

**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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## One Day Seminar on Cooperative Audit

February 22, 2014

## 1<sup>st</sup> WOMEN CA's CONFERENCE

March 8, 2014



CPE - February 2014  
**26**

# Chairman's Communique . . .

## Dear Professional Colleagues

The year 2014 appears to be a year of joy and loads of promises, especially elections to the Lok Sabha are around the corner. There seems to be expectation of lot of fresh faces to be seen in the Lok Sabha who will come with a promise to revolutionize the way forward for the country which is in the forefront to become one of the super economic powers of the world.

### The Month just went by - January 2014

**Workshop on LLP:** This unique workshop covering the concepts to practice was conducted in the branch premises along with the Ministry of Corporate Affairs – ROC, Karnataka was very well received by the members we had more than 200 members participating in this programme.

**Awareness programme on Financial Reporting Review:** This was the first of its kind programme happened at Bangalore branch, we had the honor of CA K Raghu, Vice President of ICAI as the chief guest for the inauguration. Mainly in this programme all the technical deliberations were handled by the members of the Financial Reporting Review Group (FRRG) to create an understanding for the members how the exact process of General purpose financial statements are picked up and reviewed and what are the precautions a member has to take while discharging his onerous attest function. We also had the gracious presence of CA Nilesh Vikamsey, Chairman of FRRB, ICAI New Delhi presenting a paper for the technical deliberation. This programme was well attended by the members and the deliberations during the interactive session were also of the highest order.

### Forthcoming Month - February 2014:

**One Day Seminar on Co-operative Audit:** As we all know one more avenue of audit and attest function was bestowed on our profession, co-operative audits. To refresh and update we have designed this programme wherein various facets of the Co-operative audit and also how it is different from other audits especially the co-operative act mandates to audit on propriety aspects of the co-operative and also in the case fraud, the Co-operative Act mandates on our profession to identify & fix responsibility of the perpetrators of the fraud. Members are also requested to utilize the opportunity of interactive session with the Co-operative Audit Department officials who are scheduled to preside over as part of this programme.

### March 2014

**First Women CA's Conference :** 8th March is celebrated as Women's day across the world, for the first time in the history of Bangalore Branch we have designed a one day conference exclusively for the women professional delegates in which all the technical deliberations will be handled by the women professionals. I request all the Women CA's to participate in large number and make this a memorable event. For more details refer elsewhere in the news letter.

### The Term 2013-14

At Bangalore branch we started the term 2013-14 with theme of the year as "Changing Dimensions – Inspiring profession".



The Globe in the logo represents the world wide strong foothold that we Indian Chartered Accountants have achieved by making our presence felt effectively across the globe. The

five arrows in the logo signifies various facets of our profession like • Values • Independence • Virtues • Integrity • Ethics

Keeping pace with the changes around the legal and regulatory framework, we have designed & conducted the study circle meetings, workshops, seminars and conferences to cater to the different needs of our fellow professionals both in practice and in the industry.



### Members Activity for the term 2013-14 – A Bird's Eye View

	No. of Meetings	CPE Hours	No. of Participants
<b>Study Circle Meetings</b>	48	98	7704
<b>Seminars /Conference</b>	19	91	4355
<b>Workshops</b>	18	175	4805
<b>Teleconference</b>	36	72	1121
<b>Information Technology</b>	8	17	385
<b>Corporate Accountants Meet</b>	1	3	129
<b>Peer Reviewers Training</b>	1	6	84
<b>Post Qualification Certification Courses</b>			
<i>Indirect Taxes</i>	1		68
<i>IFRS (Two Batches)</i>	2		56
<i>International Taxation</i>	1		26
<i>Valuation</i>	1		29
<i>Forex &amp; Treasury Management</i>	1		56
<b>Post Qualification</b>			
<i>Diploma Course (ISA)</i>	1		59
<b>Campus Interview</b>	2		945

### Bidding Adieu:

Life is a great journey of pleasant successes and challenging setbacks. From success one should learn to be humble and each setback is a lesson which makes us stronger and gives us the aptitude and perseverance to face new challenges in life. The opportunity of being part of this dynamic profession brought to me the joy of being the Chairman of the largest branch in the country. In discharging duties as the Chairman of the Branch I have experienced a great joy. I re-iterate the fact that the joy of serving one's Alma mater is beyond expression, it can only be experienced. I place on record deep sense of appreciation to all my colleagues in the Managing Committee, Central Council Members and ex-officio Regional Council Members who have extended all the support and guidance during my tenure as Chairman of Bangalore Branch. I thank entire team of officers and staff of Bangalore branch and Decentralized office for having been my strength in all my endeavors that were pursued to serve the members, students & public at large. I pray lord to bless me with strength to face the challenges that lies ahead and emerge successful. I wish the incoming chairman & office bearers a successful year ahead.

With Best Regards

CA Ravindranath S N  
Chairman

## CALENDAR OF EVENTS - FEBRUARY 2014

Date/Day	Topic /Speaker	Venue/Time	CPE Credit
05.02.2014 Wednesday	Impact on Insider Training Regulations for CAs <b>CA. Shubha Ganesh</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
07.02.2014 Friday	<i>Study Circle Series on Companies Act 2013-No.9</i> Penalties & Punishments under the Companies Act 2013 <b>CA. P. Ramabadran</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
12.02.2014 Wednesday	Information Systems Audit - Detection, Investigation and Prevention of Fraud <b>CA. A. Subramaniam</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
13.02.2014 Thursday	Emerging Business Trends : Funding Strategies & Business Models <b>CA. Anjana Vivek</b> Delegate Fee: <b>Rs.250/-</b> <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	<b>3 hrs</b>
15.02.2014 Saturday	TDS Update & Issues <b>CA. D. R. Venkatesh</b>	Branch Premises 05.30pm to 08.30pm	<b>3 hrs</b>
19.02.2014 Wednesday	Important Facets of Labour Laws (PF, Gratuity, Bonus, ESI Shops and Establishments Act & Minimum Wages Act) <b>Mr. B. C. Prabhakar, Advocate</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
21.02.2014 Friday	<i>Study Circle Series on Companies Act 2013 - No.10</i> Auditors Provisions - Comparative Analysis <b>CA. Punarvas Jayakumar</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
22.02.2014 Saturday	<b>One Day Seminar on Co-operative Audit</b> Delegate Fee: <b>Rs.1200/-</b> <i>Details in Page No. 11</i>	Devraj Urs Auditorium Opp to B'lore Branch 09.00am to 06.00pm	<b>6 hrs</b>
26.02.2014 Wednesday	Using Tally ERP-9 for VAT, Service Tax & TDS <b>Mr. Divakar K. R. &amp; Team</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
28.02.2014 Friday	<i>Study Circle Series on Companies Act 2013 - No.11</i> Compromises, Arrangements & Amalgamations (Section 230 to 240 of the Companies Act - 2013) <b>CA. Lalit K. Shukla</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>

**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. Ravindranath. S.N**  
Sub Editor : **CA. Allama Prabhu M.S.**

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## CALENDAR OF EVENTS - MARCH 2014

Date/Day	Topic /Speaker	Venue/Time	CPE Credit
05.03.2014 Wednesday	Central Excise - understanding the concepts <b>CA. G. Lakshminarayanan</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
07.03.2014 Friday	<i>Study Circle Series on Companies Act 2013 - No.12</i> Private Placement, Fund Raising & Acceptance of Deposits by Companies <b>CA. Raghunath Rao</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
08.03.2014 Saturday	<b>First Women CA's Conference</b> Delegate Fee: <b>Rs. 750/-</b> <i>Details in Page No. 17</i>	Hotel Taj Vivanta, M.G. Road, B'lore - 1 9.45 am to 6.00 pm	<b>6 hrs</b>
12.03.2014 Wednesday	Study Circle Meeting	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
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 <b>CA. Parthasarathy Sudarsanam</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
19.03.2014 Wednesday	Internal Audit - Tool for Corporate Governance ? <b>CA. Jayashree Narayanan</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
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 <b>Dr. CA. Padmini Srinivasan</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
22.03.2014 Saturday	<b>Seminar on "Bank Branch Audit"*</b>	Hotel Le-Meridian, Sankey Road, B'lore 09.30am to 05.30pm	<b>6 hrs</b>
26.03.2014 Wednesday	Management Accounting - Tool for decision making <b>CA. Ketoki Basu</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
28.03.2014 Friday	<i>Study Circle Series on Companies Act 2013 - No.15</i>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>

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

## Live TV & ICAI Tube

All the programmes of Bangalore branch are telecaste live. To watch the programme, please visit :

[www.bangaloreicai.org / resources/livetv](http://www.bangaloreicai.org/resources/livetv).

‘ICAI TUBE’ Bangalore branch’s initiative of archiving and streaming of programs in the form of videos was well appreciated by the members. All the recorded programs of Bangalore branch are hosted in the Bangalore branch website, to watch these videos please visit [www.bangaloreicai.org/resources/icai-tube](http://www.bangaloreicai.org/resources/icai-tube)

for the benefit of the members.

We welcome your suggestion & feedback to serve you better.

# TAX UPDATES DECEMBER 2013

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

## VAT, CST, ENTRY TAX, PROFESSIONAL TAX

### PARTS DIGESTED:

#### a) 66 VST – Part 1 to 5

##### *Reference / Description*

**[2013] 66 VST 75 (Mad. – HC); USA Agencies and Others v. CTO** - In the instant case the Honourable Madras High Court has held that Section 19(11) of the Tamil Nadu Value Added Tax Act, 2006 which sets up a time frame for availment of input-tax credit accrued on purchases before the end of the financial year or ninety days from the date of purchase whichever is later, is valid. It further held that it is neither unreasonable nor discriminatory or violative of Articles 265 and 300A of the Constitution of India.

It further held that a person, who claims exemption or concessional rate, must obey and fulfil the mandatory requirements exactly. In other words, it held that if exemption is available on complying with certain conditions, the conditions have to be mandatory complied with.

Hence, it held that the scheme of Section 19 is not in the nature of a machinery provision; rather it is a substantive provision stipulating the contingencies and the types of transaction done by a registered dealer which would qualify for availing of input tax credit.

*Fortunately, there is no such provision in the Karvat Act/Rules and it is hoped that such provision is not introduced taking a leaf the aforesaid provisions.*

**[2013] 66 VST 369 (Karn. – HC); State of Karnataka v. K. Bond**

**Polymers Pvt. Ltd.** - In the instant case the Assessee purchased goods during June 2005, July 2005, December 2005 and February 2006 paying tax at four per cent under the Karvat Act as claimed by the Supplier. Subsequently, the supplier ascertained that the commodity was taxable at the residuary rate of 12.5 per cent and accordingly, raised a debit note on 31.07.2006 demanding the tax difference on the supplies. The Assessee paid the differential tax amount promptly and claimed the tax rebate of that amount in the VAT return filed for December 2006.

The claim of the input-tax rebate was disallowed and reassessment order was passed imposing tax, interest and penalty on the ground that the Assessee should have claimed the rebate in the tax return for the tax period July 2006, when it received the debit note from the supplier.

The Honourable Karnataka High Court held that Section 30(3) of the Karvat Act provided only for declaration of the debit note in the return furnished for the tax period in which it was received, and not with the claim for refund of input tax. The Court further held that once the tax was paid under the Act, the Assessee was entitled to the benefit of input tax. In other words, the Court held that the delay in putting the forth claim for refund did not in any way affect his right to claim the said amount, which was legitimately due to him under the Act nor it amounted to contravention resulting in liability to pay tax, interest, penalty so sought to be levied by the Assessing Authority.

*In this welcome decision, it is appreciated that the state could not deny the benefit of input tax set-off after having had the benefit of prior payment of tax merely on the ground that the assessee claimed the relief belatedly.*

## INCOME TAX

### PARTS DIGESTED:

#### a) 358 ITR – Part 4 & 5

#### b) 359 ITR – Part 1 to 5

#### c) 219 Taxman – Part 1 to 6

#### d) 28 ITR (Trib) – Part 1 to 4

#### e) 145 ITD – Part 4 to 8

#### f) 44 CAPJ – Part 5 & 6

#### g) 45-B BCAJ – Part 3

#### h) 9 International Taxation – Part 6

##### *Reference / Description*

**[2013] 358 ITR 499 (All – HC); CIT v. Smt. Rama Rani Kalia** - In the instant case the Honourable Allahabad High Court held that the difference between the short-term capital asset and long-term capital asset is the period over which the property has been held by the Assessee and not the nature of title over the property.

Thus, the Court held that the conversion of the rights of the lessee in the property from having leasehold right into freehold is only by way of improvement of her rights over the property, which she enjoyed. It would not have any effect on the taxability of gain from such property, which is related to the period over which the property is held.

Hence, the Court held that property held by the Assessee as a lessee since 1984, which was transferred on 31.03.2004, after the leasehold rights were converted into freehold rights on



the same property on 29.03.2004, is a long-term capital asset.

*The aforesaid decision should put an end to the attempt by the Department to regard gain from property allotted under lease cum sale deed by the development authorities as short-term capital gains. The honourable Karnataka High Court has been consistently holding that the period of holding should include even the period during which the asset was held under lease.*

**[2013] 358 ITR 505 (Karn. – HC); Jeans Knit P. Ltd. v. Dy. CIT** - In the instant case the Honourable Karnataka High Court held that the adjustment of the refund amount made without following the provisions of Section 245 of the IT Act and without giving a proper intimation was bad in law.

*It is strange that the Department is treating intimation as a post facto exercise. The honourable High Court rightly said that sending intimation is not a mere formality but has to be necessarily made before any such refund is adjusted.*

**[2013] 358 ITR 9 (Delhi – HC); CIT v. Angelique International Ltd.** - In the instant case the Honourable Delhi High Court observed that Circular Nos. dated 23.07.1969, 786 dated 07.02.2000, which clarified that payments in the form of a commission or discount to the foreign party were not chargeable to tax in India under Section 9(1)(vii) of the IT Act, were withdrawn by Circular No. 7 of 2009.

The Court held that Circular No. 7 of 2009 cannot be classified as clarifying the earlier circulars issued in 1969 and 2000. In other words the Court held that Circular No. 7 did not have retrospective effect.

Thus, the Court held that in the relevant accounting year 2008-2009, Assessee did not have to deduct tax at source on commission on sale paid non-residents situated outside India and who do not have any office or permanent establishment in India.

*With due respect, it is stated that the honourable High Court ought to have held that the impugned circular's withdrawal has no effect whatsoever as such circular did not give any extra statutory benefit. If held so, the question whether the aforesaid withdrawal is prospective or retrospective does not arise.*

**[2013] 359 ITR 268 (Delhi – HC); Cairn UK Holdings Ltd. v. DIT** - In the instant case the Delhi High Court held that a non-resident who is entitled to take the benefit of first proviso, i.e. neutralization of exchange rate fluctuation, can take the benefit of 'indexed cost of acquisition' or 'indexed cost of improvement'.

The Court held that proviso to Section 112(1) of the IT Act does not state that an assessee who avails of the benefits of the first proviso to Section 48, is not entitled to benefit of the lower rate of tax at 10 per cent. The benefit cannot be denied because the second proviso to Section 48 is not applicable. The stipulation for taking advantage of proviso to Section 112(1) is that the aggregate of long-term capital gains, should be before giving effect to the provisions of Second proviso to Section 48. Inflation indexation shall be ignored. If the Legislature wanted to deny the benefit where the assessee had taken the benefit of the first proviso to Section 48, it would have been specifically stipulated that such an assessee would not be entitled to pay lower rate of tax at 10 per cent.

Further with respect to the decision of the AAR in the instant case of Assessee, the Court held that the AAR taking diametrical reverse view of its own ruling in the case of Timken France SAS, In re [2007] 297 ITR 513 (AAR) has brought about an uncertainty in understanding the impact and the effect of the proviso to Section 112(1). Certainty is integral to rule of law. Certainty and stability form the basis foundation of any fiscal laws. The Court observed that the Supreme Court in the case of Vodafone International Holdings B.V. v. UOI [2012] 341 ITR 1 (SC), had held that foreign direct investment flows towards a location with a strong governance infrastructure which includes enforcement of laws and how well the legal system work.

In view of the above the Court, held that there should be consistency and uniformity interpretation of provisions as uncertainties can disable and harm governance of tax. The Authority should follow their earlier view, unless there are strong grounds and reasons to take a contrary view.

*In the aforesaid welcome decision, the honourable Delhi High Court rightly opined that the AAR should be more consistent in its approach whereby nonresidents wanting to do business in India can reasonably rely on the rulings of AAR. The inconsistent views of the authority as noticed in the past four years have significantly eroded confidence of nonresidents in the very system of advance rulings.*

**[2013] 359 ITR 306 (Guj. – HC); Goodluck Automobiles Pvt. Ltd. v. Asst. CIT** - In the instant case the Honourable Gujarat High Court dealing with respect to Section 142A of the IT Act, held that rejection of

accounts is a condition precedent for reference to Valuation Officer. In other words, it held that if, there are no defects in books of accounts, reference to Valuation Officer is not valid.

Further it held that difference between cost of construction disclosed by Assessee and estimation by Valuation Officer cannot be assessed as unexplained investment.

*The aforesaid decision overlooks the fact that there may be certain assets which do not form part of books of accounts. In such case, the question of rejection of books of account before making reference to valuation officer does not arise.*

**[2013] 359 ITR 394 (P&H - HC); CIT v. Chohan Resorts** - In the instant case the Honourable Punjab and Haryana High Court has held that wherever the books of accounts are maintained with respect to the cost of construction, the matter can be referred to the District Valuation Officer only after the books of accounts are rejected by the Revenue on some legal or justified basis. In the absence of the rejection of books of account, the reference to the District Valuation Officer cannot be upheld.

*The aforesaid decision correctly appreciates that question of rejection of books of account before making reference to valuation officer arises only if the books of account are maintained with respect to the relevant asset whose valuation is being questioned.*

**[2013] 359 ITR 495 (P&H - HC); V.R.A Cotton Mills P. Ltd. v. UOI and others** - In the instant case the Honourable Punjab and Haryana High Court dealing with the

expression 'serve' under Section 143(2) of the IT Act, held that the date of receipt of the notice by the addressee is not relevant to determine, as to whether the notice has been issued within the prescribed period of limitation. The expression 'serve' means the date of issue of notice. The date of receipt of notice cannot be left to undetermined dependent upon the will of the addressee.

Therefore, the Court held that to bring certainty and to avoid attempts of the addressee to evade the process of receipt of notice, the purpose of the statute will be better served, if the date of issue of notice is considered as compliance with the requirement of the proviso to Section 143(2) of the IT Act.

*With due respect, it is stated that while issue and service may be regarded as having one and the same meaning, it would have been more appropriate to equate the timing of issue with the timing of receipt rather than equating timing of receipt with the timing of issue.*

**[2013] 219 Taxman (St.) 3; Instruction No. 17/2013 [F.No. 178/84/2012-ITA.I], dated 19.11.2013** - The CBDT has instructed the field authorities to follow the contents of Circular No. 01/2013 dated 17.01.2013, which addressed various contentious issues relating to export of computer software under Sections 10A, 10AA and 10B of the IT Act, in letter and spirit.

The CBDT has also advised that further appeals should not be filed in cases where orders were passed prior to issue of Circular but the issues giving rise to the disputes have been clarified by the Circular.

**[2013] 219 Taxman 90 (All. - HC)(Mag.); 38 taxmann.com 288 (All. - HC); CIT v. Aleo Manali Hydro** - In the instant case the Honourable Allahabad High Court has held that where deemed income assessed under Section 115JB becomes basis of assessment as it was higher than income determined under normal provision, there is no question of concealment.

**[2013] 219 Taxman 279 (Guj. - HC); 39 taxmann.com 3 (Guj. - HC); CIT v. Shilpa Dyeing & Printing Mills (P.) Ltd.** - In the instant case the Honourable Gujarat High Court held that in order to tax the income declared in survey, it has to fall under one of heads of income under Section 14, in the absence of the same it cannot be taxed separately.

*What the honourable High Court meant was that even the fictional incomes coming under chapter 6 like section 68 et cetera should be eventually traced to a particular head of income. It is held that there cannot be a headless income which can be taxed.*

**[2013] 219 Taxman 314 (P&H - HC); 38 taxmann.com 83 (P&H - HC); CIT v. Deepak Mittal** - In the instant case the Assessing Officer applied Rule 8D, without considering the submission of the Assessee that he did not incur any expenditure in respect of exempt income. Therefore, the Honourable Punjab and Haryana High Court held that the Assessing Officer has applied Rule 8D as a formula, without proceeding to collect such material or evidence to determine expenditure, if any was incurred by the Assessee in earning the exempt income.





*It has been clearly held in the aforesaid decision that the Department cannot by default invoke rule 8D. It is necessary for them to first establish that the claim of the assessee is wrong before moving to rule 8D.*

**[2013] 28 ITR (Trib) 144 (Cochin); Malayala Manorama Co. Ltd. v. Asst. CIT** - In the instant case the Honourable Cochin Tribunal held that allowing additional depreciation under Section 32(1)(ia) is to allow deduction only to those assets, which are used for the purpose of manufacture or production of article or thing. In other words, the Tribunal held that additional depreciation is 'asset specific' and not 'assessee specific'.

Therefore, the Tribunal held that the FM radio operations do not result in manufacture or production of any article or thing as the primary objective of the Assessee in FM radio business is 'broadcasting' only.

*With due respect, it is stated that the deduction is assessee specific and not at asset specific. Once the assessee qualifies for deduction, he is eligible for claiming the relief in respect of all assets except those which have been explicitly excluded. It is not permissible to introduce more exclusion than what is specifically provided in the relevant provision.*

**[2013] 28 ITR (Trib) 161 (Agra); ITO v. Gaudiya Granth Anuvad Trust** - In the instant case the Honourable Agra Tribunal following decisions of the Tribunal in the cases of Shri Shankar Bhagwan Estate v. ITO [1997] 61 ITD 196 (Cal.), Pentafor Software Employees Welfare Foundation v. Asst. CIT [ITA Nos. 751 & 752/Mad/2007 (Chennai – Tribunal)], and the Delhi High Court decision in the case of Smt. Basanti Devi and ITO v. Shri Chakhan Lal Garg Education [ITA No. 5082/Del/2010], held that the donation received towards the corpus of the trust was in the nature of a capital receipt and not taxable, irrespective of whether trust was registered under Section 12AA or not.

*With due respect, it is stated that the correctness of the aforesaid decision may be in doubt particularly in the light of amended section 2 (24) (ia).*

**[2013] 145 ITD 370 (Mum. – Trib.); 37 taxmann.com 190 (Mum. – Trib.); Karwat Steel Traders v. ITO** - In the instant case Assessee had not deducted TDS on interest paid to those parties from whom Form 15G/15H were received. Assessing Officer disallowed interest paid on

ground that Form 15G/15H were not submitted before the Commissioner.

The Honourable Mumbai Tribunal held that once Form 15G/15H was received by person responsible to deduct tax, there was no liability on him to deduct TDS. It further held, since separate provisions were prescribed on default for non-filing or delayed filing of Form 15G/15H to Commissioner, non-filing of such Form would not invoke disallowance under Section 40(a)(ia).

**[2013] 45-B BCAJ 303 (Ahmd. – Trib.); [ITA No. 175/Ahd/2013 dated 04.10.2013]; ITO v. Pritesh D. Shah (HUF)** - In the instant case the Honourable Ahmedabad Tribunal held that Sections 194C & 194IA are not applicable to amounts paid by clearing and forwarding agent, on behalf of his client, receipts whereof are issued in the name of the client.

**[2013] 45-B BCAJ 311 (Delhi – HC); 262 CTR 389 (Delhi – HC); CIT v. Naresh Kumar** -

In the instant case the Honourable Delhi High Court held that amendment of Section 40(a)(ia) by the Finance Act, 2010 is retrospective and is applicable for the AY 2008-2009 also. ■

Advt.



# 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

## CENTRAL EXCISE

- The Appellant received base oil for storage purpose and took credit of duty paid on imported base oil and without using the same, later cleared it to importer and reversed the credit. The Tribunal, relying on an earlier case, held that interest on credit taken wrongly was imposable. The appellant claimed that as per amendment to Rule 14 of the Cenvat Credit Rules, 2004, interest could not be charged on credit wrongly taken unless it was utilized as well. The Tribunal observed that the Notification was prospective and not retrospective as it was not expressly mentioned in the notification that the amendment would be applicable retrospectively and hence interest should be charged. [*M/s Balmer Lawrie & Co. Ltd. Vs CCE, 2014-TIOL-69-CESTAT-Mum*]

## SERVICE TAX

- The appellant had entered into a service agreement with the Foreign Service provider to provide certain services. The respondent claimed that since the appellant was receiving services from a Foreign Service provider located outside India, the appellant was liable to pay service tax on such services received under Reverse Charge Mechanism. The appellant argued

that the services were provided by the Foreign Service provider to their Dubai office and not to the applicant in India and since both the service provider and service recipient were located outside India. The Tribunal observed that the service agreement was between the appellant and the service provider and was thus of the view that it was incorrect to say that the service was provided to the Dubai office. It was held, that in view of the provisions of the Finance Act, 1994, the applicant was liable to pay service tax for the above mentioned services under the Reverse Charge Mechanism. A pre-deposit of Rs. 1 Crore was ordered. [*M/s 3I Infotech Ltd. Vs CST, 2014-TIOL-57-CESTAT-Mum*]

- The appellant was a subsidiary of a foreign holding company and was involved in manufacturing of goods. The appellant company sent manufactured goods outside India for conducting certain tests. The test reports for the tests were received by the parent company in France. The department claimed that the appellant was liable to pay Service Tax under Reverse Charge Mechanism for the testing services received by the appellant as the service provider was located outside India. The Tribunal was of the view that since

the products were tested outside India and the report was also received by the parent company located outside India, *prima facie*, the department was incorrect in claiming that the appellant was liable to pay tax as claimed and the Tribunal thus allowed the Stay Petition. [*Total Oil India Ltd. Vs CST, 2014-TIOL-25-CESTAT-Mum*]

- The appellant availed security services at guest houses maintained by the appellant and claimed the same as an input service. The appellant had also claimed CENVAT Credit on invoices for “Facilities Management” services issued by M/s C.B. Richards Ellis but the department had disallowed the same. CENVAT Credit for services of “movers and packers”, used in relation to guest house and guard hut was also claimed by the appellant, but in vain. The Tribunal was of the view that services received at places other than the registered premises cannot be claimed as input services and thus the security services availed at the guest house could not be claimed as an input service by the appellant.

The Tribunal also observed that the agreement that the appellant had entered into with M/s C.B. Richards Ellis nowhere mentioned “Real Estate Agents” service whereas the invoices produced by the appellant referred to “Real Estate Agents” service and that the department was right in denying credit for these services as the invoices raised could not be connected to the service agreement. As for the “Movers



and Packers” services, it was held that due to the absence of evidence, it was difficult to establish that the moving of goods was related to the output services rendered by the appellant and thus the credit was rightly denied. The appeals were rejected. *[M/s EXLService.Com (I) Pvt. Ltd. Vs CCE & ST, 2014-TIOL-34-CESTAT-Del]*

▪ The appellant sought abatement in respect of expenses made on purchase of petrol/kerosene, telephone bills, electricity bills, transportation charges and miscellaneous expenditure such as photocopy, octroi etc. which included amounts that were reimbursements. The assessee sought abatement to the effect that the assessable value for the

purpose of service tax should exclude the amount of reimbursements. The Tribunal, relying on an earlier case ruled that tax has to be paid on the gross amount received. The Tribunal also ordered for interest to be levied and the penalty to be set aside. *[M/s Atuleena Chemicals (India) Ltd. Vs CCE, 2014-TIOL-33-CESTAT-Mum]* ●

## BANGALORE BRANCH OF SIRC OF ICAI CONGRATULATES

### RANK HOLDERS OF CA FINAL EXAMS - NOVEMBER, 2013

Sl.No.	Roll.No.	Reg.No.	NAME	Marks obtained	Rank
1	123542	SRO0272952	AISHWARYA.T	476	35
2	125084	SRO0261558	KUSUM.J	473	37

### IMPORTANT DATES TO REMEMBER DURING THE MONTH OF FEBRUARY 2014

5 <sup>th</sup> Feb. 2014	Payment of Central Excise Duty for the month of January 2014 (in case of persons other than individual, proprietor & partnership firms)
	Payment of Service Tax for the month of January 2014 (in case of persons other than individual, proprietor & partnership firms)
6 <sup>th</sup> Feb 2014	E-Payment of Central Excise Duty & Service Tax for the month of January 2014 (in case of persons other than individual, proprietor & partnership firms)
7 <sup>th</sup> Feb 2014	Payment of TDS Deducted & Collected for the month of January 2014
10 <sup>th</sup> Feb 2014	Filing of monthly returns of Central Excise for the month of January 2014
15 <sup>th</sup> Feb 2014	Filing of VAT 120 under KVAT Laws for the month of January 2014
	Payment of Provident Fund and filing of Form 5 & Form 10 for the month of January 2014
20 <sup>th</sup> Feb 2014	Filing of VAT 100 under KVAT Laws for the month of January 2014
	Payment of Professional Tax for the month of January 2014
21 <sup>st</sup> Feb 2014	Payment of Employee State Insurance for the month of January 2014
25 <sup>th</sup> Feb 2014	Filing of Monthly returns of Provident Fund for the month of January 2014. (Form 12A)

# One Day Seminar on

## Co-operative Audit



on 22nd February 2014  
at Sri Devraj Urs Auditorium, Opp. to Bangalore Branch of SIRC of ICAI

TIME	SESSION / SPEAKER
9.00AM	REGISTRATION
10.00AM - 11.00AM	INAUGURATION by <b>Dr. Somashekara C., IAS</b> <i>Secretary, Department of Co-operation, Government of Karnataka</i>
11.00AM - 11.15AM	TEA BREAK
11.15AM - 12.30PM	Expectations of the Dept. vis-à-vis Actual Audit - A critical appraisal <b>Sri. G. Karibasappa,</b> <i>Director, Co-operative Audit, Government of Karnataka</i>
12.30PM - 1.30PM	Scope of Audit as per Section 63 of KCS Act & Practical Issues <b>CA. Raveendranath B.V., Sagar</b>
1.30PM - 2.30PM	LUNCH
2.30PM - 3.30PM	Controversial Issues in Taxation of Co-operative Societies <b>CA. Umesh Bolmal, Belgaum</b>
3.30PM - 3.45PM	TEA BREAK
3.45PM - 4.45PM	Issues faced during the previous Statutory Co-operative Audit - A Study & Update <b>CA. Charanthi Mutt, Hubli</b>
4.45PM - 6.00PM	Audit Report - Illustrations & OPEN HOUSE <b>CA. Charanthi Mutt,</b> <b>CA. Umesh Bolmal,</b> <b>CA. Raveendranath B.V</b>

Delegate Fee : **Rs.1200/-**

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**



## IPCC AND FINAL PRE, EXAM CRASH COURSE FOR MAY 2014 EXAMS

We are glad to know that you have registered for IPCC & CA Final Course and would be appearing for MAY 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 MAY 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				
S.No.	DATE	DAY	SUBJECT	MEMBERS OF THE FACULTY
1.	03.03.14	MONDAY	ADVANCED ACCOUNTING (GROUP, 2)	CA. CHINMAYA HEGDE, BANGALORE
	04.03.14	TUESDAY	ADVANCED ACCOUNTING (GROUP, 2)	CA. CHINMAYA HEGDE, BANGALORE
2.	05.03.14	WEDNESDAY	AUDITING & ASSURANCE	CA. PUNARVAS JAYAKUMAR, BANGALORE
	06.03.14	THURSDAY	AUDITING & ASSURANCE	CA. PUNARVAS JAYAKUMAR, BANGALORE
3.	07.03.14	FRIDAY	COST ACCOUNTING	CA. M.IRFAT, BANGALORE
	08.03.14	SATURDAY	FINANCIAL MANAGEMENT	CA. M.IRFAT, BANGALORE
4.	09.03.14	SUNDAY	INCOME TAX	CA. P. RAMASAMY, CHENNAI
	10.03.14	MONDAY	INCOME TAX	CA. P. RAMASAMY, CHENNAI
5.	11.03.14	TUESDAY	BUSINESS LAWS	CA. ROHIT GROVER, HYDERABAD
	12.03.14	WEDNESDAY	BUSINESS LAWS	CA. ROHIT GROVER, HYDERABAD
6.	13.03.14	THURSDAY	ACCOUNTING (GROUP, 1)	CA. VINAYAK ASUNDI, BELGAUM
	14.03.14	FRIDAY	ACCOUNTING (GROUP, 1)	CA. VINAYAK ASUNDI, BELGAUM
7.	15.03.14	SATURDAY	INFORMATION TECHNOLOGY	CA. ANAND P. JANGID, BANGALORE
	16.03.14	SUNDAY	STRATEGIC MANAGEMENT	CA. ANAND P. JANGID, BANGALORE
FINAL Timings: 10.00 am to 06.00 pm				
1.	18.03.14	TUESDAY	OPERATION RESEARCH	CA. TARUN JAGDISH, KOZHICODE
	19.03.14	WEDNESDAY	OPERATION RESEARCH	CA. TARUN JAGDISH, KOZHICODE
2.	20.03.14	THURSDAY	ST. FINANCIAL MGMT	CA. TARUN JAGDISH, KOZHICODE
	21.03.14	FRIDAY	ST. FINANCIAL MGMT	CA. TARUN JAGDISH, KOZHICODE
3.	22.03.14	SATURDAY	FINANCIAL REPORTING	CA. SAI MUKUNDAN, CHENNAI
	23.03.14	SUNDAY	FINANCIAL REPORTING	CA. SAI MUKUNDAN, CHENNAI
4.	24.03.14	MONDAY	ADVANCED AUDITING & PROF. ETHICS	CA. VIKAS OSWAL, BANGALORE
	25.03.14	TUESDAY	ADVANCED AUDITING & PROF. ETHICS	CA. VIKAS OSWAL, BANGALORE
5.	26.03.14	WEDNESDAY	CORPORATE AND ALLIED LAWS	CA.S. SUNDAR RAMAN, CHENNAI
	27.03.14	THURSDAY	CORPORATE AND ALLIED LAWS	CA.S. SUNDAR RAMAN, CHENNAI
6.	28.03.14	FRIDAY	ADVANCED MGMT ACCOUNTING	CA. G. K. BHAT, UDUPI
	29.03.14	SATURDAY	ADVANCED MGMT ACCOUNTING	CA. G. K. BHAT, UDUPI
7.	01.04.14	TUESDAY	INFORMATION SYSTEM CONTROL & AUDIT	CA. B. N. GANESH KUMAR, BANGALORE
	02.04.14	WEDNESDAY	INFORMATION SYSTEM CONTROL & AUDIT	CA. B. N. GANESH KUMAR, BANGALORE
8.	03.04.14	THURSDAY	DIRECT TAX LAWS	CA. RAJENDRA PRASAD T., HYDERABAD
	04.04.14	FRIDAY	DIRECT TAX LAWS	CA. RAJENDRA PRASAD T., HYDERABAD
9.	05.04.14	SATURDAY	INDIRECT TAX LAWS	Mr. A.S. HARIHARA KUMAR, CHENNAI
	06.04.14	SUNDAY	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:

<b>Final:</b> Both the Groups	Rs.3600/-	<b>IPCC:</b> Both the Groups	Rs.3000/-
I Group Subjects	Rs.2000/-	I Group Subjects	Rs.2000/-
II Group Subjects	Rs.2500/-	II Group Subjects	Rs.1500/-
Single Subject	Rs.600/-	Single Subject	Rs.600/-

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

To register please contact: **080 - 3056 3500 / 511/ 512 / 513, blrregistrations@icai.org**

**CA. RAVINDRANATH S. N.**  
Chairman

**CA. ALLAMA PRABHU M.S.**  
Secretary



Advts.



## AN APPEAL TO THE MEMBERS

*We request you to pass on this information about the below mentioned upcoming courses to their Clients enabling them to join and derive benefits.*

### REFRESHER COURSE FOR ACCOUNTANTS - VI BATCH

*Under the aegis of Management Development Programmes (MDP)*

#### Sixth Batch of Refresher Course for Accountants

In the present business scenario, Accountants are involved in a wide range of commercial activities covering functions relating to Accounting, Finance, Costing, Tax laws and Labor laws. The objectives of the Course are to acquaint the participants about the basics of these essential functions which are present in any organization. This is a **Fast Forward Refresher Course** for those who are interested to learn the practical exposure to basic accounting & finance practices and to learn the most important and fundamental tax laws, in order to perform their accounting and finance works more effectively and competently.

**For whom: Accountants, Accounts Executives & Accounts Assistants working** in a manufacturing, service or trading organization.

#### Course Contents:

- Accounting, • Labor Laws & Business Laws, • Income Tax & Wealth Tax, • Central Excise, Service Tax and VAT, • Cost Accounting, • Banking

#### Duration:

The Sixth batch of the course will be conducted on

**Tentatively in April / May 2014 (6 Days)**

Timings: **10.00am to 05.30pm**

**Fees: Rs. 7,200/-** per participant, Cheque/DD should be drawn in favour of **"Bangalore Branch of SIRC of ICAI"** – payable at Bangalore.

**Registrations Open on  
First Come First Served basis.**

#### Venue:

**Management Training Centre,**  
Bangalore Branch of SIRC of The Institute of Chartered Accountants of India,  
'ICAI BHAWAN', 16/O, Millers Tank Bed Area,  
Vasanthnagar, Bangalore – 560052  
Telephone: 080-30563500/511/512/513  
Email: bangalore@icai.org /blrprogrammes@icai.org  
Website: www.bangaloreicai.org

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

Commencement : **Tentatively in  
April / May 2014**

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

Course Fee : **₹ 15,000/-**

#### Course Contents:

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

#### For Whom:

The course is open to **Non-Finance Executives** such as Engineers, Architects, Doctors, Human Resource personnel, Department Heads, Administrators and other non finance executives. The course would also be useful to self employed persons and top executives who would like to work confidently in the field of corporate finance. The course does not call for any prior knowledge in Accountancy, Finance and Tax Laws.

Contact Tel: **080 - 30563500 / 511/ 512**, E-mail: **bangalore@icai.org /blrprogrammes@icai.org**  
Website: **www.bangaloreicai.org**

Advt.

## ICAI Convocation



Inauguration



CA. Subodh Kumar  
Agrawal, President, ICAI



CA. K. Raghu,  
Vice President, ICAI



CA. Ravindranath S.N.,  
Chairman, B'lore Branch  
of SIRC of ICAI



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



Cross section of newly qualified Chartered Accountants

## 5th Batch of RCA



"Highly Commended Performance Award" for the year 2012  
being received at the SIRC Regional Conference at Vishakapatnam



Participants of 5th Batch of RCA with Chairman & Secretary of B'lore Branch

## Speakers at Study Circle Meetings



CA. P. Manohara Gupta



CA. P. R. Suresh



CS. C. Dwarakanath



CA. Rohit Jain



Dr. P. T. Giridharan,  
Joint Director, ICAI



CA. V. Guruprasad



CS. J. Sundharesan



CA. Roopa Nayak



CA. Ravi Prasad



# 1<sup>st</sup> WOMEN CA's CONFERENCE

CPE  
6  
hours

on  
**Saturday, March 8, 2014**  
at **TAJ VIVANTA**  
Trinity Circle, M.G.Road, Bangalore



8.30AM	REGISTRATION
09.45 AM - 11.15AM	Inauguration Welcome Address Address by <b>Guest of Honour</b> – by Eminent Personality Address by <b>Key note Speaker</b> - Eminent Personality Address by <b>Chief Guest - President, ICAI</b>
11.15AM - 11.30AM	TEA BREAK
11.30AM - 12.30 PM	Emerging Opportunities for Women CAs arising out of Companies Act 2013 <b>Dr. CA. Padmini Srinivasan, IIM, Bangalore</b>
12.30 PM - 1.30PM	Enabling Ourselves for Multi Tasking <b>Mrs. Veena Sethuraman, Behavioural Trainer, Infosys</b>
1.30PM - 2.30PM	LUNCH
2.30PM - 4.00 PM	PANEL DISCUSSION Practise Vs. Industry Vs. Entrepreneurship – Making the right choice Entrepreneur - <b>CA Anjana Vivek</b> Industry - <b>CA Sudha Suresh</b> Practice - <b>CA Sripriya Kumar</b> Moderator - <b>CA Roopa Venkatesh</b>
4.00 PM - 4.15 PM	TEA BREAK
4.15 PM - 5.15 PM	HEALTH SESSION by Eminent Person
5.15 PM - 5.30 PM	Valedictory & Lucky delegate prizes

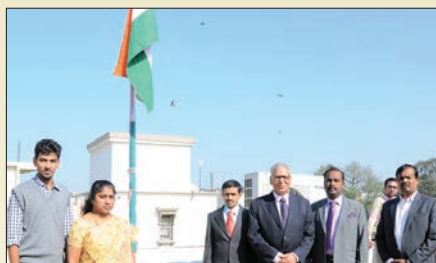
**Delegate Fees : Rs. 750/-**

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**

## Republic Day Celebration



Flag Hoisting



Chief Guest  
 CA. Yaswant Dagliya,  
 Past Regional Council  
 Member, SIRC of ICAI



CA. Ravindranath S.N., Chairman  
 Bangalore Branch of SIRC of ICAI



Cross Section of Participants

## One Day Seminar on Financial Reporting Review



Inauguration



CA. K. Raghu,  
 Vice President, ICAI



CA. K. Gururaj Acharya,  
 Programme Coordinator



Session Chairman -  
 CA B. P. Rao,  
 Past President, ICAI



CA Sanjiv Choudhary,  
 Central Council Member  
 & Member, FRRB



CA Nilesh Vikamsey,  
 Central Council Member  
 & Chairman, FRRB



Session Chairman -  
 CA K. Viswanath,  
 Past Chairman,  
 SIRC of ICAI



CA. Babu Abraham Kalivayal,  
 Central Council Member  
 & Member, FRRB



Chairman -  
 CA. C.N. Srinivasan,  
 Past Regional Council  
 Member, SIRC of ICAI



CA. S. Sundaresan



Session Chairman -  
 CA. K.N. Prabhaskar



CA. Satyanarayana Murthi



FRRB, Committee members



Cross Section of Participants

## Workshop on LLP



Inauguration



Workshop Coordinator  
 CA. K. Gururaj Acharya



CS. S. Dhanpal



CA. B.P. Sachin Kumar



Mr. Keerthi Thej,  
 AROC, Kar.



Mr. Satyajit Roul,  
 AROC, Kar.