

SIRC

PRICE ₹ 5

Newsletter

September 2014 | Volume 40 • Part 03



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

40th Year of Publication

SIRC of ICAI Welcomes you to...

CPE Credit 12 Hours

Delegate Fee: ₹ 3500

ENNUM EZHUTHUM

**46th Regional Conference of SIRC of ICAI
on 12th & 13th December, 2014**

@

Madura College Grounds, Madurai

Host: Madurai Branch of SIRC of ICAI

1ST SUB REGIONAL CONFERENCE OF SIRC OF ICAI ON AUGUST 21, 2014 AT BELGAUM



CA. P.V. Rajarajeswaran, Chairman, SIRC inaugurating. CA. Cotha S. Srinivas, Secretary, SIRC, CA. P.R. Suresh, RCM, CA. M. Nithin, RCM, CA. Sanjay S. Mudnoor, Chairman, Belgaum Branch, CA. Praveen Prakash Ghali, Secretary, Belgaum Branch, other Managing Committee Members of Belgaum Branch of SIRC and Resource Persons are also seen.

ONE DAY SEMINAR ON ACCOUNTING STANDARDS ON AUGUST 1, 2014 AT NLC, NEYVELI



CA. P.V. Rajarajeswaran, Chairman, SIRC addressing the delegates. Sitting on the dais are - Shri. R. Rakesh Kumar, Director, Finance NLC, CA. P R Aruloli, RCM, SIRC, CA. Vijaykumar N. Modi, Chairman, Pondicherry Branch of SIRC of ICAI and CA. V. Prabagarane, Secretary, Pondicherry Branch of SIRC of ICAI.

1ST JOINT SOCIAL GET TOGETHER OF ICAI EMPLOYEES AND OFFICERS ASSOCIATION ON AUGUST 7, 2014 AT CHENNAI



Chief Guest Hon'ble Thiru V. Ramasubramanian, Judge, Madras High Court with CA. P.V. Rajarajeswaran, Chairman, SIRC, CA. V. Murali, CCM, ICAI, CA. M. Devaraja Reddy, CCM, ICAI, CA. G. Sekar, CCM, ICAI, Dr. P.T. Giridharan, Joint Director, ICAI and functionaries of ICAI Employees and Officers Association.



CA. V. Murali, Central Council Member, ICAI honouring Hon'ble Justice Thiru V. Ramasubramanian, Judge, Madras High Court. CA. P.V. Rajarajeswaran, Chairman, SIRC looks on.

SICASA EXPLORATIONS'14 HELD ON AUGUST 10, 2014



CA. V. Murali, Chairman, CPE Committee, ICAI honouring Chief Guest "MYNAA" Film Hero Mr. Vidharth and Film Actor Mr. P.V. Mohan Raman. CA. Jomon K. George, Chairman, SICASA and other functionaries are also in the picture.

INDEPENDENCE DAY CELEBRATIONS ON AUGUST 15, 2014 AT CHENNAI



National Flag Hoisted by CA. P.V. Rajarajeswaran, Chairman, SIRC. CA. V. Murali, CCM, ICAI, CA. P.R. Aruloli, RCM, Dr. P.T. Giridharan, Joint Director, ICAI, Dr. T. Paramasivan, Joint Director, ICAI, Members and Students of ICAI are also seen.

REGIONAL RESIDENTIAL COURSE ON AUGUST 2 & 3, 2014 AT COURTALLAM.



CA. P.V. Rajarajeswaran, Chairman, SIRC releasing the Souvenir along with CA. P.R. Aruloli, RCM, CA. E. Phalguna Kumar, RCM, CA. B. Sekkizhar, RCM, CA. G. Sekar, CCM, ICAI, CA. A. Michel Amaran Jothi, Chairman, Tirunelveli Branch, CA. V. Ramasamy, Secretary, Tirunelveli Branch and other Managing Committee Members of Tirunelveli Branch of SIRC of ICAI.

4TH ICAI ALL REGION JOINT CONFERENCE ON AUGUST 8 & 9, 2014 AT KOLKATA



Releasing the Conference Souvenir- L –R: CA. Raj Singhania, CA. Pramod Dayal Rungta, Vice Chairman, EIRC, CA. Radhey Shyam Bansal, Chairman, NIRC, CA. Anil S. Bhandari, Chairman, WIRC, CA. Subhash Chandra Saraf, Chairman, EIRC, CA. C.M. Bachhawat, IAS, Principal Secretary, Dept. of Commerce, Govt. of West Bengal, CA. N.P. Sarda, Past President, ICAI, CA. Abhijit Bandyopadhyay, Council Member, ICAI, CA. P. V. Rajarajeswaran, Chairman, SIRC, CA. Anirban Datta, Secretary, EIRC.

WORKSHOP ON INDIRECT TAXES ON AUGUST 16, 2014 AT CHENNAI



CA. G. Saravana Kumar
Madurai



CA. Madhukar N Hiregange
Bangalore



CA. V. Prasanna Krishnan
Chennai



Special Lecture for Students addressed by CA. M.F. Jaison, Faculty Member, SIRC. CA. P. V. Rajarajeswaran, Chairman, SIRC, CA. P. R. Aruloli, RCM, SIRC, CA. V. Murali, CCM, ICAI and Dr. P. T. Giridharan, Joint Director, ICAI are also seen.

Chairman writes ...



My dear Professional Colleagues,

Tax Audit:

The month of September every year is a demanding and challenging month for the members as the last date falls to complete the tax audit under Sec. 44 AB of the Income-tax Act, 1961 and also to comply with the Companies Act requirements. The Ministry of Finance has come out with many changes in the 3 CA, 3 CB and 3 CD, which requires incorporation in the tax audit report. With a view to enlighten the members on these aspects, SIRC organized a Seminar on Tax Audit on 20th August 2014 at Chennai and all Branches of SIRC would be organizing similar programmes.

The Ministry of Finance has extended the "due date" for filing of tax audit report under Sec. 44AB of Income-tax Act, 1961 from 30th September 2014 to 30th November 2014. Whether the extension is meant only for Tax Audit report or Return of Income also, is yet to be clarified. While it is a welcome step from the Government, SIRC suggests that the members may complete the work as early as possible, so that the tax audit can be performed and submitted well before the "due date".

SIRC invites inputs from members highlighting the issues in Tax Audit Report forms viz. 3CA/CB/CD that require the attention of ICAI for taking up with the Ministry of Finance for its consideration for future. I may also add that ICAI has given representation to the Hon'ble Union Finance Minister and Chairman, Central Board of Direct Taxes on Tax Audit which has been hosted in ICAI Website.

Future Programmes

National Conference on Direct Taxes:

On 12th and 13th September, SIRC is organizing a National Conference on Direct Taxes at Hotel Accord Metropolitan, Chennai. This being a National Conference, members from various places are expected to participate. Renowned resource persons in the field of Taxation address on these two days. SIRC extends its invitation to the members to participate in large numbers. The detailed programme is published in Page No. 6.

P. Brahmayya Memorial Lecture:

SIRC is joining with Society of Auditors to conduct the P. Brahmayya Memorial Lecture on 18th September 2014 at SIRC Premises in memory of late CA. P. Brahmayya, Past President, ICAI and one of the doyens of the profession. Mr. V. Kannan, CMD, Vijaya Bank will be delivering the Memorial Lecture on "Banking Trends - Role of the Accounting Profession". Former Chairman, CBDT and IRDA, CA. N. Rangachary has kind consented to preside over the meeting. I invite members to attend the Lecture in large numbers.

Workshop on Basics in Transfer Pricing:

From 6th to 10th October 2014, SIRC is organizing a Workshop on Transfer Pricing at SIRC premises. This five days programme would encompass the entire ambit of the concept of Transfer Pricing and would be a great value addition to the participants. SIRC extends its invitation to the members to participate in large numbers. The detailed programme is published in Page No. 6.

Joint Regional Residential Refresher Conference at Goa and Regional Residential Conference at Tirupati:

SIRC is organizing a Joint Regional Conference on 10th, 11th and 12th October 2014 at Goa with WIRC at Goa and hosted by Goa Branch of WIRC. On 12th, 13th and 14th October 2014, SIRC in association with the Committee on Capacity Building and Small & Medium Practitioners and Committee

on Management Accounting of ICAI organizes a residential program at Tirupati. The complete details would be hosted in the SIRC Website.

Annual Regional Residential Course (ARRC) on International Taxation:

With the encouraging response received for the 1st Annual Regional Residential Course on Taxation held at Bangalore last year, SIRC will be organizing the 2nd Annual Regional Residential Course (ARRC) on International Taxation at Bangalore from 31st October 2014 to 2nd November 2014 hosted by Bangalore Branch of SIRC. The detailed schedule is published in Page No. 7 in this Newsletter.

46th Regional Conference at Madurai on 12th and 13th December 2014

As communicated in the last communique, SIRC and the Madurai Branch are chalking out the schedule and other arrangements for the 46th Regional Conference being held at Madura College Grounds, Madurai on 12th and 13th December 2014. The information relating to flight and train timings and hotel accommodation will be hosted in the SIRC's Website shortly and also be published in October 2014 issue of SIRC Newsletter.

Theme of the 46th Regional Conference:

The theme of the 46th Regional Conference is "Ennum Ezhuthum" signifying the role of Chartered Accountants and their close association - in their professional service - with numerals (financial transactions as 'inputs') as well as the intellectual thought process associated with such numerals and reporting on such financial transactions to the stakeholders who rely on such reports ('outputs') in an appreciable way. We are sure the members would appreciate the theme.

The registration for the Conference had commenced and we are getting encouraging response from the members. I request members to register in advance with the registration fee of ₹ 3500 and plan your travel booking and accommodation in time.

The Regional Conference at Madurai is being held after a gap of 30 years and it will be the pleasure and privilege of members of Madurai Branch to make the stay of every delegate most comfortable. We look forward to your participation and request you to enjoy the hospitality of SIRC.

SIRC is also arranging sight seeing for the spouse of the delegates in and around Madurai and we welcome them to Madurai.

Other Programmes:

Besides the above, SIRC would conduct regular Study Circle Meetings and other programmes, the details of which are published in Page No. 4 in this Newsletter.

Appeal to members in Industry:

SIRC is happy to note that many members from industry are participating in the programmes organized by SIRC and its branches. However it has been felt that there are huge variance between the number of members from industry participating and the effective number of members in industry. SIRC wishes that more number of members from industry should attend the programmes. SIRC designs many programmes which are most relevant to industry-related matters and their participation would make a huge difference in the performance level of our members working in corporate and other organizations.

SIRC also invites suggestions from members in industry on the possible topics that would be pertinent to their working requirement and we would be happy to organize industry-specific programmes at Chennai and in all parts of the Southern Region.

Contact: Dr. T. Paramasivan, Joint Director, ICAI – Phone: 044 – 30210361 / 320 – E-mail: sirc@icai.in

Sl. No.	Programme Date	Programme Name	Resource Persons	Timings	Venue	CPE Credit	Delegate Fee Rs.	Page No.
1.	September 12 & 13, 2014 Friday & Saturday	National Conference on Direct Taxes		09.30 am to 05.00 pm	Hotel Accord Metropolitan, Chennai	12	2500	6
2.	September 17, 2014 Wednesday	CPE Study Circle Meeting on Statutory Compliance – Emerging Professional Opportunities under Companies Act, 2013	CA. Sripriya K. Chennai	06.15 pm to 08.30 pm	P. Brahmayya Memorial Hall	2	No Delegate Fee	-
3.	September 18, 2014 Thursday	P. Brahmayya Memorial Lecture on Banking Trends – Role of the Accounting Profession	Mr. V. Kannan, CMD Vijaya Bank	06.30 pm	P. Brahmayya Memorial Hall	-	No Delegate Fee	18
4.	September 24, 2014 Wednesday	CPE Study Circle Meeting on Recent Developments in Transfer Pricing in India	CA. S. Chandrakumar Chennai	06.15 pm to 08.30 pm	P. Brahmayya Memorial Hall	2	200	-
5.	September 27, 2014 Saturday	CPE Study Circle Meeting on VAT Audit	Eminent Resource Persons	06.15 pm to 08.30 pm	P. Brahmayya Memorial Hall	2	200	-
6.	October 1, 2014 Wednesday	CPE Study Circle Meeting on Limited Liability Partnerships (LLPs)	CA. Sathya Kumar Chennai	06.15 pm to 08.30 pm	P. Brahmayya Memorial Hall	2	200	-
7.	October 6 – 10, 2014 Monday to Friday	Five Days Workshop on Basics in Transfer Pricing		04.00 pm to 08.00 pm	P. Brahmayya Memorial Hall	20	Details at Page No. 6	
8.	October 8, 2014 Wednesday	CPE Study Circle Meeting on Labour Laws – Recent Developments	CA. A. Raja Chennai	06.15 pm to 08.30 pm	SIRC Premises	2	200	-
9.	October 11, 2014 Saturday	Awareness Programme on Financial Reporting Practices		09.30 am to 05.00 pm	P. Brahmayya Memorial Hall	6	1000	Refer SIRC Website for details
10.	October 10-12, 2014 Friday to Sunday	SIRC - WIRC Joint Regional Residential Refresher Conference at Goa					Details at Page No. 7	
11.	October 12-14, 2014 Sunday to Tuesday	Regional Residential Conference at Tirupati			Hotel Bliss Tirupati	12	Details at Page No. 6	
12.	October 15, 2014 Wednesday	CPE Study Circle Meeting on Capital Gains	CA. S. Lambodar Chennai	06.15 pm to 08.30 pm	P. Brahmayya Memorial Hall	2	No Delegate Fee	-
13.	October 16, 2014 Thursday	Insurance Awareness Programme		05.00 pm to 08.00 pm	SIRC Premises	3	No Delegate Fee	Refer SIRC Website for details
14.	October 18, 2014 Saturday	Workshop on Advanced Excel		09.30 am to 05.00 pm	SIRC Premises	6	1000	Refer SIRC Website for details
15.	October 22, 2014 Wednesday	CPE Study Circle Meeting on FEMA, 1999 - Procedure for FDI	Eminent Resource Persons	06.15 pm to 08.30 pm	P. Brahmayya Memorial Hall	2	200	-
16.	October 30 & 31, 2014 Thursday & Friday	Workshop on Enabling Service Tax Practice		09.30 am to 05.00 pm	P. Brahmayya Memorial Hall	12	2000	Refer SIRC Website for details
17.	October 31 & November 1 & 2, 2014 Friday - Sunday	Second Annual Regional Residential Course (ARRC) on International Taxation at Bangalore. Host: Bangalore Branch of SIRC			The Golden Palms Hotel & Spa, Bangalore	14	Details at Page No. 7	
18.	December 12 & 13, 2014 Friday & Saturday	46th Regional Conference of SIRC of ICAI at Madurai Host: Madurai Branch of SIRC			Madura College Grounds, Madurai	12	3500	-

Online enrolment through <http://sircoficai.org/CPEcalendarnew.aspx?id=forth> is requested.

Otherwise specified, the Delegate Fee for SIRC Programmes may be paid by way of Cash or by Cheque/DD drawn in favour of 'SIRC of ICAI' payable at Chennai and shall 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 sufficiently in advance. Members are requested to avoid SPOT Registration.

CHAIRMAN WRITES (Contd..)**Programmes of August 2014:****1st Joint Social Get-together of ICAI Employees' and Officers' Association:**

SIRC always recognizes the talent and the hard work put in by its employees in the service of the members and students. I had the pleasant opportunity to participate in the 1st Joint Social Get-together organized by the Employees' and Officers' Association of ICAI at Chennai on 7th August 2014 and had the privilege of joining with the Chief Guest of the function Hon'ble Justice Thiru V. Ramasubramanian, Judge, Madras High Court. Central Council Members CA. V. Murali, CA. M. Devaraja Reddy and CA. G. Sekar besides Members of SIRC, Staff of ICAI and their family members and staff from other regions of the Institute also attended. I congratulate and compliment the organizers led by Shri N. Venkatesan, Regional Secretary, ICAI Employees' Association, Shri V. Bharanidharan, Regional Convenor, Shri. R. Rajendran, Convenor and their team for organizing a glittering and memorable function.

4th Joint Regional Conference at Kolkata:

The 4th Joint Regional Conference organized by EIRC, SIRC, WIRC, CIRC and NIRC on 8th August 2014 at Kolkata was an occasion to meet my counterparts and discuss matters of professional interest and also to meet members across the country.

Independence Day Celebrations:

I have hoisted the National Flag in the ICAI Bhawan, Chennai on the occasion of the Independence Day on 15th August 2014. Members and students besides the staff of ICAI attended the function. However through this column, I appeal to members to participate in the Independence Day and Republic Day Functions in large numbers to pay our respects to the freedom fighters who have achieved freedom from the British Rule. It is our duty and I wish that more number of members would participate in future years. I thank CA. M.F. Jaison who addressed the students on Values of Life besides the importance of CA Course.

Regional Residential Course and Sub-Regional Conferences:

The Regional Residential Course (RRC) was held at Courtallam on 2nd August 2014 hosted by Tirunelveli Branch of SIRC which was well received by the delegates. Two Sub-Regional Conferences were held last month at Belgaum on 21st August 2014 hosted by Belgaum Branch. Besides the Tax professionals, other related professionals also attended the One day Conference. Though a small branch, the Managing Committee has taken great effort to make it a grand one. The Panel discussion was wonderful.

At Trivandrum the 2nd Sub-Regional Conference was held on 30th August 2014 hosted by Trivandrum Branch and was largely attended by members across the Region. I convey the appreciation of SIRC to CA. CA. A. Micheal Amaran Jothi, CA. Sanjay S. Mudnur and CA. S. Sundar, Chairman of Tirunelveli, Belgaum and Trivandrum Branches respectively and their exemplary team of members in the Managing Committee for the unstinted support and co-ordination in making the programmes a grand success.

Other Programmes:

SIRC organized Seminars and Workshop on 9th, 16th, 22nd and 23rd August 2014 besides other meetings and regular CPE Study Circle Meetings. I am happy to share that the participation in all the programmes were very encouraging.

Visit to Branches:

During August 2014, I visited the Belgaum and Trivandrum and Pondicherry Branches in connection with the programmes organized by the respective Branches and also to Neyveli, where during the course of a seminar I had interacted with the members which was very purposeful and informative.

At the programme conducted by Pondicherry Branch at Neyveli Lignite Corporation. Mr Rakesh Kumar, Director (Finance) inaugurated. More than

100 finance professionals including about 50 CAs attended. The Director wanted to conduct more such programs choosing topics like Internal Control and Indirect Taxes.

Meeting with RBI Executives:

The Reserve Bank of India convened a meeting to create awareness on FEMA. I with the members of the Executive Committee attended the meeting which was very fruitful and gave an opportunity to meet the officials of the Reserve Bank of India and other stakeholders.

New Managing Committee of SICASA:

The Southern India Chartered Accountants Students' Association conducted its Annual General Meeting and elected 12 student members to the Managing Committee for the year 2014-15. SIRC congratulates the new team of SICASA and wish them all success in their endeavours.

Membership Fee Payment for the year 2014-15:

As you are aware the membership fee and the certificate of practice fee should be remitted so as to reach the Institute's Office by **30th September 2014**. I request members who are yet to send their fee to expedite payment to ensure that the same is reaching ICAI Office by 30th September 2014. Any delay in payment by the stipulated date would result in the removal of name and/or certificate of practice. Reminders have been sent to the respective members concerned in this regard by the Decentralized Office, Chennai.

Thought of the Month

"Learning is a treasure that will follow its owner everywhere." - Chinese Proverb.

SIRC always considers Programme Organizing Unit (POU conduct of Continuing Education Programmes and quality educational programmes to students) as its main function and visualize the needs of members and students in furthering their knowledge base. You will appreciate that across the Region, SIRC is conducting numerous programmes on its own and through its Branches. As the saying goes, as aforesaid, there can be no substitute to learning and it is all the more significant when we the professionals discuss in forums issues of importance to us and participation in programmes would serve the twin purpose of learning and interaction. SIRC looks forward to your continued support and encouragement to offer you many more programmes to extend your learning process and to make our endeavours all success. I invite your suggestions on new topics and areas on which various types of programmes could be conducted by the SIRC for the furtherance of our professional interest.

Until we meet through this column, I remain,

Yours in professional service



CA. P.V. RAJARAJESWARAN

chairmansirc@icai.in

Editorial Board

Editor :	CA. Rajarajeswaran P V
Members :	CA. Naresh Chandra Gelli V
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	CA. Babu Abraham Kallivayalil
	CA. Kandavel M S
	CA. Mohamed Khan A
	CA. Muthusubramanian M

Two day National Conference on Direct Taxes

Organised by Direct Taxes Committee of ICAI

Hosted by Committee on Direct Taxes of SIRC of ICAI

Hotel Accord Metropolitan
T.Nagar, Chennai

September 12 & 13, 2014
(09.30 am to 05.00 pm)

CPE Credit
6
HOURS

Inaugural Session – 09.30 a.m.

Topics

Charitable and Religious Trust - Recent Tax Issues
Survey, Search and Seizure
Sec. 195 of Income-tax Act
Discussion on secondment of employees and issues relating to AOP – Latest Developments
Real Estate Transactions - Deemed Income
Business Deductions - Current Issues
Minimum Alternate Tax - Issues
Issues relating to Tax Audit Report

Resource Persons

CA. Goutham Nayak, Mumbai
CA. Sanjay Aggarwal, New Delhi
CA. PVSS. Prasad, Hyderabad
CA. Sanjiv Chaudhary, New Delhi
CA. K.K.Chaitanya, Bangalore
Eminent Resource Person
CA. Padam Chand Kincha, Bangalore
CA. Tarun Ghia, Mumbai

DELEGATE FEE: ₹ 2500

CA. P.V. Rajarajeswaran
Chairman, SIRC of ICAI

CA. G. Sekar
Chairman, Committee on Direct Taxes, ICAI

CA. E. Phalguna Kumar
Chairman, Committee on Direct Taxes, SIRC of ICAI

CA. Cotha S. Srinivas
Secretary, SIRC of ICAI

Five Days Workshop on Basics in Transfer Pricing

Organised by Committee on International Taxation of SIRC of ICAI

P. Brahmayya Memorial Hall,
'ICAI Bhawan' No. 122, MG Road,
Nungambakkam, Chennai-600034

October 06th to 10th, 2014
(Monday to Friday) (04.00 pm to 08.00 pm)

CPE Credit
20
HOURS

Topics

DAY – 1 MONDAY - 06.10.2014

Introduction to Transfer Pricing
Concept of Associated Enterprises

DAY – 3 WEDNESDAY - 08.10.2014

Comparable Uncontrolled Price Method
Cost Plus Method

DAY - 5 FRIDAY - 10.10.2014

How to Analyse B/S and arrive at Comparable -
Practical Transfer Pricing Study

DELEGATE FEE

Members : ₹ 3000

CA. P.V. Rajarajeswaran
Chairman, SIRC of ICAI

Resource Persons

DAY – 2 TUESDAY - 07.10.2014

Profit Split Method
Resale Price Method

DAY – 4 THURSDAY - 09.10.2014

Transaction Net Margin Method
Documentation Requirements For Transfer Pricing Study

Safe Harbour Rules, Important Case Laws and Trends in
Assessments

Non Members : ₹ 5000

CA. Cotha S. Srinivas
Secretary, SIRC of ICAI

Regional Residential Course at Tirupati

Jointly Organised by Committee on Capacity Building of CA Firms and Small & Medium Practitioners of ICAI and Committee on Management Accounting of ICAI. Jointly hosted by SIRC of ICAI and Tirupati Branch of SIRC of ICAI

Hotel Bliss, Tirupati

October 12 - 14, 2014, (Sunday to Tuesday)

CPE Credit
12
HOURS

Topics

- Recent Developments in Income Tax
- Trends in Auditing

- Issues in Companies Act
- Emerging issues in Accounting Standards

DELEGATE FEE

Members: ₹ 7500

Accompanying Spouse / Children: ₹ 5000

Children (below 12 years) : ₹ 2500

Non Residential Member : ₹ 1500

Conference Director

CA. M. Devaraja Reddy
Central Council Member, ICAI

Conference Chairman

CA. Anuj Goyal
Chairman, Capacity Building of CA Firms and Small & Medium Practitioners of ICAI and Committee on Management Accounting of ICAI

Conference Convenors

CA. P.V. Rajarajeswaran
Chairman, SIRC of ICAI

Conference Co-Convenors

CA. T. Venkatesh Reddy
Chairman, Tirupati Branch of SIRC of ICAI

CA. Cotha S. Srinivas
Secretary, SIRC of ICAI

CA. V. Bhagya Teja
Secretary, Tirupati Branch of SIRC of ICAI

For further details contact

- Dr. T. Paramasivan, Joint Director, ICAI [9940008755]
- Dr. Sambit Kumar Mishra, Secretary, Committee for Capacity Building of CA Firms and Practitioners, ICAI [9312085025]
- Dr. Amit Kumar Agarwal, Secretary, Committee on Management Accounting, ICAI [9350572094]

2nd Annual Regional Residential Course (ARRC) on International Taxation

Organised by Committee on International Taxation of SIRC Of ICAI
Hosted by Bangalore Branch of SIRC of ICAI

The Golden Palms Hotel & Spa

Golden Palms Avenue, Makali, Off Tumkur Road,
Bangalore - 562 123

CPE Credit
14
HOURS

October 31-November 2, 2014
(Friday to Sunday)

31st October 2014 (Friday) 12.00 Noon Check-in, Lunch & Registration

Topics	Resource Persons
Group Discussion on Permanent Establishment through Dependent Agent - Burning Issues	CA. Padam Chand Khincha , Bangalore
Paper Presentation on Tax implications and reporting requirements of Green Card Holders & US Citizens residents in India	CA. S. Krishnan , Bangalore
Paper Presentation on Permanent Establishment through Dependent Agent - Burning Issues	CA. Padam Chand Khincha , Bangalore

November 1, 2014 (Saturday)

Group Discussion on Secondment / Deputation of employees - Tax Implications	CA. Sriram Seshadri , Chennai
Paper Presentation on "e-commerce - Cloud Computing - Tax implications"	Mr. Aravind P. Datar , Chennai
Presentation on Group Discussion Paper on Secondment / Deputation of employees - Tax Implications	CA. Sriram Seshadri , Chennai
Paper Presentation on Inter Quartile Range and Advantage of APA - Benefits and Caution points.	CA. Vijay Iyer , New Delhi

November 2, 2014 (Sunday)

Paper Presentation on Latest Changes in FDI Regulations	CA. Vishal Gada , Ahmedabad
Brain Trust Session	Brain Trustees CA. Vishal Gada , Ahmedabad CA. K. R. Sekar , Bangalore

DELEGATE FEE	Residential :	Non Residential :
Members :	₹ 12000	₹ 8000
Non Members	₹ 20000	₹ 12000

Please Note:

- Mainly Members are allowed to Participate in this ARRC
- Non-members should be International Tax Professionals
- Spouse and Children are not allowed, except where they are members of ICAI
- Members Participation is restricted to 100 on First Cum First Serve Basis
- It is purely a residential technical conference.
- Interested members can give their names to become group leaders for leading the Group Discussions.
- Members are requested to send queries in advance so as to collate and include for brain trust session
- ARRC consists of 2 Group Discussions, 6 Paper Presentation and 1 Brain Trust Session
- Increasing the number of participants will be at the discretion of organisers.
- CPE is granted strictly based on attendance obtained on each day.
- Members should report at the venue at 12.00 Noon on 31st October, 2014.
- The above fees includes Food, Stay arrangements and Background Material

Demand Draft / Cheque shall be drawn favouring **Bangalore Branch of SIRC of ICAI** payable at Bangalore and sent to Chairman, Bangalore Branch of SIRC of ICAI, 'ICAI Bhawan', 16/0 Millers Tank Road Area, Bangalore - 560052. Ph: 080-30563500/ 341/3543 email: bangalore@icai.org.

CA. P.V. Rajarajeswaran Chairman, SIRC of ICAI	CA. Babu K Thevar , Chairman, Bangalore Branch of SIRC of ICAI	CA. Pampanna B E Secretary, Bangalore Branch of SIRC of ICAI	CA. Cotha S. Srinivas Secretary, SIRC of ICAI
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SIRC - WIRC Joint Regional Residential Refresher Conference

Hosted by Goa Branch of WIRC of ICAI

Byke Old Anchor Resort,
Varca, Goa

October 10 - 12, 2014 (Friday to Sunday)

CPE Credit
10
HOURS

Topics	Resource Persons
DAY - 1 October 10, 2014	
Inaugural Session: 02.30 PM to 3.30 PM	Chief Guest : Eminent Personality from Goa Guests of Honour : CA. P. V. Rajarajeswaran , Chairman, SIRC CA. Anil Bhandari , Chairman, WIRC CA. Madhukar N. Hiregange , Bangalore
Impact of Service Tax on Mining, Tourism and Manufacturing Industry- time	CA. Madhukar N. Hiregange , Bangalore
DAY - 2 October 11, 2014	
Taxation of NRIs	CA. Girish Ahuja , New Delhi
DAY - 3 October 12, 2014	
Indirect Taxes	Eminent Resource Person
One person Company or Networking & Capacity building	Eminent Resource Person

DELEGATE FEE		
For Residential Delegates (per person)	Fees for CA Member (Rs)	Fees for Non-Member (Rs)
Single Occupancy	8,000	10,000
Twin Sharing Residential Delegate	6,500	7,500
Accompanying child/Spouse (not attending conference below 12 Yrs)	6,500	
Child 5 to 12 Yrs	2,000	
Child Below 5 Yrs	Free	
Non Residential Delegates	3500*	3,800

* There is a discounted fee of Rs 3000 for non residential member delegates who register with full payment of fees at the branch before **September 20, 2014**.

Payment should be made by Cheque/DD in favour of "Goa Branch of WIRC of ICAI" payable at Goa and should be sent to -Goa Branch of WIRC of ICAI, 201/202, 2nd Floor, Kamat Towers, Patta, Plaza, Panaji, Goa-403001

*For Registration and further details, Please send your details to goa@icai.org

CA. P.V. Rajarajeswaran Chairman, SIRC of ICAI	CA. Cotha S. Srinivas Secretary, SIRC of ICAI	CA. Naveen Daivajna Chairman, Goa Branch of WIRC of ICAI	CA. Yeshwant Kamat Secretary, Goa Branch of WIRC of ICAI	CA. Anil Bhandari , Chairman, WIRC of ICAI
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Updates

Direct Taxes

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1. Time limit for furnishing tax audit report under section 44AB extended upto 30th November, 2014: In F.No.133/24/2014 –TPL dated 20th August, 2014 the CBDT in exercise of power conferred by section 119 passed an order to extend the 'due date' for obtaining and furnishing of the report of audit under section 44AB of the Act for the assessment year 2014-15. Now the extended time for obtaining and furnishing report of audit under section 44AB is available upto 30th November, 2014 for the assessment year 2014-15.

Also, it has been clarified that the tax audit report under section 44AB filed during the period from 01.04.2014 to 24.07.2014 in the pre-revised Forms shall be treated as valid tax audit report furnished under section 44AB of the Act.

Readers may note that the 'due date' under section 139(1) has not been extended in the said order. Hence, return of income filed in respect of assessee whose accounts are audited under section 44AB when filed after 30.09.2014, interest under section 234A would apply. Also, the benefit of carry forward of loss in terms of section 80 and certain incentives contained in section 80AC could be availed only if the return is filed on or before 30th September, 2014 and the benefit of extended time will not apply to such cases.

2. Form for audit report under section 44AB and statement of particulars substituted: In Notification No.33/2014, dated 25.07.2014 the CBDT has amended Income-tax Rules, 1962 by which the form of audit report under section 44AB have been substituted viz. (i) in the case of persons carrying on business or profession and whose accounts are audited under any other law to be furnished in Form No.3CA; and (ii) in the case of persons referred to in rule 6G(1)(b) whose accounts are audited and report is to be furnished in Form No.3CB. Also, the statement of particulars required to be furnished under section 44AB in Form No.3CD has been substituted.

3. Enhanced limit in respect of contribution to Public Provident Fund Account: The Ministry of Finance in Notification GSR 588(E), dated 13.08.2014 has amended Public Provident Fund Scheme, 1968 with regard to limit for contribution in a PPF account per financial year. The limit has been enhanced to ₹1,50,000 from the present limit of ₹1,00,000. The upward revision in limit is in consonance with the enhancement in eligibility for deduction under section 80C brought in by the Finance [No.2] Act, 2014.

4. Clarification issued for alternative investment funds held by non-charitable trusts: The CBDT in Circular No.13/2014, dated 28.07.2014 has clarified whether the income from Alternative Investment Funds (AIF) held by non-charitable trusts is taxable in the hands of trustees of the AIF in the capacity of 'representative assessee' [as defined under section 160(i)(iv)] or in the hands of investors (i.e. contributors of funds). It has been clarified that where the trust deed either does not name the investors or does not specify their beneficial interests, provisions of section 164(1) would apply and the entire income of the Fund would be taxed at the maximum marginal rate of income-tax in the hands of trustees of such AIFs in their capacity as 'representative assessee'. In such cases, section

166 need not be invoked in the hands of investors as the income has already been taxed in accordance with section 164(1).

However, where the names of beneficiaries and their interests in the Fund are determined i.e. stated in the trust deed, the tax on the whole of the income of the Fund – consisting of or including profits and gains of business, would be leviable upon the Trustees of such AIF, being 'representative assessee' at the maximum marginal rate in accordance with section 161(1A) of the Act. It is further clarified that this circular shall not be operative in the area falling in the jurisdiction of a High Court which has taken or takes a contrary decision on the issue.

5. Transfer or re-deployment of existing technical manpower from an existing unit to new SEZ unit upto 20 percent, will not deprive the benefit of section 10AA: In Circular No.12/2014, dated 18.07.2014 the CBDT considered the representation of industry for permitting transfer or re-deployment of skilled, talented and experienced manpower from an existing unit to a new SEZ unit and the constraints of law in availing deduction under section 10AA of the Income-tax Act. It has clarified that transfer or re-deployment of existing technical manpower from an existing unit to a new SEZ unit in the first year of commencement of business by SEZ unit will not be construed as splitting up or reconstruction of existing business if the manpower so transferred does not exceed 20 percent of the total technical manpower actually engaged in developing software at any point of time in the said first year in the new SEZ unit. This circular is applicable only in the case of assessee engaged in the development of software or in providing IT Enabled Services in SEZ units eligible for deduction under section 10A or under section 10AA of the Act. ■

Tamil Nadu VAT

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Once it has been found that the orders impugned in the writ petitions are unsustainable on account of violation of principles of natural justice, it is wholly unnecessary to impose any condition while remitting the matter for fresh adjudication and in the considered opinion of this Court, the direction given to the appellant to deposit 10% of the tax amount as claimed in the demand notice, as a condition precedent to enquire into the matter, is unsustainable and the said portion of the order is liable to be set aside [2014] (MAD) **HAVEA HANDLES & COMPONENTS PVT LTD Now known as Havea Furniture & Interiors Pvt Ltd Vs THE ASSISTANT COMMISSIONER (CT) (FAC) W.A. Nos.867 to 869 of 2014 DATED: 4th July 2014**

When the request to re-open the assessment under Section 22(6) of the TNVAT Act r/w Section 9(2) of the CST Act in respect of Claim of exemption for export sales u/s 5(3) of the CST Act and the resubmission together with the Form-C and Form-H declaration forms was made, it was held by the Court directing the Assessee to pay 10% of the tax and on such payment the Revenue is directed to consider the representation of the petitioner on re-submission together with the Form-C and Form-H declaration forms and re-open the assessment and receive the declaration forms and pass orders in accordance with law. [2014] (MAD) **B.ASOKA KUMAR Proprietor Sree Mookambika Cashew Company Vs THE ASSISTANT COMMISSIONER OF COMMERCIAL TAXES W.P(MD)No.10517 of 2014 DATED: 1st July 2014**

When the Appeal filed by the petitioner dismissed by the Tribunal, the petitioner has got a right of revision and such revision has to be filed within 90 days as per the provisions of the TNVAT Act 2006.

Even before the expiry of the statutory period prescribed for preferring a revision, the revenue has issued the impugned notice calling upon the petitioner to pay the penalty amount and the Court held in this regard the coercive steps shall not be taken for recovery of dues before the expiry of the appeal period and recourse taken by the assessing officer to recover arrears in such a hasty manner, even without giving adequate time to the petitioner to prefer an appeal, is arbitrary. **[2014] (Mad) WP No. 15373 of 2014 Dt : 13.06.14 M/s FLEXTRONICS TECHNOLOGIES INDIA PVT LTD Vs THE ASSISTANT COMMISSIONER (CT)**

Whether cranes can be classified as capital goods has been clarified by the Commissioner in Clarification No.VAT Cell/18033/2007 (VCC No.750) dated 21.06.2007. The Court held that when the schedules specify the rate of tax applicable to the respective goods, the Commissioner unless there is any specific provision, will not have any powers to issue any circular or clarification. The Commissioner cannot use the circulars or clarifications to overcome the provisions of the statute. Any interpretation which was not intended by the legislature also cannot be introduced by way of circulars or clarifications **[2014] (Mad) M/s VEESONS ENERGY SYSTEMS (P) LIMITED Vs THE COMMISSIONER OF COMMERCIAL TAXES, CHENNAI WP (MD) No.5866 of 2010 DATED: 27.03.2014** ■

Andhra Pradesh VAT

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Allahabad High Court in its interim orders in the case of Tax Lawyers Association Lucknow Vs State of U.P in Misc Bench no 7116 of 2014 dated 6.8.2014; stayed the appearance of non-advocates before VAT Authorities in U.P. because of authorization by a rule and quoting section in Advocates Act. Section 66 of APVAT Act empowers CA to appear before any authority other than High Court. Tax on goods is a State Subject. Specific legislation overrides general legislation. State in its legislative wisdom can enact. Legislative wisdom may be tested but not to be questioned.

GOs issued

1. G.O.Ms. No.277 dated 25-7-2014 – establishing 8 Cross Border Check Posts in A.P. across the borders of State of Telangana
2. G.O.Ms. No.280 dated 30-7-2014 – Member may be Joint Commissioner instead of Additional Commissioner of CT in G.O. Ms. 272 dated 19.7.2014 (APVAT specifies the member as only Joint Commissioner)

No orders of Commissioner or Additional or Joint Commissioner of Authority for Clarifications and Advance Rulings were kept on the web of Commercial Tax Department.

DC orders

1. Ganapathi Modern Rice Mill - R.F.No.296/2013-14 dt 23.7.2014 – DC Eluru subjected extent purchase turnover of paddy relating to sale of husk to total turnover U/s 4(4)
2. Vitalz Ortho solutions - R.F.No.18 /2013-14 R.F.No.18 /2013-14 – 25.7.14 – DC VJA – II Division sales turnover of Orthopedic implants taxable @4%
3. DC Chittoor revised assessment of dealers – (closed business units and address unknown inspite of information from CTO) – withdrawing exemption of export claim for want of particulars in assessment files – with substantial demands
4. M/s. Siva Sankara Rice Mill – revision by DC Kakinada restricting Form H for one quarter – (STAT Hyderabad Bench in TA No.68/12 dated 15-6-2012 and APHC in 10578 and 10592 dated 20.4.2011 in the case of Mahabaleswarappa & Sons; specified

H form need not be restricted for one quarter and it can be filed for year.]

5. DC Eluru revised the assessments and imposed purchase tax on the paddy in respect of % of turnover of rice husk to total turnover.
6. Radhika Metals & Minerals - 11.7.14 – DC Vizianagaram revised the assessment to tax hire charges of vehicles inspite of payment of service tax
7. Satya Maharshi Power Corporation – DC Guntur revised assessment and taxed the inputs used for production of power (exempted goods) to purchase tax

ADC Orders

1. Dharma Exports - VZM/VAT/007/14-15 – 26.7.14 – to claim exemption U/s 5(3) – goods must be sold to exporter and exporter might have exported – details available in Form H - no logic in asking to produce agreement with foreign buyer
2. Venkata Krishna Metal Crushers - E/VAT/017/14-15 dt 28.7.14 – Resale of goods – ITC not claimed due to Rule 20 (2) – not taxable
3. Kasi Associates - VSP/VAT/023/14-15 dt 28.7.14 - identified and specified imported for incorporation – not taxable Under AP VAT Act - following SC judgment in Gopinath Nayas Vs. State of Kerala 105 STC 580
4. Shabana Enterprises - 21 / 2012-13 / NLR dt 31.07.14 - penalty proceedings should be initiated after the completion of assessment proceedings (following STAT judgment Abhinaya Show Room 11 APSTJ 192 and APHC in WP 25757/2006 dt 11-12-2006 Raghavendra Exports)
5. G.K.Agencies - VSP/VAT/037/14-15 dt 1.8.2014- it is always not necessary for the subsequent seller to endorse the documents especially when the seller (RINL) discharges his obligation of dispatching the goods to destination as an agent of the appellant. it is always not necessary for the subsequent seller to endorse the documents especially when the seller (RINL) discharges his obligation of dispatching the goods to destination as an agent of the appellant.
6. Yedla Naresh Kumar - VZM/VAT/008/14-15 dt 6.8.14 - equipment hire for the purpose of specific work not involve transfer of right use the goods following Rungta Projects Limited and Another s. State of Bihar and Others 108 STC 235 (SC) and G.S.Lamba & Sons Vs. State of A.P 43 VST 323 APHC
7. Narayani Cotton Industries VZM/VAT/017/14-15 dt 11.8.14 - Machine foundation - inseparable component of machinery following advance ruling in Maa Mahamaya Industries Limited PMT/P& L/A.R.Com/573/2005 dt 23.1.07 ■

Telangana VAT

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Commercial Tax Department orders can be viewed in ctdo.telangana.gov.in

1. G.O.Ms.No. 3 dated 20.6.2014 – establishing cross border check posts at the designated places in Telangana districts – around State of A.P.

Commissioner Orders

1. Forfeiture of Excess TDS over tax liability
2. Aliens Group Infraa - L-III (1)/65/2014 dt 31.5.2014 – subjecting improvement of semi-finished flats to tax at 4% and not at 1%.

DC Orders

1. HMR Infra Projects - RR No.33/2013-2014 – 3.6.2014 – revision by DC PG Division Hyd and Pranit Happy Homes – R.R.No./ 12/2014-15 28-7-14 by DC Hyderabad Rural Divison - taxing receipts after registration of premises at 4% instead of 1% as normal works contract and not the works contract under composition scheme under the Act.
2. S. V. Caterers - R1/ 30/2013-I dt 16.6.2014 - Revision by DC Secunderabad – subjected supply of food to SEZ to tax (ADC, Visakhapatnam allowed the appeal - Sri Venkateswara Caterers - VSP/VAT /038/14-15 – dt 15.7.2014 – supply of food to SEZ unit exempt]
3. Taj Deccan - RR No.20/12-13 dt 11.7.14 – DC PG Division subjected lease of Audio Video Equipment Hire to customers by Hotel to tax U/s 4[8]
4. Sri Mahalaxmi Cotton Seed Oil Industries - R.R.No.A8/1/2014 dt 16.7.14 – restricted ITC on purchase of cotton seed to the extent turnover relatable to sale of hull to total turnover.

ADC orders

1. Padigela Ginning Industries - D/11/12-13 dt 3.6.14 - mere reason that the AG Audit party has not accepted the assessment order cannot be a ground for taking up re-assessment
2. Rajendra Kirana & General Stores - N/3/2014-2015 dt 20.6.2014 - Principles of natural justice require that, before charging a person with financial liability, he should be informed of the material on which the charge was giving to be imposed and assessee must be given an opportunity to rebut the affect of the material if he can
3. B.R. Marketing - CV/66/2013-14 dt 21.6.14 - AA shall furnish the report of the Vigilance officials - provide reasonable opportunity - pass orders afresh [following APHC Judgment - Uma Maheshwara Rice and Flour Mill 54 APSTJ 51].
4. MAA Hospitals - A/105/2013-14 VAT – 3.7.14 - hearing aids are exempted goods under entry 2 of I Schedule – exempt
5. Cyberabad Convention Centre - R/57/2012-13 – 10.7.14 – hearing deferred due to pendency identical issue before High Court
6. Dignity Electronics - .S/10/14-15 VAT – 15.7.14 - Mobile Phones are taxable @ 4%/5% in view of the Government in Memo No. 10427/CT-II[1]/2013-4 dt. 17-05-2014
7. Bharat Diesel Services - S/09/2014-15 dt 18.7.14 – Assessment made on 28-02-2014 in respect of period 1st April 2008 to January 2010 – barred by limitation U/s 21(3)
8. Krishnasai Commercial Company - N/9/2014-2015-VAT – dt 22.7.2014 - compute the taxable turnover accordingly by accepting the storage loss etc as per the norms fixed by the Department of Consumer Affairs (CSI) herein under AP Scheduled Commodities Dealers (Licensing storage and Regulation) order 2008 in the G.O.No40 dated 25-09-2012 for B.P.T Paddy, Rice and Broken Rice are concerned.
9. A.P. Online Limited - R/87/2012-2013 - VAT dt 6-8-14 – web hosting - all the equipments/ Servers and machines relating to the services provided to their customers are under the control of the appellatant – remanded for de nova assessment

STAT

1. Bhumika Novelities 24 APTR 209 – peanut was mixed with masala – original nature is not altered – taxable at 4%.
2. Netfinity Solutions 24 APTR 216 – parts exclusively designed for better use of computer components – taxable at 4%.

3. TVS Motors – 24 APTR 211 - incentives given to be reduced from taxable turnover [SC in Lakshmi Machine Works 290 ITR 667 – incentives received to be deducted from purchase price]
4. Loutus Shiedlers 24 APTR 223 – neither submitting objections or seeking personal hearing to show cause notice nor relying any citation at later stage – appeal not tenable – no illegality be attached to orders passed

APHC

1. Triveni Poly Plast 24 APTR 240 – assessment to be completed within four year from tax period otherwise barred by limitation ■

Kerala VAT

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- Revised floor rates for various varieties of cashew/cashew kernel sare notified in Circular No. 20 of 2014 dated 12th August 2014. Revised rates are effective from 21st August 2014.
- Some of the amendments proposed to KVAT Act, 2003 by the Kerala Finance Bill 2014 differ from that notified under the Finance Act 2014. Important changes are :-
 - (1) Proposal to exempt, from tax, sale of goods to be incorporated in works of Kochi Metro Project, awarded by Kochi Metro Rail Corporation is dropped.
 - (2) Contractors who have opted for payment of tax at compounded rates need not pay tax due u/s. 6(2) of the Act for sand, soil & rocks if the works are awarded by Government of Kerala, Local Authorities or Kerala Water Authority.
 - (3) Manufacturers/[processors] of crushed metals having facility for making manufactured sand have to pay tax at compounded rates for the metal crushers as well as VSI/HSI machines used by them. However, such units will be eligible for a concessional rate of tax in respect of the machines [VSI/HSI] used for manufacture of sand.
 - (4) Dealers in gold ornaments and wares can opt for payment of tax at compounded rates in respect of branches opened during 2013-14. However, tax will be the average tax payable in respect of the principal place of business and other branches.
- Luxury Tax: In the judgment reported in TISSAN J.THACHAKARAY Vs. STATE OF KERALA AND OTHERS [2014] 72 VST 533 (KER), the High Court of Kerala held that while interpreting section 2(ee) and (f) and the charging section 4(1) of the Kerala Tax on Luxuries Act, 1976, the words “in the hotel” have to be read as “by the hotel and that amendment to the Act with effect from April 1, 2007, incorporating a proviso to the effect that no luxury tax shall be payable for charges received in respect of service rendered outside the hotel premises, such as vehicle hire, boat hire and trekking was not in the form of a clarification. The Court also held that that though section 8(1) did not provide any specific period of limitation for exercising suo motu revisional power, the revisional authority could not make the reassessment and that assessment and reassessment could be made only by the assessing authority who had to exercise his powers under section 6 of the Act. An assessment under normal circumstances became final after the period specified under section 6(5) of the Act which is five years from the end of the assessment year. ■

Karnataka VAT

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1. CCT Circular # 11/2014-15 Dated: August 12, 2014

- Recently a notification vide # CCW/CR 44/2013-14 dated: April 29, 2014 made mandatory for all the dealers, whose total turnover is ₹50 lacs and above for the year ending March 31, 2014 or in any subsequent financial year, are required to electronically upload the purchase and sales details onto the departmental portal for each tax period (month) before 20th day of the succeeding month, commencing from the tax period of May, 2014.
- Vide Circular # 06/2014-15 Dated: June 16, 2014 & # 09/2014-15 Dated: July 17, 2014 the period from July 21, 2014 to August 20, 2014 (one month) and upto September 20, 2014 (two months) was declared as educative period for certain class of dealers covered under the said notification.
- The dealers' response in uploading the purchase and sales statements during the educative period is very positive and encouraging. Therefore considering the requests from trade bodies and dealers, Circular # 11/2014-15 #CCW/CR-44/2013-14 Dated: August 12, 2014 provides an extension of time limit. The period from August 21, 2014 to September 20, 2014 (one month) is declared as educative period for electronic uploading of purchase and sales statements for the tax period May, June and July 2014, in respect of dealers whose total turnover in a financial year exceeds ₹ 1 Crore, but less than ₹ 2 Crore. Further this period continues to be the educative period for the dealers whose total turnover is more than ₹50 lacs but less than ₹ 1 Crore, per Circular # 06/2014-15 dated: June 16, 2014.
- Further, it is clarified that the dealers who effect interstate purchase/sale of exempted goods without "C" form need not upload invoice level details. They can upload the details as lump sum purchases and sales.
- During the educative period, no penal provisions under KVAT Act shall be invoked by the Department.

2. CCT Circular #12/2014-15 Dated: August 16, 2014

- Department has received several representations for the inadvertent declaration of interstate purchases. It has noticed that several dealers have inadvertently failed to declare the interstate purchase value in the specified box 9.11.1 of Form VAT 100 and whereas some dealers have declared such value in the box 9.11.2 which relates to interstate purchases without C forms. If the dealer does not revise the returns within 6 months from the tax period, u/s 35(4) of KVAT Act, 2005 r/w Section 9 (2) of the CST Act, 1956, the details can't be revised and consequently he/she is denied the facility of downloading C forms.
- CCT Circular #12/2014-15 # EG.1/CR.7/2014-15 Dated: August 16, 2014 has modified the CST Form issue module. Under the revised module dealers can declare the correct values of interstate purchases/stock transfers by entering the correct values at the appropriate boxes of the return. The Circular has suggested detailed procedures for the navigation of portal and flow of transactions to correct the value of interstate purchases/stock transfers. The procedures have been encapsulated below:
- The dealer to log in into the system at <http://vat.kar.nic.in/>. The dealer shall navigate from the Menu Others Correction of

CST Purchase Value. The dealer shall correct the values for the appropriate period and submit it along with the declaration of correction. The system will generate a web acknowledgement for the dealer's reference.

- The request of all such dealers will in turn appear in the login of the concerned LVO/VSO. The concerned LVO/VSO approves and recommends such cases for re-assessment to the Joint Commissioner of Commercial Taxes (DVO).
- The DVO in turn would recommend for issue of assignment to the Audit officer of his/her division.
- The Audit Officer to issue the re-assessment order with the specific mention of the below aspects:
 - There is an evidence to establish that the goods were received.
 - The said goods have been duly accounted in the stock book and other books of accounts.
 - Under reporting/wrong reporting of interstate purchase has not led to under reporting of sales turnover and short payment of corresponding taxes.
- All re-assessment orders shall be uploaded on to the system in CAS module and get the unique number. Further, the additional demand created, if any to be posted to the DCB module.
- The concerned LVO/VSO to verify the re-assessment order, additional demand, if any and collection of the demand amount by the Audit Officer.
- After verification, LVO/VSO approves the re-assessment submissions made by the Audit Officer by clicking the submission button.
- Once the LVO/VSO approves, the dealer can download C/F form automatically equal to the value approved by the concerned LVO/VSO.
- The above process and instructions are applicable for all the cases for which the C forms are being downloaded by the dealer from the date of the circular. ■

Banking and Insurance

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The Regulator has been receiving several requests to review some of the conditions imposed on loans granted for non- agricultural purposes based on gold ornaments and jewellery, especially those repayable through one time repayments of principal and interest on the due date. On a review the Regulator wanted these loans to comply with certain conditions. These are-

- Banks, as per their Board approved policy, should decide upon the ceiling with regard to the quantum of loans that would be granted against the pledge of gold jewellery and ornaments for non-agricultural end uses;
- The tenor of the loans should not exceed 12 months from the date of sanction; Interest would have to be charged at monthly rests and have to be recognised on accrual basis if the account is classified as 'standard' account. This stipulation is also to apply to existing loans;
- These loans shall also stand governed by extant norms pertaining to income recognition, asset classification and provisioning which shall be applicable once the principal and interest become overdue.

The Regulator has gone on to stipulate that the LTV on such loans should at all times be maintained at 75 per cent of the value of the gold ornaments and jewellery pledged for the purpose. For this exercise the outstanding would include accrued interest.

On the issue of prepaid foreign currency cards, the regulator required all the money changers including authorised dealers to remain vigilant and exercise greater care in adherence to KYC norms. Foreign currency cards being similar to foreign currency notes or travellers cheques, the same diligence and standards would have to be applied to them while selling them.

Way back in 2012, taking note of the difficulty faced by the Indian borrowers in raising ECBs, the Regulator enhanced the all-in cost ceiling for ECBs with average maturity of three and upto 5 years, to 6 months LIBOR plus 350bps; now the benefit has been extended up to December 2014. For average maturity period beyond 5 years, the all-in cost ceiling would be 6 month LIBOR plus 500 bps.

Keeping in line with the reduction in SLR to 24 percent of Net Time and Demand Liabilities, banks are now permitted to exceed the limit of 25 per cent of total investments under HTM category provided such excess comprise only of SLR securities. RBI has further stipulated that the holding of SLR securities in the HTM category should not be in excess of 24 per cent of Net Demand and Time Liabilities as on the last day of the second preceding fortnight as well. Banks were allowed time upto 9th August to effect transfers from HTM category to AFS/HFT category, in order to comply with the 24 per cent ceiling.

The Regulator vide circular DBOD.BP.BC.24 of July 15, 2014, enabled banks to flexibly structure new long term loans to infrastructure and core industries. However, for the existing infrastructure loans under stress, a way had to be found to enable them avail of a longer repayment period without the necessity to bear the restructure tag.

To enable existing infrastructure and other project loans under stress, to avail the benefit of measures like Sale of NPA and to access other benefits such as refinance by way of take-out financing (even without a pre-determined agreement with other banks / Fis), and seek a longer repayment period without being labelled as restructuring, RBI has modified certain conditions.

- i. At the time of availing benefits under this proposed circular, such loans should be 'standard' in the books of the existing banks, and should have not been restructured in the past;
- ii. The aggregate exposure of all institutional lenders to such project should be a minimum of ₹1,000 crore;
- iii. The project should have started commercial operation after the Date of Commencement of Commercial Operation (DCCO);
- iv. The repayment period should be based on the life cycle of cash flows from the project, and, Boards of the existing and new banks should be satisfied with the viability of the project. Further, the total repayment period should not exceed 85% of the initial economic life of the project / concession period in the case of PPP projects;
- v. In case of partial take-out, a significant amount of the loan (a minimum 25% of the outstanding loan by value) should be taken over by a new set of lenders from the existing financing banks/Financial Institutions; and
- vi. The promoters should bring in additional equity, if required, so as to reduce the debt to make the current debt-equity ratio and Debt Service Coverage Ratio (DSCR) of the project loan acceptable to the banks.

This benefit was to be availed only once during the lifetime of a project.

Banks have been seeking the Standard asset tag for those project loans which require funding to meet cost overruns (where there has been no standby facility for this purpose at the time of initial sanction), provided the DCCO is within the period stipulated by the Regulator for this purpose. The Regulator has imposed the following conditions as well.

- i) Banks may fund additional 'Interest During Construction', which may arise on account of delay in completion of a project;
- ii) Other cost overruns may also be funded (excluding Interest During Construction) up to a maximum of 10% of the original project cost;
- iii) The Debt Equity Ratio as agreed at the time of initial financial closure is to remain unchanged subsequent to funding cost overruns or can stand improved in favour of the lenders and the revised Debt Service Coverage Ratio should be acceptable to the lenders;
- iv) Disbursement of funds for cost overruns should start only after the Sponsors/Promoters bring in their share of funding of the cost overruns; and
- v) All other terms and conditions of the loan either should remain unchanged or get enhanced in favour of the lenders.

Thus the Regulator has come out with a slew of measures to soften the impact of big ticket infrastructure loans on the banks. The tricky part of course is the promoters ability to bring in their share of the cost over runs.

FEMA

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1. Financial Commitment (FC) by Indian Party under Overseas Direct Investments (ODI) – Restoration of Limit

RBI vide A.P. (DIR Series) Circular No.1 dated 1st July, 2014 has amended the Notification No. FEMA.120/RB-2004 dated July 7, 2004 [Foreign Exchange Management (Transfer or Issue of any Foreign Security) (Amendment) Regulations, 2004] (the Notification), as amended from time to time and the A.P.(DIR Series) Circular No. 23 dated August 14, 2013 and A.P.(DIR Series) Circular No. 30 dated September 04, 2013

RBI has decided to restore the limit of Overseas Direct Investments (ODI)/ Financial Commitment (FC) to be undertaken by an Indian Party under the automatic route to the limit prevailing, as per the extant FEMA provisions, prior to August 14, 2013. Further, it has been decided that any financial commitment exceeding USD 1 (one) billion (or its equivalent) in a financial year would require prior approval of the Reserve Bank even when the total FC of the Indian Party is within the eligible limit under the automatic route (i.e., within 400% of the net worth as per the last audited balance sheet).

All the other provisions under the Notification ibid shall remain unchanged.

2. Issue of Partly Paid Shares and Warrants by Indian Company to Foreign Investors:

RBI vide A.P. (DIR Series) Circular No.3 dated 14th July, 2014 has amended the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India)

Regulations, 2000 (principal Regulations) notified by the Reserve Bank of India vide Notification No.FEMA.20/2000-RB dated 3rd May 2000, in terms of which only equity shares and compulsorily and mandatorily convertible preference shares/debentures are recognised as Foreign Direct Investment (FDI) compliant instruments. Further, equity shares or compulsorily and mandatorily convertible preference shares/debentures containing an optionality clause but without any option/ right to exit at an assured price have also been recognised as FDI compliant instruments.

RBI has reviewed policy as regards partly paid shares and warrants it has been permitted to issue Partly Paid equity shares and warrants subject to the conditions listed therein

3. Foreign Direct Investment (FDI) in India - Issue/Transfer of Shares or Convertible Debentures

Revised pricing guidelines:

the Regulation 10(A)(b)(i), para 5 of Schedule 1, para 1(5) of Schedule 2 and para 2(iv) of Schedule 2A to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 (the Principal Regulations) notified vide Notification No. FEMA.20/2000-RB dated May 3, 2000 as amended from time to time, in terms of which, transfer/issue of shares of an Indian company is subject to pricing guidelines stipulated by the Reserve Bank and to A.P. (DIR Series) Circular No. 49 dated May 04, 2010, depicting the comprehensive position in this regard and Regulation 9 of the Principal Regulations read with A.P. (DIR Series) Circular No. 86 dated January 9, 2014 in terms of which optionality clauses have been allowed in equity shares and compulsorily and mandatorily convertible preference shares/debentures to be issued to a person resident outside India under the Foreign Direct Investment (FDI) scheme subject to conditions mentioned therein.

RBI vide A.P. (DIR Series) Circular No.4 dated 15th July, 2014 has reviewed the Pricing guidelines in respect of transfer/issue of shares and for exit from investment in equity shares with or without optionality clauses of listed and unlisted Indian Companies so as to provide greater freedom and flexibility to parties concerned under the FDI framework.

4. Liberalized Remittance Scheme (LRS) for resident individuals-Increase in the limit from USD 75,000 to USD 125,000

RBI vide A.P. (DIR Series) Circular No.5 dated 17th July, 2014 has reviewed the guidelines regarding the Liberalized Remittance Scheme (LRS) for Resident Individuals (the Scheme).

It was decided vide A.P.(DIR Series) Circular No. 138 dated June 3, 2014, to increase the limit to USD 125,000 per financial year (April-March) from USD 75,000. Accordingly, AD Category –I banks have been allowed to remit up to USD 125,000 per financial year, under the Scheme, for any permitted current or capital account transaction or a combination of both. Further, it is clarified that the Scheme can now be used for acquisition of immovable property outside India.

5. Foreign Direct Investment – Reporting under FDI Scheme

RBI vide A.P. (DIR Series) Circular No.6 dated 18th July, 2014 has reviewed the provisions of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations 2000, notified by the Reserve Bank vide Notification No.FEMA20/2000-RB, dated 3rd May 2000, as amended from time to time.

The Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce and Industry, Government of India has, vide Press Note 4 (2014 Series) dated June 26, 2014 decided

to switch over to the National Industrial Classification 2008 (NIC 2008) from the NIC 1987 version, for the purpose of classification of activities under the industrial classification system. In terms of Para 9 (1) B of Schedule I to the FEMA Notification No. 20 dated May 03, 2000 as amended from time to time, Indian companies are required to report the details of the issue of shares, convertible debentures, partly paid shares and warrants in form FC-GPR, to the Regional Office concerned, within 30 days of issue of shares / convertible debentures. In terms of Para 10 of the Schedule ibid, transfer of shares, convertible debentures, partly paid shares and warrants by way of sale from a person resident in India to a person resident outside India or vice versa, are required to be reported by the transferor/transferee resident in India to the AD Bank in form FCTRS, within 60 days from the date of receipt or payment of the amount of consideration. Indian companies are required to report the NIC Codes in the FCGPR and FCTRS forms as per the NIC 2008 version, henceforth.

It has also been decided to introduce a uniform State and District code list for reporting of details of foreign direct investment by Indian companies in Form FCGPR. The list can be accessed on the RBI website (www.rbi.org.in FEMA – State and District Code List).

6. Export of Goods and Services – Project Exports

RBI vide A.P. (DIR Series) Circular No.11 dated 22nd July, 2014 has reviewed the Regulation 18 of Notification No. FEMA23/2000-RB dated 3rd May 2000 viz. Foreign Exchange Management (Export of Goods and Services) Regulations, 2000 in terms of which export of goods or services on deferred payment terms or in execution of a turnkey project or a civil construction contract requires prior approval of the approving authority, which shall consider the proposal in accordance with the guidelines issued by the Reserve Bank from time to time. Further, i) A. P. (DIR Series) Circular No. 32 dated October 28, 2003 in terms of which Memorandum of Instructions on Project and Service Exports (PEM) had been revised, ii) A. P. (DIR Series) Circular No. 118 dated June 26, 2013 in terms of which the time limit to submit form DPX 1 / PEX-1 / TCS-1 for obtaining post-award approval was increased to 30 days of entering into contract and iii) A. P. (DIR Series) Circular No. 51 dated September 20, 2013 in terms of which submission of forms DPX1, PEX-1, TCS-1 and DPX-3 to the Regional Office of the Reserve Bank of India (Foreign Exchange Department) within whose jurisdiction the Head Office of the exporter is situated by the Approving Authority (AA), such as, the AD Bank / Exim Bank/ Working Group has been dispensed with. However, submission of these forms to ECGC and Exim Bank where their participatory interests by way of funded/ non-funded facilities, insurance /risk cover, etc are involved shall continue.

To further liberalise and simplify the procedure, it has been decided as under:

- i) The structure of Working Group (consisting of representatives from EXIM Bank, ECGC & RBI), which has hitherto been permitted to consider project exports and deferred service exports proposals for contracts exceeding USD 100 Million in value will now be dispensed with. The AD banks / EXIM Bank can now consider awarding post-award approvals without any monetary limit and permit subsequent changes in the terms of post award approval within the relevant FEMA guidelines / regulations. Project and service exporters

may accordingly approach AD Banks / EXIM Bank based on their commercial judgement. Thererspective AD bank / EXIM Bank should monitor the projects for which postaward approval has been granted by them; and

- ii) The stipulation of time limit of 30 days for the exporter undertaking Project Exports and Service contracts abroad to submit form DPX1/ PEX-1 /TCS-1 to the Approving Authority (AA) for seeking post award approval will not apply henceforth.

7. Trade Credits for Imports into India — Review of all-in-cost ceiling:

RBI vide A.P. (DIR Series) Circular No.16 dated 28th July, 2014 has reviewed the A.P. (DIR Series) Circular No. 122 dated April 10, 2014 relating to the all-in-cost ceiling of Trade Credits for imports into India.

On a review it has been decided that the all-in-cost ceiling as specified under paragraph 4 of A.P. (DIR Series) Circular No.28 dated September 11, 2012 will continue to be applicable till December 31, 2014 and is subject to review thereafter.

All other aspects of Trade Credit policy remain unchanged.

8. External Commercial Borrowing (ECB) Policy — Review of all-in-cost ceiling:

RBI vide A.P. (DIR Series) Circular No.17 dated 28th July, 2014 has reviewed the A.P. (Director Series) Circular No. 121 dated April 10, 2014 relating to the all-in-cost ceiling for ECB.

On a review, it has been decided that the all-in-cost ceiling as specified under paragraph 2 of A.P. (DIR Series) Circular No. 99 dated March 30, 2012 will continue to be applicable till December 31, 2014 and is subject to review thereafter. All other aspects of ECB policy remain unchanged. ■

Corporate Laws

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Circular No & Date	Subject Matter	Impact
Notification dt 14 th August, 2014 Companies (Meetings of Board and its Powers) Second Amendment Rules, 2014	The said notification shall come into force on the date of their publication in the official Gazette. Apart from removing some technical irregularities in Rule 3 & 4, the rules were amended to substitute the "consideration of financial statement including consolidated financial statement, if any, to be approved by the Board under sub-section (1) of section 134 of the Act" in place of "consideration of accounts".	C o n s o l i d a t e d Financial Statement to be considered/ approved by Board now comes in place in the Company Law

	Further in Rule 15, for Sub-Rule (3), read with first proviso to sub-section (1) of Section 188, new conditions & criteria(s) have been substituted for obtaining prior approval of the company by a special resolution for related party transactions.	
Notification dated 14 th August, 2014	Increasing the powers for the transactions U/S 188(1) of the Companies Act, 2013	Now the BOD can transact many transactions as mentioned in the notification provided the value of the transaction is exceeding 10% of the turnover or ₹100 crores which is lower.
General Circular No. 33/2014 Clarifications on Section 139(5) and 139 (7) of the Companies Act, 2013	It has been clarified that the new Act does not alter the position with regard to audit of deemed Government companies through C & AG and the definition of control as envisaged in section 2(27) has to be taken into account whether an individual company is covered under section 139(5)/139(7) of the Companies Act, 2013 and it is the primary responsibility of the company concerned to intimate to the C&AG about its incorporation and other details so that relevant Government may also send a and also such a company to share such intimation to the relevant Government so that such Government may send a suitable request to the C&AG.	Definition of Control is important for determining deemed Government companies
General Circular No 34/2014 CLSS, 2014	In order to give an one time opportunity to all the defaulting companies to enable them to make their default good by filing the belated documents and also to directors to avoid penal action by way of their disqualifications, the Central Government in exercise of its powers conferred under section 403 & 460 of the Companies Act, 2013 has introduced a scheme namely "Company Law Settlement Scheme 2014".	This Scheme is applicable only on filing Annual Forms

	<p>The scheme provides an opportunity to defaulting companies to file belated documents which were due for filing till 30th June, 2014.</p> <p>The Scheme is open from 15th August, 2014 till 15th October, 2014 and only 25% of the additional fees is payable with immunity from prosecution and directors will not be disqualified u/s 164(2) of the Companies Act, 2013.</p>	
12 th August, 2014	<p>Independent Directors Repository Operationalized</p> <p>Section 150 of the Companies Act, 2013 provides for creation and maintenance of database of Independent Directors. The Institute of Chartered Accountants of India jointly with the Institute of Company Secretaries of India and the Institute of Cost Accountants of India under the active encouragement of the Ministry of Corporate Affairs has operationalized Independent Directors Repository on August 11, 2014.</p>	<p>The portal would help to facilitate the individuals who are eligible and willing to act as Independent Directors and also facilitate companies to select persons to act Independent directors. The portal is now operational and the URL of the portal is http://independentdirector.in</p>
Notification – 6 th August, 2014	<p>Amendment in Schedule VII – Slum area development included as an additional entry item as a part of CSR spending</p>	<p>CSR activities get expanded for spending.</p>

SEBI

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Securities Bill proposes to empower SEBI to recover amounts; to set up special courts

The Securities Laws (Amendment) Bill, 2014 proposes various amendments which include empowering Securities Exchange Board of India (SEBI) to call for relevant information and records from any person. There is a provision for disgorgement. The Bill provides that any pooling of funds in any unregistered scheme or arrangement, having corpus of ₹100 crore or more, shall be deemed to be a collective investment scheme. The Bill provides for express powers for the settlement (compounding); to establish Special Courts; powers of recovery of amounts; and empowering Board to enhance the penalty imposed by an adjudicating officer.

Section 15A–HB of the SEBI Act prescribes penalties to be imposed for various offences. However, these sections only provide one level of penalty with no minimum level or range and without giving any discretion to the Adjudicating Officers. Amendment to these Sections are included in the Securities Laws (Amendment) Bill 2014 by prescribing minimum penalty to be imposed for each violation in the Securities Laws (Amendment) Bill 2014, in addition to the amendments included in the earlier Ordinance.

Earlier, as large number of cases were reported from all over the country of unregulated deposit taking and ponzi schemes, therefore, the Government had promulgated the Securities Laws (Amendment) Ordinance, 2013 on 18th July, 2013. Subsequently, the Securities Laws (Amendment) Bill 2013 was introduced in the Lok Sabha on the 12th August 2013 to amend the SEBI Act 1992 and corresponding changes under Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996. As the First Ordinance would have lapsed, the Securities Laws (Amendment) Second Ordinance, 2013 was promulgated on the 16th September 2013. The second Ordinance ceased to operate on the 16th January, 2014. The Securities Laws (Amendment) Ordinance, 2014 was promulgated on March 28, 2014. The said Ordinance lapsed on July 18, 2014.

SEBI gives nod for realty, infra investment trust norms

Investors who wish to invest in property for the lucrative gains it offers, but do not have sufficient capital to acquire physical real estate assets such as land or buildings now have a market option. Market regulator Securities and Exchange Board of India (SEBI) issued the guidelines under which Real Estate Investment Trusts (REITs) will be allowed to operate in India.

An REIT operates a bit like a mutual fund, offering units to investors. The funds are invested in assets owned, and usually operated by the REIT. Investors stand to earn both dividends (from rental income of the property), as well as capital appreciation.

According to the guidelines, investors will have to put in a minimum of ₹ 2 lakh. The units can be traded on stock exchanges once listed. The trading lot for such units will be ₹ 1 lakh.

Infra investment trusts

SEBI also cleared norms for Infrastructure Investment Trusts (InvITs). InvITs are similar to REITs, but focus on investments in infrastructure.

The market regulator's decision follows Finance Minister Arun Jaitley's Budget announcement that complete tax pass-through will be available for these two products. This means that the income generated will be taxed in the hands of the investors, and that the fund itself will not have to pay any tax on the same, eliminating the possibility of double taxation.

Any REITs or InvITs entering the market will have to be listed. The minimum initial offer size should be ₹ 250 crore. They can also borrow additional funds to acquire assets, but the borrowings cannot exceed 49 per cent of the value of the trust's assets.

REIT norms

To popularise REITs, the minimum asset size has been reduced to ₹ 500 crore from the ₹ 1,000 crore initially proposed. REITs cannot have more than three sponsors, subject to each holding at least 5 per cent. To ensure that they have enough skin in the game, it has been made mandatory for fund sponsors to jointly hold 25 per cent of REIT units for three years and continue holding 15 per cent thereafter. The new norms will also ensure that excessive leverage is not undertaken through REITs, while the Trustees will be required

to be independent and not an associate of the sponsor or manager of the Trust.

The minimum net worth of the manager has been increased to ₹ 10 crore from the ₹ 5 crore proposed in the draft norms. At least 80 per cent of the money mobilised by an REIT has to be invested in completed revenue-generating properties, while the rest can be put in developing properties, mortgaged-backed securities, shares of realty and G-secs, among others.

InvIT norms

The approved minimum net worth of an InvIT sponsor is ₹ 100 crore (against the ₹ 10 crore proposed). The net worth of the investment manager has been doubled to ₹ 10 crore. For investors, the minimum investment size for InvITs is ₹ 10 lakh. Those managing the InvIT should mainly be independent directors.

To avoid a conflict of interest, associates of the trustee have been restrained from investing in the InvIT units.

For non-PPP (public-private partnership) projects, credit ratings have not been mandated. The InvITs will invest in infrastructure projects, either directly or through a special purpose vehicle. The proposed holding of an InvIT in underlying assets cannot be less than ₹ 500 crore. A publicly offered InvIT will need to distribute at least 90 per cent of its net distributable cash flows to investors. ■

International Taxation

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Section 195 of the Income-Tax Act

Section 195 of the Income-Tax Act shot into prominence after the decision of the Karnataka High Court in Samsung Electronics 2009-TIOL-629-HC-KAR-IT. Meanwhile, it may be recalled that the Karnataka High Court in the Samsung case had earlier stated that any person making a payment for the import of shrink wrap software was under a statutory obligation to deduct tax at source. It took the Supreme Court of India in GE Technology Centre Private Limited to clarify the intention behind Section 195 of the Income Tax Act- that the necessity to withhold tax would only arise if there was income that was taxable in India. The Supreme Court ruled that any person paying any sum to a non-resident is not liable to deduct tax if such sum is not chargeable to tax under the Act. While the rationale of the Supreme Court decision is logical, various interpretations/case-laws to Section 9 of the Income-Tax Act on whether a particular income is taxable in India or not make the task a bit more tricky. Coupled with the fact that the Double Tax Avoidance Agreements that India has inked with various countries dictate in which jurisdiction a particular income would be taxed, complicate the matter just that much more. We look at two interesting scenarios.

1. Would the benefits of DTAA be available in a jurisdiction where there are no taxes levied?

Recently, the Mumbai Bench of the Income Tax Appellate Tribunal in the case of Income Tax Officer (IT (TDS), Range-I vs Abu Dhabi Commercial Bank [2014] 47 taxmann.com 263 (Mumbai - Trib.) had to decide on a very interesting issue- would the benefits under a DTAA be available to a resident of a jurisdiction where there are no taxes at all?

Shares were purchased and sold by 5 individuals who were residents of UAE through brokers and short-term capital gains was earned by them. Abu Dhabi Bank made remittances on

behalf of brokers in respect of these gains on the basis of certificate issued by Chartered Accountant. In the certificate, it was stated that 'nil' tax was deducted on such remittances because capital gains tax is payable in the country of residence as per clause 3 of Article 13 of DTAA between India and UAE.

According to the Assessing Officer, capital gains arose to the resident of UAE (as the region did not levy any income taxes) did not qualify for tax exemption under the scheme of DTAA and the bank in capacity as remitter, was to deduct tax at source before making payment overseas under section 195. Subsequently, the Assessing Officer concluded that the assessee was a defaulter under section 201 and was liable to pay interest under section 201(1A).

On appeal, the Commissioner (Appeals) observed that section 204 uses the expression 'payer' to include any person responsible for making payment to a non-resident there by even the assessee-bank was responsible to deduct tax at source. Further, the Commissioner (Appeals) concluded that section 201 was not attracted and, consequently, levy of interest under section 201(1A) was bad in law.

The Department seemed to have cases to support them- the Authority for Advance Ruling in the case of Cyril Pereira (AAR No 385/1997) 239 ITR 650 had ruled that a resident of UAE is not entitled to treaty benefits. As is the wont of Indian law to have conflicting judgements on the same matter, the AAR in the case of M.A Rafique had held that a resident of the UAE is entitled to treaty benefits. Considering the chameleonic decisions of the AAR and the fact that the decision of AAR is not binding, the CIT (Appeals) decided to seek succour from another decision of the Tribunal. In the light of the decision of ITAT Mumbai 'B' Bench in the case of Asstt. DIT v.Green Emirate Shipping & Travels [2006] 100 ITD 203, wherein the Bench took a view that it is not necessary to be liable to tax as per the existing law for being entitled to the benefits of DTAA, the CIT(A) concluded that even residents of UAE are entitled to the benefits of DTAA between India and UAE. CIT(A) explained that capital gains arising from sale of shares are covered by Article 13(3) of the DTAA and despite the fact that capital gains are not taxable in India as well as in UAE, since there is a possibility to tax capital gains in UAE in future, benefits of 'double taxation' should be granted to UAE residents in which event there is no liability to deduct tax at source. The Mumbai Bench of the Tribunal disposed off these appeals by agreeing with the CIT and concluding that it is not necessary for the income to be taxable in one jurisdiction to avail the benefits of a DTAA.

2. Debiting a discount to Profit and Loss Account- implications

In the case of Hilton Forge v Joint Commissioner of Income Tax, Range 25(3), Mumbai, [2014] 46 taxmann.com 423 (Mumbai - Trib.) the Mumbai Bench of the Tribunal had to decide whether debiting a discount on export proceeds to the Profit and Loss Account would trigger the provisions of Section 195. Hilton Forge (the company) had debited certain amount as bonus on exports made to 'D', Germany. The Assessing Officer found that the company had not deducted tax at source from said payment, disallowed same under section 40(a)(ia). The Commissioner (Appeals) confirmed said disallowance. It was noted that as

per agreement between parties, the company was required to give discount on order placed by 'D' Germany, subject to shipment and payment of supply realized by the company. Thus, payment in question was not for rendering of any service but directly related to export sale and realization of amount. The Tribunal ruled that nomenclature used in agreement alone was not sufficient to determine nature of payment when payment was directly related to order placed and supply of goods to party and realization of export sales and since the company had filed additional evidence in support of its claim which was required to be examined the impugned disallowance was to be deleted.

Though there are numerous cases before various appellate authorities on Section 195 of the Income-Tax Act, applying the requirements of the Section seems clear. The first step would be to determine whether the payment under question would be income taxable in India. If yes, the administrative provisions of Section 195 on the need to withhold taxes would apply. If no, there would be no necessity to withhold taxes. Ascertaining whether the income is taxable in India or not is the computational part. Withholding taxes at the prescribed rate is the administrative part. ■

Central Excise and Service Tax

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Tour for manasarover and Haj tour is exempt from service tax

In this regard the new entry 5A is inserted and the new entry is as follows

- (i) 5A. Services by a specified organisation in respect of a religious pilgrimage facilitated by the Ministry of External Affairs of the Government of India, under bilateral arrangement.
- (ii) in paragraph 2 relating to definitions, after clause (zf), the following clause shall be inserted, namely:-

Specified organisation shall mean,-

- (a) KumaonMandalVikas Nigam Limited, a Government of Uttarakhand Undertaking; or
- (b) 'Committee' or 'State Committee' as defined in section 2 of the Haj Committee . ■

ANNOUNCEMENT

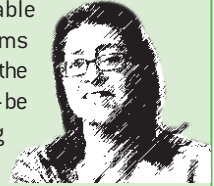
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OPPORTUNITIES AVAILABLE AT ICAI FOR WOMAN MEMBERS

Contributed by: **Dr. T. Paramasivan**
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ICAI is today is one of the most valuable professional Institution, inter alia, in terms of intellectual capital since it has the backing of the members for its various scholarly endeavours - be it development of draft Accounting or Auditing Standards or Technical Guides, Research Publications, taking sessions in Coaching Classes for the Students undergoing CA Course at various levels, Orientation Programme or General Management and Communication Skills Course (GMCS) to name a few.



As part of Woman Members Empowerment as contained in the Action Plan of the SIRC of ICAI for the year 2014-2015 this column is being introduced to highlight the opportunities available to women members of the ICAI at the ICAI itself.

Permanent Careers

Generally ICAI recruits officials' right at the Executive / Educational / Technical Officers level and upto Senior Most Positions at the level of Additional Director / Secretary wherein the membership in ICAI is a preferred qualification for majority of the positions. For the current openings please visit the link http://www.icaai.org/new_post.html?post_id=2177&c_id=237 ['Current Career Openings' in the home page of www.icaai.org].

Honorary Careers

The Honorary Careers available for members at ICAI could be divided into three categories:

1. Honorary Careers which are regular like Visiting Faculty for ITT Centres, coaching classes, GMCS.
2. Honorary Careers which are assignment basis like preparation of basic drafts of Research Studies, Technical Guides which are highly technical.
3. Honorary Careers which are academic assignments like evaluation examination answer scripts of the Intermediate and Final level examinations of Chartered Accountancy Course

While the information on the regular honorary careers could be gathered (and required application forms could be submitted online) at links like http://www.icaai.org/new_post.html?post_id=2177&c_id=237, (Visiting Faculty for ITT Centres), www.icaionlineregistration.org (for Orientation Programme and GMCS visiting faculties). Members may visit individual Committee links like http://www.icaai.org/app_forms/frfb_2013.html for Empanelment Form for Technical Reviewers with the Financial Reports Review Board, http://www.icaai.org/post.html?post_id=7643 for association with the Committee on Economic, Commercial Laws & WTO.

Members may also visit Regional Council websites or refer Newsletters of the Regional Councils for Regional Council level opportunities. **(To be continued)**.

Feedbacks are welcome at sirc@icaai.in to further improve the utility value of the information contents.



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

&
The President & Members of the Managing Committee of
The Society of Auditors, Chennai

Cordially invite you to the

P. BRAHMAYYA MEMORIAL LECTURE
on
**Banking Trends - Role of the Accounting
Profession**

by
Sri. V KANNAN

Chairman & Managing Director,
Vijaya Bank, Bangalore.

CA. N. RANGACHARY

Former Chairman CBDT & IRDA
Has kindly consented to preside

Date & Time: Thursday
the 18th September 2014 at 6:30pm

Venue: P.Brahmayya Memorial Hall, ICAI Premises
"ICAI Bhawan", No. 122, Mahatma Gandhi Road,
Chennai - 600 034

High Tea : 05.45pm

CA. P. Anand

President
Society of Auditors, Chennai

CA. P. V. Rajarajeswaran

Chairman
SIRC of ICAI

Extension of time to complete the GMCS – I Course

It has been decided to grant extension to students, who were registered for practical training on or after 1st May, 2012 and completed one year of their practical training but not completed the GMCS-I course are, required to complete GMCS-I Course latest by **31st December, 2014**.

The above students are advised to register at the portal www.icaionlineregistration.org or contact the nearest Regional Council/Branch for registration in GMCS-I Course and complete the same at the earliest but not later than 31st December, 2014.

CA. M. Devaraja Reddy

Chairman, Board of Studies, ICAI



SIRC OF ICAI [Its journey since 1952] *Journey Continues...*

**FINAL CA EXAMINATION
GOLD MEDALISTS FROM SOUTHERN REGION**



M. No.	Name of Member	Place	Roll No.	Examination
2026	CA. Venkata Srinivasa Sastry V	Hyderabad	442	November-1950
2738	CA. Kurpad Gundappa Sriram	Bangalore	36	May-1953
4076	CA. Subbaraya Sastry Viswanadham	Secunderabad	47	May-1956
4277	CA. Viswanathan R	Kottarakara	3029	May-1957
497	CA. Krishnaswamy N	Kathmandu	118	November-1958
4841	CA. Sitharaman G	Chennai	143	May-1959
5016	CA. Seshadrinathan C H	Chennai	112	November-1959
6618	CA. Sivasubramaniam Krishnan	Chennai	132	November-1963
8385	CA. Kesavan S	Chennai	126	May-1966
9139	CA. Venkatesan L	Chennai	390	May-1967
10274	CA. Viji S	Chennai	785	November-1968
11660	CA. Natarajan G	Chennai	669	November-1969
14243	CA. Govindarajan Dr V	Chennai	12	November-1972
13913	CA. Pattabiraman S	Chennai	1101	May-1972
15076	CA. Nandury Jyotirlakshmi Yasaswy	Hyderabad	38	May-1973
18732	CA. Vijaya Simha R N	Bangalore	454	May-1976
19328	CA. Vasudevan N	Bangalore	8410	May-1977
19542	CA. Ranganathan R	South Africa	9671	November-1977
20679	CA. Srivatsan R	Chennai	3242	November-1979
23516	CA. Sakuntala Rao	Bangalore	4570	May-1984
24707	CA. Rajagopalan S	Chennai	7411	May-1985
27797	CA. Bharath Krishna Sankar	Madurai	12404	November-1987
29936	CA. Shalini Warriier	Thrissur	8590	November-1989
200983	CA. Sajjan Raj Jain P	Hyderabad	6798	May-1991
205738	CA. Narasimhan B N N	Hyderabad	15612	May-1996
208135	CA. Saravana Prasath B	Chennai	11048	May-1998
209134	CA. Sanjay Kumar M	Singapore	12658	November-1997
210190	CA. Annapoorna V	Chennai	8350	May-2000
211050	CA. Padmapriya R	Chennai	9252	May-2001
211648	CA. Rakhi Munot	Bangalore	14186	November-2001
213623	CA. Kumar B	Chennai	5699	May-2003
224826	CA. Prajita Balavinodan	Coimbatore	45565	November-2009
225167	CA. Kishen K Warriier	Kochi	16923	November-2009
228126	CA. Sujay K N	Kunigal	10442	November-2010
*231342	CA. Roohi Aggarwal	Mumbai	133357	November-2011

* Place as per present database

DISCLAIMER

The SIRC/ICAI does not accept any responsibility for the views expressed in different contributions / advertisement published in this Newsletter.

WORK DISPOSAL POSITION

The position of disposal of various matters relating to Members and Students of Regional Office, Chennai as on 25.08.2014 is as under:

Particulars	Disposal of records received upto 25/08/2014	Students	
Members		Registration of Articles	20/08/2014
Enrolment of Members	17/08/2014	Re-registration of Articles	13/08/2014
Fellow Admission	15/08/2014	Industrial Training	18/08/2014
Grant of COP	19/08/2014	Termination of Articles	13/08/2014
Restoration of Name	15/08/2014	Completion of Articles	18/08/2014
Constitution of Firms	21/08/2014	Permission to pursue Other Courses	18/08/2014
Reconstitution of Firms	20/08/2014	Despatch of Materials – CPT	11/08/2014
Paid Assistant	21/08/2014	Despatch of Materials – IPCC	10/08/2014
Change of Address – Members	21/08/2014	Despatch of Materials – ATC	10/08/2014
Change of Address – Firms	14/08/2014	Despatch of Materials – Final	30/06/2014
		Despatch of Materials - ITT	31/05/2014

CPE SEMINAR ON FRAUD RISK ASSESSMENT - ANTI FRAUD MEASURES ON AUGUST 9, 2014 AT CHENNAI



CA. (Dr.) K. Paul Jayakar
Chennai



CA. Gopal Krishna Raju
Chennai



CA. K. Sumathy
Chennai



CA. S. Sankar
Chennai

WORKSHOP ON ENABLING SERVICE TAX PRACTICE ON AUGUST 22 & 23, 2014 AT CHENNAI



CA. G. Saravana Kumar
Madurai



CA. V.P. Manavalan
Chennai



CA. V. Prasanna Krishnan
Chennai



CA. S. Sankaran
Chennai

CPE SEMINAR ON TAX AUDIT ON AUGUST 20, 2014 AT CHENNAI



CA. N.S. Srinivasan
Chennai



CA. P. Anand
Chennai



CA. T.G. Suresh
Chennai



CA. Uttam Chand Jain P
Chennai



CA. V. Alagappan
Tiruchirappalli



CA. Vijay Anand
Chennai



CA. Ganesh Prabhu
Chennai

INAUGURATION OF GMCS ON AUGUST 8, 2014 AT CHENNAI



Mrs. R. Bhagya Devi, IRS, Commissioner of Service Tax, Chief Guest is being presented a memento. CA. V. Murali, CCM, ICAI and CA. P.R. Aruloli, RCM are also in the picture.

GMCS VALEDICTORY ON AUGUST 25, 2014 AT CHENNAI



Mr. Debendra N. Kar, IRS, Director of Income Tax (Exemptions), Chief Guest Presenting Certificate to a participant. CA. V. Murali, CCM, ICAI, CA. P.R. Aruloli, RCM and CA. Gopal Krishna Raju, RCM are also in the picture.

INVESTORS AWARENESS PROGRAMME ON AUGUST 26, 2014 AT CHENNAI



CA. V. Murali, CCM, ICAI with CA. Gopal Krishna Raju, RCM, CA. (Dr.) K. Paul Jayakar, Resource Persons, Dr. P.T. Giridharan, Joint Director, ICAI and Dr. T. Paramasivan, Joint Director, ICAI and Mr. S.M. Arul Nandhi Sivam, Founder, Vallalar Foundation at the inaugural session.

INAUGURATION OF GMCS ON AUGUST 27, 2014 AT CHENNAI



Mr. T.S. Krishnamurthy, IRS, Former Chief Election Commissioner of India, Chief Guest being honoured with a shawl by CA. V. Murali, CCM, ICAI.

CPE STUDY CIRCLE MEETINGS - AUGUST 2014

06.08.2014



CA. R. Sundararajan
Chennai

13.08.2014



CA. Anil Kumar Keecha
Chennai

14.08.2014



Shri. Ram Kolluri
USA

20.08.2014



CA. D. Sree Lakshmi Valli
Chennai

27.08.2014



CA. P. Paul Thangam
Coimbatore

SIRC Welcomes you to...

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HOURS

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46th Regional Conference of SIRC of ICAI

on December 12 & 13, 2014

Madura College Grounds, Madurai

Host: Madurai Branch of SIRC of ICAI

Delegate Fee: ` 3500



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– Mr. Suresh - VPF, Lucas Indian Service Ltd.



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Adv.