



Bangalore Branch of SIRC Newsletter

English Monthly

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Theme of the year



Leaders of ICAI



CA. K. Raghu
President, ICAI



CA. Manoj Fadnis
Vice President, ICAI

*Newly elected Office Bearers
for the year 2014-15*

- **1st Women CA's Conference**
March 8, 2014
- Seminar on **Bank Branch Audit**
March 22, 2014



CA. Allama Prabhu M.S.
Vice Chairman

CA. Babu K Thevar
Chairman

CA. Pampanna B. E.
Secretary

CA. Geetha A.B.
Treasurer

Chairman's Communique . . .



Dear Professional colleagues,

It is a great honour and pride for me to communicate to members as the Chairman of the largest branch of our Institute.

New team of Office Bearers for the term 2014-15

New team of Office Bearers of Bangalore Branch assumed office on 17th of February, and details have been published elsewhere in this newsletter.

Theme for the year - Vistāra

Vistāra is a Sanskrit word that refers to expansion & development with multiple new dimensions.



We have consciously chosen this theme considering the dire requirement for the members to develop, augment and expand their knowledge and skill sets in multiple dimensions so that they would be able to face the new challenges and take up the opportunities that would arise because of the various changing statutes that we are expecting in the near future (Like GST, DTC, Rules under the Companies Act 2013 etc.,)

We intend to do programmes and further enrich the knowledge of our members in all fields so that they would become versatile and conversant in more than one branch of law and thereby will be able to provide more value added services to the client, employer and society, at large.

Amongst the various interesting and exciting events, we have also planned for an International Networking Conference, so that our members can benefit by networking with national and international firms.

You may also notice that in the theme logo, members are holding hands around, symbolizing an effective professional networking within themselves, which is going to have a synergic effect for everyone.

President from our branch:

तारवे कान्दोनन इशारे इन केनकावदे श्रोता

What has happened, has happened for the best,

What is happening, is happening for the best,

What will happen, will happen for the best.

It is great time for me to become Chairman of Bangalore branch, when our CA K Raghu from Bangalore, has been elevated as the President of ICAI. I congratulate our Esteemed President from Bangalore. CA K Raghu is the second President of ICAI from Bangalore, first being CA. B.P. Rao in the year 1994-95.

Best Commendable Branch award:

I congratulate, CA. Ravindranath immediate past Chairman and CA. Allama Prabhu, the then Secretary of Bangalore Branch, for their untiring efforts which culminated in Bangalore Branch bagging the Best Commendable Branch Award from ICAI for the year 2013-14, at all India level. We have received this award after 7 years.

Best SICASA Branch Award:

I also congratulate CA Naina Gadia Chairperson of SICASA BANGALORE for the term 2013-14, for receiving best SICASA BRANCH award at the Southern regional level.

Initiatives for the year 2014-15:

We have planned for many initiatives for the year 2014-15, and the important ones are given below:

1. Branch Infrastructure:
 - a) Extension of Canopy
 - b) Refurbishment of Auditorium
 - c) Upgradation of Class Rooms
 - d) Refurbishment of Library /ITT Centre
2. Acquiring an additional new building preferably at South Bangalore
3. Opening new ITT Centers and Study rooms for students across the City
4. Organizing Conference for women CAs
5. CA Brand building initiatives
6. Improved Coaching class facilities to provide students the best training at low cost.
7. Providing scholarships to students on need cum merit basis
8. Organizing Blood donation camps.
9. Organizing programmes to encourage students in rural areas to take up CA course.

I request all the members to support us for all our above initiatives.

Co-operative Audit seminar:

In the month of February, we conducted a Seminar on Co-operative Audit, which was well attended by our members. During the financial year 2012-13, out of 35000+ societies, we have conducted audit for around 5000 societies. I request the members to enlist themselves for taking up the audit of cooperative societies and Souhardha societies (URL-<http://sahakaradarpana.kar.nic.in>). Since we are partnering in nation building, we need to take up this challenging job and complete maximum number of Co-operative audits and demonstrate the value addition of our services.

March 2014 - Programmes:

March 8th is being celebrated as International Women's Day, showing our **respect, appreciation and love towards women and to recognise women's economic, political, and social achievements.** We are organizing an exclusive Conference for women, titled as *First women CA's Conference* (details are published elsewhere). I request all women CAs to participate in this unique event, which is first of its kind.

We are also organizing a Bank Branch Audit seminar at Hotel Le-meridian on 22nd of March 2014, and I request members to register and benefit from the seminar.

HAPPY UGADI

May this Ugadi Bestow New Dimensions & Prosperity
I wish you all A Very Happy Ugadi, which falls on 31.3.2014

Yours
CA. Babu K Thevar
Chairman

CALENDAR OF EVENTS - MARCH 2014

Date/Day	Topic /Speaker	Venue/Time	CPE Credit
05.03.2014 Wednesday	Central Excise - understanding the concepts CA. G. Lakshminarayanan	Branch Premises 06.00pm to 08.00pm	
07.03.2014 Friday	<i>Study Circle Series on Companies Act 2013-No.12</i> Private Placement, Fund Raising & Acceptance of Deposits by Companies CA. Raghunath Rao	Branch Premises 06.00pm to 08.00pm	
08.03.2014 Saturday	First Women CA's Conference <i>Delegate Fee: Rs.750/-</i>	Taj Vivanta, Near Trinity Circle, M.G.Road, Blore 09.45am to 05.30pm	
12.03.2014 Wednesday	Karnataka State Budget Analysis CA. S. Venkataramani	Branch Premises 06.00pm to 08.00pm	
14.03.2014 Friday	<i>Study Circle Series on Companies Act 2013-No.13</i> Foreign Companies and impact of their business in India under the Companies Act 2013 CA. Parthasarathy Sudarsanam	Branch Premises 06.00pm to 08.00pm	
15.03.2014 Saturday	Draft ICAI Code of Professional Ethics-2014-Discussion CA. B. P. Rao, Past President, ICAI, IMPACT SEMINAR CA. N. Nityananda, Past Central Council Member, ICAI, CA. Krishnaswamy S. Iyer, Past Chairman, B'lore Branch of ICAI	Branch Premises 05.30pm to 08.30pm	
19.03.2014 Wednesday	Analysis of Karnataka, Commercial Tax: Luxuries Tax & Profession Tax CA. Annapurna Kabra	Branch Premises 06.00pm to 08.00pm	
20.03.2014 Thursday	Double Taxation Avoidance Agreements (DTAA): Foreign Tax Credits-certain aspects IMPACT SEMINAR CA. Sachin Kumar B.P. <i>Delegate Fee: Rs.250/-</i> <i>Venue Address: Jain University Auditorium, 34, 1st Cross, J. C. Road, Bangalore-560027, Adjacent to Bangalore Stock Exchange</i>	Jain University Auditorium, Bangalore-560027 05.30pm to 08.30pm	
21.03.2014 Friday	<i>Study Circle Series on Companies Act 2013-No.14</i> Code for Independent Director(Schedule IV) and remuneration of Managerial Personnel Dr. CA. Padmini Srinivasan	Branch Premises 06.00pm to 08.00pm	
22.03.2014 Saturday	Seminar on "Bank Branch Audit" <i>Delegate Fee: Rs.1,900/-</i> <i style="text-align: right;">Details in page no: 17</i>	Hotel Le-Meridian, Sankey Road, Bangalore 09.30am to 05.30pm	

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

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. Babu K. Thevar**
Sub Editors : **CA. Allama Prabhu M.S.**
CA. Pampanna B.E.

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CALENDAR OF EVENTS - MARCH, APRIL & MAY 2014

Date/Day	Topic /Speaker	Venue/Time	CPE Credit
26.03.2014 Wednesday	Management Accounting - Tool for decision making CA. Ketoki Basu	Branch Premises 06.00pm to 08.00pm	2 hrs
28.03.2014 Friday	IMPACT SEMINAR Companies Act 2013 - 1. Role of Chartered Accountants and 2. Recent developments incl.S.135 CSR & S.185 Loans to directors,etc. CA. K. Gururaj Acharya	Branch Premises 05.30pm to 08.30pm	3 hrs
02.04.2014 Wednesday	Opportunities for CAs in Life Insurance Sector CA. S. Lakshminarayanan Seshadri	Branch Premises 06.00pm to 08.00pm	2 hrs
09.04.2014 Wednesday	Impact of Service Tax/VAT on Layout Development CA. Chandrashekar B. D.	Branch Premises 06.00pm to 08.00pm	2 hrs
16.04.2014 Wednesday	Wealth Tax - Concepts & Recent Issues CA. Kanthilal Jain	Branch Premises 06.00pm to 08.00pm	2 hrs
23.04.2014 Wednesday	Issues in Taxation of Partnership firms CA. Umesh Bolmal, Belgaum	Branch Premises 06.00pm to 08.00pm	2 hrs
30.04.2014 Wednesday	Discounting Cash Flow (DCF) Techniques made easy CA. Amith Raj A. N. & CA. Krishna Prasad	Branch Premises 06.00pm to 08.00pm	2 hrs
07.05.2014 Wednesday	Study Circle Meeting*	Branch Premises 06.00pm to 08.00pm	2 hrs
14.05.2014 Wednesday	HOLIDAY - BUDDA POORNIMA		—
17.05.2014 Saturday	Comprehensive Workshop on Companies Act 2013*		
21.05.2014 Wednesday	Computation of Income for Charitable Trusts - Concepts & Issues Dr. CA. N. Suresh	Branch Premises 06.00pm to 08.00pm	2 hrs
28.05.2014 Wednesday	Issues relating to Reverse Charge & Joint Charge under Service Tax Law CA. A. Saiprasad	Branch Premises 06.00pm to 08.00pm	2 hrs

* Details will be published in our next issue

KIND ATTENTION TO MEMBERS

Bangalore Branch is contemplating to start CPE Study Circles at following places.

Indiranagar, HSR Layout, Madivala, Koramangala, Ramamuhy Nagar, Hebbal,
Sanjay Nagar, Jayanagar, J.P. Nagar, B.T.M. Layout, Bannerghatta Road,
Electronic City, Rajajinagar, Vijayanagar & Yeshawanthpur.

Interested members may mail to
blrchairman@icai.org

**Members may send mails directly to Chairman of the Bangalore Branch
regarding their feedbacks & suggestions :**

blrchairman@icai.org

TAX UPDATES JANUARY 2014

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

VAT, CST, ENTRY TAX, PROFESSIONAL TAX

PARTS DIGESTED:

- a) 67 VST – Part 1 to 5
- b) 18 KCTJ – Part 10
- c) 77 KLJ – Part 12
- d) 78 KLJ – Part 1

Reference / Description

[2013] 67 VST 287 (Gauhati – HC): North Eastern Coal Fields Coal India Ltd. v. State of Assam and Others - In the instant case for the financial year 2004-2005, the assessment proceedings were initiated on 11.08.2009 and the assessment order was passed on 13.07.2012. The Petitioner challenged the limitation of the order on the basis that the order has been passed after the expiry of five years from the end of the financial year 2004-2005.

The Department contended that the expression used under Section 39 of the Assam Value Added Tax Act, 2003 is 'made' and not 'completed' or 'signed', therefore, assessment proceedings were initiated within five years from the end of the financial year 2004-2005 and hence the order passed are within the time limit.

The Honourable Gauhati High Court held that the limitation prescribed under Section 39 of the Assam Value Added Tax Act, 2003 is as to the 'making' of the assessment and not 'initiation'. Therefore, it held that the observation of the Department that 'made' did not mean 'completed' or 'signed' cannot be accepted and the same is contrary to the plain meaning of the expression 'made'.

2013 (77) KLJ 609 (Tri.)(DB): Cognizant Technology Solutions India Pvt. Ltd. v. State of Karnataka - In the instant case the Assessing Authority had disallowed the claim of refund made by the Appellant on the inputs purchased by paying VAT. This denial of refund was done on the ground that the input tax credit refund claim relates to the goods which are enumerated in the V Schedule read with Section 11(a)(3) of the Karvat Act, 2003.

The Honourable Division Bench of Karnataka Appellate Tribunal held that Section 20(2) of the Karvat Act, 2003 is a 'stand alone' provision independent of Section 11 of the Karvat Act, 2003. Section 11 has no role at all in case of SEZ Units. Section 51 of the SEZ Act, overrides the provisions of the Karvat Act, 2003. Therefore, the Tribunal held that the Appellant-unit is entitled for the availment of benefit under Section 20(2) of the Karvat Act, 2003.

2014 (78) KLJ 5 (Karn. – HC) (DB): Wipro GE Healthcare Pvt. Ltd. Co. v. Addl. CCT - In the instant case the dealer had produced 'commercial invoice', which contained full name and address of the selling dealer, the date and serial number of the bill, the name and address of the buyer, the description of the goods, quantity of the goods, and value of the goods. However, Assessing Authority levied penalty on the ground that the dealer had produced 'commercial invoice' in place of the bill of sale as required under Rule 23-B of the Karnataka Sales Tax Rules, 1957.

The Honourable Karnataka High Court observed that the under Rule 23-B, it is not the words 'bill of sale' on the document which is a crucial one, but it is the particulars mentioned in the bill of sale that is crucial. Therefore, the Court held that in the instant case as the commercial invoice satisfied the requirement of a bill of sale and all the particulars mentioned in Rule 23-B, question of levying penalty does not arise.

2014 (78) KLJ 21 (Karn. - HC): SAP India Pvt. Ltd. v. Dy. CCT - In the instant case the Honourable Karnataka High Court held that issue of notice by the authority for encashing bank guarantee even before appeal has been filed by the assessee or even before the expiry of time limit prescribed for filing appeal is violative of assessee's right to file appeal and hence held that the said notice is liable to be set aside.

INCOME TAX

PARTS DIGESTED:

- a) 360 ITR – Part 1 to 4
- b) 220 Taxman – Part 1 to 4
- c) 28 ITR (Trib) – Part 5 & 6
- d) 29 ITR (Trib) – Part 1 to 4
- e) 146 ITD – Part 1 to 3
- f) 45 CAPJ – Part 1
- g) 45-B BCAJ – Part 4
- h) 10 International Taxation–Part 1

[2014] 360 ITR 19 (Ker. – HC): Oberon Trading Corporation v. ITO - In the instant case Assessee-firm was involved in the business of pharmaceutical distribution. Initially, four partners constituted the firm and thereafter three partners were added and the firm was continued with seven partners. Later, in each successive assessment year one after the other the



initial four partners retired from the firm and at the end of the fourth year, only three partners continued to run the business. The Assessee-firm claimed depreciation on transfer of the so-called goodwill paid to the partner, who was retiring in that particular assessment year. The question that arose for consideration before the Honourable Kerala High Court was, whether the money paid as transfer of goodwill to a partner, who was retiring, could be claimed as depreciation in that assessment year by the Assessee-firm?

The Honourable Kerala High Court held that when one partner retires from the business, there is no severance of status so far as the partnership is concerned, as the retiring partner would take his capital investment and retire from the partnership and the others continue to carry on the business. By adopting this method, four partners, who decided to go out of the business, have not transferred the entire business concern to the new partners, but have chosen to continue for some time and at their leisure; they retired from the partnership one after the other. Therefore, the Court held that the assets and liabilities of the firm continued as such without any change including tangible and intangible.

Hence, the Court held that there is no transfer of any interest and the money is paid only towards the share of the capital invested by that partner along with some profit, if any and nothing beyond that. Therefore, it held that the Tribunal was justified in disallowing the goodwill claimed by the Appellant.

[2014] 360 ITR 138 (Delhi – HC): GS₁ India v. DGIT (Exemption) and

others - In the instant case the Honourable Delhi High Court held that the Legislative intent under first proviso to Section 2(15) is to exclude from the definition of charitable purpose any activity which has the aim and object of providing services to trade, commerce or business. The said bar does not apply where the petitioner is providing services to persons engaged in trade, commerce or business who are the beneficiaries.

[2014] 360 ITR 168 (All. – HC): Neeraj Janhitakari Gramin Sewa Sansthan v. CCIT and others - In the instant case petitioner is a society registered under the Societies Registration Act. It is running co-educational degree college in the name and style of Ch. Nathu Singh Yadav Mahavidyalaya Dihuli Barnahal.

The Petitioner society is registered with the Income Tax Department and it made an application under Section 10(23C)(vi) of the IT Act and the same was rejected on the ground that it was not at the instance of the 'educational institution'.

The Honourable Allahabad High Court held that where Assessee, a society, was running a degree college and it made an application for approval under section 10(23C)(vi) said application could not be rejected merely on the ground that it was not filed by educational institution itself.

[2014] 360 ITR 182 (Delhi – HC): CIT v. Orient Instrument P. Ltd. - In the instant case the Assessee was engaged in the business of trading in crafts paper, installation, job work, consultancy and commission. It incurred certain loss on account of a transaction whereby it purchased and sold shares. The Assessing Officer

held that this amounted to a speculative transaction and consequently, the loss could not be set off against the Assessee's profits earned from other business.

On appeal before the Tribunal, the Honourable Tribunal held that the transaction whereby the Assessee purchased the shares and incurred loss on account of the fall in the value of the share was a solitary one and hence held that the loss could be set off against the Assessee's profits earned from other business.

The Honourable Delhi High Court held that the findings of the Tribunal that the transaction did not constitute the business carried on by the Assessee, could not be termed perverse or unreasonable.

[2014] 360 ITR 257 (Mad. – HC): Poompuhar Shipping Corporation Ltd. and another v. ITO (International Taxation) - In the instant case the Honourable Madras High Court held that 'royalty' means the consideration paid for 'the use or right to use'. In other words, it held that irrespective of whether there is any transfer or not, the consideration paid for use or right to use simpliciter is sufficient for the consideration being called as 'royalty'.

Thus, in the instant case, the Court held that the presence or absence of possession effective/general control and custody with the Assessee, even though may be matters of agreement are not of any relevance to decide the character of payment. The Assessee, as per the agreement, had the right to use the ship, selecting the time and the decided route as per its requirement, for which it paid the foreign enterprise, the consideration and hence the same constitutes 'royalty'.

Further, it held that proceedings under Sections 201 & 201A of the IT Act has nothing to do with the status of the Assessee as an agent under Section 160 and 163 of the IT Act, which would assume significance only for assessment purposes. Therefore, it held that contention that Sections 163 and 201 of the IT Act cannot go together is not correct for the reason that they operate on different spheres. Section 195 casts an obligation on TSD on any person responsible for paying, whereas Section 163 is for assessment purposes.

[2014] 360 ITR 342 (Delhi – HC): CIT v. Verizon India Pvt. Ltd. - In the instant case the Honourable Delhi High Court held that marketing services to associated enterprises is different from services in nature of engineering services rendered by four comparable companies selected by the Transfer Pricing Officer and hence held that adjustment arrived at by the Transfer Pricing Officer and addition made by the Assessing Officer were not justified.

[2014] 360 ITR 532 (Delhi – HC): CIT v. Leroy Somer and Controls (India) P. Ltd. - In the instant case the Honourable Delhi High Court held that the Assessing Officer in the notice under Section 92D should specify as to whether the Assessee has failed to furnish document or information. It held that in the absence of the same, the penalty under Section 271G could not be sustained.

[2014] 360 ITR 598 (All. – HC): CIT v. Moti Ram Gopi Chand Charitable Trust - In the instant case the Honourable Allahabad High Court held that the Assessing Officer was not justified in insisting the Assessee to furnish information on Form 10 as

a condition precedent, when the Assessing Officer had sufficient material in the shape of the information furnished within the prescribed period and the proof of not only setting apart 85 per cent of the amount to be spent in the next year but also the expenditure of that amount in the next year by the Assessee.

It held that the Assessing Officer's insistence was on the form and not the substance of the provisions of the IT Act.

[2014] 220 Taxman (St.) 1: Letter F.No. 500/139/2012-FTD-1, dated 20.12.2013 - The following was one of the issues discussed during the video conference held by the Chairperson, CBDT in respect of provisions of Safe Harbour Rules:

“Chairperson, CBDT and JS(FT&TR-I), further emphasized that as stated clear in the Rules, the Safe Harbour rates or margins specified therein are not to be considered as a benchmark by the AO or TPO in cases not covered by the Safe Harbour Rules. In cases where assessee has not opted for Safe Harbour or the option has not been found to be valid, and a regular transfer pricing audit is considered necessary, such transfer pricing will not be carried out with regard to the Safe Harbour rates or margins.”

[2014] 220 Taxman 1 (Karn. – HC); 40 taxmann.com 124 (Karn. – HC): CIT v. Kirloskar Systems Ltd. - In the instant case the Honourable Karnataka High Court relying on the decisions of the Apex Court in the case of Vijaya Bank v. CIT [2010] 323 ITR 166 (SC) and its own decision in the case of CIT v. Yokogawa India Ltd. [2012] 204 Taxman 305 (Karn. – HC), held that provision for

diminution in value of assets debited to profit and loss account is not required to be increased as per clause (i) of Explanation 1 to section 115JB to compute book profit under section 115JB when assessee has debited diminution in value of assets as a provision to profit and loss account.

Further, relying on the decision of the Supreme Court in the case of Bharat Earth Movers v. CIT [2000] 245 ITR 423 (SC), held that provision made towards gratuity and leave encashment are not contingent liabilities and, hence, such provision is deductible.

[2014] 220 Taxman 3 (Guj. – HC)(Mag.); 40 taxmann.com 219 (Guj. – HC) : CIT v. Shivalik Buildwell (P.) Ltd. - In the instant case the Honourable Gujarat High Court held that Assessee being a developer of project, profit in its case would arise only on transfer of title of property and, therefore, receipt of any advance or booking amount could not be treated as trading receipt of year under consideration.

[2014] 220 Taxman 4 (Karn. – HC)(Mag.); 40 taxmann.com 212 (Karn. – HC): Karnataka State Small Industries Development Corpn. Ltd. v. Asst. CIT - In the instant case the Honourable Karnataka High Court held that since Assessee was not an authority constituted under any law enacted but by resolution of State Government, and it was incorporated for purpose of achieving certain objects other than discharging functions of providing housing accommodation or planning and developing cities, towns and villages, Assessee could neither be termed as an authority under Article 12 of Constitution, nor could be entitled to claim benefit under Section 10(20A) of the IT Act. ■



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:

1. **Section 80(2) of Finance Act, 1994 - waiver of penalty provision inserted with effect from 28.05.2012 is applicable to the payment made prior to that date:** The appellant was engaged in renting immovable property and had not discharged service tax as the tenant refused to pay service tax relying on the judgment of Honorable High Court Delhi in the case of Home Solutions Retails India Ltd. vs. UOI reported in 2009-TIOL-196-HC-DEL-ST. However, the appellant discharged service tax along with consequential interest after issuing show cause notice. The Revenue denied to waive the penalty in terms of Section 80(2) of the Finance Act, 1994 inserted by the Finance Act, 2012 with effect from 28.05.2012. The Revenue was of the view that the Section 80(2) is operative only with effect from 28.05.2012 and is not applicable for payment made prior to that date. On appeal before the CESTAT, it is held that the amendment of Section 80(2) is also applicable to the payment made prior to 28.05.2012, as the spirit of the law is to not to penalize the assesses who had defaulted the payment of service tax on renting immovable property, due to ratio of judgment

which held field during the relevant period. As the appellant did not contest tax and interest, the penalties were set aside in terms of Section 80(2). [Chandresh Shantilal Shah, Punitkumar Shantilal Shah, Pravinchandra Kesrichandra Shah, Rajeshkumar Kesrichandra Shah Vs Commissioner of Central Excise & Service Tax 2014-TIOL-196-CESTAT-AHM]

2. **Recovery communications before three months of passing the order – liable to quash:** In a writ petition filed by the petitioner against the recovery proceedings of the assessing authority before expiry of three months, Honorable High Court of Mumbai quashing the recovery communications issued by the assessing authority has held that, the officers of Respondent Revenue would do well to realize that their job is much more than merely collecting the tax. They are officers of the State, administering the Finance Act, 1994 and fairness in approach to the tax payers and acting in accordance with the Rule of Law is a sine-qua-non in discharge of all its functions. It was further held that such recovery communications were in defiance of the CBEC Circular No.967/01/2013 dated 01.01.2013 and in breach of the statutory provisions which gives a period of

three months to enable the aggrieved party to file an appeal before the appellate authority. [Tata Teleservices (Maharashtra) Limited Vs The Ministry Of Finance, Department Of Revenue And Others 2014-TIOL-147-HC-MUM-ST]

3. **Transfer of invention, design, idea etc., not liable to service tax:** The issue in the present case pertains to stay application filed by the appellant against the order in original for levy of service tax on sale of entire invention, design, idea, process, patent and other technical know-how in terms of sale and purchase agreement as a going concern. The Department sought to levy service tax thereon under “scientific or technical consultancy services” in terms of Section 65(92) or under “Intellectual Property Services” in terms of Section 65(55b) of the Finance Act, 1994. The respondents were unable to justify as to how the transaction was taxable under the category of “scientific or technical consultancy services” as it is taxable only in the event if an advice is given by a person or an institution to another person. Further the transaction is taxable under “Intellectual property service” only if there is a temporary transfer of intellectual property or permitting its use. Accordingly, the CESTAT stayed recovery of service tax demanded. [Gharda Chemicals Ltd. v. Commissioner of Central Excise & Service Tax [2014] 41 taxmann.com 347 (Ahmedabad - CESTAT)]
4. **When penalty under Section 78 is levied, penalty under Section**

cannot be levied: The CESTAT in an issue pertaining to levy of penalty under Section 76 and 78 of Finance Act, 1994 on account of short payment of service tax due to forging of duty payment figures in the challans has held that when penalty under Section 78 is levied, the penalty under Section 76 is not leviable. Accordingly, penalty under Section 76 is set-aside. [Mahisagar Welding Works Vs. Commissioner of Central Excise 2014-TIOL-192-CESTAT-AHM]

5. **Selling of goods under the brand name – not a service to levy service tax:** The issue before the CESTAT is whether the appellants making and selling coffee and other eatables under the brand name of another Company in terms of franchisee agreement is liable to service tax under “Business Auxiliary Services” (BAS). The CESTAT relying on the decision in the case of Rishi Enterprises reported in 2013-TIOL-1880-CESTAT-MUM held that there is nothing on record to indicate that the appellants have performed any activity relating to promoting or marketing or sale of goods produced or provided by or belonging to client or for that matter any auxiliary service. Accordingly, the demand of service tax under the category BAS was held to be unsustainable. [Heera Laxmi Amusements (P) Ltd Vs. Commissioner of Central Excise and Customs 2014-TIOL-186-CESTAT-MUM]
6. **The replacement of parts under separate contract along with provision of repair service in terms of another contract – value**

of goods will not form part of assessable value: The appellant is engaged in the manufacture and maintenance and repair of transformers. In this regard the appellant entered into two separate contract, one part of the contract relates to the scope of repair work and the other part of the contract relates to supply of parts. The Revenue confirmed the demand of service tax considering the value of parts replaced in the course of maintenance as per the supply contract. On appeal before the CESTAT, the impugned order was set-aside. Reliance was placed on the judgment of Honorable Supreme Court in the case of *Xerox Modicorp vs. State of Karnataka - 2005 (142) STC 209* wherein it was held that if an assessee, replacement of goods, while carrying out of the annual maintenance contract, the cost of which shall be borne by the buyer has to be treated as sale of the goods and not part of services. Accordingly the the appeal was allowed. [M/s Electromec Engineering Enterprises Vs Commissioner Of Central Excise 2014-TIOL-205-CESTAT-DEL]

CENVAT CREDIT:

7. **Invoice issued in the name of head office – branch office can validly claim CENVAT credit:** A short issue before the CESTAT is whether the appellant was entitled to avail the CENVAT credit of Service Tax paid based on the invoices issued in the name of appellant’s head office. The CESTAT pronouncing that the issue is no longer res-integra that the benefit of CENVAT credit cannot be denied, especially when

there is no dispute about the receipt and utilization of Services and about the eligibility of the CENVAT credit. [M/s Gwalior Polypipes Ltd Vs Commissioner of Central Excise 2014-TIOL-188-CESTAT-DEL]

CENTRAL EXCISE:

8. **The activity affixing logo, warranty holograms, repacking, pasting chassis number etc., will not amount to manufacture:** The appellant was importing custom made VCD / DVD players and multiplayers. It is the fact that such goods had MRP price affixed on them at the time of clearance from the Customs Department. Subsequent to import, the appellants carried on certain processes like affixing logo, warranty holograms, repacking, pasting chassis number etc., The department confirmed Central Excise duty along with interest and penalty on the grounds that the activity performed after import of goods amounts to manufacture in terms of Section 2f(iii) of Central Excise Act, 1944 On appeal before the CESTAT held that the goods have undergone requirements of goods manufactured’, with MRP having been affixed. The activity affixing logo, warranty holograms, repacking, pasting chassis number etc., will not amount to manufacture as goods are already packed and bearing MRP stickers at the stage of import itself. Accordingly, the order confirming the demand of Central Excise duty is set aside allowing the appeals. [M/s Beltek (India) Ltd VS Commissioner of Central Excise 2014-TIOL-184-CESTAT-DEL]



9. ***Goods manufactured under the brand name of customers – unit entitled to claim exemption in terms of Notification 8/2003-CE:***

The impugned order was issued denying the benefit of small scale exemption in terms of Notification No. 08/2003 – CE dated 01.03.2003 on the grounds that, the appellants were manufacturing plastic bottles with brand name of its customers printed. In terms of Notification No.10/2013-CE(NT) dated 02/08/2013 issued under Section 11C of the Central Excise Act, 1944 extends the benefit of small scale exemption under notification No. 8/2003-CE to plastic containers and plastic bottles meant for use as packing material bearing brand name of user of such goods for the period 16/06/2003 to 26/02/2010. Accordingly, it was held that the appellant is rightly entitled to claim the benefit of the said exemption. Impugned order was set –aside allowing the appeal. [*Kabeer Plastic Industries Vs Commissioner Of Central Excise 2014-TIOL-176-CESTAT-MUM*]

10. ***Inter-connected undertakings as per Companies Act, 1956 – not relevant for valuation under Central Excise:***

The respondent is engaged in the manufacture of re-rolled products of Iron and Steel strips chargeable to Central Excise duty. Upon scrutiny it is found that more than 50% of their clearances were to the Company which stands to be inter connected undertakings in terms of Section 2(41) of the Companies Act, 1956. The department, therefore, was of the view that the assessable value of the goods cleared by the

respondent to the Company should be determined as per Rule 10 read with Rule 8 of the Central Excise Valuation Rules, 2000 on the basis of 110% of the cost of production. The Department is in appeal against the order of Commissioner (Appeals) where in it was held that the respondent and Company are interconnected undertakings, they cannot be treated as related persons as in terms of Rule 10 of the Central Excise Valuation Rules, interconnected undertakings are to be treated as related persons only if they are so connected that they are also related in terms of sub-clause (ii), (iii) or (iv) of Clause (b) of Sub-Section (3) of Section 4 of Central Excise Act, 1944 or buyer is a holding company or subsidiary company of the respondents, while this is not so in this case. The CESTAT upholding the decision of Commissioner (Appeals) held that show cause notice treats the respondent and The Company as related persons only on the basis that they are interconnected undertakings in terms Section 2 (41) of the Companies Act and as such the show cause notices does not state as to how the conditions prescribed in Rule 10 of the Central Excise Valuation Rules, 2000 are satisfied to demonstrate that they are also related in terms of Clause (ii), (iii) or (iv) of Clause (b) of sub-Section (3) of Section 4 of the Act. For applying Rule 10 read with Rule 9 and Rule 8 of the Central Excise Valuation Rules, the mere fact that the respondents and its buyer Company are interconnected

undertakings is not sufficient. Accordingly, the impugned order is set-aside. [*Commissioner Of Central Excise Vs M/S Orient Steel Re-Rolling Mill 2014-TIOL-202-CESTAT-DEL*]

11. ***Non-compliance of order of pre-deposit, Tribunal rejecting the appeal – not an error of judgment on the part of the Tribunal:***

The appellant a 100% EOU made local clearances exceeding limit permitted by the Development Commissioner. The Department sought to levy duty on the value of clearances exceeding the permissible limit. The appellant is before the Honorable High Court against the order of the tribunal which directed the appellant to deposit entire duty as a pre condition to the hearing of the appeal. The Honorable High Court held that there was no indication of any error of judgment on the part of the Tribunal so as to invite interference. Further, the appellant was unable to point out any fact or press into service any legal provision that would raise an inference that permission, beyond the permissible limit, was granted. The appellant's plea that it applied for further permission was irrelevant, as the appellant was unable to refer to any order accepting this application. As regards the appeal, the Tribunal rightly dismissed the appeal for want of compliance with order. The appellant's plea that as the unit has since closed down, the appellant had no funds, would have been relevant if the appellant had agreed to deposit some part of the duty claimed. In the absence

of any such offer, the financial distress of the appellant cannot be considered and the appeal was dismissed. [*Evinix Accessories (P.) Ltd. Vs Commissioner of Central Excise [2014] 41 taxmann.com 532 (Punjab & Haryana)*]

the appeal has held that on a mere show cause notice issued by Excise Department, Sales Tax Department cannot make additions for purpose of collecting tax without any further inquiry . Merely because Excise Department issued a show-cause notice, that cannot be a ground to presume and conclude that there was evasion of excise duty implying thereby that there was also evasion of tax under VAT Act. VAT Department should have utilized material collected by

Excise Department; including statements of appellant and other relevant witnesses and must have come to an independent opinion that there was in fact evasion of excise duty by clandestine removal of goods, but, no such exercise was undertaken. Hence, the impugned reassessment order passed in a mechanical manner was quashed and matter was remanded back for decision afresh. [*Futura Ceramics (P.) Ltd vs State of Gujarat [2014] 41 taxmann.com 530 (Gujarat)*]. ●

VAT:

12. **Assessment based on show cause notice issued by Central Excise – not a valid base for initiating proceedings under VAT:**
Honorable High Court allowing

IMPORTANT DATES TO REMEMBER DURING THE MONTH OF MARCH 2014

5 th March 2014	Payment of Excise Duty for February 2014
	Payment of Service Tax for February 2014 by Corporates
6 th March 2014	e-Payment of Excise duty for February 2014
	e-Payment of Service Tax for for February 2014
7 th March 2014	Deposit of TDS/TCS Collected During February 2014
10 th March 2014	Filing of monthly returns of Central Excise for the month of February 2014
15 th March 2014	Due Date for Third Installment (In the Case of Non Corporate Assesses) or Fourth Installment (In the Case of Corporate Assessee) for Payment of Advance Income Tax for Financial year 2013-14
	Payment of EPF Contribution for February 2014
	Return of Employees Qualifying to EPF During February 2014
20 th March 2014	Monthly Return and Payment of CST and VAT Collected During February 2014
	Monthly Return and Payment of PT for February 2014
21 st March 2014	Deposit of ESI Contributions and Collections for February 2014
25 th March 2014	Consolidated Statements of Dues and Remittances Under EPF and EDLI for February 2014
	Monthly Returns of employees Joined the Organisation during February 2014
	Monthly Return Return of Employees left the Organisation During February 2014
31 st March 2014	Payment/e-Payment of Excise Duty for Mar 2014
	Payment/e-Payment of excise duty for Quarter ending 31 st March 2014 by SSIs/Registered Dealers.
	Payment/e-Payment of Service Tax for March 2014 by Corporates
	Payment/e-Payment of Service Tax for the Quarter Ending 31 st March 2014 by Non Corporates
	Last date for filing of belated Income Tax Returns for AY 2012-13
	Last date for revision of Income tax Returns for the AY 2012-13



KIND ATTENTION TO MEMBERS

We intend to undertake the following major renovation works in the Branch premises:

- a) Extension of Canopy, b) Refurbishment of Auditorium
- c) Upgradation of Class Rooms, d) Refurbishment Library / ITT Centre

Members may refer any reliable and standard Architect or Interior Decorator to us for carrying out the above works; requested to send the contact details to:

blrchairman@icai.org

KIND ATTENTION TO MEMBERS

Members are invited to get associated with the Branch for coordinating the various programmes organized by the Branch in any capacity.

Interested members may please mail their contact details along with their areas of interest to

blrchairman@icai.org

Students Seminar on

Bank Branch Audit

On Friday, 28th March 2014 between 09.30am & 05.00pm at Branch Premises

Sessions	Timing	Topic	Speakers
	08.30am to 09.30am	Registration	
	09.30am to 10.00am	Inauguration	
I	10.00am to 11.30am	Practical Issues in Audit of Advances(NPA)	CA. Vishakh Manchi, Bangalore
	11.30am to 11.45am	TEA BREAK	
II	11.45am to 01.00pm	LFAR – Tax Audit & Certification	CA. Y. N. Kaleshwara Prasad, Bangalore
	01.00pm to 02.00pm	LUNCH	
III	02.00pm to 03.30pm	System Audit under Computerised Environment	CA. Arunachalam Subramaniam, Bangalore
	03.30pm to 03.45pm	TEA BREAK	
IV	03.45pm to 05.00pm	Asset Classification & Revenue recognition	CA. Veerabasana Gowda, Bangalore

Delegate Fees: Rs.150/- (CASH) Restricted to 150 Students only on first come first served basis

For further details please contact: Ms.Rajalakshmi C. R., Tel: 080-30563500 / 3509

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

BANGALORE BRANCH OF SIRC OF ICAI

Congratulates Rank Holders of

Chartered Accountants Intermediate (IPCC) Exams - November, 2013

Sl.No.	Roll.No.	Reg.No.	NAME	Marks obtained	Rank
1	243517	SRO0415113	MOHAMMED AMIR	502	29
2	242830	SRO0356087	PRASHANTH KAMATH.B	499	32
3	245557	SRO0394791	ANEESH B.U	493	38
4	245756	SRO0409598	ROHIT KUMAR JAIN	490	40

Advt.



Congratulations



CA. Cotha S. Srinivas
elected as
Secretary of
SIRC of ICAI
for the year 2014-15.

Congratulations



CA. Shravan Guduthur
nominated as
Chairman of Bangalore
Branch of SICASA
for the year 2014-15.

ANNOUNCEMENT

Coaching Classes: IPCC & FINAL for November 2014 Examinations and CPT for December 2014 Examinations:

Admissions open for Subjectwise Coaching

In pursuance of our objective to provide fruitful and quality teaching to our students, we are pleased to inform you that CPT/ IPCC and FINAL coaching classes will be commencing at the Bangalore Branch of SIRC of ICAI from 11th June 2014. The classes will be concluded by 15th September 2014.

Salient features:

- Experienced, Expert and Dedicated faculty members
- Methodology – Conceptual teaching
- Affordable Coaching Fee
- The journey of CA with Bangalore Branch is that of progress with innumerable activities of knowledge

supported and guided by our senior renowned faculty members – resource persons

- During the course, amazing, inspiring and motivational sessions and Orientation classes will be conducted

Hence be proud to be a part of the Branch by enrolling as a student to become a prestigious member of this glorious profession.

<i>Course</i>	<i>Fees</i>	<i>Duration (4 Months)</i>	<i>Timings</i>
CPT	Rs.5,000/-	01 st July 2014 to 15 th Nov 2014 (Tentative)	05.30pm to 07.30pm (Monday to Friday) & 03.00pm to 07.30pm (Saturday) & 08.00am to 12.30pm (Sunday)
IPCC & FINAL	Rs.12,500/- for Both Groups Rs.9,000/- for Single Group Rs.3,000/- for Single Subject	01 st June 2014 to 15 th Sept 2014 (Tentative)	06.30am to 09.30am & 06.00pm to 09.00pm & (Monday to Saturday) 08.00am to 05.30pm (Sunday)

Schedule for all the subjects will be announced in due course of time.

**Registration Fees - Mode of payment: DD should be drawn in favour of
“Bangalore Branch of SIRC of ICAI” payable at Bangalore.**

For further details please contact: Tel: **080-30563500 / 511 / 512 / 513**

Email: blrregistrations@icai.org / blrprogrammes@icai.org | Website: www.bangaloreicai.org

Receiving the Best Commendable Branch Award



Meeting the Hon'ble Governor of Karnataka



Receiving Newly Elected President CA. K. Raghu, ICAI at Airport



Felicitation to outgoing Chairman



Felicitation to outgoing Chairman CA. Ravindranath S. N

Newly Elected Chairman



Committee Members with Newly Elected Chairman



Managing Committee Members meeting



Committee Members with the Branch Staff

One Day Seminar on Co-operative Audit



Inauguration



Dr. C. Somashekara, IAS
Secretary, Dept. of
Co-operation, GOK



Sri. G. Karibasappa
Director, Co-operative Audit,
Government of Karnataka



Shri. Prakash C. Majgi,
Joint Director of
Co-operative Audit



Smt. G. Pushpa,
Deputy Director of
Co-operative Audit(HO)



Shri. Siddana Gowda
Nilappanavar, Asst. Director
of Co-operative Audit,
Chikkaballapura district



CA. B. V. Raveendranath



CA. Umesh Bolmal



Interactive Session



Felicitation to Dr. Somashekara C., IAS



Felicitation to Sri. G. Karibasappa Director, Co-op. Audit, GOK



Cross Section of Delegates

President Meet



CA. K. Raghu,
President, ICAI



CA. Manoj Fadnis,
Vice President, ICAI



CA. B. P. Rao,
Past President, ICAI



CA. T.V. Mohandas Pai
Chairman, Manipal Global
Education Services, B'lore



Felicitation to Newly Elected President CA. K. Raghu, ICAI



Felicitation to Newly Elected Vice President
CA. Manoj Fadnis, ICAI



President, Vice President & Committee Members



Cross Section of Participants

Orientation Programme for Newly Qualified Chartered Accountants



Inauguration



Chief Guest
CA. Ghia Tarun Jamnadas



CA. P. R. Suresh



CA. C. S. Srinivas,
Secretary, SIRC of ICAI



CA. Vinay Mruthyunjaya



CA. Anand P. Jangid



CA. Vinayak Pai



CA. M. Ram



Mr. D. Murthy



Cross Section of Participants

Speakers at Study Circle Meetings



CA. Shubha Ganesh



CA. P. Ramabadrn



CA. A. Subramaniam



CA. Anjana Vivek



CA. D. R. Venkatesh



Sri. C. K. Devappa Gowda



CA. Punarvas Jayakumar



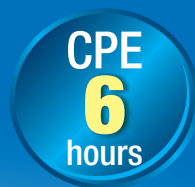
Mr. Divakar K. R., Mr. Khalid Irfan. & Mr. Shanmukha C. G.



CA. Lalit K. Shukla

Seminar on Bank Branch Audit

On Saturday, 22nd March 2014
between 09.30am & 05.30pm
at Hotel Le-Meridien, Sankey Road, Bangalore



Sessions	Timing	Topic	Speakers
	08.30am to 09.30am	Registration	
	09.30am to 10.00am	<i>Inauguration</i> Chief Guest : Shri. R.K. Dubey <i>Canara Bank, Chairman & Managing Director</i>	
I	10.00am to 11.30am	Audit of areas other than Advances: Tax Audit, LFAR & Certifications	CA. Vivek Krishnan, <i>Ernakulam</i>
	11.30am to 11.45am	TEA BREAK	
II	11.45am to 01.00pm	Planning, Audit documentation & Peer Review requirements	CA. Surya Prakash, <i>Bangalore</i>
	01.00pm to 02.00pm	LUNCH	
III	02.00pm to 03.30pm	Audit of advances – Latest RBI Circulars & Practical Issues	CA. P. R. Suresh, <i>Bangalore</i>
	03.30pm to 03.45pm	TEA BREAK	
IV	03.45pm to 05.30pm	Audit of CBS Branches / Audit under computerized environment	CA. R. Vittal Raj, <i>Chennai</i>

Delegate Fees: Rs. 1,900/-

Cash / Cheque in favour of "Bangalore Branch of SIRC of ICAI"

For further details please contact:

Ms. Geetanjali D., Tel: 080-30563500 / 3513

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

CA. Babu K Thevar
Chairman

CA. Pampanna B. E.
Secretary

Advt.