



The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)



Western India Chartered Accountants Newsletter

OCTOBER 2018 Vol. 44 | No. 10



✓ Excellence ✓ Independence ✓ Integrity

Respected Colleagues,

We are members of the most dynamic professional body, confidently marching ahead in our quest for professional excellence with our commitment of delivering the best service in today's fast changing environment.

We deploy our tried and tested traditional methods with a few innovated and modern adaptations in trying to keep up with the changing global practices. This is

where soft skills play a crucial part in fostering intangible but critical aspects like healthy client relationships and strategic timely advice. These play a pivotal role in positioning members for the future along with providing insightful business solutions.

Taking into account future demand, we need to think about our new members and our future i.e. students. We need to create a plan which will provide our students the requisite experience to take them out of routine tasks and into roles more suited to their growth. This was the focal point at the ICAI convocation of the newly qualified members held recently and which was attended by more than 2500 members across the Region.

Our Branches and their WICASA arms continue to make us proud. My dedicated colleagues in the Regional Council have been travelling the length and breadth of our Region and interacting with members and students. It has helped us in understanding the issues that need to be addressed. The quality of the programmes organised and other healthy activities conducted by the Branches for members and students are highly praise-worthy. The bigger branches have supported the smaller branches with fresh ideas and faculty support from time to time.

WIRC has been privileged in providing technical training to senior officials and executives of C&AG. I take this opportunity to thank Shri Guljari Lal, Director General of Audit (Central), for reposing confidence in us as we stand in support to provide academic training to their officials on varied topics of compliance and reporting relevance. He had also shown keen interest in introducing the concept of short term training of our CA Students during their articleship period and a necessary representation may be made.

This can be rightly termed as a "**Legislative Revolution**". Laws are getting dynamic by the day. New and promising areas of practice and advisory service are ensuring that the members are geared up well in advance to seize the opportunities.

GST continues to be the most promising sector for us in fields of either compliance or litigations. We continue to ensure that we provide a very robust learning environment for our members and students towards GST training. Recently we had the opportunity to host Smt. Sungita Sharma, Hon'ble Chief Commissioner CGST, Mumbai, CA. Upender Gupta, Commissioner GST Policy Wing, CBIC, New Delhi, the patriarch of the GST framework in India and Shri Sanjay Mahendru Commissioner of GST, Mumbai, along with a galaxy of very senior officials of the GST Department. The event was an interactive discussion on the 'Shaping up of GST - Pre and Post Implementation', wherein we had our members interact and suggest changes in the GST law and procedures. This was very positively received by the respected officials of the GST Department.

I am proud to state that the **Chartered Accountant Benevolent Fund (CABF)** is one of the noblest initiatives by ICAI. It has always provided much needed financial support to the kith and kin of deceased members. I am happy to share that with the invaluable support and selfless contributions by our members, ICAI has been able to extend this support. I humbly request each member to come forward and continue to generously contribute towards this fund. The details of how to contribute for this cause is given elsewhere in this newsletter.

We continue to make contributions towards the **Kerala Relief Fund**. I, once again, request members to come forward and show their generosity by extending whatever we can for the citizens. Kindly send your contributions to "WIRC of ICAI" with your name and membership number or contribute online at wirc-icai.org.

The banking sector has been the backbone of the economy and an arena for promising opportunities for us. As testimony, we are proud to organise the **Regional Banking Conclave** on 24th November in Mumbai. I compliment the Chairperson of this Committee for the conception of this conclave.

Health is Wealth and this is the undisputable mantra, especially for us in these times when compliances are taking most of our time and resources. I request members and students to have a judicious balance between work and enjoyment for a healthy family life ahead.

With Best Wishes,

CA. Sandeep K.C. Jain
Chairman

OFFICE BEARERS

CA. Sandeep Jain

Chairman

CA. Priyam Shah

Vice Chairman

EDITORIAL BOARD

CA. Sandeep Jain

Chairman

MEMBERS

CA. Vishnu Agarwal

CA. Pradeep Agrawal

Forthcoming

Events

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Law Updates & Miscellaneous

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Lecture Meeting on Annual Return under GST – Understanding and Approach



CA. Amogh Jain, CA. Avinash Poddar, Faculty, CA. Sandeep Jain, Chairman, WIRC, CA. Punit Mehta

Seminar on Business Restructuring in Relation to Taxation, SEBI and FEMA Laws



CA. Ratan Jain, CA. M. Jagannathan, Faculty, CA. Hardik Shah, Faculty, CA. Eshaan Shah



CA. Devarsh Patel



CA. Amit Dhoot



CA. Rashmin Pandya

Knowledge Series on Banking Pension & Insurance



CA. Manoj Alimchandani, CA. Vipul Choksi, Past Chairman, WIRC, & Faculty, CA. Vijay Mullaji



CA. Yogesh Satpute



CA. Rohit Patoria



CA. Nipun Mehta



CA. Archana Moghe



CA. Jeeger Shah



CA. Pramod Agarwal

International Co-operative Exposure visit to Sri Lanka





ICAI Tower, Bandra Kurla Complex, Mumbai

Date & Day	Time & Fees	Topic(s)	Speaker(s)	Chief Co-ordinators	Co-ordinators
13/10/2018 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Seminar on Transfer Pricing <ul style="list-style-type: none"> • Overview of Transfer Pricing – Latest Developments including CbCR & Master File • Transfer Pricing Case Studies & Recent Judgments • Functions, Assets & Risk Analysis, along with Value Chain Analysis • BEPS Action Plans 8-10 along with Draft Guidance on Profit Splits 	CA. Vispi Patel CA. Chaitanya Maheshwari CA. Mehul Shah CA. Chintan Mehta	CA. Vishnu Agarwal 9324544607 CA. Pradeep Agrawal 9898560967 CA. Hardik Shah 9825510422	CA. Meera Joisher 9819354164 CA. Vinit Vyas 9930766805 CA. Bipeen Mundade 9223290561
20/10/2018 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Seminar on Pharma Industry <ul style="list-style-type: none"> • Accounting & Ind AS • Direct Tax & Transfer Pricing • GST Issues • Capital Markets • Finance & Bank Facilities 	CA. Jigar Parikh CA. Umesh Gala CA. Rajiv Luthia CA. Ajay Parmar Eminent Faculty	CA. Priyam Shah 9824096112 CA. Vikrant Kulkarni 9881880073 CA. S. G. Mundada 9422080814	CA. Y. R. Desai 9820448365 CA. Bhushan Ramani 9819666708 CA. Girish Shekhar 9820812584
27/10/2018 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Value Driven – Risk based Internal Audit <ul style="list-style-type: none"> • Standards on Internal Audit (Importance of Standards and Compliance) • Value Delivered & Key Outcome (Internal Audit as Value Driver, Value Delivered by IA, Key Result Areas of IA and Observation & Key Outcomes) • Stakeholder Management & Soft Skills (ACM & Statutory Auditors) • Communication & Report Writing (Presentation of Findings, Root Cause, Impact, Recommendations, Management Actions & Observations & Report Rating) 	CA. Manindra Prakash CA. Sandeep Gupta CA. Huzeifa Unwala CA. Swaminathan	CA. Vishnu Agarwal 9324544607 CA. Pradeep Agrawal 9898560967 CA. Hardik Shah 9825510422	CA. Ritesh Hibare 9773418343 CA. Dhavni Karia 9819900489 CA. Nehal Turakhia 9833991898
27/10/2018 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Seminar on Actuarial Accounting <ul style="list-style-type: none"> • IFRS 17 – Life Insurance • Ind AS 102 – Share based Payments • IFRS 17 – General Insurance • Proportionality in Employee Benefits Valuation 	Shri Kamlesh Gupta CA. Nandan Nadkarni Shri Subasree Shri Suresh Sindhi CA. Mayur Ankolekar	CA. Priyam Shah 9824096112 CA. Vikrant Kulkarni 9881880073 CA. S. G. Mundada 9422080814	CA. Abhishek Katre 9821968858 CA. Parul Saraf 9821162477 CA. Rahul Soni 9773050495
27/10/2018 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Seminar on GST Audit & Annual Return <ul style="list-style-type: none"> • Key provisions relevant to GST Audit, including relevant standards of auditing • Interplay of Ind AS Accounting & GST Reconciliation • Clause by clause analysis of Annual Return • Clause by clause analysis of GST Audit Report 	CA. Avinash Poddar CA. Naresh Sheth CA. Rajiv Luthia Eminent faculty	CA. Vishnu Agarwal 9324544607 CA. Pradeep Agrawal 9898560967 CA. Hardik Shah 9825510422	CA. Sandesh Bhandare 9930398330 CA. Mayur Momaya 9867952010 CA. Prajakta Patil 9819041003
03/11/2018 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Seminar on Concurrent Audit <ul style="list-style-type: none"> • Introduction to Concurrent Audit & KYC / AML compliances with Practice Examples • Usage of CBS system for Concurrent Audit • Advances exposure norms and IRAC norms • Forex related areas including Advances / deposits and highlights of FEMA / RBI Regulations 	CA. Jignesh Nagda CA. Giriraj Soni CA. Dhananjay Ghokhale Mr. Jayaraman	CA. Priyam Shah 9824096112 CA. Vikrant Kulkarni 9881880073 CA. S. G. Mundada 9422080814	CA. Swati Bhatkar 9967537989 CA. Sunil Sharma 9769949829 CA. Amol Kamat 9823018763
17/11/2018 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Seminar on Fraud & Forensic Accounting <ul style="list-style-type: none"> • Data Analysis for Forensic Investigation & Audit • Forensic review in Insolvency & Bankruptcy Code • Contemporary Digital Frauds • Cyber Forensics 	CA. Mahesh Bhakti CA. Kinnari Gandhi Dr. Omkar Nath CA. Mauli Shah	CA. Vishnu Agarwal 9324544607 CA. Pradeep Agrawal 9898560967 CA. Hardik Shah 9825510422	CA. Milind Joshi 9930033939 CA. Nidhi Pandya 7506358911 CA. Nikita Mall 9969873294



ICAI Tower, Bandra Kurla Complex, Mumbai

Date & Day	Time & Fees	Topic(s) & Speaker(s)	Chief Co-ordinators	Co-ordinators
17/11/2018 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Seminar on UAE / Dubai VAT <ul style="list-style-type: none"> GCC Framework, UAE VAT & KSA VAT A Comparison Impact of Place of Supply on UAE VAT, Designated Zone and Implications on Goods and Services Compliance with Reference to Accounts, Records and Return and Penalties Exemption, Reverse Charge and Profit Margin Scheme Professional Opportunities and a Comparison with Indian GST 	CA. Ashu Dedhia Eminent Faculty CA. S. S. Gupta CA. Vivek Shah CA. Avinash Poddar	CA. Priyam Shah 9824096112 CA. Vikrant Kulkarni 9881880073 CA. S. G. Mundada 9422080814 CA. Aniket Kulkarni 9821690559 CA. Alpesh Doshi 9892504512 CA. Mehul Sheth 9820297310
24/11/2018 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Valuation Standards and Rules <ul style="list-style-type: none"> Introduction to Indian Valuation Standards and Valuation Standards 102,103, 301,302 Valuation Standards on Documentation (IVS 201, 202) and IVS 303 on Valuation of Financial Instruments Registered Valuer Rules Valuation Techniques 	CA. Bhakti Shah CA. Apeksha Kukreja Eminent Faculty CA. Ushma Shah	CA. Vishnu Agarwal 9324544607 CA. Pradeep Agrawal 9898560967 CA. Hardik Shah 9825510422 CA. Mahima Chawla 9029970866 CA. Vijyatta Jaiswal 9322874586 CA. Mukund Mall 9322224142
24/11/2018 Saturday 3 CPE Hrs	10.00 a.m. to 1.00 p.m. ₹ 590/- (Incl. GST)	Seminar on Latest Changes in Labour Laws <ul style="list-style-type: none"> The Employees Provident Fund & MP Act, 1952 Employees State Insurance Act, 1948 The Maharashtra Shops & Establishment Act, 2017 The Payment of Bonus Act, 1965 The Payment of Gratuity Act, 1972 	Adv. Ramesh Soni	CA. Priyam Shah 9824096112 CA. Vikrant Kulkarni 9881880073 CA. S. G. Mundada 9422080814 CA. Rakesh Tulsyan 9969410171 CA. Vikram Joshi 9821733286 CA. Mitul Shah 9870570266
01/12/2018 Saturday 3 CPE Hrs	10.00 a.m. to 1.00 p.m. ₹ 590/- (Incl. GST)	Seminar on Arbitration & Conciliation Act Arbitration – Emerging & Promising Area as Professional Opportunity	CA. Pawan Agarwal	CA. Vishnu Agarwal 9324544607 CA. Pradeep Agrawal 9898560967 CA. Hardik Shah 9825510422 CA. Keval Mamania 8080117040 CA. Diti Shah 9870131165 CA. Chetan Karnati 9004858190
01/12/2018 Saturday 3 CPE Hrs	3.00 p.m. to 6.00 p.m. ₹ 590/- (Incl. GST)	Seminar on Code of Ethics of ICAI Interactive and Detailed clause by clause discussion on Code of Ethics for Members	CA. C. N. Vaze	CA. Priyam Shah 9824096112 CA. Vikrant Kulkarni 9881880073 CA. S. G. Mundada 9422080814 CA. Virag Shah 7043154500 CA. Amogh Jain 8828028081 CA. Hiral Mehta 9892592283
15/12/2018 Saturday 6 CPE Hrs	10.00 a.m. to 6.00 p.m. ₹ 1,416/- (Incl. GST)	Seminar on International Taxation <ul style="list-style-type: none"> Permanent Establishment – Recent Controversies Transfer Pricing Developments Multilateral Instruments – Indian Perspective Taxation of Digital Economy 	CA. Neetu Vinayek CA. Bhavesh Dedhia CA. Hiten Sutar CA. Jasdeep Sahni	CA. Vishnu Agarwal 9324544607 CA. Pradeep Agrawal 9898560967 CA. Hardik Shah 9825510422 CA. Eshaan Shah 8000202820 CA. Meet Dangarwala 9833732843 CA. Abhijit Totade 9819659151

ICAI Bhawan, J. S. Lodha Auditorium, Cuffe Parade, Mumbai

Date & Day	Time & Fees	Topic(s) & Speaker(s)	Chief Co-ordinators	Co-ordinators
22/12/2018 Saturday 3 CPE Hrs	5.00 p.m. to 8.00 p.m. ₹ 590/- (Incl. GST)	Seminar on Corporate Social Responsibility (CSR) <ul style="list-style-type: none"> CSR under Companies Act: Overview, Applicability, Compliance Requirements, Computation of CSR Amount/Profit, Practical Issues Modalities in Corporate Social Responsibility: Where and What Spend, Checks and Balances, Reporting and Ensuring Proper Compliances 	Eminent Faculty CA. Milan Modi	CA. Vishnu Agarwal 9324544607 CA. Pradeep Agrawal 9898560967 CA. Hardik Shah 9825510422 CA. Pratibha Sartanpara 7738054622 CA. Nikhil Damle 9820170436 CA. Kalpesh Kothari 9819195333



Regional Banking Conclave

24th November, 2018

Hotel Taj Santacruz, Near Domestic Airport,
Santacruz (E), Mumbai

6
CPE Hrs



Fees: For Members Rs. 2,250 + GST and For Non Members Rs. 2,750 + GST

Topics	Chief Co-ordinators	Co-ordinators
Credit to SME Sector with special focus on MUDRA Scheme	CA. Vishnu Agarwal 9324544607	CA. Dikshay Chandaliya 9773545382
Various stages in start up fundings – Financier’s Perspective	CA. Pradeep Agrawal 9898560967	CA. Abhishek Shah 9773050495
Alternate Funding Options – Banking and Beyond – Panel Discussion	CA. Hardik Shah 9825510422	CA. Vivek Shah 9819633348
Credit appraisal and Advances monitoring system of Banks	CA. Priyam Shah 9824096112	CA. Mukul Barjatya 9022042269
Financing of Non-Performing Assets & Reviving Distressed Assets – Panel Discussion	CA. Vikrant Kulkarni 9881880073	CA. Arul Saraf
	CA. S. G. Mundada 9422080814	CA. Manoj Alimchandani 9323030394

A NOBLE APPEAL TO MEMBERS FOR CONTRIBUTION TO CABF

Chartered Accountants Benevolent Fund (CABF) established in 1962 by ICAI, is one of the largest bodies providing welfare and support to the Chartered Accountants fraternity. It provides financial assistance for medical treatment, education, maintenance or any other similar purpose to necessitous persons of the CA fraternity. Financial assistance in lump sum is also given to the widows/relatives of the deceased member in case of accidental/unnatural death at age below 55 years. A considerable number of members/family is already getting such assistance from CABF.

To continue this endeavour, CABF invites contribution from our CA members. The contribution can be made in the form of

1. Life Membership – ₹ 5,000/-
2. Ordinary Membership – ₹ 1,000/- annually
3. Voluntary Contribution – An honourable amount up to any extent

All subscriptions and contributions made towards CABF are eligible for deduction under Section 80 (G) of Income-tax Act, 1961.

Please contribute generously towards the Fund through At Par cheque/DD favouring “Chartered Accountants Benevolent Fund” and send it to WIRC for onward submission to the said Fund.



Indian CAs are known to go the extra mile and not only educate themselves professionally but also technologically. With most professionals now communicating, working, reading and doing research through various gadgets the time has now come for us to decrease our over reliance on paper. The Maharashtra Government’s courageous step of banning plastic shows us the way ahead. I am sure that we can take inspiration from this, replace the paper newsletter with the digital medium and move ahead to create a better India for future generations. Let us join hands and save the environment by mailing your choice to receive the e-Newsletter on wirc@icai.in



DIRECT TAX

(CA. Haresh P. Kenia, CA. Deepak Lala,
CA. Paras K. Savla & CA. Hemant R. Shah)



Income-tax Return—Extension of Due Date of filing Income-tax Return for A.Y. 2008-09 (256 Taxman (st) 23)

The Central Board of Direct Taxes *vide* order No. 225/242/2018-ITA.II] dated 26/7/2018 extends the due date of filing Income-tax Return as prescribed in Section 139(1) of the Act from 31/7/2018 to 31/8/2018.

Speculative Transactions u/s. 43(5) of the Income-tax Act – Notified Recognised Stock Exchange Section 43(5) – Explanation 1 proviso (d) of the Income-tax Act. (257 Taxman (st) 1)

The Central Government *vide* Notification No. 35/2018 [F. No. 225/111/2018-ITA-11] dated 31/7/2018 notifies India International Exchange (IFSC) Limited, Gandhinagar, Gujarat (PAN: AAGCB8819B) as a recognised Stock Exchange for the purpose of 43(5) Explanation 1 Proviso (d) w.e.f. the date of publication of this notification subject to fulfilment of certain conditions in respect of trading in derivatives. Please refer to the above notification for conditions specified.

Speculative Transactions u/s. 43(5) of the Income-tax Act – Notified Recognised Stock Exchange Section 43(5) – Explanation 1 proviso (d) of the Income-tax Act. (257 Taxman (st) 2)

The Central Government *vide* Notification No. 35/2018 [F. No. 225/111/2018-ITA-11] dated 31/7/2018 notifies NSE IFSC Limited, Gandhinagar, Gujarat (PAN:AAFCN4161P) as a recognised Stock Exchange for the purpose of 43(5) Explanation 1 Proviso (d) w.e.f. the date of publication of this notification subject to fulfilment of certain conditions in respect of trading in derivatives. Please refer to the above notification for conditions specified.

Tax Audit – Section 44AB – Deferment of Clauses 30C (GAAR) and 44 (GST) of Form 3CD (257 Taxman (st) 3)

The Board has clarified that Section 44AB of the Income Tax Act, 1961 read with Rule 6G of the Income-tax rules, 1962 requires prescribed persons to furnish the Tax Audit Report along with the prescribed particulars in Form No. 3CD. The existing Form No. 3CD was amended *vide* notification No. GSR 666(E), dated 20th July, 2018 with effect from 20th August, 2018.

The matter has been examined and it has been decided by the Board *vide* circular No. 6/2018 [F. No. 370142/9/2018-TPL] dated 17/8/2018 that reporting under the proposed clause 30C and proposed clause 44 of the Tax Audit Report shall be kept in abeyance till 31st March, 2019. Therefore, for Tax Audit Reports to be furnished on or after 20th August, 2018 but before 1st April, 2019, the tax auditors will not be required to furnish details called for under the said clause 30C and clause 44 of the Tax Audit Report.

Section 270AA, read with section 271(1)(c), of the Income-tax Act, 1961 – Under-reporting and Misreporting penalty for – Clarification on immunity provided under Section 270AA (257 Taxman (st) 3)

Section 270AA of the Income-tax Act, 1961 (the Act) *inter alia* provides that w.e.f. 1st April, 2017, the Assessing Officer, on an application made by an assessee, may grant immunity from imposition of penalty under Section 270A (not being penalty for misreporting) and initiation of proceedings under Section 276C or Section 276CC, subject to the conditions specified therein.

It has been clarified by CBDT *vide* circular No. 5/2018 [F. No. 370149/155/2018-TPL] dated 16/8/2018 that where an assessee makes an application seeking immunity under Section 270AA of the Act, it shall not preclude such assessee from contesting the same issue in any earlier assessment year.

This clarification is issued on the apprehensions that where an assessee makes the application seeking immunity under Section 270AA of the Act, and in the earlier year(s) penalty under Section 271(1) (c) of the Act has been initiated on the same issue, the Income-tax Authority may contend that the assessee has acquiesced on the issue in such earlier year(s), by seeking immunity under Section 270AA of the Act and therefore, take an adverse view in the proceedings for penalty under Section 271(1)(c) of the Act.

Further, the CBDT has clarified that Income-tax Authority shall not taken an adverse view in the proceedings for penalty under Section 271(1)(c) of the Act in earlier assessment years merely on the ground that the assessee has acquiesced on the issue in any later assessment year by preferring an immunity on such issue under Section 270AA of the Act.

Section 10A of the Income-tax Act, 1961 – Free Trade Zone – Computation of admissible deduction under Section 10A (257 Taxman (st) 4)

The CBDT *vide* circular No. 4/2018 [F.No.279/MISC./140/2015/ITJ], dated 14/8/2018 clarifies as under:

- It is clarified that freight, telecommunication charges & Insurance expenses are to be excluded from "Export Turnover" & "Total Turnover" while working out deduction admissible u/s. 10A of the Act to the extent attributable to the delivery of the articles or things or computer software outside India.
- It is further clarified that expenses incurred in foreign exchange for providing technical services outside India are to be excluded from both "Export Turnover" & "Total Turnover" while computing deduction admissible u/s. 10A of the Act. Therefore, all charges/expenses specified in 10A Explanation 2(IV) of the Income-tax Act are liable to be excluded from total turnover also for the purpose of computation of deduction u/s. 10A of the Act.
- It is further directed that no further appeals may be filed by the department on the above settled issue & those already filled may be withdrawn/not pressed upon.

The CBDT sought to issue clarification on the issue whether freight, telecommunication charges and insurance expenses are to be excluded from both "export turnover" and "total turnover" while working out deduction admissible under Section 10A of the Act on the ground that they are attributable to delivery of articles or things or computer software outside India has been highly contentious. Similarly, the issue whether charges for providing technical services outside India are to be excluded both from "export turnover" and "total turnover" while computing deduction admissible under Section 10A of the Act on the ground that such charges are relatable towards expenses incurred in convertible foreign exchange in providing technical services outside India has also been highly contentious.

The controversy has been finally settled by the Hon'ble Supreme Court *vide* its judgment dated 24/4/2018 in the case of *CIT, Central-III vs. M/s. HCL Technologies Ltd.* [2018] 93 taxmann.com 33(SC). Please refer to the above citation for the extract of the judgment held.



Condonation of delay

Revenue provided inadequate explanation of delay of 596 days in filing the petition and there was a misleading statement about pendency of a similar civil appeal. Hence delay was not condoned and the petition of revenue was dismissed with costs of ₹ 10 lakh *CIT vs. Hapur Pilkhuwa Development Authority [2018] 97 taxmann.com 23 (SC)*.

S. 23(1)(c) – Vacancy Allowance

Due to inherent defects, the flat of the assessee could not be let out and hence the flat remained vacant. Held that the assessee is entitled to claim benefit of vacancy allowance under section 23(1)(c) – *Saif Ali Khan Pataudi vs. ACIT [2018] 96 taxmann.com 476 (Mumbai - Trib.)*

S. 23(1)(c) – Vacancy Allowance

Assessee owned a house property which remained vacant throughout relevant year as he could not find a suitable tenant despite writing various letters to concerned builder to find tenant. From the records and the letter, it was observed that the same builder had identified the tenant for another flat of the assessee which was let out and whose rent has been offered and accepted for taxation. When the same builder has helped the assessee to find tenant for another flat, his letters to the same builder to help him identify one more tenant, could not be considered, as fake. Hence it was held that the assessee was eligible to claim vacancy allowance under Section 23(1)(c) and rental income from said property for whole was rightly declared at nil – *Sachin R. Tendulkar vs. DCIT [2018] 96 taxmann.com 253 (Mumbai - Trib.)*

S. 41 Remission or cessation of liability

Non-payment of outstanding liability which is admitted and acknowledged as due and payable by an assessee does not indicate remission or cession of liability. When an assessee suffers losses, payments and debts due including those due to financial institutions are not paid. Delay or non-payment, even when the Assessing Officer is of the opinion that likelihood of payment was remote as business has stopped, would by itself not denote and mean cessation or remission of liability. In absence of assessee has not obtained any money or benefit under the first part or the deeming part of Clause (a) to Sub-section 1 to Section 41 of the Act, there was no remission or cessation of liability – *Pr. CIT vs. New World Synthetics Ltd. [2018] 97 taxmann.com 399 (Delhi)*.

S. 80-IC Initial assessment year

Once the initial Assessment Year commences and an assessee, by virtue of fulfilling the conditions laid down in sub-section (2) of Section 80-IC, starts enjoying deduction, there cannot be another “Initial Assessment Year” for the purposes of Section 80-IC within the aforesaid period of 10 years, on the basis that it had carried substantial expansion in its unit and accordingly assessee is not entitled for new deduction on the basis of new initial assessment year – *CIT vs. Classic Binding Industries [2018] 96 taxmann.com 405 (SC)*.

S. 148 Reassessment

A political party gave loan to ‘A’, which was subsequently assigned to non-profit company ‘Y’. ‘Y’ issued shares to assessee at a price less than Fair Market Value. During the course of the scrutiny assessment, assessee has neither disclosed nor provided the details of allotment of shares in ‘Y’. It was held that non-disclosure of the taxing event, i.e., allotment of shares (and the absence of any declaration as to value) deprived the AO of the opportunity to look into the records and hence

reassessment notices were valid – *Sonia Gandhi vs. ACIT [2018] 97 taxmann.com 150 (Delhi)*.

TRANSFER PRICING (CA. Bhavya Goyal)



Updated Guidance on the Implementation of Country-by-Country Reporting: BEPS Action 13th September 2018

As jurisdictions have moved into the implementation stage of the Country by Country (CbC) report under OECD BEPS Action Plan 13, some questions of interpretation have arisen. In the interests of consistent implementation and certainty for both tax administrations and taxpayers, the Inclusive Framework on BEPS has issued guidance to address certain key questions. This guidance is periodically updated, the latest update being in September 2018.

Four specific issues addressed in this updated guidance include–

- i) Treatment of dividends received from Constituent Entities (“CE”s);
- ii) Use of shortened amounts in preparing Table 1;
- iii) Treatment of major shareholdings updated regarding number of employees to be reported in cases where an MNE uses proportional consolidation in preparing its consolidated financial statements;
- iv) Table summarising existing interpretative guidance on the approach to be applied in cases of mergers, demergers and acquisitions.

The updated guidance can be accessed on the following link:

<http://www.oecd.org/tax/beps/guidance-on-country-by-country-reporting-beps-action-13.htm>

Transfer Pricing Litigation Update

Case Name: Google India– Karnataka High Court Order in ITA 502/2018

Dated: 28th August 2018

Karnataka HC admits Google India’s appeal against ITAT order holding payments under distribution agreement as royalty u/s. 9(1)(vi) of the Income-tax Act and Article 12 of DTAA. It frames 7 substantial questions of law covering aspects like treatment of payment as royalty, interplay between distribution and ITES agreements, applicability of withholding tax obligation etc.

GOODS AND SERVICES TAX (CA. Rajiv Luthia)



CBIC vide Notification No. 36/2018-CT dated 24th August, 2018 extended the due date for filing Form GSTR 3B for month of July, 2018 & August, 2018. The revised due date is 5th October, 2018 & 10th October, 2018 respectively for following category of persons

- Registered persons in the State of Kerala;
- Registered persons whose principal place of business is in Kodagu district in the State of Karnataka; and
- Registered persons whose principal place of business is in Mahe in the Union territory of Puducherry

CBIC vide Notification No. 37/2018-CT dated 24th August, 2018 extended the due date for filing Form GSTR 1 for month of July, 2018 & August, 2018. The revised due date is 5th October, 2018 & 10th October, 2018 respectively for following category



of persons having aggregate turnover of more than ₹ 1.5 crore during current or previous financial year

- Registered persons in the State of Kerala;
- Registered persons whose principal place of business is in Kodagu district in the State of Karnataka; and
- Registered persons whose principal place of business is in Mahe in the Union territory of Puducherry

CBIC vide Notification No. 38/2018-CT dated 24th August, 2018 extended the due date for filing Form GSTR-1 for quarter July-September, 2018 to 15th November, 2018 for following category of persons having aggregate turnover of less than ₹ 1.5 crore during current or previous financial year

- Registered persons in the State of Kerala;
- Registered persons whose principal place of business is in Kodagu district in the State of Karnataka; and
- Registered persons whose principal place of business is in Mahe in the Union territory of Puducherry

CBIC vide Notification No. 39/2018-CT dated 4th September, 2018 amended CGST Rule as follow:

- Inserted Proviso to Rule 22 thereby proceedings initiated for cancellation of registration to be dropped upon furnishing of pending returns, payment of applicable tax along with interest & late fees. The proper officer to pass order in FORM GST REG 20. Section 29(2) of CGST provides for cancellation of registration by proper officer in a case of non-furnishing of return for 3 consecutive tax periods by Composition Registered Person & 6 months for Regular Registered Person respectively.
- Inserted Proviso to Rule 36 thereby relaxing the particulars required in documents for availing ITC. Now ITC can be available if documents contain following particulars
 - Amount of tax charged
 - Description of goods or services
 - Total value of supply of goods or services or both
 - GSTIN of supplier & recipient &
 - Place of supply (in case of inter-State supply)
- Rule 138A has been amended thereby e-Way bill to Include BILL of ENTRY detail in case of import & person in charge of conveyance must carry a copy of bill of entry during the transportation of import consignment.
- Format of ITC-04 (Quarterly return when goods sent on job-work) has been amended to include losses & waste
- Notify following GST forms

Particulars	GST Form No.
Annual Return	Form GSTR-9
Annual Return for Composition Tax payer	Form GSTR-9A

CBIC vide Notification No. 40/2018-CT dated 4th September, 2018 extends the time limit for making the declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the period from July, 2017 to June, 2018 till the 30th day of September, 2018.

CBIC vide Notification No. 41/2018-CT dated 4th September, 2018 waives late fees for following class of persons.

- The registered persons whose return in FORM GSTR-3B for the month of October, 2017, was submitted but not filed on the common portal, after generation of the application reference number (ARN)
- The registered persons who have filed the return in FORM GSTR-4 (Return by composite dealer) for the period October to December, 2017 by the due date but late fee was erroneously levied on the common portal
- The Input Service Distributors who have paid the late fee for filing or submission of the return in FORM GSTR-6 for any tax period between the 1st day of January, 2018 and the 23rd day of January, 2018

CBIC vide Notification No. 42/2018-CT dated 4th September, 2018 extended the time limit for filing Form GST ITC 01 (ITC eligibility upon withdrawal from composition scheme) by registered persons who have filed the application in FORM GST-CMP-04 (Application for withdrawal from composition levy) between the 2nd March, 2018 and the 31st day of March, 2018, by 30 days from 4th September, 2018.

CBIC vide Notification No. 43/2018-CT dated 10th September, 2018 extended the due date for filing Form GSTR-1 for taxpayer having aggregate turnover up to ₹ 1.5 crore as follows:

Category of Taxpayer	Periodicity	Due date
Regular Registered Person other than specified below	July, 2017 to September, 2018	31st October, 2018
Registered in State of Kerala Registered person having principal place of business in district Kodagu (Karnataka) Registered person having principal place of business in district Mahe (U.T. Puducherry)	July, 2017 to September, 2018	15th November, 2018
Persons obtained GSTIN under special scheme for migration as per Notification number-31/2018-Central Tax	July, 2018 to September, 2018	31st December, 2018

CBIC vide Notification No. 44/2018-CT dated 10th September, 2018 extended the due date for filing Form GSTR-1 for taxpayer having aggregate turnover more than ₹ 1.5 crore as follows:

Category of Taxpayer	Periodicity	Due date
Regular Registered Person other than specified below	July, 2017 to September, 2018	31st October, 2018
Persons obtained GSTIN under special scheme for migration as per Notification No. 31/2018-Central Tax	July 2017 to November 2018	31st December, 2018

CBIC vide Notification No. 45/2018-CT, 46/2018-CT & 47/2018-CT dated 10th September, 2018 extended the due date for filing Form GSTR-3B for person obtained GSTIN under special scheme for migration as per notification 31/2018-CT for month of July, 2017 to November, 2018 till 31st December, 2018.

CBIC vide Notification No. 48/2018-CT dated 10th September, 2018 empowered commissioner to extend the date for submitting the declaration electronically in FORM GST TRAN-1 by a period not beyond 31st March, 2019, in respect of registered persons



who could not submit the said declaration by the due date on account of technical difficulties on the common portal and in respect of whom the Council has made a recommendation for such extension.

MAHARASHTRA VAT & GST (CA. C. B. Thakar)



The Maharashtra Goods and Services Tax Act, 2017

Circulars

The Commissioner of Goods and Services Tax, Maharashtra State, has issued Circular bearing No. 21T of 2018 dated 20/8/2018 by which announcement of Special Campaign for pending GST Migration cases is clarified.

The Commissioner of Goods and Services Tax, Maharashtra State, has issued Circular bearing No. 22T of 2018 dated 1/9/2018 by which detailed explanation for various conditions and compliances that shall be made for claiming ITC and refund is given.

The Commissioner of Goods and Services Tax, Maharashtra State, has issued Circular bearing No. 23A of 2018 dated 1/9/2018 by which issue of verification of Transitional Credit (TRAN-1) claimed under GST in Electronic Credit Ledger is clarified.

GUJARAT GST & VAT (CA. Kishor R. Gheewala)



IMPORTANT JUDGMENTS

(a) No Tax on "Exempt Goods" in case of Lump sum

Hon'ble Gujarat High Court has, in R/Tax Appeal No. 885 of 2014, reversed, *vide* Order date 15th June, 2018, the Hon'ble GVAT Tribunal's decision, in case of *M/s. New Bismillah Bakery vs. State of Gujarat*. In this case, the appellant, running bakery was granted permission for lump sum u/s. 14, which provided for lump sum tax @ "2%, of the Turnover of Sales". Hon'ble Gujarat High Court, considering the various decisions & other similar notifications, inferred that there is no legislative intention to levy tax on exempt goods in case of lump sum scheme and therefore, held that lump sum dealers are liable to pay tax @ 2% on "Taxable sales" only and not on "Exempt Goods".

(b) "Paver Blocks & Curbstones taxable as bricks"

Hon'ble Gujarat High Court has, in Tax Appeal No. 1158 of 2013 & 79/2014, confirmed, *vide* Order date 24th July, 2017, the Hon'ble GVAT Tribunal's Decision, in case of *M/s. Super Tiles & Marbles Pvt. Ltd. & M/s. Vyara Tiles Pvt. Ltd.*, as under

1. "Paver Blocks" & "Curbstones" are taxable as "Bricks" under Entry No. 10(1) of GVAT Act.
2. There is no breach of any condition, either u/s. 14A or under Rule 28A, in use of Self-manufactured goods in Works Contract by the contractor.

INTERNATIONAL TAXATION (CA. Hinesh Doshi & CA. Ronak Soni)



M/s. Libra Techcon Ltd. vs. Deputy Commissioner of Income Tax -1 (2). [TS-501-ITAT-2018(Mum) dated 24th August, 2018

Facts

- The assessee company is tax resident of India and is engaged in the business of project consultancy services. During, A.Y. 2008-09, it makes payment to foreign company for

providing liaisoning and site services in respect of project setup in Saudi Arabia.

- The AO, while making scrutiny, disallowed this payment u/s. 40(a)(i) on basis that, assessee has failed to deduct TDS u/s. 195 of the Income-tax Act, 1961.
- The AO contended that entire services are sourced from India and as such the expenditure is incurred in India and hence the assessee is liable to deduct TDS u/s. 195.
- On appeal, the Ld. CIT (A), directed the AO to make *ad hoc* disallowance of 25%. Aggrieved the assessee appealed before Mumbai ITAT.

Issue

Whether payment made to non-resident for rendering services outside India would come within the provisions of Section 195 of the Income-tax Act?

Held

- ITAT held that all payments relating to liaisoning and related services has been paid by assessee to a non-resident company having no PE in India providing local assistance and local liaisoning services to the assessee for its project in Saudi Arabia.
- It further held that payments have been made outside India for rendering liaisoning services for the project located outside India. Accordingly, no part of services has been either rendered or received in India.
- ITAT relied on Jaipur ITAT ruling in case of *Modern Insulators Ltd.* wherein it was held that once payment has been made outside India to any person for rendering services outside India, then provisions of Section 195 have no application and consequently disallowance cannot be made u/s. 40(a)(ia) of the Income-tax Act.
- ITAT noted that the agreement between the foreign company and assessee prove that no part of service has been rendered in India or sourced in India, therefore the question of *ad hoc* disallowance of such payment u/s. 40(a)(i) does not arise.
- ITAT held that any payment made to non-resident for rendering services in India would come within the provisions of Section 195 of the Income-tax Act. In this case, payment has been made outside India for rendering services outside India.
- Therefore, ITAT held that question for withholding taxes in respect of liaisoning services paid outside India does not arise, consequently, the question of disallowance of such expenditure u/s. 40(a)(i) also does not arise.

M/s. Poddar Pigments Ltd. vs. Assistant Commissioner of Income Tax [TS-492-ITAT-2018 (DEL)] dated 23rd August, 2018

Facts

- The assessee is a company engaged in the business of manufacturing of master batches and engineering plastic compounds and had paid technical fees to a German individual resident and a resident of Swiss Confederation without deduction of tax at source.
- AO disallowed these payments u/s. 40(a)(i) of the Act and held that the relevant payments were taxable as 'fees for technical services' u/s. 9(1)(vii) and Article 12 of DTAA.
- CIT (A) confirmed the disallowance and aggrieved, assessee filed an appeal before Delhi ITAT.



Issue

Whether payment made to German resident and Swiss resident is liable for TDS u/s. 195?

Whether Article 14 of DTAA would prevail over Article 12 of DTAA?

Held

Payment to German resident

- ITAT held that individual was providing “independent scientific services” to the assessee which were “independent personal services” covered by Article 14 of the Indo-Germany DTAA.
- In the present case, the provision of Article 14 of the DTAA is more specific than Article 12 as it applies specifically to professional services provided by the Individual resident.
- Relying on the decision of High Court in case of Copes Vulcan Inc., Aeg Aktongesellschaft and on the advance ruling in case of Dieter Eberhard Gustav Van Der Mark, it was ruled that if the applicant’s case falls under a more beneficial provision, it would be futile to stretch the interpretation to bring it under some other provision of the treaty or the Income-tax Act.
- ITAT held that the payment made to the German resident was chargeable to tax u/s. 9(1) (vii) but as per Article 14 of DTAA, income was chargeable to tax only in Germany.
- ITAT clarified that the assessee was not required to deduct tax u/s. 195 and hence, no disallowance u/s. 40(a)(i) can be made.

Payment to Swiss resident

- ITAT noted provision of Article 14 and Article 12 of India-Switzerland DTAA and taking similar stand as payment to German resident, ITAT held that the services were independent, personal services in the nature of independent scientific services.
- These would only be taxable in Swiss Confederation and no tax was required to be deducted u/s. 195.

US Technology Resources Pvt. Ltd. vs. High Court [TS-473-HC-2018(KER)] (Cochin-Tribunal) dated 9th August 2018

Facts

- The assessee UST India, paid fees for management, financial, legal, public relation, treasury and risk management service to UST Global, a company situated in USA for services offered received by them in India.
- The AO considered these payments as income deemed to accrue or arise in India with respect to a non-resident as per Section 5(2) and 9(1)(vii) of the IT Act, 1961. Further the AO claimed that such payments amounted to fees for included services and assessee was liable to deduct TDS.
- AO disallowed the amounts u/s. 40(a)(i) and contended that the assessee ought to have deducted the tax on the payment made to the US company.
- ITAT held that there is transfer of specific technology for the purpose of decision making and upheld AO’s order.
- Aggrieved, the assessee appealed before Kerala HC.

Issue

- Whether payment termed as management fees are not included/covered within the ambit of “Fee for included

services” under Article 12 of India-USA DTAA and liable to deduct TDS?

Held

- HC noted that the US company did not have PE in India and therefore, the business profits accruing to the US company from within the territories of India would be taxable only in USA as per Article 7 of DTAA.
- Relying on the rulings of Karnataka HC in the case of “De Beers India Minerals (P) Ltd”, HC held that there is no technology transfer nor is there a plan or strategy relating to management, finance, legal, public relations or risk management transferred to the assessee. The services promised by the non-resident company is only advice on such aspects as are specifically referred to in the agreement.
- HC also held that such service by the US company would not fall within the meaning of fees for included service as per India-USA DTAA as clarified by MOU.
- HC concluded that since the services are not taxable in India, there is no obligation to deduct tax at source u/s. 195(1).

FEMA
(CA. Manoj Shah, CA. Sudha G. Bhushan & CA. Mitesh Majithia)



Rupee Drawing Arrangement – Remittance to the Chief Minister’s Distress Relief Fund– Kerala

A.P. (DIR Series) Circular No. 5 dated August 29, 2018

RBI has decided in consultation with the Government of India, to permit receipt of remittances to the Chief Minister’s Distress Relief Fund – Kerala through exchange houses, subject to the condition that the remittances are directly credited to the fund by the banks and the banks maintain full details of the remitters.

Implementation of reporting in Single Master Form (SMF) – User Manual on Foreign Investment Reporting and Management System

With effect from September 1, 2018, RBI has opened window for creating Entity Master Form (EMF) for the companies which could not register within the stipulated time period, however they need to provide the reasons for not making registration within the time period along with the authority letter.

Further, with effect from September 1, 2018, Single Master Form (SMF) has been implemented by RBI and revised user manual has been issued giving process of registration and filing of Forms prescribed to be uploaded in SMF.

The revised user manual is available on RBI website at –

<https://rbi.org.in/Scripts/femaview.aspx?femaid=65>

Gist of some of the important Compounding Orders passed by Reserve Bank of India

CO-OPERATIVES
(CA. Ramesh Prabhu)



New Chapter for Cooperative Housing Society in MCS Act, 1960

The Cabinet of Govt of Maharashtra on 31st July, 2018 has approved the Ordinance to amend the Maharashtra Cooperative Societies Act, 1960 to include a separate Chapter applicable exclusively for Housing Societies providing the sections which of MCS Act are (a)applicable to housing societies, (b)which



sections are not applicable and (c) special provisions applicable only to housing like Joint members, Provisional members for nominees/legal heirs, transfer of flat and shares etc.

SLP No. 24099/2018 on Termination of DA

Supreme Court upholds Mumbai High Court order confirming Arbitrator's decision to terminate Redevelopment Agreement(DA) between Tilak Safalya CHS and Shrushti Raj Enterprises for Non Performance in spite of there being no termination clause in the DA.

Recovery of Stamp duty between 19th May 2017 and 19th September, 2017

Due to stay granted by CM, between 19th May 2017 to 19th September 2017 stamp duty was collected as per the Ready Recknor of 2016-17. Now as per As per the Revenue Minister, Government order dated 4th September 2018, the Inspector General of Registration (IGR) has been advised to collect the difference in stamp duty without charging interest.

For more details on above visit www.wirc-icai.org

Congratulations!



CA. Girish Deodhar

(M. No. 037101) has been elected as the Treasurer of the Vidarbha Industries Association for the year 2018-19.

Lecture Meeting on Equity & Derivatives Market



CA. Priyanka Agrawal, CA. Govind Jhavar, Faculty, CA. Praveen Jain

Sector wise Impact & Issues in GST



CA. Rajat Talati



CA. Ashit Shah



CA. Parth Shah



CA. Avinash Poddar



CA. Dilip Phadke



CA. Vinod Awtani



CA. Jignesh Kansara



CA. Khyati Kalavadia

Seminar on E - Commerce



CA. Parth Shah, CA. Archana Karnani, Faculty, CA. Nidhi Agarwal, Faculty, CA. Dikshay Chandaliya



CA. Neetu Vinayak



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CA. Anjul Mota



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Workshop on Tax Issues Arising on Account of Ind AS



CA. Zubin Haria, CA. Neelam Mange, Faculty, CA. Hiten Sutar, Faculty, CA. Pratibha Sartanpara



CA. Tarak Dharod



CA. Manmay Chandiwalla



CA. Hemantkumar Salian



CA. Shashank Jain

Shaping of GST Law – Pre and Post Implementation



Smt. Sungita Sharma, Chief Commissioner, GST & CX, Mumbai Zone



CA. Upender Gupta, Commissioner GST Policy Wing, CBIC, New Delhi



Shri Sanjay Mahendru, Commissioner GST, Mumbai

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