

SIRC Newsletter

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JULY 2012 | Volume 38 ■ Part 01



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

CHARTERED ACCOUNTANTS DAY
NON-CORPORATE TAXATION

VISHWÁS

ENHANCE VALUES, INSPIRE TRUST

44th Regional Conference of SIRC of ICAI

18 & 19 AUGUST 2012 | BANGALORE



CPE SEMINAR ON INCOME TAX ACT

Organised by SIRC of ICAI under the auspices of Taxation Committee- June 2, 2012 - Chennai



CA. K Viswanath, Chairman-SIRC inaugurating. (L-R) CA. D Prasanna Kumar, Vice Chairman-SIRC, CA. P.V. Rajarajeswaran, Secretary-SIRC, Dr. CP Ramaswamy, Resource Person, CA. E. Phalguna Kumar, Chairman, Taxation Committee- SIRC

Resource Persons



Dr. C. P. Ramaswamy
Advocate, Hyderabad



Dr. Anita Sumanth
Advocate, Chennai

Mock Tribunal



CA. G. Narayanasamy
Accountant Member,
Chennai

CA. K. Ravi
Judicial Member,
Chennai



Adv. J. Balachandran
Authorised Representative,
Chennai



Adv. G. Baskar
Department Resentative
Chennai

CPE SEMINAR ON DIRECT & INDIRECT TAXES

Organised by SIRC of ICAI under the auspices of Taxation Committee June 22 & 23, 2012 - Chennai



CA. R. Bupathy, Past President, ICAI lighting the Kuthuvillaku. (L-R) CA. Rajendra Kumar P, Central Council Member, ICAI, CA. N S Srinivasan, Resource Person, CA. P R Aruloli, Member-SIRC, CA. D Prasanna Kumar, Vice Chairman-SIRC, CA. Gopal Krishna Raju, Member - SIRC, CA. E. Phalguna Kumar, Chairman, Taxation Committee-SIRC

CPE SEMINAR ON INTERNAL AUDIT

Organised by SIRC of ICAI under the auspices of Internal Audit Committee June 16, 2012 - Chennai



CA. R Balakrishnan, Past President, ICAI inaugurating (L-R) CA. P V Rajarajeswaran, Secretary-SIRC, CA. G.V.V. Satyanarayana, Chairman, Internal Audit Committee-SIRC, CA. P R Aruloli, Member-SIRC and CA. K. Shanmukha Sundaram, Member-SIRC

Resource Persons



CA. Vatsaraj Bhargav
Mumbai



Mr. Anirban Ghosh
Chennai



CA. Huzefa Unwala
Mumbai



CA. Smita Gune
Mumbai



Brain Storming Session (L-R) CA. J Purushothaman, CA. E. Phalguna Kumar, Chairman, Taxation Committee-SIRC, CA. Rajendra Kumar, P, Central Council Member-ICAI, CA. J Murali and CA. P Sankaran

Resource Persons



CA. R. Bupathy
Chennai



CA. N S Srinivasan
Chennai



CA. N. Santhanakrishnan
Salem



Adv. V S Jayakumar
Chennai



CA. P. Sankaran, Chennai



CA. J Murali, Chennai



CA. J Purushothaman, Chennai

WORKSHOP ON "ROLE AND RESPONSIBILITIES OF NOMINEE DIRECTORS" ON THE BOARD OF GOVERNMENT COMPANIES

June 26, 2012 - Chennai



CA. Jaydeep N. Shah, President, ICAI inaugurating. (L-R): CA. Nilesh Vikamsey, Chairman, Board of Studies-ICAI, Mr. K. Shanmugam, IAS, Principal Secretary (Finance), Govt. of Tamil Nadu, CA. Amarjit Chopra, Past President-ICAI and CA. Rajendra Kumar P, Central Council Member-ICAI.

Chairman writes ...



My Dear Professional Colleagues,

The first quarter of this financial year has just passed, and members in practice would be gearing up for quarterly reviews besides completing the annual audits, and members in industry and in the corporate world would have had their hands full with preparation for the quarterly reviews, audit committee meetings, meetings of the board, and planning the schedule for the annual general meetings., after successfully completing the finalization of their annual accounts and audit thereof.

The Economy

Macro economy of the country is at cross roads, with GDP growth rate stagnating leading to concern to all stakeholders. It is our sincere hope that the Government of India and financial sector regulators would come up with appropriate remedial measures to shore up the confidence level and to reach an appreciable growth rate in the nearest possible time. As in the recent past IT Sector is expected to contribute significantly in the days to come to support the economy and according to an estimate the IT industry has the potential to touch \$500 billion in a few years and this I would believe should further enhance the opportunities available for our members in the days to come.

The much talked about “White Paper on Black Money” which was tabled by the Finance Ministry has presented the different facets of black money and its complex relationship with policy and administrative regime in India. It covered the problem (of black money) and its complexities, its estimation, institutions to deal with black money, the framework for tackling the menace of black money such as legislative framework, imparting skills to the personnel for effective action, strategies for curbing generation of black money from legal and legitimate activities.

In the words of then Union Finance Minister there is no doubt that manifestation of black money in social, economic and political space of our lives has a debilitating effect on the institutions of governance and conduct of public policy in the country. Governance failure and corruption in the system affect the poor disproportionately. The success of an inclusive development strategy critically depends on the capacity of our society to root out the evil of corruption and black money from its very foundations. As finance professionals we should pledge ourselves to

extend the maximum possible cooperation to the Government and its implementing agencies in their endeavour to curb black money and corruption to reiterate ourselves as the “partners in nation building.”

Theme of this Issue of our Newsletter – “Taxation of Non-corporate entities”

This issue has been brought out to focus on the “Taxation of Non-corporate entities”. The article on Books of account under the Income Tax Law: Non corporates’ perspective speaks about the non-corporates and their mandatory maintenance of books of accounts for tax purposes. The write up Recent Judicial Pronouncements on Taxation of Non-Corporate Entities lists out recent judgements of Hon’ble Supreme Court and Hon’ble High Courts as well as ITAT of the country to provide a birds eye view on the various interesting and critical judgements involving non-corporate entities. The article entitled Exemption under Section 54EC – Differences in interpretation has attempted to put thorough light on one of the major incentives available to assesseees. Similarly the write up on Set off and carry forward of losses of Non Corporate Entities elucidates the various provisions of Sections 72A, 72AA, 72AB, 78 and 79 of the Income Tax Act.

While I seek your feedback on the contents of this Newsletter to enable me to finetune and ensure that we deliver a quality newsletter to our members, I am confident that these theme based editions of our Newsletter would make focused contribution for maintaining and developing the core competencies of our members. I also request you to contribute articles / write ups / compilations on the themes identified for the forthcoming months (Corporate Taxation for August 2012 and Tax Audit for September 2012).

SIRC Programs & Activities

I am pleased to inform you that SIRC, as in the past, could maintain the pace of conducting numerous Continuing Education Programmes for the benefit of the members. The programmes covered subject areas like Income Tax Act, Representation before appellate authorities, Mock Tribunals, Corporate Audit, Equity Research and Valuation, MS Excel, Internal Audit, FEMA, International Taxation, Indirect Taxes, Stock Investment Strategies, Corporate Laws etc.,

Through the pages of this Newsletter I have informed you the constitution of various Committees of the SIRC. I am happy to share with all of you that all the Committees have conducted their meetings and chalked out their schedule of programmes for the rest of the year ahead. Committees are the arms of the SIRC through which the best and focused programs can be delivered to our members and students. I invite our members to contribute their technical expertise to the Committees of their interest.

I am happy to share with you that Chartered Accountants Day was celebrated on 1st July 2012 with usual fanfare and exhibition of our Institute as one of the most socially responsible educational institutional system in this part of the World. SIRC has conducted programmes like Walkathon, Special Motivational Session for the students, Blood Donation Camp, Cricket match between members of the Institute and staff of Income Tax Department, Sports and Games for the children and family members of our members, distribution of plants as part of Greenery Project and cultural programmes by our students. In a well attended get together function, we have felicitated 60 senior members of our profession for their services to the society and the profession.

Branch Visits & participation in Joint Regional Conference

During June 2012, I had the privilege of visiting the Hubli Branch, which hosted the Karnataka State Level Conference on the 22nd and 23rd June. The Conference was very well organized and well attended with excellent subjects and expert speakers.

I have attended the 2nd All Region Conference 2012 held on 8th and 9th June 2012 at Baroda along with SIRC Secretary CA. P.V. Rajarajeswaran. The Conference was very well attended and a galaxy of speakers including the President of our Institute have shared their wisdom amongst a record number of delegates who hailed from various parts of the Country. We had the opportunity to present the programs and activities of our southern region and discuss matters of common interest amongst the Chairmen of all the Regions.

Student Related Activities

Throughout the Region SICASA and its branches were active in conducting various programmes which are of paramount importance to the students’ community.

I had the privilege of inaugurating, along with the President of the ICAI, the National Convention for CA Students organized by SICASA jointly with Board of Studies of ICAI at Hyderabad on 28th and 29th June 2012 wherein a record number of over 2200 students have participated and benefited with the quality deliberation on various topics of contemporary relevance for the CA Course as well as for self development. It was very gratifying to see students presenting technical papers at this Conference with excellent content and with great confidence and enthusiasm! I must say that when you watch these young students of the course at these conferences you get a great feeling of confidence about the profession and practice into the future.

Our Members in Industry

According to Prof Mark Lipton, a prominent USA based Management Consultant, "...there is a proven link between a strong vision and sustained growth (of organizations). And obviously the vision formulation process – leading to the right vision for an organization – is one of toughest management activities because today's fast paced world demands short term fixes." It is my sincere wish that the

members of our profession who have been serving the industry should become leaders in their respective organizations in which they serve by formulating the right visions for their organizations and managing their organizations in vision mode.

SIRC proposes to start conducting Management / Executive Development Programmes focusing on intensive object oriented training programmes at our Chennai office to start with and throughout the Southern Region in the days to come. I invite the members in industry to send their views and comments on the industry oriented training programmes so that we can do the needful.

All Roads Lead to Bangalore for SIRC Conference:

All arrangements for the conduct of the 44th Regional Conference of SIRC at Bangalore on 18th and 19th August 2012 are in full swing. Nationally renowned experts have been lined up to add substantial value to the technical content of the Conference. I call upon each and every one of you to participate in the conference to make it another memorable, purposeful and knowledge-sharing conference..

The delegate brochure and the registration form is published in this newsletter with full details of the subjects being presented at each of the technical sessions, the speakers, the highlights of the conference, and for the convenience of outstation delegates we have also published the hotel tariff and the contact details for booking of your accommodation from your home and office.

I look forward to your participation and invite you to share the camaraderie and fellowship with all the other members gathering there, and request you to kindly inform your other colleagues to join with you to be part of this mega conference.

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

With Warm regards,

Yours in professional service



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

CPE SEMINAR ON DATA ANALYTICS AND CONTINUOUS CONTROLS MONITORING

CPE Credit

Organized by: Internal Audit Standards Board
Hosted by: Southern India Regional Council of the ICAI

Friday, Saturday & Sunday - July 20, 21 & 22, 2012
122, Mahatma Gandhi Road, Nungambakkam,
Chennai-600 034.

18
HOURS

WHO SHOULD ATTEND?

- ❖ Chief Financial Officers
- ❖ Chief Audit Executives
- ❖ MIS Heads
- ❖ Internal and External Auditors
- ❖ Information Technology Audit Specialists
- ❖ Operations Managers who need to know about building audit programs that address business risks.
- ❖ Fraud Investigators

Objectives

- ❖ Providing a thorough understanding of the principles of Data Analysis, Continuous Auditing, Continuous Assurance and Continuous Monitoring.
- ❖ Tracing the effect of Continuous Auditing to the new continuous assurance-enabled audit environment.
- ❖ Identifying Tools for Analytical Monitoring in Continuous Assurance.
- ❖ Planning a successful Continuous Monitoring strategy with Audit Tools.
- ❖ Determining areas for the application of Continuous Auditing with IDEA Data Analysis Software.
- ❖ Highlighting the key benefits and difficulties in implementing Continuous Monitoring.
- ❖ Showcasing simple red-flag detection techniques with CAATs.
- ❖ Advanced Statistical Methods made easy through IDEA Data Analysis Software.
- ❖ Using Excel to perform CAAT, Audit Documentation, MIS Reports, Analysis

Technical Sessions - 10.00 a.m. to 05.30 p.m.

Friday - July 20, 2012

- Session 1** : Continuous Auditing and Continuous Control Monitoring
- Session 2** : Importance of CAATs in Internal Audit – Sharing of Experiences from the Government and Private sector
- Session 3** : Use of IDEA CAATs for Data Analysis
- Session 4** : CAATs components to IDEA Data Analysis Software

Saturday - July 21, 2012

- Session 5** : Use of Advanced Statistical Methods in IDEA Software – Case Studies

- Session 6** : Use of IDEA for detecting red flags and fraud investigation in IDEA Software – Case Studies

- Session 7** : Using MS Excel for Data Analytics I
- Session 8** : Using MS Excel for Data Analytics II

Sunday - July 22, 2012

- Session 9** : Using MS Excel for Data Analytics III
- Session 10** : Using MS Excel for Data Analytics IV
- Session 11** : Using MS Excel for Data Analytics V
- Session 12** : Using MS Access for Data Creation, Report Generation, Data Analysis

DELEGATE FEE

[D.D./Pay Order/Cheque should be drawn in the favour of "SIRC of ICAI" payable at Chennai. Please mention your name, membership number and contact details at the back of the cheque/demand draft.]

Members - ₹ 6000/-

PARTICIPANTS SHOULD BRING THEIR LAPTOPS. For complete details, please visit the URL www.sircoficai.org.

For registration, please contact:

Limited Seats

Registration on First Come, First Serve Basis.

Seminar Chairman

CA. Rajkumar S. Adukia
Chairman, Internal Audit Standards Board

Seminar Director

CA. Rajendra Kumar P.
Vice - Chairman, Internal Audit Standards Board

Seminar Co-ordinator

CA. Viswanath K.
Chairman, SIRC of ICAI

SIRC CALENDAR**JULY & AUGUST 2012**

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

DATE and TIME	PROGRAM DETAILS	RESOURCE PERSON	FEE (₹)	CPE CREDIT
July 1, Sunday	**CHARTERED ACCOUNTANTS DAY CELEBRATIONS			
July 3, Tuesday	**BRANCH LEVEL ELOCUTION & QUIZ CONTEST for CA Students			
July 4, Wednesday 11.00 a.m. – 01.00 p.m.	**CPE Teleconference on IMPLICATIONS OF AMENDMENTS TO SECTIONS 40A(2), 10AA & 80IA IN FINANCE ACT, 2012	CA. Krishnan Parameswaran	150/-	2 hrs
July 4, Wednesday 06.15 p.m. – 08.30 p.m.	*CPE Study Circle Meeting on NON-CORPORATE TAXATION – MINIMUM ALTERNATE TAX [MAT]	CA. S. Swaminathan Chennai	150/-	2 hrs
July 7, Saturday 09.00 a.m. – 06.00 p.m.	***Hands on “Practical Workshop” on BASICS IN MS EXCEL FOR CAs	Details at page 07	900/-	6 hrs
July 8, Sunday 09.00 a.m. – 06.00 p.m.	@CPE Hands on “Practical Workshop” on ADVANCED EXCEL FOR CAs	Details at page 07	900/-	6 hrs
July 11, Wednesday 06.15 p.m. – 08.30 p.m.	*CPE Study Circle Meeting on CARBON CREDIT – OPPORTUNITIES FOR CAs	CA. S. Raghunathan Chennai	150/-	2 hrs
July 13, Friday 04.30 p.m. – 08.30 p.m.	*CPE Seminar on E-FILING & CPC – KEY ISSUES & RESOLUTIONS	Details at page 06	500/-	4 hrs
July 14, Saturday 09.00 a.m. – 05.30 p.m.	*CPE Seminar on ISSUES IN CORPORATE LAWS-NEW DIMENSIONS	Details at page 06	750/-	6 hrs
July 18, Wednesday 06.15 p.m. – 08.30 p.m.	*CPE Study Circle Meeting on INTERNAL CONTROL AND RISK ASSESSMENT	CA. K. Golkulraj Chennai	No Delegate Fee	2 hrs
July 20, 21 & 22, Fri, Sat & Sun 09.00 a.m. – 05.30 p.m.	**CPE Seminar on DATA ANALYTICS AND CONTINUOUS CONTROLS MONITORING	Details at Page 04	6000/-	18 hrs
July 20, 21 Fri, Sat 09.00 a.m. – 05.30 p.m.	@@TWO DAY REGIONAL RESIDENTIAL CONFERENCE AT PONDICHERRY	Details at Page 08		12 hrs
July 21, Saturday 04.30 pm – 8.30 pm	##CPE NATIONAL SEMINAR AT VISAKHAPATNAM	Details at Page 08	600/-	6 hrs
July 25, Wednesday 06.15 p.m. – 08.30 p.m.	*CPE Study Circle Meeting on REVENUE RECOGNITION FOR IT & ITES SERVICES	CA. C. Vijayakumar Chennai	150/-	2 hrs
July 28, Saturday 03.30 pm – 8.30 pm.	*MEGA INVESTOR AWARENESS PROGRAMME	Details at Page 06	No Delegate Fee	2 hrs
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	750/-	6 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. 15, Wednesday	**INDEPENDENCE DAY CELEBRATIONS	Details in next issue		
Aug. 18 & 19 Friday & Saturday	#44TH REGIONAL CONFERENCE OF SIRC OF ICAI	Details at Page 12 to 18	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

* Programmes at P. Brahmayya Memorial Hall, SIRC Premises, “ICAI Bhawan”, Chennai – 600034.

** Programme at SIRC Premises, “ICAI Bhawan”, Chennai – 600034.

*** Programme at IIT Lab, 3rd Floor, Annexe Building, SIRC Premises, “ICAI Bhawan”, Chennai – 600034.

@ Programme at IIT Lab, 1st Floor, Annexe Building, SIRC Premises, “ICAI Bhawan”, Chennai – 600034.

@@ Programme at Le Pondy, Poornankuppam, Off Pondy-Cuddalore Main, Pondicherry.

Programme at “Tripuravasini”, Bangalore Palace Grounds, Mekhri Circle, Opp. Ramana Maharshi Centre, Bellary Road, Bangalore.

Programme at Visakhapatnam Br. of SIRC, D.No.9-36-22/2, Pithapuram Colony, Near Andhra Bank, Visakhapatnam -530003.

Programme at The Dream, S.A. Road, Elamkulam, Ernakulam.

ONE DAY SEMINAR ON E-FILING & CPC – ISSUES & RESOLUTIONS

CPE Credit

4
HOURS

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

Registration: 04.00 p.m.

Friday, July 13, 2012
04.30 p.m. - 08.30 p.m.**Inauguration :**
4.30 pm to 4.45 pm**P. Brahmajya Memorial Hall, ICAI Bhawan**
No.122, Mahatma Gandhi Road, Nungambakkam, Chennai - 600034**Technical Sessions - 04.45 a.m. to 08.30 p.m.**

E-filing & CPC – Issues

Mr. K. Krishna Rao, CIT, CPC, Bangalore

CPC – Issues & Resolutions

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

Operational highlights- Do's & Don'ts

CA. Ravishankar P, AVP, Insofys BPO, Bangalore

E Filing – Way Forward

Mr. Satish Goyal, Additional CIT, Bangalore**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

High Tea: 05.45 p.m. – 06.00 p.m.**CA. P.V. Rajarajeswaran**
Secretary
SIRC**CA. E. Phalguna Kumar**
Chairman
Taxation Committee, SIRC**CA. K. Viswanath**
Chairman
SIRC**ONE DAY SEMINAR ON ISSUES IN CORPORATE LAWS – NEW DIMENSIONS**

CPE Credit

6
HOURS

Organized by SIRC of ICAI Under the auspices Of Corporate and Allied Laws & Corporate Governance Committee and Committee for Members in Industry

Saturday 14, July, 2012
09.30 p.m. - 05.30 p.m.Registration : 09.00 a.m.
Inauguration : 09.30 a.m.

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

Inaugural & Technical Sessions:

Chief Guest & Key note Speaker:

CA. S. Santhanakrishnan, Chairman, Corporate and Allied Laws & Corporate Governance Committee, ICAI

Revised Schedule VI

CA. N. Nityananda, Bangalore

Validity of restrictions on the transfer of shares of private and public companies

Mr. V. Niranjan, Advocate, Madras High Court

Role of Regulators in Corporate Affairs in Current Scenario

CA. Ambati Chinna Gangaiah, Hyderabad**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 & Chairman
Committee on Corporate
and Allied Laws & Corporate
Governance, SIRC**CA. Naresh Chandra Gelli, V**
Chairman, Committee
for Members in Industry, SIRC**CA. K. Viswanath**
Chairman, SIRC**MEGA INVESTOR AWARENESS PROGRAMME**

CPE Credit

2
HOURS

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

NO Participation Fee
ALL ARE WELCOME
FIRST COME FIRST SERVED BASIS**REGISTER EARLY AT sircpe@icai.in****Saturday, July 28, 2012 - 03.30 a.m. - 08.30 p.m.**
Registration: 03.00 p.m.**P. Brahmajya Memorial Hall, ICAI Bhawan**
No.122, Mahatma Gandhi Road, Nungambakkam, Chennai - 600034

- ❖ **Tips for safe investing in Equities – Do's & Don'ts and precautions & pitfalls**
- ❖ **Role of Regulators - SEBI & MCA in Investors' Protection**
- ❖ **Role of Independent Directors & Audit Committee in Investors' Protection**
- ❖ **Global Imbalances and effect on Indian Stock Markets**
- ❖ **Corporate Governance and Investors' Protection**

Followed by Dinner

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: 044-30210320; Fax : 044-30210355; Email: sirc@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

HANDS ON PRACTICAL WORKSHOP ON BASICS IN MS EXCEL FOR CAs

Organised by SIRC of ICAI under the auspices of
Information Technology Committee of SIRC of ICAI

CPE Credit
6
HOURS

Saturday, July 7, 2012
09.00 a.m. to 06.00 p.m.

ITT Lab, Third Floor, Annexe Building, ICAI Bhawan
No.122 Mahatma Gandhi Road, Nungambakkam, Chennai – 600034

Course Contents:

- ◆ Excel Placeholders
- ◆ Workspaces
- ◆ Relative Referencing
- ◆ Boundaries of Excel
- ◆ Toolbars
- ◆ Office Button
- ◆ Paste & Paste Special

Resource Persons: **CA. Gopal Krishna Raju**, Chennai - **CA. D. Venkataraman**, Salem

- ◆ Format Painter
- ◆ Date & Time Functions
- ◆ Basic Excel Formulas
- ◆ Lookup functions
- ◆ Text Functions
- ◆ Logical Functions
- ◆ Financial Functions
- ◆ Absolute Referencing
- ◆ Simple Case Studies in Taxation
- ◆ Case Studies in Financial Management
- ◆ Sorting
- ◆ Filtering
- ◆ Hybrid Referencing

DELEGATE FEE: ₹ 900/-

Seats limited to 35 only on first-come-first-serve basis. Kindly send email to sirc@icai.in for early registrations. Since seats are limited, SPOT registrations are NOT encouraged.

Delegate fee by way of Cash / 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 – 600034. Phone: 044-30210320; Email: sirc@icai.in

CA. P.V. Rajarajeswaran
Secretary, SIRC

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

CA. K. Viswanath
Chairman, SIRC

HANDS ON PRACTICAL WORKSHOP ON ADVANCED EXCEL FOR CAs

(Financial Analysis, Modelling
& Case Studies)

CPE Credit
6
HOURS

Organised by SIRC of ICAI under auspices of Information Technology Committee of SIRC of ICAI

Sunday, July 8, 2012
09.00 a.m. to 06.00 p.m.

ITT Lab, First Floor, Annexe Building, ICAI Bhawan
No.122 Mahatma Gandhi Road, Nungambakkam, Chennai – 600034

Course Contents:

- ◆ Absolute & Relative Referencing
- ◆ Filters & Data Sorting
- ◆ Pivot Tables
- ◆ LOOKUP Functions
- ◆ Logical, Date/Time & Text Functions
- ◆ Scenarios

Resource Persons: **CA. Gopal Krishna Raju**, Chennai - **CA. D. Venkataraman**, Salem

- ◆ Nesting Functions
- ◆ Linking Workbooks
- ◆ Using Auditing Tools
- ◆ Advanced Filter
- ◆ Sharing and Protecting
- ◆ Exporting and Importing Data
- ◆ Macros
- ◆ Advanced Sorting Data
- ◆ Case Studies on Taxation & Financial Management
- ◆ Solver
- ◆ Goal Seek
- ◆ Advance Validations

DELEGATE FEE: ₹ 900/-

Seats limited to 50 only on first-come-first-serve basis. Kindly send email to sirc@icai.in for early registrations. Since seats are limited, SPOT registrations are NOT encouraged.

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CA. P.V. Rajarajeswaran
Secretary, SIRC

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

CA. K. Viswanath
Chairman, SIRC

CAMPUS PLACEMENT PROGRAMME FOR NEWLY QUALIFIED CHARTERED ACCOUNTANTS AUGUST-SEPTEMBER, 2012

The Committee for Members in Industry (CMII) of the Institute organizes Campus Placement Programme for newly qualified Chartered Accountants at various centres all over India. The scheme has been evolved to provide an opportunity both to employing organizations as well as young professional aspirants to meet and explore the possibility of taking up positions in industry.

Invitation to Employers: Organisations intending to recruit Newly Qualified Chartered Accountants through the scheme given above are requested to get in touch with Dr. Surinder Pal, Secretary, Committee for Members in Industry, Indraprastha Marg, New Delhi – 110002. Tel. No. (011) 30110430/549 Email: spal@icai.org (or) Mr. Ajeet Nath Tiwari, Placement Coordinator at Tel+91(11) 30110450 Email: ajeet@icai.in (or) Ms. Priyanka Sharma, Tel. (011) 30110548 Email: priyanka.sharma@icai.in log on to www.cmii.icai.org or <http://www.icai.org>

CAMPUS INTERVIEW DATES

Centre	Dates
Chennai, Hyderabad and Kolkatta	13 th , 14 th , 16 th , 17 th August 2012
Ahmedabad, Jaipur and Pune	16 th , 17 th , 18 th August 2012
Bangalore, Mumbai, New Delhi	22 nd , 23 rd , 24 th , 25 th & 27 th August 2012
Baroda, Bhubaneswar, Chandigarh, Coimbatore, Ernakulam, Indore, Kanpur, Nagpur and Vapi	4 th -5 th September 2012

NATIONAL SEMINAR**GRAND SANKALP**Saturday 21, July, 2012
09.30 a.m. - 05.30 p.m.

CPE Credit

6
HOURS

Organised by: CPE Committee of ICAI & Jointly with CPE Committee of SIRC

ICAI Bhawan, D.No. 9-36-22/2, Pithapuram Colony, Near Andhra Bank, Visakhapatnam - 530003

Hosted by:
Vizag Branch of SIRC of ICAI**Technical Sessions - 09.30 a.m. to 05.30 p.m.**

FEMA- Rules, Regulations, Inbound and Outbound Investments

CA. P.V.R Rajendra Prasad, Hyderabad

Tax Audit- Issues in Tax Audit and Documentation

CA. B. Sekkhizar, Hyderabad

Accounting Standards Applicability to Non Corporate Entities

CA. P.R. Suresh, Bangalore

Budget Amendments 2012 in Tax laws and its implications

CA. Dhinal Ashvinbhai Shah, Ahmedabad

Valedictory Session : 05:15 p.m.

DELEGATE FEE**Members - ₹ 600/-**Delegate fee by way of Cash or by Cheque /DD drawn in favour of '**Visakhapatnam Branch of SIRC of ICAI**' payable at Visakhapatnam may be sent to Visakhapatnam Branch of SIRC of ICAI, ICAI Bhawan, D.No. 9-36-22/2, Pithapuram Colony, Near Andhra Bank, Visakhapatnam - 530003. Phone No. 0891-2755019, 2793196, 09849667748, Email: visakhapatnam@icai.org

CA. P.V. Rajarajeswaran Secretary, SIRC	CA. Babu Abraham Kallivayalil Chairman, CPE Committee of SIRC	CA. M.K. Kumar Chairman, Visakhapatnam Branch	CA. N N S Prakash Rao Secretary, Visakhapatnam Branch	CA. D Prasanna Kumar Ex-officio Member, Visakhapatnam Branch	CA. Devaraja Reddy M Chairman, CPE Committee, ICAI	CA. K. Viswanath Chairman, SIRC
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NATIONAL CONFERENCE ON DIRECT TAXES & OFFICIAL VISIT OF PRESIDENT, ICAI

Saturday, August 4, 2012

CPE Credit

6
HOURSThe Dream
S. A Road, Elamkulam, Ernakulam

Organised by :

CPE Committee of ICAI, New Delhi

Jointly with :

CPE Committee of SIRC of ICAI, Chennai

Hosted by :

Ernakulam Branch of SIRC of ICAI

Technical Sessions : 09.00 a.m. – 05.00 p.m.

Issues on Capital Gains with Special reference to Joint Development Agreement

CA. G. Ramaswamy, Past President, ICAI

Issues on TDS and latest Developments

CA. Padamchand Khincha, Bangalore

Inaugural Session : 12.15 pm – 01.15 pm

Chief Guest : **CA. Jaydeep Narendra Shah**,
President, ICAI

Audit & Taxation of Charitable Institutions with special reference to Issues relating to Foreign Contributions

CA. M. Kandasami, Chennai**DELEGATE FEE****Ernakulam ARS- Nil, Others: Rs. 750/-**Delegate fee by way of Cash / Cheque / DD drawn in favour of '**Ernakulam Branch of SIRC**' of ICAI payable at Ernakulam be sent to Ernakulam Branch of SIRC of The Institute of Chartered Accountants of India. "ICAI Bhawan", Diwan's Road, Ernakulam, Kochi - 682 016, Telephone No. +91 (484) 2369238, 2372953, 2369258, Fax: +91 (484) 2372953 E-mail: ernakulam@icai.org; Website : www.kochiicai.org

CA. M. Devaraja Reddy Central Council Member, ICAI & Chairman- CPE Committee of ICAI	CA. Babu Abraham Kallivayalil Chairman CPE Committee of SIRC of ICAI	CA. Mathukutty P P Chairman, Ernakulam Branch of SIRC of ICAI
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TWO DAY REGIONAL RESIDENTIAL CONFERENCE**THEME: RENDEZOUS – A CALL TO SMPS**

Fri. & Sat., July 20 & 21, 2012

CPE Credit

12
HOURSLe Pondy,
Poornankuppam Off Pondy-
Cuddalore Main, Pondicherry

Organized by SIRC of ICAI - Hosted by Pondicherry Branch of SIRC of ICAI

Presidential Address : **CA. Jaydeep Narendra Shah**, President, ICAIInaugural address by the Chief Guest : **His Excellency Dr. Iqbal Singh**, The Lt. Governor of Puducherry*

Inauguration : 10.30 AM

TECHNICAL SESSIONS

Negative list under Service Tax Laws

Shri K Vaitheeswaran, Advocate, Chennai

Revised Schedule VI for SMPs

CA. L Ravi Sankar, Chennai

Recent Judicial Pronouncements and Amendments with emphasis on Tax Audit Issues

CA. T Banusekar, Chennai

Professional Ethics for SMPs - Do's and Don'ts

CA C R Kumar, ChennaiStress management for professionals : **Eminent doctor**, JIPMER, Pondicherry

Valedictory session - 21st July 04:30 PM

Valedictory address: **Padmashri Awardee CA. T N Manoharan**, Past President, ICAI, Chennai***DELEGATE FEE**Residential delegates - Rs.5,000/-
Non-residential delegates - Rs.2,000/-Registration for residential delegates closes on 17.07.2012. Delegate fee by way of Cash or by Cheque /DD drawn in favour of '**Pondicherry Branch of SIRC of ICAI**' payable at Pondicherry be sent to Pondicherry Branch of SIRC of ICAI, ICAI Bhawan, No.8, 2nd Main Road, Ilango Nagar, Pondicherry, Tel: 0413-4308081, 9442710062.

* Confirmation awaited

CA. P.V. Rajarajeswaran Secretary, SIRC	CA. G. Hari Govind Chairman Pondicherry Branch	CA. V. Selvaraj Secretary Pondicherry Branch	CA. P.R. Aruloli Ex-officio Member Pondicherry Branch	CA. K. Viswanath Chairman, SIRC
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CA. V.S. Vadivel
Chennai
vsvadivelji@dataone.in

Books of Account under Income Tax Law: Non-Corporates' Perspective

The income tax law prevalent in India requires certain assesseees including non-corporates to maintain proper books of accounts and records. Further, under Section 145 of the Income-tax Act, 1961 'income from business or profession' and 'income from other sources' are to be computed only in accordance with the 'method of accounting' as prescribed by the Act. In this backdrop, this write-up briefly speaks about non-corporates and their mandatory maintenance of books of accounts for tax purposes.

Section 44AA: Relevant for non-corporates

In case of a person (carrying on business or profession in India) whose accounts have been audited under any other law (law other than income tax law), the requirement for maintenance of books of account is duly contained in the relevant statute. Classic example in this case is the Companies Act, 1956 providing for compulsory accounts and audit of all registered companies under the Act.

In the case of other assesseees, (who are non-corporates in general) whose accounts of the business or profession have not been audited under any other law, Section 44AA of the Income-tax Act, 1961 provides for maintenance of books of accounts.

Section 44AA [inserted by the Taxation Laws (Amendment) Act, 1975, w. e. f. 1.4.1976] of the Income-tax Act, 1961 thus calls for compulsory maintenance of books of accounts by certain assesseees including non-corporates. Such maintenance of books by an assessee carrying on profession or business in India has been made mandatory based on the monetary limits of his income or turnover.

However, certain businessmen like transport operators, contractors, retail traders and other taxpayers falling under the so-called Estimated Income

“Section 44AA [inserted by the Taxation Laws (Amendment) Act, 1975, w. e. f. 1.4.1976] of the Income-tax Act, 1961 thus calls for compulsory maintenance of books of accounts by certain assesseees including non-corporates.”



Scheme (EIS) or presumptive taxation are exempted from maintaining books of account, provided the profits and gains declared by them is not lower than the amount specified in the relevant Section as may be applicable to them. With effect from 1.4.2011, (as amended by the Finance (No.2) Act, 2009) the relevant Sections may include 44AD, 44AE, 44BB, 44BBB as the case may be.

Further, with the amendment of Section 145, from 1.4.1997, income chargeable under the head 'profits and gains from business or profession or 'income from other sources' can be computed by an assessee (including a non-corporate) only in accordance with the 'method of accounting' as prescribed by the Act. In other words, the assessee may follow either the cash or mercantile system of accounting. A 'mixture' or 'hybrid' method of accounting is not at

all permitted.

Monetary limit: The parameter for book-maintenance

Section 44AA(1) read with Rule 6F, makes a mandate to all persons carrying on any of the 'specified professions' to maintain books of account and other documents if yearly gross receipts of the profession exceed Rs.1,50,000 vide Notification No. S.O. 352 (E) dated 6.4.2000 (Earlier it was Rs.60,000 and in the case of medical practitioners dispensing drugs and medicines it was Rs.80,000). This monetary limit of Rs.1,50,000 shall be applicable to all assesseees carrying on the following professions-(i) legal; (ii) medical; (iii) architectural; (iv) engineering; (v) accountancy; (vi) technical consultancy; (vii) interior decoration; (viii) acting as authorised representative before any tribunal or other authority [vide Notification: No. SO 17(E), dated 12.1.1977]; (ix) film artists who include actor, cameraman, director, music director, art director, dance director, editor, singer, lyricist, storywriter, screenplay writer, dialogue writer, dress designer [vide Notification: No. SO 17(E), dated 12.1.1977]; (x) company secretary [vide Notification: No. SO 2675, dated 25.09.1992]; and (xi) information technology (w. e. f. A.Y. 2002-03) [vide Notification: No. SO 385 (E), dated 4.5.2001]

In case of persons engaged in 'any other profession' or carrying on 'any business', the requirement of compulsory maintenance of books of account arises under Section 44AA(2) of the Act. Accordingly, such 'non-specified professionals' or 'businessmen' must maintain books of accounts compulsorily with effect from assessment year 1999-2000 if and when-

- the income from business or profession exceeds Rs.1,20,000 (earlier Rs.40,000 from A.Y. 1993-94 to 1998-99) or

- the turnover or gross receipts exceed Rs.10 lakhs (earlier Rs.5 lakhs).
- However, in case of a new business or profession, if the turnover or income is likely to exceed the above limits, the books of account are to be maintained.

CBDT's power: The consummation in question

The Central Board of Direct Taxes (CBDT), being an essential part of Department of Revenue in the Ministry of Finance, Government of India, provides essential inputs for policy and planning of direct taxes in India. The Board, which is a statutory authority functioning under the Central Board of Revenue Act, 1963, is also responsible for administration of direct tax laws through the Income Tax Department.

In this context, Section 44AA(3) of the Income-tax Act, 1961 empowers the all-powerful CBDT to prescribe by rules, the books of account and other documents (including inventories, wherever necessary) to be kept and maintained by the assessee in India for income tax purposes. The Board is also empowered to prescribe the following (having regard to the nature of the business or profession carried on by any class of persons):

- the particulars to be contained in the so-called books of accounts;
- the form and the manner in which these books shall be kept and maintained; and
- the place at which these records shall be kept and maintained.

Unfortunately, the Board has so far prescribed the 'books of account' and 'other documents' only in respect of certain 'specified professionals'. In other words, there are no books of accounts and documents prescribed for those assessee who are carrying on any 'non-specified profession' or business in India.

Books specified: For 'specified professionals'

As per rule 6(F)(2) of the Income-tax Rules, 1962, as prescribed by the CBDT, the books of account and documents required to be maintained by the 'specified professionals' are the following-

- cash book recording all cash receipts and payments, kept and maintained from day to day and giving the cash balance in hand at the end of each day or at the end of a specified period not exceeding a month-wide explanation (b) of Rule 6F(2).

- journal (if the accounts are maintained as per mercantile system of accounting)
- ledger,
- carbon copies of bills, serially numbered and carbon copies or counterfoil of receipts issued in respect of sums exceeding Rs.25; and
- original bills for expenses exceeding Rs.50 and payment vouchers for petty expenses. However, in a case where the cashbook maintained by the person contains adequate particulars in respect of the expenditure incurred, then vouchers are not necessary in respect of expenses up to Rs.50.

Persons engaged in medical profession are, in addition, required to maintain daily case register in the prescribed pro forma (Form No.3C) and inventory, as at the beginning and end of the year, of stock of drugs, medicines and other consumable accessories used for the purpose of his profession. [Rule 6F(3)]

Books or books of account: Meaning

Under Section 2(12A) of the Income-tax Act, 1961, "books or books of account" for tax purposes may include ledgers, day books, cash books, account books and other books, whether kept in the written form or as printouts of data stored in a floppy disc, tape or any other form of electro-magnetic data storage device (w. e. f. 1.6.2001).

This apart, the Act has come out with another explanation under Section 2(22AA) with the definition of the expression 'documents' to include data, record or data generated, image or sound stored, received or sent in an electronic form or microfilm or computer generated microfiche (w. e. f. 1.6.2001).

In this scenario, a non-corporate assessee (whose accounts of the business or profession have not been audited under any law) may have to keep normal books of account. The 'normal books' to be maintained in such cases will be cash book/bank book, sales/purchase journal or register and ledger. If the assessee is engaged in trading or manufacturing activities, he should also maintain 'quantitative details' of principal items of stores, raw materials and finished goods. Further, every assessee is required to maintain proper evidence in the form of bills, vouchers, receipts, documents, etc. These are essentially to support the

entries in the books of account. The tax auditor, while giving his report in Form No. 3CA/3CB (about maintenance of proper books of account), should ensure that the books are maintained by the non-corporate assessee in accordance with the above requirements.

Books of account: Period of maintenance

Under Section 44AA(4), the CBDT is empowered to prescribe the period for which the books of account and other documents are to be kept and maintained by the assessee. Accordingly, under Rule 6F(5), as amended by the IT (First Amendment) Rules, 2002, the books of account and other documents are to be kept for at least 6 years (w. e. f. 4.2.2002) from the end of the relevant assessment year after the amendment vide Notification No.21/2002 – F. No.-142/3/2002 – TPL. Prior to this the books of accounts and other documents were to be kept for at least 8 years from the end of the relevant assessment year.

Earlier, the cashbook and ledger were required to be preserved for a period of 16 years. However, with effect from 4.2.2002 these are also required to be kept only for 6 years from the end of the relevant assessment year.

However, in a case where the assessment in relation to any assessment year has been reopened under Section 147 within the time limit under Section 149, in such case all the books of account and other documents shall continue to be kept till the assessment so reopened has been completed. Further, it is also advisable for the assessee carrying on business or profession to retain their books of account and relevant documents for those years, for which any appeal or other proceeding is pending before the income tax authorities.

Books of account: Where to keep?

As per Rule 6F(4), the current year's books of account should be maintained and kept at the place where the assessee is carrying on the business or profession. In case where the person carries on business or profession in more than one place, the current year's books of account should be maintained and kept at the principal place of business.

However, in case where a person carries on the profession in more than one place and he keeps and maintains separate books of account for each place, then the assessee may keep the current year's books of account at the respective places.

Interestingly, there is no specific rule as to where the books of account of earlier years should be kept.

Non-keepers: The consequences to face

Any failure on the part of an assessee to maintain or retain books of account and other documents as required under Section 44AA of the Act shall attract penalty under Section 271A- Surajmal Parsuram Todi v. CIT (1996) 222 ITR 691 (Gau.). With effect from 1.6.2001, a fixed penalty of Rs.25,000/- has been prescribed under Section 271A of the Act, which can be imposed by the A.O or CIT (A). Prior to 1.6.2001, the penalty prescribed under Section 271A was a sum ranging from Rs. 2,000 to Rs. 1,00,000.

Under Section 145(1), (as substituted by the Finance Act, 1995, w. e. f. 1-4-1997) any income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" shall be computed in accordance with the method of accounting regularly employed by the assessee. If an assessee carrying on business or profession follows the mercantile method, he has to ensure that the accounting standards, [as prescribed by the Central Board of Direct Taxes (CBDT) vide Notification:

No. SO 69(E), dated 25-1-1996,] are also followed.

In any case where the accounts are correct and complete to the satisfaction of the Assessing Officer but the method employed is such that, in the opinion of the Assessing Officer, the income cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as the Assessing Officer may determine.

Further, under Section 144 of the Act, if the Assessing Officer is not satisfied about the correctness or completeness of the accounts, or finds that the method of accounting is neither cash nor mercantile, or the accounting standards have not

been followed, then he can make what is popularly called the 'Best Judgment Assessment'.

If and when the Assessing Officer makes a Best Judgment Assessment, he is entitled to reject the income as per the books of account maintained by the assessee and to make an estimate on the basis of the records available with him using his best judgment. However, while making best judgment assessment under Section 144, the Assessing Officer has to take note of totality of case, of all relevant materials, available in assessment records of earlier years or subsequent years and also in files closely connected with appellant's assessment-K. K. Steels (India) (P) Ltd. v. Asstt. CIT (1999) 71 ITD 198 (Asr.) ■

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 August, September & October 2012 issues are as follows:


Month	Theme	Articles to reach SIRC on or before
August	Corporate Taxation	July 20, 2012
September	Tax Audit	August 10, 2012
October	Transfer Pricing	September 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.

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44th Regional Conference of SIRC of ICAI - August 18 & 19, 2012 - BANGALORE
 Conference Venue: "Tripuravasini", Bangalore Palace Grounds, Mekhri Circle, Opp: Ramana Maharshi Centre, Bellary Road, Bangalore

TARIFF AND OTHER DETAILS - HOTELS IN BANGALORE

Sl. No.	Name of the Hotel	Location	Approx. distance from Venue (in kms)	Tariff in Rupees				Category of the hotel	Contact Phone No. (080)	Email ID
				Single Room Non-AC	Double Room Non-AC	Single Room AC	Double Room AC			
	MAJESTIC AREA									
1	Hotel Chacerry Pavilion	Residency Road	5 Kms	NA	NA	10500	11500	NA	4141 4141	jayanthi.k@chaceryhotel.net
2	Hotel Trinity ISLE	Sheshdripuram	4 Kms	NA	NA	5000	6000	8500	4242 3737	trinityisle@gmail.com
3	Dew Drops	Sheshdripuram	4 Kms	NA	NA	5000	6000	8000	4060 9199	reservations@hoteldewdrops.com
4	Royal Orchid Central	M G Road	5 Kms	NA	NA	4500	5500	NA	4127 6667	groups@royalorchidhotels.com
5	Abhimaani Vasathi	Rajajinagar	5 Kms	NA	NA	4300	5000	NA	4267 1166	enquiry@hotelabhimaanisathi.com
6	Hotel Chancery	Lavelle Road	5 Kms	NA	NA	4000	5000	NA	2227 6767	jayanthi.k@chanceryhotel.net
7	Chandra Residency	Millers Road	3 Kms	NA	NA	3500	4500	NA	4039 0800	youngislandcomforts@gmail.com
8	37 Crescent	Crescent Road	5 Kms	NA	NA	NA	4200	NA	999720 95409	skh.homes@gmail.com
9	Hotel Nalpad	Crescent Road	5 Kms	NA	NA	NA	4200	NA	999720 95409	skh.homes@gmail.com
10	Hotel Jayamahal Palace	Jaymahal	3 Kms	NA	NA	3345	3870	5960	4058 0444	jayamahalpalace@hghhotels.com
11	Ballal residency	M G Road	4 Kms	NA	NA	3063	3818	NA	2559 7277	ballary@hotmail.com
12	Vijay Residency,	Majestic	3 Kms	NA	NA	3188	3600	5331	2237 3722	general@vijayresidency.net
13	The Bell Hotel & Convention Centre	Majestic	3 Kms	NA	NA	2665	3500	NA	4015 2222	info@thebell.in
14	Hotel Solitaire	Sheshdripuram	4 Kms	NA	NA	NA	3500	NA	094485 58205	pleasuretoours@rediffmail.com
15	Hotel Ramda	Shivaji Nagar	3 Kms	NA	NA	3000	3500	NA	4127 6667	groups@royalorchidhotels.com
16	The Chevronl Orchards	Sadashivanagar	2 Kms	NA	NA	2800	3500	6000	4095 2255	reservations@thechevronhotels.com
17	Hotel Ashraya International	Infantry Road	4 Kms	NA	NA	2660	3100	3550	4035 5999	ashraya.hotel@gmail.com
18	Hotel VT Paradise	Corporation	3 Kms	NA	NA	2500	3000	4000	2212 9883	enquiry@vtparadise.com
19	Hotel Golden Land Mark	Majestic	3 Kms	NA	NA	NA	3000	NA	094485 58205	pleasuretoours@rediffmail.com
20	Hotel Parag	Raj Bhavan Road	3 Kms	NA	NA	2375	2950	NA	2226 7071	hotelparagreservation@gmail.com
21	Grand Inn	Majestic	3 Kms	NA	NA	NA	2800	NA	2220 2929	grand-inn@vsnl.net
22	Hotel Pat Viceroy	JC Road	5 Kms	NA	NA	2541	2750	4400	2670 1494	viceroy@pathotels.com
23	Woodlands Hotel Pvt. Ltd	Richmond circle	5 Kms	1650	1700	2400	2700	NA	2222 5111	info@woodlands.in
24	Sovereign Hotel	Gandhinagar	3 Kms	NA	NA	2250	2650	3350	22434 8880	shakirblr@gmail.com
25	Hotel Chalukya	Sheshdripuram	4 Kms	1700	2010	2375	2650	NA	2226 6866	reservation@hotelchalukya.com
26	Sandesh Kingston	Gandhinagar	3 Kms	NA	NA	2295	2495	NA	4313 9999	info@sandeshkingston.com

27	Hotel Abhishek	Crescent Road	5 Kms	NA	NA	NA	NA	NA	2450	NA	3 Star	999720 95409	skh.homes@gmail.com
28	Pavana Residency	Majestic	3KMS	970	1000	2280	2280	2280	2280	NA	Standard	4015 2222	info@thebell.in
29	Hotel City Centaur	Majestic	3 Kms	NA	NA	1800	2250	2250	2250	4500	3 Star	4141 9191	sales@hotelcitycentaur.com
30	Sri Adiga's Residency	Gandhinagar	3 Kms	NA	NA	1875	2250	2250	2250	3625	3 Star	4043 4043	mails@adigasresidency.com
31	Cordial Hotel	Majestic	3 Kms	NA	NA	NA	2200	2200	2200	3500	3 Star	096324 04224	m.shivraj5@gmail.com
32	Canary	Majestic	3 Kms	NA	NA	NA	2200	2200	2200	NA	3 Star	094485 58205	pleasuretours@rediffmail.com
33	Hotel Nandini	R T Nagar	2 Kms	1731	1847	2078	2193	2193	2193	NA	Standard	4045 5555	reservationrtn@nandhini.com
34	Hotel Janardhana	Sheshdripuram	4 Kms	NA	NA	1800	2100	2100	2100	NA	Standard	999720 95409	skh.homes@gmail.com
35	Bangalore Gate,	Majestic	3 Kms	NA	NA	1800	2000	2000	2000	2600	3 Star	4110 0777	res@bangaloregate.com
36	Hotel Mourya	Gandhinagar	3 Kms	NA	NA	1450	1950	1950	1950	NA	Standard	999720 95409	skh.homes@gmail.com
37	Sri Lakshmi Comforts	M G Road	5 Kms	894	1350	1350	1890	1890	1890	NA	Standard	2555 9388	reservation@slcomforts.in
38	Hotel Geo	Corporation	3 Kms	950	1290	1450	1875	1875	1875	3000	Standard	2222 1583	hotelgeobl@rediffmail.com
39	Chetana International	Majestic	3 Kms	NA	NA	NA	1750	1750	1750	3000	Standard	094485 58205	pleasuretours@rediffmail.com
40	Amshi International	Majestic	3 Kms	NA	NA	NA	1750	1750	1750	NA	Standard	094485 58205	pleasuretours@rediffmail.com
41	Hotel Kanishka	Gandhinagar	3 Kms	1050	1275	1350	1650	1650	1650	2360	Standard	2226 5544	skh.homes@gmail.com
42	Hotel Pranam	Majestic	3 Kms	NA	NA	1400	1600	1600	1600	NA	Standard	999720 95409	skh.homes@gmail.com
43	Hotel Deva Residency	Double Road	5 Kms	975	1385	1385	1550	1550	1550	2400	Standard	2210 6855	devarsresidencybooking@gmail.com
44	Hotel Golden Residency	Majestic	3 Kms	NA	NA	1300	1500	1500	1500	NA	Standard	4147 6434	goldenresidency@gmail.com
45	Hotel Kamat Minerva	JC Road	5 Kms	NA	NA	1400	1500	1500	1500	3000	Standard	2670 3813	res.min@kamatyatri.in
46	Hotel Suraksha Residency	Majestic	3 Kms	1000	1300	1100	1400	1400	1400	2250	Standard	4147 6968	suraksharesidency@gmail.com
47	Redmount	Majestic	3 Kms	875	1050	1050	1300	1300	1300	2900	3 Star	4158 0000	reserve@hotelredmount.com
48	Hotel Sabharwal Viceroy	JC Road	5 Kms	800	999	1000	1300	1300	1300	1500	Standard	090080 00619	sabharwalviceroy@gmail.com
49	Hotel Sabharwal Viceroy	Double Rd	5 Kms	800	999	1000	1300	1300	1300	1500	Standard	090080 00619	sabharwalviceroy@gmail.com
50	Hotel Sabharwal Viceroy	Wilson Gar	5 Kms	800	999	1000	1300	1300	1300	1500	Standard	090080 00619	sabharwalviceroy@gmail.com
51	Hotel Sheltron	Majestic	3 Kms	650	850	1000	1200	1200	1200	1600	Standard	2346 8670	info@sheltron.com
52	UG Group	Majestic	3 Kms	NA	NA	1000	1200	1200	1200	1600	Standard	2670 7545	saleem_deshnoor@yahoo.com
53	Royal Regency	Gandhinagar	3 Kms	NA	624	1075	1200	1200	1200	NA	Standard	4113 0202	Madhukiran
54	Hotel Dwaraka	Gandhinagar	3 Kms	400	600	900	1200	1200	1200	NA	Standard	999720 95409	skh.homes@gmail.com
55	Hotel Sandhya	Gandhinagar	3 Kms	NA	970	NA	1070	1070	1070	NA	Standard	999720 95409	skh.homes@gmail.com
56	Royal Lodge	Gandhinagar	3 Kms	600	865	NA	1058	1058	1058	NA	Standard	2226 6951	Satyanarayan
57	Hotel Rajmahal	Majestic	3 Kms	NA	1368	NA	NA	NA	NA	NA	Standard	2287 2304	rajmahal hotel@vsnl.com
58	Kamat Yatri Niwas	Majestic	3 Kms	1100	1300	NA	NA	NA	NA	NA	Standard	2226 3727	Yatrinivas.res.yatri@kamatyatri.in
59	Srasthi Comforts	Balepet	4 Kms	565	850	NA	NA	NA	NA	NA	Standard	2235 5971	mg.shrusticomforts@gmail.com
60	Hotel Moti Mahal	Gandhinagar	3 Kms	450	700	NA	NA	NA	NA	1250	Standard	2226 7940	ajaitcbr@gmail.com

VISHWÁS

ENHANCE VALUES, INSPIRE TRUST

44th Regional Conference of SIRC of ICAI

Delegate – Registration Form

To

The Chairman
Conference Committee
44th Regional Conference of SIRC of ICAI
16/O, Millers Tank Bed Area
Bangalore – 560 052

Dear Sir,

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**, Mehri Circle, Opp. Ramana Maharshi Center, Bellary Road, Bangalore

I / We have enclosed Cheque / DD No..... dated.....
on..... for Rs.....(Rupees
.....only) towards my / our delegate Fee.

Delegate Name:

Membership No:

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Address.....
.....
.....

Phone (O) :

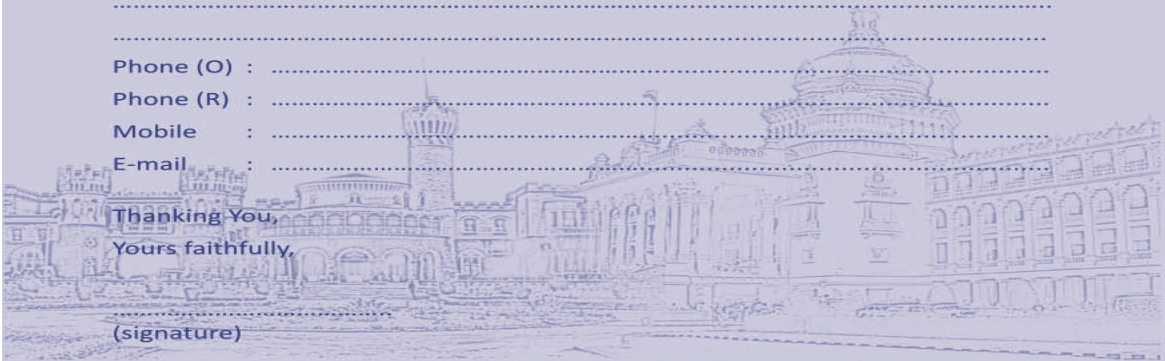
Phone (R) :

Mobile :

E-mail :

Thanking You,
Yours faithfully,

(signature)



Delegate Fee : Rs.3,000/-
Cheque / Draft in favour of
"44th Regional Conference of SIRC of ICAI"

For further details, please contact:
Tel: 080 – 30563500 / 3511 / 3513
Email: blrregistrations@icai.org
Website: www.bangaloreicai.org

For online registration visit www.bangaloreicai.org





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

VISHWÁS
ENHANCE VALUES, INSPIRE TRUST

44th Regional Conference of SIRC of ICAI

18 & 19 AUGUST 2012

TRIPURAVASINI

Bangalore Palace Grounds, Bangalore

CPE
12
Hrs.





44th Regional Conference of SIRC of ICAI

Tripuravasini, Bangalore Palace Grounds, Bangalore

Programme Structure

Saturday, 18th August 2012

Time	Particulars
08.00	Registration
09.00	INAUGURAL Inaugural Address by Chief Guest Dr. M. Veerappa Moily <i>Union Minister of Corporate Affairs Government of India</i>
	Special Address by Guest of Honour Dr. K. Rahman Khan <i>Member of Parliament, Former Deputy Chairman, Rajya Sabha</i>
	Presidential Address by President, ICAI CA. Jaydeep Narendra Shah
10.30	TECHNICAL SESSION I Transfer Pricing of Domestic Transactions CA. Vijay S. Iyer, Mumbai
11.45	TECHNICAL SESSION II Pathway towards listing of SMEs Sri. Ashish Kumar Chauhan, Mumbai
01.00	LUNCH
02.00	TECHNICAL SESSION III Panel Discussion - "Works Contract - Service Tax & VAT" CA. K. K. Chytanya, CA. S. Venkataramani, CA. V. Raghuraman, CA. H. Vishnu Murthy
03.15	TECHNICAL SESSION IV Service Tax - Negative List & Special issues Sri. Joseph Vellapalli, Sr. Advocate, Kochi
04.30	TECHNICAL SESSION V Audit & Assurance - Road Map for Restoring Trust & Meeting Expectations CA. P. R. Ramesh, Hyderabad
07.00	GRAND GALA ENTERTAINMENT
08.30	THEME DINNER

Sunday, 19th August 2012

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

* confirmation awaited

PARALLEL TRACKS

On both days
Senior Practitioners Forum,
Practice Networking,
Enterprise Risk Management
Forensic Auditing



Delegate Fee : ₹ 3,000/-

The Fee covers **Memento, Delegate Kit, Souvenir, Lunch** (Day1 & Day2), **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

Conference Highlights

- ✓ Highly Useful & interactive technical Sessions of current relevance & importance
- ✓ Parallel Tracks
- ✓ World class Elite Speakers
- ✓ Great networking opportunities
- ✓ Classic Entertainment
- ✓ Spiritual Session
- ✓ Product and Services Exhibition – featuring top-end consumer brands
- ✓ Delicious Food & Theme Dinner
- ✓ Delegate Kit
- ✓ Souvenir
- ✓ Attractive Memento
- ✓ Gift hampers & much more.

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CONFERENCE CHAIRMAN

CA. K. Viswanath

Chairman – SIRC of ICAI

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

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

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CA. D. Prasanna Kumar, *Vice Chairman, SIRC*

CA. P.V. Rajarajeswaran, *Secretary, SIRC*

CA. K. Raghu, *Central Council Member, ICAI*

CA. Madhukar N Hiregange, *Central Council Member, ICAI*





Southern India Regional Council
The Institute of Chartered Accountants of India



VISHWÁS

ENHANCE VALUES, INSPIRE TRUST

44th Regional Conference of SIRC of ICAI

18 & 19 of August 2012

"Tripuravasini", Bangalore Palace Grounds,

Mekhri Circle, Opp. Ramana Maharshi Center, Bellary Road, Bangalore

Sponsorship / Advertisement / Exhibition Stall / Banner - Registration Form

To

The Chairman,
Conference Committee
44th Regional Conference of SIRC of ICAI
16/O, Millers Tank Bed Area
Bangalore - 560 052.

Dear Sir,

We would like to participate in **VISHWÁS** - ENHANCE VALUES, INSPIRE TRUST a two day 44th Regional Conference of SIRC of ICAI, on 18th & 19th August 2012 by Sponsorship / Advertisements / Exhibition Stall / Banners.

We enclose herewith a sum of Rs.

Cheque / DD No:

(in favor of "44th Regional Conference of SIRC of ICAI") Dated:

Drawn on

Towards

Name of the organization:

Address:

Contact Person:

Phone:

Mobile:

Email:

Thanking you,
Yours faithfully,

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<input type="checkbox"/> Delegate Memento	12.00
<input type="checkbox"/> 1st day Lunch	15.00
<input type="checkbox"/> 1st Day Cultural Programme	10.00
<input type="checkbox"/> 1st Day Dinner	10.00
<input type="checkbox"/> 2nd Day Breakfast	5.00
<input type="checkbox"/> 2nd Day Lunch	7.50

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<input type="checkbox"/> Pavilion	3 X 6	1.50
<input type="checkbox"/> Premium Stall	3 X 4	1.00
<input type="checkbox"/> Regular Stalls	3 X 3	0.50

Display Banners at the venue	In Lakhs(₹)
<input type="checkbox"/> Each Banner	0.25

For Sponsorship, Advertisement & Exhibition Stall requirements, please contact:
CA. K.Viswanath, Chairman, SIRC of ICAI
M: 9945525595, @: chairmansirc@gmail.com / sirrconf@gmail.com



CA. S. Swaminathan
Chennai
ssasuriandco.com



CA. M. Sanjeev Aditya
Chennai
sanjeevasuriandco.com

Set off and carry forward of Losses of Non corporate entities

Non – Corporate entities under the Income Tax Act, 1961, includes an individual, HUF, Firm, AOP, BOI, Artificial judicial person, co-operative societies and any local authority etc. A limited liability partnership though established under a separate act, is assessable as a firm for all the provisions of Income Tax Act 1961.

The definition of company under the Income Tax Act [Sec 2(17)] is elaborate and includes institution, association or body corporate incorporated outside India etc., All these organisations which are assessed as company are not considered for the purpose of this discussion.

The provisions relating to set off and carry forward of losses are covered in Chapter VI of the Income Tax Act, 1961. The general provisions are similar for all the assessee's and hence are not dealt in detail in this article. The exceptions to these provisions relating to carry forward and set off of brought forward losses and special provisions are comprised in Sections 72A, 72AA, 72AB, 78 and 79, since these provisions vary across assessee's, they are matters of professional interest and the issues regarding non-corporate entities are discussed further in this article.

These specific issues involved in carry forward and set off of brought forward losses are broadly dealt with in the following areas:

A. Carry forward and set off pursuant to a change in the constitution of firm.

The Income Tax Act, 1961, under section 78 provides that, where there has been a change in the constitution of the firm, so much of the loss proportionate to the share of a deceased or retired partner as exceeds his share of profits in respect of the previous year cannot be carried forward and set off. If there is a change in the constitution of the firm at any time during the year so much of the carried forward loss attributable to his share of profit

“If a change in constitution occurs due to an admission or change in profit sharing ratio, so long as all the existing partners prior to change in constitution continue to be partners even after the change, then, the restrictive stipulation would not apply.”



proportion only could be adjusted and the limiting factor would be his share income of that previous year. However, if the change occurs at the beginning of the previous year itself then the carried forward losses to the extent of his proportion would be lost.

A change in the constitution occurs when there is admission, cessation of partner or by a mere change in the profit sharing ratio. The restrictive provisions contained in section 78 as discussed above regarding the proportionate losses of such retiring or deceased partner, the provisions would apply only if there is a retirement or death of a partner.

Thus if a change in constitution occurs due to an admission or change in profit sharing ratio, so long as all the existing partners prior to change in constitution continue to be partners even after the change, then, the restrictive stipulation

would not apply.

When dissolution of a firm occurs, the carry forward losses lapse and even if the firm's business was succeeded to by another firm, the earlier losses could not be carried forward. In each case, the terms of the partnership constitution should be examined to ensure continuance of the entity. As non-corporate entities have these specific limitation regarding the carried forward losses, it may be necessary that the partnership deed is drafted with such precautions that when any of the instances of dissolution contemplated under law happens the firm be protected from being dissolved, so that the losses if any could be carried forward and set off subject to section 78 (1).

B. Carry forward and set off pursuant to succession

Section 78(2) provides for carry forward and set off of losses in the case of succession in such capacity by any person. There are situations in which a non-corporate entity's business is succeeded by any other person. The exception to this rule applies when the business run by any person is succeeded by inheritance and the carry forward losses are allowed.

It is not necessary that the successors by inheritance should continue the business as sole proprietor only and they may form themselves into a firm or a BOI and still get the benefit of carry forward and set off of losses. This proposition was upheld by the Apex court in the case of CIT v. Madhukant M. Mehta [2001] 247 ITR 805.

C. Succession of a firm or a proprietary concern by a company

The Income Tax Act, 1961, as it stands today considers the concept of corporatisation and there are various provisions which encourage such a scheme of corporatisation. One such provision is Section 72A(6), which provides for the carried forward losses and

unabsorbed depreciation of a firm or a proprietary concern be carried forward and set off by the succeeding company if conditions stipulated are satisfied. Prior to the introduction of the said provisions in the year 1999, the carry forwards of losses where there has been a conversion of a firm into a company was not allowed to be set off. (Amin Machinery Pvt Ltd vs DCIT 298 ITR (AT) 140)

The conditions that are required to be satisfied are laid down in clauses (xiii) of section 47 which applies to succession of firm by a company are as follows:

- (a) *all the assets and liabilities of the firm [or of the association of persons or body of individuals] relating to the business immediately before the succession become the assets and liabilities of the company;*
- (b) *all the partners of the firm immediately before the succession become the shareholders of the company in the same proportion in which their capital accounts stood in the books of the firm on*

the date of the succession;

- (c) *the partners of the firm do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company; and*
- (d) *the aggregate of the shareholding in the company of the partners of the firm is not less than fifty per cent of the total voting power in the company and their shareholding continues to be as such for a period of five years from the date of the succession;*

Similarly for a proprietary concern to get converted in a company few conditions are required to be satisfied as required under section 47(xiv) which are as follows:

- (a) *all the assets and liabilities of the sole proprietary concern relating to the business immediately before the succession become the assets and liabilities of the company;*
- (b) *the shareholding of the sole proprietor in the company is not*

less than fifty per cent of the total voting power in the company and his shareholding continues to remain as such for a period of five years from the date of the succession; and

- (c) *the sole proprietor does not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company;*

If any of these conditions stipulated in section 47(xiii) or (xiv) are not fulfilled the set off of losses or depreciation made in any previous year in the hands of the successor company, the same shall be treated as an income in the hands of the company and is chargeable to tax in the year in which such conditions are not fulfilled.

It must be observed that there is a fundamental difference between the provisions of section 78(1) and that of Section 72 A (6). In the case of latter, neither the carried forward losses nor the unabsorbed depreciation can be carried forward for set off, when the conditions mentioned therein are not fulfilled. Whereas in the case of section 78(1), only the carried forward losses cannot be set off and not the unabsorbed depreciation. This difference can be attributed to the fact that in the case of Section 72A(6) there is conversion of a firm or proprietary concern to a company which involves incidental transfer, which does not exist in a change in constitution as mentioned in section 78. Thus even where there is a change in constitution the unabsorbed depreciation in totality can continue to be carried forward and absorbed in the later years.

D. Succession of private or unlisted public company by a limited liability partnership

With the recent amendments to the Income tax act 1961, the definition of firm also includes Limited liability partnership and further amendments were made to the act at suitable places. Amendments were made to section 72A by bringing in sub section 6A which provides that losses sustained by the private or unlisted public company can be carried forward and set off by the succeeding LLP provided the conditions mentioned in section 47 (xiib) are satisfied.

The conditions mentioned in the said section are as follows:

GRIEVANCE REDRESSAL

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.

THE MONTH THAT WAS (JUNE 2012)

2 nd	CPE Seminar on Income Tax Act
8 th	Regional CPE Seminar at Ernakulam
8 th & 9 th	2 nd ICAI All Region Conference at Baroda
14 th & 15 th	CPE Hands on Practical Workshop on Basics in MS Excel for CAs at Chennai
16 th	CPE Seminar on Internal Audit
16 th	CPE Seminar on FEMA at Kakinada
16 th	Half a Day CPE Seminar at Udipi
22 nd & 23 rd	CPE Workshop on Direct & Indirect Taxes
30 th	CPE Seminar on Practical Issues and Challenges in Corporate Laws
30 th & 1 st July	Blood Donation Camp
6 th , 8 th , 13 th , 20 th , 22 nd & 27 th	CPE Study Circle Meetings & Teleconferences

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

- (a) all the assets and liabilities of the company immediately before the conversion become the assets and liabilities of the limited liability partnership;
- (b) all the shareholders of the company immediately before the conversion become the partners of the limited liability partnership and their capital contribution and profit sharing ratio in the limited liability partnership are in the same proportion as their shareholding in the company on the date of conversion;
- (c) the shareholders of the company do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of share in profit and capital contribution in the limited liability partnership;
- (d) the aggregate of the profit sharing ratio of the shareholders of the company in the limited liability partnership shall not be less than fifty per cent at any time during the period of five years from the date of conversion;
- (e) the total sales, turnover or gross receipts in the business of the company in any of the three previous years preceding the previous year in which the conversion takes place does not exceed sixty lakh rupees; and
- (f) no amount is paid, either directly or indirectly, to any partner out of balance of accumulated profit standing in the accounts of the company on the date of conversion for a period of three years from the date of conversion

E. Carry forward and set off of losses and unabsorbed depreciation in business reorganisation of co-operative banks.

Same as section 72A(6) provides for carry forward and set off of losses by the company after the case of amalgamation of firm with a company, section 72AB(1) provides that where a co-operative bank has been bank has been succeeded by another co-operative bank, the accumulated losses and unabsorbed depreciation losses of the predecessor co-operative bank can be carried forwards and set off by the successor co-operative bank. However the same can be done only if the conditions stipulated therein are satisfied. The conditions are as follows:

- (a) the predecessor co-operative bank—
 - (i) has been engaged in the business of banking for three or more years; and
 - (ii) has held at least three-fourths of the book value of fixed assets as on the date of the business reorganisation, continuously for two years prior to the date of business reorganisation;
- (b) the successor co-operative bank—
 - (i) holds at least three-fourths of the book value of fixed assets of the predecessor co-operative bank acquired through business reorganisation, continuously for a minimum period of five years immediately succeeding the date of business reorganisation;
 - (ii) continues the business of the predecessor co-operative bank for a minimum period of five years from the date of business reorganisation; and
 - (iii) fulfils such other conditions as may be prescribed to ensure the revival of the business of the predecessor co-operative bank or to ensure that the business reorganisation is for genuine business purpose.

The above provisions apply where than has been an amalgamation or merger, similar provisions for carry forward and set off of losses and unabsorbed depreciation are

ANNOUNCEMENT TO MEMBERS

POSTPONEMENT OF DATE OF HOLDING THE 61ST ANNUAL GENERAL MEETING

In supersession of the announcement published in the SIRC Newsletter of May 2012 issue, Page No. 17, it is hereby informed to the members that the proposed 61st Annual General Meeting scheduled to be held in the month of July 2012 has been postponed.

Fresh date of the Annual General Meeting, Notice and the Agenda will be notified to the members in due course.

CA. P.V. Rajarajeswaran
Secretary, SIRC

also available for a demerger, where the resulting co-operative bank can carry forward and set off the losses and unabsorbed depreciation of the demerged co-operative bank provided the conditions stipulated in section 72AB(3) are satisfied. The conditions are as follows:

- (i) the accumulated loss or unabsorbed depreciation of the demerged co-operative bank if the whole of the amount of such loss or unabsorbed depreciation is directly relatable to the undertakings transferred to the resulting co-operative bank; or
- (ii) the amount which bears the same proportion to the accumulated loss or unabsorbed depreciation of the demerged co-operative bank as the assets of the undertaking transferred to the resulting co-operative bank bears to the assets of the demerged co-operative bank if such accumulated loss or unabsorbed depreciation is not directly relatable to the undertakings transferred to the resulting co-operative bank.

For the purpose of set off and carried forward of losses the period commencing from the beginning of the previous year and ending with the date of business reorganisation, and the period commencing from the date of business reorganisation and ending with the last day of the previous year shall be considered as two separate previous years

The section further provides that where the conditions stipulated therein are not satisfied, the set off of accumulated losses or unabsorbed depreciation shall be treated as an income chargeable to tax in the year in which such conditions are not satisfied. ■

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Web: www.rksolution.co.in

C.MANIGANDAN-9789495540

M.AKILA-9789495541

S.RAJESH-9791037239

Branch Offices:

Hyderabad : Mr. Aruljothi 09003026840

Bangalore: Mrs. ARUNA 09886378871



CA. N. Santhanakrishnan
Salem
santhanam44@yahoo.com

Recent Judicial Pronouncements on Taxation of Non Corporate Entities

(1) *Reconstruction of tenanted Building – Revenue or Capital – (343 ITR 309 Bom following 233 ITR 468 SC)*

Assessee, a tenant, contributed ₹ 1.5 crores for carrying out a work of repair and restoration of the structure of a building, occupied by him. Consequently, it was agreed that there would be no increase in rent.

According to assessee, no capital asset was acquired in law or facts; only a commercial advantage was secured. There was no transfer of any immovable. The right held was only as a tenant. The building belonged to some one else; character of occupation was not altered. Expenditure cannot therefore be regarded as being of capital nature.

The Department was of the view that it was a case of deemed ownership. Benefit of enduring nature was got. There was an entitlement to possess the premises at same rent, and there was no reason to pay a huge amount, otherwise.

Explanation 1 to Section 32 brings out a deeming fiction, by which expenditure of a capital nature, can form basis of a claim for depreciation as if the structure or work is a building owned by the assessee. But for this explanation, assessee would not be entitled to allowance of depreciation, even if the expenditure incurred was of capital nature. However, in order that this Explanation is attracted, it is necessary that a capital expenditure is incurred. Unless the expenditure is of a capital nature, there would no occasion to apply the deeming provision, that is carved out by Explanation 1. Occupation by assessee continued

to be in the character of tenancy, when expenditure was incurred.

The High Court therefore held the issue in favour of assessee.

(2) *TDS on Trade Interest? – 67 DTR 113 HP, 65 DTR 342 Ahd*

(i) When an amount is paid to compensate delay in supply of goods, or say, in delivering constructed apartments, it is not an interest payment, but only damages, to compensate the buyer/allottee. It may be true that the compensation has been calculated in terms of interest, but, this is because the parties by mutual consent, agreed to find out a suitable and convenient system of calculating the damages, which would be uniform for all recipients. It is not ‘interest’ under section 2(28A); Sections 2(28A) and 36(1)(iii) speak of amount of interest paid in respect of capital borrowed for the purpose of business or profession. Trade interest is thus allowable under section 37, only as a general deduction. Tax under section 194 A is not required to be deducted at source.

(ii) **40(a)(ia) on expenditure “paid”**

Section 40(a)(ia) provides that notwithstanding anything to the contrary in Sections 30 to 38, certain items of expenditure payable, will not be deducted, if income-tax deductible at source has not been deducted or after deduction, has not been paid, on or before the due date specified in Section 139(1). The expenditure shall be allowed in a subsequent

previous year, in which such tax is paid. The crucial word “payable” has been a matter of controversy.

The department’s view is that the envisaged disallowance applies even to expenditure actually paid and not only to those “payable”. The reason advanced for holding such a view is that one year’s outstanding expense is not allowable in a succeeding year, unless such deduction is provided specifically in the Act.

This argument is against the contents of the section. A precedent for an identical deduction is clearly provided in Section 43 B. Finance (No.2) Bill, 2004, which introduced the provision proposed the words “amount credited or paid”. These were dropped and replaced with the word “payable”. This is thus a conscious change, expressing legislative intent by the substitution. When a literal, ordinary, natural, popular, grammatical reading does not lead to an absurd result, the provision is to be understood as it is. Nothing is to be added, subtracted or substituted. No violence is to be done while reading a clear, plain and unambiguous provision of a statute. Certain sub sections require deduction of income-tax at source at the time of payment or credit, whichever is earlier; others, require deduction at the time of payment. As language used is different in different sections, each and every word is appropriate in the sections

and has its own meaning. No word can be treated as a surplusage. "Paid" includes "payable". "Payable" does not include "paid".

The department's contention was negated by a Special Bench of Income Tax Appellate Tribunal in the case of *Merilyn Shipping and Transports vs. Additional Commissioner of Income-tax (70 DTR 81 = 146 TTJ 1)* – Visag Bench.

(iii) TDS on Chit Kasar (131 TTJ 354 = 41 DTR 141 Visag)

Transactions between subscribers and a chit company are not loan transactions. What is distributed to members is dividend, being their due share out of discount foregone by the successful bidder or the prized subscriber. Such surplus or deficit is only a cumulative effect of the discount shared by members each month. Such dividend payments are not interest payments under section 194 A.

(3) Amount disallowed under section 40(a)(ia) for 80 IB computation (50 DTR 299 Mum relying on a few decisions of Supreme Court)

When a person has not deducted tax at source from a payment, though required, or, has failed to deposit the tax within the prescribed time-limit, he cannot claim deduction in respect of the payment, while computing the income derived from eligible Business. When the payment is disallowed and added back to the profits, it swells the income. The resultant figure of profit, enhanced by the amount of disallowance would be eligible for deduction under section 80 IB. Profit is to be computed in accordance with the computation provisions of Sections 30 to 43 D as mandated by Section 29. 80 AB advisedly uses the expression "the amount of income of that nature, as computed in accordance with the provisions of the Act". There is no authority to ignore Section 40 a(ia). One cannot be bogged down by the theory that disallowed expenditure cannot be considered as profits derived from the project.

(4) Investment of Short Term Capital Gain for exemption (334 ITR 138 Del, 328 ITR 69 Mds, 283 ITR 445 Mds)

Effect of Section 50(2) is that, where the consideration received on transfer of all the depreciable assets in a block, exceeds the WDV of the block, then, the excess is taxable as deemed Short Term Capital Gain. The fiction so created is confined to the computation of capital gains only and cannot be extended beyond that. Benefit of Section 54 E will be available, irrespective of the fact that the computation of capital gain is done either under sections 48, 49, or 50. Nothing in Section 50 suggests that the fiction created by it is applicable not only to Sections 48 and 49 but also to other provisions. On the contrary, the section makes it clear that the deeming fiction is restricted only to the mode of computation, (ie) Sections 48 and 49. Capital Gain is deemed as short term as capital gain. But, such asset is not deemed as short term capital asset. Section 50 applies only when depreciable assets alone are sold. Even if the Building, a depreciable asset, is deemed to give rise to Short Term Capital Gain, investment in 54 EC Bonds can be made for total sale amount of Site and superstructure.

(5) Net Profit or Gross Profit on excess sales (327 ITR 312 Guj):

When physical stock is found short of the stock according to Books of account, the department can infer unaccounted sales. Addition to income can however he made only to the extent of estimated net profit. Cost of sales is to be allowed though not proved. Judicial propriety requires that purchases and expenses should be accepted as deductible against sales without burdening the assessee, with onus of bringing in evidence for having incurred them. Net Profit and Not Gross Profit is therefore to be adopted.

(6) (i) Is repayment of Borrowal, an application by a Trust (227 CTR 283 Mds)

A capital asset acquired with borrowed fund, under no circumstances, could be regarded to be outside the scope of the objects of a Trust. There is therefore no reason, as to why the borrowal,

when repaid, could not be treated as an application of income. A trust has to acquire capital assets to augment its income permanently. If rising of the loan does not stand in the way of its charitable activities, the repayment made thereafter must be treated as application of its income. By repaying the loan, the Trust wiped out its liability; the income earned from the property would be available for being utilized for charitable purposes.

(ii) Applicability of 40(a) (ia) to Trusts (74 TTJ 620 Mum)

While a Charitable Trust is granted exemption under the Act, its income is not chargeable to tax under sections 26 to 44 AD, as "Business Income". What is deducted from gross receipts in a Trust's case is application of income towards its objects and not expenditure. Provisions of Section 40(a) (ia) are therefore not applicable to a Trust.

(7) Can Section 148 apply to issues, subsequently decided by Supreme Court or retrospectively amended, though dropped earlier under section 154? - (84 TTJ 342 Chennai, 305 ITR 117 Mds, 66 DTR 233 Guj)

Very fact that a matter reaches Supreme Court shows that it is not an apparent one. When Assessing Officer attempted to rectify an error under section 154, then it means the details required by computing taxable income on that issue were truly and fully disclosed during the earlier proceedings.

Even if Supreme Court interprets a provision, only if the Assessing Officer is able to establish that there was a failure on the part of the assessee, due to which, income escaped assessment, there can be a reopening after 4 years. Mere escapement of income not sufficient. Fresh undisclosed facts should tend to expose untruthfulness.

An amendment to Section 80 IB(10) was made by Finance Act, 2009 with effect from 01-04-2001. Assessment was reopened consequently for the preceding years. It was held that there was no failure on the part of the assessee to disclose fully and truly all that was required to be done. Reopening made after 4 years from end of relevant assessment year was held unsustainable. ■



CA. V.G. Aravindanayagi
Chennai
vgaravinda@deloitte.com



CA. G. Senthil Kumar
Chennai
gsenthil@deloitte.com

Exemption under Section 54EC - Differences in interpretation

Introduction

One of the major tax incentives available to an assessee on capital gain arising from transfer of long term capital asset is exemption under section 54EC of the Income Tax Act, 1961 ("Act"). An assessee is entitled to exemption under section 54EC, if the amount of capital gain is invested in long-term specified asset¹ within a period of six months from the date of transfer. However, the proviso to subsection 1 of section 54EC² restricts the investment made on or after 1st day of April 2007 in the specified bonds by an assessee during any financial year to Rs.50 lakhs.

A question which frequently arises is whether "an assessee is entitled to exemption of Rs.50 lakhs or Rs.100 lakhs where six months period of eligible investment involves two financial years". This can be explained by the following hypothetical example where an assessee sells a long term capital asset during the financial year 2011-12 for Rs.520 lakhs with indexed cost of acquisition being Rs.150 lakhs.

Particulars	Situation 1	Situation 2
	Transferred after 30 th September 2011 Amount in Rs. Lakhs	Transferred after 30 th September 2011 Amount in Rs. Lakhs
Sale consideration	520	520
Less : Expenses incurred for transfer	20	20
Net sale consideration	500	500
Less: Indexed cost of acquisition	150	150
Gross Capital Gain	350	350
Less : Exemption u/s 54EC	50	100
Net Capital Gain	300	250

This article analyses legality of the above two situations and the related rulings where diagonally opposite views were expressed.

A. ShriAspiGinwalavs ACIT, Baroda³

The Income Tax Appellate Tribunal (ITAT), Ahmedabad has analysed the above issue where the six months period foreligible investment involves two financial years (if transfer is made after 30th September), whether an assessee is entitled to exemption of Rs.50 lakhs or Rs.100 lakhs, as Rs.50 lakhs each for each of the financial years.

Facts of the case

The assessee, AspiGinwala and his brother RustomGinwala sold a house property (both of them entitled for equal share) on 22nd October 2007 for Rs.6.21 crore. The assessee made investment of Rs.50 lakhs on 31st December 2007 in REC bonds

and Rs.50 lakhs on 26th May 2008 in NHAI⁴ and claimed exemption of Rs.100 lakhs, Rs.50 Lakhs in each financial year. Accordingly, the assessee offered the long term capital gain on sale of house property to tax, after claiming an exemption of Rs.100 lakhs under section 54EC of the Act.

However, the assessing officer disallowed the exemption of Rs.50 lakhs claimed in the second financial year. On appeal, the Commissioner of Income Tax [Appeals] (CIT (A)) held that the intention of the legislature was that the benefit under section 54EC is to be restricted to Rs.50 lakhs for an assessee per assessment year. The CIT(A), after analyzing the various apex court rulings on the issue of interpretation of "investment during any financial year" relied on the important observations of the Supreme Court in IPCA Lab⁵ and concluded that such an interpretation is not acceptable, by holding as under:

"even though a liberal interpretation has to be given to such a provision, the interpretation has to be as per the wording of the section. If the wording of the section is clear then benefits, which are not available under the section, cannot be conferred by ignoring or misinterpreting words in the section."

Accordingly, the CIT (A) held that the assessee was not entitled to additional benefit of second investment of Rs.50 lakhs in the second financial year, as it is against the spirit of the proviso of section 54EC(1) of the Act. Thereby, the CIT(A) confirmed the denial of additional exemption of Rs.50 lakhs to the assessee.

Observations of the ITAT

However, the assessee appealed against the order of the CIT(A) before the ITAT.

¹ Means any bond redeemable after three years and issued by the National Highways Authority of India or by the Rural Electrification Corporation.

² Inserted by the Finance Act, 2007, w.e.f. 01.04.2007

³ 2012- w/TIOL-204-ITAT-AHM

⁴ REC bonds and NHAI bonds were not available for subscription during the period 1st April 2008 to 26th May 2008

⁵ 266 ITR 521

The ITAT analysed the proviso of section 54EC(1) of the Act and observed that where an assessee transfers his capital asset after 30th September of a financial year, he gets an opportunity to make an investment of Rs.50 lakhs each in two different financial years. Accordingly, it held that the assessee is eligible to claim exemption up to Rs.100 lakhs under section 54EC of the Act, by relying on the following observations of the Supreme Court in the case of IPCA Lab (cited supra):

“even though a liberal interpretation has to be given to such a provision, the interpretation has to be as per the wording of the section. If the wording of the section is clear, then benefits, which are not available under the section, cannot be conferred by ignoring or misinterpreting words in the section.”

The proviso to section 54EC(1) of the Act allows any assessee to invest up to Rs.50 Lakhs in any financial year. Since the wording of the proviso is clear and unambiguous and entitles an assessee to claim the benefit of Rs.50 Lakhs in a financial year. The ITAT held that where the six months period for eligible investment involves two financial years, then an assessee is entitled to get exemption of Rs. 50 lakhs in each financial year totaling to Rs.100 lakhs in both the financial years. The ITAT accordingly, ruled the appeal in favour of the assessee.

B. ACIT vs. Shri Raj Kumar Jain & Sons (HUF)⁶

However, it is interesting to note that a contrary ruling has been pronounced by the ITAT, Jaipur on the same issue in the above case. In this case, the ITAT based on facts of the case, held that an assessee is entitled for exemption under section 54EC of Rs.50 lakhs only and not entitled for exemption of Rs. 100 lakhs by investing Rs.50 lakhs each in two financial years. The analysis of the above ruling is discussed as under:

Facts of the case

In the above case, Shri Raj Kumar Jain & Sons (“the assessee”) earned long term capital gain of Rs.114 lakhs from sale of property on 13th December 2007. In this case, the six month period for investment fell in two different financial years. The assessee invested Rs.100 lakhs in the specified bonds, Rs.50 lakhs on 31st March 2008 (during the FY 2007-08) and another Rs.50 lakhs on 10th

June 2008 (during the FY 2008-09). The assessee claimed an exemption of Rs.100 lakhs in the Return of income for the FY 2007-08, as the investments were made within 6 months from the date of transfer of asset. The assessing officer has disallowed the claim of exemption to the tune of Rs. 50 lakhs on the ground that the investment in the specified bonds has exceeded the investment limit prescribed by proviso to section 54EC(1) of the Act. However, assessee’s claim was upheld by CIT (A). On department’s appeal, the ITAT upheld the contention put forth by the department that interpretation of a proviso should not lead to discrimination against various assesseees.

Observations of the ITAT

The ITAT has also made a reference to the memorandum to the Finance Bill, 2007 wherein it was stated as under:

“this amendment will take effect from 1st April 2007

it is also proposed to amend the said section so as to provide for a ceiling on investment by an assessee in such long term specified assets. Investments in such specified assets to avail exemption under 54EC on or after 1st day of April, 2007 will not exceed fifty lakhs rupees in a financial year”.

It also noted that “the Tribunal under law has no authority to decide the ultra virus provisions”. However, while construing the provision, one can definitely look into the facts as to whether the interpretation placed by the Tribunal is fairly applicable. In case, the transfer of assets has taken place from 1st October to 31st March the assessee will be able to invest Rs. 50 lakhs in a financial year in which the transfer has taken place and Rs. 50 lakhs in subsequent financial year. However, the assessee’s who have earned the capital gain on transfer of assets from 1st April to 30th September will be able to claim exemption of Rs. 50 lakhs under section 54EC and it is not the case where two interpretations of sections 54EC are possible.

The ITAT also observed that *“investment within six months is the investment for that financial year in which transfer has taken place”.* Hence, subsequent investment is to be considered as part of the investment of financial year in which transfer has taken place. ITAT accordingly held that the assessee was entitled to invest and claim only up to Rs.50 lakhs as exemption under section 54EC of the Act and ruled in favour of the department.

Contradictory rulings on the same issue:

By relying on the ruling of the ITAT Ahmedabad in *Aspi Ginwala*, an assessee may try to make a claim of Rs.100 lakhs by investing Rs.50 lakhs each in two different financial years by interpreting the word “any financial year” liberally. It may also be noted that in the above ruling, the appellate authorities relied on the Supreme Court ruling of IPCA Lab (cited supra) and drawn conclusions differently. However, the ruling of the ITAT Jaipur in *Raj Kumar Jain & Sons* restricted the claim of exemption to Rs.50 lakhs for investment made in specified bonds even though the assessee has invested Rs.50 lakhs each in two different financial years within six months from the date of transfer and made an important observation that two interpretations of section 54EC of the Act are not possible. Hence, an assessee may consider the view which is more favourable to him, where there are more than one view expressed by courts based on the ruling of the Supreme Court in *CIT West Bengal - I vs. Vegetable Products Ltd⁷* wherein it has been held that *“If the language is plain, the fact that the consequence of giving effect to it may lead to some absurd result is not a factor to be taken into account in interpreting a provision. It is for the legislature to step in and remove the absurdity”.*

Conclusion:

The above rulings indicate that an assessee can get the benefits of tax laws, if it is interpreted in a liberal manner. *“If two reasonable constructions of a taxing provision are possible, that construction which favours the assessee must be adopted. This is a well-accepted rule of construction recognized by Supreme Court in several of its decisions.”*

Since contradictory rulings are pronounced by different Tribunals, the above issue is likely to be settled only at a higher forum. Meanwhile, the litigation is likely to continue unless the Government issues clarifications. ■

7 88 ITR 192

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Incorporation of Companies by NRIs/Foreign Nationals - Issues & Solutions

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

The Government has been taking several initiatives to augment Foreign Direct Investment by introducing many measures of liberalization under the Foreign Exchange Management Act 1999. Reserve Bank of India has been coming out with several notifications from time to time whereby the investment through Automatic Route has been substantially expanded with few restricted sectors. Recently, the World Bank has also carried out a study to determine the ease of establishing new enterprises in developing countries. This study has placed India at a lower place which has been very discouraging to the Government. In this backdrop, the Ministry of Corporate Affairs has come out with several measures to speed up incorporation of companies with specific reference to Foreign Direct Investment. Some of such measures are discussed in the following paragraphs.

Under MCA 21, Ministry has mandated DIN as a pre-requisite for incorporation of a company. This is justified on the ground that the identification of promoter/directors of the company should be established beyond doubt which will facilitate effective regulation in the long term. The process of obtaining DIN has been substantially simplified and the same is made available instantly if the required papers are submitted along with the application which are certified by a practicing Company Secretary/Chartered Accountant/ Cost Accountant. In the same way, the process of obtaining name for a company has been substantially simplified. The name can be availed instantly without loss of time if the name application is certified by a practicing Company Secretary, Chartered Accountant / Cost Accountant.

Despite several measures initiated by the Ministry, the process of incorporation of companies does not get completed within the time stipulated under the Citizen's Charter (24 hours) on account of defective documents filed by companies which are certified by professionals. Even the name applications are not prepared strictly as per the guidelines prescribed in the MCA circular. In this article, I would like to focus on common defects noticed by the Office of ROC in the incorporation documents submitted by applicants who are either foreign nationals / NRI/ foreign companies.

It is necessary to bear in mind the provisions of the Foreign Exchange Management Act 1999 read with the notifications / circulars issued by Reserve Bank of India

from time to time while preparing the incorporation documents wherein the applicants are foreign nationals/NRI. Under these provisions, a company promoted by a foreign national/ NRI / foreign company is prohibited from undertaking certain activities such as real estate business, retail trading business, business of defence production, atomic energy, tobacco, chit funds, certain agricultural activities, etc. Therefore, while drafting the object clause of Memorandum of Association of such a company, none of the prohibited activities should be included in the object clause. The process of execution of such documents has also been prescribed in the notification issued by the Ministry.

- Firstly, the documents prepared covering all aspects should be sent abroad for execution in the country where the promoters are residing. The Memorandum should be drafted with due care as mentioned above. The Articles should be drawn up as per the provisions of the Companies Act as well as keeping in view the legal position under the Foreign Exchange Management Act 1999 read with RBI Directions.
- Secondly, the executed documents should be countersigned by the Indian Consulate or the Indian Embassy in that country or alternately, such documents can be attested as per apostle procedure prescribed in MCA circular. The subscribers should furnish subscription details by writing in their own hand.
- Thirdly, the documents so executed should be received in India and the same should be stamped within three months as per the Tamil Nadu Stamp Rules. The practice of sending stamp papers abroad for preparation of documents or preparing documents on stamp paper for sending abroad is not an acceptable practice. In case the Foreign subscriber is a legal entity, such subscriber can authorize an Indian to sign the Memorandum, Articles etc. on its behalf by submitting a duly executed authorization document including a Board Resolution passed by the Directors of that foreign company. In such an event, the documents can be signed by the local individual. However, the document authorizing the local resident in India should be duly

countersigned by the Indian Consulate or the Indian Embassy or apostle procedure should be followed as per MCA Circular

- Lastly, the documents so received perfect in all aspects should be properly scanned and uploaded along with e-form No.1.

Thus the process of incorporation of a company within 24 hours as per the Citizen's Charter can be completed/ achieved if all the above documents are prepared properly as per the procedure explained above. Professionals must ensure that there is no loss of time suffered on account of carrying out corrections in such documents through a protracted process of resubmissions in the MCA system. It should be remembered that no correction in the document can be made without the consent of the foreign subscriber. ■

WORK DISPOSAL POSITION

The position of disposal of various matters relating to Members and Students of Regional Office, Chennai as on 30.06.2012 is as under:

Particulars	Disposal of records received upto
Members	
Enrolment of Members	25.06.2012
Fellow Admission	26.06.2012
Grant of COP	26.06.2012
Restoration of Name - Recommended upto	28.06.2012
Restoration of Name - Cleared upto	31.05.2012
Constitution of Firms	22.06.2012
Reconstitution of Firms	26.06.2012
Paid Assistant	22.06.2012
Change of Address - Members	26.06.2012
Change of Address - Firms	28.06.2012
Students	
Registration of Articles	27.05.2012
Re-registration of Articles	13.06.2012
Industrial Training	13.06.2012
Termination of Articles	13.06.2012
Completion of Articles	15.06.2012
Permission to pursue Other Courses	13.06.2012
Change of Address - Students	25.06.2012
Despatch of Materials - CPT	26.06.2012
Despatch of Materials - IPCC	24.06.2012
Despatch of Materials - ATC	24.06.2012
Despatch of Materials - Final	15.06.2012
Despatch of Materials - ITT (By Post)	24.06.2012

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

Updates on Direct Taxes

1. **Provision for bad debts and write off of rural advances vis a vis urban advances:**

The Supreme Court in *Catholic Syrian Bank Ltd v. CIT* (2012) 343 ITR 270 (SC) was emphatic to hold that **in the case of rural advances** the write off of debts must be adjusted against the provision maintained and only when the write off exceeded the provision, they are eligible for deduction. **In respect of non-rural advances** the write off of (bad) debts would be eligible for deduction regardless of the provision maintained under section 36(1)(viii) since the provision so maintained is meant for rural advances. *The court was categorical to hold that non-rural advances when written off such write offs are eligible for deduction since they are covered by section 36(1)(vii). The apex court reversed the Full Bench decision of the Kerala High Court reported in 326 ITR 174. It also affirmed the earlier Division Bench decision of the Kerala High Court in South Indian Bank Ltd v. CIT (2003) 262 ITR 579 (Ker).*

2. **Disallowance under section 40(a)(ia) will not be applicable for computing income of charitable trust / institution:**

In *Mahatma Gandhi Seva Mandir v. Dy. CIT (Exemption)* (2012) 21 taxmann.com 321 (Mum-Trib) the assessee a registered charitable institution engaged in charitable activities did not deduct tax on certain payments which were in the nature of professional fees. In the assessment, the expenditures paid without tax deduction at source was disallowed. The tribunal observed that for computing the total income of a charitable trust in terms of sections 11 to 13 which are covered by Part III of the Income-tax Act, 1961 has the caption 'income which does not form part of the total income'. Section 11(1) says that 'subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of income'. Section 13 provides the exception to section 11. The disallowance contemplated

was with regard to section 40 which is applicable in respect of income referred to in sections 28 and 29. *Section 40 will apply only when deductions under sections 30 to 38 are claimed while computing the income chargeable under the head 'profits and gains of business or profession' under section 28. The tribunal accordingly held that the disallowance contemplated under section 40(a)(ia) will not apply to charitable trust or institution as the income computed therein is with reference to section 11 and not with reference to section 28.*

3. **Deduction under section 54EC of Rs.50 lakhs to be allowed to each minor child:**

In *Dy. CIT v. Rajeev Goyal* (2012) 22 taxmann.com 34 (Kolkata-Trib) the assessee claimed deduction under section 54EC for each minor child towards the deposit made in specified capital gains bond and only the resultant total income was subjected to clubbing, in terms of section 64(1A). The claim of the assessee was disallowed in assessment but the relief was given by the Commissioner (Appeals). The tribunal held that the cap for deduction in section 54EC is applicable for each 'person' and minor is also an assessable entity even though his income is clubbed under section 64 in the hands of his parents. *Each minor is to be considered separate from his parent and there is no legal bar in separately allotting bonds upto Rs.50 lakhs to each minor (person) nor there is anything mentioned for limiting the deduction to an assessee. The tribunal accordingly held that the income of each minor child is to be computed allowing deduction under section 54EC (upto the maximum limit of Rs.50 lakhs) and only the resultant total income is liable for clubbing.*

4. **Liability outstanding for many years not assessable under section 41(1):**

In *CIT v. Shri Vardhman Overseas Ltd* (2012) 343 ITR 408 (Del) the assessee disclosed about ten sundry creditors for whom the balances were outstanding for four years. The whereabouts of the creditors

were not known to the assessee. The Assessing Officer treated all the unconfirmed creditors as income under section 68. The court held that the assessee had not unilaterally written back its liabilities to profit and loss account. The balance sheet of the assessee disclosed the liability as subsisting on the closing date. *The fact that the liability has been disclosed in the balance sheet amounts to acknowledgment of debt in favour of the creditors for the purposes of section 18 of the Limitation Act, 1963. The court accordingly held that outstanding amounts in spite of being not confirmed could not be taxed under section 41(1). The other contention of the Revenue for applying section 28(iv) was also negated by the court.*

5. **Share application money is not a deposit to fall within the mischief of section 269SS:**

In *CIT v. I.P.India P Ltd* (2012) 343 ITR 353 (Del) the assessee received share application money from three private limited companies which the Assessing Officer treated as acceptance of loan / deposit in contravention of section 269SS of the Act. The Assessing Officer referred to a precedent in *Bhalotia Engineering Works P Ltd v. CIT* (2005) 275 ITR 399 (Jharkhand) to treat the share application money received in cash as contravention of the provisions of section 269SS. However, in *CIT v. Rugmini Ram Ragav Spinners P Ltd* (2008) 304 ITR 417 (Mad) it was held that receipt of money in cash towards allotment of shares was neither a loan nor a deposit for the purpose of levy of penalty under section 271D. *The tribunal found divergence of judicial opinion and relied on Supreme Court decision in the case of CIT v. Vegetable Products Ltd* (1973) 88 ITR 192 (SC) to hold that where the provision is ambiguous or gives rise to more than one meaning, the meaning which favours the assessee is to be adopted. The court confirmed the reasoning of the tribunal and invocation of section 273B, as justified in this case. ■

CA. J. Murali
Chennai

jmuraliandco@gmail.com

Updates on Indirect Taxes

1. *Madras High Court [2012] 51 VST 130 "Cadbury India Limited" Vs "State of Tamil Nadu"*

Held whether "Halls Mentholypus" a confectionary items or Aryurvedic medicine. The Commissioner of Commercial Taxes clarified it as medicine and the Madras High Court observed that the assessment need not be reopened and revised. Halls is to be assessed as Aryurvedic medicine.

2. *Karnataka High Court W.A. Nos. 530-547/2011 and W.A. No.654/2011 "M/s. Bharti Airtel Ltd." Vs "State of Karnataka"*

The light energy which is used as a carrier in telecommunication service for rendering service is covered by service tax legislation. There is no sale of goods as held by Assessing Authorities.

3. *AIT-2012-07-CESTAT - M/s. Bazter (India) Pvt. Ltd. Vs. CCE & C, Aurangabad*

The payment of duty before or after show cause notice cannot alter liability to penalty under Section 11AC of the Central Excise Act.

4. *AIT-2012-46-CESTAT - SGS India Pvt. Ltd. Vs. Commissioner of Service Tax, Mumbai*

Testing analysis in the case of expert services will not alter the status of exempt. No Service Tax was leviable.

5. *AIT-2012-94-CESTAT - DLF Ltd. Vs. Commissioner of Service Tax, Delhi*

The DLF Ltd. entered into an agreement with BCCI-IPL dated 13.02.2008 and for title sponsor agreement wherein the DLF Ltd. was appointed as exclusive title sponsor of the League for the Cricket IPL 20-20 matches at a consideration of Rs. 40 crores. The demand against the DLF Ltd. stands confirmed on the ground that the activity of sponsoring the IPL is liable to service tax under the category of "sponsorship service" in terms of section 65 (99a) of Finance Act, 1994 read with sub-clause (zzzn) of section 65(105) of chapter 4 of Finance Act, 1994.

6. *AIT-2012-112-CESTAT - M/s. Hemadri Cement Ltd. (HCL) Vs. CCE & C, Guntur - Eligible Input credit under excise*

The respondent is eligible for input duty credit on the structural materials used for reconditioning of existing capital goods. -On the second issue (whether the structural materials

used in fabrication of the capital goods which were in turn used for the manufacture of cement (final product) in the factory), the respondent's case is squarely supported by the Second Explanation to the definition of "input". Therefore the issue is held in favour of the respondent

7. *AIT-2012-113-CESTAT - M/s. Federal Mogul TPR India Ltd. Vs. CCE, Bangalore - Service tax on labour work*

(a) Manufacturer taking credit on piston rings in coil form and sending the same under Rule 4 (5) (a) for the purpose of chrome plating is in order; & (b) As the activity of chrome plating does not amount to manufacture and no excisable goods emerge, there is no question of exemption from excise duty and, therefore, levy of service tax is attracted on the said activities.

8. *AIT-2012-150-CESTAT - Bharat Petroleum Corporation Ltd. Vs. CCE, Mumbai - CENVAT Credit on Capital Goods*

Larger Bench: An assessee is eligible to avail the credit of balance 50% of the amount of duty paid on the capital goods in the subsequent financial year, without installing the same and putting it into use - The condition imposed under the relevant Cenvat Credit Rules, for taking credit of balance of 50% of amount of duty on capital goods in subsequent financial years, in case the capital goods are lying in the factory for installation and the process of erection was being carried out has to be considered as the capital goods were in possession and use for manufacture

9. *AIT-2012-167-CESTAT - M/s Intercontinental Cargo Services Vs. CC, Delhi - No appeal lies before the Tribunal against the order of Commissioner of Customs:*

In respect of rejection of an application for license under Regulation 11 of CHA, 2004. - (b) If CHA is aggrieved with such rejection of renewal, he can challenge the same before Chief Commissioner or Chief Commissioner of Customs & Excise as provided under Regulation 9(5) of the CHA Regulation.

10. *Excise Duty on By-Products: AIT-2012-172-CESTAT - Indian Potash Ltd. Vs. CCE, Allahabad*

The appellant manufacture sugar and molasses chargeable to Central excise Duty. They avail Cenvat Credit of excise duty paid on input. In course of

manufacture of sugar during crushing of sugarcane a by-product/waste-bagasse emerges. The department was of the view that since the appellant have not maintained separate account and inventory of the inputs used in or in relation to manufacture of dutiable final products-sugar and molasses and exempted final product-bagasse, in accordance with the provisions of Rule 6(3) of Cenvat Credit Rules, 2004, they would be required to pay an amount equal to 8% of the value of bagasse.

11. *Input for testing is also eligible for MODVAT credit: AIT-2012-12-SC - M/s Flex Engineering Limited Vs. CCE, U.P.*

The process of testing the customised F&S machines is inextricably connected with the manufacturing process, in as much as, until this process is carried out in terms of the afore-extracted covenant in the purchase order, the manufacturing process is not complete; the machines are not fit for sale and hence not marketable at the factory gate. Hence it was held that the manufacturing process gets completed on testing of the said machines and hence, the goods viz. the flexible plastic films used for testing the F&S machines are inputs used in relation to the manufacture of the final product and would be eligible for Modvat credit under Rule 57A of the Rules

12. *AIT-2012-159-HC-SUDHIR DEORAS Vs CCE&ST, JAMSHEDPUR*

Service Tax: The authority issuing the summon must issue summons to a witness only when the authority considers it necessary for summoning. This necessarily implies application of mind and is guided by the principles of reasonableness in the matter of summoning of witness and, therefore, as we have already observed that in the matter of summoning witnesses, there must be reasonableness and the guiding condition is that the witness is necessary for the purpose of inquiry.

13. *AIT-2012-170-HC - M/s Godson Spinners Ltd. Vs. CCE, CEC, Ludhiana.*

A manufacture manufacturing excisable goods but exempt from registration formalities under Rule 9 (1) for the reason that he is availing SSI exemption and the value of his clearances during the financial are within the full exemption limit, does not cease to be a manufacturer of excisable goods and therefore, capital goods Cenvat credit in terms of the provisions of Rule 3(1) read with Rule 4 of CCR, 2002 could not be denied to him for this reason ■

For Attention of Members & Students

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

Annual Membership Fee and Certificate of Practice Fee for the year 2012-2013 is payable on 1st April 2012. The schedule of fee is as under:

For Members	Below age of 65 years	Above age of 65 years
Associate Membership Fee	₹ 800/-	₹ 600/-
Fellow Membership Fee	₹ 2200/-	₹ 1600/-
Certificate of Practice Fee	₹ 2000/-	₹ 1500/-

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

Members can also pay fee in advance in accordance with details given in the communication already sent to the members.

Members are advised to remit the fee at the earliest. For more details visit our website www.icai.org.

OBITUARY

M.No	Name	Status	Place	Date of Death
001941	Mr. THOMAS O	FCA	KOTTAYAM	19/05/2012
004692	Mr. RAJA RAO K V	FCA	SECUNDERABAD	11/12/2011
005392	Mr. RAMASWAMY S	FCA	CUDDALORE	27/04/2012
008278	Mr. MADHUSUDHANA WALAVALKAR	FCA	DAVANGERE	15/04/2012
015400	Mr. GANDHI RAJA C	FCA	ELURU	12/04/2012
081246	Mr. RAMKUMAR S	FCA	KOCHI	05/04/2012

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

Secretary

Extension of Common Proficiency Course (CPC) registration date upto 5th Oct., 2012

In view of the closure of banks on account of half yearly closing on 29th September, 2012 followed by Sunday i.e. 30th September, 2012, the last date for registration for Common Proficiency Course (CPC) shall be 5th October, 2012 for being eligible to appear in the Common Proficiency Test (CPT) to be held in December, 2012. Accordingly, students can submit the application form for registration for CPC upto 5th October, 2012 for the December, 2012 – Common Proficiency Test.

Director, Board of Studies

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26TH ANNUAL CONFERENCE OF HUBLI BRANCH
June 22 & 23, 2012 - Hubli



CA. Smt. Tulasi Maddineni, Deputy Commissioner, Koppal District, Inaugurating with Lighting of the Lamp on the occasion of State Level Conference Jointly with All Branches of Karnataka. Sri. Shankaranna Munolli, Member Board of Management KLE Society, Belgaum CA. Suresh Chenni, Chairman, Hubli Branch of SIRC, CA. S.D. Ostawal, Council Member Sri. K.M. Trivedi, General Manager, State Bank of India, Bangalore, Sri. C. Sambasiva Reddy, Chairman, K.V.G. Bank, Dharwad, Sri. B.N. Manjunathan, Dy General Manager, IOB, Hubli, CA Viswanath K, Chairman, SIRC of ICAI were also seen

OFFICIAL VISIT OF CHAIRMAN, SIRC TO HUBLI BRANCH
June 22, 2012 - Hubli



CA. K. Viswanath, Chairman SIRC of ICAI at the Hubli Branch of SIRC of ICAI. CA. O.V. Gadag, Past Chairman, CA. Suresh Chenni, Chairman, Hubli Branch and other Office Bearers were also present on the occasion.

REGIONAL CPE SEMINAR

Host Ernakulam Branch - June 8, 2012 - Ernakulam



Shri K. Babu, Hon'ble Minister of Fisheries, Excise & Ports, Government of Kerala inaugurating the seminar organised by SIRC of ICAI under the auspices of Professional Development Committee. (L to R) CA. Vivek Krishna Govind, Past Chairman, Ernakulam Br, CA. P Suresh, Chairman, Palghat Br., CA Saji Mathew, Past Chairman, Ernakulam Br., CA. K.P. Jayeme, Chairman-SICASA, Ernakulam Br., CA. Babu Abraham Kallivayali, Past Chairman-SIRC, CA. Venugopal C Govind, CA. V X Jose, Chairman, P.D Committee-SIRC, CA. P.P. Mathukutty, Chairman, Ernakulam Br., and CA. R. Balagopal, Treasurer, Ernakulam Br.

CPL CRICKET TOURNAMENT
June 3, 2012 - Salem



Photo taken at CPL Cricket Tournament organised jointly held by Coimbatore, Palakkad, Tirupur and Salem Branches of SIRC of ICAI at Salem.

CPE SEMINAR ON FEMA

Organised by SIRC of ICAI under the auspices of Committee on Banking Insurance and Pension of SIRC of ICAI Host Kakinada Branch - June 16, 2012 - Kakinada



CPE Seminar on FEMA (L-R) Dr. S. Durairajan, DGM, Reserve Bank of India (Retd.), Mr. V. Satyanarayana Murthy, DGM, Andhra Bank, CA. K K Pavan Kumar, Chairman, Kakinada Branch and CA. P. Venkatesan, Chennai

HALF A DAY CPE SEMINAR

Organised by SIRC of ICAI under the auspices of Professional Development Committee Host Udupi Branch - June 16, 2012 - Udupi



Inauguration of the Seminar by lighting the lamp (L-R) CA. Ammunje Venkesh Nayak, Secretary, Udupi Branch, CA V X Jose, Chairman, Professional Development-SIRC, CA. Y Ganesh, Chairman, Udupi Branch, CA. V Ramnath, Resource Person, Coimbatore and CA. U Muralidhar Kini

RESOURCE PERSONS AT CPE STUDY CIRCLE MEETINGS
June 2012 at SIRC Chennai

June 6, 2012



CA. M K Ananthanarayanan, Chennai

June 13, 2012



CA. K.V. Navaneethkrishnan, Chennai

June 20, 2012



Mr. V. Niranjan, Advocate, Chennai

June 27, 2012



CA. V. Pattabhi Ram, Chennai

RESOURCE PERSONS AT THE WORKSHOPS ON BASIC & ADVANCED EXCEL FOR CAS

June 14-15 and June 28-30, 2012



CA. A. Deepak Kumar, Chennai



CA. P Pradeep Kumar, Chennai

2ND ICAI ALL REGION CONFERENCE

June 8, 2012 - Baroda



CA. Jaydeep Narendra Shah, President-ICAI lighting the Kuthuvillakku and others seen Chairmen of All Regions and other organising members

NATIONAL CONVENTION FOR CA STUDENTS AT HYDERABAD

June 28 & 29, 2012 - Hyderabad



CA. Jaydeep Narendra Shah, President-ICAI inaugurating in the presence of CA. Nilesh Vikamsey, Chairman-BOS, ICAI, CA. Madhukar N. Hiregange, Vice-Chairman-BOS, ICAI, Central Council Members-ICAI CA. J. Venkateswarlu, CA. M. Devaraja Reddy, CA. K. Viswanath, Chairman-SIRC, CA. Naresh Chandra Gelli V., Chairman-SICASA, CA. Dayakar Gelli, Chairman-Hyderabad Br., CA. C. Venkatram, Chairman-Hyderabad Br. of SICASA and other Office Bearers of SICASA and Hyderabad Br. of SICASA.

FACULTY DEVELOPMENT PROGRAMME

for Faculty of GMCS & Orientation - 29th June 2012



CA. Madhukar Narayan Hiregange, Vice Chairman, Board of Studies, ICAI lighting the Kuthuvillakku. (L-R) CA. Nanu R Mallya, Co-opted Member, Board of Studies, ICAI, CA. V. Murali, Member, Board of Studies, ICAI, CA. J. Venkateswarlu, Member, Board of Studies, ICAI, Dr. R K Sarmah, Sr. Asst. Director, Board of Studies, ICAI and CA. K M Padmanabhan, Trainer

44TH REGIONAL CONFERENCE COMMITTEE MEETING

June 9, 2012 - Bangalore



(R to L) CA. MS Ranganath, Past Chairman-SIRC released the sponsorship brochure. (L to R) CA. C S Srinivas, Member-SIRC, CA. Sumermal D Ostwal, Member-SIRC, CA. Satyanarayana Murthy, CA. Allam Prabhu, CA. M. Nithin, Chairman, Bangalore Branch, CA D Prasanna Kumar, Vice-Chairman-SIRC, CA. K Viswanath, Chairman-SIRC, CA. P R Suresh, Treasurer-SIRC.

GMCS INAUGURATION

7th June 2012 Batch



(L -R) CA. G. Sivaprakash, Trainer, CA. Gopala Krishna Raju, Member, GMCS-Coordination Committee-SIRC, CA. P R Aruloli, Member-SIRC, CA. G.V.V. Satyanarayana, Member-SIRC, Dr. T. Sankarvel, Trainer

GMCS VALEDICTION

4th June 2012 Batch



CA. V. Murali, Member, Board of Studies, ICAI addressing. (L-R) Mr. PS Vasudevan, Trainer, CA. A. R. Subramanian Iyer, CFO & Company Secretary, Schwing Stetter India Pvt. Ltd., Chennai, Mr. K. Ganesh, Vice President-HR, TCS Ltd., Chennai, CA. Gopala Krishna Raju, Member, GMCS-Coordination Committee-SIRC, CA. R. Kannan, Trainer, Chennai