Topics | Speaker |
|---------------------|-------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| | 09.00am | Registration | |
| | 09.30am | INAUGURATION | |
| Technical Session 1 | 10.00am - 11.30am | Application of Accounting & Auditing Standards in Tax Audit – including relevant changes in 3CA & 3CB format | CA. P.R. Suresh |
| | 11.30am | TEA | |
| Technical Session 2 | 11.45am - 01.15pm | Critical Issues in Tax Audit, Deduction of Business Expenses & Disclosure of Income with Recent Case Laws – including relevant changes in form 3CD | CA. D.S. Vivek |
| | 01.15pm | LUNCH | |
| Technical Session 3 | 02.15pm - 03.45pm | 269SS & T, 40A(2)(b), 40A(3), Deduction from Gross Total Income, Carry forward of Loss & Relevant Issues – including relevant changes in form 3 CD | CA. Naveen Khariwal G. |
| | 03.45pm | TEA | |
| Technical Session 4 | 04.00pm - 05.30pm | Tax Audit - Critical Issues on TDS & Ratios – including relevant changes in form 3 CD | CA. D.R. Venkatesh |
| | 05.30pm | OPEN HOUSE - Q & A | |

CA. Babu K. Thevar

Chairman

Bangalore Branch of SIRC of ICAI

CA. Pampanna B.E

Secretary

Bangalore Branch of SIRC of ICAI

CA. Dileep Kumar T.M

Convenor

Basavanagudi CPE Study Circle

Delegate Fee: Rs.900/-

(registration on First Come First Served basis)

Spot Registration: Rs.1000/-

(will be taken subject to availability of seats at the venue)

For Non-Members: Rs.5000/- + Service Tax

Cash/Cheque/DD in favour of “**Bangalore Branch of SIRC of ICAI**” payable at Bangalore.

For further details Please contact:

Ms.Geethanjali D, Tel: 080-30563500 / 511 / 512 / 513

Email: blrregistrations@icai.org | www.bangaloreicai.org

Two Day National Conference on “Indirect Taxes”



Organised by **Indirect Taxes Committee (IDT)**, ICAI, New Delhi
Hosted by **Bangalore Branch of SIRC of ICAI**

On **Friday, 22nd August & Saturday, 23rd August 2014**

between **09.30 am and 05.30 pm** at **Hotel Le-Meridien**, Sankey Road, Bangalore

Indirect Taxes Committee of the ICAI is pleased to organise a two day National Conference on Indirect Taxes at Bangalore which will be hosted by Bangalore Branch of SIRC of the ICAI to keep pace with the drastic changes in the field of service taxation to enable the members remain abreast with the changing requirements of a growing economy.

| Day 1 – 22 nd August 2014, Friday | | | |
|------------------------------------------------|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| Session | Timing | Topic | Speaker |
| | 09.00am | Registration | |
| | 10.00am to 10.30am | INAUGURAL SESSION <i>Chief Guest: CA. H. Raja, Ex-MLA, Tamilnadu</i> <i>Guest of Honour: CA. Atul Kumar Gupta, Chairman, IDT Committee, ICAI</i> | |
| I Technical Session | 10.30am to 12.00pm | Taxability – Basis of taxation; Reverse and Joint Charge mechanisms | CA. Atul Kumar Gupta <i>Chairman, IDT Committee, ICAI</i> |
| II Technical Session | 12.00pm to 01.30pm | Point of Taxation Rules with case studies | CA. Sunil Gabhawala <i>Mumbai</i> |
| | 01.30pm | LUNCH | |
| III Technical Session | 02.15pm to 03.45pm | Valuation of Services with case studies | Mr. K. Vaitheeshwaran <i>Advocate cum Tax Consultant, Chennai</i> |
| | 03.45pm | TEA | |
| IV Technical Session | 04.00pm to 05.30pm | CENVAT Credit Rules – amendments, issues, case studies | CA. Madhukar N. Hiregange <i>Bangalore</i> |
| | 05.30pm | Q&A in panel format | |
| Day 2 – 23 rd August 2014, Saturday | | | |
| I Technical Session | 09.30am to 11.00am | Place of Provision of Service Rules with case studies | CA. Deepak Kumar Jain <i>Bangalore</i> |
| | 11.00am | TEA | |
| II Technical Session | 11.15pm to 12.30pm | Penalties and Prosecution with case studies | Mr. G. Shivadass <i>Advocate, Bangalore</i> |
| III Technical Session | 12.30AM to 01.45pm | Drafting replies to SCNs and personal hearings | CA. V Raghuraman <i>Advocate, Bangalore</i> |
| | 01.45pm | LUNCH | |
| IV Technical Session | 02.30pm to 03.45pm | Getting ready for appeals – case studies | CA. V Raghuraman <i>Advocate, Bangalore</i> |
| | 03.45pm | TEA | |
| V Technical Session | 04.00pm to 05.15pm | GST – Status update | CA. S. Venkataramani <i>Bangalore</i> |
| | 05.15pm | OPEN HOUSE | |

CA. Babu K. Thevar *Chairman, Bangalore Branch, ICAI* **CA. Atul Kumar Gupta** *Chairman, IDT Committee, ICAI* **CA. Nihar Jambusaria** *Program Director & Vice Chairman, IDT Committee, ICAI* **CA. Pampanna B.E** *Secretary, Bangalore Branch, ICAI* **CA. Badrinath N.R** *Programme Coordinator*

Delegate Fee: For Members: **Rs.3,000/- (Early Bird Offer)** on or before 18th August 2014; **Rs.3,500/-** after 18th August 2014

For Non-Members : **Rs.10,000/- + Service Tax**

Cash / Cheque /DD in favour of “**Bangalore Branch of SIRC of ICAI**” payable at Bangalore.

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TAX UPDATES JUNE 2014

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

VAT, CST, ENTRY TAX, PROFESSIONAL TAX

PARTS DIGESTED:

- a) 70 VST – Part 2 to 5
- b) 71 VST – Part 1 to 4
- c) 19 KCTJ – Part 3
- d) 78 KLJ – Part 5

Reference / Description

[2014] 71 VST 329 (Karn. – HC): Urban Heights v. Dy. CCT and another - In the instant case a partnership firm 'A' was reassessed and was liable to pay tax under the Karvat Act. One of the partners of the said firm 'A' is also the partner in the Petitioner Firm. Both the partner and the Petitioner Firm had bank account in same bank.

Demand notice was issued to 'A' to make payments. Another notice was issued to the Bank to pay the outstanding dues in the account of the Partner (common partner). Several correspondences between the parties took place. Ultimately, the authority froze the account of the Petitioner Firm.

The Honourable Karnataka High Court held as under:

- (a) That re-assessment order passed in the case of 'A' had no nexus to the Petitioner Firm and merely because one of the partners in 'A' is a partner in the Petitioner Firm also would not enable the Department to proceed against the Petitioner Firm.
- (b) If recoveries have to be made by the Department, it should be from 'A' or its Partners. If any recovery

has to be made from its partner, who is also partner in Petitioner Firm, in his personal capacity, then in that regard the details regarding his assets had to be known and hence, a notice could have been issued to the Petitioner Firm to furnish the details.

- (c) A coercive action against the Petitioner who is strange to the reassessment proceedings would not serve the purpose at all. However, in the interest of justice and keeping in mind of all the parties, the authorities to issue notice to the Petitioner Firm with regard to the details of the trade balance and the share of common partner in the Petitioner Firm.

The above decision reiterates that tax due from one person cannot be recovered from another person irrespective of the connection between the two persons. Only exception is when the law provides to the contrary.

[2014] 71 VST 442 (Karn. – HC): Manipal University v. State of Karnataka - In the instant case the Petitioner ran medical colleges and hospitals attached thereto. It paid tax on the sale of medicines in the hospitals and medicals shops attached thereto. The Assessing Authority found that it had not declared the sales of application forms and prospectuses in its returns in form VAT 100 and pursuant to a pre-assessment notice, passed an order under Section 36(1) of the Karvat Act, levying tax and penalty.

The Honourable Karnataka High Court held as under:

- (a) That if the main activity is not business, then the connected, incidental or ancillary activities of sales would not normally amount to business unless an independent intention to conduct business in these connected, incidental or ancillary activities is established by the revenue.
 - (b) The price, volume, frequency, continuity and regularity of sale of application and prospectus show that the Petitioner's intention was to make profit. Therefore, merely because, the university was established for imparting education does not mean that it is not indulging in the business so as to make profit out of the sale of prospectus and application forms.
 - (c) The expression 'prospectus' cannot be treated as 'book', 'periodical' or 'journal' under Entry 11 to First Schedule or 'book meant for reading' under Entry 71 to Third Schedule.
 - (d) 'Prospectus' is a 'printed document' which could be called as brochure or a catalogue or a 'printed document' detailing the courses, facilities, etc. of their colleges, which falls under Entry 71 to Third Schedule i.e. "71. Printed materials other than books meant for reading".
- [2014] 71 VST 446 (Raj. – HC): Asst. Commissioner (Anti Evasion) v. Chamunda Petro Chemicals** - In the instant case the Honourable Rajasthan High Court held that entry tax cannot be imposed on the goods imported by the dealer as they fall under Section 5(2) of the Central Sales Tax Act, 1956. In other words, Court held entry tax cannot be levied on the goods imported from outside the Country.

In the above case, it was held that the bar of levy of tax by the State on imports and exports even extended to entry tax.

[2014] 71 VST 481 (AP – HC): NIIT Ltd. v. Dy. CCT and others - In the instant case dealer was engaged in the business of computer education and training and providing information technology solutions. It also traded in software. In pursuance of a tender notice, the dealer was awarded a contract by the Government of Andhra Pradesh for imparting computer education in 105 high schools in the State including leasing of computer hardware, software and connected accessories on build-own-operate-transfer basis. For the purpose, the dealer installed computers in each school. The dealer was also required to provide operational manuals, text books and training material for free of cost. After the expiry of the contract period of five years the dealer was bound to transfer to the Department the equipment and software installed at each school without any consideration.

The Commercial Tax Officer, held that the agreement was a works contract within the meaning of Section 2(1)(t) of the Andhra Pradesh General Sales Tax Act and brought the turnover of the goods involved in the execution of the work to tax under Section 5F of the Act.

The Honourable Andhra Pradesh High Court held that though the preamble to the agreement states that it is for imparting computer education in the schools, the contract in a way is for installation of equipment since imparting computer education is not possible in the absence of installation

of such equipment in the respective schools. All other services provided by the dealer during the course of imparting computer education are incidental. There cannot be any doubt that it involves certain goods in execution of the contract and that the same would be transferred to the schools in which the equipment is installed for imparting the computer education. It is no doubt true that the ownership of the said equipment remains with the dealer till the end of the contract. However, the mere fact that the ownership of the computers and accessories passed on to the respondent at the end of the contract does not alter the nature of the contract.

Thus, the Court held that agreement was for works contract and the dealer was liable to tax under Section 5F of the Act.

The above, with due respect, is one of the strangest decisions to hold that there is a transfer of property in goods even when there is no such transfer happening at present. Further, it is equally strange to hold that teaching is a works contract and eventual transfer of computer is a transfer of property involved in execution of works contract. In the absence of blending [incorporation] of goods of a dealer in the course of carrying out work, there cannot be any incidence of taxation. Stretching the aforesaid decision, in all the cases of BOT/BOOT/BOLT, thanks to eventual transfer, there is a liability to sales tax on the person who carries out BOT/BOOT.

2014 (79) KLJ 1 (Karn. – HC)(DB): State of Karnataka v. PVR Ltd. - In the instant case the Honourable Karnataka Division Bench held that

issuing tax invoice showing only gross amount collected and putting seal on tax invoice that the gross amount is inclusive of tax, is not sufficient compliance with statutory requirement. Therefore, the Court held omission to comply with requirements, entails forfeiture of dealer's right to claim deduction of amount collected by way of tax from the total turnover to arrive at taxable turnover.

As per the aforesaid decision, it is necessary to clearly indicate the tax collected in the tax invoice. In the absence of the same, it is not permissible to claim the same as deduction in computing taxable turnover.

2014 (79) KLJ 145 (SC): State of Jharkhand and others v. LA Opala R.G. Ltd. - In the instant case the Honourable Supreme Court dealing with the expressions 'types of glass' and 'forms of glass' held that the expression 'type' and 'form' are not of same import. 'Types' are based on the broad nature of the item intended to be classified and in terms of 'forms' the distinguishable feature is the particular way in which the items exists.

The Court explained aforesaid distinction with an example of wax. The types of wax would include animal, vegetable, petroleum, mineral or synthetic wax whereas the form of wax could be candles, lubricant wax, sealing wax. Etc.

Thus, the Court held that 'glassware' is a form of glass and hence, it cannot be regarded as 'type of glass' so as to fall under the notification as the notification uses the expression 'types of glass'.



INCOME TAX

PARTS DIGESTED:

- a) 364 ITR – Part 1 to 3
- b) 223 Taxman – Part 4 to 7
- c) 148 ITD – Part 2, 5, 6 & 8
- d) 45 CAPJ – Part 6
- e) 46-A BCAJ – Part 2 & 3
- f) 10 International Taxation – Part 6

[2014] 364 ITR 85 (AP – HC): DIT (Exemptions) v. Ramoji Foundation

- In the instant case the Honourable Andhra Pradesh dealing with whether the amendment of the trust deed requires approval of the appropriate civil court held as under:

- (a) When the power had been given to the trustees by the settler, it can be amended without approaching the civil court provided all the conditions laid down by the settler are fulfilled.
- (b) The approach of the civil court is required where there is no such power.
- (c) No law was produced before the Court that the trustees without approaching the civil court in spite of the specific power being given by the settler cannot change trust deed.

Therefore, the Court held when the power has been given to the trustees by the settler, no further approval from the civil court is required.

[2014] 364 ITR 114 (Delhi – HC): Indus Towers Ltd. v. CIT and others

- In the instant case the Honourable Delhi High Court held that payment for provision of passive infrastructure by petitioner, an owner of network of telecom towers, to telecom service providers amounts to 'rent for use of machinery, plant or equipment as the

dominate intention was to use the equipment or plant or machinery.

While holding so the Court held that the ratio of 'operative intention' as explained by the Supreme Court in the case of Rajbir Kaur v. S. Chokesiri & Co. AIR 1988 SC 1845 when applied to the instant case would be the 'use of equipment'. The use of the premises was incidental, and there is inseparability to the transaction as spelt out by the Supreme Court in the case of Sultan Brothers (P.) Ltd. v. CIT [1964] 51 ITR 353 (SC). Therefore, the Court held that the submission of the Assessee that the transaction is not 'renting' at all was incorrect; and equally, the Revenue's contention that the transaction was one where the parties intended the renting of the land was also incorrect.

[2014] 364 ITR 227 (Bom. – HC): DIT (International Taxation) v. Wizcraft International Entertainment

- In the instant case Assessee an event management company, engaged services of one foreign agent so as to bring artists to India. It deducted tax at source on payment made to artists for performance in India but it did not deduct tax at source on commission paid to foreign agent. Assessing Officer took a view that Assessee was required to deduct tax at source under section 195 while making payments to foreign agent.

The Honourable Bombay High Court observed that the foreign agent never took part in the event organised. He did not exercise any personal activities in India. He did not act as a performing artiste or entertainer, all that he was concerned was the services which were rendered outside India. It further observed that the

foreign agent contacted the artistes and negotiated with them for performance in India in terms of the authority given by the Assessee. In view of the above, the Court held that the commission income to the foreign agent is not liable to tax in India.

With respect to reimbursement of expenses in connection with the visit and performance of the artistes in India, the Court held that the amount reimbursed was towards air travel which was supported by the documents. Therefore, the Court held that the Assessee was not liable to deduct tax at source on the same.

In the aforesaid case, the point missed was that the reimbursement of expenses relating to artiste was made to agent. An artiste is liable to tax in India on the remuneration paid to him whereas an agent is not liable for his activities outside India. By choosing to reimburse the artiste through the agent, the tax base of the artiste has been artificially narrowed and tax is thus avoided.

[2014] 148 ITD 367 (Mum. – Trib.); 45 taxmann.com 256 (Mum. – Trib.): LSG Sky Chef (India) (P.) Ltd. v. Dy. CIT

- In the instant case the Honourable Mumbai Tribunal held that the burden of proving as to why Form 26AS does not reflect the details of the entire tax deducted at source for and on behalf of a deductee cannot be placed on an Assessee-deductee. In other words, it held that the Assessee cannot be held responsible for any discrepancy or for the non-matching of TDS reflected in the Form 26AS with the Assessee's claim.

It further held that the Revenue is fully entitled to conduct proper verification in the matter and satisfy itself with regard to the veracity of

the Assessee's claim, but cannot deny the Assessee credit in respect of TDS without specifying any infirming in its claim when the Assessee furnishes the TDS certificate bearing the full details of the tax deducted at source.

Further, it held that the plea that the deductor may have specified a wrong TAN, so that the TDS may stand reflected in the account of another deductee, is no reason or ground for not allowing credit for the TDS in the hands of the proper deductee.

[2014] 46-A BCAJ 153 (Bang. – Trib.); [ITA Nos. 478/Bang/2012, dated 07.03.2014]: DCIT v. Telco Construction Equipment Co. Ltd. - In the instant case the Honourable Bengaluru Tribunal held the provisions of Section 194H of the IT Act would apply only when the payments are made to the agents or credited to the agent's accounts, whichever is earlier, and not when the payment is credited to the provision account. It further held that, in the instant case agents would get vested right to receive the commission only when they fulfil the obligations under the agreement for commission.

Therefore, the Tribunal deleted the addition made by the Assessing Officer.

[2014] 45-A BCAJ 298 (Chennai – Trib.); [2014] 43 taxmann.com 425 (Chennai – Trib.): Dy. CIT v. Velti India (P.) Ltd. - In the instant case the Honourable Chennai Tribunal held that transmission of bulk SMS, is only a mere transmission of data and the same does not require any technical knowledge or skill. It further held that such services do not involve human intervention and the collection of fees for usage of standard facility cannot be regarded as fees for technical services.

[2014] 45-A BCAJ 299 (Hyd. – Trib.); [ITA Nos. 276 & 277/Hyd/2010, dated 28.03.2014]: DDIT v. DQ Entertainment (International) P. Ltd. - In the instant case the Honourable Hyderabad Tribunal following the decision of the Supreme Court in the case of CIT v. Kunwar Trivikram Narain Singh [1965] 57 ITR 29 (SC), held that the 'contract' is to be considered as the source of income and in the instant case as per the overseas clients, the jurisdiction was of the courts/arbitration at the place where overseas client was located. Thus, the Tribunal held that in the instant case the 'source of income' was outside India.

[2014] 46-A BCAJ 301 (Delhi - HC); [ITA No. 485 of 2012, dated 25.04.2014]: Radials International v. ACIT - In the instant case the Honourable Delhi High Court held that shares invested through portfolio management schemes resulted in capital gain and not business income.

[2014] 223 Taxman 199 (Kar - HC); Vidya Investment & Trading Co. (P.) Ltd. vs. UOI - The Hon'ble Karnataka High Court held that the petitioner is entitled to claim exemption under sub-section (2A) of Section 10 of the Act, on the share of profit of the firm, inclusive of the income, which is exempted under sub-sections (34), (35) and (38) of Section 10 of the Act, as the total income referred to in sub-section (2A) of Section 10 of the Act, includes exempted income of the partnership firm.

[2014] 223 Taxman 228 (Kar - HC) (MAG): CIT vs. A. Suresh Rao - In the instant case the assessee was allotted a site on 21.9.1988 in R.M.V. Extension, Bangalore. The assessee paid a sum of Rs. 1,11,480/- on such allotment. He was also put in

possession of the property and possession certificate was issued. On compliance with other legal requirement, a registered sale deed came to be executed on 6.10.2005 in his name. However, the said site was the subject-matter of litigation and therefore, when the assessee was not allowed to enjoy the said property in obedience of the orders passed by the courts, the BDA cancelled the sale deed dated 6.10.2005 by executing a deed of cancellation dated 18.9.2007. Thereafter in lieu of the site, which was cancelled, a fresh allotment was made in Hennur-Banaswadi road. When the assessee after the site being allotted, went to the spot, he found that there was a construction, which was also involved in a legal dispute. In spite of the orders of the court to demolish the structure, it has not been done. When he reported the matter to the authorities, the allotment of site in Hennur-Banaswadi road was cancelled on 9.1.2008 and in lieu of the same, the present site was allotted on 15.2.2008. A registered sale deed came to be executed on 27.2.2008. No consideration was paid under the said sale deed. The consideration paid on 21.9.1988, which was acknowledged in the sale deed dated 6.10.2005, was treated as a consideration for the same on 27.2.2008. Thereafter the assessee transferred the site by way of a registered sale deed in favour of a purchaser on 29.5.2008 and received a consideration of Rs.1 crore 13 lakh. The Hon'ble Karnataka High Court held that merely because the original site which was allotted was cancelled, yet another site was allotted and the said site was also cancelled and thereafter the present site was allotted, in law would make no difference. Admittedly, the consideration paid on



21.9.1988 is treated as the consideration for the sale dated 27.2.2008. In other words, the cost of acquisition of the asset was paid on 21.9.1988 and no cost was paid either on the date of allotment i.e., on 15.2.2008 or on the date of registered sale deed on 27.2.2008.

Thus, the Court held that for the purpose of computing the capital gains under Section 48 of the Act, it is the date of acquisition of the asset, which is to be taken into consideration and therefore it held that capital gain arising on sale of new property would be long term capital gain and assessee was entitled to benefit of exemption under Section 54EC and 54F of the Act.

[2014] 148 ITD 31 (Ahmd. – Trib.); 43 taxmann.com 333 (Ahmd. – Trib.): Alkaben B. Patel v. ITO - In

the instant case assessee sold her flat on 10.06.2008. She filed her return claiming deduction under section 54EC. The last date of expiry of six months from the date of transfer of the long term capital asset was 10.12.2008. The application for the purchase of bonds along with cheque was tendered in the bank on 08.12.2008 which was cleared on 17.12.2008. Therefore the Assessing Officer denied deduction.

The Honourable Ahmedabad Tribunal has held that in terms of General Clauses Act, 1897, period of six months mentioned in section 54EC has to be regarded as six British calendar months and hence the said investment being made in the month of December, 2008 is eligible for deduction.

It further held that once the purpose of the introduction of the section was

served by making the investment in the specified assets then that purpose has to be kept in mind while granting incentive though there was alleged to be few days late from the date of transfer in the month of June, 2008.

[2014] 148 ITD 260 (Mum. – Trib.); 45 taxmann.com 176 (Mum. – Trib.): Sudhir Menon HUF v. Asst. CIT - In the instant case the Honourable Mumbai Tribunal held that where additional shares of a company were allotted pro rata to shareholders including assessee based on their existing shareholding, there was no scope for any property being received on said allotment of shares and, therefore, provisions of section 56(2)(vii)(c) did not apply to difference in book value and face value of additional shares. ■

OBITUARY

*We deeply regret to inform
the sad demise of our beloved*



CA. Satish Jalan

Membership No. 059162
on 18th June 2014



Sri. M R Gopinath

M.Com., LL.B (Spl), FCS
Company Secretary

May their soul rest in peace.

Advt.

RECENT JUDICIAL PRONOUNCEMENTS IN INDIRECT TAXES

CA. N.R. Badrinath, Grad CWA, FCA;

CA. Madhur Harlalka, B.Com., FCA, LLB

CUSTOMS:

- 1. Refund of customs duty paid in excess:** The appellant is in appeal before the Tribunal against the denial of refund of duty paid in excess on the grounds of unjust enrichment. The Tribunal allowed the appeal on the grounds that the appellant had produced a certificate from Chartered Accountant certifying that the excess duty paid by them did not form part of the cost of production. The decision was also based on the fact that the price of the finished goods remained same before and after importation. [*M/s Garden Silk Mills Vs Commissioner Of Customs (Import) 2014-TIOL-1110-CESTAT-MUM*]
- 2. Time limit of one year to claim refund - is not applicable to refund claim prior to 01.08.2008:** The Honorable High Court has held that the amendment in Notification No. 102/2007 in relation to prescribing the time limit one year for claiming of refund vide Notification No. 93/2008 dated 01.08.2008 is prospective and is inapplicable to the right of refund accruing prior to the said date. However, time limit as specified in Section 27 cannot apply to refund of SAD, as said refund is

consequent upon resale and point of time of resale is uncertain. [*Sony India (P.) Ltd. Vs. Commissioner of Customs, New Delhi [2014] 44 taxmann.com 475 (Delhi)*]

- 3. Endorsement – credit of SAD not admissible – not mentioned on the invoice is a procedural lapse:** The larger bench of Tribunal has held that commercial invoice which do not contain the endorsement stating that credit of special additional duty is not transferred is only a procedural lapse. Accordingly that a trader-importer, who has paid SAD on the imported goods and who has discharged VAT/CST liability on subsequent sale without indicating any details of the duty paid in the commercial invoice, would be entitled to the benefit of exemption under Notification 102/2007-Cus, notwithstanding the fact that he has not made such endorsement in the commercial invoices. [*Chowgule & Company Pvt Ltd Vs Commissioner of Customs & Central Excise 2014-TIOL-1191-CESTAT-MUM-LB*]

VAT:

- 4. Show cause notice is to be treated as an order:** The Appellants by way of petition in the form of writ certiorari challenged the show cause notice

to the extent that it contained the clause directing the assessee to pay the proposed demand within seven days from the date of receipt of notice. The Honourable High Court dismissed the petition stating that it is not a final order. The judgment was based on another clause in the notice which also directed the Appellants to file the reply, if any within seven days from the date of receipt of notice. [*Gls Impex Pvt Ltd Vs The Commercial Tax Officer 2014-TIOL-1011-HC-MAD-VAT*]

- 5. Assessment order passed without considering monthly returns – liable to be set-aside:** The assessment order passed by the Revenue without considering the monthly returns filed by the assessee is set-aside by the Honourable High Court. Reliance was placed on the judgment of the Honourable High Court in the case of Mahendra Kumar Ishwarlal & Co Vs. Deputy Commercial Tax Officer reported in 1971 (Vol.28) STC 551 Madras. [*Palaniyappa Mill Store Vs The Assistant Commissioner (CT) 2014-TIOL-1035-HC-MAD-VAT*]
- 6. Tribunal cannot hear the appeal on merits when the matter before it pertains to dismissal of appeal by First Appellate Authority for non-compliance of pre-deposit:** The issue before the Honourable High Court is whether the Tribunal in an appeal against the dismissal of appeal by First Appellate Authority (FAA) for non-compliance of pre-deposit of taxes can hear the case on merits after the amount is deposited by the Appellants as per the direction of the Tribunal. The



Honourable High Court held that, Tribunal could not have entertained the appeal on merits since the matter for decision before the Tribunal is whether the FAA was right in insisting the pre-deposit. Reliance placed on judgment of Honourable High Court in the case of Anil Kumar Vs. State of Gujarat [2014] 43 GST 696/42 taxmann.com (Guj). [Sharada Alloys (P) Ltd., Vs. State of Gujarat [2014] 46 taxmann.com47 (Gujarat)]

7. **Penalty for delay in filing VAT report set-aside:** The Honourable High Court has dismissed the appeal of the Revenue against the order of the Tribunal wherein the imposition of penalty for delay in filing audit report in terms of the provisions of Maharashtra VAT Act, 2002 was set-aside. The Tribunal had observed that the applicable taxes were remitted and does not lack bonafides as delay in filing audit report is not attributable to any deliberate intention on the part of the respondent. [The Additional Commissioner of Sales Tax, Mumbai Vs. M/s Rushikul Trading Co., 2014-TIOL-1091-HC-Mum-VAT]
8. **Subsequent Order passed without giving notice and without considering previous order is liable to be set-aside:** The writ petition was filed before the Honourable High Court against another assessment order passed by the Assessing Authority subsequent to the first order. The subsequent order was passed without giving notice to the Petitioner. The Honourable High Court set-aside the impugned

order on the grounds that it was per se illegal. [Kamal Steel Corporation Vs The Assistant Commissioner (CT) (FAC) 2014-TIOL-1054-HC-MAD-VAT]

9. **Notice and order served on the same date - order liable to be set-aside:** The Honourable High Court of Tamil Nadu held that the notice served along with the assessment order is in violation of principles of natural justice and accordingly the impugned order is set-aside. [Winwind Power Energy Pvt Ltd Vs The Assistant Commissioner (CT) (FAC) 2014-TIOL-1052-HC-MAD-VAT]

Central Excise:

10. **Refund of duty can be claimed where discounts are extended:** The Appellants applied for refund of duty paid for the reasons that they have given discount to customers for clearance of old stock of goods and for prompt payment. The Appellants also refunded the duty collected to its dealers and customers. Such a refund of duty was reflected in the balance sheet and as an evidence also produced the confirmation from the dealers and customers. On this basis the Tribunal held that the Appellants have passed the bar of unjust enrichment and accordingly they are entitled for refund of excise duty instead of transferring the duty to Consumer Welfare Fund. [Tata Motors Ltd Vs Commissioner of Central Excise 2014-TIOL-1163-CESTAT-MUM]
11. **Re-packing, labelling and declaring of MRP before clearance would amount to manufacture:** The issue before

the Tribunal was whether the activity of re-packing, affixing labels and declaring MRP on the goods which were imported by the Appellant before they are cleared for home consumption amounts to manufacture. The Appellants were carrying out such activity on the packs containing various quantities as per the statutory requirement specified under the Notification No. 44 (RE)-2000/1997-2002 dated 24.11.2000 issued by DGFT. In view of such a statutory requirement in relation to packages containing 10 grams of quantity, the Tribunal held that demand of excise duty is not sustainable. In relation to packages containing the quantity less than 10 grams, it is held that the activity of affixing labels and declaring MRP would amount to manufacture and the Appellants can claim the CENVAT credit of CVD paid on such goods. In this regard, Tribunal referred to the judgment of Honourable Supreme Court in the case of Garden Silk Mills Ltd. Vs. UOI reported in 1999 (113) ELT 358 (SC) wherein it was held that the import of goods into India would commence when they cross the territorial waters of India but is completed when it become part of the mass of the goods within the country. Tribunal further negated the contention of the Revenue as suppression of facts on the grounds that the entire activity was undertaken with the knowledge and permission of the Customs authorities and as such the duty demand is sustainable only for the normal period of limitation. In view of the issue

relating to interpretation of law the imposition of penalty was also held to be unwarranted. [*L'Oreal India Pvt Ltd Vs Commissioner of Central Excise 014-TIOL-1170-CESTAT-MUM*]

CENVAT:

12. **CENVAT credit cannot be claimed on the strength of a photocopy of the original invoice:** The Tribunal has held that CENVAT credit cannot be claimed on the strength of extra copy, xerox copy and photocopy of invoice on the grounds that such documents are not prescribed documents under Rule 9 of CENVAT Credit Rules, 2004. It is further held that in order to claim the benefit under the law, substantial compliance is not enough and the procedures prescribed in the statute should be mandatorily followed. Reliance was placed on the judgment of Honourable Supreme Court in the case of Hari Chand Sri Gopal - 2010 (260) ELT 3 (SC). [*M/s Century Rayon Vs Commissioner Of Central Excise 2014-TIOL-1165-CESTAT-MUM*]
13. **CENVAT credit claimed on debit note - valid:** The CENVAT credit claimed on the strength of debit note is held to be valid. The decision was pronounced on the facts that it was not in dispute that the appellant had not received the services and it is also not in dispute that the service tax had not been paid on these services. Further, such debit note had been rectified by issuing invoice. Reliance was placed on the decision of the Tribunal in the case of Supreme Industries Ltd 2014-

TIOL-115-CESTAT-MUM. [*Mahindra & Mahindra Ltd Vs Commissioner Of Central Excise 2014-TIOL-1182-CESTAT-MUM*]

14. **Penalty not imposable for claim of CENVAT credit and depreciation in respect of capital goods:** The Revenue confirmed the demand of duty along with interest and penalty for the reason that the CENVAT credit and also the depreciation was claimed on the amount of duty on capital goods. On an appeal before the Tribunal against the levy of penalty, the levy of penalty was set-aside for the reason that CENVAT credit claimed on the capital goods was lying unutilised. Reliance was placed on the decision of the Tribunal in the case of *Indian Leaf Springs Mfg. Co. P. Ltd. vs. CCE reported in 2013-TIOL-598-CESTAT-Bang.* [*M/s Sahyadri SSK Ltd Vs Commissioner Of Central Excise 2014-TIOL-1162-CESTAT-MUM*]
15. **Transfer of CENVAT credit:** The appellant shifting his factory had transferred capital goods without payment of excise duty relying on Rule 10(3) of CENVAT Credit Rules, 2004. The Appellant also claimed CENVAT credit on capital goods. All excisable goods manufactured in the new factory were exempted from payment of Excise duty. Accordingly the demand of CENVAT credit claimed was confirmed. On appeal before the Tribunal, it was held that Rule 10(3) could not be applied and it cannot be read as a provision enabling removal of capital goods from one factory of

a manufacturer to another factory of the manufacturer. The appropriate rule applicable was Rule 3(5), viz., payment of excise duty at an amount equal to the credit availed in respect of such capital goods. [*Yee Kay Technocrat (P.) Ltd. v. Commissioner of Central Excise [2014] 46 taxmann.com 115 (New Delhi - CESTAT)*]

16. **Availment of CENVAT credit before the same is remitted by service provider:** The issue before the Tribunal pertains to the denial of CENVAT credit claimed in a particular month on the grounds that the provider of service has deposited the service tax in subsequent months. The Tribunal held that in terms of Rule 4(7) of CENVAT Credit Rules 2004, there is no requirement that the service tax should have been deposited by the service provider before the availment of the credit - If the service provider has not deposited the service tax with the department on due date, Revenue's remedy lies at the end of the service provider for recovery of the service tax along with interest. [*General Manager, Bsnl Vs Commissioner Of Central Excise 2014-TIOL-1207-CESTAT-DEL*]

Service Tax:

17. **Applicability of service tax on construction of non commercial / non residential structures:** The brief issue involved in the present appeal was whether services provided by the appellants for construction of staff quarters, fish tanks and students hostels for a polytechnic college qualifies as



works contract service. Such a building was meant to be provided on rent to the staff of the college. The Tribunal held the services provided by the Appellant to the college qualifies as works contract since, the staff quarters, fish tanks and student hostels constructed by the appellant are not meant for selling. *[M/s B Rama Rao & Company Vs Commissioner Of Customs, Central Excise And Service Tax 2014-TIOL-1195-CESTAT-BANG]*

18. In a cluster of activities the preceding activity which gave rise to succeeding activity decides the dominant character: The Tribunal has held that the Appellant engaged in the activity of packing, labelling and also movement of the goods cannot be classified as cargo handling service as per the contention of the

Appellant but shall qualify as manufacturer. The Tribunal pronounced that in a cluster of activities carried out resulting in composite services, the preceding activity which gave rise to succeeding activity decides the dominant character of the service. However, in the absence of proper bifurcation of the activities for taxation of the considerations received for each sub-activity the impugned order was set-aside. *[Subhash Khandelwal Construction (P.) Ltd. v. Commissioner of Central Excise [2014] 46 taxmann.com 94 (New Delhi - CESTAT)]*

19. Assessee availing abatement - not required to disclose free supply of materials: The Tribunal has set-aside the order-in-original confirming the levy of service tax along with interest and penalty on the grounds that the

Appellants have remitted service tax availing the benefits as specified under the Notification No. 15/2004 dated 10.09.2004 but have failed to disclose the value of goods supplied free of cost. Reliance was placed on the order of the larger bench of Tribunal in the case of Bhayana Builders (p) Ltd., Vs. CST, Delhi reported in 2013 (32) STR 49 (Tri. LB) wherein the scope of the Notification No. 15/2004 dated 10.09.2004 and Notification No.1/2006 dated 01.03.2006 dated 01.03.2006 it was concluded that abatement specified therein can be availed without the necessity of having to disclose and offer to tax, the value of free supplies. *[M/s ANS Constructions Ltd., Vs. CST, Delhi in Appeal No. ST/Stay/1846-1847/2010 and ST/935-936/2010-CU(DB)]* ■

APPEAL TO THE MEMBERS

COURSE ON FINANCE FOR NON-FINANCE EXECUTIVES

Sub: XVIII Batch of the Course on Finance for Non Finance Executives under the aegis of Management Development Programmes (MDP)

The course is **open for Non-Finance Executives** such as Engineers, Architects, Doctors, Human Resource Personnel, Department Heads/ Administrators / Entrepreneurs and various other professionals, those who are not having adequate knowledge of Accounts / Finance.

The course does not call for any prior knowledge in Accountancy, Finance and Tax Laws. The course coverage will be basic in all subjects.

Duration: August 2014 to December 2014

Timings: 02.00pm to 07.00pm (Only on Saturdays)

Course Fee: Rs.15000/- per participant.

Mode of payment: DD/Cheque in favour of Bangalore Branch of SIRC of ICAI

Contact Tel: 080 - 30563500 / 511/ 512

E-mail: bangalore@icai.org / blrprogrammes@icai.org

Course Contents:

- Financial Accounts & Company Accounts
- Direct Taxes
- Financial Analysis
- Project Reports
- Indirect taxes
- Corporate Finance
- Cost Accounts

Members are requested to disseminate this information about the course to their clients

BUDGET 2014 - A RELIEF TO THE INTERNATIONAL TAX-PAYER ?

CA. Rekha.K.R and CA. Rani.N.R

Though this Section of the Bangalore Branch newsletter was meant to summarize case-laws relating to international taxation, Budget 2014 stole the limelight with provisions that are intended to bring Indian international taxation policies in general and transfer pricing in particular on par with international best practices. The Finance Minister appears to have done a judicious mix of adverse case, OECD guidelines and practices followed in countries with mature international taxation laws. The significant measures taken are summarized below:

1. Use of Inter-quartile range instead of arithmetic mean:

Choosing the right comparables amongst a wide population of companies has accounted for a significant portion of disputes between the tax payer and the department in transfer pricing. While apple-to-apple comparisons are almost impossible, the task becomes even more difficult when the comparables finally chosen differ in a few aspects. Under such circumstances, the statistical method chosen to arrive at a uniform transfer pricing rate assumes criticality. Till date, Indian TP regulations prescribe the usage of the Arithmetic Mean (AM), with a range of (+)/ (-3)% around the same for determination of the Arms Length Price (5% till 2010-

11). The Arithmetic mean is a useful statistic when the datasets of all the comparables are almost similar. However, when there are extremes in the data population, the Arithmetic Mean may not present an accurate picture. It has been proven the world over in more than 17 countries that the “inter-quartile range” provides a more accurate result for ALP, as extreme results are left out as part of the first and fourth quartiles. Budget 2014 permits the use of the inter-quartile range which is a significant and welcome introduction. There is a rider though that the existing concept of arithmetic mean would continue to apply where number of available comparable is inadequate. One hopes that the tax department interprets this rider in the right manner and does not reject the use of inter-quartile range just because there are inadequate comparables- especially since there is not water-tight definition of a comparable.

2. Use of multiple-year data:

In the case of Symantec Software Solutions Pvt Ltd vs ACIT (TS- 765-2011-ITAT(Pun)), the Tribunal rejected the plea of the assessee to consider using multiple year data for the comparables stating that “proviso to Rule 10B (4) which permits the use of data relating to other than the financial year in which the international transaction

has been entered into; being not more than two years prior to such financial year does not mean that one can insist on the use of multi-year data but it has a limited role only when the data of earlier years reveal facts which could have influenced on determination of the TP in relation to the transaction being compared. The assessee has to make out a case that taking the data for only the current financial year will not present the correct and fair financial result of the comparables.

In the case of Capgemini India Private Limited v/s ACIT [ITA No. 7861/Mum/2011] dated 28.02.2013 (Assessment Year 2007-08), the TPO rejected the use of multiple year data while matching comparables. The Tribunal agreed with the TPO.

Considering the fact that data regarding the same year may not be captured on the database of Prowess or Capital Line, the choice of appropriate comparables becomes that much more difficult. The Indian TP regulations recommend usage of current year’s data for comparability analysis, unless a taxpayer demonstrates that prior years’ data had an influence in setting up of transfer prices. The OECD and many other countries permit the use of multiple-year data to do a comparability analysis. India joins this list with the permission given to use multiple year data in Budget 2014. While this is a welcome move, administrative instructions should be provided to the transfer pricing officers not to be arbitrary in applying this provision as they have been in the past when same year data was being used. A few illustrative examples would be of great assistance.



3. Introduction of rollback provisions

As per reports, the APA scheme introduced recently has met with a reasonable response. This can be attributed to the fact that the tax payer is prepared to pay a price for peace of mind - as it was generally felt that entering into an APA was a trade-off between paying slightly higher tax and getting peace of mind. To make the scheme more attractive, a “rollback” provision has been introduced in Budget 2014 which means that the terms agreed upon in an APA can be applied for a period not exceeding four previous years preceding the first previous year for which the APA is applied. This proviso is applicable from 1 October 2014. The tax-payer would now have to do a cost-benefit analysis of how the negotiated APA price would impact his past years’ tax assessments.

4. Documentation Penalty

With effect from 1 October 2014 it is proposed that the authority to levy

penalty, of 2% percent of the value of international transactions or specified domestic transactions for failure to furnish information, or documentation under Section 92D (3) of the Income Tax Act 1961 (the Act), should be extended to the Transfer Pricing Officer (TPO) too, in addition to the Assessing Officer and the Commissioner (Appeals). This measure is to ensure that the tax-payer does not deviate from timelines for submission of documentation and doesn’t get time till the appropriate authority levies the penalty.

5. Deeming TP provisions

Deeming TP provisions are proposed to be applied to transactions between an enterprise and an independent person irrespective of whether such persons are non-resident or not. The deeming TP provisions contained in Section 92B(2) of the Act, are now proposed to be applied to transactions between an enterprise and an independent person where there is a prior

arrangement between such independent person and associated enterprise, irrespective of whether such independent person is a non-resident or resident. This amendment shall take effect from 1 April 2015. As per the earlier deeming provisions, deemed international transaction could be interpreted to exist only if the independent person was a non-resident. However, with this proposed amendment, transactions with such independent resident person will also get covered under the TP regulations.

The provisions regarding international taxation and transfer pricing proposed in Budget 2014 may not fix all issues with international taxation overnight. However, it is a progressive step which should be welcomed. It is imperative that the CBDT conveys the intent and purpose behind these progressive measures to the administrative wing of the tax department. If this is not done, the tax payer and the department would continue to fight more needless battles. ■

Congratulations to Newly Elected Executive Members for Karnataka State Chartered Accountants Association for the year 2014 - 2015

| <i>Name</i> | <i>Designation</i> |
|-------------------------------------|--------------------|
| CA. Raveendra S. Kore | President |
| CA. Dileep Kumar T.M | Vice-President |
| CA. Raghavendra Puranik | Secretary |
| CA. Raghavendra T.N. | Joint Secretary |
| CA. Nagappa B. Nesur | Treasurer |
| CA. Bhavya Parvathi K. | E.C. Member |
| CA. Giridhara T | E.C. Member |
| CA. Malleshappa B. Hullatti | E.C. Member |
| CA. Raghavendra Shetty | E.C. Member |
| CA. Ravindranath K | E.C. Member |
| CA. Tara Bevinje | E.C. Member |
| CA. Teertha G.R.R. | E.C. Member |
| CA. Virupakshappa M. Tuppada | E.C. Member |



IPCC AND FINAL PRE-EXAM CRASH COURSE FOR NOV 2014 EXAMS

We are glad to know that you have registered for IPCC & CA Final Course and would be appearing for NOV 2014 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 2014 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 | | | | |
|-------------------------------------|----------|-----------|-----------------------------------------|-----------------------------------|
| No | DATE | DAY | SUBJECT | MEMBERS OF THE FACULTY |
| 1. | 01.09.14 | MONDAY | ACCOUNTING (GROUP-1) | CA. CHINMAYA HEGDE, BANGALORE |
| | 02.09.14 | TUESDAY | ACCOUNTING (GROUP-1) | CA. GAURAV RAJARAM, BANGALORE |
| 2. | 03.09.14 | WEDNESDAY | INFORMATION TECHNOLOGY | CA. ANAND P. JANGID, BANGALORE |
| | 04.09.14 | THURSDAY | STRATEGIC MANAGEMENT | CA. ANAND P. JANGID, BANGALORE |
| 3. | 05.09.14 | FRIDAY | BUSINESS LAWS, ETHICS & COMMUNICATION | CA. ROHIT GROVER, HYDERABAD |
| | 06.09.14 | SATURDAY | BUSINESS LAWS, ETHICS & COMMUNICATION | CA. ROHIT GROVER, HYDERABAD |
| 4. | 07.09.14 | SUNDAY | TAXATION | CA. ASHWIN GILDA, HYDERABAD |
| | 08.09.14 | MONDAY | TAXATION | CA. ASHWIN GILDA, HYDERABAD |
| 5. | 09.09.14 | TUESDAY | ADVANCED ACCOUNTING (GROUP -2) | CA. CHINMAYA HEGDE, BANGALORE |
| | 10.09.14 | WEDNESDAY | ADVANCED ACCOUNTING (GROUP -2) | CA. GAURAV RAJARAM, BANGALORE |
| 6. | 11.09.14 | THURSDAY | AUDITING & ASSURANCE | CA. PUNARVAS JAYAKUMAR, B'LORE |
| | 12.09.14 | FRIDAY | AUDITING & ASSURANCE | CA. PUNARVAS JAYAKUMAR, B'LORE |
| 7. | 13.09.14 | SATURDAY | COST ACCOUNTING | CA. M.IRFAT, BANGALORE |
| | 14.09.14 | SUNDAY | FINANCIAL MANAGEMENT | CA. M.IRFAT, BANGALORE |
| FINAL Timings: 10.00 am to 06.00 pm | | | | |
| 1. | 12.09.14 | FRIDAY | ADVANCED AUDITING & PROFESSIONAL ETHICS | CA. VIKAS OSWAL, BANGALORE |
| | 13.09.14 | SATURDAY | ADVANCED AUDITING & PROFESSIONAL ETHICS | CA. VIKAS OSWAL, BANGALORE |
| 2. | 15.09.14 | MONDAY | CORPORATE AND ALLIED LAWS | CA.S. SRIKANTH , CHENNAI |
| | 16.09.14 | TUESDAY | CORPORATE AND ALLIED LAWS | CA.S. SRIKANTH, CHENNAI |
| 3. | 17.09.14 | WEDNESDAY | ST. FINANCIAL MGMT | CA. TARUN JAGDISH, KOZHICODE |
| | 18.09.14 | THURSDAY | ST. FINANCIAL MGMT | CA. TARUN JAGDISH,KOZHICODE |
| 4. | 19.09.14 | FRIDAY | INFORMATION SYSTEM CONTROL & AUDIT | CA. B. N. GANESH KUMAR, B'LORE |
| | 20.09.14 | SATURDAY | INFORMATION SYSTEM CONTROL & AUDIT | CA. B. N. GANESH KUMAR, B'LORE |
| 5. | 21.09.14 | SUNDAY | FINANCIAL REPORTING | CA. SAI MUKUNDAN, CHENNAI |
| | 22.09.14 | MONDAY | FINANCIAL REPORTING | CA. SAI MUKUNDAN, CHENNAI |
| 6. | 23.09.14 | TUESDAY | ADVANCED MGMT ACCOUNTING | CA. GOPALA KRISHNA N.S., UDUPI |
| | 24.09.14 | WEDNESDAY | ADVANCED MGMT ACCOUNTING | CA. GOPALA KRISHNA N.S., UDUPI |
| 7. | 25.09.14 | THURSDAY | OPERATION RESEARCH | CA. GOPALA KRISHNA N.S., UDUPI |
| 8. | 27.09.14 | SATURDAY | DIRECT TAX LAWS | CA. RAJENDRA PRASAD T., HYDERABAD |
| | 28.09.14 | SUNDAY | DIRECT TAX LAWS | CA. RAJENDRA PRASAD T., HYDERABAD |
| 9. | 01.10.14 | WEDNESDAY | INDIRECT TAX LAWS | Mr. A.S. HARIHARA KUMAR, CHENNAI |
| | 02.10.14 | THURSDAY | INDIRECT TAX LAWS | Mr. A.S. HARIHARA KUMAR, CHENNAI |

Registration on First Come First Served basis.

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

| | | | |
|-------------------------------|------------------|------------------------------|------------------|
| Final: Both the Groups | Rs.3600/- | IPCC: Both the Groups | 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.800/- | Single Subject | Rs.750/- |
| Quantitative Techniques | Rs.500/- | | |

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. Babu K. Thevar

Chairman

CA. Pampanna B. E.

Secretary



SIRC Organises

Second Residential Seminar on International Taxation

14 hrs
CPE

Hosted by Bangalore Branch of SIRC of ICAI

31st October to 2nd November, 2014

| Friday 31 st October 2014 | | |
|----------------------------------------|----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| 12.00 Noon to 02.30 pm | Check-in, Lunch & Registration | |
| 03.00 pm | INAUGURAL SESSION | |
| 03.30 pm to 05.00 pm | Group Discussion on Paper | “Permanent Establishment through Dependent Agent - Burning Issues” by CA. Padam Chand Khincha, Bangalore |
| 05.00 pm | Coffee / Tea Break | |
| 05.15 pm to 06.45 pm | Paper Presentation | “Tax implications and reporting requirements of Green Card Holders & US Citizens residents in India” by CA. S. Krishnan, Bangalore |
| 06.45 pm | Break (Only change of Dias) | |
| 07.00 pm to 08.30 pm | Presentation on Group Discussion Paper | “Permanent Establishment through Dependent Agent - Burning Issues” by CA. Padam Chand Khincha, Bangalore |
| 08.30 pm | Dinner | |
| Saturday 1 st November 2014 | | |
| 07.30 am | Breakfast | |
| 08.30 am to 10.00 am | Group Discussion | “Secondment / Deputation of employees - Tax Implications” by CA. Sriram Seshadri, Chennai |
| 10.00 am | Coffee / Tea Break | |
| 10.00 am to 11.30 am | Paper Presentation | “e-commerce - Cloud Computing - Tax implications” by Aravind P Datar, Chennai |
| 11.30 am | Break (Only change of Dias) | |
| 11.45 am to 01.15 pm | Presentation on Group Discussion Paper | “Secondment / Deputation of employees - Tax Implications” by CA. Sriram Seshadri, Chennai |
| 01.15 pm | Lunch | |
| 02.00 pm to 04.00 pm | Paper Presentation | “Inter Quartile Range and Advantage of APA - Benefits and Caution points” by CA. Vijay Iyer, New Delhi |
| 04.00 pm | Coffee / Tea Break | |
| 04.30 pm | Group Photograph of the Participants | |
| 04.30 pm | Enjoy the facilities of the Club | |
| 07.00 pm | Dinner | |
| Sunday 2 nd November 2014 | | |
| 07.30 am | Breakfast | |
| 08.30 am | Paper Presentation | “Latest Changes in FDI Regulations” by CA. Vishal Gada, Ahmedabad |
| 10.00 am | Break | |
| 10.15 am | Brain Trust Session | Brain Trustees: CA. Vishal Gada, Ahmedabad & CA. K. R. Sekar, B'lore |
| 12.30 pm | Valedictory | |
| 01.00 pm | Lunch | |
| 02.00 pm | Departure from the Hotel with sweet memories | |

*Delegate Fees & Other details will be published in next newsletter

One Day National Conference on Recent Developments Impacting the Corporate Sectors



Inauguration



Chief Guest CA. Indranil Chowdhury,
Vice President,
Volvo India Pvt. Ltd., Bangalore



CA. S. Prakash Chand,
Programme
Co-Ordinator



CA. Anup Shah



CA. V. Raghuraman



CA. P. R. Ramesh



CA. P.V. Srinivasan



Cross section of participants

Union Budget Analysis



Inauguration



Moderators - CA. T. V. Mohandas Pai &
CA. Padamchand Khincha H



Prof. R. Vaidyanathan



Mr. Narayan
Ramachandran



CA. Suresh Senapathy



Photo session with Student Volunteers



Cross section of participants

Speakers at Study Circle Meetings



CA. Shankar Sanketh



CA. Lakshmi Prasad J



CA. Jignesh Jain



CA. Anjani K. Jajodia



CA. Ayush Agrawal



CA. Punarvas Jaykumar

Investor Awareness Programme at Siruguppa, Bellary



Speaker & Programme Co-ordinator



Cross section of participants

Cricket Match



Cricket match - ICAI Bangalore Branch Staff vs SICASA Committee Members

CA Day Celebration



Flag Hoisting



Branch Committee Members & Staff of Bangalore Branch



Chief Guest
CA. Sunil Kumar Jain



Scholarship to CA Students



Cross section of participants



Chairman distributing school uniforms to poor students on event of the CA Day



Cross section of students

Clause by Clause Discussion on Finance Bill 2014



CA. V. Raghuraman



CA. N. Anand



CA. Madhur Harlalka



CA. S. Ramasubramanian



CA. H. Padamchand Khincha



CA. K. K. Chythanya

Annual General Meeting



Cross section of participants



51st (2012-13) & 52nd (2013-14) Annual General Meeting

ICAI Convocation 2014



Inauguration



Invocation



Dignitaries on the Dais



CA. K. Raghunath,
President, ICAI



CA. Manoj Fadnis,
Vice President, ICAI



CA. Babu K. Thevar,
Chairman, B'lore Br.



Newly qualified Chartered Accountants receiving Role of Honour from President of ICAI



Cross section of newly qualified Chartered Accountants