

SIRC

Newsletter

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



Mega GST Seminar



CA Day Celebrations



GMCS Inauguration on November 19, 2015: CA. V. Murali, Chairman, BOS of ICAI inaugurated the Course.



Monday Marvel Meeting on November 16, 2015: CA. Ravi Veeraraghan, Chennai addressing the members. Seated CA. M.B. Sridharan, Chennai co-ordinator for the Meeting.



Monday Marvel Meeting on November 23, 2015: Thiru. S. Kalyanam, Former Senior Vice-President, CEGAT, Chennai being honoured with a Memento by Thiru. Harihara Kumar, Retd. Deputy Director / Commissioner, Central Excise & Customs, Chennai.



Monday Marvel Meeting on November 30, 2015: CA. B. Ramakrishnan, Chennai addressing the members.



Regional Level Debate Competition on November 19, 2015: Dr. T. Sankaravel and CA. M.S. Kandavel, Judges presenting the Shield to the Winner of the Debate for students of classes XI & XII and Certificate to her school.



CPE Lecture Meeting

Regional Council writes...

Dear Members,

SIRC wishes all the members, students, staff and their family merry Christmas and a very happy and prosperous New Year 2016.

Acceding to the request of the Members, Monday Marvel Meetings were scheduled from November 16, 2015 and would be continued to be organized for the benefit of members. CA. Ravi Veeraraghavan, Chennai delivered the lecture on "Internal Financial Controls" on November 16, **Thiru. S. Kalyanam, Former Senior Vice-President, CEGAT, Chennai** delivered the lecture on "Key Issues in representation on matters of Indirect Taxes" on November 25, and CA. B. Ramakrishnan, Chennai delivered lecture on "Recent Developments in Capital Gains Taxation" on November 30, 2015. One Day Seminar on Taxation, Two Day Workshop on Service Tax, One Day Mega Seminar on GST and Half-a-day CPE Meeting on Contemporary Issues in Search, Seizure and Survey were held on November 13, 20 & 21, 27 & 28, 2015 respectively. All the above programmes including weekly Study Circle Meetings were well attended by the Members.

Various CPE Seminars/National CPE Seminars jointly with various Committees of ICAI, CPE Workshops and CPE Study Circle Meetings are lined up during December 2015 to provide wide choice and opportunity to all the members to enable them to attend and comply with CPE hour requirements, particularly for the calendar year 2015 ending on 31st December 2015. Members are requested to browse through SIRC Calendar for the brief details of all the CPE programmes being organized for the benefit of members in December 2015.

The details of CPE requirements to be complied with by different categories of members are published for information of members.

63rd and 64th Annual General Meetings of SIRC of ICAI

As informed to the members in the November 2015 issue of the Newsletter the 62nd AGM is kept in abeyance since the matter is sub-judice.

The 63rd AGM and the 64th AGM of SIRC of ICAI will be held on December 15, 2015 at 4.00 p.m. and 5.00 p.m. respectively. The Notice for the 63rd and 64th AGM; Annual Report, Auditors Report and Financial Statements for the year ended March 31, 2014 and March 31, 2015 have already been published in the Newsletter, hosted in the SIRC Newsletter and displayed in the Notice Board for information of the Members.

Elections 2015

The next elections to the Council and the Regional Councils of the Institute of Chartered Accountants of India are scheduled on December 4 & 5, 2015 in cities having more than 2500 members (i.e. Ahmedabad, Bangalore, Chennai, Delhi/New Delhi, Gurgaon, Hyderabad, Jaipur, Kolkata, Mumbai, Pune, Surat and Thane) and on December 5, 2015 at all other places. **The Polling Booths would be open for Members to cast their vote from 8.00 a.m. to 8.00 p.m.** We request members to kindly make it convenient to reach your Polling Booth and cast your votes without fail.

Please note that the last date and time for receipt by post of ballot papers back for those who have applied for permission to

vote by post under rule 28 of the Chartered Accountants (Election to the Council) Rules, 2006 is **15th December 2015 - 5.00 p.m.**

Members and Students Grievances

In order to provide platform and address the grievances of Members, Students and the stake holders, the ICAI and SIRC of ICAI have various channels. The first and foremost is the **ICAI e-Sahaayataa portal**. Members and students can access the link help.icai.org to post their Grievances and check its status. The e-Sahaayataa Grievance System has the Escalation Levels set right from the Level 1 for the desk level users upto the level of Secretary's, Vice President's and President's Office. The ICAI e-Sahaayataa portal can also be accessed through link available in the home page of the SIRC Website www.sircoficai.org.

SIRC of ICAI has a dedicated email id sircgrievance@icai.in for the members, students and others to send in their grievances. SIRC also maintains Manual Grievance Registers at the Reception and Facilitation Counter, wherein the grievances could be recorded. The grievances through the above channels are addressed as and when received. SIRC also constitutes every year Member Grievances Committee to look into the way and means to provide opportunity to members to record their grievances and oversees the redressal mechanism and status of grievances.

SIRC OF ICAI

CORRIGENDUM

Corrigendum to Notice given for the 63rd & 64th Annual General Meetings of SIRC of ICAI, Annual Reports of SIRC of ICAI and Audited Financial Statements of SIRC of ICAI together with Auditor's Report thereon published in the November 2015 issue of SIRC Newsletter

1. Please read the time as "**4.00 p.m.**" instead of 5.00 p.m. printed in the Notice for the 63th Annual General Meeting of SIRC of ICAI at page 19.
2. Please read the Membership Number of CA. R. Sundararajan as "**029814**" instead of "219100" printed in the Auditor's Report to the Audited Financial Statements of SIRC of ICAI for the year ended 31st March 2015 at page 36.

Sd/-, Secretary, SIRC of ICAI

Election - 2015

Particulars of the Candidates from Southern Region for the ICAI-Election 2015 are hosted on the SIRC website www.sircoficai.org

Particulars of candidates for Council also available under the link <http://resource.cdn.icai.org/election2015-29465CC-S.pdf>

Particulars of candidates for Regional Council also available under the link <http://resource.cdn.icai.org/election2015-29465RC-S.pdf>

Contact: Mr. R. Rajendran, Assistant Secretary, ICAI – Phone: 044 – 30210320 / 321 – E-mail: sirc@icai.in

Sl. No	Programme Date	Programme Name	Resource Persons	Timings	Venue	CPE Credit	Delegate Fee*		Page No.
							For Pre-Regn.	For Spot Regn.	
1	December 9, 2015 Wednesday	CPE Study Circle Meeting on Issues in Service Tax: Import/Export of Service; Charitable Organisations & Educational Institutions	CA. Paul Thangam P Coimbatore	6.15 pm to 8.30 pm	P. Brahmayya Memorial Hall	2	180	200	-
2	December 14, 2015 Monday	Monday Marvel Meeting on Working Capital Management for Industries	CA. B.B. Seshadri Vellore	6.15 pm to 8.30 pm	P. Brahmayya Memorial Hall	2	No Delegate Fee		-
3	December 16, 2015 Wednesday	CPE Study Circle Meeting on Technology based Internal Audit	CA. R. Balakrishnan Dindigul	6.15 pm to 8.30 pm	P. Brahmayya Memorial Hall	2	180	200	-
4	December 17, 2015 Thursday	One Day Seminar on Ind AS – IFRS in India	Details will be hosted in SIRC Website	9.30 am to 5.00 pm	P. Brahmayya Memorial Hall	6	900	1000	-
5	Dec. 18 & 19, 2015 Friday & Saturday	Two Day Workshop on Service Tax	Details will be hosted in SIRC Website	9.30 am to 5.00 pm	P. Brahmayya Memorial Hall	12	1800	2000	-
6	December 21, 2015 Monday	Monday Marvel Meeting	Details will be hosted in SIRC Website	6.15 pm to 8.30 pm	P. Brahmayya Memorial Hall	2	No Delegate Fee		-
7	December 23, 2015 Wednesday	CPE Study Circle Meeting on Recent Developments in Service Tax	CA. S. Seetharaman Chennai	6.15 pm to 8.30 pm	P. Brahmayya Memorial Hall	2	180	200	-
8	December 26, 2015 Saturday	One Day CPE Seminar by ICAI Committee for Members in Industry jointly with SIRC Committee for Members in Industry	Details will be hosted in SIRC Website	9.30 am to 5.00 pm	P. Brahmayya Memorial Hall	6	900	1000	-
9	Dec. 28 & 29, 2015 Monday & Tuesday	Two Days CPE Conference by ICAI Direct Taxes Committee jointly with SIRC CPE Committee	Details will be hosted in SIRC Website	9.30 am to 5.00 pm	P. Brahmayya Memorial Hall	12	1800	2000	-
10	Dec. 30 & 31, 2015 Wed. & Thursday	Two Days CPE Conference by ICAI Indirect Taxes Committee jointly with SIRC CPE Committee	Details will be hosted in SIRC Website	9.30 am to 5.00 pm	P. Brahmayya Memorial Hall	12	1800	2000	-

*Delegate Fee : Pre-regn. will be considered upto immediate preceding day of the programme only.

Online enrolment through <http://sircofcaai.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.

Updates

Direct Taxes

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- 1. Simplification of procedure for Form No.15G and 15H:** In Notification No.76/2015 dated 29.09.2015 the CBDT has substituted rule 29C in the Income-tax Rules, 1962. The substituted rule provides for furnishing of declaration by persons claiming receipt of income without deduction of tax by furnishing Form No.15G and Form No.15H either in paper form or electronically as per the procedures, formats and standards specified by the Principal Director of General of Income-tax (Systems). Thus the payee can submit declaration to the payer who will allot a Unique Identification Number (UIN) to all self declarations and these will be subsequently furnished by the deductor along with UIN in the quarterly TDS statements. The deductor however will have to retain Form No.15G and 15H for seven years. The revised procedure is effective from 01.10.2015.
- 2. Phasing out of deductions under the Income-tax Act:** In the Press release dated 20th November 2015 the Ministry of Finance has given roadmap for phasing out various deductions such as profit linked, investment linked and area based enjoyed presently by both corporate and non-corporate taxpayers. It has proposed that the sunset provisions will not be modified to advance the sunset date nor will that date be extended further. For all tax incentives with no terminal date, a sunset date of 31.03.2017 will be provided for commencement of the activity or claim of benefit depending upon the structure of the relevant provisions of the Act. There would be no weighted deduction from 01.04.2017. It has invited comments from the stakeholders within 15 days to be addressed to Director (TPL-III) on mail at dirtpl3@nic.in.
- 3. Strict adherence to time limit for passing order under section 12AA:** In Instruction No.16/2015 dated 6-11-2015 the CBDT has directed that the time limit of six months prescribed under section 12AA(2) for passing order either for granting or refusing registration under section 12AA(1) be observed by Commissioner of Income Tax (Exemptions). It has directed CCIT (Exemptions) to monitor the adherence to prescribed time limit and initiate suitable administrative action in case of any deviations.
- 4. Constitution of local committees to deal with taxpayers grievances from high-pitched scrutiny assessments:** The CBDT in Instruction No.17/2015 dated 9-11-2015 has directed the Principal CCITs / Principal CCITs (Intl.Taxation) / Principal CCITs (Exemptions) to constitute local committees to deal with taxpayers' grievances in respect of high-pitched scrutiny assessments. The local committee would deal with the grievances and would endeavor to dispose of each grievance within two months from the end of the month in which the grievance petition is received by it. Where it is established that the assessment is high pitched a report would be sent to the Principal CCIT / CCIT for taking suitable administrative action. However, the decision of the local committee shall not be considered to be an alternative / additional appellate channel.
- 5. Tolerance limit under Third Proviso to section 92C(2) notified:** The CBDT in Notification No. 86/2015 dated 29-10-2015 has notified the tolerance limit in the case of variation between the arm's length price determined under section 92C and the price at which the international transaction or specified domestic transaction was undertaken. It is one percent in respect of wholesale trading and three percent in all other cases. This is applicable for the assessment year 2015-16. ■

Tamil Nadu VAT

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Gist of certain TNVAT CST Judgments

Appeal, Pre Deposit: The condition directing the dealer to pay 25 per cent of the disputed tax to entertain the appeal petition was held to be not unreasonable. [2013] 57 VST 238 (Mad) **Promech Industries V. Assistant Commissioner (CT) (FAC), Madurai Rural (South) Circle, Madurai.** The payment of disputed tax was not made a pre-condition under section 54(4) of the TNVAT Act 2006, when revision petition is filed before the revisional authority. [2011] 44 VST 102 (Mad) **Parshavanath Bullion V. JC (CT), Coimbatore and Another.**

Registration cancellation Vs Input tax credit: The petitioners had purchased the taxable goods from registered dealers who had valid registration certificates paid the tax payable thereon, availed of input tax credit and the assessing officers had passed orders granting such benefit. Therefore, the assessment orders granting input-tax credit were validly passed. The notices, revised assessment orders and the provisional assessment order, seeking to deny the benefit of input-tax credit to the petitioners only on the ground that the registration certificates of the selling dealers had been cancelled with retrospective effect, were set aside. [2013] 59 VST 256 (Mad) **Jinsasan Distributors V. Commercial Tax Officer (CT), Chintadripet Assessment Circle, Chennai (and other cases).**

Interstate works contract: Where the goods are customised one and manufactured as per the specifications of the customers and the movement of the finished goods from Ghaziabad to Tamil Nadu was only in pursuance of the sale cum contract and no sale was effected after the goods moved into Tamil Nadu, the nature of transaction clearly shows that it is only interstate works contract, considering the predominant nature of the order placed by the customer for designing, supply, installation, erection, testing and commissioning of the lifts and the assessee is, hence, entitled to deduction as claimed under Section 3-B(2)(a) of the Act 2013. **M/S. ECE Industries Limited Vs the State of Tamil Nadu (Mad) TC (R) No.36 of 2010 Date: 19th June 2013.**

C forms: The Assistant Commissioner has no authority or power to refuse the issuance of forms F and C, under rule 10A of the Central Sales Tax (Tamil Nadu) Rules, 1957 on the basis that they could be misused, by the dealer. [2013] 60 VST 245 (Mad) **A. V. R. Agencies V. Assistant Commissioner (CT), Tirupur (North) Assessment Circle, Tirupur.**

Export refund: The dealer had paid the tax at 12.5 per cent which was not refunded by the seller. In view of this and going by the provisions of section 18(1) of the Act, given the fact that the sale by the dealer was zero rated and that the dealer was entitled to the benefit of section 18(2) of the Act for the refund of the input tax paid on the purchase of goods, the dealer's claim for refund of amount paid had to be given in toto without any adjustment whatsoever. [2013] 61 VST 218 (Mad) **Summer India Textile Mills (P.) Ltd. V. Commercial Tax Officer, Tiruchengode, Erode.** ■

Andhra Pradesh VAT

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GOs Issued

1. G.O.MS.No. 395 dt. 21-10-15 – substituting Item No.1A, 1B and 1C in Six Schedule specifying rate of taxes to IMFL. Beer, Wines and ready to drink varieties.

- G.O.RT.No. 1126 dt. 16-11-2015 – abolition of Form F and B licenses to petrol bunks under Essential Commodities Act.

Memo issued

Memo No.14506/CT(II)1/2015-2 dt. 5-10-15 – waiving demand of VAT on lease of oil tankers from 8-11-15 to 30.9.15 subject to payment of service tax.

Advance Rulings

Kondapalli Conveyors and Engineering - A.R.Com/21/2012 dt. 31-10-15 - "Conveyor Rollers" not fall under IV Schedule and liable to be taxed at 14.5%.

Commissioner's Circulars

- CCT's Ref.No. AI (1)/126 /2015, dt. 06-10-2015 - Registration CST Act – Instructions issued for Insisting of Security/ Additional Security and Provisional Assessment under CST Act.
- CCT's Ref: AI(1)/45/2014 dt. 14-10-15 – Instructions to Border Check post and ICPs in goods purchased Inter State by Government Departments and consumers for their own use in respect of transport declarations – invoices in respect of goods purchased and connected documents not insist e-way bills.

High Court

- A.C. Traders - 33059 and 33129 of 2015 dt. 8.10.15 – endorsement rejecting the submission of C forms after assessment quashed and directed to accept forms.
- L & T – WP 22960/2007 and batch dt. 14.9.15 – discussion on Writ Vs appeal – principles of CST transaction – sale in transit and in high seas in respect of goods incorporated in Works Contract.
- Dinakar Process – Special Appeal No.49 of 2003 22.7.15 – revision by Commissioner to tax cine wall posted under CST Act prior to amendment of sale in CST Act to include works contract; quashed. ■

Telangana VAT

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Commissioner Orders

- Forfeiting the refund claimed following HC judgment in the case of Associated Cement Company Limited (54 APSTJ 61) – (i) Megha Fibre Glass Industries - CCT's Ref.No.LV(1)/9/2014 dt. 05-11-2015 (ii) Simplex Infrastructures CCT's Ref.No.LIII(2)/127/2015 dt. 10.11.15.
- Ambrosia Inns (P) Ltd - CCT's Ref No. A(1)/137/2015 dt. 17-11-15 – revision proposed by DC Abids division to disallow the Input tax credit on LPG – appeals pending before TVAT AT – revision deferred.

Commissioner Circulars

- CCT's Ref.No.Enft./D2/172 /2010 dt. 9-11-15 – instructions in respect mandatory usage of e-way bills by VAT dealers.

DC Orders

Chalet Hotels - R.R.No./09/ 2015-16 dt. 7.11.15, R.R.No./07/ 2015-16 dt. 13-11-15 & R.R.No./08/ 2015-16 dt. 16-11-15 – cocktails considered different from alcoholic drinks proposed to tax as item falling in V Schedule.

VAT Appellate Tribunal

- Charminar Bottling Company 27 APTTR 53 – Refund earlier years are to adjusted towards demands of later year before refund and such adjustment is due compliance for payment of % of disputed tax for admission of appeal.

- Fulford India Limited 27 APTTR 56 – Revisional authority in identical circumstances to the disputed issue being allowed by ADC with detailed discussion; has to specify the findings not agreed to ADC order without relying Tribunal decision for undertaking revision.

High Court

- Polygone Refractories 85 VST 84 normal bricks used in construction and refractory bricks in industry are to be taxed under same entry in the absence of specific entry.
- Hajimiyan Saheb – TRC 89 of 2002 dt. 21.7.15 – service after reasonable period from date of order gives scope to say order antedated.
- New Tech Infrastructure 84 VST 159 – Demand draft given in continuation of cheque dishonored which is in time is compliance for payment of % of disputed tax to prefer the appeal.
- Om Laminate Agencies 84 VST 527 – penalty under Section 10 A is to be imposed on declaration knowingly false – Section 53 of Local Act not to be applied.
- Bhavyabhanu Electronics - 24854 of 2015 dt. 30.9.15 – assessee's contentions not dealt in the assessment order raising demand of Rs.14.69 Cores – set aside and rmitted back. ■

Kerala VAT

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- ❖ **SRO 545 / 2015:** By this government order, sub-rule 8 of Rule 17 is amended. By this amendment, requirement of trade license is dispensed with for commodities other than notified goods. Substantial changes have been made in the rules relating to setting up business in rented premises. Also, a Chartered Accountant is permitted to attest the lease deed.
- ❖ **CIRCULAR No. 26/2015:** The circular issued by Commissioner lays down amendments to the existing forms in the matters related to registration, renewals of registration etc., for multilevel marketing companies and also lays down the conditions for carrying business in Kerala.
- ❖ **ORDER No.C3/18378/15/CT DATED 5/10/2015.:** It is clarified herein that when a work originally awarded by the Government to a contractor is done by another contractor by way of a sub-contract, such work does not lose its identity of Government works. It was also clarified that the principal contractor can claim exemption on sub-contract works awarded by him on the strength of Form No. 20H issued by the sub-contractor and countersigned by the assessing authority of the sub-contractor and that exemption cannot be granted to the sub-contractor on the ground that the principal contractor has paid tax in full by way of TDS on the whole contract amount.
- ❖ **ORDER No.C3/19010/15/CT DATED 5/10/2015.** It is clarified that Silicon Sealant imported and cleared under the HSN 3910.00.90 would be taxable at the rate of 5% by virtue of Entry 118(10) of List A of the Third Schedule to the Kerala Value Added Tax Act, 2003.
- ❖ **ORDER No.C3/40582/14/CT DATED 28/9/2015.** The Authority for Clarification was considering a case under works contract. The Authority has ordered that "contractual document entered into between the applicant and the awardee would show that there are no stipulations regarding the supply of materials to be used in the work. The applicant can procure the materials either from the State of Kerala or from any other State. In the absence of any such stipulation, it cannot be said that the movement of goods from the State of Tamil Nadu to the

State of Kerala was occasioned on the basis of a pre-determined contract, merely for the reason that certain goods were procured from the State of Tamil Nadu." Based on above reasoning, it was clarified that the works contract in question is a local works contract and the awarder has to deduct tax at source.

- ❖ **ORDER No.C3/13485/15/CT DATED 26/10/2015** clarifies that that all types of electronic toys made of plastic or having components or accessories made of plastic are taxable at 14.5% whereas manually operated toys made of metal would be taxable at the rate of 5%. ■

Karnataka VAT

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Noteworthy Judgments of Karnataka High Court on VAT/CST

1. **State of Karnataka v IBM India P Ltd STRP No.215/2011 dated 18th Sept 2015 (2015-TIOL-2298-HC-KARVAT)** In the course of ERP implementation, if any software came into existence, no VAT was payable on such software as the title of software rested with the client, and not the assessee. Such software could not be held to be 'goods available in the market'.
2. **Zylog Systems P Ltd v Addl. Commissioner of Commercial Tax, Bangalore STA 17/2011 dt. 18-9-15 (TS-549-HC-2015-KAR-VAT)** Smart cards designed specifically for RTO as part of providing computerized service delivery system were not liable to VAT. The supply of smart cards was for providing service, and there was no element of sale involved therein.
3. **E. Ramamurthy (deceased) STRP No.56/2015 dated 27.8.15** – Penalty in CST ACT not automatic as in the case of VAT – explanation offered by the dealer to be considered – Tribunal order Quashed.
4. **Technocon Builders STRP 173 of 2014 dt. 26.8.15** – HC upheld Tribunal decision quashing the revision beyond the period specified in the Act. ■

Banking and Insurance

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Hitherto, a software exporter, whose annual turnover was at least Rs 1000 cr. or who files at least 600 SOFTEX forms annually was eligible to declare all the off-site software exports in bulk in the form of a statement in excel format to the competent authority for certification on a monthly basis. The Regulator has decided to extend this benefit to all software exporters hereafter.

Residents with long term foreign currency liability can hedge exchange rate and interest rate risk thereby moving the foreign currency liability to rupee liability subject to operational guidelines issued by the Regulator. The Regulator has decided to extend this facility vis-a-vis FCY-INR swaps with multilateral or International Financial Institutions in which Government of India is a share holding member as well. Such swap transactions should be undertaken by the MFI/IFI on a back to back basis with the Category I Authorised Dealer in India and should have a minimum tenor of 3 years.

The Reserve Bank of India has modified the minimum amount of gold that can be deposited under the Gold Monetisation Scheme under the Reserve Bank of India (Gold Monetisation Scheme), Direction, 2015. The modification provides that the minimum deposit at any one time shall be 30 grams of raw gold (bars, coins, jewellery excluding stones and other metals).

A recent survey of accounts restructured seems to indicate that borrowers are using the CDR forum to essentially get soft price terms along with elongated repayment period. No serious attempt was seen to improve the basic viability of the business. The survey found not even a single instance of the borrower hiving off his investments for the success of the restructuring scheme.

Though Health insurance policies entitle policyholders to a free medical check-up once every four years, hardly 20-25 per cent of the insured seem to go for it. Again, several policies have a component of OPD (that is treatment with Outpatients department where there is no need for hospitalisation) and dental expenses are covered once in few years with sub-limits but not many avail it. The option of international worldwide care is also offered to those who buy large covers. Some policies also cover animal bite and incidence of vector-borne diseases such as dengue and malaria. There is very little awareness of these among the insured. ■

FEMA

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1. Regularisation of assets held abroad by a person resident in India under FEMA

RBI vide A.P. (DIR Series) Circular No. 18 dated September 30, 2015 has clarified the applicability of FEMA for the transactions covered under The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (Black Money Act) on May 26, 2015 to address the issue of undisclosed assets held abroad. It provides for separate taxation of income and assets acquired abroad from income not disclosed but chargeable to tax in India.

To effectively deal with assets held abroad by persons resident in India in violation of the FEMA for which declarations have been made and taxes and penalties have been paid under the provisions of the Black Money Act, Reserve Bank has issued the Foreign Exchange Management (Regularization of assets held abroad by a person resident in India) Regulations, 2015 notified through Notification No. FEMA 348/2015-RB dated September 25, 2015 vide G.S.R. No. 738 (E) dated September 25, 2015.

Accordingly, it is clarified that:

- a) No proceedings shall lie under the FEMA against the declarant with respect to an asset held abroad for which taxes and penalties under the provisions of Black Money Act have been paid.
 - b) No permission under FEMA will be required to dispose of the asset so declared and bring back the proceeds to India through banking channels within 180 days from the date of declaration.
 - c) In case the declarant wishes to hold the asset so declared, she/he may apply to the RBI within 180 days from the date of declaration if such permission is necessary as on date of application. Such applications will be dealt by the RBI as per extant regulations. In case such permission is not granted, the asset will have to be disposed of within 180 days from the date of receipt of the communication from the RBI conveying refusal of permission or within such extended period as may be permitted by the RBI and proceeds brought back to India immediately through the banking channel.
- ### 2. Risk Management & Inter-Bank Dealings: Booking of Forward Contracts - Liberalisation

RBI vide A.P. (DIR Series) Circular No. 20 dated October 8, 2015 has allowed all resident individuals, firms and companies, who have actual or anticipated foreign exchange exposures, to book foreign exchange forward and FCY-INR options contracts up to USD 1,000,000 (USD one million) without any requirement of documentation on the basis of a simple declaration. While the contracts booked under this facility would normally be on

a deliverable basis, cancellation and rebooking of contracts are permitted. Based on the track record of the entity, the concerned AD Cat-I bank may, however, call for underlying documents, if considered necessary, at the time of rebooking of cancelled contracts. All other conditions as indicated in A.P. (DIR Series) circular no. 15 dated October 29, 2007 including suitability & appropriateness (S&A) norms shall apply, mutatis mutandis.

3. FLA Return – Reporting by LLPs

RBI vide A.P. (DIR Series) Circular No. 22 dated October 21, 2015 has informed that in order to capture the statistics relating to FDI, both inward and outward, by LLPs in India, it has been decided that henceforth, all LLPs that have received FDI and/or made FDI abroad (i.e. overseas investment) in the previous year(s) as well as in the current year, shall submit the FLA return to the RBI by July 15 every year, in the format as prescribed in the A.P. (DIR Series) Circular No. 145 dated June 18, 2014. Since, LLPs do not have 21-Digit CIN (Corporate Identity Number), they are advised to enter 'A99999AA9999LLP999999' against CIN in the FLA Return. ■

Corporate Laws

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1. According to the Notification (dt. 6th November, 2015) issued by the Ministry of Corporate Affairs, under the Companies (Share Capital and Debenture) Third Amendment Rules, 2015, companies permitted by a Ministry or Department of Central Government or by the Reserve Bank of India or by the National Housing Bank or by any other statutory authority can issue debentures for a period exceeding ten years.
2. With Effect From 17th November, 2015, for filing annual returns by a company, modified version of Form MGT-7 has to be used. ■

SEBI

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Annual System Audit, Business Continuity Plan (BCP) and Disaster Recovery (DR)

1. Pursuant to Section 131 of the Finance Act, 2015 and Central Government notification F.No.1/9/SM/2015 dated August 28, 2015, all recognized associations under the Forward Contracts (Regulation) Act, 1952 are deemed to be recognized stock exchanges under the Securities Contracts (Regulation) Act, 1956 with effect from September 28, 2015. This circular applies to National Commodity Derivatives Exchanges (Exchanges) as defined in the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Amendment) Regulations, 2015.
2. While technological developments and innovations bring efficiency to the markets, they may also pose certain risks to the stability and integrity of the markets, if not identified and managed effectively. Further, any events of disaster will disrupt trading systems adversely, thereby impacting the market integrity and the confidence of investors. Exchanges should therefore have robust Business Continuity Plan (BCP) and Disaster Recovery (DR) to ensure continuity of operations.
3. In view of above, the guidelines relating to Annual System Audit, BCP and DR are as follows:

A. Annual System Audit

- I. The exchanges shall conduct annual system audit as per the prescribed audit framework which includes, audit process, auditor selection norms, Terms of Reference (TOR) and audit report guidelines in accordance with SEBI circular no. CIR/MRD/DMS/13/2011 dated November 29, 2011.
- II. First Annual System Audit of Exchanges shall be conducted on or before June 30, 2016 for the year 2015-16 as per the provisions of the above mentioned circular. The Systems Audit Report and compliance status should be placed before the governing board of the exchange and communicated to SEBI along with their comments.

B. Business Continuity Plan (BCP) and Disaster Recovery (DR)

- I. The exchanges shall have BCP & DR policy in place and implement the broad guidelines regarding the setting up of Disaster Recovery Site (DRS) and Near Site (NS), Configuration of DRS/NS with Primary Data Centre (PDC), DR drills / Testing, BCP DR policy document as per the provisions of SEBI circular no. CIR/MRD/DMS/12/2012 dated April 13, 2012 read with circular no. CIR/MRD/DMS/17/2012 dated June 22, 2012.
- II. The exchanges having DRS / NS shall align their entire set up in accordance with the provisions as mentioned in the circulars at Point B(I) on or before April 01, 2016.
- III. The exchanges which do not have DRS / NS presently shall set up DRS/NS on or before September 30, 2016 in accordance with the provisions as mentioned in the circulars at Point B (I).
- IV. The exchanges shall submit their BCP – DR policy along with detailed plan of action for implementation to SEBI on or before April 01, 2016.
4. The national commodity derivatives exchanges are advised to:-
 - ❖ Make necessary amendments to relevant bye-laws for the implementation of this circular.
 - ❖ Communicate SEBI, the status of implementation of the provisions of this circular.
5. All the provisions of this circular shall be implemented by national commodity derivatives exchanges, unless otherwise approved by SEBI.
6. The circular is issued in exercise of the powers conferred under section 11(1) of the Securities and Exchange Board of India Act, 1992, to protect the interests of investors in securities and to promote the development of, and to regulate the securities market. ■

Central Excise and Service Tax

Contributed by: **CA. G. Saravana Kumar**
Madurai
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SERVICE TAX

1. **Introduction of Swach Bharath Cess with effect from 15th November, 2015**
 - a. The Government has introduced Swach Bharath Cess with effect from 15th November, 2015. For this purpose Notification No 21/2015-ST to 25/2015-ST addressing various aspects on SBC have been issued by Board. Also, the Board has issued FAQ dated 14th November, 2015 clarifying the levy. Following are the key points to be remembered while applying the provisions of SBC.
 - b. SBC shall be applicable on all services except the services which are covered under negative list and mega exemption notification.

- c. The objective behind introduction of SBC is to finance and promote Swachh Bharath initiatives or any other purpose relating thereto.
- d. Rate of SBC shall be 0.5% of the value of taxable services provided.
- e. SBC shall not be applicable for the services which are rendered in Jammu and Kashmir. Provisions of Chapter V of Finance Act are not applicable to the state of Jammu and Kashmir. SBC is levied under Chapter VI of Finance Act where there is no specific mention about territorial application. However, as per section 119(5) of Chapter V of Finance Act, provisions of chapter V of Finance Act in relation to levy and collection of service tax shall be equally applicable to levy and collection of SBC also. Hence, it can reasonably be concluded that SBC shall not be levied for the services rendered in the state of Jammu & Kashmir.
- f. SBC needs to be charged separately on the invoice, accounted for separately in the books of account and paid separately under the separate accounting code as follows:

SBC Minor Head	Tax Collection	Other receipts	Penalties	Deduct Refunds
0044-00-506	00441493	00441494	00441496	00441495

- g. Provisions of SBC shall be applicable to Reverse charge Mechanism also. Refer Notification No 24/2015-ST dated 12th November, 2015. Hence in addition to the Service tax of 14% SBC of 0.5% shall also be calculated while paying service tax under RCM.
- h. Taxable services, on which service tax is leviable on a certain percentage of value of taxable services, will attract SBC on the same percentage value as provided in abatement notification no 26/2012-ST dated 20th June 2012 as amended from time to time. Reference Notification - Notification No.23/2015-ST dated 12th November, 2015.
- i. Wherever service tax is paid under Composition scheme as provided under Rule 6 of Service Tax Rules, 1994, SBC shall also be payable as per following formula.
- SBC = Service Tax liability under Rule 6/14*0.5 – Notification No.25/2015-ST dated 12th November, 2015.
- j. Since SBC is not integrated with Cenvat Chain, neither SBC paid on input services point be availed as cenvat credit nor cenvat credit cannot be utilized to pay SBC.
- k. SBC on services covered by Rule 2A, 2B and 2C of Service Tax (Determination of Value) Rules, 2006, would be computed by multiplying the value determined in accordance with these rules with 0.5%.

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- Safety for the contributions and the accrued interest
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- Contributions are treated as Business Expenses for IT benefits

EXTENSION OF LAST DATE FOR SUBMISSION OF APPLICATION FORM FOR FINANCIAL ASSISTANCE FROM CASBF

The Board of Trustees of The Chartered Accountants' Students Benevolent Fund has decided to grant financial assistance to 800 students, out of which 400 male and 400 female students, who are currently undergoing articled training in accordance with The Chartered Accountants Regulations, 1988 and are poor, needy but meritorious to pursue the Chartered Accountancy Course, @ Rs. 1000/- p.m. for one year with effect from 1st April, 2015 to 31st March, 2016 to be paid in lump sum, subject to filing of required application.

The eligibility criteria for obtaining financial assistance from CASBF are as under:

- Passed 10 + 2 examination with a minimum of 70 percent marks and Common Proficiency Test of ICAI in the first attempt or
- Passed B. Com Examination from a recognized University with a minimum of 60% marks.
- Currently undergoing articled training as per CA Regulations, 1988.
- Annual income of parents from all sources must be less than Rs. 1.50 lakh.

Students both male and female who are fulfilling the above criteria may apply for financial assistance from the Chartered Accountants' Students Benevolent Fund. Students may send their request in the prescribed Application form duly filled in to the Member Secretary, Chartered Accountants' Students Benevolent Fund at the following address so as to reach on or before **31st December, 2015**.

The form can be downloaded by clicking the following link:
http://www.icaai.org/new_post.html?post_id=12016&c_id=240

The filled in application form should be sent to **Member Secretary, Chartered Accountants' Students Benevolent Fund**, C/o The Institute of Chartered Accountants of India,, "ICAI Bhawan", A-29, Sector-62, Noida-201309, Dist. Gautam Budh Nagar (U.P.). Website: www.icaai.org; email: cabf@icaai.in

ANNOUNCEMENT – GMCS BATCHES

The Next GMCS -I and GMCS - II batches starts on **December 23, 2015** (Wednesday) at SIRC, Chennai. For Registration, please logon to http://www.icaionlineregistrtrtion.org/Admin_Module/login.aspx (For further details, visit www.sircoficai.org under the caption students). Fees can be remitted by way of DD only in favour of "SIRC of ICAI" payable at Chennai.

CPE HOURS REQUIREMENTS FOR THE BLOCK PERIOD OF 3 YEARS (1-1-2014 TO 31-12-2016) TO BE COMPLIED WITH BY DIFFERENT CATEGORIES OF MEMBERS

A. All the members (aged less than 60 years) who are holding Certificate of Practice (except all those members who are residing abroad) are required to:

- Complete at least 90 CPE credit hours in a rolling period of three-years.
- Complete minimum 20 CPE credit hours of structured learning in each calendar year.
- Out of the 90 CPE Credit Hours as mentioned above, 30 CPE credit hours can be completed either through Structured or Unstructured learning (as per Member's choice).

B. All the members (aged less than 60 years) who are not holding Certificate of Practice and all the members who are residing abroad (whether holding Certificate of Practice or not) are required to:

- Complete at least 45 CPE credit hours either structured or unstructured learning (as per Member's choice) in rolling period of three-years
- Complete minimum 10 CPE credit hours of either structured or unstructured learning (as per member's choice) in each calendar year.

C. All the members (aged 60 years & above) who are holding Certificate of Practice, are required to:

- Complete at least an aggregate of 70 CPE credit hours of either Structured or Unstructured Learning (as per member's choice) in a rolling period of three years
- Complete minimum of 10 CPE credit hours being an aggregate of either Structured or Unstructured Learning in the first calendar year i.e. 2014.
- Complete minimum of 20 CPE credit hours being an aggregate of either Structured or Unstructured Learning (as per member's choice) in the second and third calendar years i.e. 2015 & 2016

D. The following class of members are exempted from CPE credit hours requirement :

- All the members (aged 60 years and above) who are not holding Certificate of Practice.
- Judges of Supreme Court, High Court and Tribunal
- Members of Parliament/MLAs/MLCs
- Governors of States
- Centre and State Civil Services
- Entrepreneurs (owners of Business (manufacturing) organizations other than professional services)
- Judicial officers

OBITUARY

S.No.	MRN	Name	Status	Place	Date of Death
1	007482	Mr. Rajendran D	FCA	Virudhunagar	18-11-2011
2	080420	Mr. Subrahmanyam Jammi Ramakrishna	FCA	Visakhapatnam	18-03-2015
3	027507	Mr. Raja Nandakumar	FCA	Tripunithura	16-05-2015
4	201710	Ms. Nithyakala S	ACA	Chennai	05-09-2015
5	208077	Mr. Halli Chandrakant Shankarappa	FCA	Bengaluru	02-10-2015

May the Almighty Architect of the Universe rest the souls in peace

Resource Persons at the CPE Seminars, Workshops and Study Meetings - November 2015

<p>Nov. 4, 2015</p>  <p>CA. Chinnsamy Ganesan Chennai</p>	<p>Nov. 11, 2015</p>  <p>CA. S. Dhayanidhi Chennai</p>	<p>Nov. 13, 2015</p>  <p>CA. Ulaganathan Shankar Chennai</p>	<p>Nov. 13, 2015</p>  <p>CA. P. Anand Chennai</p>	<p>Nov. 13, 2015</p>  <p>CA. B. Ramakrishnan Chennai</p>	<p>November 13, 2015</p>  <p>CA. J. Prabhakar Chennai</p>
<p>Nov. 18, 2015</p>  <p>CA. Shachi Maheshwari Hyderabad</p>	<p>Nov. 20 & 21, 2015</p>  <p>CA. P.C. Anand Chennai</p>	<p>Nov. 20 & 21, 2015</p>  <p>CA. Ganesh Prabhu Chennai</p>	<p>Nov. 20 & 21, 2015</p>  <p>CA. S. Chandrasekar Tirupur</p>	<p>Nov. 20 & 21, 2015</p>  <p>CA. G. Saravana Kumar Madurai</p>	<p>Nov. 20 & 21, 2015</p>  <p>CA. J. Balasubramanian Madurai</p>
<p>Nov. 20 & 21, 2015</p>  <p>CA. P. Sankaran Chennai</p>	<p>Nov. 20 & 21, 2015</p>  <p>CA. V. Ramkumar Chennai</p>	<p>Nov. 20, 21 & 27, 2015</p>  <p>CA. V. Prasanna Krishnan Chennai</p>	<p>Nov. 27, 2015</p>  <p>CA. I. Sayer Mohan Chennai</p>	<p>Nov. 27, 2015</p>  <p>CA. R.V. Sharavanaja Chennai</p>	<p>Nov. 28, 2015</p>  <p>Dr. C.P. Ramaswamy Hyderabad</p>

CALENDER 2015 - 2017

2015	FEB MAR NOV		JUN		SEP DEC		APR JUL		JAN OCT		MAY		AUG		
	SUN	MON	TUE	WED	THU	FRI	SAT	SUN	MON	TUE	WED	THU	FRI	SAT	SUN
1	8	15	22	29											
2	9	16	23	30											
3	10	17	24	31											
4	11	18	25												
5	12	19	26												
6	13	20	27												
7	14	21	28												

2016	MAY		FEB AUG		MAR NOV		JUN		SEP DEC		JAN APR JUL		OCT		
	SUN	MON	TUE	WED	THU	FRI	SAT	SUN	MON	TUE	WED	THU	FRI	SAT	SUN
1	8	15	22	29											
2	9	16	23	30											
3	10	17	24	31											
4	11	18	25												
5	12	19	26												
6	13	20	27												
7	14	21	28												

2017	JAN OCT		MAY		AUG		FEB MAR NOV		JUN		SEP DEC		APR JUL		
	SUN	MON	TUE	WED	THU	FRI	SAT	SUN	MON	TUE	WED	THU	FRI	SAT	SUN
1	8	15	22	29											
2	9	16	23	30											
3	10	17	24	31											
4	11	18	25												
5	12	19	26												
6	13	20	27												
7	14	21	28												

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