



Bangalore Branch of SIRC Newsletter

English Monthly

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Heritage of Namma Bengaluru



Kempe Gowda Tower
at Ulsoor Military Premises

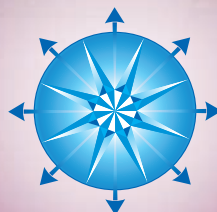


Statue of Kempe Gowda - I
in reverential pose in front of
Sri Gangadhareshwara Swamy
at Shivaganga Temple



"Your success and happiness depends upon your own self. No one person can shape the life of another. Think for yourself and have a plan of life."

VICHAKSHANA



CA

The Clear-sighted Professional



"Constant development is the law of life, and a man who always tries to maintain his dogmas in order to appear consistent drives himself into a false position."

Advt.

Advt.

Guest Editorial

What is Good Knowledge?



● **Dr. Gururaj Karajagi,**
Chairman,
Academy for Creative Teaching

*It is not when truth is dirty,
but when it is shallow,
that the lover of knowledge is
reluctant to step into its waters.*

- Friedrich Nietzsche

To me Mahabharata has been a fount of knowledge. I am mesmerised to see how every modern management concept being taught in the prestigious B- schools of the world has been explained with examples at various situations in Mahabharata. When I was pondering on the issue of "What is good knowledge?", I immediately recollected the famous statement that Duryodhana makes. He says, "I know what Dharma (righteousness) is, but I

cannot follow it; I also know what is Adharma (vice/ non-righteousness), but I cannot retire from it." This means that Duryodhana was not ignorant but was adamant. He knew what was good and what was bad. He was knowledgeable. But, his knowledge did not lead to anything good.

Many people believe knowledge is neutral. Its goodness or badness is determined by the way it is used. The "neutral" view of knowledge, however, does not emphasize the important fact that the more we know the more likely we are to act and do good. In other words, knowledge can be used for both good and evil; however, if we employ the tools of statistics or probability we will easily show that knowledge is overwhelmingly "good".

My claim that knowledge is good originates from this simple five-step reasoning:

1. there is one truth
2. knowledge helps reveal the truth
3. the truth about goodness is no different than other truths; i.e. with more knowledge we are more likely to agree what is true and what is good
4. knowledge must therefore act as a universal unifier of value systems across all philosophical and religious systems
5. knowledge is thus increasing the chances we will act "good" to the best of our understanding of what "good" is.

(Contd. on Page 9)



Jnanasagara
CA. S. Krishna Swamy
says

Cultivating Awareness towards Conservation of Heritage

Some CEOs refer in their letter to social concerns, Corporate Social Responsibility and detail the expenditure incurred on several projects/also talk about creation of charitable trust besides complying with CSR.

INDIAN OIL CORPORATION (PSU) 2014-15
Annual Report (Page 35)

"THE INDIAN OIL FOUNDATION

The Indian Oil Foundation (IOF), a non-profit trust, in collaboration with the archeological survey of India (ASI) and the National Culture Fund (NCF), Government of India, is undertaking works to develop tourist-friendly facilities at various national monuments of archeological and historical importance, viz., Sun Temple, Konark (Odisha), Khajuraho (Madhya Pradesh), Vaishali (Kolkata) (Bihar), Kanheri Caves (Maharashtra) and Bhoga- Nandeeshwara Temple (Karnataka). New projects identified during 2014-15 are Hampi (Karnataka), Golconda Fort (Rajasthan) and Brihadeswara Temple, Tamil Nadu.

In the line with its objectives, IOF has also launched a programme titled CATCH (Cultivating Awareness Towards Conservation of

Heritage) to create awareness and interest about our natural heritage among students. During 2014-15, about 150 students were exposed to issues concerning conservation of Heritage and Culture."

A newspaper column (2-8-2015) reports:

"India has won the top UNESCO prize 'Award of Excellence' 2015 for the remarkable conservation efforts of the majestic Sree Vadakkunnathan Temple in Kerala, the U.N. body announced on Tuesday.

"The award recognizes the remarkable conservation effort undertaken at the sacred site which employed age-old rituals and conservation techniques drawn from Vastu Shastra focusing on architecture and construction," UNESCO said in a statement.

A Special Feature- UNESCO

The cultural sites in India are marked by their brilliant craftsmanship on stone. Most of the temples in India are built in stone without any mortar and with sculpture marked on it.

We are a Secular state, our Constitution in Article 51A-Fundamental duties states "it shall be the duty of every citizen of Indiato value and preserve the rich heritage of our composite culture." [Article 51A (f)]

You will also notice that the definition of Charitable purpose in sec 2(15) of the Income Tax Act refers to

"[preservation of environment (including water-sheds, forests and wild life) and preservation of monuments or places or objects of artistic or historic interest,] and the advancement of any other object of general public utility."

The branch journal carries a column 'Heritage of Namma Bengaluru' and month after month identifies a heritage site which is commendable.

EXCELLENCE IN REPORTING - BEYOND NUMBERS

(Contd. on Page 10)

Chairman's Communique...

Dear Esteemed Member,

Namasthe,

Heritage – our National Pride

Recently, ICAI has come out with a CSR policy, the brain child of our immediate past president CA. K. Raghu, which inter alia, includes adoption of Section 135, Item (v) of the Schedule VII of the Companies Act 2013 states:

(v) protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional arts and handicrafts;

India is the largest repository of heritage monuments; each one is a tangible link to our glorious past. Conservation of Heritage sites could be effective only when awareness about the same is created by appropriate propagation of information.

Performing a fundamental duty of creating awareness about a heritage monument, which could also be endorsed as a CSR activity, should be welcome and encouraged by one and all.

I am happy to inform you that the Bangalore Branch has taken steps in this direction which is being appreciated by many Members.

* * * * *

UNESCO World Heritage Convention recognized places of importance of cultural or natural heritage and declared them as World Heritage Sites. It was specifically noted that the cultural sites in India are marked by their brilliant craftsmanship on stone and most of the temples of India stated in the list were built in stone, without any mortar and with sculpture carved on it. The Convention went beyond the Religion and classified them as World Heritage Sites.

The Government of India has a separate Ministry of Culture with the first agenda in its Mission Statement as “Maintenance and conservation of heritage, historic sites and ancient monuments” followed by “Promotion of institutional and individual non-official initiatives in the fields of art and culture”

“It shall be the duty of every citizen of India to value and preserve the rich heritage of our composite culture” – states Article 51 A(f) of the Constitution of India as one of the Fundamental Duty.

The Branch News Letter carrying information about the Heritage monuments is doing one of its fundamental duties as stated in the Constitution.

Our ancestors possessed special skills with respect to the construction of temples. They had perspective of size and spatial imagination. They were intellectually driven people. They derived satisfaction from their achievements and accomplishments that were beneficial to the Society. They treated all religions alike. All religions flourished in this land and were complimentary and supplementary to each other.

“Religious Courteousness & Harmony” are the precious contributions to the Universe made by the Indian



Culture; the great virtue that has been demonstrated to the world is the precious “Religious Concord”.

For our ancestors, the meaning of Secularism was different – Acceptance of all religions and respecting all religions as their own.

All Kings nurtured all religions and had full belief in God. Hence we have innumerable number of religious places dedicated to various deities.

When we start the journey to know about our Heritage, in the chronological order, incidentally and inevitably we come across Temples. Thousands of Temples are there in Bengaluru and only those Temples having high heritage value are selected. When details about such Temples are published it should not be construed as promotion of a particular religion and colour it as non secular.

These Temples are nothing but **Heritage Signature Monuments**.

One should fully appreciate the magnificence of the historical significance embedded in such monuments instead of paradoxically looking for a particular religion.

It is time to get excited about the enthralling antiquity of Bengaluru and enjoy visiting the heritage sites with family and friends.

GUEST EDITORIAL:

I heartily thank Dr. Gururaj Karajagi for his editorial article. He is a great motivational speaker; the man who walks the talk. He believes that the quality of education will be just as good as the quality of teachers; he also believes that the only way to improve the standard of education is to empower the teachers with content,

methodology and technology. His article has further enhanced the esteem of our News Letter.

JNANADAYINI : ICAI National Conference:

On 29th & 30th of August 2015, Jnanadayini: ICAI National Conference was conducted at Jnanajyothi Auditorium, Bengaluru. The Conference was jointly hosted by All the Branches of Karnataka and was inaugurated by the Chief Guest Dr. B.T. Rudresh and the Guest of Honour CA. Manoj Fadnis, President, ICAI.

During the inaugural session, on behalf of the Bangalore Branch, we also submitted a Memorandum to the honorable President of ICAI, requesting for a special status for the Bangalore Branch with respect to the Infrastructure Purchase Policy.

I am grateful to our immediate past president CA. K. Raghu for his invaluable advice and encouragement. I also thank the Managing Committee members and the Regional Council Members for supporting me.

On behalf of the Bangalore Branch I sincerely thank the delegates and resource persons who happen to be the life blood and the back bone of the Conference. I also recognize and appreciate the sincere and dedicated efforts of all the staff of the Bangalore Branch who relentlessly supported me in all possible ways for the success of the Conference.

With warm regards

Dhanyavada

CA. Allama Prabhu M.S.

Chairman

KYC

Know Your City

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Heritage of Namma Bengaluru - 7

Fascinating Bengaluru

Hundreds of Kings were feudatories of the great Vijaya Nagara Empire which was ruled by able and highly competent emperors like Harihara and Krishnadevaraya.

The most prominent and highly supporting among the feudatories were the Rulers of Yelahanka viz., *Yelahanka Nadaprabhus*, who ruled Bengaluru and Magadi from Yelahanka. The first known figure of the family was Ranabhaire Gowda; the first ruler being Jaya Gowda, followed by his son Gidde Gowda.

Gidde Gowda's son Kempa Nanje Gowda ruled the provinces for nearly 70 years, from 1443AD to 1513AD.

Kempa Nanje Gowda's eldest son was none other than Kempe Gowda I (1513AD to 1569AD), the person instrumental in building the modern city of Bengaluru.

During this period, Achutaraya was the ruler of the Vijaya Nagara Empire. Kempe Gowda and his ascendant's remained loyal to the Vijaya Nagara Empire and enjoyed great respect from the Empire because of the extraordinary administrative skills and also for the strategic military acumen they exhibited during the warfare.

BENGALURU : The Dream Town of Kempe Gowda I

One day when Kempe Gowda was on a hunting expedition he saw a very strange sight of a Hare encountering and challenging his hunting dog. The very sight significantly influenced him who was convinced about the attribute of Heroism in that area and declared it as a Heroic Land. He also noticed that the surrounding place was highly conducive to build a big new town, destined to prosper and flourish. He immediately obtained imperial permission from the Vijaya Nagar Emperor who happily gave his accord and encouraged

the new venture. Achyutadeva Raya recognized the zeal and loyalty of kempe Gowda and further granted him 12 places with revenue of 30000 gold varahas.

HOW THE LAYOUT OF MODERN BENGALURU WAS FORMED:

A marvelous book about Bengalure viz., "**Bangalore through Centuries**" has been written by Mr. M. Fazlul Hasan. The author gives an interesting narration of all the significant historical events relating to Bengaluru.

Here is an extract from the Book which gives how the boundaries of the new city were defined even before the construction of the City.

Extract from the book:

"The founding of Bangalore in 1537, was Kempe Gowda's epic achievement. Thick jungle with a mass of wild weeds once grew luxuriantly at the place where now Bangalore stands. For centuries, eery wind whistled through that nightmarish jungle. Kempe Gowda had the jungle cut down, for, he had conceived an idea to build his dream town there with a strong fortress and well laid streets studded with shops, choultries, temples, etc. And, choosing an auspicious occasion, in consultation with his astrologers, he commenced his town building work in a typical Gowda way. Right at the spot where now stands the Dodpet Square, in the heart of city, one fine morning in 1537, four pairs of milk white bullocks stood harnessed to four decorated ploughs, and at the royal command off they went, driven by young men, furrowing the ground in the four directions up to the limits marked. The routes traversed by those four ploughs became the nucleus of the new town's four main streets.



Thus were laid Bangalore's oldest streets- Chickpet and Dodpet which ran east to west from the Halsoor Gate to Sondekoppa Gate and north to south from Yelahanka Gate to Anekal Gate respectively. Those narrow streets continue to exist to this day and are the busiest commercial centres of Bangalore. A strong mud fort, reckoned impregnable in those days, erected around the new township guarded the country round about. Within the fort were localities earmarked for people of different avocations. The numerous 'Petes' of the town, which soon came into being not only indicated professions carried on in particular localities, but also indicated particular goods sold in those areas."

The blue print of the broad spectrum magnificent commercial mall catering to the needs of all the sections of the society was thus laid down.

The mud fort which Kempe Gowda built at this place consisted of four batteries (where cannon were mounted) and was of eight gates, the most prominent of which were the Yelahanka Gate in the north, the Halsoor Gate in the east, the Anekal Gate in the South and the Kengeri Gate in the West.

Halsoor Gate is opposite to BBMP, please note the police station there is called Ulsoor Gate Police station, even now.

Yelahanka Gate is where the present SBM head office is located.

To accommodate the expansion of the town, the British had demolished the fortifications way back a century !

The Pete's indicated either the nature of trade or the commodity sold in that particular place. Just to narrate few of them :

- Doddapete was formed for wholesale trade, covering major areas of the present Avenue Road.
- Chickpete – was for retail trade.
- Aralepete – for trading Cotton and its products
- Akkipete – for trading Rice, Paddy and its products
- Ragipete – for trading Ragi

- Balepete – for trading Bangles, Kum Kum and other auspicious items
- Kumbara-pete, Ganigarapete, Upparapete were for the trades, crafts and residences of Kumbara, Ganiga, Uppara castes.

Kempe Gowda - I was just fascinated by the Name – Bengaluru and thus named the new town.

Kempe Gowda - I shifted his capital from Yelahanka to the new town i.e., Bengaluru. He further consolidated his conquests by acquiring Halsoor, hesarghatta and Dommlur and expanded his kingdom.

Kempe Gowda was a man with great vision; he was magnanimous, righteous and religious. He wanted his works to be everlasting and ever celebrated. He amazed the world with his meticulous planning. In a very short span of time he performed momentous endeavours ! Thus, he is reckoned and categorized as a competent and a distinguished ruler with Decorum and glory.

If Kempe Gowda – I had built Modern Bengaluru then what is that we now have ? Ultra-Modern Bengaluru ?

COVERPAGE PHOTOS:

The cover page contains two rare photos of significant importance; the first one is the Kempe Gowda Tower at Ulsoor, one of the four watch towers erected by Kempegowda II, which is now inside the Military premises. We are thankful to Mr. A.B. Agarwal, Lt. Col, Group Adjutant for Commandment, for according special permission to take photographs for publishing them in our News Letter.

The second one is the statue of Kempe Gowda I erected in front of the sanctum Sanctorum (*Garbha Gudi*) of Sri Gangadhareshwara Temple at Shiva Ganga Hills. The inscription on the base of the statue, which is Kannada states “*Gowdara Kempaiah Gowdanu Gangadharaswamiya paadakke sadaa namaskaara*” and is dated 1609, obviously posthumously made by Kempe Gowda II.

Guest Editorial

What is Good Knowledge?

(Contd. from Page 4)

One of the most durable arguments is that knowledge is and ought to be a public good. Here I don't want to restate or evaluate the whole argument, which is complex and has many threads. But I do want to pull at a few of those threads. *What is a public good?* In the technical sense used by economists, a public good is non-rivalrous and non-excludable. A good is non-rivalrous when it is undiminished by consumption. We can all consume it without depleting it or becoming "rivals". Television broadcasts are non-rivalrous; my reception doesn't block yours or vice versa. A good is non-excludable when consumption is available to all, and attempts to prevent consumption are generally ineffective. Radio or television broadcasts are non-excludable for people with the right equipment in the right area. Breathable air is non-excludable for this purpose even though a variety of barriers, from pollution to suffocation, could stop people from consuming it. Knowledge is non-rivalrous. Your knowledge of a fact or idea does not block mine, and mine does not block yours.

Thomas Jefferson described this situation beautifully in an 1813 letter to Isaac McPherson: *"If nature has made any one thing less susceptible than all others of exclusive property, it is the action of the thinking power called an idea....Its peculiar character...is that no one possesses the less, because every other possesses the whole of it. He who receives an idea from me, receives instruction himself without lessening mine; as he who lights his taper at mine, receives light without darkening mine."* George Bernard Shaw also described it: *"If you have an apple and I have an apple and we exchange apples then you and I will still each have one apple. But if you have an idea and I have an idea and we exchange these ideas, then each of us will have two ideas."*

Knowledge is also non-excludable. We can burn books, but not all knowledge is from books. We can raise the barriers to knowledge, through prices, punishments or impractical social laws, but that only create local exceptions for some people

or some knowledge. When knowledge is available to people they would be able to learn it, from books, nature, friends, teachers, or their own senses and experience.

Since, knowledge is available to everyone, how do we know which is good and which is bad? If you study an esoteric moment in the history of art, or become an expert on ancient literature in some corner of the world, or are concerned with the ways that racism and inequality impact peoples on the marginalized edges of society, this view usually suggests that your knowledge is not good for anything. If it cannot be bought or sold, it has no value. This way of thinking erodes society.

In better days, we should deliberate the value of knowledge by sustaining public support for universities and public debate over such issues. Yet this push to marketise or commodify knowledge is a form of privatising knowledge. This push says that the market will decide what knowledge has value. Which is to say, only those with money will decide what knowledge has value. This erodes society and erodes the social value that knowledge has for creating enlightened, informed, citizen, a "good" that the market does not necessarily value.

This market logic also erodes the critical value of knowledge – that is, our knowledge as a means to critique and reflect on society, one of our capacities as human beings. Knowledge is not simply a "thing" that can be assigned a monetary value. It is not simply about "discovery" of facts. Knowledge is a social practice – of making and creating. It emerges through social relationships, between people and between people and the world.

Relations between people raise moral and ethical questions such that knowledge-making is never "pure and detached" science. Knowledge-making is always socially and morally positioned. When we produce knowledge, we explore, reveal and speak about ongoing social life. In doing so, the pursuit of knowledge often reveals that which power would like to obscure. Knowledge-making is not just counting and measuring some "reality" out there. It is an interpretative act that mobilizes the empirical and imaginary capacity of human-beings. It engages and creates reality as a creative practice. It seeks to think the possibility of a world otherwise.



Jnanasagara CA. S. Krishna Swamy says

(Contd. from Page 4)

EXCELLENCE IN REPORTING - BEYOND NUMBERS

Fundamental Duties - To strive towards excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of Endeavour and achievement.

Article 51A(j) of The Constitution of India

1. An interesting part of corporate annual report accompanying financial statements, especially in the case of intelligence/knowledge, based companies is the CEO report highlighting the achievement of excellence in fields that transform the way we live in. The focus shifts from numbers. We live in digital times where the Indian intelligence has its day and very heartening to see an Indian taking the place of CEO of such large companies succeeding founder CEO's. For Eg :- CEO Sunder Pichai @ Google and Satya Nadella @ Microsoft.
2. Financial metrics and Statistics form a significant basis of all business reports. Over time **reporting has evolved from being a simple reporting of numbers** - financial or otherwise, leaving a lot of the interpretation to the reader, to the present where better reports include a lot of the interpretation of the data. This is the case in external / statutory reporting as well as in internal management reporting.
3. As the role of the CFO evolved over time, so has the way CFOs and their organization report on data. With Finance playing a more strategic role in the business, **reporting has become more of story -telling - story that is built on the basis of financial data** as well as other relevant data (like marketing; external research; competitor etc.)
4. All the work done at the different levels of the organization culminate in a report to internal or external stakeholders who act in their own way based on what they take away from contents in these reports. Technology has made more data available to organization, for employees and management to digest and act on.
5. With explosion of data (Big Data and Fast Data), it has become even more critical to be able to identify the most important or relevant data that is important for the stakeholders to be able to zero in on the real causes of

better performance or issues. Reports now probably need to more frequent as business changes are more frequent than in the past, possibly driven by Big an Fast Data being made available to all businesses as well as consumer preferences changing faster than in the past as people are more connect than in the past with Smart phones and handheld devices that are connected to the net always. In addition to this we have Social media that is impacting business to react faster to customer comments.

6. Well written reports will help management and the Board of directors get straight to the cause of the issue and action resolution. In today's fast world a swift organization is one that will get an edge over its competitors. It can be said that **excellent and timely reports are foundation of an excellent management team** that can address issues fast to keep the organization ahead in the market as well as maintain a high customer satisfaction.
7. In the external world as well statutory reports need **to be telling a story** of the organization to the external stakeholders to ensure appropriate awareness of the business climate and health of operations. This is key to ensure the Board and Executive management can maintain and grow the market capitalization of the organization - the final measure of a company's success.
8. I take the example of Google which is in the news. A few paragraphs from the CEO letter.

8(1) "GOOGLE WAS BORN IN 1998. If it were a person, it would have started elementary school late last summer (around August 19), and today it would have just about finished the first grade.

Of course companies are not people. Among other obvious differences, they must be responsible and self sufficient at a very early age. But a long perspective, like that of a human lifespan, is useful in assessing year by-year developments. While it may seem that we have come far already, this is just the beginning of a lifetime.

And while Google is not a single person, it does embody the effort, ability, and commitment of thousands of individuals. Together we strive toward a common mission: to organize the world's information and make it universally accessible and useful. This is an infinitely large task for a long-term company.

8(2) 345 DAYS

It is hard to believe less than a year has passed since our last letter, given how much has happened. We made

some big strides toward making more web information nearly instantly available. But just as important, we branched out to make a growing array of media forms and information types more accessible and, hopefully, more useful to people all around the world.

Here are some of the highlights:

8 billion pages

Google Maps

Keyhole

Google SMS

Google Print

Google Scholar

Google Desktop Search

Google Video

Gmail

Picasa

Blogger

8(3) We also launched a number of improvements to our Ad Words and Ad Sense programs to make it easier and more rewarding for both advertisers and publishers to participate in the increasing use of commercial information online. Notably, we have focused on improving our ads quality, which increases ads relevance for users, and click through rates for our advertisers and publishers."

9. Shareholder Letter -Microsoft (Satya Nadella)

TO OUR SHAREHOLDERS, CUSTOMERS, PARTNERS AND EMPLOYEES:

It is a when I took this role, I originally joined Microsoft to have an opportunity to change the world through technology and empower people to do amazing things. Many companies aspire to change the world, but very few have humbling experience to write this letter to you as only the third CEO in Microsoft's history. As I said the talent, resources and perseverance of Microsoft.

I believe this is a landmark moment for the company and for our industry as a whole. Cloud and mobile technologies are redefining how people work and play. Three billion people will soon be connected to Internet-enabled devices; 212 billion sensors will come online in a few short years; trillions will be spent in consumer and business technologies. But it's not about technology for technology's sake! It's our mission to enable the use of technology to realize the true potential of people, teams and organizations.

10. Mark Zuckerberg - CEO of Face book -

"We just passed an important milestone. For the first time ever, one billion people used Face book on a single day. One in 7 people on 24-08-2015 on earth used face book to connect with their friends and family."

CEO - IPO LETTER

"we don't build services to make money; we make money to build better services. And we think this is a good way to build something. These days I think more and more people want to use services from companies that believe in something beyond simply maximizing profits.

By focusing on our mission and building great services, we believe we will create the most value for our shareholders and partners over the long term — and this in turn will enable us to keep attracting the best people and building more great services. We don't wake up in the morning with the primary goal of making money, but we understand that the best way to achieve our mission is to build a strong and valuable company."

11. The ICAI also gives awards for excellence in financial reporting to companies who develop best accounting policies and methods.

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

EDITOR :

CA. Allama Prabhu M.S.













SUB EDITOR :

CA. Geetha A.B.


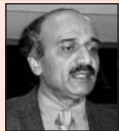












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CALENDAR OF EVENTS - SEPTEMBER & OCTOBER 2015

Date/Day/ Time	Topic / Speaker	CPE Credit
02.09.2015 Wednesday 6.00pm to 8.00pm	Study Circle Meet Critical Issues in Service Tax and Interactive Session VENUE: Branch Premises	2 hrs
03.09.2015 Thursday 9.15am to 5.30pm	National Seminar on GST <i>jointly with St. Joseph College of Commerce</i> VENUE: St. Joseph College Auditorium, Bengaluru	NO CPE
04.09.2015 Friday 6.00pm to 8.00pm	Study Circle Meet Practical Aspects of Tax Audit CA. Dr. Vishnu Bharath Alampalli VENUE: Branch Premises	 2 hrs
05.09.2015 Saturday 5.00pm to 8.15pm	Intensive Workshop on International Taxation - 3 CA. Rishi Harlalka VENUE: Branch Premises <i>No Delegate Fee</i>	 3 hrs
02.10.2015 Friday	Holiday on account of Gandhi Jayanthi	—
03.10.2015 Saturday 5.00pm to 8.15pm	Intensive Workshop on International Taxation - 4 CA. K.R. Sekar VENUE: Branch Premises <i>No Delegate Fee</i>	 3 hrs
07.10.2015 Wednesday 6.00pm to 8.00pm	Study Circle Meet Service Tax : Import and Export of Services CA. Madhur Harlalka VENUE: Branch Premises	 2 hrs
09.10.2015 Friday 6.00pm to 8.00pm	PRACTICE ALERT - DISCUSSIONS FEMA CA. G. Murali Krishna VENUE: Branch Premises	 2 hrs
14.10.2015 Wednesday 6.00pm to 8.00pm	Study Circle Meet Critical Issues in the Implimentation of Companies Act 2013 CS. M.S. Shivashankaran & CS. Ms. Mangala Rohith VENUE: Branch Premises	  2 hrs
16.10.2015 Friday 6.00pm to 8.00pm	PRACTICE ALERT - DISCUSSIONS VAT Updates CA. S. Ramasubramanian & CA. Prateek Marlecha VENUE: Branch Premises	  2 hrs
17.10.2015 Saturday 5.00pm to 8.15pm	Intensive Workshop on International Taxation - 5 CA. Narendra J. Jain VENUE: Branch Premises <i>No Delegate Fee</i>	 3 hrs
21.10.2015 Wednesday 6.00pm to 8.00pm	Study Circle Meet Start up deal cycle - Structure and raising of Funds CA. Amith Raj A.N. & CA. Krishna Prasad VENUE: Branch Premises	  2 hrs

CALENDAR OF EVENTS - OCTOBER & NOVEMBER 2015

Date/Day/ Time	Topic / Speaker	CPE Credit
23.10.2015 Friday	Holiday on account of Vijayadashami	—
28.10.2015 Wednesday 6.00pm to 8.00pm	Study Circle Meet Digital Threats and Cyber Law - Growing need and Professional Opportunity CA. Anand P. Jangid VENUE: Branch Premises	 2 hrs
04.11.2015 Wednesday 6.00pm to 8.00pm	Study Circle Meet Income Tax Issues and Legal Solutions Mr. M.V. Seshachala VENUE: Branch Premises	 2 hrs
06.11.2015 Friday 6.00pm to 8.00pm	PRACTICE ALERT - DISCUSSIONS Income Tax CA. H. Padamchand Khincha, CA. Sudheendra B.R. & CA. Shivanand Nayak VENUE: Branch Premises	   2 hrs
07.11.2015 Saturday 5.00pm to 8.15pm	Intensive Workshop on International Taxation - 6 CA. Sharath Rao VENUE: Branch Premises <i>No Delegate Fee</i>	 3 hrs
11.11.2015 Wednesday	Holiday on account of Lakshmi Pooja	—
13.11.2015 Friday 6.00pm to 8.00pm	PRACTICE ALERT - DISCUSSIONS Service Tax CA. Rajesh Kumar T.R. & CA. Lakshmi G.K. VENUE: Branch Premises	  2 hrs
18.11.2015 Wednesday 6.00pm to 8.00pm	Study Circle Meet Fraud Awareness & Detection in Current Business Environment CA. Zaid Razvi & Mr. Siddharth Sharma VENUE: Branch Premises	  2 hrs
20.11.2015 Friday 6.30pm to 8.30pm	Corporate Accountants Meet <i>Details will be informed later</i>	2 hrs
21.11.2015 Saturday 09.30am to 04.30pm	One day workshop on ICDS Co-ordinator: CA K Gururaj Acharya <i>Details will be informed later</i>	6 hrs
21.11.2015 Saturday 05.30pm to 08.30pm	Intensive Workshop on International Taxation - 7 CA. P.V. Srinivasan VENUE: Branch Premises <i>No Delegate Fee</i>	 3 hrs
25.11.2015 Wednesday 6.00pm to 8.00pm	Study Circle Meet Indirect Taxes Implications on Sale of Software (Covering Customs, Central Excise, VAT & Service Tax) CA. N. Anand VENUE: Branch Premises	 2 hrs
27.11.2015 Friday 6.00pm to 8.00pm	PRACTICE ALERT - DISCUSSIONS VAT CA. S. Venkataramani & CA. Annapurna D. Kabra VENUE: Branch Premises	  2 hrs



DIGEST OF RECENT DECISIONS OF THE INCOME TAX APPELLATE TRIBUNAL

CA. K.S. Satish, Mysore



CHARITABLE INSTITUTION

Once registration to a charitable institution has been granted under section 12A by the Commissioner, the charitable character of the institution cannot be questioned by the Assessing Officer during the course of assessment proceedings opined the Delhi 'B' Bench in Divya Yog Mandir Trust v. JCIT (2015) 153 ITD 368 (Del).

NOT BUSINESS EXPENDITURE

In Chryscapital Investment Advisors India (P) Ltd. v. DCIT (2015) 170 TTJ (Del) 185 where the assessee-company paid bonus to its managing director and director exactly in the same ratio in which they held shares and it failed to justify the payment as reward for the work done by them, the Delhi 'I' Bench observed that had the bonus not been paid to them, then it could have been paid as dividend in the same ratio in which bonus had been paid and held that the bonus paid was not allowable as a deduction from business profits.

REVENUE EXPENDITURE

The Mumbai 'F' Bench has in Urban Infrastructure Venture Capital Ltd. v. DCIT (2015) 170 TTJ (Mum) 663 expressed the view that expenditure of Rs. 86,48,765 incurred by the assessee-company for making the rented premises useful for its business

and for efficiently carrying on business constituted revenue expenditure as no new asset was created and the items on which the expenditure was incurred could not be reused on vacation of the premises.

REJECTION OF ACCOUNTS

In Yamaha Motor India (P) Ltd. v. ACIT (2015) 153 ITD 49 (Del) (TM) where the Assessing Officer rejected the books of account of the assessee-company for the reason that the average sale price of motorcycles during the year was low as compared to that during the earlier year, the Delhi 'H' Bench (Third Member Bench) took the view that merely because the realisation per motor cycle during the year was low in comparison with that in the preceding year, the Assessing Officer could not assume that the selling price charged by the assessee was understood and that the Assessing Officer was not justified in rejecting the books of account of the assessee for the said reason.

CAPITAL GAINS

Where the assessee entered into a joint development agreement with a developer in terms of which he handed over possession of the land to the developer against a consideration of 50% of the built up area, the

present value of the constructed area as estimated by the developer has to be taken as the full value of the consideration under section 48 for purposes of computing capital gains and not the fair market value thereof opined the Bangalore 'A' Bench in ITO v. N.S. Nagaraj (2015) 170 TTJ (Bang) 599.

INCOME FROM OTHER SOURCES

In Kumarpal Mohanlal Jain v. ITO (2015) 153 ITD 292 (Mum) where the facts were that the assessee paid Rs. 6,40,000 to the builder in pursuance of an agreement for purchase of two residential flats, the agreement provided for an option to the assessee to secure refund of the amount paid together with interest if possession of the flats was not given in time by the builder, the builder did not give possession of the flats even after ten years and the assessee approached the District Consumer Forum which directed the builder to refund the entire amount of Rs. 6,40,000 with interest at 9% per annum, the Mumbai 'A' Bench held that the interest received by the assessee constituted compensation for non-performance of the contract by the specified date and being a revenue receipt, was assessable as income under the head 'Income from other sources'.

(Contd. on Page 19)

Jnanadayini – ICAI National Conference held on 29th & 30th of August 2015 at Jnanajyothi Auditorium, Bengaluru



Welcoming the Chief Guest Dr. B.T. Rudresh



Chairman's address



Vice Chairman's address



Invocation dance



Inauguration



Inaugural Session



Presidential address by
CA Manoj Fadnis, President, ICAI



Chief Guest Dr B T Rudresh



Release of GST Research Paper



Presenting 'Certificate of Appreciation' to Members of GST Research Group - Few Snapshots

Inanadayini – ICAI National Conference



Release of Souvenir



Presenting ICAI Logo Wall Plate to Bengaluru Branch



Presenting ICAI Logo Wall Plate to Belagavi Branch



Presenting ICAI Logo Wall Plate to Ballari Branch



Presenting ICAI Logo Wall Plate to Hubballi Branch



Presenting ICAI Logo Wall Plate to Mysuru Branch



Presenting ICAI Logo Wall Plate to Udupi Branch



Felicitation to Chief Guest Dr B T Rudresh



Felicitation to Guest of Honor CA Manoj Fadnis, President, ICAI



Inaugural Vote of Thanks



CA Shivanand Halbavi, Chairman Belagavi Branch, with Dr. Parthasarathi Shome



Dr Parthasarathi Shome presenting the books he authored to Bengaluru Branch Library



CA Padamchand Khincha



CA Satyanarayana C S, Chairman, Mysore Branch



CA Nandaraj Khatavkar, Secretary of Hubballi branch, thanking CA Anjana Vivek



CA Prashanth Holla, Chairman, Udupi Branch with CA K S Ravi Shankar and CA K K Chythanya



CA Bhat Shivaram Shankar



Entertainment Programme



Lucky Couple

Inanadayini – ICAI National Conference



Dr. Gururaj Karajagi



Felicitation to Dr. Gururaj Karajagi



Pt. Pravin Godkhindi & Pt. Gurumurthy Vaidya



Lucky Delegate



Cross section of audience



Mr. Khurshed Batliwala delivering his spiritual address



Felicitation to Mr. Khurshed Batliwala



CA K Raghu



CA K Gururaj Acharya



Thanking to CA K Raghu



Thanking to
CA Gururaja Acharya K



CA Dilip J Thakkar



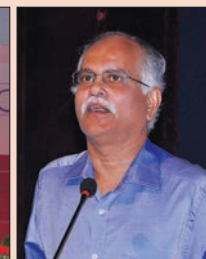
CA Shruvan Guduthur thanking
CA V. Raghuraman & CA. S. Venkataramani



CA. Sanjay M Dhariwal,
Moderator



Panel Discussion



CA. S. Ramasubramanian



CA. K.R. Sekar



Office Bearers with Branch Staff



MC's CA Sanjana Hegde and
CA Sandhya P Nagar



Thanking the MC's

Advt.

DIGEST OF RECENT DECISIONS OF THE INCOME TAX APPELLATE TRIBUNAL

(Contd. from Page 14)

CHAPTER VI-A

Job works carried out by the assessee from the raw material supplied by the customers amounts to manufacture and the income from the job works constitutes income derived by the industrial undertaking for the purpose of deduction under section 80-IB held the Mumbai 'B' Bench in Addl. CIT v. Narendra Polyplast (2015) 170 TTJ (Mum) (UO) 53.

RECOVERY

In Johnson & Johnson Ltd. v. Addl. CIT (2015) 170 TTJ (Mum) 422 where the facts were that the Tribunal had passed

an order granting stay for the collection of the demand till the disposal of the appeal by it and the Assessing Officer after obtaining a consent letter from the assessee collected a sum of Rs. 16.64 crores during the subsistence of the stay order, the Mumbai 'K' Bench opined that the Assessing Officer should not have collected the amount even with the consent of the assessee as neither the assessee nor the Revenue could flout the decision of the Tribunal and directed the Assessing Officer to refund the amount collected with interest within 15 days to the assessee.

PENALTY

The Mumbai 'J' Bench has in Joit Kumar

Jain v. Addl. CIT (2015) 170 TTJ (Mum) 676 held that where the assessee claimed exemption under section 10(38) without paying securities transaction tax and deduction under section 80-IB in excess of the amount determined in the audit report, he was guilty of concealment of income and liable for penalty under section 271(1)(c).

TAX DEDUCTION AT SOURCE

The assessee is obliged to deduct tax at source under section 194A on interest paid even if it has not claimed the interest as a business expenditure or has disallowed the same under section 40(a)(ia) ruled the Cochin Bench in Agreenco Fibre Foam (P) Ltd. v. ITO (2015) 153 ITD 262 (Coch).

Advt.



COMPANIES ACT 2013 – UPDATES ON AUDIT REPORTS

CA K Gururaj Acharya



This article brings about a Snapshot of the Latest Developments with respect to Audit and Reporting requirements under the Companies Act 2013 read with the respective rules–

CARO – Notified pursuant to S.143(11) on 10th April 2015

- **CARO to be given for All Audit Reports signed on or after 10th April 2015.**

CARO is not required to be given for- Banking, Insurance, S.8 Cos, OPC, Small Cos & Pvt. Cos. With PUC+FR < Rs. 50 Lacs, Loans < Rs. 25 Lacs or TO < Rs. 5 Cr. In all such cases, when CARO is not given the “Statement on CARO” issued by ICAI mandates that a para be included in the main audit report as follows:

“This report does not include a statement on the matters specified in paragraph 3 of the Companies (Auditor’s Report) Order, 2015, issued by the Ministry of Corporate Affairs, in terms of section 143(11) of the Companies Act, 2013, since in our opinion and according to the information and explanations given to us, the said Order is not applicable to the company.”

- **If certain clauses of CARO are not applicable, CARO Reporting can be done in the following 3 ways–**

- a. Report on all 12 points and state that a particular clause is not applicable in the respective clause.

This also acts as a checklist which

could ensure that the chances of errors or unintentional omissions are avoided.

- b. Report only on the clauses which are applicable and no comment required at all regarding the clauses not applicable. This would be in line with Main Audit Report Format issued by ICAI, which refers to CARO annexure as follows:

“As required by the Companies (Auditor’s Report) Order, 2015 (“the Order”) issued by the Central Government of India in terms of sub-section (11) of section 143 of the Act, we give in the Annexure a statement on the matters specified in paragraphs 3 and 4 of the Order, **to the extent applicable.**”

- c. Reporting on the clauses which are applicable and clubbing the non-applicable clauses in one place (as per ICAI Council Decision taken on 3rd & 4th Jan 2014).

“Illustrative Audit Report Formats” released by ICAI

The Illustrative formats are available in the ICAI website for different situations for

- **Stand alone Financial Statements + Engagement letter**

- Formats are given both with & without reporting on Internal Financial Control and its operating effectiveness (IFC). It may be noted that reporting on IFC is optional for FY 2014-15.

- **Consolidated Financial Statements**

- CARO required for CFS also. [First Time requirement]

The Illustrative Audit Report formats have been changed to accommodate the provisions of Companies Act 2013. There are no changes in the requirements of SA 700/705/706.

G/N of ICAI issued on Reporting u/s 143(3) (f) & (h) of Cos. Act

S. 143(3) Auditor’s Report shall state if:

- a) Information & Explanation Sought received
- b) Proper books maintenance (#)
- c) Branch Auditor’s report how dealt with (*)
- d) Agreement with books
- e) Compliance with A/S
- f) Observation or comments of Auditor’s on financial transactions or matters which have any adverse effect on the functioning of Co.
- g) Director disqualification
- h) Any qualification, reservation or adverse remarks relating to the maintenance of A/Cs and other matters connected therewith. (#) (*)
- i) IFC in place & operating effectiveness of such control – **OPTIONAL for FY 14-15.**

j) Such other matter as may be prescribed: - Rule 11 - 3 points

- i. Pending litigation impact
- ii. Material foreseeable losses on long term contracts
- iii. Any delay in transfer to IEPF.

*** Can be dropped if not applicable – See Table below for Gist of ICAI's G/N on Reporting.**

Inter-connected

Gist of ICAI's G/N on Reporting u/s 143(3) (f) & (h) of Cos. Act

	143(3)(f)	143(3)(h)
	<u>Matters having Adverse Effect on Co's functioning ?</u>	<u>QIn. Reservation or adverse remark relating to maintenance of A/Cs & other matters connected therewith.</u>
1. Clean – unmodified – SA 700	No comment required (Drop Para)	Generally NO Comment reqd. (Drop Para) [Exception when 143(3)(b) reg. maintenance of proper books Para is adversely commented]
2. Modified (SA 705) or EOM SA 706 QIn, Adverse opinion or disclaimer or EOM a) Matters adversely affecting Co.'s functioning: • Is pervasive affecting going concern or significantly impact the ops. of the Co. b) Other than 'a': • Managerial remuneration st. approval • Management estimate based contract receivable where ultimate collection could be different • Frauds dealt in FS NOT having continuing effect on FS.	Comment required NO comment required (Drop Para)	EOM – SA 706 Generally NO Comment reqd. (Drop Para) [Exception when 143(3)(b) reg. maintenance of proper books Para is adversely commented] Modified – SA 705: Required
3. If IFC & OE is commented as NOT OK	Comment required	Comment reqd. only if IFC weakness RESULTS IN modification of Auditor's Opinion in FS
4. S.143(1) inquiries on certain matters [@] , if reported	Comment required	NA

[@]

- a) L&A made – If secured, is it properly secured & terms are prejudicial to co.
- b) Transactions rep. by Book entries - prejudicial
- c) Shares, Debn or other securities are sold at loss.
- d) L& A made – Is it shown as Deposits
- e) Are personal exp. – Charged to Revenue Account.
- f) Shares allotted for cash – Has Cash been received & properly accounted.



DIGEST ON RECENT DECISIONS UNDER VALUE ADDED TAX LAWS

CA Annapurna D Kabra



Case1: In case of Gerb Vibration control systems Vs State of Karnataka 2015 (82) KJ 33 (T-DB):

The Appellant manufactured large range of sprint supports vibration control systems. They also provided engineering drawing and designs. It was an argument that whether the engineering drawings and designs can be considered as goods. The Appellant contended that the technical specifications and designs and drawings were claimed as part of the supply, installation and commissioning of Vibration control system. As the same is not only drawings, but also provided technical specifications, co-ordinates of the system and other technical factors and hence held that the same is 'technical know-how'. As per the SC decision in the case of Associated Cement Company Limited Vs Commissioner of Customs as well as Kerala High Court decision in the case of Mechanical Assembly Systems (India) Private Limited Vs State of Kerala, it is held that technical knowhow is nothing but goods which is very much essential to deploy and operate the system.

In the case of *Yasha Overseas Vs Commissioner of Sales Tax and Others* (2008) 17 VST 182 (SC), where it is held that REP licenses had always a market and there were people willing to sell and others willing to buy REP license at all times. Their innate value

coupled with free transferability made REP license into a marketable commodity. They were goods properly so called having innate value and a ready market.

In case of *Sunrise Associates Vs Government of NCT of Delhi and Others* (SC) wherein it is stated that a lottery ticket being in essence for a prize the sale of a lottery ticket can only be a sale of that chance. There is no other element. Every right can be sub divided into lesser rights. It is when these lesser rights culminate in a legally recognizable right, it is the latter which defines the right.

Therefore analysing the various judicial pronouncement wherein it has to be considered that transfer of technical know along with Vibration control system will become goods only it has a legally recognizable right and has a innate value.

Case 2: In the case of Avaya Construction Company Bangalore Vs State of Karnataka 2015 (82) KJ 104 (T-DB)

wherein the appellant is a subcontractor for a main contractor and the contract was executed for removal of rock particles from the underground cavern to a main contractor, who has undertaken certain works contract to a Central Government Undertaking. The sub contractor has registered under CST as works contractor and got the tyres, vehicles etc., (own purpose) for

transportation. The appellant was filing nil return and hence Assessing Authority has levied penalty for misuse of C form for the purchase of vehicles against C form. As per the SC decision in the case of *Commissioner of Sales Tax Vs Modi Sugar Mills Limited; East India Cotton Manufacturing Company Limited, V.V.S. Sugars Vs Government of Andhra Pradesh and Others*, it is held that "on going through the provisions of Section 10 of the act, it is evident that in case of offences mentioned in clauses (a) to (d), "mens rea" is a pre-requisite for initiating penal provisions and therefore in cases of those offences "bona fide" mistake will not call for penalty.

Case 3: In the case of State of Punjab and another Vs Shreyans Industries Limited 2015 (78) VST 264 (P & H)

the transporter was carrying the additional document in excess of the documents required for the transportation of goods and the additional documents were showing the loaded goods were to be delivered to C at Delhi and concluded that the goods were not being transferred as branch transfer but were actually moving in the course of inter-state sale and thus concluded evasion of tax. Due to this, check post officer ordered for detention of the goods. The Honourable High Court held that check post officer is not competent to go into nature of transaction. He

cannot assume jurisdiction of assessing officer and determine whether its branch transfer or inter-state sale. Levy of penalty on ground goods sold in course of inter-state sale and attempt to evade tax is not justified under the law.

Case 4: In the case of the Assistant Commissioner of Commercial Taxes (Audit-52) Bangalore Vs. Federal Mogul Goetz (India) Limited-2015 (82) KLJ 426 (K-HC-DB) The Appellant has filed revised return under Section 35(4) beyond 6 months with additional tax liability. The Commissioner Circular dated 7.7.2008 had clearly provided that if revised return indicated any additional tax liability, then revised return filed beyond 6 months should be accepted. The Assessment order has passed ignoring the Commissioner circular. Earlier single member judge had quashed the assessment order and consequential demand notice was issued. It is held that circular issued by the commissioner would be binding on the department and hence held that earlier order of single member Judgment does not require any interference.

Therefore the revised return filed beyond six months should be accepted subject to that there is additional tax payable but while calculating the additional tax payable and if there is any input tax credit which was missed out in those periods then it is believed that such input tax credit should be allowed while calculating the additional tax payable.

Case 5: In the case of Mohamed Assadulla proprietor rice and Paddy dealer Bhadravathi Vs State of Karnataka 2015 (82) Kar.L.J.

539 (Tri)(DB) wherein the dealer was engaged in the business of buying and selling of paddy and rice. The penalty was imposed under section 74(4) by the prescribed Authority for non submission of audited financial statement (VAT 240). The penalty of Rs. 14900/- imposed by calculating at Rs. 50/- per day is cancelled whereas the minimum penalty of Rs. 5000/- as prescribed under section 74(4) of the Act is confirmed so that appellant complies with the provisions of the Act and cannot take shelter stating that he is dealer in exempted goods. The liberal view is supported by the decision of Honourable High Court rendered in case of Fosroc chemicals (India) Private Limited Bangalore Vs State of Karnataka 2014(80) Kar.L.J. 497 (HC)(DB)

Case 6: In the case of Rane (Madras) Limited, Mysore Vs State of Karnataka 2015(82) Kar.L.J 625 (Tri) (DB) The appellant has arrived his own formula for the purpose of computing the non-deductible input tax credit as per Section 11 (a)(5) read with Section 14 of the Act and total ineligible input tax credit to arrive at the correct eligible input tax credit. This is permissible only when Section 17 is applicable read with Rule 131 of the KVAT Rules. Rule 131(5) makes it clear wherein the case of any dealer the formula prescribed under Rule 131 (3) does not give correct amount of deductible input tax then only the Commissioner is empowered to adopt a special formula as he may specify. But this is a case where as admitted by the appellant only, it is not the issue of partial rebate coming under the purview of Section 17 of the Act and Rule 131 for the purpose of apportionment of input tax. This is

a case wherein, the appellant has to claim the special rebate available on the stock transfers as per Section 14 read with Section 11(a)(5) of the Act. Therefore, the appellant is not correct in pleading to accept his formula which is beyond the statutory limits.

In the above case the appellant has calculated and declared the input tax credit by applying the special rebate formula and has disclosed the same in his monthly return and annual audited statement. The Assessing Authority while assessing the books of accounts of the appellant has revised the formula by calculating the eligible input tax credit and ineligible input tax credit and the benefit of eligible input tax credit is not given to the appellant on the basis that the same is not declared within six months from filing the original return. The revised return should be filed within six months only when there is discovery of omission or incorrect statement therein by the dealer. The Assessing Authority has referred the case of Centum industries private Limited, Bangalore 2014 (80) Kar L.J 65(HC)(DB) and Infinite Builders and Developers, Bangalore Vs The Additional Commissioner of Commercial Taxes, Zone II, Bangalore 2013 (76) Kar. L. J. 390 (HC)(DB). It is believed that the Assessing Authority should assess the output tax and eligible input tax credit based on the books of Accounts and should not deny the eligible input tax credit on revised special rebate formula stating that it is not declared in the monthly return. Input tax credit is the justifiable right of the dealer and such rights should not be denied for the procedural compliance of the dealer.



CUSTOMS & CENTRAL EXCISE

CA. N.R. Badrinath, B.Com, Grad CWA, FCA & CA. Madhur Harlalka, B.Com, FCA, LL.B



• Present structure of Customs Duty in India

The effective rate of Customs duty has increased from 28.85% to 29.45% from March 1st, 2015. This is due to increase in the rate of Excise Duty from 12% to 12.5%. Below is a table showing the computation of Customs Duty:

Particulars	Upto 28 th Feb, 2015		From 1 st March, 2015	
	Rate of Duty (%)	Amount (Rs.)	Rate of Duty (%)	Amount (Rs.)
Assessable Value (Incl. 1% loading on account of landing charges)		1000.00		1000.00
Add: BCD	10.00%	100.00	10.00%	100.00
Assessable value for CVD		1100.00		1100.00
Add: CVD	12%	132.00	12.50%	137.50
Assessable value for Customs Cess		1232.00		1237.50
Add: Customs Cess	3.00%	6.96	3.00%	7.13
Assessable value for SAD		1238.96		1244.63
Add: SAD	4.00%	49.56	4.00%	49.79
Total	-	1288.52	-	1294.42
Effective Rate of Duty	28.85%		29.45%	

• CENVAT Credit matrix

Availability of Cenvat Credit of Customs duty paid is as follows subject to other provisions of Cenvat Credit Rules, 2004:

DUTY	Manufacturer	Service Provider	Dealer
BCD	x	x	x
CVD	✓	✓	x
Cess on customs duty	x	x	x
SAD	✓	x	x

- Dealer/Importer can pass on the incidence of CVD/SAD to buyer subject to other provisions of Cenvat Credit Rules, 2004.
- Refund of SAD is available, if the imported goods are re-sold in India by charging VAT – Notification No. 102/2007-Customs dated 14-9-2007
- The effective rate of customs duty after considering credits available would be as follows:
 - Manufacturer – 10.70%
 - Service Provider – 15.69%

• **Central Excise duty payable in case of DTA clearance made by an EOU**

As per proviso to Section 3(1) of the Central Excise Act, 1994, an amount equivalent to aggregate customs duty will be leviable as Excise Duty when an EOU manufactures and clears goods to DTA. Further, *Notification No. 23/2003-CE* dated 31-3-2003 states the effective excise duty payable by an EOU in this regard as follows:

Particulars	Upto 1 st Feb, 2015		From 1 st March, 2015	
	Rate of Duty (%)	Amount (Rs.)	Rate of Duty (%)	Amount (Rs.)
Assessable Value (Incl. 1% loading on account of landing charges)		1000.00		1000.00
Add: BCD (50% of 10%)	5.00%	50.00	5.00%	50.00
Assessable value for CVD		1050.00		1050.00
Add: CVD	12.00%	126.00	12.50%	131.25
Assessable value for Customs Cess		1176.00		1181.25
Add: Customs Cess	0.00%	-	3.00%	5.44
Assessable value for SAD		1176.00		1186.70
Add: SAD	0.00%	-	0.00%	-
Basic Excise Duty	-	1176.00	-	1186.70
Education Cess	2.00%	3.52	-	-
Secondary Higher Education Cess	1.00%	1.76	-	-
Total		1181.28	-	1186.70
Effective Rate of Duty		18.13%		18.67%

Central Excise Update

Scrutiny of Central Excise return

Central Excise returns are filed in a self-assessment procedure. Hence, it is the responsibility of the department to scrutinize and verify the correctness of the returns filed by the assessee. The Board vide Circular No. 1004/11/2015-CX dated 21-07-2015 has laid down the following procedure for carrying out detailed scrutiny of returns.

- Detailed scrutiny has to be conducted regularly. Minimum of 2% and maximum of 5% of the total returns received during a month should be taken up for detailed scrutiny.
- Selection of assessees for scrutiny will be based on risk scores given by DG (Audit)
- The Chief Commissioner and Commissioners shall have the powers to manually select returns for detailed scrutiny.
- Assessee who are selected for audit in a given financial year shall not be selected for detailed scrutiny.
- Once the return of an assessee has been selected for scrutiny, the return of that assessee should not be selected for the next 12 months.
- The officer scrutinising the returns of an assessee, where necessary, may ask for documents and records for verification.



SERVICE TAX CASES

PARTS DIGESTED – VOLUME 39, PARTS 3 & 4

CA. A. Saiprasad



Departmental Clarifications

Service Tax Returns – Detailed Manual Scrutiny – Procedure

The focus would be on assessee who are not being audited. It would be conducted for assessee whose total tax paid (cash+cenvat) is below Rs.50 Lakhs. The assessee are further classified into 3 categories – Up to Rs.10 lakhs, 10-25 lakhs and 25-50 lakhs.

M.F. (D.R.) Circular No.185/4/2015-S.T. dt.30.6.15

Digital Signature – Maintenance of Records in Electronic Form and Authentication of Records - Instructions

The salient features of Notification No.18/2015 CE (NT) dt.6.7.15 has been listed down in the instant circular. N/ No.18/2015 CE (NT) has been issued prescribing conditions, safeguards and procedures for preserving electronic records by digital signature.

CBEC Circular – F.No.224/44/2014-CX.6 dt.6.7.15

Case Laws

Whether input service paid on trading is available as credit?

Appellant entered into contract for supply of parts of pre-heaters for Rs.41.45 Crores. Appellant manufactured and supplied parts worth only Rs.5.41 Crores. Remaining 36.04 Crores was supplied by procuring from other manufacturers (i.e. trading and not manufacture). Appellant paid Rs.2 Crores Commission for procuring the goods and paid Service Tax of Rs.20.18

lakh thereon and availed the same as credit. It was held that credit of Rs.20.18 lakh was ineligible since it related to trading and was not in or in relation to manufacture of goods.

F.L. Smith Pvt Ltd V. CCE, 2015 (39) STR 373 (Mad)

Delay in filing appeal before Commissioner (Appeals) – Not condonable

Delay in filing appeal before Commissioner (Appeals) beyond condonable period of 30 days – Even High Court does not have the power to condone delay.

Sturdy Industries Ltd V. UOI, 2015 (39) STR 422 (P&H)

Note: Neither High Court nor Supreme Court has power to condone delay beyond condonable period wrt Commissioner (A) but have power when delay in filing appeal is before Tribunal.

Service Tax otherwise eligible for refund, not paid – Whether recoverable?

Service Tax was not paid by assessee for transporting iron ore to port of export. However service tax paid on GTA would have been eligible for refund during relevant period, if used for export. Hence fit case for waiver of per-deposit.

Monnet Ispat & Energy Ltd V. CCE&C, 2015 (39) STR 434 (Chhattisgarh)

Advertisement and Road Shows organized to promote sales - Taxability

Assessee is an Authorised Service Station. It organized Advertisements

and Road Shows to promote sale of cars manufactured by Hindustan Motors (HM). Expenses were shared equally. Assessee issued debit notes for expenses payable by HM. Department confirmed demand under BAS. Commissioner set aside department's order. Tribunal held that to the extent assessee recovered expenses from HM, they would be treated as providing as providing sales promotion service to HM and hence amount recovered would be liable to service tax.

CCE V. Premier Motor Garage, 2015 (39) STR 490 (T)

Guarantee provided on behalf of customers for payment of dues – Whether liable for BAS?

Appellant guaranteed solvency of customer but was not responsible for payment by customer. Hence appellant contended that they are not *Del Credere* Agent and not liable to BAS. Department relied upon definition of BAS which includes 'any person who guarantees for collection or payment for such goods as services'. Tribunal held that appellant was liable to service tax.

Millenium Marketing Co. V. CC&CE, 2015 (39) STR 491 (T).

Note: Also see L&T V. Commissioner, 2006 (3) STR 321 (T-Larger Bench)

Whether renting of Bullock Cart is 'Right to Use' (i.e. liable to sales tax) or 'Supply of Tangible Goods service' (i.e. liable to service tax)?

Tribunal held that when bullock carts are supplied, effective control and

possession of bullock cart does not lie with service provider. Supply of tangible goods service is applicable only when service provider retains effective control and possession. Hence Tribunal held that assessee was not liable to service tax.

Bhima SSK Ltd V. CCE&ST, 2015 (39) STR 440 (T).

Whether unutilized and accumulated cenvat credit is eligible for refund if services are exported from unregistered premises?

The Tribunal has held that there is no bar or prohibition in law for making export from un-registered premises. Once cenvat credit is used to export service and when such credit is accumulated, refund of such credit has to be granted. Tribunal further held that subsequent registration of premises of export was sufficient.

Embitel Technologies (India) Pvt Ltd V. CST, 2015 (39) STR 612 (T).

Note: Also see mPortal India Wireless Solutions V. CCE, 2012 (27) STR 134 (Kar)

Downloading of data stored on website whether liable to service tax?

Appellant have website, where photos are available for viewing. Viewing of photos is free. However viewers can download the photos only after paying amount to appellant. Department demands tax under 'Online database access and retrieval service'. Assessee contends that amount charged is for copyright of photos. Tribunal held that collection of photos may be copyrightable but access to such photos and retrieval thereof for consideration is a web based service of providing access/ downloading digital content and hence liable to service tax.

Photolibrary India Pvt Ltd V. CST, 2015 (39) STR 637 (T).

Note: Also see ITA V. Alcatel Lucent Canada, decided on 27.2.15 by Delhi HC.

Whether refund of cenvat credit could be more than the amount shown in the returns filed with the department?

Appellant was a 100% exporter of 'Design Service'. The appellant had filed a refund claim for Rs.4,52,084/- whereas the appellant had taken credit of Rs.3,73,289/- during the impugned period as per ST-3 returns. The Tribunal held that refund cannot be restricted only to the amount of credit availed as per the ST-3 return, since it was a case of continuous business activity. The Tribunal held that Appellant was eligible for Rs.78,795/-, rejected on account of non-inclusion in service tax return for the impugned period.

Cararo Technologies India Pvt Ltd V. CCE, 2015 (39) STR 673 (T).

Note: Also see CBEC Circular DOF No.334/1/2010-TRU dt.26.2.10

Whether painting of (a) plant and machinery (b) properties belonging to railways (c) bus stand (d) plant and machinery is liable to service tax?

- (A) Appellant undertaking painting of residential quarters of Nashik Thermal Power Station (NTPS). Painting is included in 'completion and finishing service' under construction service. However construction of residential complex for own purpose (i.e. employees), is excluded by the definition. Hence painting not liable to tax in the aforesaid case.
- (B) Appellant also undertaking painting of properties belonging to railways. 'Railways' excluded from definition of commercial construction service. Department seeking to restrict

exclusion only to Railway tracks, bridges and station. Tribunal held term 'Railways' wide enough to cover all properties of railways. Hence painting not liable to tax is aforesaid case.

- (C) Appellant also undertaking painting of Bus Stand. 'Transport Terminals' excluded from commercial construction service. Tribunal held 'Bus Stand' falls under transport terminals and hence painting thereof not liable to tax.
- (D) Appellant undertaking painting of plant and machinery of NTPS. Tribunal held that painting of plant and machinery falls under commercial construction service. However NTPS set-up for generating electricity for public. Hence it is not engaged primarily in commerce or industry. Therefore service falls under exclusion clause and not liable to tax.

P.B. Rathod V. CCE, 2015 (39) STR 650 (T). *Note: Also See CBEC Circular No.80/10/2004 ST*

Whether consignee liable to pay service tax on GTA service when consignor has actually paid freight to GTA.

Appellant (i.e. consignee) purchased goods from M/s. Reliance (i.e. consignor) and paid freight charges to Reliance. Invoice issued by Reliance shows freight separately. Goods have been transported by GTA. The consignment note issued by GTA stated that 'service tax has to be paid by consignee (i.e. Appellant)'. Tribunal held that service tax is liable to be paid by consignee though freight is paid to GTA by consignor since they have been told by GTA to pay freight. That the understanding between the parties is that freight would be



charged separately, transportation would be by GTA and tax liability would fall on consignee.

Bhagyalaxmi Electroplast Pvt Ltd V. CCE&C, 2015 (39) STR 622 (T)

Note: (A) The author respectfully disagrees. As per Rule 2(1)(d)(v) of STR, 94, person who pays or is liable to pay freight either himself or through his agent is the 'person liable to pay service tax'. Unless

the Tribunal is able to demonstrate and show that M/s. Reliance (i.e. consignor) acted as agent of the appellant (i.e. consignee), service tax is liable to be paid by person who paid the freight to GTA i.e. M/s Reliance.

(B) The author is of the view that contractual obligations/ directions are subordinate to statutory obligations. The GTA/ Consignor/

Consignee cannot decide amongst themselves the person liable to pay tax. Merely because GTA states that consignee is liable to pay service tax, the consignee would not become statutorily liable, especially since it is only the person who pays freight is liable to tax and no one else, in the seven cases listed in Rule 2(1)(d)(v).

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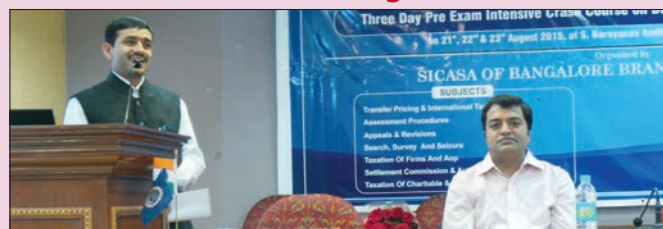
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