

Rs. 15/- per copy

The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)

Visit <http://wirc-ical.org>



WESTERN INDIA CHARTERED ACCOUNTANTS NEWSLETTER



Volume 37 | No. 10 | October, 2011

WIRC wishes its members and
their family members a HAPPY DIWALI and
a PROSPEROUS NEW YEAR



Workshop on Understanding XBRL held on 9th September, 2011



Shri Ravi Mohan, Chief Guest, CGM, RBI, CA. Ram Iyer, Faculty, CA. Rajesh Jain.

Workshop on Understanding XBRL held on 16th September, 2011



CA. Atul Bheda, CCM, & Speaker, CA. Durgesh Kabra, RCM, CA. Balmukund Gattani.

Other Speakers at Workshop on Understanding XBRL on 9/9/2011



Miss Suchita Goyal



Miss Purna Tiwari



Shri Mahesh Bengali



Shri Samir Dadia

Other Speakers at Workshop on Understanding XBRL 16/9/2011



CA. Vishal Gada



CA. Anil Doshi



CA. Ganesh Rajgopalan



CA. Bijal Desai

Other Speakers at Workshop on Basics of DTAA held on 1/10/2011

Seminar on DCF Method held on 17th September, 2011



CA. Sudha Bhushan, CA. Ashok Jain, RCM, CA. Sujal Shah, Faculty, CA. Harshal Bhuta.

Other Speakers



CA. Dhruv Desai



CA. Pinkesh Billimoria



CA. Parag Ved

Various Speakers at the Indirect Tax Refresher Course – VAT Audit Part I



CA. Sujata Rangnekar



CA. Janak Vaghani



CA. C.B. Thakar



CA. Rajat Talati

Various Speakers at the Indirect Tax Refresher Course – Service Tax Part II



CA. Naresh Sheth



Adv. Bharat Raichandani



CA. Sunil Gabbhawalla



Adv. Vipin Jain

Seminar on Concurrent Audit of Banks held on 24th September, 2011



CA. Shardul Shah, Secretary, WIRC, CA. Ramesha Shetty, Faculty, CA. Dilip Apte, RCM, CA. Nikhil Damle.

Other Speakers



CA. Nitant Trilokekar



CA. Niranjana Joshi



CA. Abhay Kamat

Seminar on IND-AS held on 3rd September, 2011



CA. Sunil Patodia, RCM, CA. Shardul Shah, Secretary, WIRC, CA. Rakesh Agarwal, Faculty, CA. Timal Maru

Other Speakers



CA. Jitesh Bheda



CA. Yagnesh Desai



CA. Bharat Shetty

CHAIRMAN'S



Dear Members & Students,

The hectic month of September may be over, but now we are busy completing documentation for audits carried out and the filing of returns to ROC. In addition, many of us have to attend board meetings on quarterly reviews while also filing quarterly returns under various Acts for our clients. In short, October is turning out to be more busier than September. Despite our crammed and cramped schedules, I would request you to look at our seminars on IPR, LLP, Due Diligence, IND-AS and Project Finance. All these subjects are extremely relevant to the current scenario for members in practice as well as for members in Industry. In order to have a professional edge, we need to develop expertise in niche areas. We have always believed in the maxim “उद्धरेदात्मनात्मानम्” which teaches us that our future is in our hands only and no other person can help us progress.

If you have ever regretted not gaining expertise in these relevant subjects in the past (other than Tax and Audit), now is the time to put those disappointments to rest. It is said in Sanskrit – “गते शोको न कर्तव्यो भविष्यं नैव चिंतयेत् । वर्तमानेन कालेन वर्तयन्ति विचक्षणाः॥”, meaning that we should not think of what we have lost in the past or whether we will succeed in future but look and act in the present.

I would also like to draw your attention to the Residential Refresher Course planned at Silvassa. This course will give Members much needed time to relax, for those who can afford to do so, as well as provide food for thought. The Joint Regional Conference of all five regions of ICAI would be an important event at Nagpur which none of us should miss. We have also planned meetings on revised Schedule VI and current MCA Circulars in various parts of the Region for the benefit of our members.

A new intensive course has been added to our burgeoning kitty of courses taught by the WIRC. Some Members who practice in non-traditional areas can look at the Intensive Study Course on SEBI Rules and Regulations to update themselves on related matters.

WIRC recently held an interactive meeting with Commissioner and other officials of Income Tax on issues regarding TDS. A second such meeting is planned during the month. Two other interactive meetings held during the month were one on Arbitration with those members who have completed the certification course of ICAI, and another with the Regional Director and ROC on various matters in Company Law Administration. Members were also updated in the series of seminars on XBRL.

I am happy to say that branches have taken the initiative on Career Counselling in Rural and Semi-Urban Areas very seriously. Pune branch has launched the first programme in the series and will repeat it with several other colleges in and around Pune. I congratulate them for furthering this initiative in the Diamond Jubilee Year.

Team WIRC is busy in preparations for the CA Women's Conference and the Regional Conference at Mumbai to be held in November and December respectively. At least ten branches are busy preparing for the Joint Conferences with WIRC. This will also make the next quarter extremely busy for the Region with respect to upgrading of knowledge. As the great Benjamin Franklin remarked, “If a man empties his purse into his head no one can take it away from him. An investment in knowledge always pays the best interest”.

I would also like to take this opportunity to wish all of you a Happy Diwali and a Prosperous New Year.

With best regards,

CA. Shrinivas Y. Joshi



Page 4
Forthcoming
Events

Page 10
Forthcoming
Study Circle
Meetings

Page 10
Forthcoming
Branch
Meetings

Page 11
Bulletin Board

Page 14
Law Updates

Page 21
Recent
Judgements

EDITORIAL BOARD

Editor: CA. Shrinivas Joshi

Joint Editor: CA. Shardul Shah

Members

CA. Bhavna Doshi • CA. Julfesh Shah • CA. Sanjeev Lalan • CA. Mangesh Kinare
• CA. Anil Bhandari • CA. Neel Majithia

OFFICE BEARERS

CA. Shrinivas Joshi, Chairman
CA. Bhailal Patel, Vice-Chairman
CA. Shardul Shah, Secretary
CA. Julfesh Shah, Treasurer

FORTHCOMING events

For Seminar registration, enquiry contact 3980 2923 / 2922. Cheques should be drawn in favour of "WIRC OF ICAI" and sent to WIRC Office, ICAI Bhawan, Cuffe Parade • R. No. 580, Aayakar Bhawan, Churchgate • RVG Extension Counter, Andheri (W) • Mulund Reading Room, Mulund (W) • Dadar Reading Room, Dadar (E)

DATE	PROGRAMME	TIME	VENUE	FEES ₹	CPE	PG. NO.
29/10/2011	Seminar on LLP	10.00 a.m. to 6.00 p.m.	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	1000	06	05
04 to 6/11/2011	Sub-Regional Conference at Goa	2.00 p.m. onwards	Nanu Resort, Goa		12	06
05/11/2011	Seminar on ESOPs	10.00 a.m. to 6.00 p.m.	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	1000	06	05
11/11/2011	Seminar on Authority of Advance Rulings - Law & Procedure	9.30 a.m. to 1.00 p.m.	Walchand Hirachand Hall, Indian Merchants' Chamber, Churchgate,	600	—	05
11, 12, 13/11/2011	RRC at Silvassa	11.00 a.m. onwards	Ras Resorts, Silvassa 128(P)(I), Silvassa Naroli Road	5750	14	05
12/11/2011	Full Day Seminar on Due Diligence	10.00 a.m. to 6.00 p.m.	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	1000	06	06
19/11/2011	Seminar on Business Restructuring	10.00 a.m. to 6.00 p.m.	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	1000	06	06
19/11/2011	CA Womens' Conference	10.00 a.m. to 6.00 p.m.	Y.B. Chavan Centre, Jagannath Bhosale Road,	1200	06	06
03/12/2011	Seminar on KPO	10.00 a.m. to 6.00 p.m.	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	1000	06	07
10/12/2011	Seminar on EO, IT Parks and Special Economic Zone	10.00 a.m. to 6.00 p.m.	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	1000	06	07
11 & 12/11/2011	Workshop on Project Finance	10.00 a.m. to 6.00 p.m.	Hotel J.W. Marriott, Juhu Tara Lane, Juhu	5000	12	07
ATTENTION MEMBERS IN INDUSTRY						
21, 23, 25 28/11/2011	Seminar on Industry Wise IND-AS	2.00 p.m. to 6.00 p.m.	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	1000	16	08
26/11/2011	Seminar on Information Technology	10.00 p.m. to 6.00 p.m.	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	1000	06	08
10/12/2011	Workshop on Hotel and Tourism Industry	10.00 a.m. to 6.00 p.m.	Hotel Sea Princess, Juhu Tara Road, Juhu	2000	06	08
14, 16, 18, 21, 23, 25, 28, 30/11/2011	Intensive Study Course on SEBI Rules & Regulations	6.00 p.m. to 8.00 p.m.	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	2500	16	08
STUDENTS						
24/25/11/2011	National Convention for CA Students "Breaking the Habit"	9.00 a.m. to 6.00 p.m.	Yogi Sabhagraha, Swami Narayan Temple, Dadar (E)	500		09

For Online Event Registration & Payment Visit www.wirc-icai.org

Certificate Course on Arbitration at Hotel Orchid, Vile Parle (E) For More Details Visit www.icai.org

26th REGIONAL CONFERENCE OF WIRC

CPE 12 HRS

Days & Dates Friday, 16th & Saturday 17th December, 2011

Venue Jamshed Bhabha Auditorium, NCPA, Nariman Point, Mumbai

Time 9.30 a.m. to 6.00 p.m. (Reg. 9.00 a.m. to 9.30 a.m.)

Fees ₹ 3,500/- (inclusive of course material, breakfast & lunch)



WIRC

The Cheque should be drawn in favour of WIRC-ICAI, and sent to WIRC Office, ICAI Bhawan, 27, Cuffe Parade, Mumbai 400 005.

Lecture Meeting on Stress Management		CPE HRS	Lecture Meeting on Pension & Warehousing Sector		CPE HRS	Lecture Meeting on Tax Regulations in USA		CPE HRS
DAY & DATE SATURDAY, 22ND OCTOBER, 2011		02	DAY & DATE FRIDAY, 4TH NOVEMBER, 2011		02	DAY & DATE TUESDAY, 22ND NOVEMBER, 2011		02
Venue	Madhuban Gardens, Opp. Badwaik Hospital, L.B.S. Road, Bhandup (west)		Venue	Council Hall, ICAI Bhawan, Cuffe Parade		Venue	J.S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	5.30 p.m. to 7.30 p.m.		Time	6.00 p.m. to 8.00 p.m.		Time	6.00 p.m. to 8.00 p.m.	
Fees	Free		Fees	₹ 50		Fees	₹ 50	
Co-ordinators	CA. Mangesh Kinare 9869070539 CA. Shruti Shah 9892407988		Chief	CA. Anil Bhandari		Chief	CA. Shardul Shah 9820287625 CA. Ashok Jain 9833512888 (Regional Council Members)	
TOPIC	Stress Management		Co-ordinators	9821037605 CA. Dilip Apte 9930314856 (Regional Council Members)		Co-ordinators	CA. Shardul Shah 9820287625 CA. Ashok Jain 9833512888 (Regional Council Members)	
SPEAKER	Shri B. K. Swaminathan		TOPIC	Update on Pension Sector & Warehousing Sector		SPEAKER	Shri Sanket Shah, Managing Director of NS.Global	
Jointly With Mulund CPE Study Circle			SPEAKER	Dr. V.R. Narasimhan EVP Kotak Mahendra Bank		TOPIC	Tax Regulations in USA affecting NRIs	

Seminar on LLP



DAY & DATE	SATURDAY, 29TH OCTOBER, 2011	
Venue	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	10.00 a.m. to 6.00 p.m. (Reg. 9.30 a.m. to 10.00 a.m.)	
Fees	₹ 1,000/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)	
Chief Co-ordinators	CA. Dhiraj Khandelwal (RCM) 9867642684 CA. N. C. Hegde (RCM) 9820423420	
Co-ordinators	CA. Aalok Mehta 9892001645 CA. Vikas Vishwas Rao 9892915272 CA. Amogh Pandit 8108132425	

TOPICS	SPEAKERS
Formation and Conversion of LLP	CS. Makarand Joshi
Taxation of LLP	CA. Paras Savla
Drafting on LLP Agreement	Eminent Faculty
Structuring and Mergers using LLPs	CA. Divyesh Mehta

RRC at Silvassa



DAYS & DATES	FRIDAY 11TH NOVEMBER, 2011 TO SUNDAY 13TH NOVEMBER, 2011	
Venue	Ras Resorts, Silvassa 128(P)(I), Silvassa Naroli Road, P.O. Box 38, Silvassa-396 230	
Time	11.00 a.m. onwards	
Fees	For Residential Basis ₹ 5,750/- per person [without Travel facility] including course material, stay on twin sharing basis, all meals and site seeing. For Local Participants on Non-Residential Basis ₹ 2,750/- per person including course material, breakfast, lunch and afternoon tea/coffee with snacks	
Chief Co-ordinator	CA. Durgesh Kabra 9869015418 (Regional Council Member)	
Co-ordinators	CA. Vipul Shah 9821028868 CA. Yashesh Jakhelia 9967586811	

TOPICS	SPEAKERS
Issues in Taxation of Shares/Securities, with special emphasis on Capital Gains vs. Business Income	CA. Anil Sathe
Case Studies on TDS payments to Non-Residents	CA. Nihar Jambusaria
Service Tax Issues related to builders, developers and real estate sector	CA. Naresh Sheth
Challenges & Opportunities for Professionals	CA. Bhavesh Vora

Jointly with Borivali (Central) CPE Study Circle

Seminar on ESOPs



DAY & DATE	SATURDAY, 5TH NOVEMBER, 2011	
Venue	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	10.00 a.m. to 6.00 p.m. (Reg. 9.30 a.m. to 10.00 a.m.)	
Fees	₹ 1,000/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)	
Chief Co-ordinators	CA. Neel Majithia 9820327660 CA. Ashok Jain 9833512888 (Regional Council Members)	
Co-ordinators	CA. Mehul Sheth 9820297310 CA. Timal Maru 9004021818 CA. Rajesh Dalal 9821627420	

TOPICS	SPEAKERS
Accounting Issues and Audit of ESOPs and Sweat Equity	CA. Shrenik Baid
Taxation of ESOPs and Sweat Equity	CA. Ashesh Safi
Designing ESOPs	CA. Umesh Gala
Provisions of Companies Act, SEBI Regulations and FEMA Compliance of ESOPs and Sweat Equity	Eminent Faculty

Seminar on Authority of Advance Rulings - Law & Procedure



DAY & DATE	FRIDAY, 11TH NOVEMBER, 2011	
Venue	Walchand Hirachand Hall, Indian Merchants' Chamber, Churchgate, Mumbai	
Time	9.30 a.m. to 1.00 p.m. (Reg. 9.00 a.m. to 9.30 a.m.)	
Fees	₹ 600/- (inclusive of course material, breakfast) (Please add ₹ 100/- towards CA Benevolent Fund)	
Chief Co-ordinators	CA. Sanjeev Lalan 9323525932 CA. Shardul Shah 9820287625 (Regional Council Members)	

TOPICS	SPEAKERS
Inaugural and Key note Address	Mr. Justice P.K. Balasubramanyan – Chairman AAR
Practical Aspects & Expectations from Applicant	Mr. V.K. Shridhar – Mumbai AAR and Secretary AAR
Law and Procedures regarding Filing of Application of AAR including Practical aspects	Adv. Girish Dave
Recent Important Rulings of AAR	Adv. Nishith Desai

Jointly organized with
**Bombay Chartered Accountants' Society and
 Indian Merchants' Chamber**

Full Day Seminar on Due Diligence



DAY & DATE		SATURDAY, 12TH NOVEMBER, 2011	
Venue	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade		
Time	10.00 a.m. to 6.00 p.m. (Reg. 9.30 a.m. to 10.00 a.m.)		
Fees	₹ 1,000/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)		
Chief Co-ordinators	CA. Mangesh Kinare	9869070539	
	CA. Vishnu Agarwal	9324544607	(Regional Council Members)
Co-ordinators	CA. Rishikesh Wandrekar	9892919239	
	CA. Vaibhav Singavi	9820494846	
	CA. Sunit Mahale	9819966674	
TOPICS		SPEAKERS	
Importance of Due Diligence and Financial Due Diligence		CA. Sujal Shah	
Legal Issues in Due Diligence		Mr. Sharad Abhyankar	
Tax Due Diligence – Direct Tax		CA. Ajay Agashe	
Tax Due Diligence – Indirect Tax		CA. Sunil Gabhawalla	
Due Diligence Report		CA. Abizer Diwanji	



DAY & DATE		SATURDAY, 19TH NOVEMBER, 2011	
Venue	Y.B. Chavan Centre, Jagannath Bhosale Road, Near Sachivalaya Mumbai		
Time	10.00 a.m. to 6.00 p.m. (Reg. 9.30 a.m. to 10.00 a.m.)		
Fees	₹ 1,200/- for Members & ₹ 500 for Students (The Fees includes course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)		
Chief Co-ordinator	CA. Shruti Shah, RCM	9892407988	
Co-ordinators	CA. Pooja Gupta	9821504041	
	CA. Mamta Parsekar	9820613536	
	CA. Priti Savla	9321426883	
	CA. Shewta Jain	9920737198	
TOPICS		SPEAKERS	
INAUGURAL SESSION: Women empowerment			
Chief Guest	Eminent Personality		
Guest of Honour	Mrs. Deena Mehta		
Innovative Audit Tools and Techniques	CA. Smita Gune		
Business Valuation	CA. Nandita Pai		
Aspects of Networking	CA. Bhavna Doshi, CCM		
Panel Discussion : Multi Tasking by Women -Work Life Balance	Eminent Personalities		

Seminar on Business Restructuring



DAY & DATE		SATURDAY, 19TH NOVEMBER, 2011	
Venue	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade		
Time	10.00 a.m. to 6.00 p.m. (Reg. 9.30 a.m. to 10.00 a.m.)		
Fees	₹ 1,000/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)		
Chief Co-ordinators	CA. Durgesh Kabra	9869015418	
	CA. Vishnu Agarwal	9324544607	(Regional Council Members)
Co-ordinators	CA. Anil Thakrar	9821069878	
	CA. B.M. Gataani	9323988811	
	CA. Arun Jain	9821024846	
	CA. Lalit Dangl	9322243307	
TOPICS		SPEAKERS	
Case Studies on Merger/Amalgamation – Accounting & Company Law aspects		CA. Amrish Shah	
Case Studies on Demerger – Accounting & Company Law aspects		CA. Rekha Bagry	
Case Studies on Valuation methodologies		CA. Sujal Shah	
Case Studies on buyback of shares & reduction of share capital & preferential issue– Accounting & Company Law aspects		CA. Alok Saksena	

SUB-REGIONAL CONFERENCE AT GOA

DAYS & DATES FRIDAY 4TH NOVEMBER TO SUNDAY 6TH NOVEMBER, 2011

Venue	Nanu Resort, Goa		
Chief	CA. Shardul Shah, RCM	9820287625	
Co-ordinators	CA. Mangesh Kinare, RCM	9869070539	
Co-ordinators	CA. R.P Hegde, Chairman, Goa Branch	09326125956	
	CA. Virendra Prabhudesai	09822486813	
	CA. Anup Borkar	09823952381	
	CA. Naveen Daivajna	09822100420	

4/11/2011

Overview & Update on Ind-AS
CA. Urvesh Thakkar

5/11/2011

Assessment & Penalties
CA. Nihar Jambusaria

NRI Taxation & overview of DTAA
CA. Chandresh Bhimani

Structuring of Contracts, Implication of multiple taxes
CA. Sagar Shah

Inbound & Outbound Investments FEMA perspective (including investments in immovable property)

CA. Naresh Ajwani

6/11/2011

Service Tax
CA. Madhukar Hiregange, CCM

Hosted by Goa Branch of WIRC

CPE HRS 12

Seminar on EOU, IT Parks and Special Economic Zone (SEZ)



DAY & DATE	SATURDAY, 10TH DECEMBER, 2011	
Venue	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	10.00 a.m. to 6.00 p.m. (Reg. 9.30 a.m. to 10.00 a.m.)	
Fees	₹ 1,000/- for Members (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund as Voluntary Contribution)	
Chief Co-ordinators	CA. Mangesh Kinare 9869070539	CA. Neel Majithia 9820327660 (Regional Council Members)
Co-ordinators	CA. Mukund Pol 9324337392	CA. Ankit Kapadia 9867876376 CA. Vikas Vishwasrao 9892915272

TOPICS	SPEAKERS	
Legal & Procedural aspects for setting up EOU, IT Parks & SEZ units	Shri Jose Mathew	
Issues & Aspects Relating to Direct Tax	CA. Nihar Jambusaria	
Issues & Aspects Relating to VAT & Service Tax	CA. Bharat Shemlani	
Practical Aspects Relating to EOU, IT Parks & SEZ Benefits under Maharashtra Industrial Policy	CA. Pankaj Majithia	

Seminar on KPO



DAY & DATE	SATURDAY, 3RD DECEMBER, 2011	
Venue	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	10.00 a.m. to 6.00 p.m. (Reg. 9.30 a.m. to 10.00 a.m.)	
Fees	₹ 1,000/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)	
Chief Co-ordinators	CA. Sunil Patodia 9820344085	CA. Ashok Jain 9833512888 (Regional Council Members)
Co-ordinators	CA. Rinkal Gorwara 9821688806	CA. Divya Sukumar 9930604269 CA. Bimlesh Singh 9619614716

TOPICS	SPEAKERS	
Infrastructure, Security and other aspects relating to accounting and tax outsourcing	CA. Pankaj Gadhiali	
Opportunity in vendor payment & HR payroll outsourcing	CA. Ashwin Dedhia	

Workshop on Project Finance



DAYS & DATES	FRIDAY, 11TH NOVEMBER & SATURDAY, 12TH NOVEMBER, 2011	
Venue	Hotel J.W. Marriott, Juhu Tara Lane, Juhu	
Time	10.00 a.m. to 6.00 p.m. (Reg. 9.30 a.m. to 10.00 a.m.)	
Fees	₹ 5,000/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)	
Chief Co-ordinators	CA. Dilip Apte 9930314856	CA. Sunil Patodia 9820344085 (Regional Council Members)
Co-ordinators	CA. Madhvi Deodhar 9820383903	CA. Ajay Kejriwal 9869160029 CA. Deepika Rathod 9820330860 CA. Navneet Bajaj 9819093986

TOPICS	SPEAKERS	
11/11/2011		
Inaugural Session		
Long Term Finance (Debt): Project Evaluation & Feasibility Studies Long Term Debt Funding : A) Green Field Projects B) Expansion and Modernisation C) Debt for Inorganic Growth (Takeovers)	Mr. D. K Goswami	
Long Term Finance (Equity) : Private Equity : IPOs :	CA. Premal Doshi (Director-Antique Capital)	
Unconventional and Mezzanine Finance	CA. Sanjay Khemani	
Short Term Finance Working Capital Finance Through Bank	Shri K. M. Bhattacharya	
12/11/2011		
Short Term Finance Working Capital Finance Through Other Sources CPs, Factoring, Bill Discounting, Forfeiting etc.	Shri Rajendra Adsule Axis Bank-President (SME)	
Importance of Structured Finance – Tips and Tricks	Shri Supratim Sarkar (Executive VP-SBI Capital)	
International Finance : Debt A) Debt for Corporates B) Debt for Overseas Takeover C) Equity & Equity Linked Debt	Shri Partha Mukharji (President-Credit, Axis Bank)	
Financial Instruments Panel Discussion		



Seminar on Industry Wise IND-AS



DAYS & DATES	MONDAY 21ST, NOVEMBER, 2011 WEDNESDAY 23RD NOVEMBER, 2011 FRIDAY, 25TH NOVEMBER, 2011 MONDAY, 28TH NOVEMBER, 2011
-------------------------	--

Venue	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade
Time	2.00 p.m. to 6.00 p.m. (Reg. 1.30 p.m. to 2.00 p.m.)
Fees	₹ 1,000/- per day ₹ 3,500/- for all 4 days (inclusive of course material & refreshments) (Please add ₹ 100/- towards CA Benevolent Fund)
Chief Co-ordinators	CA. Dilip Apte 9930314856 CA. Anil Bhandari 9821037605 (Regional Council Members)
Co-ordinators	CA. Amit Sheth 9869192108 CA. Vishal Shah 8108147065 CA. Dinesh Gandhi 9821240303 CA. Kishor Joshi 9869186849

DATE	TOPICS	SPEAKERS
21/11/2011	Information Technology	Shri Rajiv Shah
23/11/2011	Banking	Shri Newton De Niese
25/11/2011	Retail & Pharmaceuticals	Shri Dhawal Kothari
28/11/2011	Real Estate & Infrastructure	Shri Dinesh Jangid

Workshop on Hotel and Tourism Industry



DAY & DATE	SATURDAY, 10TH DECEMBER, 2011
-----------------------	--------------------------------------

Venue	Hotel Sea Princess, Juhu Tara Road, Juhu, Mumbai
Time	10.00 a.m. to 6.00 p.m. (Reg. 9.30 a.m. to 10.00 a.m.)
Fees	₹ 2,000/- for Members (inclusive of course material, breakfast & lunch) (Please add ₹ 250/- towards CA Benevolent Fund as Voluntary Contribution)
Chief Co-ordinators	CA. Anil Bhandari 9821037605 CA. Dhiraj Khandelwal 9867642684 CA. Vishnu Agarwal 9324544607 (Regional Council Members)
Co-ordinators	CA. Himanshu Chheda 9820676826 CA. Jasmin Chawla 9820585807 CA. Arun Prithwani 9820917280 CA. Amol Kamat 9823018763

TOPICS	SPEAKERS
Domestic & International Tax aspect for Hotel & Tourism Industry	CA. Sandeep Bhalla
Indirect Taxes Issues in the Hotel Industry	CA. Parind Mehta
Auditing Function and Risk Management in the Hotel & Tourism Industry	CA. Dipak Ghose
Financial Norms & Venture Capital Fund	CA. Dilip Dusija

Intensive Study Course on SEBI Rules & Regulations



DAYS & DATES	Monday 14, 21, 28/11/2011	Wednesday 16, 23, 30/11/2011	Friday 18, 25/11/2011
-------------------------	----------------------------------	-------------------------------------	------------------------------

Venue	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade		
Time	6.00 p.m. to 8.00 p.m. (Reg. 5.30 pm. to 6.00 p.m.)		
Fees	₹ 2,500/- for all 8 days (inclusive of course material & refreshments) (Please add ₹ 100/- towards CA Benevolent Fund)		
Chief Co-ordinators	CA. Parag Raval 09824339200 CA. Sunil Patodia 9820344085 (Regional Council Members)		
Co-ordinators	CA. Kamal Naulakha 9869431940 CA. Nikhil Damle 9820170436 CA. Aalok Mehta 9892001645 CA. Vikas Vishwasrao 9892915272		

DATE	TOPICS	SPEAKERS
14/11/2011	Inauguration – Overview of SEBI Rules & Regulations	Ms Usha Narayan (SEBI)
16/11/2011	Public offering of Securities in view of amendments to ICDR	Shri Vyapak Desai & Ms Simone Reis
18/11/2011	Intermediaries, New Market Concepts & Products	Shri Ajay Vaidya
21/11/2011	Institutional Players and Foreign Investment in Securities Market	Shri Siddharth Shah & Shri Kishore Joshi
23/11/2011	Acquisition of shares & Takeovers – New Takeover Code	Adv. H. Jayesh
25/11/2011	Insider Trading, Market Manipulations & Fraud	Shri Sugadev Chinnakannu (SEBI)
28/11/2011	Liabilities for securities & Law violations	Shri Sugadev Chinnakannu (SEBI)
30/11/2011	Corporate Ethics and Corporate Governance	Adv. Sharad Abhayankar

Seminar on Information Technology



DAY & DATE	SATURDAY, 26TH NOVEMBER, 2011
-----------------------	--------------------------------------

Venue	J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade	
Time	10.00 a.m. to 6.00 p.m. (Reg. 9.30 a.m. to 10.00 a.m.)	
Fees	₹ 1,000/- (inclusive of course material, breakfast & lunch) (Please add ₹ 100/- towards CA Benevolent Fund)	
Chief Co-ordinators	CA. Sanjeev Lalan 9323525932 CA. Durgesh Kabra 9869015418 (Regional Council Members)	
Co-ordinators	CA. Nikhil Damle 9820170436 CA. Giriraj Soni 9819804353 CA. Jayesh Shah 9819043921	

TOPICS	SPEAKERS
Digital Signature and E - Filing (Income Tax and MCA 21)	CA. Pranay Kochar
Emerging Opportunity out of Information Technology Act	CA. Krishnand Bhatt
Auditing Implementation Cycles of Enterprise Applications (ERP)	CA. Devendra Dosi

National Convention for CA Students "Breaking The Habit"

DAYS & DATES	THURSDAY, 24TH NOVEMBER & FRIDAY, 25TH NOVEMBER, 2011	
Venue	Yogi Sabhagraha, Swami Narayan Temple, Dadar (E)	
Time	9.00 a.m. to 6.00 p.m. (Reg. 8.30 a.m. to 9.00 a.m.)	
Fees	₹ 500/- (inclusive of course material, breakfast & lunch)	
Chief Co-ordinators	CA. Neel Majithia	9820327660
	Chairman, WICASA	
	CA. Jay Chhaira	9825196241
	CA. Shruti Shah	9892407988
	(Regional Council Members)	
Students Co-ordinators	Pramita Rathi	9773488068
	Gautam Lath	9930224082
	Rohit Agarwal	7498182950

TOPICS

DEVELOP THE KNOWN (TECHNICAL SESSION)

- Present out of box direct tax solution with workable model
- How to maximize input tax credit with practical examples
- 360 degree approach to auditing
- How to analyse financial statements from competitors, investors or management perspective (at least two)

SHOW SOMETHING NEW (SPECIAL SESSION)

- Business Continuity Planning & Disaster Recovery Planning in BPO, travel and tourism and IT sector
- Forensic Investigation from a Cyber Crime perspective

THINK DIFFERENT TO DO DIFFERENT (MOCK SEESION)

- Revival strategy – Kingfisher/Air india
- Business restructuring for value creation with case studies and practical examples

LOOK BEYOND (TECHNICAL SESSION)

- Future of XBRL
- Impact of introduction of CFC Regulations in Direct Tax Code
- Changing role of Independent Directors under Companies Bill, 2011
- Future of LLP Format

BE VERSATILE (SPECIAL SESSION)

A Chartered Accountant is well recognized and respected in the society because of their versatility and ability to adapt to various situations whether as auditors, consultants or business leaders. This characteristic is inculcated in every CA student through testing on various challenging subjects, through practical training and through management courses. It will be the aim of this session to enable students to realize their true potential through examples and role models

BE THE CHANGE TO BRING THE CHANGE (SPECIAL SESSION)

Understand the Vision 2020 of the CA Institute. What do CA Students have coming their way

How to be the change to bring the change. Mr. Chetan Bhagat (subject to confirmation) will take us through his Revolution 2020 and the lessons he has to share with students

SPEAK UP..... OR.....!!!!!!(TECHNICAL SESSION)

- RTI Act
- Citizen Charter

GO OUT OF ELEMENTS (MOCK SESSION)

A group of students will enact the working of the Settlement Commission so that students can get a real life understanding of how matters are dealt with in such a forum

For Conference inquiry and registration contact

Shri Vijay on 022-3980 2923 & Ms. Pallavi on 022-3980 2922

To Register Online for event visit <http://wirc-icai.org/onlineevents.aspx>

Hosted by WIRC of ICAI & WICASA

Meeting with Regulators & Representations

Issues discussed and response received during interactive meet with MCA officials.

Issue regarding the easy exit scheme

— Ministry has come out with a special scheme known as "Fast Track Exit Scheme 2011" under which the defaulting companies or the dormant companies which have no intention to continue their business can avail this scheme and get the company struck off u/s. 560 of the Companies Act, 1956. This special scheme was launched from July 2011 and kept open permanently.

Issue of directorship of defaulting company

The response was to resign from such company or comply with the non compliance and the file documents for the regular company. As the basic purpose of doing so by MCA was to improve upon the compliance rate in corporate world.

Issue of CLSS 2011

Golden opportunity for defaulting company to comply with the provisions of the Act and file necessary form with regulating authority i.e., MCA.

Issue of STP route by professional

MCA officials has shown great concern about misuse as well not proper use of the STP and requested us to spread awareness about the same so the professional do take proper care in following guidelines for name approval u/s 20 and for uploading other forms. Which will help the MCA not to lodge any complaint to the respective institute of professional.



Interactive Meeting with Regional Director Western Region, MCA & ROC Mumbai held on 27/09/2011. L to R: CA. Shardul Shah, Secretary, WIRC, Shri Henry Richard, ROC, Shri S. M. A. Millath, Regional Director, CA. Shrinivas Joshi, Chairman, WIRC, CA. Durgesh Kabra, RCM.

FORTHCOMING study circle meetings

Date & Day	Time	Subjects	Speaker(s)	Venue	Organised By / Convenor / Tel. No.
16/10/2011 Sunday	9.30 a.m.	Assessment under Income-tax Act with Special Reference to Assessment of Builder/Developers and Redevelopment	CA. Vimal Punamiya	Mulund College of Commerce AC Auditorium, Near Mulund Railway Station, Mulund (West)	Mulund CA CPE Study Circle CA. Bipeen G. Mundade M: 9223290561
16/10/2011 Sunday	9.30 a.m.	NBFC - Overview and recent developments on holding companies / CICs FEMA - Inbound and Outbound aspects and recent developments	CA. Bhavesh Vora CA. Naresh Ajwani	Seminar Hall, RVG CA Students' Hostel, Lallubhai Park, Andheri (West),	Andheri (West) CPE Study Circle CA K.S. Balasubramanian M: 9820125191
30/10/2011 Sunday	9.30a.m.	Time Management The Pursuit of happiness	Eminent Faculty	Hotel Kohinoor Continental Andheri (East)	J. B. Nagar CPE Study Circle CA. B.L.Maheshwari M : 9820070768
13/11/2011 Sunday	9.30 a.m.	Cyber Crimes Optimum Use of internet, website, social networks, etc for CA professionals	CA. Sachin Dedhia Mr Sanjeev Sharma CA. Harish Tibrewal and CA Sachin Dedhia	Seminar Hall, RVG CA Students' Hostel, Lallubhai Park, Andheri (West), , Mumbai	Andheri (West) CPE Study Circle CA K.S. Balasubramanian M: 9820125191
06/11/2011 Sunday	9.30 a.m.	Revised Schedule VI & Recent MCA Circulars	Shri Henry Richards, ROC, Maharashtra	Mulund College Auditorium, Near Mulund Railway station, Mulund – West Mumbai	Mulund CPE Study Circle CA Bipeen G. Mundade M: 92232 90561
06/11/2011 Sunday	9:30 a.m.	Master your Destiny Benefits: Grow in all spheres of life. Diabetes & Weight Management	CA. Jigisha Lakhani Dr. Anoop Patel	Sarvodaya Hall, L. T. Road, Opp. Diamond Talkies, Borivali – (West) Mumbai	Borivali (Central) CPE Study Circle CA. Vipul Shah M: 9821028868
06/11/2011 Sunday		Search & Seizure	CA Shailesh Shah		Chembur CPE Study Circle CA. Sunil Mistry M: 9821488878
13/11/2011 Sunday		NRI Investment in India and overseas investment by Indians	CA Anup Shah		Chembur CPE Study Circle CA. Sunil Mistry M: 9821488878

Note: All Convenors are requested to send their forthcoming programmes only on e-mail Id wircevents1@gmail.com at the end of the preceding month for the period starting 20th of Next Month.

FORTHCOMING Branch Meetings

DATE	TIME	SUBJECTS	SPEAKERS	VENUE
BARODA 22/10/2011	09.00 a.m.	Full Day Seminar on Corporate Laws	Eminent Speakers	ICAI Bhawan, Vadodara
SURAT 22/10/2011	10.00 a.m.	Full day programme on LLP & Corporate Laws	Eminent Speakers	Branch Premises , 2nd Floor, Saifee Building, Nanpura, Surat
THANE 4th to 6/11/2011		Regional Conference Direct/ Indirect Taxes		Nanu Resort, South Goa
NAGPUR 20/10/2011 & 21/10/2011	9.30 a.m.	Campus Placement Programme for Small and Medium sized Enterprises		Hotel Centre Point
22/10/2011	3.30 p.m.	Seminar on Tax Planning / Tax Evasion. (Jointly with Income Tax Department)	Eminent Speaker	Aykar Bhavan, Civil Lines, Nagpur
29/10/2011	6.15 pm	Interactive Meet with Service Tax Commissioner	Shri S. Ramesh, Commissioner, Central Board of Excise & Custom, Nagpur	ICAI Bhavan
31/10/2011	9.30 am	Information System Audit Course (ISA) 15th Batch	Eminent Speakers	Hotel Green City
VASAI 5/11/2011	9.00 a.m.	Books Distribution in Adivasi School		Gramin Vidyalay School Mira Gaothan
6/11/2011	5.00 p.m.	Annual Day		GCC Club, Mira Road (East)
12, 13, 14,& 15 Nov. 2011		International Residential Refresher Course (IRRC)	-	Dubai
4/12/2011	9.30 a.m.	Seminar on Internal Audit		Mira Road

EXCLUSION OF TOPICS FOR FINAL EXAMINATION

On a review of the syllabus for the Final Course, ICAI has decided to exclude the following topics from the Final Examination to be held in November, 2011 and thereafter:-

Paper 1: Financial Reporting

– Inflation Accounting

Paper 5: Advanced Management Accounting

- Time Series Analysis; and

- Test of Hypothesis.

EMPANELMENT FORM FOR OBSERVERS

- Empanelment Form for Observers for the CA Exam to be held in Nov-2011 and the Common Proficiency Test to be held in Dec, 2011 is now available on the ICAI website

ICAI EXTENDED DATE FOR CPC REGISTRATION

- ICAI has extended the date of Common Proficiency Course (CPC) Registration Date up to 5th October, 2011.

NON-RECEIPT OF ICAI JOURNAL

- This is for the attention of Members of the Institute who fail to receive 'The Chartered Accountant', Journal dispatched to them either due to un-intimated change of address or postal problems. Please inform your respective region immediately for any change in your address so that regular and timely delivery of journals can be ensured to you. Any complaints for the non-receipt of the journal can be sent to journal@icai.in or call at Ph: +91-0120-3045921.

DIFFERENCE BETWEEN IFRS AND IND-AS

- Differences between IFRSs and IND-AS is available on the ICAI website for ready reference

FORMATION OF STUDY GROUPS FOR MEMBERS BY WIRC

INVITATION TO REGISTER

- I] WIRC proposed to form study groups on following subjects –
 - a) Information Technology
 - b) International Taxation
 - c) Internal Audit
 - d) FEMA
 - e) Service Tax
- II] Maximum number – Membership is restricted to 50 per group on First Come First Served Basis.
- III] Purpose – The objective of the Study Groups will be to discuss and deliberate on current issues, circulars, notifications, in the subjects and to gain expert knowledge in the respective subjects over a period which will help the members of the group in their own practice or service. The other objective is to create the knowledge bank in these subjects as a support to the profession in general.
- IV] Fees – The fees for the group meetings will be decided in the first meeting of the groups to be held on 27th August, onwards. Individual mails and SMS would be sent to all those who wish to register in the groups about the final date and venue.
- V] Registration Details – Send your details in following format to – wirc@icai.in wircvents1@gmail.com at the earliest to avoid disappointment.

Name _____ Membership Number _____

Group Interested in _____ Mobile Number _____

E-Mail ID _____

TOLL FREE HELP LINE: The attention of members and students is drawn to the toll-free helpline available to them at ICAI Bhawan, Cuffe Parade during office hours from Monday to Friday 1800 22 8009 to solve their queries.

ANNOUNCEMENT OF KYC NORMS: All the members of Institute of Chartered Accountants of India (ICAI), who are in practice, are hereby informed that the Council has formulated the following Know Your Client

Norms (KYC norms) at its 307th Meeting held on 13th July, 2011, which shall be recommendatory in nature, and apply only in case of attest function.

KNOW YOUR CLIENT (KYC) NORMS: The financial services industry globally is required to obtain information of their clients and comply Know Your Client Norms (KYC norms). Keeping in mind the highest standards of Chartered Accountancy profession in India, the Council of ICAI thought it necessary to recommend such norms to be observed by the members of the profession who are in practice. In light of this background, the Council of ICAI approved the following KYC Norms. However, these norms are recommendatory in nature and every Chartered Accountant carrying out attest function is encouraged to follow them.

1. ENTITY INFORMATION

A. GENERAL INFORMATION • Name of the Entity • Type of Entity • Business Description

B. CORPORATE STRUCTURE • Name of ultimate parent company • Name of Parent company • Name of Affiliates

C. REGULATORY INFORMATION • Company PAN No • Company Identification No • Directors' Identification No • Directors' Names & Addresses • Name(s) and Addresses of Companies, in which above person is director.

D. ENGAGEMENT INFORMATION • Type of Engagement

2. OTHER INFORMATION

- Entities financial Information
- Name of the ultimate parent Auditor
- Any known violation of any Law/Regulations

This decision shall be in force from 13th July, 2011

Handbook on E-Filing of IT Returns: In order to enable our members to update and equip themselves with the latest technologies, ICAI has taken an initiative by providing a Handbook on The Process of E-Filing of Income Tax Returns that would act as a ready-reckoner for our members and serve as a guide for the articulated trainees in e-filing of the income tax returns. This handbook has also been hosted on ICAI website and mailed to all members.

Quick Insight for Profession: ICAI is happy to announce that soon Quick Insight on CA profession to be circulated to all CA firms/ practitioners for ready reference, which has been designed to include matters relating to direct and indirect tax, accounting standards, list of mandatory statements and standards on auditing, peer review, information regarding forms relevant to students, websites, contact e-mail ids of Committees of the Institute and that pertaining to the Companies Act, 1956 and LLP

Development in Internal Audit: ICAI considered the proposal to make the Standards on Internal Audit mandatory in a recent Council meeting and decided to keep all the Standards recommendatory for members for the time being. It is decided that the Internal Auditor's report should also state that the internal audit has been conducted in accordance with the Standards on Internal Audit issued by the ICAI. ICAI has also decided to initiate a dialogue with the government/regulatory authorities like RBI and SEBI, to the effect that internal audit must be carried out by the chartered accountants or by the firms of chartered accountants, as professionals/professional companies other than chartered accountants carrying the audit are not subject to any disciplinary mechanism.

ICAI AWARDS FOR EXCELLENCE IN FINANCIAL REPORTING

The various modalities related to the competition 'ICAI Awards for Excellence in Financial Reporting' for the year 2010-2011 are currently underway. This year the competition is being held under sixteen categories. These categories have earlier been revised during the year to bring them in sync with the SAFA Best Presented Accounts Awards and a new category of 'Agricultural Sector' has been introduced which will include entities engaged in direct agriculture, horticulture, tea and coffee plantations, dairies, poultry, etc. but will exclude entities engaged in food processing, etc. which will be covered separately in Manufacturing Sector. The category of Banking Sector has been subdivided into Public Sector Banks, Private Banks (including co-operative banks) and Foreign Banks.

Further two other new categories- 'Transport, Shipping, Ports, Shipping/Port allied Services' and 'Power Sector' which will include the generation, distribution, transmission entities as well as other entities involved in the business of renewable energy have also been introduced.

Important Decisions for Effectiveness

Counselling Programmes for Motivation: ICAI has decided to organise students' counselling programmes at all Regional Councils and Branches for CPT, IPCC and Final students to be organised twice a year. These programmes are conceptualised to guide students in clarifying doubts that they face while attempting the question papers during examination and to motivate them suitably. In this regard, a special booklet to guide the students "How to Crack CA Examinations" is also being prepared and will be released shortly.

ICAI is in the process of preparing a Mock Test Paper Series which will be sent to all the Branches so that they can hold a Mock Test to provide our students a firsthand opportunity to assess their preparation for examinations.

Faculty Development Programmes: Further, it has been decided to organise faculty development programmes at all five Regional Councils with a view to strengthen the existing base of faculty members/subject experts available with each of the Branches. By organising such programmes, many Branches would be able to commence classes and provide guidance to our students on one-to-one basis.

GMCS Residential Programmes be More Effective: ICAI has decided to reduce the duration of the General Management and Communication Skills (GMCS) residential programmes from six to four weeks and to re-emphasise soft skills, case studies, mock interviews, group discussions, etc., with a little increase in programme fee from ₹ 30,000/- to ₹ 40,000/- in order to provide more effective faculty and amenities. However, total numbers of learning hours will be the same.

Announcement from Board of Studies

Integrated Professional Competence Examination [Paper 7 - Section B] and Professional Competence Examination [Paper 6 - Section B]

Strategic Management

The students of Integrated Professional Competence Course [Paper 7 - Section B - Strategic Management] and Professional Competence Course [Paper 6 - Section B - Strategic Management] may note that there will be no Case Study (carrying 15 marks) in the examinations.

Instead of the Case Study a compulsory question containing five subdivisions carrying three marks each would be included to cover maximum possible topics from the syllabus.

The new pattern of the question paper shall be applicable from November, 2011 examinations.

Roadmap for Robust FRRB Mechanism: Financial Reporting Review Board (FRRB) of the ICAI has been able to carve a niche among the regulators and members of the profession while striving to bring transparency in the financial reporting system in India. ICAI has considered this concept paper in the recently-held Council meeting and approved the same so that a more effective financial reporting review mechanism could be developed.

Roadmap for the applicability of Ind-ASs: International Accounting Standards Board (IASB) has issued certain new IFRSs and revised some others recently. The new/revised IFRSs/IASs would be applicable from January 2013. Further, the date of applicability of Indian Accounting Standards (Ind-ASs) is yet to be notified by the Ministry of Corporate Affairs. In view of the above and considering the fact that if Ind ASs become applicable from 2012, the companies would apply them for the year 2012-13 only and the new Standards would become applicable to them from the year 2013, ICAI has recently considered and approved the recommendations on the revised roadmap for the applicability of the Ind ASs, convergent with the IFRSs, and sent the same to the Government for its consideration.

Draft Guidance Note on Revised Schedule VI: ICAI has prepared and considered the Draft Guidance Note/ Statement on Revised Schedule VI recently to identify if any additional guidance is required to be given to the statutory auditors in order to bring out a comprehensive document. The Guidance Note will be released after including the comments and suggestions given by the Council. The draft is available for comments on the ICAI Website.

Initiatives for Members

Developing CA Firms' Websites: As you are aware that an exclusive website, www.icai.org.in, was launched in the recent past to enable our members in practice and CA firms to create their own websites and upload details of their firms in order to network and get better visibility. It is quite satisfying to note that so far, 1,699 CA firms have created their websites.

List of Members Published: List of Members as on 1st April, 2011, has been prepared and hosted on the ICAI website. Members may view the list on the Institute's website. CDs of the Members List will also be released shortly.

Clarification in Number of Tax-Audit Assignments Hosted: For the removal of doubts pertaining to inclusion of audits conducted under Sections 44AD, 44AE and 44AF of the Income-tax Act, 1961 in the specified number of tax audit assignments, a clarification has been issued and hosted on the Institute's website for information of the members that audits conducted under Sections 44AD, 44AE and 44AF of the Income-tax Act, 1961 shall not be taken into account for the purpose of reckoning the specified number of tax audit assignments.

Initiatives for the Students

GMCS to be Held Twice: ICAI has decided to hold the General Management and Communication Skills programme twice (in two parts) for our students - first during the first year of articleship training and second before joining the profession but after passing the Intermediate examination. These two-part training programmes will deal with the office management and personality development (group discussion, mock interviews, etc.) aspect of profession respectively, aiming to transform and prepare our students to face the international professional scenario with grace and skill.

Formation of New Branches of Students' Association: ICAI had received formal requests for setting up the branches of from the WIRC Branches, i.e. Bhavnagar, Vapi and Akola, along with the recommendations of the Chairman of the WIRC of ICAI. While ICAI has decided in favour of setting up of the branches of Association in the aforesaid places, ICAI has, in principle, also decided that mere submission of intimation about the formation of a Students' Association along with the recommendation of the Regional Council concerned to the President in office shall be a valid compliance.

Campus Placement Programmes: Campus Placement Programmes (August to September 2011) have been successfully organised at 16 centres across India, viz. Ahmedabad, Bengaluru, Bhubaneswar, Chandigarh, Chennai, Coimbatore, Ernakulam, Hyderabad, Indore, Jaipur, Kanpur, Kolkata, Mumbai, Nagpur, New Delhi and Pune. More than 1,100 newly-qualified chartered accountants have been offered jobs out of 10,169, who registered. Highest salary offered is ₹ 13.93 lakh per annum by ITC. A detailed report on the placement programmes is published elsewhere in the ICAI Journal.

TAXMANN'S ACCOUNTING STANDARDS / SCHEDULE VI

ACCOUNTING STANDARDS AND CORPORATE ACCOUNTING PRACTICES

JUST RELEASED



- Revised Schedule VI
- Segregated Presentation of Discontinuing Operations
- Notified Accounting Standards
- Illustrative Discussion of Accounting Measurement
- Global Convergence of Financial Reporting
- Corporate Governance Report

T.P. GHOSH

Thoroughly Revised Ninth Edition

Price : ₹ 1875

GUIDE TO NEW SCHEDULE VI & FILING OF BALANCE SHEET USING XBRL TAXONOMY

CA SRINIVASAN ANAND G.

Second Enlarged &
Revised Edition 2011

Price : ₹ 625

JUST RELEASED

ILLUSTRATED GUIDE TO INDIAN ACCOUNTING STANDARDS & IFRS

AMITABHA MUKHERJEE

Price : ₹ 1475

JUST RELEASED

ALSO AVAILABLE

ILLUSTRATED GUIDE TO REVISED SCHEDULE VI

WITH SPECIAL CHAPTERS ON

- Current/non-current classification
- Progress in IFRS Convergence
- XBRL awareness
- Developments in Management Commentaries

T.P. GHOSH

Price : ₹ 495

GUIDE TO INDIAN ACCOUNTING STANDARDS

CONVERGED WITH IFRSs

NOTIFIED ON 25TH FEBRUARY, 2011

T.P. GHOSH

CA SRINIVASAN ANAND G.

Price : ₹ 1350

INDIAN ACCOUNTING STANDARDS AND IFRSs

FOR NON-FINANCE EXECUTIVES

T.P. GHOSH

Price : ₹ 1175

INDIAN ACCOUNTING STANDARDS AND IFRSs

FOR FINANCE EXECUTIVES

T.P. GHOSH

Price : ₹ 1275

IFRS®

OFFICIAL PRONOUNCEMENTS

ISSUED AT 1 JANUARY 2011



Price : ₹ 3450
for a set of two volumes

UNDERSTANDING IFRSs

T.P. GHOSH

Price : ₹ 1575

IFRS SIMPLIFIED

T.P. GHOSH

Price : ₹ 975

TO PURCHASE

Call Your
Bookseller or
91-11-45562222

Pay Online
www.taxmann.com/Bookstore

Email
sales@taxmann.com

SMS
TAXMANN TO
56161

Post
TAXMANN
59/32, New Rohtak Road,
New Delhi - 110 005 (India)

DIRECT TAX

(Contributed by CA. Haresh P. Kenia, CA. Deepak Lala)

DEDUCTION OF TAX AT SOURCE – SALARY U/S 192 OF INCOME-TAX ACT {201 TAXMAN 1(ST.)}

The CBDT circular No. 5/2011 dated 16.08.2011 contains the rates of deduction of income tax from the payment of income chargeable under the head “Salaries” during the financial year 2011-12 and explains certain related provisions of the Income-tax Act.

BENAMI TRANSACTIONS (PROHIBITION) BILL, 2011 {201 TAXMAN 57(ST.)}

A bill as introduced in Lok Sabha to consolidate and amend the law relating to benami transactions, prohibit holding property in benami and restrict right to recover or transfer property held benami, and provide mechanism and procedure for confiscation of property held benami and for matters connected therewith or incidental thereto.

PROCEDURE FOR REGULATING REFUND OF EXCESS TDS {201 TAXMAN 48(ST.)}

The CBDT vide circular No. 6/2011 dated 24.08.2011 modifies its earlier circular no. 2/2011 dated 27.04.2011. It amended paragraph 4.2 of the said circular wherein the clarification was issued in connection with the processing of statement of Tax Deducted at Source u/s 200A of the Income-tax Act and procedure for regulating refund of excess amount of TDS deducted and/or paid.

The present CBDT circular No. 6 modifies the circular No. 2 of 27.04.2011 and provides for limitation that the refund claims pertaining period up to 31st March, 2009 may be submitted to the assessing officer (TDS) up to 31st December, 2012.

CBDT INSTRUCTION TO SUBORDINATE AUTHORITIES – HANDING OVER OF CHARGE {201 TAXMAN 54(ST.)}

The CBDT vide instruction No. 9/2011 dated 25.08.2011 directed all the officer including subordinate staff are therefore directed to give a detailed Handing Over Note to their successors, incorporating all pending actions requiring immediate attention of their successors. The Handing Over Note should be given at the time of handing over charge or within seven working days. Thereafter, permission of CCIT/DGIT should be taken. The confidential records, including survey and search materials, Appraisal reports, survey and search folders etc. should be personally handed over to the successor. A copy of the Handing Over Note should be marked to the immediate superior officer. In case any officer/ official fails to give detailed Handing Over Note to the successor, the successor should bring it to the notice of his superior who will take appropriate action against the erring of officer/official.

Separate instructions will be issued by the DGIT (Vig.) for maintenance and handling and handing over of confidential records / registers relating to vigilance matters.

APPEALS AND REVISION – FILING OF APPEAL OR APPLICATION FOR REFERENCE BY INCOME TAX AUTHORITY {201 TAXMAN 89(ST.)}

The CBDT vide letter No. DIT (L&R)-I/SLP/393/2011/4589 dated 02.09.2011 clarifies that, the revised monetary limits of tax effects involved prescribed by CBDT instruction No. 3/2011 dated 9th February, 2011, was applicable only for the appeals filed on or after 9th February, 2011 i.e. the date of issue of instruction. As per para 11 of the instruction, it was clarified that the appeals filed earlier would be governed by the old instructions operative at the time of filing.

DTAA BETWEEN INDIA AND SINGAPORE {201 TAXMAN 90(ST.)}

The CBDT vide notification No. 47/2011 dated 01.09.2011 notifies the second protocol amending the agreement between India & Singapore for avoidance of double taxation and the prevention of the fiscal evasion with respect to taxes on income. It was signed in India on 24th June, 2011 and shall be given effect to in the Union of India for taxable period falling after 1st January, 2008 i.e. financial year 2008-09 and subsequent financial year. The protocol replaces the Article 28 of the agreement relating to exchange of information.

MAHARASHTRA VAT

(Contributed by CA. C. B. Thakar)

A] MVAT Rules, 2005

The Government of Maharashtra has issued Notification dated

13.09.2011 whereby rule 17 (4) is amended. By this amendment clause (e) is inserted. It is now provided that the periodicity of return of each dealer will be determined by the Commissioner of Sales Tax and will be displayed on the website. The said periodicity will be final.

B] CST Act, 1956

The Joint Commissioner of Sales Tax has issued three notifications dated 31/01/2011, 14/02/2011 and 27/06/2011 under Rule 4A(4) of the CST (Mumbai) Rules, 1957 whereby C forms issued to M/s. Hiteck Impex, H. G. Metal Pvt. Ltd. and Mercury Enterprises are cancelled.

C] Circular

The Commissioner of Sales Tax has issued Trade Circular No. 13T of 2011 dated 30.8.2011 in which grant of administrative relief to unregistered dealer is explained.

CORPORATE LAWS

(Contributed by CA. Jayesh Thakur)

ISSUE OF CERTIFICATE BY DIGITAL SIGNATURE - LIST OF CERTIFICATES TO BE ISSUED BY ROC NOTIFIED [www.mca.org.in]

The RBI has issued General Circular No. 39/2011 dtd. 21.06.2011 in relation to its earlier dispensations whereby it was informed that in order to cut timelines and another step towards ‘green initiative’, it has been decided that all certificates and standard letters issued by the ROC will now be issued electronically under the Digital Signature of the ROC. The MCA has already developed thirteen such digitally signed certificates and the same has been implemented under MCA-21 system as mentioned below:-

S. No.	Certificate Description	Form ID	Implementation Date
1	Certificate of Registration for Modification of Mortgage, etc. u/s 132 read with section 135 of the Companies Act, 1956. (STP)	Form 8	29-May-11
2	Memorandum of Satisfaction of Mortgage, etc., Section 140 of the Companies Act, 1956 (STP)	Form 17	29-May-11
3	Certificate of Registration of Mortgage, etc. under Section 132 of the Companies Act, 1956 (STP)	Form 8	29-May-11
4	Certificate of Incorporation	Form 1	12-Jun-11
5	Certificate for Establishment of Place of Business In India	Form 44	12-Jun-11
6	Certificate of Registration for Modification of Mortgage, etc. u/s 132 read with section 135 of the Companies Act, 1956. (NON STP)	Form 8	12-Jun-11
7	Memorandum of Satisfaction of Mortgage, etc., Section 140 of the Companies Act, 1956 (NON STP)	Form 17	12-Jun-11
8	Certificate of Registration of Mortgage, etc. under Section 132 of the Companies Act, 1956 (NON STP)	Form 8	12-Jun-11
9	Fresh Certificate of Incorporation Consequent upon Change of Name	Form 1B	12-Jun-11
10	Fresh Certificate of Incorporation Consequent upon Change of Name on Conversion to Public Limited Company	Form 62	12-Jun-11
11	Certificate of Registration of Company Law Board order for Change of State	Form 18	12-Jun-11
12	Certificate of Registration of the Special Resolution Confirming Alteration of Object Clause(s)	Form 23	12-Jun-11
13	Fresh Certificate of Incorporation Consequent upon Change of Name on Conversion to Private Limited Company	Form 1B	12-Jun-11

It is also clarified that the remaining certificates are planned to be implemented by 3rd July, 2011. The Registrar of Companies are hereby advised that after the date of implementation of Digital Certificates, no certificates shall be issued manually. All such pending certificates which are required to be issued manually should be issued by 30 June, 2011.

SIMPLIFIED PROCEDURE FOR OBTAINING ONLINE APPROVAL OF CENTRAL GOVERNMENT UNDER SECTION 297 [www.mca.gov.in]

The MCA has issued General Circular No. 52/2011 dtd. 25.07.2011 based on representations received from various stakeholders to simplify the approval process under section 297 of the Companies Act, 1956. Hence, in order to cut timelines in giving approval, the MCA has decided to simplify the procedures and to give approval online, if the proposed contract has been approved by the shareholders by way of special resolution in a general meeting. For this purpose, under the new procedure, application will be made in a new e-form with the prescribed fee. The relevant information like terms of contract and details of Board resolutions and special resolutions shall be captured in the e-form. The e-form shall also be certified by the practicing professional who shall specifically certify the correctness of the information and declarations given by the company in the e-form. It is clarified that the company while seeking approval of the directors and shareholders in their meetings shall specifically take approval to the effect that, (a) the proposed contract is competitive, at an arm's length, without conflict of interest and is not less advantageous to it as compared to similar contracts with other parties, (b) the company has not made any default in repayment of any of its debts (including public deposits) or debentures or interest payable thereon and has filed its up to date Balance Sheets and Annual Returns with the Registrar of Companies, (c) the proposed contract is falling within the provisions of sections 297 of the Act and that the provisions of sections 198, 269, 309, 314 and 295 are not applicable in the proposed contract, and, (d) the company and its Directors have complied with the provisions of sections 173, 287, 299, 300, 301 and other applicable provisions of the Companies Act, 1956 with regard to the proposed contract. The application will be processed online and approval of Central Government shall also be made available to the applicant company online on the basis of declarations made by the company and certifications by the professionals given in the e-form. The MCA has stated that if any of the information or declaration given by the company or certificate given by the professional in the e-form is found to be wrong, then the applicant company, its Directors and professional shall be liable for penal action under section 297 and 628 of the Companies Act, 1956 in addition to penal action prescribed in regulations of the respective professional institutes. The process of online approval of Central Government under section 297 of the Companies Act, 1956 is likely to be implemented with effect from 24th September, 2011.

SIMPLIFIED PROCEDURE FOR RECTIFICATION OF REGISTER OF CHARGES [www.mca.gov.in]

The MCA has issued General Circular No. 51/2011 dtd. 25.07.2011 so as to simplify the procedures and cut the timelines relating to rectification of the register of charges. Hence, the MCA has decided to notify section 20 of the Companies (Second Amendment) Act, 2002 (1) of 2003 whereby the work relating to rectification of register of charges under section 141 of the Companies Act, 1956 shall be shifted from the jurisdiction of Company Law Board to the Central Government. This work is delegated to the respective RoCs under whose jurisdiction the registered office of the company is situated. The petitions filed with the Company Law Board and pending as on the effective date of notification shall be transferred to respective RoCs. The revised e-forms and business re-engineering process under MCA-21 system is being developed and the simplified procedures to be followed by the companies and RoCs shall be given in the modified eforms and instruction kit thereto shortly. It is expected that on discharging of these functions by the respective RoCs on implementation of simplified procedures, the cost and the time to get condonation under section 141 of the Companies Act, 1956 shall be reduced. This simplified process is likely to be implemented with effect from 24th September, 2011.

SIMPLIFIED PROCEDURE FOR OBTAINING CONFIRMATION OF SHIFTING OF REGISTERED OFFICE FROM ONE STATE TO ANOTHER STATE [www.mca.gov.in]

The MCA has issued General Circular No. 50/2011 dtd. 25.07.2011 so as to simplify the procedures and cut the timelines relating to shifting of registered office from one state to another state. Hence, the MCA has decided to notify section 8 of the Companies (Second Amendment) Act, 2002 (1) of 2003 thereby the work relating to confirmation of shifting of registered office from one state to another state and consequent alteration to Memorandum of Association of the company under section 17 of the Companies Act, 1956 shall be shifted from the jurisdiction of Company Law Board to the Central Government. It has further been decided to delegate this work to the respective RoCs under whose jurisdiction the registered office of the company is situated. The petitions filed with the Company Law Board and pending as on the effective date of notification shall be transferred to respective RoCs. The revised e-forms and business re-engineering process under MCA-21 system is being developed and the simplified procedures to be followed by the companies and RoCs shall be given in the modified e-forms and instruction kit thereto shortly. It is expected that on discharging of these functions by the respective RoCs on implementation of simplified procedures, the cost and the time to get such confirmation and alteration to Memorandum of Association under section 17 of the Companies Act, 1956 shall be reduced. The above simplified process is likely to be implemented with effect from 24th September, 2011.

PAYMENT OF FEES TO CAs IN LIQUIDATION CASES [www.mca.gov.in]

The MCA has issued General Circular No. 42/2011 dtd. 07.07.2011 stating that it has been noticed that certain Courts have not allowed fees to be paid to the Chartered Accountants from Common Pool Fund in cases where petitions are filed in respect of companies under liquidation having no assets. The MCA has now clarified that in all such cases following steps be taken :

- Official Liquidator ("OL") will take permission of Court to appoint a Chartered Accountant.
- Official Liquidators will appoint Chartered Accountants for issuing necessary certificate.
- The terms and conditions of payment of fees to the CAs in such cases will be decided by a Committee consisting of concerned OL and ROC, chaired by the RD ("Regional Director").
- All the fees will be approved by the Committee by following General Financial Rules ("GFR").
- Each OL will maintain a list of local CAs/CA firms and selection should be done from them only.
- The payment of fees to CAs in this respect will be made out of the Budget Head "Office Expenses".

PRO-ACTIVE ACTION IN CASE OF WINDING UP PETITIONS [www.mca.gov.in]

The MCA has issued General Circular No. 54/2011 dtd. 26.07.2011 in relation to winding up petitions filed by creditors, stakeholders and management before High Courts without providing full information leading to waste of valuable time of the Court and also delays completion of winding-up process as well. In order to speed up the winding up process and to introduce best international practices the winding up process, the MCA has suggested the following actions to be taken by the concerned OL

- OLs shall post one of the staff members to the Company Court to keep track of all cases where applications have been filed for winding up, but orders for winding up are yet to be issued by the Court.
- For all cases pending till date and in future as well, information shall be obtained by OL from "institution register" maintained in High Court and action as below must be taken in all cases.
- In each case the OL will file an application praying to the Court to direct the management of the company to submit following information duly verified by a chartered accountant:

- The current addresses of the directors, company secretary and statutory auditor of the company;
 - Location and physical details of each immovable asset of the company along with its current valuation;
 - The details of all the debtors and creditors with their complete addresses and occupations;
 - The details of each movable asset of the company along with value;
 - The details of workmen/employees and any amount outstanding to them;
 - The details of all movable and immovable assets held in the personal names of director by providing its location, value, dates of acquisition and nature of right, title and interest therein;
 - Copies of last three years audited balance sheet of the company;
 - The details of location of the registered office of the company.
- d) RDs will ensure that in all pending cases, the applications are moved by OL before the Court before the next date of hearing and in all new cases, these are filed before the Court before the second hearing of the case.
- e) RDs will ensure that a standard draft is prepared by them after taking legal advice and the same is used in all cases by OIs.

GUIDELINES FOR RDS/ROCS IN THE MATTER OF SCHEME OF ARRANGEMENT/AMALGAMATION [www.mca.gov.in]

The MCA has issued General Circular No. 53/2011 dtd. 26.07.2011 stating that various field formations are following different practices while sending comments to the High Courts in respect of scheme of arrangement/amalgamation under sections 391-394 of the Companies Act, 1956 on behalf of the Central Government. In order to streamline the procedure the following guidelines along with timelines are issued for strict compliance. These guidelines supersede all previous guidelines on the matter and the issues to be examined by the ROCs and the RDs are given at annexure I and II to this Circular. The procedure to be followed and the timelines are indicated below:

- a) On receipt of notice from the Court under section 394A regarding the scheme, the RD should make an entry in a register or in electronic form. If the petition has already been filed with ROC in Form 61 in the system, the same can be monitored directly from the system.
- b) Thereafter, within three days of receipt, the RD shall send a mail to the ROC concerned for the report.
- c) ROC should furnish his report online to RD within 7 days from receipt of Form 61 without waiting for RD's communication.
- d) Within 7 days of receipt of notice, the RD should send a letter to local branch of Law Ministry / Assistant Solicitor General appointed for the state by Law Ministry as the case may be (furnishing copy of the notices received under section 394A) requesting for nomination of an advocate.
- e) The RD should send a letter within five days of receipt of notice to company / its Advocate to provide material of valuation report, Chairman's report regarding creditors / members meeting and on receipt of the information, the matter should be processed and finalized within a week's time.
- f) The finalized affidavit should be sent to designated Standing Counsel for the particular case for signature and then to Law Ministry (local branch) for identification. This exercise should not take more than five days after which the affidavit should be filed in Court Registry.

EXTENSION IN TIMELINE FOR FURNISHING FINANCIAL STATEMENTS IN XBRL MODE [www.mca.gov.in]

The MCA has issued Circular No. 57/2011 dtd. 28.07.2011 in relation to submission of financial statements in XBRL mode by certain classes of companies whereby it is now clarified that all companies falling in Phase-I class of companies (excluding exempted class) are permitted to file their financial statements without any additional fee up to 30.11.2011 or within 60 days of their due date, whichever is later. It is also clarified that the verification and certification of the XBRL document of financial

statements on the e-forms would continue to be done by authorized signatory of the company as well as professional like Chartered Accountant or Company Secretary or Cost Accountant in whole-time practice.

AMENDMENT TO NAME AVAILABILITY GUIDELINES, 2011 [www.mca.gov.in]

The MCA has issued General Circular No. 48/2011 dtd. 22.07.2011 clarifying that the Name Availability Guidelines, 2011 and the revised e-form 1A shall be implemented with effect from 24 July, 2011. Also, a fee of Rs1,000/- shall be charged w.e.f. 24 July, 2011 for making an application for availability of name in revised e-form 1A as provided under Companies (Central Government's) General Rules and Forms (Amendment) Rules, 2011 dated 14.07.2011.

BLOCKING OF DIN CONSEQUENT TO NON-FILING OF STATEMENT OF AFFAIRS (SOA) [www.mca.gov.in]

The MCA has issued General Circular No. 56/2011 dtd. 28.07.2011 stating that companies are not filing their Statement of Affairs (SOA) in time in terms of the requirements of section 454 of the Companies Act, 1956. This delays the process of liquidation considerably. It has, therefore, been decided to give the companies and the directors of such companies, where winding up orders have been passed by the Court, one month's notice to file their SOA before action for blocking their DIN is initiated by the MCA. It is also stated that OIs shall furnish list of all such directors who have failed to furnish SOA (giving their details) to the MCA on 3rd working day of every month starting from 5 September, 2011 by e-mail to respective RD, ROC, e-Governance Cell and Insolvency Section of the MCA. Then, the MCA-21 cell in the Ministry would block the DIN of all such directors on getting information after approval of the competent authority concerned and under intimation to all.

REVISED PROCEDURE FOR SEEKING PRIOR APPROVAL FOR CHANGE IN CONTROL BY INTERMEDIARIES [www.sebi.org.in]

The SEBI has issued Circular No. CIR/MIRSD/14/2011 dtd. 02.08.2011 in relation to the procedure for seeking prior approval from SEBI by stock brokers for change in status and constitution. The intermediaries covered are stock brokers and sub-brokers, merchant bankers, debenture trustees, registrar to an issue and share transfer agents, underwriters, depository participants, bankers to an issue and credit rating agencies. Now, with a view to expedite the process of granting prior approval, it has been decided to adopt a 'single window clearance at SEBI', for the above intermediaries in case of their having multiple registrations with SEBI. Accordingly, in consultation with the major stock exchanges and market participants, it has been decided to adopt the procedure as provided in this Circular. In case an applicant holds multiple registrations with SEBI, it shall make only one application to SEBI accompanied by the certain information about itself, the acquirer and the directors/partners of the acquirer as prescribed by this Circular. It is also provided that in case the incumbent is a registered stock broker and / or depository participant, in addition to the above, it shall obtain approval / NOC from all the Stock Exchanges / Depositories, where the incumbent is a member / Depository Participant and forward a self attested copy of the same to SEBI. The prior approval granted by SEBI shall be valid for a period of 180 days from the date of communication.

CLSS 2011 [www.mca.org.in]

The MCA has issued Circular No. 59/2011 dtd. 05.08.2011 stating that a large number of companies are not filing their due statutory documents (i.e. Balance Sheets and Annual Returns) in a timely manner with the RoC. Due to this, the records available in the electronic registry are not updated and thereby are not available to the stakeholders for inspection. Further, due to not filing the documents on time, companies are burdened with additional fee, facing the prosecutions and being debarred from filing other documents electronically. Now, in order to give an opportunity to the defaulting companies to enable them to make their default good by filing such belated documents and to become a regular compliant in future, the MCA has decided to introduce a scheme namely, "Company Law Settlement Scheme, 2011," condoning the delay in filing documents with the RoC, granting immunity from prosecution and charging additional fee of 25 per cent of actual additional fee payable

for filing belated documents under the Companies Act, 1956 and the rules made thereunder. The details of the Scheme are as under:

- a) Any “defaulting company” is permitted to file belated documents, which were due for filing till 30-6-2011;
- b) Manner of payment of fees and additional fee on filing belated document for seeking immunity under the scheme - the defaulting company shall pay statutory filing fees as prescribed under the Companies Act and rules made thereunder along with an additional fee of 25 per cent of the actual additional fee payable on the date of filing of each belated document;
- c) If the defaulting company has filed any appeal against any notice issued or complaint filed before the competent court for violation of the provisions under the Act in respect of which application is made under this scheme, the applicant shall before filing an application for issue of immunity certificate, withdraw the appeal and furnish the proof of such withdrawal along with the application;
- d) The application for seeking immunity in respect of belated documents filed under the scheme may be made electronically in the Form annexed, after closure of Scheme and after the document(s) are taken on file, or on record or approved by the RoC as the case may be, but not after the expiry of six months from the date of closure of the Scheme. There shall not be any fee payable on this Form;
- e) The designated authority shall consider the application and upon being satisfied shall grant the immunity certificate in respect of documents filed in the Scheme;
- f) This Scheme shall not apply to the filing of documents other than to documents like Form 20B - Form of filing annual return by a company having a share capital, Form 21A - Particulars of annual return for the company not having share capital, Forms 23AC & 23ACA - Form for filing Balance Sheet and Profit & Loss account and Form 66 - Form for submission of compliance certificate with the RoC.
- g) This scheme shall not apply to companies against which action under section 560(5) of the Act has been initiated by the RoC;
- h) After granting the immunity, the RoC concerned shall withdraw the prosecution(s) pending if any before the concerned Court(s);
- i) At the conclusion of the scheme, the RoC shall take necessary action under the Companies Act, 1956 against the companies which have not availed this scheme and are in default in filing of documents in a timely manner.

Importantly, by a General Circular No. 60/2011 dated the 10 August, 2011, the MCA has clarified that the scheme shall be applicable to Form 52 (filing of annual accounts by a foreign company) as foreign companies are also included in the scheme.

SERVICE TAX

(Contributed by CA. Rajiv Luthia)

SYNOPSIS OF NOTIFICATIONS, CIRCULARS & LETTERS

Central Government vide Notification No. 44/2011-ST dated 9th September, 2011, has amended notification No. 31/2009-ST dated 15th September, 2009 thereby exemption is granted to taxable services under the classification of “Business Auxiliary Services (Section 65(105)(zzb))” provided by sub broker or authorized person to a stock broker (Section 65(101)) in relation to sale or purchase of securities listed on a registered stock exchange from the whole of service tax. Hitherto, exemption was restricted to service provided by only sub broker to a stockbroker.

Central Government vide Notification No. 45/2011-ST dated 12th September, 2011, has exempted taxable services under the classification of “Legal Consultancy Services (Section 65(105)(zzzm))” provided to any business entity, by an arbitral tribunal, in respect of arbitration from the whole of service tax.

Central Government vide Notification No. 46/2011-ST dated 19th September, 2011, has amended notification No. 18/2002-ST dated 16th December, 2002 thereby exemption is granted to taxable service provided under the category of Consulting Engineer (Section 65(105)(g)) equivalent to the amount of Research & Development Cess (R & D Cess)

payable on the transfer of technology u/s 3 of R & D Cess Act, 1986 subject to following conditions:-

- a) The amount of R & D cess is paid within six months from the date of invoice or in case of associated enterprises, the date of credit in the books of account.
The exemption shall be available only if the R & D cess is paid at the time or before the payment for the service.
- b) Records of R & D cess to be maintained for establishing the linkage between the invoice/credit entries vis-a-vis R & D cess payment challan.

Erstwhile, the said exemption was equivalent to the amount of R & D cess paid on the said transfer of technology without any conditions.

Central Government vide Notification No. 47/2011-ST dated 19th September, 2011, has amended notification No. 17/2004-ST dated 10th September, 2004 thereby exemption is granted to taxable service provided under the category of Intellectual Property Service (Section 65(105)(zzr)) equivalent to the amount of Research & Development Cess (R & D cess) payable towards import of technology u/s 3 of R & D Cess Act, 1986 subject to following conditions:-

- a) The amount of R & D cess is paid within six months from the date of invoice or in case of associated enterprises the date of credit in the books of account.
The exemption shall be available only if the R & D cess is paid at the time or before the payment for the service.
- b) Records of R & D cess to be maintained for establishing the linkage between the invoice/credit entries vis-a-vis R & D cess payment challan.

Erstwhile, the said exemption was equivalent to the amount of R & D cess paid towards import of technology without any further conditions.

Central Government vide Circular F. No. 146/15/2011-ST dated 20th September, 2011, clarified that M/s. BSNL rendering telephone services for local calls provided through Village Panchayat Telephones are eligible for exemption under notification No. 3/1994-ST dated 30th June, 1994 which grants exemption to “Guaranteed public telephone operating only for local calls” under serial no. 13 of the said notification. CBEC vide letter F.No.276/8/2009-CX.8A dated 26th September, 2011 has rescinded its earlier letter F.No. 275/7/2010-CX.8A dated 30th June, 2010 in light of Hon’ble Supreme Court dismissing various appeals filed by department challenging ratio of judgment of Hon’ble Mumbai High Court in the case of M/s. Indian National Shipowners Association (INSA). It is further clarified that CBEC had accepted the position that services provided by a non-resident or a person located outside India, to a recipient in India are liable to service tax only after enactment of section 66A w.e.f 18th April, 2006.

CENTRAL EXCISE

(Contributed by CA. Jayesh Gogri)

Tariff Notification

Exemption to sugar syrup or cream when used or manufacture of biscuits

Notification No. 10/1996-CE dated 23rd July, 1996 provides for exemption from whole excise duty to certain goods when the same are consumed within the factory of production in manufacture of some specified goods.

The exemption is now extended to sugar syrup or cream when the goods are consumed within the factory of production for manufacture of “Biscuits cleared in packaged form with per kg retail sale price not exceeding ₹ 100” falling under Tariff ID 19053100 or Tariff ID 19059020.

For the purpose of this exemption, retail sale price would mean the maximum price at which the excisable goods in packaged form may be sold to the ultimate consumer and would include all taxes, local or otherwise, freight, transport charges, commission payable to dealers, and all charges towards advertisement, delivery, packing, forwarding and the like, as the case may be, and the price is sole consideration for such sale.

(Notification No. 39/2011 –CE dated 12th September, 2011)

Non Tariff Notifications

Modifications in excise return

ER-1 and ER-3 Forms have been amended. The detailed formats can be availed from <http://www.cbec.gov.in>

(Notification No. 20 /2011-CE (N.T.) dated 13th September, 2011)

Mandatory e-filing of excise returns

Amendment has been made to Central Excise Rules, 2002 and CENVAT Credit Rules, 2004 and accordingly, all the Excise Returns will have to be filed electronically by all the assesses irrespective of their quantum of duty liability with effect from 1st October, 2011:

(Notification Nos. 21 and 22/2011-CE (N.T.) dated 14th September, 2011)

Circulars

Change of designation of officers representing CBEC in the CESTAT

The designations of officers representing department before Customs, Excise and Service Tax Tribunal (CESTAT) have been changed. One can visit www.cbec.gov.in to get the new designation of the officers.

(Circular No. 951/12/2011–CX dated 26th August, 2011)

Export of Pan Masala- Gutkha packed in plastic sachet by 100% EOU

There was confusion in relation to applicability of provisions of Plastic Waste (Management and Handling) Rules, 2011 for export of Pan Masala and Gutkha in plastic sachets. It has been clarified by CBEC that export of said goods in plastic sachets would be in contravention of the provisions of Plastic Waste (Management and Handling) Rules, 2011 and accordingly.

(F. No. 528/69/2011-STO (TU) dated 30th August, 2011 and dated Corrigendum dated 5th September, 2011)

Regarding stuffing of export containers under supervision of Central Excise Officers

A circular clarifying stuffing, examination and sealing of export containers is issued as departmental authorities were following divergent practices. Accordingly, following points are clarified:

- Exporters may request the Superintendent of Central Excise for examination and sealing of place of dispatch, 24 hours in advance or such shorter period as may be agreed.
- Manufacturer or merchant exporters, procuring goods directly from the factory warehouse for the export under rebate, can get the export goods sealed by Central Excise officer at the place of dispatch.
- Merchant exporters other than above also can get the export goods sealed by Central Excise Officer at the place of dispatch.
- In case of export under bond, under the Rule 19 of Central Excise Rules 2002, exporter shall approach concerned Superintendent/ Inspector of Central Excise
- Self sealing and self declaration is allowed to all manufacturers subject to compliance of existing procedures.
- When exports are made under free shipping bills, manufacturer's exporter has to mandatorily follow self sealing procedure.
- For export of both excisable and non excisable goods, one time permission is required to be obtained from customs formation. On the basis of which Central Excise officer would do sealing of export goods.
- Exporter can request online via e-mail to its range officers for scheduling of factory stuffing.
- In case Central Excise officer provides services at a premise other than his normal work premise MOT charges are required to be paid for services provided even during normal working hours. in case of overtime MOT charges shall be payable for all premises.
- Examination of sealing of Export consignments under Central Excise seal has been entrusted to inspector of Superintendent under different situations vide board instruction F. No. 224/37/2005-CX.6 dated 25th Dec 2008

(Circular No. 952/13/2011–CX dated 8th September, 2011)

GUJARAT VAT

(Contributed by CA. Kishor R. Gheewala)

E-payment receipts

Vide Public Circular No. GUJKA/ VAT-86/ 2011-12/OTW.124/105 Dt. 30th Aug, 2011, It is declared that the dealers, making e-payment of taxes, need not submit receipts of e-payment to the Department.

Statutory Forms Online

W.e.f. 17th Aug, 2011, Gujarat Government has implemented the system of making available all the statutory forms online only to the dealers for all the requirements of forms on and from 1st April, 2011. The system of issue of such forms by the Department is discontinued.

FEMA

(Contributed by CA. Manoj Shah, CA. Hinesh Doshi)

Review of foreign exchange facilities available to individuals – Residents/ Non-Resident Indians (NRIs) and Persons of Indian Origin (PIOs)

The Committee constituted under the Chairmanship of Smt. K. J. Udeshi for review of procedures relating to foreign exchange facilities to individuals – Residents/ NRIs and PIOs has submitted its report to the RBI on August 8, 2011. Pursuant to the recommendations made by the Committee to improve facilities to resident individuals, NRIs, PIOs as also, for simplification of procedures, the RBI has issued following circulars implementing some of the recommendations made by the Committee.

Savings Bank account maintained by residents in India – non-resident close relative allowed as joint holder

A.P. (DIR Series) Circular No. 12 dated September 15, 2011

RBI has permitted individuals resident in India to include non-resident close relative(s) ('relative' as defined in section 6 of the Companies Act, 1956) as a joint holder(s) in their resident bank accounts on 'former or survivor' basis. However, non-resident Indian close relatives shall not be eligible to operate the account during the life time of the resident account holder.

NRIs/PIOs holding Non-Resident (External) Rupee Account Scheme (NRE)/ Foreign Currency (Non-Resident) Account (Banks) Scheme (FCNR(B)) accounts jointly with Indian resident close relative – liberalization

A.P. (DIR Series) Circular No. 13 dated September 15, 2011

RBI has permitted NRI as defined in Foreign Exchange Management (Deposit) Regulations, 2000 to open NRE / FCNR(B) account with their resident close relative ('relative' as defined in section 6 of the Companies Act, 1956) on 'former or survivor' basis. The resident close relative shall be eligible to operate the account as a Power of Attorney holder in accordance with extant instructions during the life time of the NRI/ PIO account holder.

Foreign Investments in India – increase in limit for transfer of security by way of gift

A.P. (DIR Series) Circular No. 14 dated September 15, 2011

In terms of the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000, as amended a person resident in India is permitted to transfer any security, by way of gift, to a person resident outside India, with prior approval of the RBI subject to specified conditions. One of the conditions specified is that the value of security to be transferred by the donor/ transferor, together with any security transferred to any person residing outside India as gift in the calendar year should not exceed the rupee equivalent of USD 25,000. This limit has now been enhanced to USD 50,000 per financial year.

Exchange Earners Foreign Currency (EEFC) Account and Resident Foreign Currency (RFC) account – resident close relative allowed as joint holder

A.P. (DIR Series) Circular No. 15 dated September 15, 2011

RBI has permitted resident individuals to include resident close relative(s) ('relative' as defined in section 6 of the Companies Act, 1956) as a joint holder(s) in their EEFC/RFC bank accounts on 'former or

survivor' basis. However, such resident Indian close relative, now being made eligible to become joint account holder, shall not be eligible to operate the account during the life time of the resident account holder.

Credit of sale proceeds of Foreign Direct Investments in India to NRE/FCNR (B) accounts – Clarification

A.P. (DIR Series) Circular No.16 dated September 15, 2011

In terms of the Schedule 3, 4 and 5 of the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000, sale proceeds of Foreign Investments in India were treated as eligible credit to NRE/FCNR (B) accounts, where the purchase consideration was paid by the NRIs / PIOs out of inward remittance or funds held in their NRE/FCNR (B) accounts and subject to applicable taxes, if any. It is now clarified that the same facility would be available to NRIs/PIOs under Regulation 11 of the said Regulations.

Gift in Rupees by Resident Individuals to NRI close relatives

A.P. (DIR Series) Circular No. 17 dated September 16, 2011

RBI has permitted a resident individual to make a rupee gift to a NRI/PIO who is a close relative of the resident individual ('relative' as defined in Section 6 of the Companies Act, 1956) by way of crossed cheque /electronic transfer. The amount should be credited to the Non-Resident (Ordinary) Rupee Account (NRO) account of the NRI / PIO and credit of such gift amount may be treated as an eligible credit to NRO a/c. The gift amount would be within the overall limit of USD 200,000 per financial year as permitted under the Liberalised Remittance Scheme (LRS) for a resident individual. It would be the responsibility of the resident donor to ensure that the gift amount being remitted is under the LRS and all the remittances under the LRS during the financial year including the gift amount have not exceeded the limit prescribed under the LRS.

Loans in Rupees by resident individuals to NRI close relatives

A.P. (DIR Series) Circular No. 18 dated September 16, 2011

RBI has permitted a resident individual to lend to a NRI/PIO close relative ('relative' as defined in Section 6 of the Companies Act, 1956) by way of crossed cheque /electronic transfer, subject to the specified conditions.

For conditions in detail, please refer the circular on RBI website at <http://www.rbi.org.in/scripts/NotificationUser.aspx?Id=6713&Mode=0>

Repayment of loans of Non-resident close relatives by residents

A.P. (DIR Series) Circular No. 19 dated September 16, 2011

Hitherto, in terms of Regulation 8(d) of the Foreign Exchange Management (Borrowing and Lending in Rupees) Regulations, 2000 as amended, relative of the NRI / PIO borrower in India is allowed to repay the housing loan taken by such NRI or PIO from an authorised dealer or a housing finance institution in India approved by the National Housing Bank for acquisition of a residential accommodation in India by crediting the borrower's loan account through the bank account of such relative. RBI has review the extant provision and decided to permit the resident close relative ('relative' as defined in Section 6 of the Companies Act, 1956), of the NRI to repay the loan granted to such NRI by an authorised dealer in India in accordance with Regulation 7 of the aforesaid Regulations, by crediting the borrower's loan account through the bank account of such relative.

Meeting of Medical expenses of NRIs close relatives by Resident Individuals

A.P. (DIR Series) Circular No. 20 dated September 16, 2011

RBI has clarified that where the medical expenses in respect of NRI close relative ('relative' as defined in Section 6 of the Companies Act, 1956) are paid by a resident individual, such a payment being in the nature of a resident to resident transaction may be covered under the term "services related thereto" under Regulation 2(i) of Notification No. FEMA 16 /2000- RB dated May 3, 2000 issued in pursuance of the provisions of section 3 of the Foreign Exchange Management Act, 1999.

External Commercial Borrowings (ECBs) – Rationalisation and Liberalisation

A.P. (DIR Series) Circular No. 11 dated September 07, 2011

As per the extant ECB procedures, any request for change of the lender for an existing ECB is required to be referred by the Authorised Dealer Bank to the RBI for necessary approval.

As a measure of simplification of the existing procedures, RBI has decided to delegate powers to the designated AD Category-I banks to approved the request from the ECB borrowers with respect to change in the recognized lender provided:

- (i) the original lender is an international bank or a multilateral financial institution (such as IFC, ADB, CDC, etc.) or a regional financial institution or a Government owned development financial institution or an export credit agency or supplier of equipment;
- (ii) the new lender also belongs to any one of the above mentioned categories, subject to the Authorised Dealer ensuring the following conditions:-
 - (a) the new lender is a recognized lender as per the extant ECB norms;
 - (b) there is no change in the other terms and conditions of the ECB; and
 - (c) the ECB is in compliance with the extant guidelines.

However, changes in the recognized lender in case of foreign equity holder and foreign collaborator will continue to be examined by the RBI. The changes in the recognized lender should be promptly reported to the Department of Statistics and Information Management, RBI in Form 83.

The above modifications to the ECB guidelines will come into force with immediate effect. All other aspects of the ECB policy shall remain unchanged.

A.P. (DIR Series) Circular No. 27 dated September 23, 2011

RBI has, in consultation with the Government of India, further rationalised and liberalised the ECB guidelines as under:-

- (i) Enhancement of ECB limit under the automatic route
 - (a) Eligible borrowers in real sector-industrial sector-infrastructure sector can avail of ECB up to USD 750 million or equivalent per financial year under the automatic route as against the present limit of USD 500 million or equivalent per financial year.
 - (b) Corporates in specified service sectors viz. hotel, hospital and software, can avail of ECB up to USD 200 million or equivalent during a financial year as against the present limit of USD 100 million or equivalent per financial year subject to the condition that the proceeds of the ECBs should not be used for acquisition of land.
- (ii) ECBs designated in INR
 - (a) 'All eligible borrowers' can avail of ECBs designated in INR from foreign equity holders under the automatic/ approval route, as the case may be, as per the extant ECB guidelines.
 - (b) NGOs engaged in micro finance activities will, however, be permitted to avail of ECBs designated in INR under the automatic route from overseas organizations and individuals as per the extant guidelines.
- (iii) ECB for Interest During Construction (IDC)

It has been decided to consider IDC as a permissible end-use for the Indian companies which are in the infrastructure sector under the automatic/approval route, as the case may be, subject to the following conditions:-

- (a) that the IDC is capitalized; and
- (b) is part of the project cost.

A.P. (DIR Series) Circular No. 29 dated September 26, 2011

- (i) As per the extant ECB policy, a 'foreign equity holder' to be eligible as 'recognised lender' under the automatic route would require minimum holding of paid-up equity in the borrower company as set out below:
 - (c) for ECB up to USD 5 million – minimum paid-up equity of 25% held directly by the lender;
 - (d) for ECB more than USD 5 million – minimum paid-up equity of 25% held directly by the lender and debt-equity ratio not

exceeding 4:1 (i.e. the proposed ECB does not exceeds four times the direct foreign equity holding).

It has now been clarified that

- (a) Now onwards the term 'debt' in the debt-equity ratio will be replaced with 'ECB liability' and the ratio will be known as 'ECB liability' – equity ratio to make the term signify true position as other borrowings/debt are not considered in working out this ratio;
- (b) The paid-up capital contributed by the foreign equity holder is considered under the extant guidelines for the purpose of calculation of equity for ECBs of or beyond USD 5 million from direct foreign equity holders. Henceforth, besides the paid-up capital, free reserves (including the share premium received in foreign currency) as per the latest audited balance sheet shall be reckoned for the purpose of calculating the equity of the foreign equity holder. Where there are more than one foreign equity holder in the borrowing company, the portion of the share premium in foreign currency brought in by the lender(s) concerned shall only be considered for calculating the ECB liability-equity ratio for reckoning quantum of permissible ECB;
- (c) For calculating the ECB liability, not only the proposed borrowing but also the outstanding ECB from the same

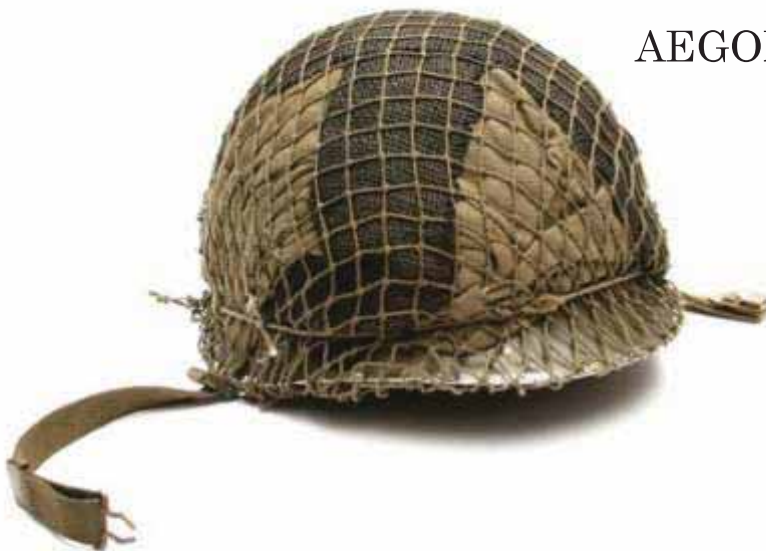
foreign equity holder lenders should be reckoned.

- (ii) To benefit eligible borrowers, it has been decided, in consultation with the Government of India, to consider the ECB proposals from foreign equity holders (direct/ indirect) and group companies under the approval route as under:-
 - (a) Service sector units, in addition to those in hotels, hospitals and software, could also be considered as eligible borrowers if the loan is obtained from foreign equity holders. This would facilitate borrowing by training institutions, R & D, miscellaneous service companies, etc;
 - (b) ECB from indirect equity holders may be considered provided the indirect equity holding by the lender in the Indian company is at least 51%; and
 - (c) ECB from a group company may also be permitted provided both the borrower and the foreign lender are subsidiaries of the same parent.

While submitting these proposals, it may be ensured that total outstanding stock of ECBs (including the proposed ECBs) from a foreign equity lender does not exceed 7 times the equity holding, either directly or indirectly of the lender (in case of lending by a group company, equity holdings by the common parent would be reckoned).

Does your life insurance cover terrorist attacks?

AEGON Religare iTerm Plan does.



Call : [Sudip Nair 09867567939](tel:09867567939)

e-mail : sudip.nair@aegonreligare.com



www.aegonreligare.com

For more details on risk factors, terms and conditions please read sales brochure and benefit illustration carefully before concluding a sale ■ Insurance is the subject matter of the solicitation ■ AEGON Religare iTerm Plan UIN-138N016V01 ■ IRDA Company Registration No. 138 ■ Registered Office: AEGON Religare Life Insurance Company Limited, 2nd Floor, Paranjpe 'B' Scheme, Subhash Road, Near Garware House, Vile Parle (East), Mumbai 400057 ■ ADVT No. II/May 2011/1040.

DIRECT TAX

(Contributed by CA. Paras K. Savla,
CA. Deepak Tikekar)

S. 5 Accrual of Income from NPA

If in account it is clearly stated that though a particular income is due to him but it is not possible to recover the same, then it cannot be said to have been accrued and the said amount cannot be brought to tax. Considering Accounting Standard issued u/s 145 it was held that income from non-performing assets is assessed on cash basis and not on mercantile basis. *CIT vs. Canfin Homes Ltd. 201 Taxman 273 (Kar)*

S. 14A Disallowance where Assessee having interest free funds

In case the assessee is having sufficient own funds to meet the investment and he has borrowed funds even if he is having own funds, the presumption always goes in favour of the assessee that the assessee made investments out of own funds, and accordingly it was held that, the provisions of section 14A, is not applicable - *Shopper's Stop Ltd vs. ACIT, ITA No. 1448 & 4475/Mum/2010, ITAT Bench 'E' Mumbai, Order Dt 30-08-2011, AY: 2006-07 & 2007-08*

S. 28, 45 Gains on share of shares

Considering the intentions of the assessee to hold shares as investments and the principle of consistency it was held that income from sale of shares to be taxed as capital gains and not as business income - *ACIT vs. Sailesh Liladhar Bhatia, ITAT BENCH 'E' MUMBAI, ITA No. 4096/Mum/2009, AY 2005-06, date of Order 26-08-11*

S.28, 45 Sales of Share Short term v/s business

Assessee's claim of short term capital gains was allowed in respect of shares held for the period of 30 days or more. Further in respect of shares which was held for the period of less than 30 days matter was remitted to AO to examine whether those shares were transacted for investment or trading purposes. *DCIT vs. Reliance Trading Enterprises Ltd. ITAT, Kolkata, ITA No. 505 (Kol) of 2010, Order dt. 28-07-11, AY: 2006-07*

S. 37(1) Expenditure on Buy-back of shares

Expenditure incurred on buyback of shares is allowable as revenue expenditure. It was further observed that existing free reserves and share premium account are used for buyback of shares which does not result in permanent reduction of the share capital and no benefit of enduring nature is derived. *ACIT vs. Britannia Industries Ltd., ITA No. 1789/Kol/2008, Kolkata ITAT, Order dt. 31-8-11, AY 2003-04*

S.37(1) Payment of Ransom Money

Assessee company paid to dacoits for release of its whole time director, who was kidnapped by them while on business tour. It was held that payment of ransom money was allowed as deduction. Court also observed that there is no provision to treat payment of ransom money as offence. *CIT vs. Khemchand Motilal Jain, Tobacco Products (P) Ltd. 201 Taxman 292 (MP)*

S. 40(a)(ia) Disallowance in case non submission of declaration forms

In case assessee had received declarations in prescribed forms from the payees before the interest was paid, assessee was not liable to deduct tax therefrom under section 194A and accordingly, section 40(a)(ia) is also not attracted, even in case of non-filing of forms to prescribed authority - *ITO vs. Rajesh Kr Garg, ITA No. 532/Kol/2011, ITAT, Kolkata, order dt 5-8-11, AY 2006-07*

S. 40(a)(ia), 194C Payment of lease rental

As per agreement Company agreed to provide vehicle on lease to the assessee. Company was neither responsible for day-to-day maintenance nor upkeep of vehicles. It was held that such an agreement was not a transport contract. It merely entailed taking of vehicles on lease and payments were in nature of lease rental simpliciter and hence provisions of S. 194C & 40(a)(ia) are not applicable. *CIT vs. BMR & Associates 201 Taxman 91 (Del.) (Mag.)*

S. 45 Compensation

Compensation granted to the assessee for granting the right of way in the land and for damage to land (land was held as capital asset) was held as capital receipt and hence not liable to tax. *Avimay S. Hakim vs. ITO, ITA No. 2923 of 2010, High Court of Bombay, Order Dt. 10-8-11, AY 2004-05.*

S.54 Exemption on purchase of more than one residential house

In the earlier part of the section 54, the words used are 'buildings or lands' which are plural in number and that is referred to as "a residential house", the original asset. An asset newly acquired after the sale of the original asset can also be building or lands appurtenant thereto, which also should be "residential house". Therefore, the letter 'a' in the context it was used should not be construed as meaning "singular". But being an indefinite article, the said expression should be read in consonance with the other words 'building' and lands' and therefore, the singular 'a residential house' also permits use of plural by virtue of S. 13(2) of General Clauses Act. *CIT vs. Jyothi K Mehta 201 Taxman 79 (Kar) (Mag.)*

S. 54EC, 74 Set off of losses

The stage at which set off of carried forward long term capital loss is to be given is subsequent to the stage at which income under the head 'capital gains' is computed and deduction under section 54EC is to be given in the course of the latter. Accordingly it was held that deduction u/s 54ED is required to be granted prior to setting of brought forward long term losses. *Tata Power Co. Ltd. vs. ACIT 13 taxmann.com 235 (Mumbai - Trib.)*

S. 57 Allowance of expenditure

Merely because the income is assessed under the heading 'Income from other sources', it is not as if the assessee is not entitled to the expenditure incurred in running that business. It is not the law that only statutory payments are liable to be deducted and other deductions are not permissible. *East West Hotels Ltd. vs. DCIT [2011] 13 taxmann.com 167 (Karnataka)*

S. 69 Capacity of Donors

The capacity of any person does not mean how much he earns monthly or annually, but the term capacity is a wide term and that can be perceived by how wealthy he is. *CIT vs. Ms Mayavati 201 Taxman 1 (Del.)*

S. 69C Unexplained Expenditure

During the search at hospital it was noticed that hospital collected unaccounted fees in the names of doctors and distributed same to them. Revenue added said expenditure in the hands of hospital u/s 69C. It was held that this is not a case of failure of the assessee to explain the expenditure and same cannot be added to the income of the assessee unless and until it is proved that such income is not received by doctors. *CIT vs. Lakshmi Hospital 201 Taxman 300 (Ker.)*

S. 70, 112 Set of long term gains computed differently

A bare perusal of the provisions of section 70(3) would show that long term capital loss can be set-off against income in the form of long term capital gain. The provisions of section 70(3) of the Act existed much prior to the mode of computation of capital gain without applying the benefit of indexation which were introduced later by an Amendment in the year 2000. It cannot be therefore that the Legislature would have contemplated while enacting the provisions of section 70(3) of the Act a situation as contemplated by proviso to section 112(1) of the Act, when it used the expression "similar computation" in section 70(3) of the Act. Hence it was held that as per section 70(3) the set off of long term capital loss computed considering indexation is allowed against long term capital gains computed without considering indexation u/s 112(1). *Vipul A. Shah vs. ACIT 13 taxmann.com 40 (Mumbai - Trib.)*

S. 80-IA Computation of deduction

The earlier year's loss which was already absorbed against the profit of other business cannot be notionally brought forward and set off against the profits of the eligible business while computing deduction u/s 80-IA, since no such mandate provided in the section 80-IA(5). *CIT vs. Emerald Jewel Industry (P) Ltd., Appeal No. 715 of 2010, Madras High Court*

S.80-IB Deduction on Excise Subsidy

Assessee Company entitled for the refund of Central Excise on the basis of exemption notification. It was held that such refund does not bear character of income since what is refunded to the assessee is the amount paid under the modalities provided by the Department of Revenue for giving effect to exemption notifications. Further it was observed that Central Excise duty also had a direct nexus with manufacturing activity and it is a profit or gain directly derived by the assessee from its industrial activity. Hence refund of excise duty is entitled for deduction u/s 80-IB. *CIT vs. Meghalaya Steel Ltd. 201 Taxman 135 (Gau) (Mag.)*

S. 143(3), 292B Assessment on Amalgamating company

Framing an assessment in the name of amalgamating company, which stood dissolved consequent upon its amalgamation, is bad in law. The framing of assessment against a non-existing entity/person goes to the root of the matter which is not a procedural irregularity but a jurisdictional defect as there cannot be any assessment against a 'dead person'. *Spice Entertainment Ltd. vs. CIT High Court of Delhi ITA No. 475 & 476 of 2011 Order dt 3-08-2011*

S. 147 Reopening of assessment

Assessing Officer cannot reopen assessment proceedings on the basis of subsequent pronouncement by a Court or a Superior Court on the ground that he has reasons to believe that income has escaped assessment or that assessee has not fully and truly disclose all material facts. *B J Services Company Middle East Ltd. DDIT (International Taxation) 12 taxman.com 493 (Uttarakhand)*

S. 154 Rectification of order

The legal controversy subsisted and two opinions were possible whether as loss arising on Future & Options transactions are speculation loss or not at the time of passing an assessment order. In such event the assessment order does not suffer from a mistake apparent from record in the sense that there was no patent mistake of law. Therefore, it is held that the Assessing Officer did not have jurisdiction under section 154 to correct the mistake *Hermanos Zubadi Investment (P.) Ltd. vs. ITO 13 taxmann.com 197 (Delhi - Trib.)*

Applicability of General Anti-Avoidance Rule (GAAR)

Through the transactions undertaken by the assessee, that recognises the artificial capital losses within the same economic unit is contrary to the object, spirit and purpose of provisions amount to abusive tax avoidance because they defeat the underlying rationale of the capital loss provisions in the Act. A contextual and purposive interpretation of the provisions relied on by the appellant in seeking to obtain the tax benefit discloses that their object, spirit and purpose was to allow only the recognition of "true" capital losses sustained outside the economic unit. Accordingly, the transactions which resulted in an abuse of the Act the GAAR should apply - *TRIAD Gestco Ltd. vs. Her Majesty the Queen [2011] 1 taxmann.com (ILT) 9 (TC - Canada) Tax Court Canada*

INTERNATIONAL TAXATION
(Contributed by CA. Hinesh Doshi,
CA. Vishal Gada)

Tiong Woon Project & Contracting Pte Ltd. (2011-TII-24-ARA-INTL) AAR No. 975 of 2010 Dated 19th September, 2011

Facts:

Tiong Woon Project & Contracting Pte Ltd (TWPC), a Singapore based company, provides crane on rental basis. It secured four work orders which were independent from each and through independent parties in India in FY 2009-10 and 2010-11 which involved setting up, fitting, placing, positioning of the fabricated equipments at the site. To carry out that work, four to five key personnel from Singapore were deployed along with local manpower. These installation projects were executed by using two cranes imported from Singapore in November, 2007. Prior to the present installation projects, the cranes were used for executing installation projects for Toyo Engineering India Ltd., Panipat, India. The assessee filed an application with AAR whether there is existence of PE in such circumstances.

It was argued that since these were installation projects, a PE will come into existence only if time period test of 183 days as stipulated in Article 5.3 of the treaty between India and Singapore was satisfied in respect of each of these projects. Hence, the business income of the assessee cannot be taxed in India in view of Article 7.1 of the treaty

It was also argued that no amount could be said to be payable as fee for technical services in the view of Explanation 2 to Sec 9(1)(vii). Even if the same is taxable then, then rate of deduction of Income Tax would be 2% plus surcharge.

On the other hand revenue argued that in these projects, the cranes were used and personnel were engaged to provide services; that the web site of the assessee did not portray it as a company engaged in installation work and that the source of its revenues was shown as rendering services, rentals

and construction work, etc. It was submitted that for all the four contracts, the cranes and the persons were in India which constituted a service PE under Article 5.6 of the DTAA.

It was further argued by revenue that the assessee had floated a wholly owned subsidiary in February, 2010 which applied for a SEZ in Dahej and one Shri G. Maran was shown as the contact man of the assessee. Hence subsidiary constituted a PE.

Issues

Whether when a crane rental company executes projects which involved setting up, fitting, placing, positioning of the fabricated equipments at the site, the same would constitute an installation or assembly project?

Whether subsequent setting up of a subsidiary and appointment of a contact person brings a PE into existence?

Whether different periods of the contracts are to be aggregated to reckon the threshold of 183 days under Article 5.3 of the DTAA in a fiscal year in a case where the projects are not carried out for the same principal?

Whether the duration test for installation and assembly projects can be construed to be read for all the projects that do not pass the test of cohesiveness, interconnection and interdependence.

Held

There is no dispute as to the work carried on by applicant constitute installation or assembly project as:

The applicant has to provide ground preparation details for the movement of cranes and obtain approval to the scheme under which erection is to be executed.

The Load Movement Test on the crane is required to be organized.

The holding of the equipments after erection before completion of welding of the column sections is required to be carried out.

Setting up, fitting, placing, positioning of the fabricated equipments at the site is thus required to be carried out.

Such an activity undertaken by the applicant would not amount to supervisory activities in connection with installation and assembly project nor it would amount to furnishing of services under the deeming provision of Article 5.6 of the DTAA. The nature and purpose of these activities relates to installation and assembly projects and are covered under Article 5.3 of the DTAA.

It was found that the projects were received from different parties which involved different work. Hence there is no interconnection and interdependence between them. None of them appears to be extension of another. Hence aggregation of the periods of the contracts cannot be made for these four contracts and consequently the applicant cannot be said to have a PE in terms of Article 5.3 of the DTAA.

The duration test for installation and assembly projects provided under Article 5.3 of the DTAA cannot be construed to be read for all the projects that do not pass the test of cohesiveness, interconnection and interdependence.

In view of the above, the income earned by the applicant from its activities of execution of four installation projects referred above is not liable to tax in India.

AAR pronounced in favour of the Assessee.

FIS GLOBAL BUSINESS SOLUTIONS INDIA PVT LTD vs. DEPUTY COMMISSIONER OF INCOME TAX 2011-TII-95-ITAT-DEL-TP Dated September 16, 2011

Facts

The assessee company, a subsidiary of US based company is engaged in the business of providing software development services and information enabled services relating to business process management including financial processing and support service to its international clients. The assessee company also had several international transactions with its associate enterprises. It had adopted the TNM method for determination of arm's length price for filing its Income tax return.

For scrutiny assessment, the AO made a reference to the TPO for determining the arm's length price in respect of the international transactions. The TPO excluded some of the comparables selected by the assessee, rejected the risk analysis conducted by the assessee and

RECENT JUDGEMENTS

recommended an adjustment in the ALP of international transactions. AO proposed an addition in the draft assessment order. The AO also disallowed the deduction claimed by the assessee under section 10A relating to its profit through STP units.

In the objections raised before the Dispute Resolution Panel, the assessee made detailed submissions relating to the inclusion and exclusion of comparables by the TPO. The assessee submitted detailed reasons supporting its contention that comparables selected by the TPO could not be compared. The assessee also objected to the disallowance under section 10A. The DRP held that the TPO had duly considered at length the selection of comparables and risk analysis of the assessee and given detailed reasons for rejecting these as well as selection of comparables for working out the ALP.

In appeal before the Tribunal, against the DRP's order, the assessee submitted that the DRP had not assigned any reason to be of the same opinion with the findings of the TPO. It had not noticed the facts and circumstances, particularly the details of comparables produced by the assessee.

Issues

Whether Dispute Resolution Panel's order upholding the TPO's reasons for rejection and selection of comparables without assigning any reason for doing so, can be considered as a speaking order.

Held

It was held that it was necessary for the DRP to consider the facts and circumstances and record reasons in support of its order so that higher appellate forum could appreciate what made the senior officers from the revenue department form the same opinion as concluded by TPO. The DRP order could not be termed as a speaking order.

It was also held that considering the defect in the DRP order, it was deemed appropriate to set aside the order and remit the issue back to the file of the DRP for adjudicating upon the objections of the assessee on merit by passing a reasoned order.

SERVICE TAX (Contributed by CA. A. R. Krishnan, CA. Girish Raman)

Incidence of tax

Service tax is an indirect levy which can be collected from the user of service (lessee in this case). In a case before the Delhi High Court, the parties had entered into an agreement for renting of premises prior to 1.6.07 (the date on which service tax was introduced on renting of immovable property). The agreement provided that the lessor was liable for taxes but there was no reference to service tax since it was not envisaged while entering into agreement. The Court held that service tax is an indirect tax which can be collected from the user [in this case the lessee] and accordingly directed the lessee to pay the service tax to the lessor w.e.f. 1.6.07 [Pearey Lal Bhawan Association vs. M/s. Satya Developers Pvt. Ltd. (2011) 23 ST 213 (Del.)].

Banking and other financial services

Foreclosure of loan is not a service rendered by the financial institution and the foreclosure premium is only a kind of compensation received by the bank for possible loss of interest revenue on loan amount returned by the customers. Accordingly, the activity of foreclosure of loan is not liable for service tax under the category of 'banking and other financial services' [Small Industries & Development Bank of India vs. CCE (2011) 23 STR 392 (Tri-Del.)].

Business Auxiliary services

Where the assessee was merely engaged in feeding of the data provided by their clients in the computer network system with the help of software specifically developed by them for their clients and generating bills and other reports for the client the Tribunal held that appellants' work of data processing using custom made software deserves to be considered as 'Information Technology services' and since the same had been specifically excluded from the definition of Business Auxiliary Services during the relevant period of time it would not be liable for service tax under the category of 'business auxiliary services'. [CCE vs. Galaxy Data Processing Centre (2011) 23 STR 375 (Tri-Del.)]

Consulting engineering services vis-à-vis turnkey contracts

The appellants in the present case were manufacturers of Telecommunication equipments, UPS Systems, etc. also undertook for their customers designing, installation and commissioning of the electronic control systems, providing operational training to the customer's

employees and repair and maintenance of the control systems in the customer's plant. Under the said contracts the appellants provided drawings/ designs, documentation, sophisticated engineering services and also training to the clients personnel for which it raised invoices as 'engineering charges'. The revenue contended that service tax is leviable on the said charges under the category of 'Consulting Engineering services'. The appellants contended that the contract being an 'indivisible contract' for designing, engineering, supply, erection, installation and commissioning of the control system the same cannot be vivisected for levying service tax on designing and engineering component. The said contract would be liable only under the category of Works Contract services. On appeal the Tribunal observed as follows:

- (i) A contract for a particular service involving use of other ancillary service and/or goods for providing the service is an 'indivisible contract' for that service. If an indivisible service contract involves transfer of property in goods in course of providing the service, by invoking the legal fiction of Article 366(29A) of the Constitution of India, for the purpose of charging sales tax, this contract can be treated as a contract for sale of goods which have got passed on to the service receiver either as such or in changed form and a contract for service and the deemed sale portion can be subjected to sales tax. But for charging service tax on such a contract, the legal fiction of Article 366(29A) is of no relevance and the contract will attract service tax if the service is taxable under Section 65(105) of the Finance Act, 1994.
- (ii) A contract would be an indivisible contract for a particular service if the intention of the contract is providing that particular service for some consideration and use of other service/services or goods or both is incidental. Charging of a fixed lumpsum price or single point responsibility for performance of the contract involving use of goods and services do not make such a contract an indivisible contract. As against indivisible contracts, whether for sale or for service, there are 'composite contracts' consisting of sale as well as a service or sale as well as more than one service. In such contracts, there is intention for sale as well as service, whether one service or more than one service the intention being demonstrated by the wordings of the contract.
- (iii) If the work contract is an indivisible work contract for a particular service and that service is taxable under Section 65(105), Service Tax will be chargeable and the question whether the work contract is divisible or indivisible is irrelevant. If the LSTK contract/EPC contract is a composite (divisible) contract for supply of goods and providing of a basket of service, whichever services of the basket of services are taxable under Section 65(105), will attract service tax.
- (iv) For the purpose of levy of Service Tax, there is no warrant to treat an EPC contract i.e. a contract for engineering, design, procurement of goods, erection, installation and commissioning of a plant, which is a composite contract for sale of goods and services, as an indivisible work contract, just because it is on lump sum and single point responsibility basis, where failure to perform one part of a contract is treated as failure to perform the entire contract.
- (v) When a contract is a divisible contract for sales and service in which separate intention for sale of goods and rendering of service is discernible, even without invoking the legal fiction of Article 366(29A) it can be said that service tax can be charged on the service component, if the service / services are taxable service under section 65(105) of the Finance Act, 1994.
- (vi) Since the definition of "work contract" is only for the purpose of clause 65(105)(zzzza) which came into force w.e.f. 1-6-2007, it is valid only for the period w.e.f. 1-6-2007 and for the types of contracts mentioned in it. Therefore, for the period prior to 1-6-2007, the meaning of 'Works Contract' as commonly understood i.e. a contract for work and labour and in other words, a service contract has to be adopted, and it would not be correct to treat a work contract as something different from a service contract. If such a work contract is an indivisible service contract, whether or not involving use of goods which get consumed or get passed on to service receiver either as such or in changed form, and that service is taxable, the works contract will attract service tax and if the work contract is a composite contract involving sale of goods and one or more services and those service are taxable, the service tax will be chargeable on the value of these services. Thus a contract for erection, installation and commissioning, even if involving transfer of property in goods on

which state VAT/Sale Tax is paid, would attract service tax even for the period prior to 1-6-07. Similarly a divisible contract involving consulting Engineer's service (preparation of drawings/designs, preparation of operation manuals, or other technical assistance), procurement of goods, erection, installation and commissioning would attract Service Tax on Engineering Consultancy component and erection installation and commissioning component even prior to 1-6-2007. This is so since there is nothing in Sec. 65(105) and Section 66 of the Finance Act, 1994 from which it can be inferred that the taxable services defined in various clauses of Section 65(105) have to be standalone services and will not attract tax, if they are provided along with other services or providing of the service involves supply/use of goods on which VAT or Sales Tax is payable. Hence the contention that the service of designing erection, installation & commissioning along with goods supply, provided as a turnkey work contract could be subjected to tax only w.e.f. 1-6-2007 under Section 65(105)(zzzza) of the Finance Act, 1994, read with Rule 2A of the Service Tax (Determination of Value) Rules, 2006 as "Work Contract Service" and this being a new entry, during the period prior to 1-6-07 no service tax could be charged in respect of such contracts, is incorrect.

- (vii) In the present case, while some contracts are purely for design and engineering, in all other contracts, the contracts contain clauses for design and engineering for which separate charges are mentioned. As per the contract terms, the basic design and detailed drawings have to be shown to the clients for their approval and only after approval of the drawings, the work of procurement of machinery and equipment, erection, installation and commissioning starts. Therefore we are satisfied that the contracts in this case have a distinct component of activity, coming within the purview of "consulting Engineer's service" and service tax under Section 66 read with Section 65(105)(g) of the Finance Act, 1994 would be chargeable or the amount charged for "drawings/designs, engineering", training, etc.

[*Instrumentation Ltd. vs. CCE (2011) 23 STR 221 (Tri-Del.)*]

Mandap Keeper service

Any service provided by a mandap-keeper 'in relation to' the use of a mandap is liable for service tax under the category of mandap-keeper services. Thus where the appellant had made available parking space to the clients, who had availed the services of the appellant's Mandap, and had separately recovered parking charges from them, the Tribunal held that the service of car parking was in relation to the use of Mandap and hence would be liable for service tax under the category of mandap-keeper services. [*Desert Inn Limited vs. CCE (2011) 23 STR 254 (Tri-Del.)*]

Repair and Maintenance Services

There is no necessity to have a written contract or agreement between the parties in order for repair services to be liable for service tax under the category of 'repair and maintenance services' (as it stood prior to 16.6.2005). On facts, the Tribunal also found that the retreading of tyres was pursuant to a supply order which obligated the assessee to provide retreading services. The Tribunal also held that retreading of tyres is liable under 'maintenance & repair services'. [*Stallion Rubbers Ltd. vs. CCE (2011) 23 STR 380 (Tri-Del.)*].

Prior to 16.6.2005 only services provided under a maintenance contract were only liable for service tax under the category of 'maintenance or repair services'. Accordingly, where the appellant had provided a service under a rate contract the Tribunal held that the same would not be liable for service tax under the category of 'Maintenance or repair services'. [*Raj Trans Stampings (P) Ltd. vs. CCE (2011) 23 STR 394 (Tri-Del.)*]

Transportation of goods by pipeline

Where the appellants was merely engaged in operation and maintenance of fly ash handling system (a system through which the fly ash generated in thermal plant was transported through pipeline) but did not own or possess the system the Tribunal held the activity in the contract was partially operation of fly ash handling system owned by client and partially maintenance and repair of the system and the appellant cannot be held to be doing the service of transporting fly ash through pipeline. Hence the appellant's activities would not be liable for service tax under the category of 'transportation of goods by pipeline services' [*Macawber Beekay Pvt. Ltd. vs. CCE (2011) 23 STR 354 (Tri-Del.)*].

Import of services

Following *Indian National Ship Owners Association vs. Uol (2009) 13 STR 235(Bom.)* it was held that in respect of import of services, recipient of taxable service was not liable prior to 18.4.06 [CST vs. Bosch Rexroth (I) Ltd. (2011) 23 STR 359 (Tri-Ahmd.)]

Revised Returns

Where the appellant contended that the demand would not be sustainable since the SCN did not take into account the figures in the revised return filed by the assessee after a lapse of 11 months (though the statutory period is only 60 days), the Tribunal remanded the matter to the adjudicating authority to consider the revised return observing that in view of rule 7C the revised return cannot be ignored simply because it is filed beyond the statutory period. [*Ceolric Services vs. CCE, Bengaluru (2011) 23 STR 369 (Tri. - Bang.)*]

Interest

Interest can be recovered only when the duty liability has been finally determined. Thus where the assessee had challenged the liability to duty in an appeal before the Tribunal, it was held that interest in respect of said duty liability could not be recovered from the assessee. [*CCE vs. Needle Industries (India) Pvt. Ltd. (2011) 23 STR 278 (Tri-Chennai)*]

Penalty

Where the failure to pay service tax was for the period August 2001 – October 2002 when penalty u/s. 76 was ₹ 100/- to ₹ 200/- p.m. every day during which such failure continues but the CCE(A) had vide order dated 21.1.2006 imposed penalty u/s. 76 @ ₹ 100/- per day u/s. 76 which provision came into force from 10.9.2004, the High Court held that penalty under the revised provision would be imposable only for the period post 10.09.2004 and not for the period prior to the said date [CCE vs. Dee Pee En Corporation (2011) 23 STR 345 (Kar.)]

In this case the Tribunal held that there was a reasonable cause under section 80 for waiver of penalties based on the following facts –

- The appellant was located in a small desert area in Rajasthan and there was no Range or Division of Central Excise/Service tax in that area;
- The appellant had started the coaching centre during the initial period of levy of service tax when there was a lot of confusion in the field – which showed there was no mala fide on their part;
- The appellant had deposited the entire amount of service tax alongwith interest out of their own pocket which reflected their bona fide.

[*Priya Home Study Pvt. Ltd. vs. CCE (2011) 23 STR 408 (Tri-Del.)*]

Appeal

With regard to the question whether the assessee's activities fall within the category of 'clearing and forwarding agent' services an appeal would be only before the Apex Court u/s. 35L of the Central Excise Act, 1944 and not before the High Court u/s. 35G since it involves the determination of a question having relation to the 'rate of duty or value of goods for the purposes of assessment'. [CST vs. Siddarth Polymers (2011) 23 STR 209 (Kar.); See also CCE vs. Rai Associates (2011) 23 STR 210 (Kar.) - question whether activity liable under CA services or business auxiliary services?]

The question whether the assessee is liable to pay service tax for a courier service during the period from 15.3.2005 to 15.6.2005 as the service provided by the assessee constitutes export of services was held to be 'determination of a question relating to rate of service tax' and accordingly an appeal against the order of the Tribunal lies before the Supreme Court [Prakash Freight Pvt. Ltd. (2011) 23 STR 220 (Kar.)].

In this case the High Court analysed the meaning of the expression "determination of question relating to rate of duty of excise or value of goods for the purpose of assessment" mentioned in S. 35G and 35L of the Central Excise Act, 1944 made applicable to service tax and laid out the broad disputes emanating from the order of the Tribunal wherein an appeal would lie before the Supreme Court and not before the High Court. The court further observed that the expression "rate of tax" does not mean only the rate at which tax is payable or fraction thereof but is much beyond. The disputes wherein appeal would lie to Supreme Court are as follows:

- Dispute relating to the service tax payable on any service / taxable service;
- The value of taxable service for the purpose of assessment;
- A dispute as to the classification of services;
- Whether those services are covered by exemption notification or not?;

RECENT JUDGEMENTS

- e) Whether the value of services for the purpose of assessment is required to be increased or decreased?;
- f) The question of whether any services are taxable service or not;
- g) Whether any activity is a service rendering activity or not, so as to attract levy of service tax?;
- h) Whether a particular service falls within which heading, sub-heading of Section 65(105) of the Finance Act, 1994 which defines "taxable service?"

Further it also observed that matters other than what is set above, which relates to refunds, duty drawbacks, rebates, etc., which relate to a particular manufacturer falls within the jurisdiction of the High Courts'. [CST vs. Scott Wilson Kirkpatrick (I) Pvt. Ltd. (2011) 23 STR 321 (Kar.)]

SEZ Exemption

The appellants, provided containers to units located in SEZ for the purpose of carrying inputs into the SEZ and finished goods out of the SEZ, and had claimed exemption from payment of service tax under Notification No. 4/2004-ST dated 31.3.2004 which exempts taxable services provided to a unit of the SEZ "for consumption of services within the SEZ". The revenue disallowed the claim contending that it is not 'consumed within the SEZ'. The Tribunal held that the same would be exempt since:

- (i) A harmonious reading of the expressions "for consumption of services within the Special Economic Zone" and "taxable services provided to a unit of the SEZ" mentioned in the said notification, would entitle the appellants to claim exemption;
- (ii) In any case, exemption from payment of service tax on services rendered to a unit in the SEZ for the authorized operations is available under Section 26 of Special Economic Zones Act, 2005 and Rule 31 of Special Economic Zone Rules, 2006 without any restriction regarding the consumption of services

[Norasia Container Lines vs. CCE (2011) 23 STR 295 (Tri-Del)].

Benefit of Exemption

Benefit of exemption can be claimed at any stage of the appeal proceedings, if the same was available to the assessee. [Sahni Video Movies vs. CCE (2011) 23 STR 299 (Tri-Del)].

CENVAT Credit

Where the assessee was a manufacturer and a service provider, (renting services), the CENVAT credit availed on inputs, capital goods and input services used for manufacturing final products can also be utilized for payment of tax on output services since the CENVAT credit account is a common pool and there was no requirement under the CENVAT credit rules to maintain separate CENVAT accounts – one for the payment of excise duty and other for discharging service tax liability. [CCE vs. Lakshmi Technology & Engineering Indus Ltd. (2011) 23 STR 265 (Tri-Chennai)]

In this case the Tribunal held as follows:

- (i) Credit of service tax paid on outdoor catering services is admissible in view of the judgment of the larger bench of the Tribunal in CCE vs. GTC Industries Ltd. (2008) 12 STR 468 (Tri-LB);
- (ii) CENVAT credit on Chartered accountants services availed for verification of stock of final product lying with the distributors for the purpose of giving quantity discounts to the distributors is admissible as CENVAT credit
- (iii) Credit of service tax paid on security services availed for security of its raw material stored in a godown outside the factory premises is admissible as being activities relating to business. However CENVAT credit of security services availed at the sales office and at the residence of the general manager was held not admissible.

[CCE vs. Hindustan Coca-Cola Beverages Ltd. (2011) 23 STR 268 (Tri-Del)]

Transportation of employees to the factory and back has a direct nexus with the business of manufacture of the final product since without the employees being present in the factory manufacture cannot take place. Hence Cenvat credit on van hire charges availed for transportation of employees is admissible [Sundaram Fasteners Ltd v. CCE (2011) 22 STR 272 (Tri-Chennai)].

CENVAT credit in respect of Cable TV Services and Repair & Maintenance Services received in guest house of the appellants is not admissible since

the same does not have any nexus with the manufacture of the finished goods [Hindustan Zinc Ltd vs. CCE (2011) 23 STR 274 (Tri-Del)].

Credit of service tax paid on business auxiliary services availed for preparation of pre-shipment and post-shipment documents in respect of export of final products is admissible [Ucal Fuel System Ltd v. CCE (2011) (23) S.T.R. 276 (Tri-Chennai)].

Where the Head office of the assessee company paid for certain input services consumed in unit 'A' it was held that the Head Office can validly distribute the credit on such services even to unit 'B' in absence of a specific prohibition in rule 7 of the CENVAT Credit Rules, 2004 [CCE vs. ECO Industries Pvt. Ltd. (2011) 23 STR 337 (Kar)].

Cenvat credit of excise duty paid on cement and TMT Bars used for construction of warehouses by the assessee, a storage & warehouse keeper, would be admissible since without a storage facility, storage and warehousing services could not be provided by the assessee [CCE vs. Sai Sahmita Storages (P) Ltd. (2011) 23 STR 341 (AP)]

Prior to 19.4.2006 by virtue of explanation to rule 2(p) of the Cenvat Credit Rules, 2004 (which defined output service) service tax liability as a recipient of goods transport agency services could be discharged through Cenvat credit only by those persons who did not provide any taxable service or manufactured any final product. The appellants in the present case were engaged in manufacturing activities. Further the goods transport agency services which is received by the assessee is specifically covered by the definition of "input services" and the same service cannot be considered as "input service" as well as "output service". Hence the goods transport agency services received by the assessee cannot be treated as their "output service". Accordingly, the Tribunal held that the appellants could not discharge their service tax liability in respect of goods transport agency services by availing CENVAT credit. [CCE vs. B.P.L. Display Devices Ltd. (2011) 23 STR 356 (Tri-Del.)]

WORK DISPOSAL POSITION

The position of disposal of various matters relating to members and students of WIRC as on 30/09/2011

PARTICULARS	DATE
Members Section	
Proprietary Firm Registration	30/09/2011
Partnership Firm Registration – Constitution	30/09/2011
Reconstitution	20/09/2011
Grant of Certificate of Practice	23/09/2011
Fellow Admission	23/09/2011
Change of Address	30/09/2011
New Enrolment	05/09/2011
Restoration	23/09/2011
Permission for other engagement	30/09/2011
Articles Section	
Industrial Training Registrations	15/09/2011
Re-registration	15/09/2011
Termination	15/09/2011
Completion	23/09/2011
Permission to study	14/09/2011
Supplementary Registration	22/09/2011
Change of Address	07/10/2011

Obituary



CA. Vinodkumar Saboo
Mem. No. 36341 left for heavenly abode on 9th July, 2011.
May the departed soul rest in peace.



THANE : CA. Shriniwas Joshi, Chairman, WIRC, addressing at the Opening of Reading Room at Dombivli. L to R: Smt. Jayanti Patkar, Shri Nitin Patkar, CA. Madhukar Chavan, Branch Chairman, CA. Madhav Khisti.



VASAI : Felicitation cum Valedictory Session of 1st GMCS batch of Vasai Branch. Seen in picture CA. Pramod Dhamankar, CA. Jay Chhaira, RCM, CA. Unmesh Narvekar, Branch Chairman along with CA Students.

Seminar on NBFC held on 3rd September, 2011



CA. Kirit Dedhia, CA. Jayant Thakur, Faculty, CA. Shardul Shah, Secretary, WIRC, CA. Sunil Patodia, RCM

Other Speakers



CA. Manish Saraf



CA. Hardik Chokshi



CA. Mahazaver Patel



Shri Sahil Shah



Shri Karan Kalra

Seminar on Ratings held on 10th September, 2011



CA. Manoj Alimchandani, Faculty, CA. Dilip Apte, RCM, Shri Yogesh Dixit, Faculty, CA. Ashok Manghnani, CA. Y.R. Desai.

Other Speakers



CA. Rajesh Mokashi



Shri Arvind Rao



Shri Sudhi Nair



Shri Jagdish Maurya



Shri P.N. Sathees Kumar

Seminar on Securitization and Debt Recovery Tribunal held on 10th September, 2011



CA. Namrata Dedhia, CA. Mangesh Kinare, RCM, CA. Pankaj Majithia, Faculty, CA. Mousham Buch.

Other Speakers



Adv. Rajesh Nagori



CA. Prafulla Chhajed



CA. G.K. Sharma



CA. V. S. Rangan

Seminar on Tax Audit held on 3rd September, 2011



CA. Subhash Chhajed, CA. Harish Motiwalla, Faculty, CA. Saurabh Shah

Personal Column

Required CAs as partners in experienced C.A. firm in Mumbai with good arrangement/terms and freedom for personal practice, place and age no bar. Contact glen.office@gmail.com / 26254421 / 9920317933

Leading Fertilizer listed Co. requires; 1. Accountant (Akola) A/cs. knowledge, Taxation, Banking, Accounting Software, Fluent English 2. Accountant (Mumbai) A/cs. knowledge, Taxation, Accounting Software, Fluent English, Self Correspondence. Email your resume at hrsearchmum@gmail.com

Experienced CA in (Income Tax) CIT Appeal and Tribunal Appeal offers services in preparing cases of your clients on professional basis Contact after 3.00 p.m. 9869214472/ 28074989 Email - mjsca4@yahoo.co.in



AHMEDABAD: Seminar on Workshop on Limited Liability Partnership Act, 2008 held on 10/09/2011. Seen L to R: CA. Rajesh Parikh, Shri Pradip Desai, Shri A. K. Chaturvedi, Shri K. L. Kamboj, Shri Jay Narayan Vyas, Minister of Health & Tourism, Govt. of Gujarat, Shri S. N. Misra, CA. Purushottam Khandelwal, CA. Aniket Talati.



AKOLA: Seminar on Taxability of Capital Market Transactions. L to R: CA. Vikram Golechha, CA. Prafulla Sanghvi, Branch Chairman, CA. Sanjay Kotak



AURANGABAD: Joint meeting with Tax Practitioners' Association, held on 14/09/2011. R to L: CA. Renuka Deshpande, CA. G.K. Bagga, CA Rahul Lohade, Branch Chairman, Shri O.P. Kakaralia, Mrs Ekta Bishnoi, CA D.P.Mohite, CA. Alok Singh.



BARODA: Celebration Gurupurnima – L to R: CA. Viral Shah, CA. Pradeep Agrawal, CA. Manilal Parsiya, Branch Chairman, CA. Vinod Kansara, Mr. Chintan Patel, Faculty



GANDHIDHAM: Seminar on "Income Tax Assessment & Appeals" held on 10/09/2011. L to R: Shri Urdidhar Jagani, CA. Sanjay R. Mehta, CA. Kalpesh Doshi, Faculty, Shri Vidyut Buch, CA. A. L. Gehlot, Hon. Member, ITAT, Rajkot, CA. Mitesh Dharamshi, Branch Chairman, CA. Rajiv Doshi, Faculty



NAGPUR: Dr. Pallavi Darade, Jt. Commissioner Income Tax, lighting the lamp at the Seminar on Tax Audit. L to R: CA. Sanjay Agrawal, CA. M.R. Hundiwala, CA. Swapnil Agrawal, CA. Satish Sarada, Branch Chairman, CA. Ashwini Agrawal, CA. Julfesh Shah, Treasurer, WIRC, CA. Kavita Loya



NASHIK: CPE Seminar on MVAT and Works Contract held on 03/09/2011. CA. C. V. Pawar, RCM, CA. Vikrant Kulkarni, CA. Ashok Chandak, Past President, ICAI, CA. Kishor Birari, Branch Chairman



PUNE: Career Counselling Out-Reach Programme 26/09/2011. From L to R: Dr. C. P. Rodricks, CA. Dr. Ashok Pagariya, CA. Vijaykant Kulkarni, Branch Chairman, CA. S. B. Zaware, CCM, Dr. Ms. Gonsalves.



SOLAPUR: CA. Arvind Shankur, addressing Students on CA Course Awareness Programme held on 17/09/2011. L to R: CA. Arvind Shankur, CA. R.A. Shah, CA. B. S. Birajdar, CA. P. S. Mantri, Branch Chairman



SURAT: Career Counselling programme at Navsari. L to R: CA. Sujesh Suratwala, CA. H.B. Bhutwala, CA. Shruti Shah, RCM; CA. H. Tosniwal, Branch Chairman, CA. Kalpesh Kapadia, Ms. Richa Naik, CA. Nisith Mehta, CA. Jay Chhaira, RCM



Interactive Meeting with Regional Director Western Region, MCA & ROC Mumbai held on 27/09/2011. L to R: CA. Sunil Patodia, RCM, CA. Dhiraj Khandelwal, RCM, CA. Rajendra Korla, CA. Ashok Jain, RCM, Dilip Apte, RCM, CA. Shardul Shah, Secretary, WIRC, Shri Henry Richard, ROC, Shri S.M. A. Millath, Regional Director, CA. Shrinivas Joshi, Chairman, WIRC, CA. Durgesh Kabra, RCM.



CA. Shrinivas Joshi, Chairman, WIRC lighting the lamp at the Workshop on Basics of DTAA held on 1/10/2011. L to R: Shri K.K. Sen, Director of International Taxation, Mumbai Chief Guest. CA. Rashmin Sanghvi, Faculty, CA. Shardul Shah, Secretary, WIRC.



Meeting with Secretary, Ministry of Finance, Department of Financial Services L to R: CA. Pravinkumar Wadhva, Shri D. K. Mittal, Secretary Financial Services, Minister of Finance, Govt. of India, CA. Shrinivas Joshi, Chairman, WIRC, CA. Shardul Shah, Secretary, WIRC.

Price Rs. 15 per copy

Associate Membership Fees Rs. 600 and Fellow Membership Fees Rs. 1800 (including subscription to WICA Newsletter)

Printed and published by Shri M.A. Razak on behalf of Western India Regional Council of The Institute of Chartered Accountants of India and printed at Finesse Graphics & Prints (Pvt) Ltd., 309, Parvati Industrial Estate, Sunmill Compound, Lower Parel, Mumbai - 400 013. and published at Western India Regional Council of the Institute of Chartered Accountants of India, ICAI Bhawan, 27, Cuffe Parade, Colaba, Mumbai - 400 005. **Editor: CA. Shrinivas Joshi**
The views and opinions expressed or implied in Western Indian Chartered Accountant Newsletter are those of the authors or contribution and do not necessarily reflect those of WIRC. Unsolicited articles and transparencies are sent in at the owner's risk and the publisher accepts no liability for loss or damage. Material in this publication may not be reproduced, whether in part or in whole, without the consent of WIRC.
DISCLAIMER: The WIRC is not in any way responsible for the result of any action taken on the basis of the advertisement published in the Newsletter. The members, however, may bear in mind the provision of the Code of Ethics while responding to the advertisements.

To

Branches : Ahmedabad • Ahmednagar • Akola • Amravati • Anand • Aurangabad • Baroda • Bharuch • Bhavnagar • Gandhidham • Goa • Jalgaon • Jamnagar • Kolhapur • Latur • Nagpur • Nashik • Navi Mumbai • Pimpri Chinchwad • Pune • Rajkot • Sangli • Solapur • Surat • Thane • Vasai • Vapi

Posted at Mumbai Patrika Channel Sorting Office, Mumbai - 400 001

If undelivered, please return to:
ICAI Bhawan, 27, Cuffe Parade, P.B. No. 6081, Colaba, Mumbai 400 005

Address : ICAI Bhawan, 27, Cuffe Parade, P.B. No. 6081, Colaba, Mumbai 400 005. **WIRC Website :** <http://www.wirc-icai.org> **ICAI Website :** <http://www.icai.org> • **Phone :** 39893989 • **Fax :** 39802954/39802953 • **E-Mail :** WIRC : wirc@icai.in | Mumbai : wro@icai.in | New Delhi : icaiho@icai.org