

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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# 2014

# HAPPY

# NEW YEAR



● 11.01.2014  
One Day Workshop  
on LLP



● 18.01.2014  
One Day Seminar on  
Financial Reporting Review

CPE - January 2014  
**31**

# Chairman's Communique . . .

**Dear Professional colleague**

**HAPPY NEW YEAR 2014**

This is the time of the year to make a new resolve to have an ambitious plan of action for the new year to achieve newer heights & greater goals in one's professional and personal life. On behalf of the Managing Committee of the Bangalore Branch of the Institute of Chartered Accountants of India, wish you all a happy, prosperous, successful & professionally rewarding New Year 2014.

**CPE Compliance Date Extended :**

As per the communication received from the CPE Committee of ICAI, New Delhi, the last date for compliance of CPE HOURS for the block period 2011-2013 is extended up to 31<sup>st</sup> March 2014.

**December 2013:**

**45<sup>th</sup> Regional Conference "UDYATI" at Vishakapatnam held on 13<sup>th</sup> & 14<sup>th</sup> December 2013.**

The Conference was organized in a grand manner on the beach resort of picturesque VUDA Park, Vishakapatnam. The confluence of chartered accountants from various parts of the country gave enough opportunity for members to network amongst fellow professionals. The conference witnessed fairly large gathering

with varied subjects for deliberation from speakers across the country and from different walks of life. **Bangalore Branch has bagged highly commended performance SIRC branch award (in the category of membership 750+) for the year 2012. SIRC presented this award at the 45<sup>th</sup> SIRC Conference held at Vishakapatnam.**



**Workshop on Real Estate - from Concepts to Practice :**

At the outset, We would like to place on record the tremendous efforts put in by our coordinator to bring in the myriad of burning issues in the real estate arena which was ably handled by learned speakers. Our Sincere thanks to CA. Ashok Raghavan for ably conducting the whole workshop in the best possible manner with rich analytical content which criss crossed the multitude of legal and the tax laws applicable to the real estate industry.

*(Contd. on next page)*

## Training Programme for Peer Reviewers



Inauguration



CA. K. Raghu,  
Vice President-ICAI



CA. Devaraj Reddy,  
Chairman, Peer Review Board, ICAI



CA Bhavani Balasubramanian



CA. Ramesh Natarajan



CA. Shyam Ramadhyan



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



Cross Section of Participants

## 17th Batch of FNFE Vaedictory Session



Interacting with 17th Batch of FNFE Participants



Cross Section of Participants

## Chairman's Communique . . .

(Contd. from previous page)

Our special thanks to all the resource persons whose deliberations on their subject were of impeccable order. The participation from all the delegates showed their interest in the matters concerning the real estate consulting and practice. On the whole this was humongous experience for the entire managing committee & staff of Bangalore branch, which received record number of delegates. Apart from the auditorium at Devraj Urs Bhavan this workshop was also live streamed to our branch premises to accommodate the members who had registered in large number.

### Information Technology Training for CA Students :

We are happy to share that in the month of December 2013 Bangalore branch has completed 500 batches of ITT training. On this momentous occasion Managing committee congratulates the entire ITT team, headed by Mr. S.M. Hussain & Ms. Ramani Naidu for their untiring efforts to keep the quality as hallmark of this very important training program of our CA Curriculum.

### Programmes for the month of January 2014:

#### One Day Workshop On Limited Liability Partnership :

Limited Liability Partnership is still in a nascent stage in our country, both professionals and the entrepreneurs are still vying the pros and cons of this new type business vehicle. This has the unique features of a partnership as well as that of a private limited company which is very well suited for certain type of projects which has a definite business life cycle and business closure dates. To appreciate, understand, distinguish this from other forms of business we have organized a one full day workshop covering the various facets of LLP. For more details about this workshop please refer elsewhere in the news letter.

#### One Day Seminar on Financial Reporting Review under the aegis of Financial Reporting Review Board (FRRB) of ICAI :

The council of ICAI constituted FRRB as its non standing committee in the year 2002. The role of FRRB is to

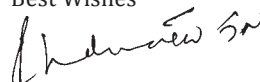
review general purpose financial statements of the enterprise and the auditor's report thereon either suo motto or on a reference made to ICAI by any regulatory body like RBI, SEBI, IRDA, MCA Etc.,. The FRRB may also review general purpose financial statements of the enterprise and the auditor's report thereon relating to which serious accounting irregularities in the general purpose financial statements have been highlighted by the media reports. FRRB reviews Financial statements to determine whether compliance with GAAP in preparation and presentation of financial statements, compliance with disclosure requirements prescribed by various regulatory bodies & finally compliance with reporting obligations of the auditor. To understand in intricate details we have organized an one day seminar on FRRB. For more details please refer elsewhere in this news letter.

#### Friday Study Circle Meetings on Companies Act, 2013 :

As we all know that New Companies Act, 2013 has come in to being with 98 sections already notified and rest of the sections and the complete set of rules will come in to being very soon, we thought apart from the workshops and seminars on Companies Act 2013 an exclusive discussion on a regular interval is required to understand the ramifications of this new law, hence the managing committee has taken decision to schedule a study circle meeting every Friday for discussion exclusively on the Companies Act 2013. Members are requested to utilize this opportunity to keep their understanding of this new law up to date as this will be the law we as professionals have to deal with all the existing and the new companies to be formed. This study circle will be in addition to the existing study circle meeting which we are regularly holding every Wednesday touching upon on various topics of current professional interest.

Wish you all a happy Sankranti & Ed-Milad.

Best Wishes



CA Ravindranath S N  
Chairman

## ANNOUNCEMENT

### Attention : Chartered Accountancy Students

Bangalore Branch of SIRC of ICAI is happy to announce **Scholarship to CA Students** on Merit cum Need based. Interested students are required to submit the duly filled applications to Bangalore Branch (Form can be downloaded from branch website [www.bangaloreicai.org](http://www.bangaloreicai.org)) **on or before 20th Jan. 2014.**

*Branch intends to distribute scholarship to the selected students on 26th January 2014 on the occasion of Republic Day celebrations.*



## CALENDAR OF EVENTS - JANUARY & FEBRUARY 2014

Date/Day	Topic /Speaker	Venue/Time	CPE Credit
03.01.2014 Friday	<i>Study Circle Series on Companies Act 2013 - No.4</i> Incorporation of Companies <b>CA. P. Manohara Gupta</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
08.01.2014 Wednesday	Emerging trends in Code of ethics <b>CA. P. R. Suresh</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
10.01.2014 Friday	<i>Study Circle Series on Companies Act 2013 - No.5</i> Meeting of Board & its power <b>Sri. C. Dwarakanath, Company Secretary</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
11.01.2014 Saturday	Workshop on LLP- covering - 1.Concepts, Unique & distinguishing features, 2. Incorporation Procedures 3. Taxation aspects 4. Conversion of Partnership Firms & Companies to LLP's <i>Coordinator: CA. K. Gururaj Acharya</i> <i>Delegate Fee: Rs.750/-</i> <span style="float: right;"><i>Details at page no: 14</i></span>	Branch Premises 10.00am to 06.00pm	<b>6 hrs</b>
16.01.2014 Thursday	International Taxation Concept of PE & Article 5 & 7 <b>CA. Rohit Jain</b> <i>Delegate Fee: Rs.250/-</i>	Jain University Auditorium, B'lore-27 05.30pm to 08.30pm	<b>3 hrs</b>
17.01.2014 Friday	<i>Study Circle Series on Companies Act 2013 - No.6</i> Emerging opportunities arising out of Companies Act 2013 for CAs <b>Dr. P. T. Giridharan, Joint Director, ICAI</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
18.01.2014 Saturday	One Day Seminar on Financial Reporting Review, under the aegies of Financial Reporting Review Board (FRRB) of ICAI <i>Delegate Fee: Rs.750/-</i> <span style="float: right;"><i>Details at page no: 13</i></span>	Branch Premises 10.00am to 06.00pm	<b>6 hrs</b>
22.01.2014 Wednesday	Occupational fraud and its prevention <b>CA. V. Guruprasad</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
24.01.2014 Friday	<i>Study Circle Series on Companies Act 2013 - No.7</i> Directors <b>Sri. J. Sundharesan, Practising Company Secretary</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
26.01.2014 Sunday	Republic Day Celebrations	Branch Premises 09.30am to 11.30am	—
29.01.2014 Wednesday	Recent issues in Service Tax <b>CA. Roopa Nayak</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
31.01.2014 Friday	<i>Study Circle Series on Companies Act 2013 - No.8</i> Meetings <b>CA. Ravi Prasad</b>	Branch Premises 06.00pm to 08.00pm	<b>2 hrs</b>
05.02.2014 Wednesday	Impact of 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. Ramabadrn</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	Full page	₹ 30,000/-	₹ 15,000/-
Inside back	Half page	₹ 24,000/-	₹ 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 - FEBRUARY 2014

Date/Day	Topic /Speaker	Venue/Time	CPE Credit
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	
13.02.2014 Thursday	Emerging Business Trends : Funding Strategies & Business Models <b>CA. Anjana Vivek</b> <i>Delegate Fee: Rs.250/-</i>	Jain University Auditorium, B'lore-27 05.30pm to 08.30pm	
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	
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	
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	
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	

### Announcement

## Coaching Classes: IPCC & FINAL for May 2014 Examinations and CPT for June 2014 Examinations

Admissions open for Subjectwise Coaching for the following subjects:

**FINAL:** Strategic Financial Management, Corporate & Allied Laws, Quantitative Techniques, Information Systems Control Audit & Indirect tax Laws.

**IPCC:** Business Laws, Taxation, Information Technology & Strategic Management, Advanced Accounting.

**Salient features:**

- Experienced, Expert and Dedicated faculty members
- Methodology – Conceptual teaching

- Affordable Coaching Fee
- The journey of CA with Bangalore Branch is that of progress with innumerable activities of knowledge supported and guided by our senior renowned faculty members – resource persons
- During the course, amazing, inspiring and motivational sessions and Orientation classes will be conducted

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

Course	Fees	Duration (4 Months)	Timings
<b>CPT</b>	<b>Rs.5,000/-</b>	20 <sup>th</sup> January 2014 to 15 <sup>th</sup> April 2014(Tentative)	05.30pm to 07.30pm (Monday to Friday) & 03.00pm to 07.30pm (Saturday) & 08.00am to 12.30pm (Sunday)
<b>IPCC &amp; FINAL</b>	<b>Rs.12,500/-</b> for Both Groups <b>Rs.9,000/-</b> for Single Group <b>Rs.3,000/-</b> for Single Subject	25 <sup>th</sup> Nov 2013 to 15 <sup>th</sup> March 2014(Tentative)	06.30am to 09.30am & 06.00pm to 09.00pm (Monday to Saturday) & 08.00am to 05.30pm (Sunday)

*Registration Fees - Mode of payment:*

DD should be drawn in favour of “**Bangalore Branch of SIRC of ICAI**” payable at Bangalore.

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

*Email: [blrregistrations@icai.org](mailto:blrregistrations@icai.org) / [blrprogrammes@icai.org](mailto:blrprogrammes@icai.org) / Website: [www.bangaloreicai.org](http://www.bangaloreicai.org)*



# TAX UPDATES NOVEMBER 2013

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

## VAT, CST, ENTRY TAX, PROFESSIONAL TAX

### PARTS DIGESTED:

- a) 65 VST – Part 1
- b) 18 KCTJ – Part 8
- c) 77 KLJ – Part 11

#### Reference / Description

[2013] 65 VST 452 (Karn. – HC);

*S.R. Ravishankar v. Addl. CCT* - In the instant case the Assessee had brought the goods from outside the State for executing the works contract. The assessment years in question are 2005-2006 and 2006-2007. The assessee for the said assessment years made an application for payment of tax on composition. The Assessing Officer granted the request and assessed the tax as per the composition. The Joint Commissioner of Commercial Taxes in suo motu revision found that the Assessing Officer was wrong in granting the request for composition. The assessment orders were set aside and the matter was remanded to the Assessing Officer regular composition.

The Additional Commissioner in revision found that the Assessee is entitled to composition provided that the goods purchased are not used in executing works contract resulting in transfer of property as envisaged under Section 15(5)(a) of the Karvat Act.

The Honourable Karnataka High Court held that in view of provisions of Section 15(5)(a), as amended with effect from 01.04.2006, the Assessee shall be entitled to composition for the assessment year 2006-2007, but not for the assessment year 2005-2006.

**2013 (77) KLJ 445 (Karn. – Tri.) (DB); J.K. Cement Works v. State of Karnataka** - In the instant the

Honourable Karnataka Appellate Tribunal held that 'cement' used in construction of factory building and foundation therein for installing machinery cannot be regarded as 'capital goods' to claim input tax credit on the same. While holding so the Tribunal held as under:

- (a) To claim input tax credit on capital goods, the claim must be in respect of movable goods and must be capital in nature i.e. for use in business other than for sale;
- (b) Further it must not be any of goods enumerated as 'input restricted goods' in Fifth Schedule under Section 11(a)(3) of the Karvat Act;

Cement though forms part of plant, is immoveable property and it is enumerated as one of the 'input restricted goods' in Fifth Schedule under Section 11(a)(3) of the Karvat Act.

## INCOME TAX

### PARTS DIGESTED:

- a) 358 ITR – Part 2 & 3
- b) 217 Taxman – Part 5 & 6
- c) 218 Taxman – Part 4 to 7
- d) 27 ITR (Trib) – Part 3 to 7
- e) 144 ITD – Part 9
- f) 145 ITD – Part 1 to 3
- g) 44 CAPJ – Part 3 & 4
- h) 45-B BCAJ – Part 1 & 2
- i) 9 International Taxation-Part 5

#### Reference / Description

[2013] 358 ITR 179 (Delhi – HC); *CIT v. Career Launcher India Ltd.* -

In the instant case Assessee engaged in the business of providing education and training was allotted land by the statutory authority. Price of land was to be in instalments along with interest at rate of 20 per cent per annum. Assessee claimed deduction of interest

in computing its business on the ground that the interest paid was not in respect of any capital borrowed from that Statutory Authority, but on price of plot remaining unpaid as per provisions of lease deed.

The Honourable Delhi High Court held that interest on borrowed capital was not allowable under Section 36(1)(iii) of the Act and since it had not been shown that incurring of debt in favour of Statutory Authority was an integral part of profit earning process of Assessee's business, interest on debt could not be allowed as business expenditure also.

Further it held that payment made by Assessee-company, engaged in providing education and training for various preparatory examinations, to its franchisees running education centers across country would not be covered by Section 194C of the IT Act.

**[2013] 358 ITR 373 (Karn. – HC); CIT and another v. Children's Education Society** - In the instant case the Honourable Karnataka High Court held that the aggregate annual receipt means, total annual receipt of each educational institution and not of all institutions of an entity.

**[2013] 358 ITR 410 (Guj. – HC); Asst. CIT v. GE India Industrial Pvt. Ltd.** - In the instant case the Honourable Gujarat High Court held that in an appeal against the order passed by the Commissioner (Appeals), it was open for the Assessee to submit the stay application requesting to stay the entire order passed by the Commissioner (Appeals).

**[2013] 218 Taxman 298 (P&H – HC); 35 taxmann.com 46; Smt. Shail Moti Lal v. CIT** - In the instant case the Appellant entered into agreement to transfer rights in property 'A' on 27.12.2002 after receipt of earnest money of Rs. 15 lakhs. Sale deed was

executed on 24.09.2004 when entire sale consideration of Rs. 1.32 crores was received. Appellant purchased property 'B' on 31.04.2003 and claimed deduction under Section 54. The Honourable Punjab & Haryana High Court held that date of agreement to sell on 27.12.2002 could not be treated as date of transfer of property A. Since the delivery of possession and receipt of entire sale consideration was on date of execution of sale deed on 24.09.2004, this date was date of transfer of property A. Further as the date of purchase of property B being prior to one year of transfer of right in property A, Assessee was not entitled to deduction under Section 54.

**[2013] 218 Taxman 308 (Guj. – HC); 36 taxmann.com 5 (Guj. – HC); CIT v. Manish Nathulal Lavti** - In the instant case Assessee, a salaried class person, earned profit amounting to Rs. 68 lakhs on sale of shares and claimed same as long-term capital gain. The Assessing Officer held that as Assessee was trading in shares, profit in question was business income.

The Honourable Gujarat High Court held that as the Assessee was an investor, gain in question was rightly treated as long-term capital gain.

**[2013] 218 Taxman 426 (Karn. – HC); 35 taxmann.com 250 (Karn. – HC); CIT v. Manjunatha Cotton & Ginning Factory** - In the instant case the Honourable Karnataka High Court dealing with respect of penalty held as under:

- (a) Penalty cannot be imposed merely because Assessee accepted assessment order levying tax and interest, unless it is discernible from assessment order that addition was on account of concealment;
- (b) Penalty can be imposed only when no explanation was offered by assessee or it was found to be false

or not bona fide. However, where explanation offered was not substantiated by Assessee, but it was found to be bona fide and all facts relating to same had been disclosed by Assessee, penalty could not be imposed;

- (c) The practice of the Department sending a printed form where all the grounds mentioned in Section 271 are mentioned would not satisfy requirement of law when the consequences of the assessee not rebutting the initial presumption is serious in nature and he had to pay penalty from 100% to 300% of the tax liability. As the said provisions have to be held to be strictly construed, notice issued under Section 274 should satisfy the grounds which he has to meet specifically. Otherwise, principles of natural justice is offended if the show cause notice is vague. On the basis of such proceedings, no penalty could be imposed on the assessee;
- (d) Where appellate authority sustained additions made by Assessing Officer, but on new grounds, penalty proceedings were initiated by Assessing Officer, without direction of appellate authority, the same was unsustainable, as subject matter of penalty proceedings was appellate authority's order and not that of Assessing Officer's. In other words it held that penalty proceedings initiated by Assessing Officer, in absence of appellate authority's direction to initiate penalty proceedings under section 271(1)(c), were unsustainable;
- (e) As the words used in the legal fiction or the deeming provisions of Section 271(1B) is Direction, it is imperative that the assessment order contains a direction. Use of

the phrases like (a) penalty proceedings are being initiated separately and (b) penalty proceedings under Section 271(1)(c) are initiated separately, do not comply with the meaning of the word direction as contemplated even in the amended provisions of law. The direction should be clear and without any ambiguity. A direction by a statutory authority is in the nature of an order requiring positive compliance. When it is left to the option and discretion of the ITO whether or not to take action, it cannot be described as a 'direction'.

**[2013] 27 ITR (Trib) 340 (Mum.); Meher R. Surti v. ITO** - In the instant case the Assessee surrendered the tenancy rights which was inherited to him. The Assessee while computing the taxable long-term capital gains on surrender of tenancy rights, claimed the cost of acquisition. The Assessing Officer rejected the claim and held that there was no cost incurred for acquisition of the tenancy rights. The Honourable Mumbai Tribunal held that as the capital asset in the shape of tenancy rights became the property of the Assessee by inheritance, the case of the Assessee clearly fell under Section 49(1)(iii)(a). Therefore, the cost incurred by previous owner of the property should be the cost of acquisition of the asset to the Assessee or the fair market value of the Assets as on 01.04.1981, at the option of the Assessee provided under Section 55(2)(ii)(b). As the case of the Assessee fell under sub-clause 49, the provisions of Section 55(2)(ii)(b) would not apply. Though the Assessee could not prove the payment of consideration in lump sum for acquisition of tenancy rights, the rent itself was the cost of the



tenancy rights. When the assessee had the option to adopt the fair market value as on 01.04.1981, the cost of acquisition at the time of acquisition prior to 01.04.191, become irrelevant. Therefore, the Tribunal held that the fair market value of the tenancy rights as on 01.04.1981, should be the cost of acquisition under the provisions of Section 55(2)(b)(ii).

Further, in the instant case the Assessee claimed the expenditure incurred on renovation of the new residential house for the purpose of deduction under Section 54 of the Act. The Assessing Officer disallowed the cost of renovation.

The Honourable Mumbai Tribunal held that where the Assessee purchased an old house and got it renovated for making it habitable as it was economical, the tax authorities could not question such a decision taken by the Assessee in the absence of any allegation of bogus claim. The Assessee made investment from taking the house habitable and the claim had been made only after the new asset was made habitable. Therefore, the Tribunal held that the Assessee was entitled to exemption under Section 54 of the Act.

[2013] 144 ITD 672 (Pune. – Trib.); 37 taxmann.com 248 (Pune. – Trib.); *Kewalkumar Jain v. Asst. CIT* - In the instant case the Honourable Pune Tribunal held that while determining the amount taxable under Section 2(22)(e), addition has to be restricted to such percentage of 'accumulated profits' as corresponds to assessee's shareholding in company.

[2013] 145 ITD 12 (Ahmd. – Trib.); 35 taxmann.com 170 (Ahmd. – Trib.); *Shrinivas R. Desai v. Asst. CIT* - In the instant case the Honourable Ahmedabad Tribunal held that where Assessee incurred bona fide construction expenditure

after purchasing new house property, additional expenses so incurred would be eligible as qualifying investment under Section 54 of the Act.

[2013] 145 ITD 150 (Vishakapatnam – Trib.); 37 taxmann.com 263 (Vishakapatnam – Trib.); *Ganta Vijaya Lakshmi v. ITO* - In the instant case the Honourable Vishakapatnam Tribunal has held that the expression 'assessee' used in Section 54B/54F could not be extended to include major married daughters. Therefore, it held that the Assessee was not entitled to claim exemption in respect of investment made in name of her daughters.

[2013] 145 ITD 171 (Chennai – Trib.); 36 taxmann.com 6 (Chennai – Trib.); *Coromandel Industries (P) Ltd. v. Asst. CIT* - In the instant case the Chennai Tribunal following its own decision in case of Smt. Sriram Indubal v. ITO [2013] 32 taxmann.com 118 (Chennai) held that if assessee had invested Rs. 50 lakhs each in specified assets in two different financial year but within six months from date of transfer of capital asset, restrictive proviso to Section 54EC would not limit exemption claim to Rs. 50 lakhs only.

[2013] 145 ITD 175 (Mum. – Trib.); 37 taxmann.com 289 (Mum. – Trib.); *Dabur India Ltd. v. Asst. CIT* - In the instant case the Honourable Mumbai Tribunal held that tenancy rights cannot be construed as 'intangible' assets falling within the meaning of Explanation 3 to Section 32(1) and hence there can be no allowance of depreciation on said rights.

With respect to 14A disallowance, it held that amount disallowable under Section 14A is covered under Clause (f) of Explanation 1 to Section 115JB(2) and thus, said amount has to be added back while computing amount of book profit.

[2013] 65 VST 440 (Karn. – HC); *Spectrum Consultants India Pvt. Ltd. v. CIT* - In the instant the Assessee remitted employee's contribution of Rs. 20.76 lakhs from out of Rs. 22.91 lakhs during the financial year ending 31.03.2006 and the balance, well before the extended date, i.e., 30.11.2006 for filing of return of income. The Assessing Officer disallowed the payment on ground that Section 43B(b) being non-obstante clause, allowed payment till due date of filing return for only employer's contribution.

The Honourable Karnataka High Court held that Employee's contribution under EPF and ESI Act, remitted after due dates prescribed under said statutes, but before extended due date for filing return under section 139(1), is allowable as deduction.

[2013] 45-B BCAJ 25 (Mum. – Trib.); [ITA No. 441/Mum/2011 dated 10.07.2013]; *Om Stock & Commodities Pvt. Ltd. v. DCIT* - In the instant case the Honourable Mumbai Tribunal dealing with respect of Sections 44AB, held that value of transaction of online trading in commodities through Multi Commodity Exchange of India without taking delivery does not constitute turnover for computing the limits under Section 44AB. There is no element of turnover where there is no physical delivery of commodities given or taken.

[2013] 45-B BCAJ 28 (Mum. – Trib.); *TS-341-ITAT-2013-MUM; Sargent & Lundy, LLC, USA v. ADCIT (International Taxation)* - In the instant case the Honourable Mumbai Tribunal held that provision of blueprints i.e. technical designs and plans, without recourse and capable of being used in the future, satisfies the test of 'make available' as stipulated under the Indo-USA DTAA.



**[2013] 45-B BCAJ 58 (Supreme Administrative Court of Finland); A Oyj** - In the instant case, the issue that came up before the Supreme Administrative Court of Finland was whether or not the location savings should be taken into account when setting the appropriate price between the Finnish A Oyj and its Estonian subsidiary, B AS.

The Court emphasised that the location savings could not be considered in the pricing of the goods because the activities by B AS were not comparable to the activities of previously performed by A Oyj. A Oyj's activities had mainly been handcrafts made at home using simple tools, whereas the manufacturing in Estonia was suited for industrial production. Consequently, the location savings principle could not be applied as suggested by A Oyj.

**[2013] 45-B BCAJ 164 (Mum. – Trib.); [ITA No. 8532/Mum/2011 dated 13.09.2013]; Citicorp Finance (India) Ltd. v. Asst. CIT** - In the instant case the Honourable Mumbai Tribunal held that Assessee is entitled to TDS credit based on the evidences even if the same is not shown in Form 26AS **[2013] 45-B BCAJ 166 (Mum. – Trib.); 37 taxmann.com 343 (Mum. – Trib.); United Helicharters Pvt. Ltd. v. Asst. CIT** - In the instant case

the Honourable Mumbai Tribunal held that in term of Article 12(4)(b) of Indo-USA DTAA, to constitute Fee for Technical Services, the services should have 'made available' technical knowledge, experience, skill, know-how or processes of consist of the development and transfer of a technical plan or technical design.

Applying the same to the instant case the Tribunal held that training given to the pilots and other staff was as per the requirement of the regulator and was necessary for eligibility of the pilots and other staff working in aviation industry. Such training does not fall under the term 'make available' under Indo-USA DTAA.

**[2013] 45-B BCAJ 169 (Delhi – HC); [ITA No. 65 of 2013 dated 01.07.2013, 06.09.2013]; CIT v. Rajinder Kumar** - In the instant case the Honourable Delhi High Court dealing with Section 40(a)(ia), held that Section 40(a)(ia), prior to the insertion of the proviso by the Finance Act, 2010, was not free from interpretative difficulties and problems. The amended provisions are clear and free from any ambiguity and doubt and help curtail litigation. The amended provision clearly supports view that the expression 'said due date' used in clause A of proviso to unamended Section refers to time specified in section 139(1). The

amended Section 40(a)(ia) expands and further liberalises the statute when it stipulates that deductions made in the first eleven months of the previous year but paid before the due date of filing of the return, will constitute sufficient compliance

Thus, the Court held that no disallowance can be made under section 40(a)(ia) when TDS deducted in last month of previous year has been paid before due date of filing IT return **[2013] 45-B BCAJ 205 (Raj. – HC); [2013] 37 taxmann.com 154 (Raj. – HC); CIT v. Rajasthan Urban Infrastructure** - In the instant case the question that was before the Honourable Rajasthan High Court was whether TDS is to be deducted under Section 194J on service tax applicable on fees to be paid to consultants.

The Court referring to Section 194J and Circular dated 28.04.2008, held that the Section 194J uses the words 'any sum paid' which related to the fees for professional or technical fees and would not include the service tax which was to be paid separately. In the instant it observed that as per the terms of the agreement, service tax was to be paid separately and was not included in the fees payable. Hence, the Court held that Assessee was not liable to deduct tax at source on service tax. ■

**BANGALORE BRANCH OF SIRC OF ICAI  
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**

**LIST OF HOLIDAYS FOR 2014**

Holiday	Date & Day
1. Makara Sankranti	January 15, Wednesday
2. Republic Day	January 26, Sunday
3. Maha Shivaratri	February 27, Thursday
4. Ugadi	March 31, Monday
5. Mahavir Jayanti	April 13, Sunday
6. Good Friday	April 18, Friday
7. May Day	May 1, Thursday
8. Buddha Purnima	May 14, Wednesday
9. Independence Day	August 15, Friday

Holiday	Date & Day
10. Ganesh Chaturthi	August 29, Friday
11. Mahatma Gandhi's Birthday	October 02, Thursday
12. Vijaya Dashami	October 04, Saturday
13. Deepavali	October 24, Friday
14. Kannada Rajyothsava	November 01, Saturday
15. Muharram	November 04, Tuesday
16. Guru Nanak's Birthday	November 06, Thursday
17. Christmas Day	December 25, Thursday



# 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 SALES TAX

- The appellant was involved in rendering medical services. It had set up clinics all over India, where it hired doctors to render the medical services such as consultancy, diagnosis, treatment etc. The said doctors, in the course of treatment, dispensed medicines to the patients that received the various medical services by them. The Assessing Authority, decided to treat the turnover of the appellant as 30% for services and 70% as proceeds from sale of medicines. The appellant claimed that the medicines were purchased and dispensed by the doctors in their names and the appellant had nothing to do with the purchase of medicines and thus the liability of tax on the purchases falls on the individual doctors. As for the payments made to the vendors, the appellant put forth that the payments were made to the vendors on behalf of the doctors and the amount so paid was deducted from the consulting fees of each of the individual doctors respectively.

The appellant also put forth that the patients were not charged separately for the medicines but for a whole medical treatment package which also included the medicines but that formed a very low portion of the total cost. The appellant claimed that the transactions they were involved in were composite transactions and were not works contracts/catering

contracts/hire purchase and thus cannot be bifurcated into divisible contracts for the sale to be isolated and subjected to tax.

The Appellate Tribunal held that, the nature of the transactions was that of a service and that the patients were concerned about the treatment they received and the effect that the medicines were having on them rather than being concerned about what or which medicine they were receiving and thus the nature of the transaction was dominantly that of a service. The Tribunal held that the above said transactions did not amount to sale and the disputed orders of the Assessing Authority and the First Appellant Authority were set aside. [*Dr. Batra's Positive Health Clinic Private Limited, Bangalore Vs. State of Karnataka. 2013(77) Kar.L.J.6 (Tri.)(DB)*]

## KARNATAKA SALES TAX

- The appellant acquired rights to extract sand from the Cauvery river bed from the Mines and Geology Department of the Government of Karnataka. The Appellant was ordered by the Joint Commissioner of Commercial Taxes (Appeals) to register himself under the above mentioned Act and also pay the tax on the value of sand sold by him and penalty on such tax. The appellant claimed that he was not involved in any sale or purchase of goods and that he had just acquired

from the Mines and Geology Department, the right to extract sand but did not actually extract any sand. He claimed to have sold the acquired rights to various truck drivers at a specific rate per truck load of sand that they extracted and produced before the Appellate Tribunal, the various receipts that he issued to the truck drivers once they paid the royalty amount.

The appellant also put forth, that all the receipts issued by him were authenticated by the Mines and Geology Department by affixing their seal on the receipts. These authenticated receipts served as permits for the truck drivers to transport the extracted sand from the site of extraction to the concerned place. The appellant thus claimed that as per the Karnataka Sales Tax Act of 1957, such a sale of rights does not amount to sale of goods and thus was not to be taxed under the same. The Tribunal held that the demand of the respondents for the appellant to register under the above mentioned act and also pay tax on the sale of sand allegedly extracted by him was wrong and unjust. It was also observed that the burden of proving that the appellant extracted sand and sold the same falls on the respondent and that they did not have any such evidence to support their claims. The Tribunal thus ordered for the impugned orders to be set aside and claims against the appellant in those orders waived off. [*N.Murali Vs.State of Karnataka. 2013(77) Kar.L.J. 114 (Tri.) (DB)*]

- The assessee was an authorised dealer of a car manufacturing company and sold cars of the manufacturer to local customers at a sale price that also included the cost of warranty. If a customer came

across a defective part, the same would be replaced by the assessee free of cost, and the replaced part would be sent back to the manufacturer along with a debit note. The manufacturer on the receipt of the debit note and after inspection of the replaced part, would issue a credit note in the assessee's name to reimburse the cost of the part that the assessee used to replace the defective part and the cost of labour for such replacement. The assessee claimed the above received amounts as deductions and did not pay tax on the same. The Department was of the view that the above said transactions should be taxed and interest and penalty for delayed payment of tax should also be levied on the same. The assessee and the appellant both presented earlier cases and based their arguments on the cases they mentioned.

The Tribunal was of the view that in the above mentioned transactions, the manufacturer has paid the price of the spare parts to the assessee and if the spare parts were purchased in the open market, both the assessee and the manufacturer would have to pay tax on the purchase of the said parts. Thus it was held that tax must be paid by the assessee for such transactions. [*State of Karnataka Vs. Cauvery Motors (Private) Limited, Bangalore 2013(77) Kar.L.J. 1(HC) (DB)*]

- The appellant company was involved in trading and execution of works contracts in the nature of civil works. The appellant had deducted from the total turnover, remuneration paid to a director and consulting fees paid to a structural engineer as "Labour and like

charges" to arrive at taxable turnover related to the works contracts executed by them to be subjected to tax under the Karnataka Sales Tax Act, 1957. The appellant had also deducted depreciation on the machinery used for execution of works contract and vehicle tax paid for vehicles deployed for use in the execution of the works contract.

The above mentioned expenses were contested by the department and the appellant had thus filed an appeal in front of the Hon'ble Joint Commissioner of Commercial Taxes who also ordered for the said deductions to be denied.

The appellant has claimed that the director, to whom remuneration was paid, was directly involved in the execution of the works contracts and thus the remuneration paid to him was deductible. The Tribunal observed that the records submitted by the appellant company were enough to conclude that both, the director and the consultant engineer were directly involved in the execution of the works contracts and that the respective remuneration and consulting fees paid to them were deductible. In, the matter of depreciation of machinery and the vehicle tax paid on vehicles, the Tribunal, relying on earlier cases, ruled that these expenses were also deductible and the Hon'ble Joint Commissioner of Commercial Taxes had erred in judging otherwise. [*Suresh Enterprises Private Limited, Hubli Vs. State of Karnataka. 2013(77) Kar.L.J. 257 (Tri.) (DB)*]

### **KARNATAKA VALUE ADDED TAX**

- The appellant company was registered under the Karnataka

VAT Act, 2003. In determining the taxable turnover, the appellant had deducted the amount collected as tax from the total turnover. The respondent put forth that the appellant had not issued sale invoices in accordance with the requirements prescribed in the Karnataka VAT Act, 2003 and had issued invoices wherein, the total amount payable by a customer was mentioned but the rate and amount of tax on the goods was not. The appellant did not dispute the fact that the invoices were issued in the above mentioned manner, but claimed that such issue of invoices which did not contain details as prescribed by the Act, would only attract penalty as per the act and the amount collected as tax from the issue of such invoices were eligible to be deducted from the turnover.

The Bench commented that just because a Section of the Act provides only for penalties related to tax invoices not issued in accordance with the relevant Section, it does not mean that the dealer can go ahead and seek a deduction under the Rules. It was also observed that VAT being a multi point tax, wherein input tax credit on purchases can be claimed while computing net tax payable, it was essential for a buyer to know the amount of tax that is paid on the purchases and it is thus necessary to explicitly show the amount of tax on invoices. It was then ruled that the claims of the petitioner were wrong and the appeals were dismissed. [*Indian Rayon and Industries Limited (Now known as Aditya Birla Nuvo Limited), Bangalore Vs. State of Karnataka. 2013(77) Kar.L.J. 293 (HC) (DB)*]



# REFRESHER COURSE FOR ACCOUNTANTS

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

## **Fifth 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 Fifth batch of the course will be conducted on the following days:

**08<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup>, 16<sup>th</sup> & 17<sup>th</sup> January 2014**

**Timings: 10.00am to 05.30pm**

**Fees: Rs. 6,000/-** 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

## **IMPORTANT DATES TO REMEMBER DURING THE MONTH OF JANUARY 2014**

5 <sup>th</sup> January 2014	Payment of Excise Duty for December 2013 by Corporates Payment of Service Tax for December 2013 by Corporates Payment of Service Tax for October – December 2013 for Non-Corporates
6 <sup>th</sup> January 2014	E-Payment of Excise duty for December 2013 by Corporates E-Payment of Service Tax for December 2013 by Corporates E-Payment of Service Tax for October – December 2013 for Non-Corporates
7 <sup>th</sup> January 2014	Deposit of TDS/TCS Collected during December 2013 STPI Returns for the month of December 2013
10 <sup>th</sup> January 2014	Monthly Returns for Production and Removal of Goods and CENVAT Credit for December 2013 Monthly Return of excisable Goods Manufactured & Receipt of Inputs & Capital Goods by Units in EOU, STP, HTP for December 2013 Monthly Returns of Information relating to Principal Inputs for December 2013 by Manufacturer of Specified Goods who Paid Duty of Rs.1 Crore or More during Financial Year 2013-14 By PLA/CENVAT/Both STPI Quarterly report for the period of October 2013 to December 2013
15 <sup>th</sup> January 2014	Payment of EPF Contribution for December 2013 Return of Labour Welfare Fund for period of January 2013 to December 2013 Return of Employees Qualifying to EPF during December 2013 Monthly Return (VAT 120) and Payment of VAT/COT for the month of December 2013. Quarterly Return and Payment of CST and VAT Collected During October 2013 to December 2013 Quarterly e-TDS for the period October 2013 to December 2013 (Form 24Q, 26Q, 27Q and 27EQ)
20 <sup>th</sup> January 2014	Monthly Return and Payment of Profession Tax Collected During December 2013 Monthly Return (VAT 100) and Payment of CST and VAT Collected During December 2013
21 <sup>st</sup> January 2014	Deposit of ESI Contributions and Collections for December 2013
25 <sup>th</sup> January 2014	Monthly Returns of Employees Joined & Left the organisation during December 2013 under EPF Monthly Returns of Employees Joined & Left the organisation during December 2013 under ESI Consolidated Statements of Dues and Remittances Under EPF and EDLI for the December 2013
30 <sup>th</sup> January 2014	Quarterly TDS and TCS certificates (Form 16A/ Form 27D) as per section 203.

# Awareness Programme on Financial Reporting Practices

on Saturday, 18<sup>th</sup> January 2014 at 09.30am to 06.00pm  
at Branch Premises



Organised by Financial Reporting Review Board of ICAI (FRRB)

Hosted by Bangalore Branch of the Southern India Regional Council of ICAI

Timing of Sessions	Sessions / Topics / Resource Persons
09:00 AM - 9:30 AM	Registration
09:30 AM - 10:00 AM	<b>Inaugural Session</b>
10:00 AM - 11:30 AM	<b>SESSION I</b> Chairman - <b>CA B. P. Rao</b> , Past President, ICAI Overview of Financial Reporting Review Board and its activities <b>CA Sanjiv Choudhary</b> , Central Council Member & Member, FRRB Latest Amendments in Companies Act with reference to Accounts & Audit <b>CA Nilesh Vikamsey</b> , Central Council Member & Chairman, FRRB
11:30 AM - 11:45 AM	TEA BREAK
11:45 AM - 01:30 PM	<b>SESSION II</b> Chairman – <b>CA K. Viswanath</b> , Past Chairman, SIRC of ICAI Common Non-Compliances in the General Purpose Financial Statements observed by FRRB <b>CA. Babu Abraham Kalivayl</b> , Central Council Member & Member, FRRB Developments in Audit Reporting Requirements with reference to financial reporting <b>CA. K. Gururaj Acharya</b>
01:30 PM - 02:15 PM	LUNCH BREAK
02:15 PM - 03:45 PM	<b>SESSION III</b> Chairman – <b>CA. C.N. Srinivasan</b> , Past Regional Council Member, SIRC of ICAI Regulatory Compliances – Schedule VI (R) <b>CA. S. Sundaresan</b>
03:45 PM - 04:00 PM	TEA BREAK
04:00 PM - 05:00 PM	<b>SESSION IV</b> Chairman – <b>CA. K.N. Prabhashankar</b> Issues in CARO <b>CA. Satyanarayana Murthi</b>

**CA. Ravindranath. S.N**  
Chairman

**CA. K. Gururaj Acharya**  
Programme Coordinator

**CA. Allama Prabhu M.S.**  
Secretary

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

The cheques / Demand Drafts should be drawn in favour of “**Bangalore Branch of SIRC of ICAI**” payable at Bangalore. The cheques should be sent to the Bangalore Branch at below address. Please mention your Name, Membership No., Contact Number and Place at the back of the cheque / demand draft.

**Limited seats to 225 members only, registration on first come, first served basis.**

Contact : **Ms.Geetanjali D.**, ‘ICAI BHAWAN’, No.16/O, Millers Tank Bed Area,  
Vasanthnagar, Bangalore - 560052, Tel: **080-30563500 / 3513**  
Email: **blrregistrations@icai.org** | Website: **www.bangaloreicai.org**



## ONE DAY WORKSHOP ON LLP

On Saturday, 11<sup>th</sup> January 2014 at 10.00am to 06.00pm  
at Branch Premises



TIMINGS	SESSION DETAILS	SPEAKERS
09.30 - 10.00	Inauguration	
10.00 - 12.15 [11 to 11.15 Tea Break]	Nature and Distinguishing features of LLPs, Partners and their Relations, Contribution & Financial Disclosures	CA. K. Gururaj Acharya
12.15 - 01.30	Incorporation of LLPs; Conversion of Partnership Firms & Companies to LLP's	CS. S. Dhanpal
01.30 - 02.30	Lunch Break	
02.30 - 04.00	Taxation aspects of LLP	CA. B.P. Sachin Kumar
04.00 - 05.30	Panel Discussion with ROC Officials	CA. Seher Ponnraj, Incharge ROC, Kar. Mr. Keerthi Thej, AROC, Kar.

CA. Ravindranath. S.N  
Chairman

CA. K. Gururaj Acharya  
Workshop Coordinator  
Delegate Fee: Rs.750/-

CA. Allama Prabhu M.S.  
Secretary

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

**Limited seats to 225 members only, registration on first come, first served basis.**

For further details please contact: Ms. Geetanjali D., Tel: 080-30563500 / 3513

Email: [blrregistrations@icai.org](mailto:blrregistrations@icai.org), Website: [www.bangaloreicai.org](http://www.bangaloreicai.org)

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# Workshop on Real Estate - from Concepts to Practice



Inauguration



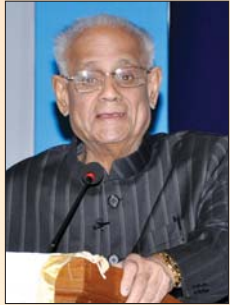
Chief Guest  
Sri. M. R. Jaishankar,  
Chairman, Brigade Group



Workshop Co-ordinator  
CA. Ashok Raghavan



CA. P. R. Suresh,  
Vice Chairman, SIRC of ICAI



CA. N. C. S. Raghavan



CA. S. Venkataramani



CA. Adarsh Ranka



Mr. Arvind Raghavan,  
Advocate



CA. Madhukar N. Hiregange



Mr. M. S. Nagaraja,  
Advocate



CA. H. Vishnu Moorthi



Mrs. Nagavalli G.,  
Advocate



CA. Vijay Raja



CA. Padamchand Khincha H.



Chairman presenting Winner Trophy of  
Inter State Cricket match 2013 to Karnataka Team



Felicitating Chief Guest Sri. M. R. Jaishankar,  
Chairman, Brigade Group



Felicitating Workshop Co-ordinator  
CA. Ashok Raghavan



Cross Section of Participants

## Speakers at Study Circle Meetings



CA. A. Sai Prasad



CA. P. R. Suresh



CA. Vivek Mallya



CA. K. S. Sathish, Mysore



Sri. J. Sundaresan,  
Company Secretary



Sri. M.R. Gopinath,  
Company Secretary

# Advt.

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