

SIRC Newsletter

PRICE - Rs.5

AUGUST 2012 | Volume 38 ■ Part 02



Southern India Regional Council ▶ THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA ▶ SET UP BY AN ACT OF PARLIAMENT

Theme **CORPORATE TAXATION**

VISHWÁS
ENHANCE VALUES, INSPIRE TRUST

44th Regional Conference of SIRC of ICAI

18th & 19th August 2012, Bangalore





Southern India Regional Council of
The Institute of Chartered Accountants of India



VISHWAS

ENHANCE VALUES, INSPIRE TRUST

44th Regional Conference of SIRC of ICAI

18th & 19th AUGUST 2012

TRIPURAVASINI, Bangalore Palace Grounds, Bangalore

Organized by:

Southern India Regional Council of ICAI

Hosted by:

Bangalore Branch of SIRC of ICAI

CPE

12

Hrs.

Programme Structure

Saturday, 18th August 2012

Time	Particulars
08.00am	Registration
09.00am	INAUGURAL SESSION Inaugural Address by Chief Guest Hon'ble Dr. M. Veerappa Moily Union Minister of Corporate Affairs Special Address by Guest of Honour Hon'ble Dr. K. Rahman Khan Member of Parliament, Former Deputy Chairman, Rajya Sabha Presidential Address by President, ICAI CA. Jaydeep Narendra Shah
10.30am	TECHNICAL SESSION I Transfer Pricing of Domestic Transactions CA. Vijay S. Iyer , New Delhi
11.45am	TECHNICAL SESSION II Pathway towards listing of SME's Sri. Ashish Kumar Chauhan , Mumbai
01.00pm	LUNCH
02.00pm	TECHNICAL SESSION III Panel Discussion on "Works Contract - Service Tax & VAT" CA. K. K. Chytanya , Bangalore CA. S. Venkataramani , Bangalore CA. V. Raghuraman , Bangalore CA. Vishnu Moorthi H , Bangalore
03.15pm	TECHNICAL SESSION IV Service Tax - Negative List & Special issues Sri. Joseph Vellapalli , Sr. Advocate, New Delhi
04.30pm	TECHNICAL SESSION V Audit & Assurance - Road Map for Restoring Trust & Meeting Expectations CA. P. R. Ramesh , Hyderabad
07.00pm	GRAND GALA ENTERTAINMENT "Guru Kiran Live" music, dance, comedy jam, short film, multi lingual gala entertainment by leading singers, music director and other celebrity artists
08.30pm	THEME DINNER

Sunday, 19th August 2012

Time	Particulars
08.00am	BREAKFAST
09.00am	SPIRITUAL SESSION Speech on Core Values and Trust by Sri Swami Nirbhayanada Saraswathi Ramakrishna Vivekananda Ashram, Gadag
10.00am	TECHNICAL SESSION VI Important Amendments in Direct Tax Laws CA. Girish Ahuja , New Delhi
11.30am	TECHNICAL SESSION VII Panel Discussion on "The Profession - expectations, challenges & the future" CA. N. Rangachari , Bangalore CA. Venugopal C. Govind , Kochi CA. T.V. Mohandas Pai , Bangalore CA. K.S. Ravishankar , Bangalore CA. Suresh Senapathy , Bangalore CA. Shyam Ramadhyani , Bangalore
01.00pm	LUNCH
02.00pm	TECHNICAL SESSION VIII Indian Economy Vs. Global Economic Scenario CA. S. Gurumurthy , Chennai & Sri. B. S. Raghavan , IAS (Retd.), Chennai
03.00pm	TECHNICAL SESSION IX Cloud Computing - Opportunities, Challenges Sri. Keith Prabhu , Mumbai
04.00pm	VALEDICTORY SESSION Valedictory Address by Vice President, ICAI CA. Subodh Kumar Agrawal

Delegate Fee : Members : ₹ 3,000/-

Non-Members : ₹ 4,500/-

"No Spot Registrations"

The Fee covers Memento, Delegate Kit, Souvenir, Lunch,
Dinner (Day1), Breakfast (Day2) & Coffee/Tea (round the clock)

Please draw Cheques/DD's in favour of :

"44th Regional Conference of SIRC of ICAI", payable at Bangalore

For further details, please contact: Tel: 080 - 30563500 / 3511 / 3513

Email: blrregistrations@icai.org Website: www.bangaloreicai.org

For online registration visit:

www.sircoficai.org / www.bangaloreicai.org

CONFERENCE CHAIRMAN : **CA. K. Viswanath**, Chairman - SIRC of ICAI

Mobile: +91 99455 25595, Email: kviswanath.sirc@gmail.com / chairmansirc@gmail.com

CONFERENCE CONVENERS :

CA. P.R. Suresh, Treasurer, SIRC, Mobile: +91 98450 58988

CA. Nithin Mahadevappa, Chairman, Bangalore Branch, Mobile: +91 99456 82356

CONFERENCE CO-ORDINATORS :

CA. C.S. Srinivas, Regional Council Member, Mobile: +91 98450 63387

CA. Sumermal D Ostawal, Regional Council Member, Mobile: +91 94481 15971

Chairman writes ...



My Dear Professional Colleagues,

In the last few months our members both in practice and in industry must have been busy with audit committee meetings, board meetings and Annual General Body meetings of companies etc. You must now be gearing up to face the tax audit process notwithstanding the busy tax return submission season that just ended on 31st July 2012, with another deadline approaching in August 2012.

The Economy

The world economy continues to be of deep concern to all Economists, Governments and policy makers. Persistent efforts by these leaders should bring the global economy in the recovery path sooner than later covering the Eurozone, the US and Japan as well as the emerging economies like China, India and Brazil. The intended economic stimuli, I hope, would lead to arresting Global unemployment rates and dwindling revenue.

Members of our profession are always in the forefront in contributing to the nation building which has been acknowledged by many leaders of the country in more than one occasion. Every one of us should vow to shape globally competitive Indian enterprises that have the capability to make value-added goods and services which add either to exports or to import substitution to in the present new economic order encompassing globalisation and liberalisation and adding to our GDP Growth. As experts have rightly observed, such competitive Indian enterprises will aid a fair and balanced exchange of products and services in an international trade regime contributing, in due course, to reduce the large deficits on the trade account of our country.

According to an estimate, trillions of dollars are hidden in offshore tax havens and the Government should activate it's administrative machinery to tax this illicit wealth so that the money be brought to the country where they belong and put in productive economic use. Likewise an estimated ` . 15000 crores is lying in inoperative accounts in the Employees Provident Fund, unclaimed deposits, maturity benefit of insurance policies. I call upon our members, as part of social responsibility, to advice their clients and their dear and near to claim their wealth, wherever applicable, by following due process.

It is heartening to note that the Government of India has constituted a four member panel to prepare a roadmap for implementing the GAAR. We should be proud that one of our senior members of the profession CA. N. Rangachary has also been nominated on the panel and we are sure that the panel would bring out the guidelines/norms which are in the overall interest of all stakeholders involved.

We, at SIRC, pledge ourselves to strengthen the hands of our members, through all possible means, so that our combined energies could be streamlined to contribute for the economic development of our country.

Theme of the Issue of our Newsletter – Corporate Taxation

We are focusing on the theme **Corporate Taxation** in this issue. The article entitled 'Corporate Taxation – Impact on the Economy' has been attempted to study the impact of corporate taxation on GDP of a Country focusing thereby Corporate Social Responsibility. The write up 'Taxability of EPC Contracts – Confusion seems to be 'complete'' has made an effort to throw light on the evolution of the taxability of the EPC contracts along with the on-going judicial precedents. Similarly the article 'Understanding Fair Market Value in the context of section 50D' discusses the types of transfers that are covered under the domain of Section 50D of Income Tax such as transfer for consideration and transfer for nil consideration. The article 'Depreciation on Goodwill – An Insight' has attempted to discuss the Goodwill that emerges out of the transactions involving mergers and acquisitions. To maintain balance, we carry the column on Limited Liability Partnership and an Updates on Direct Taxes.

Once again I seek your valuable feedback on the contents of this newsletter including new features that could be included in our forthcoming issues. I also request the members to contribute articles on the themes of forthcoming issues, viz., Tax Audit for September 2012, Transfer Pricing for October 2012 and Information Technology for November 2012 issues.

SIRC Programmes and Activities

It is my pleasure to inform you that SIRC and its 36 Branches are maintaining the

tempo of conducting professionally relevant CPE programmes covering subjects such as Income Tax, MS Excel, Issues relating to E-filing and CPC, Internal Controls and Risk Assessment, Data Analytics and Continuous Control Monitoring, Accounting for IT & ITES industry etc.,

A Mega Investors Awareness Programme, a joint endeavor of the SIRC with the Ministry of Corporate Affairs and the Committee on Financial Markets and Investors Protection of ICAI was conducted attracting a large number of delegates representing the cross section of the society.

VISHWAS - Enhance Values, Inspire Trust - 44th Regional Conference of SIRC of ICAI

I am pleased to share with you that all arrangements are in place to ensure that the VISHWAS – 44th Regional Conference scheduled to be held on 18th & 19th August 2012 at Bangalore becomes one of the most important and benchmark professional programmes conducted by our SIRC. Luminaries and renowned experts have confirmed their participation in the conference to share their expertise and experience amongst our professional colleagues. The entire organizing team of the conference is eagerly looking forward to meet our professional colleagues in that conference.

Branch Visit

During July 2012, I had the privilege of visiting Vijayawada Branch of SIRC of ICAI which has hosted a State Level (All Andhra Pradesh) Chartered Accountants Conference on July 7 & 8, 2012. I also visited Visakhapatnam Branch of SIRC of ICAI which hosted the CPE National Seminar organised by CPE Committee of ICAI on July 21, 2012. The programmes were well designed, coordinated meticulously and conducted perfectly with excellent and practically relevant topics which were discussed by renowned experts in the respective fields. I also had the opportunity to attend the foundation laying ceremony for the new building of Rajamahendravaram Branch of SIRC of ICAI with the President of the Institute on 1st August 2012. I congratulate Chairman and Members of the Rajamahendravaram Branch of SIRC for their sincere efforts to develop own infrastructure for the Branch which will go a long way in facilitating

the quality service to the members and students.

Students related Activities

SICASA and its branches were active throughout the Region. SICASA had organised its youth festival YUVA-2012 at Chennai on 15th July 2012 where our students have showcased their talents in cultural activities. Number of Branches has conducted Elocution Contest and Quiz Competitions, congrats for the winners. SICASA has also conducted its Annual General body Meeting wherein new management committee has been elected by following due democratic process. While I appreciate the efforts put in by the present management committee of SICASA, I wish the newly elected team of Managing Committee to take the SICASA to greater heights. I am very much impressed with the talents of our youngsters who could maintain their competences in these extracurricular activities in spite of the very high demands of our CA course.

Results of the CA Final Examinations held in May 2012 are out and my heartiest congratulations for those who have completed the Final Examinations. I welcome them aboard on one of the most dynamic professions in the world. I wish them all the best for their future careers, be it in Industry or in Practice. Do send your expectations from the ICAI and

SIRC, as a member of the Institute from the development perspective. I assure you that every effort will be taken to meet your suggestions which are in the overall interest of the profession and further developing the image of the ICAI as a partner in nation building.

A word of advice to the students who have missed out the success in the Examination: Maintain your confidence which is crucial to a happy and fulfilling life apart from ensuring your success in your examination. It also influences your success at work, your family life, relationships and leisure activities. It affects your performance in everything you do. A belief in oneself, is without doubt the greatest asset of all. Even great wealth and fame cannot compensate for a poor self image. As Dennis Gator, a western thinker once said the future cannot be predicted, but futures can be invented. It is our ability to invent the future that gives us hope and makes us what we are.

Our Members in Industry

As the legend "George Bernard Shaw observed that life is no brief candle to me. It is a sort of splendid torch, which I have got a hold of for the moment and I want to make it burn as brightly as possible before handling it to future generations, it is my sincere wish that we should build and develop world class organisations so that they take due care of the economic

development of our stakeholders at present and future". Lance B. Kurke, renowned professor of Management had observed on the Alexander The Great: "To be successful we have to reframe problems in order to meet seemingly insurmountable challenges, build alliances by using our strength to generate trust and respect (and not just fear), establish our own identity, recognize and assimilate the cultures and symbols of different peoples, become powerful and more importantly trusted figure wherever we go". Similarly enterprises, we build today, should positively contribute for enabling our country to become a developed nation.

Remember 18th and 19th August 2012. Let us all join together for knowledge sharing, networking and fellowship at Bangalore, the Garden City, IT Capital and the Silicon Valley of India,

Until next month to share my thoughts with you again, I remain,

With Warm regards,

Yours in professional service



CA. K. VISWANATH
kviswanath.sirc@gmail.com

MEGA CPE CONFERENCE ON CAPITAL MARKETS

Organised by SIRC of ICAI under the auspices of Financial Markets and Investors' Protection Committee

NO DELEGATE FEE

Registration: 09.00 a.m.

CPE Credit

6
HOURS

Friday, August 24, 2012
09.30 a.m. - 05.30 p.m.

P. Brahmajya Memorial Hall, ICAI Bhawan
No.122, Mahatma Gandhi Road, Nungambakkam, Chennai - 600034

Topics

- | | |
|---|---|
| ❖ Capital Markets – Current Scenario | ❖ Ten Myths associated with Mutual Fund Investment |
| ❖ The Art of profitably investing in Shares & Securities and predicting the movement of Stock Market Fundamental & Technical Analysis | ❖ An Overview of Derivatives, Futures and Options |
| ❖ Strategies to mitigate Risk and Uncertainty in Investment Decisions in the Current Economic Scenario | ❖ Computation of Long Term & Short Term Capital Gains from the sale of Shares and Securities |
| ❖ Shareholders' Rights under the Companies Act, 1956 | ❖ Computation of Income from Trading in Shares & Securities [Capital Asset Vs Trading Asset, Shares held as Investment Vs Shares held as Stock in Trade, Capital Gains Vs Income from Business] |
| ❖ Role of SEBI & MCA for the healthy growth of the Capital Markets | ❖ Strategies for Wealth Creation, Wealth Maximization & Wealth Management |

Please send your Registration details (Name, Membership Number, Address, Mobile No and Email Id) to SIRC of ICAI, ICAI Bhawan, No. 122, Mahatma Gandhi Road, Nungambakkam, Chennai – 600 034. Phone: 44-30210320; Fax : 044-30210355; Email:sircppe@icai.in

Co-ordinators

CA. P.V. Rajarajeswaran
Secretary, SIRC

CA. V. Murali
Central Council Member, ICAI & Member –
Financial Markets and Investors'
Protection Committee, ICAI

CA. P.R. Suresh
Chairman – Financial Markets
and Investors' Protection
Committee, SIRC

CA. K. Viswanath
Chairman, SIRC

SIRC CALENDAR**AUGUST & SEPTEMBER 2012**

Contact: Dr. T. Paramasivan, Senior Deputy Director – ICAI - Phone: 044 – 30210320 / 321 – Email: sirc@icai.in

<i>DATE and TIME</i>	<i>PROGRAM DETAILS</i>	<i>RESOURCE PERSON</i>	<i>FEE (₹)</i>	<i>CPE CREDIT</i>
Aug. 1, Wednesday 06.15 p.m. – 08.30 p.m.	*CPE Study Circle Meeting on OPPORTUNITIES IN SME BUSINESS CONSULTING	CA. V. Manoj Chennai	150/-	2 hrs
Aug. 4, Saturday 09.00 a.m. – 05.00 p.m.	### NATIONAL SEMINAR ON DIRECT TAXES AT ERNAKULAM	Details at Page 08 of July 2012 Issue of SIRC Newsletter	750/-	6 hrs
Aug. 6, Monday 2.30 p.m. – 04.30 p.m.	**CPE Teleconference on XBRL & FAIR VALUE BASED ACCOUNTING – EMERGING TREND IN FINANCIAL REPORTING	CA. Chinnasamy Ganesan, Chennai & CA. B. Sekkizhar, Mumbai	150/-	2 hrs
Aug. 8, Wednesday 06.15 p.m. – 08.30 p.m.	*CPE Study Circle Meeting on FINANCIAL DUE DILIGENCE AND INVESTIGATIVE AUDIT	CA. V. Thiagarajan Chennai	150/-	2 hrs
Aug. 10, Friday 09.30 a.m. – 05.30 p.m.	** WORKSHOP ON INFORMATION TECHNOLOGY – EMERGING OPPORTUNITIES	Details at page 06	750/-	6 hrs
Aug. 15, Wednesday	** INDEPENDENCE DAY CELEBRATIONS	Details at page 21		
Aug. 18 & 19 Saturday & Sunday	44th REGIONAL CONFERENCE OF SIRC OF ICAI	Details inside front cover	3000/-	12 hrs
Aug. 22, Wednesday 06.15 pm – 08.30 pm	*CPE Study Circle Meeting on TAX AUDIT – SIGNIFICANCE OF SAs (AAS)	CA. R. Sundararajan Chennai	150/-	2 hrs
Aug. 24, Friday 11.00 a.m. – 01.00 p.m.	**CPE Teleconference on PROFESSIONAL OPPORTUNITIES IN INTERNAL AUDIT & AOP'S PUBLIC, PRIVATE – PROMOTION & TAXATION	CA. Rajkumar S Adukia, Central Council Member, ICAI, Mumbai CA. E. Phalgun Kumar Tirupati	150/-	2 hrs
Aug. 24, Friday 09.30 a.m. – 05.30 p.m.	** MEGA CPE CONFERENCE ON CAPITAL MARKETS	Details at page 04	No delegate fee	6 hrs
Aug. 25, 26 & 27 Sat. Sun & Mon	@THREE DAYS CPE RESIDENTIAL SEMINAR AT SRISAILAM	Details at page 06	3500/-	12 hrs
Aug. 29, Wednesday 11.00 a.m. – 01.00 p.m.	**CPE Teleconference on TRANSFER PRICING – REFUND AMENDMENT	CA. Dhinal A Shah, Central Council Member, ICAI Ahmedabad	150/-	2 hrs
Aug. 29, Wednesday 09.00 a.m. – 04.00 p.m.	***Hands on Practical Workshop on ADVANCED EXCEL FOR CAs	Details at page 13	1200/-	6 hrs
Aug. 29, Wednesday 03.45 p.m. – 08.15 p.m.	**CPE SEMINAR ON BANKING AND INSURANCE	Details at page 06	500/-	4 hrs
Aug. 31, Friday 09.30 a.m. – 05.30 p.m.	** CPE SEMINAR ON TAX AUDIT	Details at page 07	750/-	6 hrs
Sep. 1, Saturday 09.30 a.m. – 05.30 p.m.	@@CPE NATIONAL SEMINAR	Details at page 07	800/-	6 hrs
Sep. 8, Saturday 09.30 a.m. – 05.30 p.m.	** CPE SEMINAR ON TAXATION	Details at page 07	750/-	6 hrs
Sep. 12, Wednesday 06.15 p.m. – 08.30 p.m.	*CPE Study Circle Meeting on AUDIT SAMPLING	CA. R. Sivakumar Chennai	150/-	2 hrs

NO CPE PROGRAMMES ON AUG. 15, SEP. 5 AND SEP. 19, 2012

- * Programmes at P. Brahmayya Memorial Hall, "ICAI Bhawan", SIRC Premises, Chennai – 600034.
- ** Programme at "ICAI Bhawan", SIRC Premises, Chennai – 600034.
- *** Programme at IIT Lab, 3rd Floor, Annexe Building, "ICAI Bhawan", SIRC Premises, Chennai – 600034.
- @ Residential Programme at Srisailam
- @@ Programme at Hotel Saveria, 146, Dr. Radhakrishnan Salai, Chennai - 600 004.
- ### Programme at The Dream, S.A. Road, Elamkulam, Ernakulam

WORKSHOP ON INFORMATION TECHNOLOGY – EMERGING OPPORTUNITIES

CPE Credit
6
HOURS

Organised by Committee on Information Technology of ICAI,
Jointly with Information Technology Committee of SIRC

Registration: 09.00 a.m.

Friday, August 10, 2012
09.30 a.m. - 05.30 p.m.

P. Brahmayya Memorial Hall, ICAI Bhawan
No.122, Mahatma Gandhi Road, Nungambakkam, Chennai - 600034

Workshop Schedule

- ❖ E-Privacy and Data Protection in India Perspective
- ❖ Auditing ERP/CBS
- ❖ IT Governance, Risk & Compliance – Framework
- ❖ Auditing Cloud Computing

DELEGATE FEE

Members - ₹ 750/-

Delegate fee by way of Cash or by Cheque/DD drawn in favour of 'SIRC of ICAI' payable at Chennai may be sent to SIRC of ICAI, ICAI Bhawan, No. 122, Mahatma Gandhi Road, Nungambakkam, Chennai – 600 034. Phone: 044-30210320, Fax: 044-30210355; Email: sirc@icai.in

CA. P.V. Rajarajeswaran
Secretary, SIRC

CA. C.S. Srinivas
Chairman,
Information Technology
Committee of SIRC

CA. Atul C. Bheda
Chairman,
Committee of Information
Technology, ICAI

CA. K. Viswanath
Chairman, SIRC

CPE SEMINAR ON BANKING AND INSURANCE

Organised by Committee on Banking, Insurance & Pension of ICAI jointly with CBI&P of SIRC of ICAI

Wednesday
August 29, 2012
03.45 p.m. - 08.15 p.m.

CPE Credit
4
HOURS

Chief Guest : **Shri R K Nair**, Member (F&I), IRDA
Guest of Honour : **CA. J. Venkateswarlu**, Chairman
Committee for Banking, Insurance & Pension, ICAI

Registration: 03.30 p.m.

**P. Brahmayya Memorial Hall,
ICAI Bhawan**
No.122, Mahatma Gandhi Road, Nungambakkam,
Chennai - 600034

Technical Sessions

Developments in Insurance Sector – Professional Opportunities – Role and Responsibility of CAs and ICAI and IRDA

CA. S.N. Jayasimhan, Joint Director
(Investments) IRDA, Hyderabad

Emerging Audit Opportunities in Insurance Sector
CA. P.S. Prabhakar, Chennai

Risk based Internal Audit in Banks
CA. N. Venkatkrishnan, Chennai

Dinner : 08.30 p.m.

DELEGATE FEE

Members - ₹ 500/-

Delegate fee by way of Cash or by Cheque/DD drawn in favour of 'SIRC of ICAI' payable at Chennai may be sent to SIRC of ICAI, ICAI Bhawan, No. 122, Mahatma Gandhi Road, Nungambakkam, Chennai – 600 034. Phone: 044-30210320, Fax: 044-30210355; Email: sirc@icai.in

CA. P.V. Rajarajeswaran
Secretary, SIRC

CA. Gopal Krishna Raju
Chairman
CBI & P, SIRC

CA. J. Venkateswarlu
Chairman,
CBI & P, ICAI

CA. K. Viswanath
Chairman, SIRC

THREE DAYS CPE RESIDENTIAL SEMINAR AT SRISAILAM

CPE Committee of ICAI, New Delhi jointly with SIRC of ICAI
Hosted by: Hyderabad Branch of SIRC of ICAI

Sat, Sun & Mon
25, 26 & 27 August, 2012

Limited seats,
Registration on First Come First Served Basis

CPE Credit
12
HOURS

Day 1 : Saturday, August 25, 2012 - 03.30 p.m. to 7.30 p.m.

Latest Developments in Survey, Search and Seizure under
Income Tax Act, 1961

CA. Naveen N D Gupta

ETDS and its related issues

CA. Pankaj Kumar Trivedi

Day 2 : Sunday, August 26, 2012 - 09.30 a.m. to 5.30 p.m.

Recent Amendments in Service Tax and its implications

CA. Ravi Holani

Revised Schedule VI – Its implications and issues

CA. Sanjay Jain

MS-Excel – Tool for Audit

CA. Ritesh Mittal

IT Audit – Challenges

CA. V. Jawahar

Day 3 : Monday, August 27, 2012 - 10.00 a.m. to 1.45 p.m.

Tax issues – inheritance, family settlement and HUF

CA. Gopal Krishna Raju

Standard on Auditing (SA)

CA. B Ganesh

DELEGATE FEE ₹ 3500/- per participant

Delegate fee by way of Cheque/DD drawn in favour of 'Hyderabad Branch of SIRC of ICAI' payable at Hyderabad be sent to the Chairman, Hyderabad Branch of SIRC of ICAI, ICAI Bhawan, 11-5-398/C, Red Hills, Hyderabad – 500004. Telephone: [40] 23317026/27/28, 23393182, 30638600; Mobile: 98490 26209; Email: Hyderabad@icai.org, chairman.hyderabad@icai.in; dayakar_gelli@yahoo.com

CA.P.V. Rajarajeswaran
Secretary, SIRC

Seminar Co-ordinator
CA. Dayakar Gelli
Chairman
Hyderabad Branch of SIRC of ICAI

CA. Anuj Goyal
Vice Chairman
CPE Committee, ICAI

Seminar Director
CA. Devaraja Reddy M
Chairman
CPE Committee, ICAI

Seminar Co-ordinator
CA. K. Viswanath
Chairman, SIRC

CPE SEMINAR ON TAX AUDIT

Organised by SIRC of ICAI under the auspices of the Taxation Committee of SIRC

P. Brahmayya Memorial Hall,
ICAI Bhawan,
No.122, Mahatma Gandhi Road,
Nungambakkam, Chennai - 600034

Friday, August 31, 2012
09.30 a.m. - 05.30 p.m.

Registration : 09.00 a.m.

CPE Credit
6
HOURS

Inaugural Session - 9.30 a.m. to 10.15 a.m.

Chief Guest:

Mr. S. Senthamarai Kannan,
Chief Commissioner of Income Tax – I, Chennai

Technical Sessions - 10.15 a.m. to 05.30 p.m.

Documentation : **CA. P.Anand**
Chennai
Clause 1 to 16 of Form 3CD : **CA. B. Ramana Kumar**
Chennai
Clause 17 to 32 of Form 3CD : **CA. Diwakar Vijayasarithi**
Chennai
Accounting Standards for SMEs : **CA. R G Rajan,** Chennai

DELEGATE FEE

Members - ₹ 750/-

Delegate fee by way of Cash or by Cheque/DD drawn in favour of 'SIRC of ICAI' payable at Chennai may be sent to SIRC of ICAI, ICAI Bhawan, No. 122, Mahatma Gandhi Road, Nungambakkam, Chennai – 600 034. Phone: 044-30210320, Fax: 044-30210355; Email: sirc@icai.in

CA. P.V. Rajarajeswaran
Secretary, SIRC

CA. E. Phalguna Kumar
Chairman
Taxation Committee, SIRC

CA. K. Viswanath
Chairman, SIRC

CPE SEMINAR ON TAXATION

Organised by SIRC of ICAI under the auspices of the Taxation Committee of SIRC

P. Brahmayya Memorial Hall, ICAI Bhawan
No.122, Mahatma Gandhi Road,
Nungambakkam,
Chennai - 600034

CPE Credit
6
HOURS

Saturday, September 8, 2012 - 09.30 a.m. - 05.30 p.m.

Registration: 09.00 a.m.

Technical Sessions - 10.15 a.m. to 05.30 p.m.

Reassessments in Income Tax Act
CA. T. Banusekar, Chennai
Losses c/f and set off
CA. T.G. Suresh, Chennai
Reverse Charge & Joint Charge mechanism under Service Tax
CA. Vijay Anand, Chennai
Exemption and Negative list under Service Tax
Adv. K. Vaitheeswaran, Chennai

DELEGATE FEE

Members - ₹ 750/-

Delegate fee by way of Cash or by Cheque/DD drawn in favour of 'SIRC of ICAI' payable at Chennai may be sent to SIRC of ICAI, ICAI Bhawan, No. 122, Mahatma Gandhi Road, Nungambakkam, Chennai – 600 034. Phone: 044-30210320, Fax: 044-30210355; Email: sirc@icai.in

CA. P.V. Rajarajeswaran
Secretary, SIRC

CA. E. Phalguna Kumar
Chairman
Taxation Committee, SIRC

CA. K. Viswanath
Chairman, SIRC

CPE NATIONAL SEMINAR

Organised by Continuing Professional Education Committee, ICAI

Hosted by: SIRC of ICAI

Hotel Savera,
146, Dr. Radhakrishnan Salai,
Chennai – 600 004

Saturday
September 1, 2012

CPE Credit
6
HOURS

Technical Session : 09.30 a.m. - 05.30 p.m.

Business Deductions in Income Tax
Shri Firoze B Andhyarujina, Sr. Advocate, Mumbai

Service Tax – Concept of Negative List and Exemptions
CA. Rajendra Kumar P, Chennai

Schedule VI – The New Way forward
CA. S. Ramesh, Chennai

Internal Audit – An Effective Practice Tool
CA. Uday Sathaye, Mumbai

Inauguration : 08.55 a.m.

DELEGATE FEE

Members - ₹ 800/-

Delegate fee by way of Cash or by Cheque/DD drawn in favour of 'SIRC of ICAI' payable at Chennai may be sent to SIRC of ICAI, ICAI Bhawan, No. 122, Mahatma Gandhi Road, Nungambakkam, Chennai – 600 034. Phone: 044-30210320, Fax: 044-30210355; Email: sirc@icai.in

CA. P.V. Rajarajeswaran
Secretary, SIRC

Seminar Chairman
CA. M Devaraja Reddy
Chairman
CPE Committee, ICAI

Seminar Director
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VISHWÁS

ENHANCE VALUES, INSPIRE TRUST

44th Regional Conference of SIRC of ICAI

Delegate – Registration Form

To

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Yes, I / We would like to enroll as a delegate/s to the **VISHWÁS - ENHANCE VALUES, INSPIRE TRUST** a two day 44th Regional Conference of SIRC of ICAI, on 18th & 19th August 2012 at "**Tripuravasini**", **Bangalore Palace Grounds**, Mekhri Circle, Opp. Ramana Maharshi Center, Bellary Road, Bangalore

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Depreciation on Goodwill - An Insight

Introduction

Mergers and Acquisitions (M&A) has become a regular feature of India Inc. While structuring M&A deals, the prospective buyer in addition to legal and commercial consideration, also considers tax cost and benefits involved in the deal. Typically, in an M&A deal, substantial portion of consideration paid on acquisition of business is attributed towards acquisition of intangibles. Such intangibles are not assigned separate values, but are embedded together and termed as “goodwill”.

The Indian tax law is silent on the eligibility of tax depreciation on goodwill and the same has often been a debated topic in court rooms with flurry of judgments at every level. The Courts have been divided in their opinion and the matter is yet to attain finality.

This article provides an insight on eligibility of depreciation on intangible assets accounted for as goodwill.

Meaning of the term “Goodwill”

The term “Goodwill” has not been defined under the Income tax Act, 1961 (the Act). Thus, in order to understand the concept, reference must be made to various judicial precedents.

Lord Eldon in Crutwell v. Lye (1810) 17 ves 335 [referred in CIT vs B.C Srinivasa Setty) (1981)(128 ITR 294)] has defined goodwill providing that it is nothing more than “the probability that the old customers would resort to the old places”. This was expanded by **Wood V.C. in Churton v. Douglas (1859) John 174**, to encompass every positive advantage “that has been acquired by the old firm in carrying on its business, whether connected with the premises in which the business was previously carried on or with the name of the old firm, or with any other matter carrying with it the benefit of the business”.

From the above, it is imperative to note that the concept of goodwill needs to be

considered in a much broader way. There cannot be strict interpretation to the term goodwill.

Depreciation on Goodwill

Finance (No.2) Act, 1998, for the first time, provided for allowance of depreciation on “intangible assets” under the Act. Briefly, section 32 of the Act, inter alia, provides for depreciation on “intangible assets” acquired on or after April 1, 1998. “Intangible assets” for this purpose include know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature acquired by the assessee and used for the purpose of business of profession.

Since “Goodwill” is not specifically enumerated in the above list of intangible assets, the moot question which arises for consideration is whether goodwill should fall within the phrase “any other business or commercial rights of similar nature” for the purpose of claiming depreciation.

Various Courts have applied the principle of “ejusdem generis” to restrict the scope of the phrase, the complexity is aggravated in situations in which the goodwill acquired represents, in essence, a bundle of other intangible assets and rights (as opposed to representing goodwill in its strictest sense). In such situations, the courts have generally relied on the nature of the underlying asset to determine whether depreciation should be available thereof or not. Some of the landmark decisions in this regard are discussed below.

Analysis of Judicial Precedents

• In the facts of the case **CIT vs Hindustan Coca Cola Beverages (P) Limited**¹, the assessee was engaged in manufacturing and trading of non alcoholic beverages. It acquired business on a going concern basis and allocated a part of the price towards goodwill in its books of account. The price was paid for marketing and trading reputation, trading style and name, territory knowhow, know-how related to business, customer database, distribution network,

contact and other commercial rights.

- The Delhi High Court held that goodwill in this case was in substance similar to tangible assets. The decision was based on the following factors:
 - Nomenclature given to the entries in the books of accounts is not relevant for ascertaining real nature of transaction.
 - As per Section 32(1)(ii) of the Act, intangible assets includes, along with other things, any other business or commercial rights of similar nature.
 - Commercial rights are rights for effectively carrying on business and commerce and therefore any such right is an intangible asset, and so as goodwill which has intangible assets i.e. know-how, patents etc. embedded within.
- In the case of **B. Raveendran Pillai vs CIT**², the assessee had purchased a hospital along with its tangible assets such as land, building, equipment, staff, and intangible assets in the nature of name, trademark and goodwill as a going concern. The assessee claimed depreciation on goodwill on the value shown in the deed. The High Court held that by transferring the right to use the name of the hospital itself the previous owner had transferred the goodwill to the assessee and the benefit derived by the assessee was retention of continued trust of the patients who were patients of the previous owners. When the goodwill paid is for ensuring retention and continued business in the hospital, it is certainly for acquiring a business and commercial rights and it is certainly comparable with trademark, franchise, copyright, etc., referred to in section 32(1)(ii) of the Act. Thus, the assessee was entitled to depreciation.
- In the facts of the case of **Skyline Caterers (P) Ltd. v. ITO**³, R was a contractor providing catering

1 (2011) (331 ITR 192) (Delhi HC)

2 (2010) (332 ITR 531) (Kerala HC)

3 (2007) (116 ITD 348) (ITAT Mumbai)

services to HLL. The assessee took over the right under the said contract with HLL from 'R' for a consideration. The total sum paid by the assessee was reflected in the balance sheet as goodwill, on which depreciation was claimed. The question before the Tribunal was whether the rights acquired under the contract can be said to be intangible asset within the ambit of Section 32(1)(ii) of the Act. The Tribunal observed that the legislature has specified certain intangible assets on which depreciation can be claimed namely know-how, patents, copyrights, trademarks, licences, franchises. These specific intangible assets are followed by the expression 'any other business of commercial rights of similar nature'. The expression mentioned above by itself would include all kinds of commercial rights but for the words 'similar nature'. In such situation, the rule of ejusdem generis would apply. The scope of the rule is that words of a general nature following specific and particular words should be construed as limited to things which are of the same nature as those specified. The general words take the colour from the specific words. The specific

words in the above section reveal the similarity in the sense that all the intangible assets specified are tools of the trade which facilitate the assessee carrying on the business. Therefore, the expression 'any other business or commercial rights of similar nature' would include such rights which can be used as a tool to carry on the business. If this test is applied, then the rights acquired by the assessee under the agreement would fall within the expression mentioned above, since catering business could be carried on only with the help of such rights under the contract and the assessee would be entitled to depreciation.

- In **Kotak Forex Brokerage Ltd. v. Asstt. CIT**⁴ case, the assessee had acquired the foreign exchange broking business for a sum of Rs. 5.90 crores, out of which Rs. 1.88 crores was towards goodwill and Rs. 3.83 crores was towards forex broking rights and balance towards net current assets. The Tribunal observed that 'business or commercial rights' are rights obtained for effectively carrying on the business or commerce. "Commerce is a wider term, which encompasses business in

its fold. Therefore, any right which is obtained for carrying on the business effectively and profitably has to fall within the meaning of intangible asset." It further observed that since in the instant case, the assessee who had acquired the business was going to use the name 'Kotak' in its name, the assessee was to be benefited by the usage of the said name. Accordingly, it was to be considered as 'business or commercial right of similar nature' under the definition of intangible asset and the assessee was entitled to the depreciation on that under section 32.

- In a recent decision, the Tribunal in the case of **Toyo Engineering India Limited vs DCIT**⁵ held that "goodwill arising on amalgamation is a mere book entry and does not represent any intangible rights to be eligible for depreciation". The Tribunal distinguishing the facts of the case held that the past rulings were based on a fact pattern where there was purchase of goodwill in the nature of a commercial right whereas in the case on hand, the very purchase of goodwill is not proved and hence depreciation is not allowable under section 32(1)(ii) of the Act.

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To effectively serve the Members and Students and redress their complaints/grievances, a Grievance Register is maintained at the Reception (Ground Floor, Main Building) of the Institute at Chennai Office. Members & Students may lodge their complaints in the Register for unresolved issues for remedial action by the appropriate authority/Committee. Members and Students may also send their complaints through email at grievance_sircmembers@icai.in and grievance_sircstudents@icai.in respectively.

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SIRC acknowledges the contribution and support extended by Central Council Members of ICAI, Regional Council Members of SIRC, Resource Persons and the delegates/participants for making all the programmes a resounding success.

Conclusion

From the discussion so far, it is apparent that there is no express provision in the Act to allow depreciation on goodwill. Additionally, goodwill is not included in the list of intangible assets eligible for depreciation under the proposed Direct Tax Code regime.

In the absence of express provision under the Act, the issue of eligibility of depreciation on goodwill is subject to varying interpretations by the assessee as well as by the tax authorities. However, having said that, it clearly emerges from the various judicial pronouncements, as discussed above, that it may be possible to claim depreciation on goodwill, where the facts demonstrate that it represents underlying benefits in the nature of know-how, trademark, brands, or such rights which could be considered as any other business or commercial rights of similar nature.

It is desirable that the legislature comes out with clear and certain provisions in the Act in order to remove ambiguity in the law. ■

⁴ (2009) (33 SOT 237) (ITAT Mumbai)

⁵ ITA no. 3279/Mum./2008



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Taxability of EPC contracts - Confusion seems to be 'Complete'

Certainty of policy matters is crucial for any economy to grow and more so for a developing country like India. In particular, with recent amendments and contradictory judicial precedents, the taxing statute has become far from reaching assurance. On one hand, the clarificatory retrospective amendment brought in by the recent Finance Bill 2012 consequent to the ruling of the Apex court in the case of *Vodafone Holdings B.V. vs Union of India (civil appeal No. 733 of 2012)* to tax the indirect transfer of India, business through overseas share transfers has reached the heights of controversies. On the other hand, the Apex court's ruling itself created a lot of confusion on taxability of Engineering Procurement and Construction (EPC) contracts, if the interpretation of various Authority of Advance Ruling (AAR) were to be accepted.

This article makes an attempt to throw light on the evolution of the taxability of the EPC contracts along with the ongoing contradictory judicial precedents.

Background

Overseas companies, normally, enter into consortium arrangements with Indian companies to bid for EPC contracts. An EPC contract typically comprise of following:

- (a) Offshore supply of equipment;
- (b) Offshore service;
- (c) Onshore supply of equipment; and
- (d) Onshore services.

The revenue authorities are always inclined to prove such an arrangement to constitute Association of Persons ('AOP') in India under section 2(31)(v) of the Income-tax Act, 1961 ('the Act') and tax it accordingly. However, on other hand, the consortium members argue that such an arrangement would not constitute an AOP in India and the taxability has to be assessed like any

other independent company under section 2(31)(ii) of the Act.

AOP - Meaning and Taxability under the Act

AOP *per se* has not been defined under the provisions of the Act. The fact that AOP differs from partnership and it falls short of partnership is recognized in law through various judicial precedents, though the distinction is not yet clear. Thus, whether or not a business arrangement among entities would give rise to AOP depends on the facts and circumstances of each case. Explanation to section 2(31) of the Act clarifies that the object to derive income, profit or gains is irrelevant for determining the status of AOP as 'person'.

Once an AOP is subjected to tax, then there is no further tax liability in the hands of its members on their share of income from AOP.

'Joining together for co-ordination' is different from 'Joining together for carrying business'. While the latter would create an AOP, however, the taxability in the case of former would be in the hands of the individual entities. The possibility of consortium being taxed as AOP may be reduced to a great extent provided proper care is taken while executing the contracts at initial stage viz., separate contracts are executed with each consortium member with their share of work alone and enter into co-ordination agreement.

The Central Board of Direct Taxes (CBDT), vide Instruction No. 1829 dated 21 September 1989, provide specific guidance on taxability of EPC contracts in case of Hydro electric power plants in India. The said instruction has clarified that co-ordination agreements would not result in creation of AOP if no separate consideration is payable for the co-ordination work. Though this instruction has been issued in the context of EPC contracts of Hydro electric power plants in India, given the

persuasive value, a similar view can be taken, as well for other EPC contracts, by the overseas entities.

Challenges faced where the arrangement is taxed as an AOP

Once an association of two or more entities is treated and taxed as an AOP as per the provisions of the Act, the following consequences could follow:

- As per the provisions of section 6 of the Act, an AOP is said to be resident in India if the control and management of its affairs are wholly or partly situated within India during the relevant previous year. As it may be difficult to demonstrate the fact that the management and control of such AOP to be entirely situated outside India, the same may be considered as 'Resident' as per the provision of the Act and hence will be taxable on the global income earned, in which case, income earned from offshore supply of equipment and offshore services may also be taxed in India in hands of AOP.
- The availability of getting tax credit for taxes paid by AOP in India, in the hands of the overseas companies in their resident country would be difficult.
- Ascertainment of the correct residential status of the EPC contractor is also crucial as it would determine the applicability of section under which tax needs to be withheld (i.e., where it is a resident it would be under section 194J vis a vis for a non-resident which would be under section 195).

Summary of some significant judicial precedents on taxability of EPC contracts

- *DDIT vs Ishikawajima-Harima Heavy Industries (2007) 288 ITR 408 (SC)*

Ishikawajima-Harima Heavy Industries

(The Company or IWHI) is a company incorporated in Japan and is engaged in engineering and construction business. It formed a consortium with Petronet LNG Limited, an Indian company and entered into a turnkey project for setting up a Liquefied Natural Gas (LNG) receiving storage and degasification facility at Dahej, Gujarat. The roles and responsibilities of the consortium members were specified separately. Further, each of the members of the consortium was also to receive separate payments. The Company was to develop, design, engineer and procure equipment and materials for the project which involved (i) offshore equipment supply, (ii) offshore services, (iii) onshore equipment supply and (iv) onshore services and (v) construction and erection. The liability of the Company to pay income tax on onshore supply and onshore services and on the activities relating to construction and erection was not under dispute.

In light of the above background, the Apex court went on to deal with the taxability of the 'offshore supply of equipment' and 'offshore services' forming part of the EPC contract in the hands of the consortium member i.e., the IWHI, thereby ruling out the possibility of creation of AOP, and laid down the following *land mark* principles:

- Offshore supply would not be considered taxable in India if all the material events of the transaction (i.e., transfer of property in the goods as well as payment) are carried outside India;
- Offshore services to be regarded as income accruing or arising in India, it is necessary that the services not only be utilized within India, but also be rendered in India.

Accordingly, in the given case, the Apex court held that the offshore supply and offshore services are not taxable in India.

- *Ansaldo Energia SPA vs ITAT, CIT and ADIT (2009) (HC Chennai)*

The facts of the case are that Ansaldo Energia SPA (a foreign company) made a single bid tender for an EPC contract. It has set up an Indian subsidiary, Ansaldo Services Private Limited (Ansaldo India). Ansaldo Energy SPA communicated the project owner right from the beginning that the Indian portion of the turnkey contract should be awarded to other legal entities to be selected by it. Further, the contract has been divided into four parts. Offshore supply (contract 1) and offshore services (contract 2) were handled by Ansaldo

Energia SPA. Onshore supply (contract 3) and onshore services (contract 4) were executed by Ansaldo India.

The Chennai High Court and the Tribunal, considering the peculiar facts of the case distinguished the decision of IWHI and held that certain percentage of profits attributable to the offshore supply contract would be taxable in India based on the following parameters:

- The foreign company and the activities rendered by it under contract 1 and the other three contracts are inextricably linked and it was a composite contract;
- The responsibility from the beginning to the end rested with the foreign company;
- There is an intimate, real and continuous relationship with the Indian subsidiary company; and
- The price of the other contracts was loaded on contract 1.

Subsequently, in July 2009, the CBDT vide Circular 5 of 2009 has withdrawn the Instruction No. 1829 citing the following reasons:

- Consortiums are created to take the advantage of existing instruction. A single project is split into various components like offshore supply of equipments / services, onshore supply equipments/ services. Sometimes, the contract is split even when only one contractor / supplier bid for the project. In such cases the contract is split into various components to be executed by the bidder and its associate concerns.
- Profit is mostly loaded in the offshore supply and the payment for the Indian portion of the contracts hardly meets the expenses, resulting into either losses in India or very low profit.

Position in law post withdrawal of Instruction No. 1829

Though there was a greater challenge from the tax authorities on this contentious matter which has been the subject matter of litigation since long, as far as the impact of the withdrawal of the Instruction No. 1829 is concerned, effectively, the position of law has not changed. This is clearly evident from the ruling given by the AAR post June 2009 favoring the taxpayer in the case of Hyundai Rotem Co, Korea & Mitsubishi Co, Japan (2010) [AAR No. 798 - 799 of 2008] while dealing with the taxability of the Delhi Metro Rail Project.

The AAR, in the said case, did a critical

analysis of its previous two rulings Van Oord Acz BV (2000) [AAR No. 469 of 1999] and GeoConsult ZT GMBH, Austria (2008) [AAR No.745 of 2007]. In the former case, the AAR has held that the joint venture primarily did not satisfy the criteria of AOP. However, in GeoConsult case a different conclusion was reached after distinguishing the case of Van Oord.

The following are the primary factors which the AAR has considered to be crucial, though not conclusive, in determining whether the parties have joined together for co-ordination or for earning income, which eventually decides creation of an AOP:

- Profit sharing vis-à-vis Revenue sharing;
- Whether there exists any intention to carry business in common;
- Jointly incurring expenditure;
- Joint and several liability - Acceptance of 'Risks' and 'Liability' by the consortium vis-à-vis Acting only as a safeguard to the EPC contractor;
- Appointment of a Lead member to represent the consortium;
- Scope of work of each consortium member, skill set required for executing the work;
- Interchangeability or re-assignment of work and overseeing each other's work;
- Whether the agreement precludes from creating / constituting such arrangement as a partnership, joint venture or any other legal entity among the parties.

The 'Vodafone' affect (Jan 2012):

Post Vodafone ruling, the AAR has consistently been taking a view that:

- The two judge bench decision of the Apex Court in the case of Ishikawajima-Harima Heavy Industries Ltd, adopting a dissecting approach could not be followed in view of the three judge bench decision in the case of Vodafone International Holdings BV, wherein the principle is laid down that what needs to be considered is to '**look at**' the transaction in its entirety i.e. as a whole and not adopt a dissecting / '**look through**' approach.
- If parties come together for jointly executing the project, that itself would constitute AOP. The fact that between themselves, the members of the consortium divide the

performance of the obligation does not affect the nature and content of the obligation undertaken by them jointly.

The AAR, based on above principles, in the following rulings has held that the consortium arrangement would lead to creation of an AOP:

- Roxar Maximum Reservoir Performance WLL, Bahrain (2012) [AAR 977 of 2010];
- Linde AG, Germany (2012) [AAR No. 962 of 2010];
- Alstom Transport SA, France (2012) [AAR No. 968 of 2010].

However, it is worth noting that the ruling of the Vodafone was delivered by the Apex court on 20 Jan 2012 and the AAR, in the case of SEPCO III Electric Power Construction Corporation (2012) [AAR No. 1008 of 2010] and CTCI Overseas Corporation Limited, Hong Kong (2012) [AAR No. 854 of 2009], delivered its judgement on 31 January 2012 and 01 February 2012 respectively in favour of the taxpayer acknowledging

that the consortium would not create an AOP and held that offshore supply of equipment is not taxable under the Act.

Further, the Kolkata Tribunal in the case of Dongfang Electric Corporation vs. DDIT (ITA No. 833 of 2011) while dealing with the taxability of a EPC contracts held that the transactions are to be essentially looked at as a whole, and not on standalone basis, only when the overall transaction is split in an unfair and unreasonable manner with a view to evade taxes. Thus, the Tribunal has indicated that the principles of IWHI still hold good post Vodafone ruling as well.

Conclusion

The contrary judicial rulings may lead to a confusing environment in relation to the taxability of the EPC contracts. Accordingly, considering the contentious nature of the issue and litigation surrounding the same, it is felt that the CBDT shall through some light and come up with suitable guidelines at the earliest to clarify/set the position of law for taxing the EPC contracts. Such

**WE WISH YOU ALL WELL
SHRI T.V. SRINIVASAN**



Retired on superannuation on July 31, 2012

Shri T.V. Srinivasan, Deputy Secretary, ICAI retired on Superannuation about 40 years of meritorious and yeomen service on July 31, 2012. He joined the Institute on 1st June 1973 and worked in all Departments of Chennai Office of ICAI and was also Regional Head during his service. He rose up to the present position by his sincerity, dedication and hard work.

May the Almighty give him health, wealth, prosperity, peaceful, productive and long retired life.

a clarification is expected to bring a sigh of relief for the consortium members, especially to overseas companies.

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Understanding Fair Market Value in the context of section 50D

Introduction

We have often been witness to people thronging near few selected food vendors/ outlets. These street-outlets make the fastest buck although the adjoining restaurants starve for hungry customers. These outlets are quite often listed as “preferred food destination”. The reason possibly is the customer satisfaction achieved through his ‘quality’ and ‘price’. This interplay of ‘satisfaction’ and ‘price’ can be restated in economic terms in the following manner.

At a particular price, the consumer will continue to buy or avail goods/ service as long as the ‘willingness to pay’ exceeds the ‘price’. This differential between ‘willing to pay’ and the ‘actual price’ represents ‘Consumer Surplus’. The willingness to pay reflects consumer perception of (i) ‘value’ of the product (or service) and (ii) the ‘sacrifice’ involved in acquiring the product (ie, price). The ‘value’ is judged by comparing the perceived gain with the relative reference prices in the market (often called ‘Market Price’). The perceived value of the consumer market is known as the ‘Market Value’.

‘Market price’ is a fact. ‘Market value’ is the estimate of price. In other words, market price is “the price at which one can transact”, while market value is “the perceived underlying value”. The distinction is clearly felt in an inefficient market or disequilibrium situations where prevailing market prices are not reflective of true underlying market value. The ‘gap’ is due to the constitution of market price and market value. A market price would consider routine characteristics of the goods/ service that market participants consider. These could include conditional, locational or certain inherent characteristics of the goods/ service. It does not factor any characteristics that arise from an entity’s holding the goods/ service. Market price is a market based measurement and is not influenced by any entity specific factors. For instance, a market price is not effected

by capability of a particular person to procure goods/ service at a lower price due to economies of scale or his/ her market credibility. Market price is attached to the goods/ service and not the possessor/ user.

The concept of market price and market value are closely linked. Although, often used synonymously, they are distinct and separate. They seldom coincide. A market value can be equated with market price, when the price reflects the ‘true’ value of the transaction. Conversely, when the market value shreds off the unique or special entity specific characteristics, it matches the market price. The price is no more affected by any undue stimulus. It culminates into intersection of market price and market value which is often known as **Fair Market Value**.

Fair Market Value (FMV) under Accounting Principles

Recording transactions on ‘historical cost’ basis is one of the first principles of accounting. It is based on the stable measuring unit assumption. This age-old principle was criticized for its inaccuracy. It ‘was’ and ‘is’ held to be a deviation from “true” value. Since this principle does not reflect current market valuation, an alternative measurement base became a necessity. This set the stage for recognition of FMV. A FMV is a paradigm shift from historical-cost concept. In the present context, without dwelling into the nitty-gritty of accounting, some of the definitions of FMV given by the accounting standards (in and outside India) have been reiterated below:

Accounting Standard (AS)	Fair Market Value
AS-10	Fair market value is the price that would be agreed to in an open and unrestricted market between knowledgeable and willing parties dealing at arm’s length who are fully informed and are not under any compulsion to transact.
AS-13	Fair value is the amount for which an asset could be exchanged between a knowledgeable, willing buyer and a knowledgeable, willing seller in an arm’s length transaction. Under appropriate circumstances, market value or net realisable value provides an evidence of fair value. Market value is the amount obtainable from the sale of an investment in an open market, net of expenses necessarily to be incurred on or before disposal.
IFRS - 13	The price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date

The above extracts concur with the general understanding of a FMV. It is the value that reflects the price in an open and unrestricted market consisting of informed, uninfluenced and willing market participants.

FMV under the Income-tax Act

The concept of FMV is not new to the Indian income-tax statute. The concept has been in vogue since the statute’s early days of enactment. Valuation has been the basis for levy of tax on various occasions. Application of FMV concept has surfaced at various parts in the Act (for instance, section 17, 45, 50, 56 etc). The concept of FMV was inserted in the statute as early as 1964. It was defined in section 2(22A) of the Act and was renumbered as section 2(22B) by Direct Tax Laws (Amendment) Act, 1987

from 1.4.1989. Clause (22B) of section 2 reads as under -

"fair market value", in relation to a capital asset, means -

(i) the price that the capital asset would ordinarily fetch on sale in the open market on the relevant date; and

(ii) where the price referred to in sub-clause (i) is not ascertainable, such price as may be determined in accordance with the rules made under this Act" (emphasis supplied)

Section 2(22B) houses two clauses[†]. Clause (i) envisages the price which the sale of capital asset would fetch in the open market[‡]. It envisages an open market for the capital asset under valuation. The second limb is attracted when the price contemplated in clause (i) cannot be ascertained. In such a case, FMV would be determined in accordance with the rules made under the Act.

Thus, FMV in relation to a capital asset is determined by (i) its market price in the open market or (ii) rules laid down in the Act. In this article, we contemplate the FMV of those capital assets whose FMV is not prescribed by the rules. In other words, the scope of this article is restricted only to clause (i) of section 2(22B). For the sake of convenience, clause (i) of section 2(22B) is paraphrased into following limbs -

- FMV is a 'price' which the capital asset would fetch in the market on its sale;
- The price is equal to sale price that one can 'ordinarily' fetch on the relevant date; and
- The sale is characterised as an 'open' market sale.

The **first limb** deals with the opening portion of the definition. It mandates existence of a market price. As already detailed, market price is the economic price for which goods/ service(s) are offered in the market. The term "price" connotes money consideration or its equivalent. A pecuniary value must thus be capable of being attributed to the capital asset. It must have a readily ascertainable market price.

To determine price, existence of market for the capital asset is a precondition. This condition is attached to the capital asset under valuation. In other words, the capital asset by itself must be capable

of being sold in the market. It does not envisage a price of an equivalent or similar goods or service in the market. This is evident from the use of the definite article 'the' before capital asset in clause (i) of the definition. The word 'the' is used to talk about one thing in particular. It does not use indefinite article - 'a' or adjectives like 'similar'. Thus, FMV implies market price of the capital asset per se. Price of similar or equivalent asset cannot be imported into the valuation mechanism.

One could distinguish the mechanism adopted herein with the Transfer Pricing ("TP") provisions in the Act (being an international transaction valuation mechanism). The TP provisions envisage a comparable transaction. The statute permits comparison of international transactions with other uncontrolled transactions which are similar in functional and risk profile. Based on such comparison, an arm's length price is determined for the transaction under examination. On the other hand, fair value determination does not envisage valuation of similar or equivalent capital assets. The capital asset, as such, must be capable of being valued. The condition of 'existence of market' should thus necessarily operate on the 'capital asset' under valuation.

Existence of a market for the capital asset presupposes that the capital asset is "marketable". Marketable means capability of being taken to market on an "as-is" basis. The Apex Court in the case of *Indian Cable Co v Collector*, AIR 1995 SC 64, 69 observed that something is marketable if it is 'capable of being sold' or 'being sold' to the consumers in the market, as it is without anything more. The concept of "Marketability" has been discussed by various courts (although in the context of excise laws). Applying the principles laid down by these courts to the present context, one could draw following principles:

- the property/ service must be capable of being marketed or sold;
- the property/ service must have a separate and unique commercial identity known to the market; and
- it implies a regular market for the product/ service.

Thus, the first limb requires ascertainment of a market price of the capital asset - being a marketable asset. The 'market

price' is qualified by two attributes which are dealt in second and third limb of clause (i) to section 2(22B). The second limb qualifies the sale and third limb deals with the market.

The **second limb** equates price with 'sale price'. It is a price which one could ordinarily fetch from the sale of the capital asset. The term '**ordinarily**' qualifies the term "fetch". This implies determination of FMV would not take into consideration extraordinary cases. There is no scope to understate/ overstate the consideration of transfer having regard to commercial, economic or fiduciary considerations. The term 'ordinarily' in the present context implies arm's-length transaction. It is a sale between two parties in the normal course. There are no special or unique terms between parties to this transaction. It possibly hints at a fair sale between two parties taking into account the respective advantages or disadvantages that each will gain from the transaction. In nutshell, it is a price bereft of specific synergies and cognitive biases between buyers and sellers. Further, dictionary meaning of the term "fetch" is "to bring in (as a price); realise". Thus, the word price is to be understood from a seller/ transferor's standpoint. It is the price realized by the transferor/ seller.

The **third limb** requires an existence of '**open market**'. Open market refers to an unrestricted market with free 'access to' and 'competition of' buyers and sellers. It visualizes an 'economic activity' where prices are determined by supply and demand. There are no restrictions on the freedom to trade. In short, there is no control on the impact of market forces over the said transaction. The parties to the transaction are informed and knowledgeable.

It may be relevant to understand the meaning of the term 'market' in the present context. Under general principles, "market" is the place where the sellers and buyers meet. In a larger sense 'market' would mean the availability of commodities at a particular price specifying the needs and requirements of the sellers and buyers. The place of meeting of buyers and sellers is thus a 'market place' and not 'market' per se. As indicated above, the phrase used herein before is 'open market' which means unrestricted market which houses knowledgeable sellers and buyers. It becomes relevant to understand whether open market necessarily implies "offered for sale to the world at large" or "it could also mean operation or concurrence between the parties with each other". Whether a "closed room sale transaction"

[†] It may be interesting to note that section 314(93) of the Direct Tax Code Bill, 2010 [which defines FMV] has omitted clause (i) and consists of only clause (ii) of section 2(22B).

[‡] The language employed in clause (i) broadly corresponds to the definition in section 269A(d) which was omitted with effect from 15.11.1972

(a negotiated transaction between a single buyer and seller) also is covered within the scope of this provision?

To firm-up this position on “open sale” v “closed room sale”, one could observe the language employed in section 7(1) of the Wealth Tax Act, 1957 as it stood before amendment by Direct Tax Laws (Amendment) Act, 1989. The erstwhile section 7(1) reads as follows -

“7 - Value of assets, how to be determined - (1) Subject to any rules made in this behalf, the value of any asset, other than cash, for the purposes of this Act, shall be estimated to be the price which in the opinion of the Assessing officer it would fetch if sold in the open market on the valuation date...”(emphasis supplied)

The statute used the words “if sold in the open market”, it does not contemplate ‘actual sale’ or the ‘actual state’ of market. It only enjoins that it should be assumed that there is an open market. This principle was upheld by the Supreme Court in the case of Ahmed G H Arif v CWT (1970) 76 ITR 471 (SC). It is more important to understand the basis for this conclusion. The rationale was explained by Mumbai High Court in the case of CWT v Purushottam N Amersey (1969) 71 ITR 180 (Mum). It observed - *“The use of the words “if sold” creates a fictional position which the tax officer has to assume.*.”* The key term here therefore is “if”. The term “if” is used before the verb “sold”. The verb is expressed in its past tense. The use of “if” seeks to express something which did not happen in the past. It enforces a fictional sale in the past. The section further seeks to only make an ‘estimate’ of a value on such hypothetical sale. Similar language is employed in clause (a) and (b) of Rule 11UA which deals with determination of fair market value of jewellery and art work respectively.

Such language is not found in clause (i) of section 2(22B). Thus, one clearly needs to distinguish the valuation method in the aforesaid wealth tax provision and FMV determination under section 2(22B).

One may refer to the Apex Court decision in the case of Thiru Arooran Sugars Ltd. v CIT (1997) 227 ITR 432 (SC) [in the context of Rule 7 of Income-tax Rules, 1962] which held that -

“..“Market” in the context of rule 7 does not mean an open market where buyers and sellers get together for the purpose of purchase and sale of goods..

These are the principles universally applied to find out the price at which the goods are ordinarily sold in the open market. For determination of market value, there is no pre-requisite that an open market where buyers and sellers congregate to buy and sell goods must exist”(emphasis supplied)

The Apex Court held that FMV determination does not require ‘open market’ where buyers and sellers congregate... This implies that the Apex Court agrees that open market involves congregation of buyers and sellers, although such open sale is not required in FMV determination. The Apex Court has clearly distinguished ‘market’ from ‘open market’. It can be inferred that it has equated ‘open market’ with ‘congregation of buyers and sellers’.

Thus, condition of ‘on sale in open market’ contemplates a capability of actual sale. It is not a hypothetical concept. This is further supported by the language employed in clause (i). It reads *the price that the capital asset would ordinarily fetch on sale in the open market on the relevant date.* The intent of each of the underlined words in this sentence may be understood as under -

- Use of ‘**the**’ & ‘**in**’ - The term ‘the’ which is a definite article is prefixed to all the nouns in the sentence, namely, ‘price’, ‘capital asset’ and ‘open market’. As we are aware, ‘the’ is a determiner which is used to particularize or sufficiently identify a person or thing. The article “the” before a noun generally indicates one specific instance of the object named. Further, the word “in” used as a preposition before the phrase “the open market”. It has a narrow meaning and signifies inclusion or position within limits of space, time or circumstance. Repeated usage of “the” in the present context indicates that clause (i) of section 2(22B) specifically deals with the definite price of the capital asset under valuation in the identified open market.
- Use of ‘**on**’ & ‘**would**’ - The term “on” connects ‘price’ to the event of ‘sale’. The term “would” after capital asset functions as an auxiliary verb which would express the conditional mood. The price of the capital asset is thus conditional to its sale in the open market.

Accordingly, one could conclude that the clause (i) deals with a specific possibility

of sale. There is no room for imaginary or artificial transactions. To put it in the words of Lord Romer L J** - “The words ‘if sold in the open market’ do not of course mean if sold in any particular market, or include any ‘market’ at all in the legal sense of the term. They merely mean ‘if offered for sale to the world at large no one being excluded from making an offer if he thinks fit so to do’.” (emphasis supplied)

In summary, the first limb equates market value with market price. The second and third limb qualifies the market value to be “fair”. The fairness is injected into the transaction through requirements of an ‘arms-length sale’ and ‘unrestricted & open market’. A sale price of the property ‘at arm’s-length’ and ‘in an open market’ is the best evidence of its FMV. On the contrary, if the sale takes place in a market that is artificially supported or stimulated, sale prices will not indicate the FMV. Accordingly, one needs to ascertain the sale price which satisfies the aforesaid conditions. A price which satisfies all the three limbs (discussed supra) constitutes FMV for the purposes of clause (i) of section 2(22B).

The challenge however lies in finding such ‘price’. The key factor is the capability of the capital asset to be saleable in the open market. The test is whether the capital asset has a unique commercial identity by itself.

Scope of section 50D in the context of section 2(22B)

Finance Act 2012 inserted section 50D which provides that in cases where the consideration on transfer of capital asset is not attributable or determinable, the FMV of the capital asset shall be deemed to be the full value of the consideration for capital gains tax computation. Section 50D reads as under -

“50D. Where the consideration received or accruing as a result of the transfer of a capital asset by an assessee is not ascertainable or cannot be determined, then, for the purpose of computing income chargeable to tax as capital gains, the fair market value of the said asset on the date of transfer shall be deemed to be the full value of the consideration received or accruing as a result of such transfer.”(emphasis supplied)

The intention of this amendment can be inferred from the Memorandum to Finance Bill 2012, the relevant portion of which reads as follows -

“Capital gains are calculated on transfer of a capital asset, as sale

* This was affirmed by the Supreme Court reported in 88 ITR 417

** In re Paulin and In re Crossman (1935) 1 K. B. 26, 54 (CA)

consideration minus cost of acquisition. In some recent rulings, it has been held that where the consideration in respect of transfer of an asset is not determinable under the existing provisions of the Income-tax Act, then, as the machinery provision fails, the gains arising from the transfer of such assets is not taxable. It is, therefore, proposed that where in the case of a transfer, consideration for the transfer of a capital asset(s) is not attributable or determinable then for purpose of computing income chargeable to tax as gains, the fair market value of the asset shall be taken to be the full market value of consideration...”(emphasis supplied)

Section 50D is triggered when the consideration for a transfer of capital asset is ‘received or accrued’ but ‘not ascertainable’ or ‘cannot be determined’ (on the date of transfer). The inability to ascertain consideration resulted in failure of machinery provisions. This in turn lead to these transactions being considered as ‘not taxable’. Accordingly, section 50D facilitates quantification of consideration received or accrued on transfer of capital asset.

The factum of ‘existence of consideration’ is recognized. However, value of such consideration is not definite. Any transfer without consideration is excluded from the domain of section 50D. Therefore, all transfers involving an element of consideration (whether adequate or inadequate) would be susceptible to valuation as per FMV.

The section does not specify ‘from whose perspective’ is the consideration unascertainable. Since section 50D seeks to quantify the consideration for capital gains computation, the section is applicable to the transferor/ seller (not the buyer) of the capital asset. In other words, section 50D is qua transferor of capital asset. The two phrases ‘not ascertainable’ and ‘cannot determine’ indicate ‘inability’ of the transferor to ascertain or determine the transfer consideration. Section 50D is applicable only when it can be demonstrated/ proved that the transferor cannot ascertain or determine the value of consideration. The ‘inability of the transferor to determine or ascertain is the sine qua non’ for section 50D.

‘Inability’ to ascertain or determine consideration for a transfer is the hallmark of section 50D. It imposes an alternative mode of computation for determining or ascertaining the value of consideration. The section does not lay down any specific computation methodology. It only mandates that the consideration be

determined at FMV. Section 50D, thus, directs the computation to clause (i) of section 2(22B) which prescribes the method of calculating FMV. The section creates a deeming fiction. It is deemed that the full value of consideration is the FMV. The scope of the fiction is only limited to prescribing mode of computation of unascertainable consideration. The fiction does not penetrate the computation of FMV. In other words, the scope of the legal fiction lapses once the transfer is directed to section 2(22B) for FMV determination.

Fair market value under clause (i) of section 2(22B) is the ‘fair market price’. It is a price that *the capital asset would ordinarily fetch on sale in the open market*. As already detailed above, a FMV needs to satisfy all the conditions discussed earlier. Consequently, FMV can be determined only for those capital assets for which (a) a price can be ascertained at the relevant point of time; (b) are ordinarily or routinely marketable; and (c) are capable of being sold in open market.

Thus, section 50D creates a fiction in case of transfer whose value of consideration is unascertainable or non-determinable. The fiction superimposes a FMV on the value of consideration of such transfers. The scope of the fiction encompasses only those transactions where FMV can be computed. To state negatively, section 50D cannot be extended to those transactions where FMV cannot be computed or where all the pre-requisites/ ingredients of FMV are not found.

In this background, various instances could be visualized wherein the scope of section 50D may be challenged. Some of such instances have been highlighted below for the readers to contemplate:

- Since **rights of management or control in Indian company** have attained an independent status of capital asset [vide explanation to section 2(14)], can consideration towards transfer of such rights be ascertained? Can an open market for sale of such rights be found?
- It is a trite to state that **goodwill** is easy to describe, but difficult to define. A variety of elements goes into its making. It remains insubstantial in form and nebulous in character [Refer CIT v B. C. Srinivasa Setty [1981] 128 ITR 294 (SC)]. Can a single price be ascertained as FMV for goodwill?
- "**Corporate restructuring**" entail a web of mergers, consolidations, divestitures, liquidations and other reorganizations tools. Various aspects are considered while executing such

reorganizations. Is it possible to find a FMV or an ‘open market price’ for any part of transactions involved in such complex corporate restructuring?

- The scope of section 50D encompasses only those receipt/ accruals of considerations where parties to the transactions take a plea of inability to ascertain value of consideration; although whose fair market value can be determined. Since receipt of consideration is a prerequisite for section 50D, **gifts** may be excluded from the scope of section 50D. Does section 50D empower the assessing officer to impute a consideration on gifts?
- Does section 50D empower an Assessing officer to dismantle a composite sale transaction? Can section 50D dissect **slump sale** consideration of section 50B?

To summarise, transfer can be of two types. One is transfer for consideration (irrespective of whether adequate or not) and the other is for ‘nil’ consideration. The transactions involving nil considerations should be excluded *ab-initio* from the domain of section 50D. With reference to transactions involving some consideration, section 50D would not be applicable in cases where consideration has been determined, irrespective of whether adequate or inadequate; nominal or excessive. Its scope is confined only to those transactions where there is a receipt/ accrual of consideration and the transferor is unable to determine or ascertain a value therefor.

Concluding thoughts

‘Fair’ and ‘market’ have always been together. Etymologically, the term “market” means a “fair” suggesting a regular gathering of buyers and sellers. Historically, theory of ‘fair’ exchange in ‘market’ was every King’s prerogative. Socially, ‘markets’ were always meant to facilitate ‘fair’ value of commodities. However, this hand in glove relationship appears to have cracked. Now ‘market’ means profit and the word ‘fair’ is found only in books of prophet. Commercially, they appear to be divorced and politically, all the while endorsed. The taxman now seems to fill the cleavage. Market forces is attempted to be injected with fairness. The point when market reflects this fairness - FMV is achieved. ■

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CORPORATE TAXATION - Impact on the Economy

Let us study Corporate taxation from the point of CSR and Impact on GDP.

CSR and Corporate Taxation

Corporate Social Responsibility (CSR) is becoming an increasingly important activity to businesses nationally and internationally. Globally companies are expected to do more than merely provide jobs and contribute to the economy through taxes and employment. Creating a synergy of ethics is increasingly becoming important.

In such a case, does proper Accounting, Disclosures, Compliances and in turn timely remittance of taxes and duties a part of CSR? Certainly it does.

One of the key drivers for CSR is **Transparency and Trust**. There is increasing expectation that companies will be more open, more accountable and be prepared to report publicly on their performance in all aspects.

Corporate taxation vs GDP

As of 2011-12, taxes accounted for a lower proportion (16 percent) of the general government's revenue than the Organization for Economic Cooperation and Development (OECD) average of approximately 30 percent.

Below gives an overview on the correlation between Tax and GDP.

TAX-GDP RATIO

Tax revenue (%)

	Centre	State	Total*
2003-04	6.79	8.24	15.03
2004-05	6.93	8.18	15.25
2005-06	7.32	8.50	15.92
2006-07	8.18	8.93	17.16
2007-08	8.81	8.74	17.45
2008-09	7.94	8.46	16.40
2009-10 (RE)	7.10	7.91	15.08
2010-11 (BE)	6.78	7.55	14.73

* All India

Statisticians estimated the cause for the combined ratio of tax to gross domestic product (GDP) of the central and state governments dipping to a seven-year low of 14.73% in 2010-11 to be the increasing expansion in the size of the economy, leading to a lower ratio despite a rise in tax proceeds.

Despite the robust increase in tax collection in 2011-12, the Centre's collection together with states' collection, tax revenues of the government accounted for just about 16% of GDP. That compares very poorly with the tax-GDP ratios of developed nations. For instance, the tax-GDP ratio for the UK is 34.3%, for Germany 37% and about 24% for the US. The rich countries have tax ratios that go as high as 40 per cent of GDP and more - the Scandinavians and countries in Northern Europe are in this band. Many countries in South and East Europe are in the 30 per cent range. But semi-tax havens like Hong Kong and Singapore, both city states, are in the 15 per cent range. Poor countries with very high tax ratios, like Zimbabwe and Cuba, both of which are above 40 per cent.

According to Moody's and as per the below Report (2012) of Heritage Foundation, India's tax-to-GDP ratio at just 16 percent, is lower than countries with similar sovereign ratings.

A snapshot of various countries' tax revenues as a % of GDP:

Pakistan	10.2
Singapore	14.2
Japan	28.3
S.Africa	26.9
Australia	30.8
Canada	32.2
Russia	36.9
UK	39
Germany	40.6
Italy	42.6
France	44.6
Zimbabwe	49.3

India's tax-to-GDP ratio is 16 per cent (of which the Centre's share is 10 per cent). Before the financial crisis of 2008, it was 17.7 per cent (of which 12 per cent was central taxes). Among economies that are poorer than India, Bangladesh has a tax-to-GDP ratio of just 8.5 per cent, and Pakistan 10.2 per cent. Vietnam is at 15 per cent (these and other numbers have been compiled by the Heritage Foundation).. But even richer countries have lower or comparable tax ratios. Indonesia's, for instance, is as low as 11 per cent, and the Philippines' at 14.4 per cent. A much wealthier country like Malaysia has a ratio of 15.5 per cent, while Thailand is at 17 per cent. All these members of the Association of Southeast Asian Nations have higher per capita incomes than India, so their capacity to bear a higher tax burden is naturally greater. China, with a per capita income that is more than three times India's, and which is supposedly Communist, has a tax-GDP ratio of just 17 per cent. **Looking at these countries and then at India's tax ratio, it is clear that we are not an under-taxed nation.**

There are three key reasons for the lower Tax GDP Ratio.

One, structural factors such as low per capita income keeps tax collections low. Low average incomes and a high poverty rate result in a very small portion of the labour force being eligible to pay personal income taxes.”

Two, a large proportion of economic activity that is generated by small and medium enterprises (SMEs). Although these enterprises have enjoyed strong profitability growth over the past decade, the government has not captured their earnings in tax revenues due to a variety of exemptions and compliance issues.

Three, a lack of policy initiatives has also kept the tax take low. This includes certain tax exemptions on agriculture related activity and until the mid-nineties, on most services as well. The tax net has been progressively expanded to include a greater number of services each year, and service tax revenue has grown the fastest of all revenue sources. Yet, service taxes constitute merely 5 percent of total general government revenues, although they comprise about 60 percent of GDP.

Government revenues have relied on manufactured goods and corporate profit taxes, which at the end of March, accounted for 35 % and 22 % of general government revenues, respectively.

The gross mop-up of corporate taxes declined by 2.82 per cent in April-May 2012-13 to Rs.24,329 crore from Rs.25,035 crore.

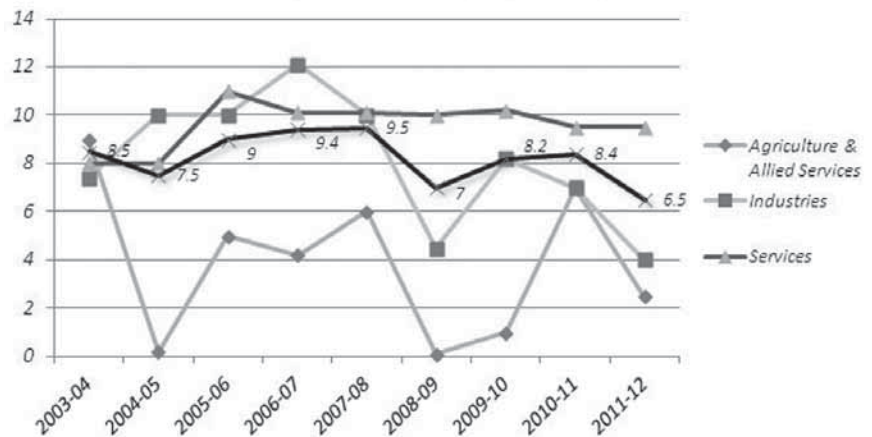
The great tax lesson of economic reform is that cutting tax rates does not necessarily mean less revenue, and may mean hugely increased revenue.

Since 1991, taxes have been slashed on incomes and goods, yet tax revenue has remained around 9-10 % of GDP. Revenue has not been foregone. The corporate tax rate was 51.75% in 1991, and collections were about 1% of GDP. The corporate tax rate today is down to 30% (plus some surcharges and cesses). Has there been a huge revenue loss? On the contrary, corporate tax collections have skyrocketed to 3.7% of GDP!

There are many economies where the peak income tax rate is higher, but India's 30 per cent is a good middle-of-the-road figure, especially in a country where the propensity to evade is still high. From that perspective, the most important way of getting more tax revenue is to introduce a comprehensive goods and services tax, which will plug many loopholes. The other way is to use information networks to detect evasion.

Acc to OECD, the Indian economy has been catching up quickly in the past two decades, and weathered the global recession well. Wide-ranging reforms and increased investment have lifted potential growth to almost 9%, the highest in Indian history, helped by improvements in infrastructure. The government should step up efforts to restructure public expenditure; reduce the fiscal deficit; relax some of the constraints facing the financial sector and further promote international integration.

INDIA'S GDP GROWTH %



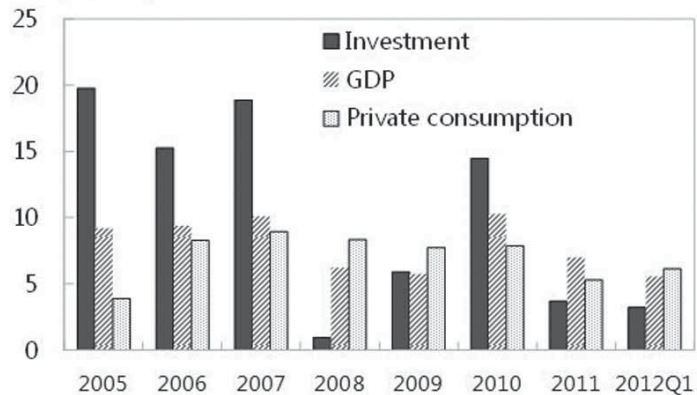
What needs to pick up? Investment. Investment, especially corporate investment, is at the core of this weak performance. While global headwinds have of course contributed, investment has slowed more in India than in many other emerging markets.



The advance tax payment by top 100 companies rose a modest 9.9% for the July-September quarter from a year ago against 19% for the April-June 2012 quarter, suggesting corporate profit growth is likely to be muted in the second quarter. Also reflecting the slowdown in growth and pressure on margins because of rising input costs and higher interest rates.

India: GDP Growth

(In percent)



Sources: CEIC Data Company Ltd. and IMF staff calculations.

Higher investment would be good for India's ailments of slowing growth and continuing inflation. The current account deficit is also a symptom of India's supply constraints: exports are suffering from supply bottlenecks, imports are compensating for deficiencies in domestic production, against the backdrop of robust consumption and a high fiscal deficit.

How can investment rebound in this global environment? In India, the revival of investment needs to come from supply-side policies and structural reforms that would boost corporate investment. Accelerating project approvals and implementation and speeding up reforms in the energy sector are urgent priorities. Fiscal consolidation and spending re-orientation — from untargeted subsidies towards infrastructure and well-targeted social spending — are vital complements to these measures. They would help the RBI in lowering inflation, which at current levels harms investment, and in reducing the current account deficit.

What does this mean for the future?

The trends above suggest that in the next two years, any attempt at fiscal consolidation (raising government revenues and cutting expenditure) will depend on how far corporate profits and consumption recover. Higher effective corporate income taxes are also associated with lower investment in manufacturing but not in services, a larger unofficial economy, and greater reliance on debt as opposed to equity finance. Moody's expects India's tax-to-GDP ratio to recover from its current level of under 16 percent to above 17 percent when GDP growth recovers and sustains at levels higher than 8 percent. ■

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**Email:
casangeethalakshmi@gmail.com**

Advt.

NEW FEATURES IN SIRC PORTAL

During July 2012 the www.sircoficai.org has been transformed from a website into a portal with the following features:

S. No.	Features	Link
1.	Online Payment Facility	http://www.sircoficai.org/vishwas.php
2.	Blogs for discussing topics of contemporary relevance to the profession	http://sircoficai.org/blog
3.	Due Dates containing important dates for the ready to the members in industry & practice	http://www.sircoficai.org/due-dates.php

**INDEPENDENCE DAY CELEBRATIONS
WEDNESDAY, THE 15TH AUGUST 2012**

National Flag Hoisting (8.15 a.m.)
at the Lawns of the Institute's Premises
(ICAI Bhawan, Chennai)

by
**CA. K. Viswanath, Chairman,
SIRC of ICAI**

Special Address for CPT, PCC and Final Students (7.30 a.m.)
By Eminent Personalities / Faculty
at P. Brahmayya Memorial Hall, CAI Bhawan,
122, Mahatma Gandhi Road, Nungambakkam,
Chennai – 600 034

**REGIONAL LEVEL ELOCUTION CONTEST AND QUIZ CONTEST
(for CA Students belonging to Southern Region)**

Organised by SIRC of ICAI & SICASA on Sat & Sun, August 25 & 26, 2012 at "ICAI Bhawan", 122, Mahatma Gandhi Road, Chennai - 600 034

25.08.2012 - ELOCUTION CONTEST- 10.00 a.m. onwards
26.08.2012 - QUIZ CONTEST - 10.00 a.m. onwards

WHO CAN PARTICIPATE IN THE CONTEST ?
The winners of the first round competition of the Branches and Regional Office levels.
For complete details of the contest, scheme, registration and topic for Elocution Contest, please log on to SIRC Website www.sircoficai.org or get in touch with the Branches of SIRC.

Invitation for Contribution of Articles

SIRC of ICAI invites Articles from Members for publication in the SIRC Newsletter. SIRC is releasing Theme Based monthly Newsletter. The theme finalized for the September, October & November 2012 issues are as follows:

Month	Theme	Articles to reach SIRC on or before
September	Tax Audit	August 20, 2012
October	Transfer Pricing	September 10, 2012
November	Information Technology	October 10, 2012

Members may send the soft copy of their article, profile and passport size colour photograph to SIRC by email to sirc@icai.in and sircnewsltr@icai.in for consideration by the Editorial Board on or before the above said dates.

LLP'S - SALIENT FEATURES

Mr. Henry Richard
Registrar of Companies
 Tamil Nadu, Andaman & Nicobar Islands
 Chennai

Effective from 11.06.2012, the function of incorporation of LLPs (Limited Liability Partnership) has been decentralized and respective ROCs in each state have been authorized to incorporate and deal with all LLPs falling under their jurisdiction. Moreover, the Ministry has integrated LLP system into MCA-21, thereby, the need for taking separate DPIN for Designated Partners has been done away, apart from the benefit of common platform. This process change has been initiated by the Ministry with a view to facilitate incorporation of LLP in a much easier way and thereby make LLP a more desirable and widely accepted form of business organization. As of today, there are about 459 LLPs registered in Tamil Nadu. There is ample scope for growth of LLPs considering the fact that LLP form of organization is the most convenient form of organization for undertaking business activity carried on by small or medium scale enterprises. There are many distinct advantages to incorporate LLP.

Firstly, LLP is regulated by a small statute with maximum flexibility. There are only 81 sections in LLP Act which are required to be complied as against about 658 sections in the Companies Act which are required to be complied by a company incorporated under the said Act. The compliance burden of a private company with small scale of operation is very large vis-à-vis an LLP.

Secondly, LLP is a partnership clothed with status of legal entity. The Partners will have all the flexibility in all areas of operation while enjoying advantage of Limited Liability. The documentation involved in LLP is much less vis-à-vis other form of corporate entity.

Thirdly, unlike a partnership, every partner of LLP is responsible for his own act and

cannot render LLP responsible or liable for his own conduct. The rights, liabilities, etc. are solely governed by LLP Agreement.

Considering various advantages enjoyed by LLP, this form of organization should be widely considered by enterprises who are commencing business activity on a small scale. As the business enterprise grows bigger, then they can consider to evolve into a private limited company or a public limited company depending upon the scale of operations. The LLP can convert as a public limited company or a private limited company through the process prescribed under Section 390 to 394 of the Companies Act, 1956.

On the contrary, a private limited company or a public limited company which is operating on a very small scale and desires to avoid the burden of large compliance under the Companies Act, 1956 can consider to convert itself into an LLP to avail the benefit and the comfort of less compliance required under LLP Act. Further, it should be borne in mind that such private and public limited companies should ensure that the company as on the date of conversion into LLP, should have complied with all the requirements under the Companies Act including updation of filing position. For example, all public limited companies should have complied with all the provisions relating to remuneration of Directors, filing of returns with ROC, inter-corporate loans, loans to directors, etc. and on the date of making applications to ROC for conversion, there should be no violation under any of those provisions. Therefore, it is necessary that the company's application made for conversion from public or private Limited company to LLP should be accompanied by a Certificate of a professional to the effect that all the applicable provisions of the Companies

Act till the date of application have been duly complied.

Also in the case of special type of companies like NBFC, SEBI regulated market intermediaries, Chit Funds etc., should also obtain clearance, No objection Certificate from the concerned Regulatory Authority before applying for conversion.

The Professionals should bear in mind that wherever LLP is the most appropriate form of organization vis-à-vis the nature of business proposed to be taken up by his client, such business should adopt the LLP Form of organization. After the enterprise grows into a larger business, then LLP can also be converted as private or public limited company form of organization under the Companies Act, 1956. Conversely, if the private or public company is operating on a small scale and appropriate for LLP form of organization, such private or public company should be converted into LLP.

A Small enterprise which is not suitable for public limited or private limited company should not be burdened with large and heavy compliance requirements under the Companies Act, 1956 unless the circumstances justify it. Adopting the most appropriate form of business organization for the enterprise is the first step in the success of the business. The Professionals must endeavour to accomplish this objective which will help in establishing many successful business enterprises. ■

ATTENTION OF MEMBERS

Members may note that the Association of Indian Universities has recognized Chartered Accountancy qualification for registration to Doctorate of Philosophy (Ph.D) programme. The List of Universities recognizing CA Qualifications for pursuing Ph.D programme are hosted in the http://www.sircoficai.org/announcements/ann_july2012/latest-list-of-recognised-universities.pdf

DO YOU WANT TO BE A RESOURCE PERSON ?

If you would like to be a Resource Person to address on technical topics in the programmes organised for Members and Students, please send an email with details of subjects / topics which could be handled by you to sirc@icai.in.

OBITUARY

M.No	Name	Status	Place	Date of Death
003823	MR. RAMA PRASADA SASTRY M	FCA	HYDERABAD	25/04/2012
006049	MR. RAGHAVENDRA RAO S	FCA	BANGALORE	14/06/2012
010949	MR. KRISHNAN V	FCA	CHENNAI	01/07/2012
014733	MR. SANKARANARAYANAN P	FCA	ALAPPUZHA	01/06/2012
025655	MR. KASIVISWESWARA SARMA M	FCA	SECUNDERABAD	27/06/2012
210392	MS. SHEELA SATHYANARAYAN	ACA	CHAMARAJA NAGAR	30/06/2012
212358	MR. PHANI RAJ KUMAR MULUGU	FCA	BANGALORE	15/05/2012

May the Almighty, Architect of the Universe, rest their souls in peace.

CA. V.K. Subramani
Erode
vksintax@gmail.net

Updates on Direct Taxes

1. *Double taxation of same income is violative of Article 265 of the Constitution:*

In *R.Natarajan v. Asst. CIT (2012) 70 DTR (Chennai) (TM) (Trib) 249* the assessee offered performance incentive received after the close of the financial year as belonging to income of the financial year. However, the employer considered the payment as income accruing to the recipient in the year of payment and accordingly deducted tax at source. The assessee offered the income matching with the tax deducted at source for the second time after admitting the same by mistake in the earlier assessment year. The assessing authority was aware of the fact that the income admitted in the first return of income was by mistake but refused to refund the tax paid on such income. The tribunal held that Article 265 of the Constitution says that taxes are not to be imposed save by authority of law. It also made reference to Circular No.14 dated 11.04.1955 in which the CBDT has emphasized that the Assessing Officers should not take advantage of the taxpayers ignorance to collect more tax than what is legitimately due from them. Applying the constitutional mandate and the circular, the tribunal held that the amount of tax erroneously paid by admitting the income in the preceding assessment year has to be refunded.

2. *Depreciation is not an expense but an allowance not covered by section 14A:*

In *Vishnu Anant Mahajan v. Asst. CIT (2012) 16 ITR (Trib) 621 (Ahd)* two issues came up before the tribunal for adjudication viz. expenditure incurred for earning exempt income by way of share of profit from the firm by a partner and disallowance of depreciation attributable to exempt income. The tribunal held that section 10(2A) provides for exclusion of share income from the total income of a partner and the application of section 14A for allocation of expenses proportionate to the share income which is exempt under section 10(2A) as valid in law. However, with regard to disallowance of depreciation proportionate to exempt income, it held that the depreciation is an allowance and not expenditure hence cannot be disallowed by applying section 14A of the Act.

3. *Admissibility of the claim of business loss paid for purchase of property by real estate company:*

In *CIT v. New Delhi Hotels Ltd (2012) 345 ITR 1 (Del)* the assessee claimed amounts paid for purchase of immovable property as business loss which was disallowed in the assessment on the ground that the provisions of section 36(1)(vii) read with section 36(2) were not satisfied. The tribunal recorded a factual finding that the memorandum of association of the company covered the transactions of payment for acquisition of immovable properties in the category of stock in trade and held that the claim of loss as deductible. The court held that in spite of the assessee mainly engaged in construction and sale of buildings, the fact of payment whether towards investment or on trading account must be decided on the basis of facts and surrounding circumstances. The transaction of purchase of property was incidental to the assessee's business and the factual findings recorded by the tribunal did not require any interference. The decision hence was in favour of the assessee.

4. *Offering cash credit as income vis a vis concealment penalty:*

In *CIT v. Sangmeshwara Associates (2012) 71 DTR (Kar) 287* the assessee consequent to a notice under section 148 filed return of income admitting cash credit as income. With regard to levy of penalty, it was contended that the cash credit entry was offered voluntarily and in the absence of a clear satisfaction of the Assessing Officer, the levy of penalty as unjustified. The court held that a return filed pursuant to notice issued by the Revenue would lead to an inference that the return furnished previously had not contained true income and hence the reopening became necessary. The fact that the Assessing Officer was aware of the need to initiate reassessment proceedings and subsequent return admitting higher income indicate that there was understatement of income in the original return. The court accordingly held that no proof is required when there is an admission of concealment of income in the original return by filing a

revised return. The levy of penalty thus was upheld by the court.

5. *Admissibility of interest on unpaid purchase price related to capital asset:*

In *CIT v. Career Launcher India Ltd (2012) 71 DTR (Del) 161* the assessee incurred a debt to Greater Noida Authority towards allotment of plot which was to be paid in instalments along with interest at 20% per annum. The interest expenditure was capitalized in the books but for computing the income from business, it was claimed as deduction. The court held that for allowance of interest as deduction under section 36(1)(iii), three conditions are to be satisfied viz. (i) the assessee should have borrowed capital; (ii) that the capital should have been borrowed for the purpose of the business; and (iii) interest should be payable on the borrowing. Applying the apex court decision in the case of *Bombay Steam Navigation Co (1953) P Ltd v. CIT (1965) 56 ITR 52 (SC)* the court held that a debt was created in the acquisition but every borrowing gives rise to a debt but every debt does not amount to borrowing. It held that the interest claimed by the assessee is not in respect of any capital borrowed but the price of the plot remaining unpaid as per the provisions of the lease deed. Since there was no 'capital borrowed', the interest claim was held as not allowable deduction.

6. *Repayment of loan through journal entry is also covered by section 269T but reasonable cause could be explained for availing section 273B:*

In *CIT v. Triumph International Finance (I) Ltd (2012) 345 ITR 270 (Bom)* it was held that squaring up or repayment of loan by means of journal entry would be in contravention of the provisions of section 269T. The said section does not make any distinction between bona fide and non-bona fide transactions and puts embargo on repayment of loan otherwise than by the modes prescribed therein. However, where the genuineness and reasonableness of the transaction is explained, section 273B could be applied for providing relief from penal consequence of section 271E. ■

Updates on Indirect Taxes

1. **ORISSA HIGH COURT**
W.P.(C)No.2367 of 2012
Sri. Sheetal Suri Vs. Commissioner of Sales Tax
Consignment carried in the vehicle was accompanied by valid documents as required under section 74 of OVAT Act,2004- Whether the revenue is justified in levying tax and penalty for the only mistake committed by the Petitioner for not entering into the Check gate disclosed in the way bill? Held as not.
2. **DELHI HIGH COURT**
CEAC NOs.11/2011
Harsh International(khaini) Pvt.Ltd. Vs. Commissioner of Central Excise
Sale of used Capital Goods under Rule3(5) of the Cenvat Credit rules-Whether the appellant is liable to pay tax, penalty and interest on the cenvat credit which was taken on capital goods which were subsequently sold under Rule3(5) of the Cenvat Credit Rules, 2004? Held No. Appeals allowed.
3. **KERALA HIGH COURT**
S.T.Rev.No 67 of 2011
Elite Foods(P) Ltd. Vs. State of Kerala
Deemed First Sale-Sale by Brand Name Holder to market whether directly to consumers or to retail dealers for resale to consumers to be taken as first sale-whether dealer entitled to credit and set off of tax available under Rule 32(13B) of the Kerala General Sales Tax Rules?- Held Yes. S.T.revision case dismissed.
4. **MADRAS HIGH COURT**
Rev. no. 184,1563,1589,1590 of 2006 and W.A. No. 1140 of 2010
State of Tamilnadu Vs. Tvl. Essar Shipping Limited.
The Tamil Nadu General Sales Tax Act,1959-Section 3A-Levy of Tax on right to use any goods-Whether the Act of passing of the Control/Domain of the goods is necessary for levy of tax on right to use goods? Held yes.
5. **GAUHATI HIGH COURT**
(2012) 52 VST 249
H.R.S.AGENCY Vs. Union of India and Others
Dealer registered under Act acting as Consignment Agent-Whether Form F can be denied merely because Principal not registered? Held No.
6. **CESTAT, AHMEDABAD BENCH**
Appeal No.ST/237 of 2010
Manan Motors (P) Ltd. Vs. Commissioner of Central Excise
The entire tax and interest paid before the show cause notice-Held no penalty need be levied. Penalty set aside.
7. **ALLAHABAD HIGH COURT**
[2012] 52 VST 266 (A11)
Rungta Irrigation Ltd. Vs. Commissioner of Trade, Lucknow
Sales Tax – Interstate Sale – Works Contract – Agreement for Installation and commissioning of Sprinkler Irrigation System – Contract to be divided two parts Automatically One for supply of Goods and Other in respect of Installation Expenses – Levy of Tax on Value of Goods Involved – Proper.
8. **IN THE KERALA HIGH COURT**
[2012] 51 VST 377 (Ker)
Venus Marketing Vs. State of Kerala
Value added tax – Input tax credit – Dealer claiming to have turnover less than Rs.50 lakhs paying tax at presumptive rate – Assessed at turnover higher than Rs.50 lakhs pursuant to inspection revealing huge suppression of sales and purchases – Requirements as to documents to be filed for change over to assessment at schedule rate not satisfied – Not entitled to claim Input tax credit merely because turnover exceeded Rs.50 Lakhs.
9. **IN THE MADRAS HIGH COURT**
Emerald Stone Export Vs. Assistant Commissioner (CT), FAC, Pudukkottai I Assessment Circle
Value added tax – Input tax credit – Zero rated sale – Sales in course of export – Sale to 100 percent. Export oriented undertaking – Is sale preceding export sale – To be treated as zero rated sale – Dealer entitled to refund of input tax.
10. **IN THE BOMBAY HIGH COURT**
X Vs. Director General, DGCEI Mumbai Zone Unit and Others
Service tax – Evasion of tax – Policy of Union Government – Circular issued by Union Ministry of Finance providing guidelines for grant of reward for informers and government servants regarding inter alia evasion of service tax dues – Reward purely ex gratia – No vested right to payment.
11. **IN THE KARNATAKA HIGH COURT**
Smt. Geetha Bhat Vs. Additional Commissioner of Commercial Taxes, Zone I, Gandhinagar, Bangalore
Entry Tax – Goods in transit through state – Failure to surrender transit pass at exit check-post – Presumption that goods sold in the state – Rebuttable – Goods accounted in books of consignee and assessment of consignee becoming final – Presumption no longer available to Department – Levy of tax and penalty on transporter – Not permissible.
12. **IN THE GAUHATI HIGH COURT**
State of Tripura and others Vs. H.R.S. Agency and another
Sales tax – Central sales tax – Exemption – Sale otherwise than by way of inter-state sale – Burden of proof on dealer – Right of dealer to be issued Form F to discharge burden – That agent appointed by principal outside state was required to make payment of full value of goods as advance not ground to treat sale as inter-state sale – If department doubts transfer of goods, entitled to set enquiry in motion – Department not entitled to deny Form F.
13. **IN THE DELHI HIGH COURT**
Fashion design council of India Vs. GNCT and others
Fashion design council of India Vs. Commissioner of Excise, entertainment and luxury tax.
Entertainment tax – Assessment – Order passed treating sponsorship amounts collected by assessee as “Payment for admission” – Terms and conditions of sponsorship agreement between parties not ascertained – Order quashed by issue of Writ of Certiorari – Delhi Entertainment and Betting Tax act 1996 (8 of 1997).
14. **IN THE KARNATAKA HIGH COURT**
Microqual Techno Private Limited Vs. Additional Commissioner of Commercial Taxes, Zone I, Bangalore
Value added tax – Revision – Penalty – Input tax credit – Claim to input tax credit – based on invoices in fictitious names and not representing genuine transaction – Revision to restore penalty – Proper. ■

For Attention of Members & Students

Membership and Certificate of Practice Fee for the year 2012-2013

Members are requested to remit the current year's fee for continuance of membership - Associate/ Fellow/Certificate of Practice as the case may be by **30th September 2012** as per following applicable schedule of fees.

Particulars of Fees	Annual membership Fee (Rupees)
Annual membership Fee	
Associate Fee	800
Fellow Fee	2200
Certificate of Practice Fee	2000

For details about fee for fresh enrollment including COP etc, please refer to announcement hosted on the website at link <http://220.227.161.86/22068announ12483.pdf>

It may be noted that remittance of fee has to be made by local cheque (in case of Members who are residing in the cities in which respective Decentralised Office is situated) or by way of demand draft in favour of 'Secretary, The Institute of Chartered Accountants of India', payable at the place where the concerned Decentralised Office is located. It may also be noted that under no circumstances out-station cheques will be accepted, No remittance should

Members who are senior citizens i.e. have attained the age of 65 years as on 1st April will be required to pay the fees at concessional rates which are as under: -

Fee for Senior Members (Above 65 years as on 01.04.2012)

Particulars of Fees	Annual membership Fee (Rupees)
Annual membership Fee	
Associate Fee	600
Fellow Fee	1600
Certificate of Practice Fee	1500

be made directly to the Head Office or a different Decentralised Office.

Members can pay their fee on line by clicking online payments link on the homepage of www.icaai.org

SIRC On-Line Library Service Updates

- **OPAC service (Online Public Access Catalogue) access from ICAI website in other resources.**

An OPAC (Online Public Access Catalogue) is an online bibliography of a library collection that is available to the public. An **Online Public Access Catalog** (often abbreviated as **OPAC** or simply Library Catalog) is an online database of materials held by a library or group of libraries. Users search a library catalog principally to locate books and other material physically located at a library.

- **On-Line Serial/ Periodical search with latest content page uploaded, available in the OPAC search. Free online journals link available at SIRC website in Library Resources.**

A series of magazine produced for professional people or those with a particular interest.

- **Online database available in Digital Library for members.**

A **database** is an organized collection of data, today typically in digital form. The data are typically organized to model relevant aspects of reality (for example, the availability of rooms in hotels), in a way that supports processes requiring this information (for example, finding a hotel with vacancies).

On-line database - (computer science) a database that can be accessed through computers.

RECENT ADDITIONS TO SIRC LIBRARY

BOOK TITLE	AUTHOR NAME
Trade Policy	
Foreign Trade Policy & HB of Procedure Vol- 1	R.K Jain
Foreign Trade Policy Input-output Norms Vol - 2	R.K Jain
ITC HS Classifications of EXIM Vol - 3	R.K Jain
Management	
Strategic Financial Management	Gupta
Strategic Financial Management	A.N Sridhar
Financial Risk Management	Manlz A M
Key Account Management	Woodburn D
Tax	
Students guide to Indirect Taxes	Yogendra Bangar
Income Tax Act 2012 Edn	Girish Ahuja
Handbook on Direct Taxes	Sekar G
Taxation of Capital Gains	Girish Ahuja
Taxation of Capital Gains	Commercials'
Taxation of Salaried Persons	Ahuja & Gupta
Practical guide on TDS & TCS	Sekar G
Handbook on Tax Deduction at Source TDS	Girish Ahuja
Direct Tax Manual 3 Vols	Taxmann
Taxation of Loans gifts & Cash Credits	Taxmann
Direct Tax Law & Practice Hardbound	Girish Ahuja
Direct Tax Law & Practice	Singhania
Systematic Approach to Income Tax & Service Tax	Girish Ahuja
Practical Approach to Income Tax & WT	Ahuja & Gupta
Penalties & Prosecution under Direct Tax Law	Kharbanda
Permanent Estd. In International Taxation	Amar Mehta
Income Tax Act (Pkt Edn)	Taxmann
Charitable & Religious Trusts & Institutions	Rajaratnam
Capital Market Quotations one wants to Know	Mohan

BOOK TITLE	AUTHOR NAME
Charitable Trusts & Religious Institutions	Rajaratnam
All about Investments	Adukia
Investment Banking The First Step	Jindal
Guide to Minimum Alternate tax MAT & AMT	Taxmann
Guide to Transfer Pricing	Taxmann
Auditing	
Auditing and Assurance	Bansal
Students guide to Auditing Standards	Taxmann
Students guide to Accounting Standards	D S Rawat
Government Accountability and Public Audit	Mathur
Cost Audit Practice Manual	Anand
Information Technology, Valuation, Economics, Accountancy, Law	
Treatise on Companies Bill 2011	Taxmann
Campus to Corporate	Taxmann
Law Relating to Search & Seizure	Taxmann
Advanced Accountancy Vol 1 & 2	Gupta & Radhaswamy
Capital Budgeting Valuation: Financial Analysis for Today's Investment	Baker
Capital Market Instruments	Choudhry
Modern Banking Law	Ellinger
Equity Valuation	Viebig
Financial Services Firms: Governance Regulations Valuations Mergers	Rezaee
Globalization Essentials : Readings in Globalization key Concepts & Major Details	Ritzer
Insurance Economics	Zweifel
Intellectual Property Strategies for the 21st Century Corporation	Bryer
Managing Corporate Social Responsibility: A Communication	Coombs
Mindful Leadership	Gonzalez
Financial Risk Forecasting	Danielsson

NATIONAL CONVENTION FOR CA STUDENTS AT CHENNAI

Theme: Jnana-Kaanksha

... Unrelenting desire for knowledge

Dates: **27th & 28th August 2012**
 Venue: **Music Academy**, T T K Road, Chennai
 Organized by: **Board of Studies, ICAI**
 Hosted by: **SICASA**

PROGRAMME DETAILS

DAY – 1	DAY – 2
09.30 AM – 10.30 AM : Inaugural Session Technical Session 1 : Taxation - TDS provisions - Negative list under service tax - Valuation rules under Excise Technical Session 2 : Auditing - Auditor Rotation - Raising Auditor's Independence - Green Audits - CA as a complete business solution provider Cultural Extravaganza followed by Dinner	Technical Session 3 : Accounting - Revised Schedule VI - Raising presentation level by Indian corporate - Corporate audit – expectations of stake holders - Corporate Social Responsibility – Role of CAs Technical Session 4 : Information technology - Cloud Computing - Cyber laws – A Professional opportunity - Excel as an Audit Tool Valedictory Session
There will be 4 Special Sessions in addition to the Special Session with Chairman, Board of Studies, ICAI.	

Students are invited to contribute papers for presentation (1500 to 2000 words) for topics in Technical -Sessions and submit for approval a soft copy of the Paper at CHENNAI by 10th August 2012, and a hard copy of the same along with Student's Photograph (with his/her name on the back of the photograph), Registration Number, Course pursuing, complete postal address, Mobile, Landline numbers and e-mail ID be also sent to the above address of ICAI at Chennai.

Students who are interested to participate in the cultural programme are requested to register before 10th August 2012, at SICASA of SIRC office of the ICAI or send a email to sicasa@icai.in

For Registration queries kindly contact:

Mr. Mohit
 Vice-Chairman, SICASA
 Mobile: 98410 88226

Mr. A.P. Lijil
 Secretary, SICASA
 Mobile: 98416 76114

Registration Fee : Rs. 500/- per student (including of material, tea, coffee, lunch) Accommodation (if required) on request at actual cost.

Cheque/DD should be in favour of "SICASA" payable at Chennai be sent to the Chairman-SICASA, ICAI Bhawan, No.122, M.G.Road, Nungambakkam, Chennai – 600034. Email: sicasa@icai.in

Convention Directors			Convention Co-Chairman	Convention Chairman
CA. Rajendra Kumar P Central Council Member - ICAI	CA. V. Murali Member - Board of Studies, ICAI	CA. S. Santhanakrishnan Member Board of Studies, ICAI	CA. Madhukar N. Hiregange Vice Chairman Board of Studies, ICAI	CA. Nilesh S Vikamsey Chairman Board of Studies, ICAI
Convention Co-ordinators				
CA. Naresh Chandra Gelli V Chairman - SICASA	CA. P.R. Aruloli Member - SIRC	CA. C.S. Srinivas Member - SIRC	CA. Gopal Krishna Raju Member - SIRC	CA. K. Viswanath Chairman - SIRC of ICAI

SILVER JUBILEE CELEBRATIONS OF VELLORE BRANCH July 2 2012 – Vellore



CA. K. Viswanath, Chairman-SIRC inaugurating the Silver Jubilee Celebrations in the presence of Regional Council Members and office bearers of Vellore Branch.

GMCS VALEDICTION - 10th July 2012



(L –R) CA. P.R. Aruloli, Member-SIRC, CA. V. Murali, Member, Board of Studies, Mr. S.V. Kaushik, CIO & CIA, Murugappa Group of Companies, Chennai, CA. S. Santhanakrishnan, Central Council Member-ICAI, CA. Gopal Krishna Raju, Member, GMCS-Coordination Committee-SIRC, Mr. Krishnamurthy, Trainer, Chennai

EXAMINATION NOTIFICATIONS

In pursuance of Regulation 22 of the Chartered Accountants Regulations, 1988, the Council of the Institute of Chartered Accountants of India has notified the dates and centres for the Professional Competence Examination (PCE), Integrated Professional Competence Examination (IPCE) and Final Examinations vide No. 13-CA(EXAM)/N/2012 dated 4th July 2012 and Common Proficiency Test (Paper-Pencil Mode) vide No. 13-CA(EXAM)/CPT/December/2012 dated 4th July 2012.

The above Notifications have been hosted in the ICAI Website under Students and sub link Examination. It can be viewed directly under the link <http://220.227.161.86/27167exam16659.pdf> and <http://220.227.161.86/27175exam16673.pdf> respectively.

Procedure for Verification of Answer Books of Chartered Accountants Examination - May 2012

Procedure for Verification of Answer Books of Chartered Accountants-Final, PCE, IPCE / ATE / IPCE Units, Examinations-May 2012 and CPT-June 2012 can be viewed directly under the link http://www.icai.org/new_post.html?post_id=8645&c_id=219

Multipurpose Empanelment Form 2012-13

This is to inform that Multipurpose Empanelment form for the year 2012-13 (including form for empanelment of Bank Branch Auditors' for the year 2012-13) has been hosted on the website www.meficai.org and the Last date for submission of online applications is **14th August, 2012**.

**CPE SEMINAR ON E-FILING & CPC –
KEY ISSUES & RESOLUTIONS**
Organised by Taxation Committee of SIRC,
July 13 2012 - Chennai



CA. E. Phalguna Kumar, Chairman, Taxation Committee-SIRC inaugurating; (L-R) Mr. R.K. Mishra, Additional Commissioner, CPC, Bangalore, CA. R. Rangarao, Chennai, CA. P. Ravishankar, Centre Operations Head, ITDCPC Project, Bangalore, CA. M. Bheema Bhat, Past Chairman-SIRC.

Resource Persons



Mr. R. K. Mishra,
Additional Commissioner, CPC,
Bangalore



CA. P. Ravishankar, Centre
Operations Head, ITDCPC Project,
Bangalore

**CPE SEMINAR ON PRACTICAL ISSUES
AND CHALLENGES IN CORPORATE LAWS**
Organised by Committee on Corporate & Allied Laws
and Corporate Governance of SIRC-June 30, 2012 - Chennai



Dr. G. Jayachandran, Secretary to Government, Law Dept., Govt. of Tamil Nadu inaugurating. (L-R) CA. P.R. Aruloli, Member-SIRC, CA. V. Murali, Central Council Member-ICAI, CA. P.V. Rajarajeswaran, Secretary-SIRC & Chairman, CCAL&CG of SIRC, CA. L. Venkatesan, Resource Person, Mr. P.H. Aravind Pandian, Advocate, Chennai.

Resource Persons



Mr. P.H. Aravind Pandian
Advocate, Chennai



CA. L. Venkatesan
Chennai



CA. Gopal Krishna Raju
Member-SIRC



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

Resource Persons at CPE Study Circle Meetings
July 2012 at SIRC Chennai



CA. S. Swaminathan
Chennai - July 4, 2012



CA. S. Raghunathan
Chennai - July 11, 2012



CA. K. Golkulraj
Chennai - July 18, 2012



CA. C. Vijayakumar
Chennai - July 25, 2012

A.P. STATE LEVEL CONFERENCE AT VIJAYAWADA
July 7 & 8 2012 – Vijayawada



CA. Subodh Kumar Agrawal, Vice President-ICAI releasing the Souvenir at the A P State Level Conference at Vijayawada (L-R) CA. Sankara Akkaiah Naidu, Secretary, Vijayawada Branch, CA. Devaraja Reddy M, Central Council Member, CA. K. Viswanath, Chairman-SIRC, CA. A. Srinivas, Treasurer, Vijayawada Branch, CA. Kunda Rama Narayana, Chairman, Vijayawada Branch, CA. D. Prasanna Kumar, Vice Chairman-SIRC, A. P.V. Rajarajeswaran, Secretary-SIRC and CA. G.V.V. Satyanarayana, Member-SIRC.

KIOSK PROGRAMME INAUGURATION
July 24 2012 – Bangalore



CA. K. Viswanath, Chairman-SIRC inaugurating the newly installed KIOSK for SIRC on 24th July 2012 in the presence of functionaries of Regional Council.

MEGA INVESTOR AWARENESS PROGRAMME
Organised by SIRC of ICAI under the auspices of FM & IVP
Committee of SIRC of ICAI - July 28, 2012 - Chennai



Mr. E. Selvaraj Regional Director (SR), MCA inaugurating. (L-R) CA. P.R. Suresh, Chairman, FM&IVPC-SIRC, CA. R. Seetharaman, Executive Director (Finance), Neyveli Lignite Corpn. Ltd., CA. V. Murali, Member-FM&IVPC, ICAI, Mr. Henry Richard, ROC, Tamil Nadu, CA. P.V. Rajarajeswaran, Secretary-SIRC, Dr. B. Ravi, Past-Chairman, SIRC of ICSI, Mr. V. Nagappan, Resource Person and CA. Gopal Krishna Raju, Member-SIRC

Chief Guest



Mr. E. Selvaraj,
Regional Director (SR), MCA

Guests of Honour



CA. R. Seetharaman,
Executive Director (Finance), NLC. Ltd.



Mr. Henry Richard,
ROC, Tamil Nadu

Resource Persons



Dr. B. Ravi,
Past-Chairman, SIRC of ICSI



Mr. V. Nagappan,
Resource Person, Chennai



CA. V. Pattabhi Ram,
Chennai