

SIRC

Newsletter

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



Chartered Accountants Day - July 1, 2015 - Chennai



CA. V. Murali, Guest of Honour being felicitated by SIRC Chairman CA. P.R. Aruloli in the presence of SIRC Secretary CA. E. Phalguna Kumar.



CA. V. Murali, Guest of Honour being presented memento by SIRC Chairman CA. P.R. Aruloli in the presence of SIRC Secretary CA. E. Phalguna Kumar and SIRC Treasurer CA. B. Sekkizhar.



Members and Students at Walkathon organised at Marina Beach.



CA. V. Murali, Guest of Honour and SIRC Chairman CA. P.R. Aruloli garlanding the bust of Shri G.P. Kapadia in the presence of SIRC Secretary CA. E. Phalguna Kumar.

GMCS Valediction - July 18, 2015 - Chennai



CA. V. Murali, Chairman BOS, ICAI being honoured by Students.



CA. V. Murali, Chairman BOS, ICAI, along with Faculty and Students.

Convocation - 2015 - July 10, 2015, Hyderabad



ICAI President CA. Manoj Fadnis presenting credentials in the presence of ICAI Vice President CA. M. Devaraja Reddy, BOS Chairman CA. V. Murali, CCM CA. Babu Abraham Kallivayilil, SIRC Chairman CA. P.R. Aruloli and Hyderabad Branch Chairman CA. V. Raghunandan.

Interactive Meeting on Company Law July 7 2015, Chennai



CA. S. Santhanakrishnan, Chairman, CLCG Committee, ICAI along with SIRC Chairman CA. P.R. Aruloli addressing the delegates.

Chairman writes...



**My Dear Professional Colleagues,
Vanakkam,**

SIRC fondly recall the participation of **Bharat Ratna Dr. A.P.J. Abdul Kalam** in the inaugural session of the International Conference on “Accounting Profession: Adding Value to New Horizons of Economic Growth” organized by ICAI on September 2, 2005. His words of wisdom to the professional fraternity and identifying Chartered Accountants as “Partners in National Economic Development” still lingers in our mind. He said “ICAI will transform into a Financial Management and Financial advice organization towards economic development of the nation and enhancing the growth of GDP of the economy”. SIRC expresses its deep condolences on the passing away of Bharat Ratna Dr. A.P.J. Abdul Kalam on July 27, 2015 and joins the entire nation to pay rich tributes to our former President of India. We take pledge to contribute to realize his dream of a vibrant and most powerful India amongst all nations. May his soul rest in eternal peace.

திண்மையில் திண்மையும் திண்மையில்
நேர்மையும் அண்மையின் வகுத்த.

“Ollirattum” - 47th Regional Conference of SIRC on August 22 & 23, 2015:

My colleagues in the Regional Council and I have great pleasure to welcome you to the “Ollirattum” 47th Regional Conference of SIRC to be held on August 22 & 23, 2015 at “CONFLUENCE”, ECR - OMR Junction, ECR, Poonjeri, Mahabalipuram P O, Chennai. The Conference Committee and Sub-Committees are striving to ensure smooth conduct of the Conference and make your participation pleasant and memorable in all respects. The Regional Conference of SIRC of ICAI, for the first time, is **co-hosted by 5 Branches** - viz. Erode, Kumbakonam, Pondicherry, Tiruchirapalli and Tirunelveli Branches.

To commemorate 66th year of our Institute, SIRC of ICAI has planned to exhibit **66 Kms long banner** to propagate Career Counselling carrying information of our profession and create awareness among the public about the CA Course through sponsorship from Corporates, CA Firms, people who are benefited from services of CA firms / students and students. This will be the longest ever Banner by distance (66 Kms) with educational values to showcase about the CA Course on the occasion of the 47th Regional Conference of SIRC on 22nd August 2015 at Mahabalipuram.

Around 3500 members are expected to attend the Conference from across the Southern Region and the country and it is

an opportunity to interact and exchange matters of professional interest and create extensive networking across. SIRC appeals to you to disseminate the information of the Conference to your colleagues in the profession to partake and make the occasion grandeur.

SIRC also appeals to members to contribute for the success of the Conference through sponsorship from their known sources to further augment our financial resources.

The detailed programme is published in this Newsletter. The details of train timings, flight timings and hotel tariff are hosted in SIRC Website and the flight timings is also available at page 16 of June 2015 issue of SIRC Newsletter.

The delegate fee shall be remitted by demand draft / at par cheque favouring “47th Regional Conference of SIRC of ICAI” payable at Chennai. For Online registration visit www.sircoficai.org

CA Day and CA Month Celebrations

As called upon by the President, ICAI, SIRC observed the month of July 2015 as “CA Month” in commemoration of the formation of ICAI on 1st July. SIRC celebrated the Chartered Accountants Day on July 1, 2015 commencing the day with Walkathon, beach cleaning, Institute’s flag hoisting, sports and games for children and spouse of members, Celebrations in evening and honouring 69 senior members of the profession at SIRC premises. CA. V. Murali, Past Chairman, SIRC was the Chief Guest. The Valedictory function of CA Month Celebrations was held on July 31, 2015 wherein the members of the Institute who had volunteered for the CA Month programmes, student volunteers, representatives from Lion Blood Bank and from other social organizations attended in large numbers.

More than 30 programmes were organized at Chennai and across the region under CA Month celebrations. The details of the specified activities in a structured manner were:

- Blood Donation Camp – 100 Units of blood collected
- Eye Checkup and Eye Will Camp at Chennai and various places
- Feeding the poor, physically challenged in various schools/ organizations
- Supplementing Noon Meal Scheme by providing fresh vegetables at schools
- Distribution of Literacy Kits to needy students
- Contribution to the efforts of International Foundation for Crime Prevention and Victim Care
- Distribution of Nursery Plants, Planting of Saplings and Tree Planting at various schools and places
- Clean India Programme in Chennai Corporation Schools
- Career Counselling Programmes at various places/branches
- Investor Awareness Programme & Tax Awareness Programme at various places/branches
- Visit of Managing Committee and other members of Mysore, Nellore, Kumbakonam and Vellore Branches of SIRC to SIRC Headquarters.

SIRC CALENDAR

AUG. - SEPT. 2015

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

Sl. No	Programme Date(s) & Day(s)	Programme Name	Resource Person(s)	Timings	Venue	CPE Credit	Delegate Fee*		Page No.
							For Pre-Regn.	For Spot Regn.	
1	August 1, 2015 Saturday	6th Sub Regional Conference at Hyderabad	Details at www.sircoficai.org			6	-	-	-
2	August 2, 2015 Sunday	Inauguration of Kalaburagi Branch of SIRC of ICAI	-	-	-	-	-	-	-
3	August 3, 2015 Monday	CPE Lecture Meeting Cultural Heritage – Makes India Elite	Prof. S Swaminathan Chennai	6.15 pm to 8.30 pm	P. Brahmayya Memorial Hall	2	No Delegate fee		-
4	August 5, 2015 Wednesday	CPE Study Circle Meeting Latest Developments in Service Tax	CA. S. Sathyanarayanan Chennai	6.15 pm to 8.30 pm	P. Brahmayya Memorial Hall	2	180	200	-
5	August 7 to 9, 2015 Friday to Sunday	Regional Residential CPE Seminar at Araku	Details at July 2015 issue of SIRC Newsletter						
6	August 10, 2015 Monday	CPE Lecture Meeting on Siddha – A Way of Inclusive Growth	Dr. P. Selva Shanmugham Chennai	6.15 pm to 8.30 pm	P. Brahmayya Memorial Hall	2	No Delegate fee		-
7	August 11, 2015 Tuesday	One Day Training Programme for Peer Reviewers	Details Inside	9.30 am to 5.15 pm	P. Brahmayya Memorial Hall	6	900	1000	6
8	August 15, 2015 Saturday	Independence Day Celebrations	Details Inside	7.30 am	ICAI Bhawan	-	-		6
9	August 22 & 23 2015 Saturday & Sunday	47th Regional Conference of SIRC of ICAI	Details Inside	-	Confluence Resorts, ECR	10	Rs.3500		12-13
10	August 26, 2015 Wednesday	CPE Study Circle Meeting Central Excise Law & Practice	CA. G Saravana Kumar Madurai	6.15 pm to 8.30 pm	P. Brahmayya Memorial Hall	2	180	200	-
11	August 28, 2015 Friday	CPE Seminar on Tax Audit	Details Inside	9.00 am to 5.00 pm	P. Brahmayya Memorial Hall	6	900	1000	6
12	August 31, 2015 Monday	CPE Lecture Meeting CAs Role in Community Policing	Dr. R. Sivakumar Deputy Commissioner of Police	6.15 pm to 8.30 pm	P. Brahmayya Memorial Hall	2	No Delegate fee		-
13	September 2, 2015 Wednesday	CPE Study Circle Meeting	Details will be hosted in SIRC Website	6.15 pm to 8.30 pm	P. Brahmayya Memorial Hall	2	180	200	-
14	September 4, 2015 Friday	C.B. Joseph Memorial Lecture	Dr. C. Rangarajan Former Governor, RBI	6.00 pm	P. Brahmayya Memorial Hall	No Delegate fee		-	
15	September 7, 2015 Monday	CPE Lecture Meeting	Details will be hosted in SIRC Website	6.15 pm to 8.30 pm	P. Brahmayya Memorial Hall	2	No Delegate fee		-

16	September 9, 2015 Wednesday	CPE Study Circle Meeting	Details will be hosted in SIRC Website	6.15 pm to 8.30 pm	P. Brahmaya Memorial Hall	2	180	200	-
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***Delegate Fee : Pre-regn. will be considered upto immediate preceding day of the programme only.**

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...)

All the Branches of SIRC have also organized befitting programmes to commemorate the occasion. I place on record through this column our grateful thanks and appreciation for the untiring efforts put in by the dedicated team of organizing committee members, the Chairmen and Members of the Managing Committee of the Branches, the support extended by the management, teaching, non-teaching staff of various schools and organizations and the officers and staff of ICAI, Chennai and staff of Branches who all made the "CA Month" spectacular and memorable.

During July 2015, SIRC organized Sub-Regional Conferences at Pondicherry on 4th, at Enakulam on 11th and at Tiruchirapalli on 18th. On 25th SIRC organized the Regional Residential Seminar at Courtallam. All the programmes evoked excellent response from members. The commendable co-ordination by the Pondicherry, Enakulam, Tiruchirapalli, Tirunelveli, Kumbakonam and Madurai Branches is noteworthy and deserves our appreciation.

SIRC continued to have Lecture Meetings every Monday towards contribution to society as part of SIRC Action Plan. Thiru. R Nataraj, IPS, Retd. DGP spoke on "Rule of Three- Make in India", Rev. Swami Mitrananda spoke on "Youth Empowerment- India Enrichment", Mr. Aravind Venkatraman, Eminent Historian spoke on "Accounting in Chola Dynasty" and Tr. T K Ramachandran, IAS, Principal Secretary to Govt. IT Dept & Chairman, ELCOT spoke on "Information Technology as Game Changer for Make in India". Regular Study Circle Meetings were also held.

A Workshop on International Taxation was organized on July 6, 2015. SIRC hosted the one day seminar organized by the Committee for Capacity Building of Members in Practice of ICAI on July 17, 2015 and Interactive Meeting on Issues in Company Law and Way Forward on July 7, 2015.

The Convocation held at Hyderabad on July 10, 2015 gave an opportunity for me to understand the needs of younger members of our profession. I also attended the National Conference organized by CPE Committee and hosted by Hyderabad on the same day. I had inaugurated the reading room facility at Vijayawada Branch on July 9, 2015 and participated in the student conclave attended by 1100 students in Guntur graced by the presence of Tr. Sidhha Raghava Rao Honourable Minister of Road, Building and Transport, Government of AP on 25th July 2015.

All the programmes were well attended by

members, students and public. I place on record the efforts taken by the Chairman and members of the respective Branch for smooth conduct of the above programmes.

Future Programmes of SIRC

On 1st August the 6th Sub-Regional Conference is being held at Hyderabad followed by Regional Residential Seminar at Araku (Visakhapatnam) on August 7, 8 & 9, CPE Workshop on Peer Review on August 11, Independence Day on August 15, CPE Seminar on August 28, 2015. Regular CPE regular Study Circle Meetings and Lecture Meetings have been planned. The details are published in the SIRC Calender and the detailed programme are published in this Newsletter. I request the members to attend all the programme and get enriched.

Rank Holders:

SIRC welcomes the successful candidates of Final Examination held in May 2015 to our professional fraternity and wish them all the best in their career. SIRC also congratulates the students who have cleared the IPCC Examination held in May 2015 and CPT Examination held in June 2015 and wish them bright future.

SIRC is happy to record that Shri Rahul Aggarwal of Secunderabad had secured First Rank in the Final Examination along with Ms. Shailee Chaudhary of Delhi who have got identical marks of 606 out of 800 (75.75%). The Second Rank was also obtained by a candidate from our region with Ms. Hturi Lakshmi Anusha of Machilipatnam securing 585 out of 800 (73%) and third rank went to Shri Deal Bhadres Modi of Mumbai with 71.88%.

SIRC is also proud to record that Shri Meka Naresh Kumar of Hyderabad secured First Rank in the CPT Examination held in June 2015 with 192 out of 200 (96%) and Shri Katla Suresh of Vijayawada securing Third Rank with 189 out of 200 (94.50%) and the Second Rank went to Ms. Saloni Jindal of Indore with 190 out of 200 (95%).

SIRC congratulates all the rank holders

Warm Regards

Yours in professional service

CA. P.R. ARULOLI
chairmansirc@gmail.com

ONE DAY TRAINING PROGRAMME FOR PEER REVIEWERS

Organised by Peer Review Board, ICAI
Host: SIRC of ICAI

Tuesday, August 11, 2015
09.30 a.m. to 5.15 p.m.

CPE Credit
6
HRS

P. Brahmayya Memorial Hall, ICAI Bhawan, Chennai

Topics

Rationale & Significance of Peer Review
Compliance With Framework Of Quality Control General & Specific Controls
Compliance With Technical Standards
Compliance With Audit Documentation
Review Procedures and Reporting by Peer Reviewer

DELEGATE FEE: Rs 1,000/- (for fresh peer reviewers) & Rs.500/- (peer reviewer already attended the training programme)

Delegate fee by way of Cash or by Cheque / DD drawn in favour of 'SIRC of ICAI' payable at Chennai shall be sent to SIRC of ICAI, ICAI Bhawan, No.122, Mhatma Gandhi Road, Nungambakkam, Chennai – 600034. Phone: 044-30210320; Fax: 044-30210355 ; Email: sirc@icai.in

For further details please visit www.sircoficai.org

CA. P.R. Aruloli
Chairman
SIRC of ICAI

CA. Shyam Lal Agarwal
Chairman
Peer Review Board, ICAI

CA. E. Phalguna Kumar
Secretary
SIRC of ICAI

CPE SEMINAR ON TAX AUDIT

Under the auspices of
Taxation Committee, SIRC

Friday, August 28, 2015
09.00 a.m. to 5.30 p.m.

CPE Credit
6
HRS

P. Brahmayya Memorial Hall, ICAI Bhawan, Chennai

Topics

Clause by Clause Discussion- Form 3 CD
Tax Audit- An Analysis
Documentation
Panel Discussion

Resource Persons

CA. S Muralidharan, Karaikudi
CA. P Anand, Chennai
CA. K Ulaganathan Shankar, Chennai
CA. S Muralidharan, CA. P Anand & CA. K Ulaganathan Shankar

DELEGATE FEE : ARS Members – NIL; Other CA Members- Rs.1000/-

Delegate fee by way of Cash or by Cheque / DD drawn in favour of 'SIRC of ICAI' payable at Chennai shall be sent to SIRC of ICAI, ICAI Bhawan, No.122, Mhatma Gandhi Road, Nungambakkam, Chennai – 600034. Phone: 044-30210320; Fax: 044-30210355; Email: sirc@icai.in

CA. P.R. Aruloli
Chairman
SIRC of ICAI

CA. P V Rajarajeswaran
Chairman
Taxation Committee, SIRC

CA. E. Phalguna Kumar
Secretary
SIRC of ICAI

INDEPENDENCE DAY CELEBRATIONS

Saturday, August 15, 2015 - 07.30 a.m. to 08.30 a.m.

122, ICAI Bhawan, Nungambakkam, Chennai-600 034.

National Flag Hoisting
at the lawns of the Institute's Premises
(ICAI Bhawan, Chennai)

CA. P.R. Aruloli,
Chairman, SIRC of ICAI

Special Address for CA Students
on
"Powers of the Subconscious Mind"

Mr. Muthiah Ramanathan
Chennai

CA. P.R. Aruloli
Chairman, SIRC of ICAI

CA. E. Phalguna Kumar
Secretary, SIRC of ICAI

◆ Updates

Direct Taxes

Contributed by: **CA. V.K. Subramani**
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1. Issue of appellate orders within 15 days of last hearing:

The CBDT in Instruction (F.No.279/MISC/53/2003-IT) dated 19.06.2015 noted that the Instruction No.20/2003 dated 23.12.2003 is not being adhered to. It has requested for strict compliance by CIT (Appeals) by issuing appellate orders within 15 days of the last hearing. This is also applicable for CIT (Admn) / CCIT as regards matters which fall in their purview under various sections of the Income-tax Act such as sections 80G, 264, 263 etc.,

2. Clarification regarding “business relationship” under section 288(2):

In Notification No.50/2015 dated 24.06.2015 the CBDT has inserted rule 51A to Income-tax Rules, 1962 to clarify the exclusions from “business relationship” for the purpose of sub-clause (viii) of Explanation below section 288(2). It says “business relationship” shall be construed as any transaction other than (i) commercial transactions which are in the nature of professional services permitted to be rendered by an auditor or audit firm under the Act and the Chartered Accountants Act; and (ii) commercial transactions which are in the ordinary course of business of the company at arm’s length price – like sale of products or services to the auditor, as customer, in the ordinary course of business, by companies engaged in the business of telecommunications, airlines, hospitals, hotels and such other similar businesses.

3. FAQ released on Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015:

The CBDT in Circular No.13/2015 dated 06.07.2015 has given clarification on tax compliance for undisclosed foreign income and assets. The significant features are (i) a company can file a declaration and the directors of the company shall not be liable for any offence under the Income-tax Act, Wealth tax Act, FEMA, Companies Act and the Customs Act; (ii) immunity from prosecution provided under section 67 will apply only in respect of 5 Acts specified in (i) above. However, no immunity from prosecution is provided under any other Act; (iii) when an undisclosed foreign asset is declared and tax is paid (with penalty) by adopting fair market value, the capital gain on its subsequent transfer will be computed by taking the fair market value as the cost of acquisition and the period of holding shall be reckoned from the date of declaration of such asset; (iv) where a notice is issued under section 142/143(2)/148/153A/153C of the Income-tax Act such

person is ineligible to make a declaration of foreign assets acquired during the year for which such notice is issued and the proceeding is pending before the Assessing Officer. However, he is free to declare other foreign assets acquired during other years for which no such notices were issued; (v) any person against whom a search operation has been initiated cannot make a declaration till the time for issuance of notice under section 153A has not expired, even if such notice for the relevant assessment year has not been issued; (vi) in case of survey operation, the person is debarred from making a declaration in respect of undisclosed asset acquired in the previous year in which the survey was conducted; and (vii) where a search or survey was conducted and completed but the undisclosed foreign asset was not taxed, such undisclosed asset can be declared under this Act.

4. Extension of time limit for submitting ITR-V for AY.2013-14 and AY 2014-15:

The CBDT in Notification No.1/2015 dated 10.07.2015 has extended the time limit upto 31st October, 2015 for submitting ITR-V forms for assessment year 2013-14 which were e-filed upto 31.03.2015 and for assessment year 2014-15 which were e-filed upto 30.06.2015.

5. Electronic Verification Code for e>Returns:

In Notification No.2/2015 dated 13.07.2015 the CBDT has given detailed guidelines for Electronic Verification Code (EVC) which dispenses with requirement of sending ITR-V to CPC after uploading the return of income without digital signature. In its order dated 20.07.2015 it has extended this benefit for the returns filed for the assessment years 2013-14 and 2014-15 in respect of returns e-filed during the period from 01.04.2014 to 31.03.2015. ■

Tamil Nadu VAT

Contributed by: **CA. V.V. Sampathkumar**
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Circular: The circular issued by the Commissioner had no statutory force. In such circumstances, the question of quashing the circular did not arise, as there was no power to issue such circular this being not a statutory circular, not binding on the assessing authority. Further held that the assessing authorities were not justified in adopting a uniform percentage as invisible loss and calling upon the dealer to reverse the refund/input-tax credit availed of to that extent. Whether it was invisible loss or whether it was destruction loss or whether it would fall within anyone of the parameters specified in sub-section (9) of section 19 of the Act, being a question of fact, had to be established by the dealer when called upon by the authority. [2015] 81 VST 389 (Mad) **Interfit Techno Products Ltd. V. Principal Secretary/ Commissioner of Commercial Taxes, Ezilagam, Chepauk, Chennai.**

Concession in rate of tax: Allowing the appeal, the Court held that section 3(5) of the TNGST Act makes it clear that the tax payable by a dealer in respect of sale of goods mentioned in the Eighth Schedule to any other dealer for installation and use in his factory site situate in the State for the manufacture of any goods shall be at three per cent on the turnover relating to such sales. This only meant that the goods in question should be installed in the factory site in the course of manufacture of any goods. The words "installation of in his factory" or "use in his factory" could not be misread as to be used as inputs in the manufacture of goods, they are machinery used by the factory at site for manufacture of goods. The requirement as envisaged under section 3(5) of the Act was fully satisfied in this case. The goods were installed and used in the factory site. Therefore, the dealer was entitled to concessional rate of tax at three per cent. [2015] 80 VST 459 (Mad) Neel Industries Pvt. Ltd. v. State of Tamil Nadu.

Reassessment: In cases where the dealer claims that any question of law arising in "his case" for an assessment year which is pending before the assessing authority is identical with a question of law arising in his case for another assessment year which is pending before the High Court or Supreme Court, the dealer may furnish declaration to the assessing authority under section 23(1). When no case of the dealer was pending for any assessment year before the assessing authority in which an identical question of law was pending before the Supreme Court, the question of invoking the power under section 23 did not arise and hence the order of reassessment was not bad in law for invoking section 19(20) of the Act. [2015] 80 VST 368 (Mad) A.B. Selvanathan Chetty v. Assistant Commissioner (Ct) (Fac), Chepauk Assessment Circle, Chennai.

Works contract or sale?: The dealer undertook the work of printing annual reports according to the instructions of the customers. These items were printed for their exclusive use on works contract basis. When the pre dominant intention is of printing annual report to the specifications given by the customer, it was in the nature of works contract. Where the finished product supplied to a particular customer was not a commercial commodity in the sense that it could not be sold in the market to any other person, the transaction was a works contract. The mere fact that in the execution of the contract for work, the paper owned by the dealer stands transferred to the contractee incidentally would not lead to the inference that the transaction is only a sale and not a works contract. [2015] 80 VST 478 (Mad) Heritage Printers V. Joint Commissioner (SMR) of Commercial Taxes, Chepauk, Chennai and another. ■

Andhra Pradesh VAT

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Commissioner's Circulars

1. CCT's Ref. No. CCW/CS(1)/ 128 /2015 dt 19-06-15- Circular 3 – instruction given to refund the excess tax within 90 days of claim.
2. CCT's Ref. No. CCW/CS(1)/ 128 /2015 Dt: 22-06-15 – Circular No.4 - VAT Registrations-Inspections(Advisory visits)- instructions issued

DC orders

1. Yona Smelters R.R.No.46 2014-15/A-12 dt 17.6.15 – revised the assessment to tax sale to exporter for want due to non-submission of agreement of exporter with foreign buyer (against the decision of Hyderabad bench of STAT (in combined State) in the case of M/s. Annapurna Industries, Rangampally 56 APSTJ 67)
2. Krishna District Milk Producers Mutually Aided Co- op Union Limited - R.P No / 01 /2011 -12 dt 26.6.15 – revision made in respect of fake C forms on the report from other states – taxed at rate applicable withdrawing concessional rate (against SC judgment in Radio And Electricals 18 STC 222, SC Judgment in Chunni Lal Parshadi 62 STC 112 and APHC judgment in United Steel 70 STC 114)

ADC Orders

1. Hindustan Zinc Limited - VSP/VAT/120/13-14 – 17.5.2015 – to specify dealer – enough buy and consume (need not to buy and sell) following SC judgment Abdulkakshi (15 STC 644) and APHC judgment - Nandanam Construction 53 STC 42
2. Moosajee Jeevjee Enterprises - VSP/VAT/115/14-15 – 17.6.15 - supply imported goods to foreign going vessels and/or to diplomatic personnel in bonded warehouses having no destination outside India – does not qualify to be export - appropriation in the state - liable to VAT following SC judgment in Madras Marine Co 63 STC 169
3. Vinod Kumar Jain Aro Exim – goods purchased from unregistered dealers and exported – not taxable to purchase tax U/s 4(4)

High Court

1. Krishnapatnam Port – 59 APSTJ 241 – incorporation of goods is measure for turnover – TDS is to be deducted – no power to exempt TDS provisions - refund to be claimed during tenure of notification U/s 15(1) fulfilling terms and conditions specified

2. S.P. Bailing Press 59 APSTJ 78 – assessment completed on Xerox copies of C forms – revision directed to file original C forms – HC accepted the plea of filing original of duplicate ‘C’ forms

Gujarath HC

1. State of Gujarath Vs Gujarath Ambuja Export (2015 TOIL-1032-HC) interest and penalty not to be imposed if assessed tax is met by carry forward Input Tax.
2. Anand Tyres Vs State of UP 2015 TOIL 413 HC (VAT) - Hydraulic excavator is classified as machinery or motor vehicles of all types for levy of entry tax

Delhi HC

1. MRF Limited – 2015 TOIL 1311 – no difference between discount given in invoice and given quarterly basis – both are deductible from turnover
2. Hari Durga Travels 2015 TOIL 1300 – VAT not chargeable on Lease rentals of buses given Delhi transport organization

Central Excise and Service Tax Board had issued a circular to impose service tax 14% on 40% value of food served in AC Restaurants. There is no change in the circular except rate of service tax. [(food is taxed under VAT laws)(the goods subjected to VAT are in negative list of service tax) ■

Telangana VAT

Contributed by: **CA. Satish Saraf**
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GOs issued

1. G.O.Rt.No. 301 dt 6.7.15 – Five Member committee appointed to scrutinize the application for exemption from entertainment tax
2. G.O.MS.No. 109 dt 07-07-2015 – effective date of amendments to Telangana VAT Act – 1st May 2015

DC Orders

1. Kwalaty Catering Services - R1/25/2012 – 16.7.15 – Revised the assessment to tax food supplied to units in SEZ against Judgment of AP High Court in Flowmore 53 APSTJ 235 interpreting entries 59 and 59A of Ist Schedule taking shelter with the SC Judgment in Parson Tools & Plants reported in 35 STC 413 (bad order – to be taken to Tribunal)(DC bound by interpretation of High Court)

Advance Rulings

1. Siddhartha Corporation - A.R.Com/29/2015 dt 22.6.15 – Purchase of dry chilies from farmers for export not liable U/s 4(4) – shown as exempt purchase in Column 6

of VAT 200 – export need not be reported in VAT returns.

2. Satyam Industries - A.R.Com/9/2015 dt 23.6.15 – nickel coated M.S. wire hangers liable at 14.5%

High Court

1. K. G. F. Cottons 81 VST 1 - statutory construction is that a subject is to be taxed upon clear words. The context and scheme as a whole, and its purpose should be regarded
2. Neeraj Kumar Vishal Kumar 59 APSTJ 1 – show case notice is to be issued mandatorily for assessment
3. Victory Transformers 58 APSTJ 102 – issue of C form not to be stopped for the sake arrears
4. Pearl City Containers 58 APSTJ 299 – payment of 12.5% disputed tax necessary even to file appeals for units having tax deferment.

Rajasthan HC

1. CTO Vs Jyothi Electronics (2015 TOIL – 1016 – HC) input tax available even though tax on sale amount less than purchase price – no provision for restriction of ITC (Section 13 is amended to put the restriction w.e.f 1st May 2015)

Punjab and Haryana HC

1. Idea Cellular – WP 28512 of 2013 dt 23.3.15 (57 taxman. com 293) – VAT was collected and notice for service tax issued – directed State to transfer the VAT collected to revenue of Union.
2. Fortis Health Care Ltd v State of Punjab ((2015) 57 taxmann.com 44 HC, relying on the SC judgment in Bharat Sanchar Nigam Ltd v Union of India, held that sub-clauses of article 366(29A) of the Constitution did not cover hospital services. ■

Kerala VAT

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- ❖ WP(C).No. 17090 of 2015 (I): Petition for restoration of appeal was rejected by the Tribunal on the ground that “appeal was filed by the Manager through authorised representative and whereas the restoration application is filed by a partner who is not competent to prefer the petition”. The Hon. Court ordered that “in law, a compendious personality like a firm will be treated as entity for limited purpose for the juridical identity and representation of such entity through the competent person identifiable or verifiable as per the law. It is astonishing that, the Tribunal dismissed the restoration application for such a simple reason that the same has

been filed by the partner, who is not competent to file such an application. The Tribunal ought not have adopted such a hyper-technical approach, while dealing with an appeal which require substantial redressal warranting meritorious consideration. Nothing has been adverted, as to complaint of the petitioner regarding the non-receipt of the communication by them on the date on which this case was posted before the Tribunal. In such circumstances, holding that there was no sufficient cause by the petitioner is erroneous”.

- ❖ WP(C).No. 7079 of 2015 (H) involved a case where the stay petition was dismissed going into the merits of the case. The Honourable Court held that as the 2nd respondent (appellate authority) had chosen to dismiss the stay petitions filed by the petitioner, the 2nd respondent ought to have proceeded to hear the appeals itself on an early date, rather than insist on a deposit of tax pending disposal of the appeal pursuant to a dismissal of the stay petition.
- ❖ WP(C).No. 10406 of 2015 (A) involved a case where shuttering equipment of iron and steel were detained and security deposit was demanded. The Court ordered for release of goods and vehicle by holding that detention is permissible only in certain limited circumstances and in the case before the Court the transportation of goods is covered by documents prescribed under the statute, and further, the entire tax in respect of the consignment has already been paid in advance.
- ❖ WP(C).No. 14680 of 2015 (H) is a case involving detention of goods on the ground of that goods taxable at 14.5% was declared as goods attracting tax at 5%. The Court, ordered for release of the goods under a simple bond without sureties as the transportation was an interstate stock transfer accompanied by necessary documents prescribed under the KVAT Act and Rules and that the petitioner is a registered dealer within the State and also ordered for adjudication of the matter within a period of 2 months from the date of receipt of a copy of the judgment. ■

Karnataka VAT

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Circular No: 04/2015- 16 DATE: 23/07/2015

1. The Commercial Taxes Department (CTD) has deployed an electronic service of uploading of Purchase and Sales details by the dealers at the Department's portal. The goal of this new service is to minimize disputes related to input tax credit, facilitate electronic audit across the VAT

chain for all dealers instead of the current arrangement of manual audit and faster processing of refunds.

2. As per Notification No. CCW/CR/44/2013-14 dated 29.04.2014 cited at reference (1) above, all dealers, whose total turnover is Rs.50 lakhs and above for the year ending on 31.03.2014 or in any subsequent financial year, are required to electronically upload the purchase and sales details on to the departmental portal for each tax period before 20th of the succeeding month, commencing from the tax period of May 2014.
3. The ITC Matching Module under electronic Uploading of Purchase and Sales Statements (e- UPaSS) has been deployed in dealer's login with effect from 27th March 2015 as per CCT Circular No. 23/2014-15 dated 27/03/2015 cited at reference (2) above, to facilitate the targeted dealers to correct the invoice details mismatches and to make any corrections under ITC Matching Module. Accordingly, the revision option for the Tax Periods May 2014 to November 2014 was allowed upto 30th June 2015.
4. Pursuance to deploying of ITC Matching Module, this office is daily receiving requests through e-mails, telephonic calls from the dealer community/ stake holders/ Auditors and Tax Practitioners requesting for extension of Revision option under electronic Uploading of Purchase and Sales Statements (e-UPaSS) module on the ground that the dealers are unable to rectify the mistakes made while entering the data under e-UPaSS within the stipulated period as the dealers were unable to comply in toto because of the practical and technical problems. In some of the cases, dealers have to make correction of more than 5000 to 6000 Invoices per month, for which the dealer has to delete the invoice details individually and to upload the revised data through XML file. Further, to match the Invoice details, both the seller and buyer have to upload the correct data in the Departmental portal.
5. Further, in response to the feedback received from the dealers and Stake holders, the following additional features have been added to make ITC matching module more dealers friendly.
 - a) “Sales Invoices of Your Seller” — using this option, the purchasing dealer can view the details of sales invoice as uploaded by the corresponding selling dealer.
 - b) Tolerance of Rs.1/- after rounding off the decimals under Net value and tax value column, so as to minimize the mismatches between seller and buyer data.
 - c) In case where the dealer has uploaded the Invoice No. prefixed with “0” and the other dealer has uploaded the Invoice No. without prefixing “0”, such invoices are treated as matched and listed under “Accepted” category.

d) If the purchasing dealer has uploaded the Net value/ Tax value amount less than the corresponding net value and tax value amounts, as uploaded by the selling dealer, such invoices are treated as matched and listed under "Accepted" category.

In addition to the above features, the following updates have also been added and enabled under electronic Uploading of Purchases and Sales Statements (e-UPaSS):-

- i. To upload the details of Port Name and Port Court under Export Sales Format.
 - ii. To upload Credit Notes / Debit Notes with Net Value as "0" and the applicable tax value under local / interstate sales and purchases.
 - iii. To enter tax value payable on URD local purchases under "URD purchases lump sum entry" so as to match with the corresponding values between the e-Return and e-UPaSS.
6. In order to utilize the above updates made under ITC Matching and considering the request of the dealers / stake holders / Auditors and Tax Practitioners, it is considered necessary to extend the time for revision option. Accordingly, in continuation of CCTs Circular No. 2372014-15 dated 27.03.2015, the "Revision option" for the Tax Periods May 2014 to December 2014 has been further extended upto 31st July 2015. The dealers shall make use of this extended facility of Revision option to make any corrections under ITC Matching Module for the Tax Periods May 2014 to December 2014. ■

Banking and Insurance

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GReserve Bank of India has updated its Liberalised Remittance Scheme applicable to residents. As per this scheme, a resident can remit up to USD 250000 USD a year (April to March) overseas for purposes such as opening an account overseas, making investments overseas, for purchase of property and for extending loans to NRIs who are relatives.

Residents can also make rupee loans to NRIs through their NRO accounts. Such funds are not to be remitted overseas by those NRIs. NRIs cannot use those funds for activities and investments prohibited by the Regulator.

Banks can now borrow on their own - without the need to approach the regulator for a case to case approval-from their overseas Head Office, or from branches located abroad or from institutions and multilateral financial institutions located overseas. The quantum would be to the extent of their unimpaired Tier I capital (as it existed in the quarter

ended immediately preceding the date of borrowal) or USD 10 mio, whichever is higher. These borrowings should be for the general banking business and not to shore up their capital needs.

In addition to the budget allocation of Rs 7940 cr, public sector banks are likely to see additional infusion of funds to the extent of Rs 12000 cr. Though in the long run, such support would be performance based, for the moment, banks which are in immediate need of funds are to be taken care of.

While the performance of the banks in the first quarter is expected to be muted, analysts note that debt accumulation by corporates has come down. This is expected to improve the EBITDA of these corporates. The second news of note is that CDR cell has not received any case for restructure in the first quarter. While it does not necessarily mean that the worst is over, there seems to be hope in the horizon that loss on account of restructure may not be that high. Even in the infra front, power utilities are expected to go through one more round of restructure before coming out of red. However, results of the first quarter are expected to reflect poor credit growth and continued stress on asset quality.

RBI has come out with guidelines on the concurrent audit system detailing Scope, Coverage and appointment. It has also given a Minimum Audit Programme. The Regulator has extended the date for exchange of notes dated pre-2005, to 31st December 2015.

In the case of general insurance, the four state owned insurance companies seem to be steadily losing ground to the players in the private sector. While in the life sector LIC of India continues to dominate, consumers seem to be moving towards private sector in the case of non-life insurance. The long term nature of the product (life) may be the major factor for the consumers preferring the Government undertaking.

Product differentiation,(insurance cover for intellectual property, insurance for directors and officers, weather insurance etc.), quicker claim settlement, avoiding group health proposals are said to be some of the reasons for the better performance of the private players in a sector which is expected to touch Rs 780000 cr by 2025. Health Insurance continues to be plagued by high incurred claims ratio (ICR) of over 90 %, which has made this sector highly non-profitable.

The industry seems to face certain issues on the service tax front such as-

- disallowance of CENVAT credit on reinsurance services;
- tax being levied twice on the premiums collected both on reinsurance and coinsurance services



47th Regional Conference of SIRC of ICAI
 22nd and 23rd August 2015
 Confluence Resort, Mahabalipuram
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Places to visit in & around Mahabalipuram

CHOLAMADAL ARTIST'S VILLAGE

This village was established in 1965 to promote and develop the traditional art. Exhibitions are regularly put up to exhibit various paintings, Sculptures and crafty articles. The visitors can interact with the artists of the studios in this village.

SADRAS

This fine beach resort is 13 Kms away from mahabalipuram towards Kalpakkam. There is a ruined Dutch Fort. There is also a Dutch cemetery finely carved with headstones and inscriptions in the Dutch languages.

THIRUKKALUKUNDRAM

This Hindu pilgrim is also known as Pakshitheertham, which lies 16 km away from mahabalipuram. There is a 160 m hill where we can find the small Vedagirishvara Temple. This is dedicated to Lord Shiva. Once The priest in the temple feeds a pair of white eagles, which are said to be saints. No other eagles are birds attend this feast. There is a larger shiva temple in the village located below the hill. One can take a view of the countryside from the hill tops which attract the devotees.

KOVALAM

Kovalam is known as Covelong in English, which is a beautiful spot lies 15Kms from mahabalipuram and 38 Kms from Chennai. This is a small fishing village but now a famous beach

resort of the country. One can find remains of historic port and beautiful hotel resorts. The Olive Ridley Turtles visit the beach between November and March to hatch their eggs.

MUDALIARKUPPAM

It is about 36 Kms from mahabalipuram on the East Coast Road (ECR). There are facilities that are being developed for boating.

MUTTUKADU BOAT HOUSE

It is a water sport facility on the East Coast Road at Muttukadu, Chennai, India, offering rowing, wind surfing, water skiing, and speedboat riding. It is a backwater area of the Bay of Bengal

NITHYAKALYANAPERUMAL TEMPLE

This is a Hindu pilgrim which is 16 Kms away from mahabalipuram and is considered to be one of the 108 sacred shrines called as Tirupathi. The deity here is goddess Lakshmi. The events celebrated here are Garuda Sevai, on the Tamil Month Aani, Pooram in Aadi, and spring festival in Vaigasi.

MGM Dizee World

MGM Dizee World is an amusement park located in East Coast Road. The park has log flume, Ferris wheel, spider spin, roller coaster, the funny mountain, dashing cars, super trooper, a water world and it also hosts special seasonal shows.



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Name of the Resource Persons	Topics
CA. Bhavani Balasubramanian Chartered Accountant, Chennai	The Companies Act 2013 : Lights on
Dr. P. T. Rajan Former Managing Director, Standard Chartered Bank	Global Economic trends – Risks for Indian Growth
Mr. Firoze B Andhyarujina Advocate, Mumbai	Analysis of Black Money Law to Make India Glow
CA. Kapil Goel Chartered Accountant, New Delhi	Recent Judicial Pronouncements in Direct Taxes
Rev. Mitrananda Chinmaya Mission, Chennai	Make India – My India
Thiru. Shaktikanta Das, IAS*	

* Confirmation awaited

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9367724500
Chairman, KUMBAKONAM Branch
of SIRC of ICAI

Continued from page no. 11...

On the income tax front, the industry faces issues covering –

- Provisions charged to revenue accounts to meet statutory and regulatory prescriptions made in the interests of the policy holders;
- Applicability of MAT to the non-life industry;
- TDS on reinsurance premium paid to overseas reinsurers;
- Disallowance of notional expenditure in relation to exempt income. ■

FEMA

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1. Subscription to chit funds by Non-Resident Indian on non-repatriation basis

RBI vide A.P. (DIR Series) Circular No. 107 dated June 11, 2015 has reviewed extant guidelines for subscription to the chit funds in consultation with the Government of India and accordingly, it has been decided to permit Non-Resident Indians (NRIs) to subscribe to the chit funds, without limit, on non-repatriation basis

For the concerned procedure, please refer the Circular

2. External Commercial Borrowings (ECB) for low cost affordable housing projects

RBI vide A.P. (DIR Series) Circular No. 108 dated June 11, 2015 has reviewed the AD Category-I banks is invited to A.P. (DIR Series) Circular No. 61 dated December 17, 2012 and A.P. (DIR Series) Circular No. 113 dated June 24, 2013 in terms of which External Commercial Borrowings (ECB) can be raised by eligible borrowers, for low cost affordable housing projects, under the approval route.

On a review, it has been decided that the scheme of raising ECB for low cost affordable housing projects will continue for the financial year 2015-16 with the same terms and conditions as mentioned in the above A.P. (DIR Series) Circulars.

3. External Commercial Borrowings (ECB) for Civil Aviation Sector

RBI vide A.P. (DIR Series) Circular No. 109 dated June 11, 2015 has reviewed the AD Category-I banks is invited to A.P. (DIR Series) Circular No. 113 dated April 24, 2012 in terms of which External Commercial Borrowings (ECB) can be raised by airline companies for working capital as a permissible end-use, under the approval route, subject

to the conditions stipulated in the said Circular. The scheme was extended initially till December 31, 2013 vide A.P. (DIR Series) Circular No. 116 dated June 25, 2013 and thereafter till March 31, 2015 vide A.P. (DIR Series) Circular No. 113 dated March 26, 2014.

On a review, it has been decided that the above scheme of raising ECB for working capital for Civil Aviation Sector will continue till March 31, 2016 with the same terms and conditions.

4. Overseas Foreign Currency Borrowings by Authorised Dealer Bank

RBI vide A.P. (DIR Series) Circular No. 112 dated June 25, 2015 has reviewed the AD Category-I banks is invited to Regulation no. (4)(2)(i) of Notification No. FEMA 3/RB-2000 dated May 3, 2000, as amended from time to time, in terms of which, AD Category - I banks may borrow funds from their Head Office or overseas branches or correspondents outside India or any other entity as permitted by Reserve Bank, up to a limit of hundred per cent of their unimpaired Tier I capital as at the close of the previous quarter or USD 10 million (or its equivalent), whichever is higher, subject to such conditions as the Reserve Bank may direct. Attention is also drawn to A.P. (DIR Series) Circular No. 61 dated October 10, 2013, in terms of which permission was granted to AD Cat-I banks to borrow from international / multilateral financial institutions for a limited period up to November 30, 2013.

With a view to providing greater flexibility in seeking access to overseas funds, it has now been decided to permit AD Category - I banks to borrow from international / multilateral financial institutions without approaching Reserve Bank for a case by case approval. These shall include International / Multilateral Financial Institutions of which Government of India is a shareholding member or which have been established by more than one government or have shareholding by more than one government and other international organizations.

Such borrowings should be for the purpose of general banking business and not for capital augmentation and shall be subject to the applicable prudential conditions stipulated in the A.P. (DIR Series) Circular no. 40, 2013 dated September 10, 2013.

5. Various Master Circulars on FEMA Regulations

In accordance with the regular practice RBI on 1st July, 2015 has issued various Master Circulars on FDI, ODI, ECB, Import and Export of Goods etc.,

For details please RBI website. ■

Corporate Laws

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Continued from previous issue

Private gets back Privileges (Part-II)

- 1) **Private Companies out of the ceiling limit on audit assignments:** Earlier, the Act, 2013 provided the ceiling limit of 20 companies in holding the appointment as auditor. **Now, the ceiling excludes** one person companies, dormant companies, small companies, and private companies having paid-up share capital less than one hundred crore rupees.
- 2) Conditions attached to stand for directorship as prescribed in section 160 shall not apply to a private company. Also appointment of directors in a private company can be done in block instead of individually as prescribed in section 162.
- 3) The restrictions on the powers of the Board as prescribed in section 180 shall not apply to a private company.
- 4) The interested director may participate after disclosure of his interest: An interested director in a private company may participate in a meeting after disclosure of nature of his concern or interest in the specified transaction. (Section 184(2)).
- 5) **Loans to directors, etc under section 185 to apply to private companies with modifications:** Loan to Directors etc., may be provided by a private company
 - (i) in whose share capital no body corporate has invested any money
 - (ii) if the borrowings of such a company from banks or financial institutions or anybody corporate is less than twice of its paid up share capital or fifty crore rupees, whichever is lower, and such a company has no default in repayment of such borrowing subsisting at the time of making transactions under section 185.
- 6) The restriction as provided second proviso to sub-section (1) of section 188 that no member shall vote on such resolution to approve any contract or arrangement which may be entered into by the company if such member is a related party shall not apply in the case of a private company.
- 7) For appointment of managing director, whole-time director or manager (Section 196) by a private company, there is no requirement that the terms and conditions of such appointment and remuneration payable be approved by the Board of Directors at its meeting and by the Central Government in case such appointment is at variance to the conditions specified in the Schedule V. ■

SEBI

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SEBI proposes to reduce listing time by half and relax listing norms for startups

The SEBI has taken a number of key policy decisions in its Board meeting held on June 23, 2015. This includes streamlining the process of public issues, simplifying the framework of raising capital by start-ups and other companies, etc. Key decisions taken in board meeting are enumerated here under:

- 1) Reduction of IPO timeline: SEBI has proposed to reduce the time as required between listing and closing of an initial public offering (IPO) by half, i.e., from T+12 days to T+6 days.
- 2) SEBI does away with requirement of issuing cheques for IPO: SEBI mandates filing of Application Supported by Blocked Amount (ASBA) applications. It does away with requirement of issuing cheques for IPO. All investors, including retail ones, will now have to come in through the ASBA route.

ASBA route enables the investors to give an authorization of payment of application money in the form itself. Application made through ASBA route also ensures hassle-free of refund, if any, payable by the issuer.
- 3) Simplified framework for raising of capital by start-ups: Now start-up companies would be able to raise capital through Institutional Trading Platform (ITP), the platform will be accessible to:
 - i. Companies which are intensive in their use of technology, information technology, intellectual property, data analytics, bio-technology and nano-technology. [If these companies provides products, services or business platforms with substantial value addition and with at least 25% of the pre-issue capital being held by QIBs] or;
 - ii. Any other company in which at least 50% of the pre-issue capital held by QIBs.
- 4) Fast Track Issuances - Follow on Public Offerings and Rights Issues: In order to enable more number of listed companies to raise further capital using fast-track route, SEBI approved the proposal to reduce the minimum public holding requirement from Rs 3,000 to Rs 1,000 crore in case of Follow on Public Offerings (FPOs) and Rs.250 crore in case of rights issue.

5) Re-classification of Promoters as Public: SEBI has decided to provide proper framework for addressing the issue relating to reclassification of promoters in listed companies under various circumstances. Now an existing promoter of a listed entity may cease to be a promoter and/or re-classify itself as public in the following circumstances, on compliance with conditions stated there under:

- i. Pursuant to change in promoter:
 - a) When a new promoter replaces the previous promoter subsequent to an open offer or in any other manner, re-classification shall be permitted subject to approval of shareholders in the general meeting.
 - b) Shareholders need to specifically approve whether the outgoing promoter can hold any Key Management Personnel (“KMP”) position in the company. In any case, the outgoing promoter may not act as KMP for a period of more than 3 years from the date of shareholders’ approval.
 - c) The outgoing promoter cannot hold more than 10% shares of the company.
- ii. In case of transmission/succession/inheritance, the inheritor shall be classified as promoter.
- iii. Existing promoters may be re-classified as public in case the company becomes professionally managed and does not have any identifiable promoter.

(Press Release No. 167/2015, dated 23-6-2015) ■

International Taxation

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CASE LAW ON INTERNATIONAL TAXATION

Arriving at the correct arms length price (ALP) for an international transaction is heavily dependent on getting the right comparable entity. However, it is a fact that getting the right comparable is nice to have as a theory but poses many challenges in practice. Transfer pricing laws provide a solution by permitting adjustments to be made to arrive at a reasonable ALP. An interesting question arose before the Delhi Bench of the Tribunal in the case of JCB India Ltd.vAssistant Commissioner of Income-tax, Circle-9[2015] 59 taxmann.com. The question was whether adjustments could be made to the net profit of the assessee to arrive at the ALP. JCB India Ltd had incurred some abnormal operating costs in setting up its unit in the first year of operation and reduced such costs from its net profit so that comparables could be compared.

The Delhi Tribunal ruled that this approach of adjusting the net profit of the assessee would turn the transfer pricing provisions on its head. The modus operandi as given in rule 10B(1)(e) for the determination of ALP under TNMM, is that sub-clause (i), being the first step, provides that the net profit margin realized by the enterprise from an international transaction should be computed in relation to a base, such as, costs incurred or sales effected or assets employed, etc. Under sub-clause (ii), which is the second step in the determination of ALP under TNMM, the net profit margin from a comparable uncontrolled transaction is computed having regard to the same base as adopted under sub-clause (i), namely, costs incurred or sales effected or assets employed, etc. Under sub-clause (iii), which is the third step, the profit margin of the uncontrolled transaction realized in sub-clause (ii) is adjusted to take into account the differences between the international transaction and the comparable uncontrolled transaction. It is this adjusted profit margin of comparables which is considered for benchmarking the profit margin realized by the assessee from international transaction as per sub-clause (i). On going through the mandate of rule 10B(1)(e), it is manifest that sub-clause (i) clearly refers to 'the computation of 'the net profit margin realised by the enterprise from an international transaction.' There is no stipulation under the provision which calls for adjusting the net profit margin realized by the assessee from its international transaction due to one reason or the other. When the prescription of the provision is explicitly patent in providing for computing the profit margin of the assessee from its international transaction as such, no adjustment can be made to the profit margin of the assessee under sub-clause (i) of rule 10B(1)(e) due to reasons, such as, the incurring of extraordinary and non-operating costs due to start up related reasons. If such an adjustment is made, the resultant figure will shed the character of the net profit margin realized, which is contrary to the express language of the provision. It is obvious that in the computation of operating profit margin from an international transaction, all non-operating costs do not form part of the cost base which are, thus, excluded at the very outset. Insofar as the operating costs are concerned, these find their place in the computation irrespective of the fact whether they are higher or lower due to any reason whatsoever. The rationale behind the entire transfer pricing regime is to compare the costs/profits incurred/earned by the assessee from an international transaction as it is with an uncontrolled transaction and compute income from such international transaction having regard to its ALP determined on the basis of a comparable uncontrolled transaction. The mandate of the provision is crystal clear that whatever be the operating costs incurred by the assessee in relation to an international transaction, these are liable to be considered as such without making any

adjustment whatsoever in determining the net profit margin realized. If any adjustments are allowed to the assessee's profit margin, then the entire transfer pricing exercise will be thrown to the winds, thereby making the provisions of Chapter-X as a redundant piece of legislation. Once the legislature provides for computing profit margin earned by the assessee from an international transaction without any adjustment, it has to be the operating profit margin as per the books of account strictly in conformity with the business conditions as they exist without any plus or minus.

The Tribunal also ruled on a couple of other practices in the same case. It ruled that a company, which apart from being functionally different, also suffered losses because of change in Government policy and on account of retrenchment of employees and other extraordinary factors, cannot be selected as comparables for computing arm's length price.

The TPO excluded a company from list of comparables selected by assessee on ground that it had three business segments- Foundry, Rolling and forging, Engineering & Fabrication and others. All products made by company from Foundry, rolling and forging division passed on to the Engineering & Fabrication unit, thereby impacting profitability of Engineering division. However, the company had shown segmental results and engineering and fabrication segment of company was found to be similar to assessee. The Delhi Tribunal ruled that this entity should be included in the population of comparable companies. ■

Central Excise and Service Tax

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1. CBEC notifies conditions, safeguards and procedures for issue of invoices, preserving records in electronic form under central excise and service tax – NOTIFICATION NO 18/2015-Central Excise (NT) dated 06-07-2015

- a) For authentication, Class 2 or Class 3 DSCs duly issued by the Certifying Authority in India shall be used.
- b) Assessee proposing to use DSC shall intimate specified details as given in notification to the jurisdictional DC or AC at least 15 days in advance. Existing assessee already using DSC shall intimate the same within 15 days of issue of this notification. In case of any change in specified details the same shall also be intimated to DC or AC within 15 days of such change. Following are the specified details.
 - a. Name, e-mail id, office address and designation of the person authorized to use the digital signature certificate;

b. Name of the Certifying Authority;

c. Date of issue of digital certificate and validity of the digital signature with a copy of the certificate issued by the Certifying Authority along with the complete address of the said Authority.

c) Every assessee who opts to maintain records in electronic form

a. and who has more than one factory or ST registration shall maintain separate electronic records for each factory or each ST registration.

b. Shall on request by a central excise officer, produce records in electronic form & invoices through e-mail or other storage devices for the purpose of verification of authenticity of the document. The Central Excise Officer shall make such request by letter or e-mail.

c. Shall maintain back up of electronic records at least for 5 years immediately after the financial year to which such records pertain.

d) A Central Excise Officer has the power to call for print out of such records and invoices maintained in electronic form, during an enquiry or investigation or audit in accordance with the provisions of section 14 of Central Excise Act and section 83 of Finance Act.

2. Amendment to Notification no 12/2012-CE dated 17.03.2012 prescribing effective rates of duty

Exemption shall be granted to certain items eligible Nil rate of duty or concessional rate of duty (items specified under Condition no 16, 20, 25 & 52A) only if such goods manufactured out of inputs on which appropriate duty of excise leviable has been paid and no cenvat credit is availed – Notification no 36/2015-Dated 17-7-2015-CE-Tariff.

3. Amendment to Notification No.1/2011-CE dated 01/03/2011 prescribing effective rate of duty

Exemption will be allowed only if such goods manufactured out of inputs on which appropriate duty of excise leviable has been paid and no cenvat credit is availed - 35/2015 - Dated 17-7-2015 - CE – Tariff ■

Corrigendum

To update given in para f and g given under Updates in Service tax of July 2015 issue of SIRC Newsletter Page 20.

Services specified under Para f & g shall be made effective from 14th May, 2015 instead of the one given as 01st June, 2015.

AUGUST - 2015

INTERNATIONAL CONFERENCE FOR CA STUDENTS AT INDORE

1st & 2nd September, 2015

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Students are hereby requested to register for the International Conference at the earliest as per the following details:

Regn fees

Rs. 500/- per student

Payment Mode: Cash/DD/Cheque to be drawn in favour of **Indore Branch of CIRC of ICAI** payable at Indore. Online Registration Visit: <http://www.icai.org/ccm.html?progid=1042>

For registration queries contact:

Indore Branch of CIRC of ICAI, ICAI Bhawan, Plot No. 19-B, Scheme No. 78, Part II, (Near M P Pollution Board), Indore (M.P.), Ph: 0731-4298198, 2570052, 53, Email: indore@icai.in

Students (pursuing Practical Training/Industrial Training) are invited to contribute papers for presentation (1500 to 2000 words) for topics in Technical-Sessions and submit for approval a soft copy of the Paper at indore@icai.in by 14th August, 2015 and a hard copy of the same along with Student's Photograph (with his/her name on the back of the photograph), ICAI students' Registration Number, Course pursuing, complete postal address, Mobile, Landline numbers and e-mail ID be also sent to the Indore Branch. Outstation student speakers shall be reimbursed actual travelling expenses limited to 2 tier AC Train fare and DA @ Rs. 1500/- per day for lodging etc. Students who are interested to participate in the cultural programme are requested to register before 14th August, 2015 at Indore Branch.

CA. Sunil G. Khandelwal
Conference Coordinator &
Chairman,
Indore Branch of CIRC

CA. Vishnu Agrawal
Conference Coordinator &
Chairman
Indore Branch of CICASA

CA V. Murali
Conference Chairman &
Chairman
Board of Studies

CA. Nilesh S. Vikamsey
Conference Co-Chairman &
Vice Chairman
Board of Studies

OBITUARY

S.No.	MRN	Name	Status	Place	Date of Death
1	015571	Mr. Narasimhaprasad M S Y	FCA	Rajamahendravaram	30-12-2014
2	005198	Mr. Hebbar Ramakrishna Kattingeri	FCA	Secunderabad	02-01-2015
3	019736	Mr. Venkataramani R	ACA	Singapore	27-01-2015
4	020737	Mr. Balraj N	FCA	Coimbatore	09-02-2015
5	002296	Mr. Viswanathan A R	FCA	Bangalore	23-02-2015
6	023587	Mr. Veerappan M	FCA	Tiruchirapalli	25-04-2015

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

ELECTION 2015
Option for Polling Booth

ELECTIONS TO THE TWENTYTHIRD COUNCIL & TWENTYSECOND REGIONAL COUNCILS

The next elections to the Council and the Regional Councils of the Institute of Chartered Accountants of India are scheduled to be held on 4th and 5th December, 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 5th December, 2015 at all other places in terms of the provisions of Rule 21 of the Chartered Accountants (Election to the Council) Rules, 2006 specified by the Central Government. According to the provisions of clause (3) of Schedule 2 to Rule 6 of the aforesaid Rules, a notice is required to be published giving the voters in cities, having more than one polling booth located at different addresses, an opportunity to exercise their option to vote at a particular polling booth within that city.

Accordingly, an Announcement for Option for a particular Polling booth in cities/towns i.e., Bangalore, Mumbai, Kolkata and Delhi/New Delhi having more than one polling booth located at different addresses has been hosted on the Website of the Institute. For full details kindly visit the Institute's Website www.ica.org. The Link to reach the said Announcement is <http://220.227.161.86/38320election2015-27986.pdf>

(V. Sagar)

Secretary and Returning Officer

CLASSIFIED ADVERTISEMENT

Mumbai based CA Firm is looking for CA's/semi qualified having 1-2 years' experience in Internal Audit & Risk Advisory Services, preferably in BFSI (Banking, Mutual Funds, Insurance, etc.) sector for our assignments at Hyderabad. Kindly contact Mr. Viral Chotai at viral.chotai@radissonindia.in or call on +91- 9920063761

Congratulations



CA V.MURALI, B.Com., F.C.A., A.C.M.A., Central Council Member of The Institute of Chartered Accountants of India has been elected as Vice Chairman of the SOUTHERN INDIA REGIONAL COUNCIL OF THE INSTITUTE OF COST ACCOUNTANTS OF INDIA for the year 2015-16 at the first meeting of the 19th Southern India Regional Council.

SIRC congratulates him on his election and wish him all success in his endeavour.

Congratulations



CA. K Ravi, FCA, Bangalore has been elected as the Vice President of Federation of Karnataka Chambers of Commerce and Industry (FKCCI) for the year 2015-16.

SIRC congratulates him on his election and wish him all success in his endeavour.

Disclaimer

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

Editorial Board

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Resource Person at the Workshop, Seminar & Study Circle Meetings, July 2015, Chennai



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Mayiladuthurai




CA. Pari
Vaniyambadi

Senior Members Honoured on CA Day - July 1, 2015

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 <p>CA. SRINIVAS VENKAT RAM M.No.13648</p>	 <p>CA. NARAYANAN N M.No.13661</p>	 <p>CA. KRISHNAMURTHY K V M.No.013677</p>	 <p>CA. RAMJEE CHAKRAVARTHY M.No.13721</p>	 <p>CA. MITHALAL H UPADHYAYA M.No.13734</p>
 <p>CA. NAGARAJAN S M.No.13740</p>	 <p>CA. GOPALAN SARANGAPANI M.No.13769</p>	 <p>CA. ATHMARAM BHATT S M.No.13814</p>	 <p>CA. KRISHNAMOORTHY P S M.No.13819</p>	 <p>CA. SHAH ARVINDKUMAR G M.No.13823</p>
 <p>CA. RAGHUNATHAN K S M.No.13827</p>	 <p>CA. SANTHANARAMAN MELAPPALAYAM M.No.13838</p>	 <p>CA. SUNDARAMURTHY A M.No.13839</p>	 <p>CA. GNANAPRAKASAM K S M.No.13858</p>	 <p>CA. RAMACHANDRAN P N M.No.13871</p>
 <p>CA. RAMESH R M.No.13881</p>	 <p>CA. RAJAMANICKAM V M.No.13903</p>	 <p>CA. PADMANABHAN PT M.No.013915</p>	 <p>CA. RAMANATHAN S G M.No.13927</p>	 <p>CA. SUBRAMANIAN L P M.No.13943</p>
 <p>CA. SOUNDARARAJAN T N M.No.13966</p>	 <p>CA. CHANDRASEKARAN P C M.No.13984</p>	 <p>CA. KRISHNASWAMY L M.No.14005</p>	 <p>CA. NAWARATAN MAL JAIN M.No.14011</p>	 <p>CA. MANAVALAN V M M.No.14020</p>

Senior Members Honoured on CA Day - July 1, 2015

 <p>CA. RAVI SANKAR SUBRAMANIAM M.No.14059</p>	 <p>CA. VJAYA KUMAR V R M.No.14071</p>	 <p>CA. BALAKRISHNAN MANNARGUDI VENKATRAMAN M.No.14086</p>	 <p>CA. DATTA SANKAR M.No.14128</p>	 <p>CA. SUBRAMANYAN R M.No.14138</p>
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 <p>CA. RAJASEKARAN R M.No.14302</p>	 <p>CA. PATTABIRAMAN S M.No.14309</p>	 <p>CA. VEKATARAMAN N M.No.014329</p>	 <p>CA. RATHNASABAPATHI S M.No.14374</p>	 <p>CA. MOHAMED HUSSAIN M M.No.14376</p>
 <p>CA. VAIDYANATHAN M S M.No.14393</p>	 <p>CA. PATTABIRAMEN P M.No.14430</p>	 <p>CA. ANANTHA KRISHNAN N M.No.14436</p>	 <p>CA. ALAGAPPAN AR M.No.14453</p>	 <p>CA. SAMPATH KRISHNASWAMY M.No.14457</p>
 <p>CA. RAJAGOPAL V M.No.14502</p>	 <p>CA. CHANDRASEKARAN K M.No.14503</p>	 <p>CA. GOVINDARAJAN A M.No.14513</p>	 <p>CA. MUTHUKRISHNAN G V M.No.014516</p>	 <p>CA. SOUNDARARAJAN S M.No.14518</p>
 <p>CA. VELLIANGIRI A M.No.14524</p>	 <p>CA. SESHADRY UPPLIAPPAN M.No.14557</p>	 <p>CA. VENKITARAMAN A R M.No.14559</p>	 <p>CA. BALASUBBRAMANIANN A M.No.14564</p>	<p>Thanks for giving the opportunity CA. P.R. Aruloli, Chairman SIRC</p>

GLIMPSES OF CA MONTH PROGRAMMES



Feeding the Poor, Little Flower School at Nungambakkam - July 2, 2015



Blood Donation Camp at ICAI Bhawan, Chennai - July 4 & 5, 2015



Clean India Programme at Govt. Girls Hr. Sec. School, Ashok Nagar - July 6, 2015



Tree Planting at Centre of Excellence, Hyderabad - July 10, 2015



Clean India Programme at Govt. Model Hr. Sec. School, Saidapet - July 13, 2015



Distribution of Literacy Kits - July 17, 2015



Distribution of Literacy Kits - July 17, 2015



Eye Donation Will Camp at ICAI Bhawan, Chennai - July 19, 2015



Clean India Programme at Govt. Hr. Sec. School, Arumbakkam - July 21, 2015



Road Safety Awareness Programme at ICAI Bhawan, Chennai - July 23, 2015



Public Programme on Tax Awareness at ICAI Bhawan, Chennai - July 26, 2015



CA Month Valediction Function at ICAI Bhawan, Chennai - July 31, 2015

Convocation - 2015



Convocation - July 10, 2015, Hyderabad: CA. Manoj Fadnis, President, ICAI addressing the participants. Seated (L-R) SIRC Chairman CA. P.R. Aruloli, CCM CA. J. Venkateswaralu, BOS Chairman CA. V. Murali, ICAI Vice-President CA. M. Devaraja Reddy, CCM CA. Babu Abraham Kallivayalil along with Hyderabad Branch Chairman CA. V. Raghunandan.

Sub Regional Conferences of SIRC of ICAI



3rd Sub Regional Conference of SIRC of ICAI - July 4, 2015, Pondicherry: Shri. R Radhakrishnan, MP[Lok Sabha] Chief Guest inaugurated in the presence of SIRC Chairman CA. P R Aruloli, SIRC Secretary CA. E Phalguna Kumar, Immediate Past Chairman CA. P V Rajarajeswaran, Pondicherry Branch Chairman CA. Kumarguru and other Members.



4th Sub Regional Conference of SIRC of ICAI - July 11, 2015, Ernakulam: SIRC Chairman CA. P R Aruloli delivering inaugural address. Seated (L-R) SIRC Secretary CA. E Phalguna Kumar, CCM CA. Babu Abraham Kallivayalil, Ernakulam Branch Chairman CA. R Balagopal, SIRC Vice Chairman CA. V.X. Jose and Ernakulam Branch Secretary CA. Lukose Joseph.



5th Sub Regional Conference of SIRC of ICAI - July 18, 2015, Tiruchirapalli: SIRC Chairman CA. P R Aruloli inaugurated in the presence of SIRC Secretary CA. E Phalguna Kumar, SIRC Treasurer CA. B Sekkizhar, CCMs CA. G Sekar & CA. Babu Abraham Kallivayalil, Tiruchirapalli Branch Chairman CA. R Jayaraman, Tiruchirapalli Branch Secretary CA. A. Victor D. Samuel & Students.

Monday Marvel - CPE Lecture Meetings - July 2015, Chennai



Rule of Three - Make in India: Shri R. Nataraj, IPS, Retired DGP addressing. SIRC Chairman CA. P.R. Aruloli and Vice Chairman CA.V.X. Jose are also seen in the picture.



Youth Empowerment - India Enrichment: Rev. Swami Mitrananda addressing the delegates. SIRC Chairman CA. P.R. Aruloli is also seen in the picture.



Finance & Administration Function in Chola Dynasty: Shri Arvind Venkatraman, Chennai Resource Person being honoured by SIRC PD Committee Co-opted Member CA. R. Marimuthu in the presence of SIRC Chairman CA. P.R. Aruloli.



Information Technology as Game Changer for Make in India: Shri T.K. Ramachandran, IAS addressing the delegates. SIRC Chairman CA. P.R. Aruloli is also seen in the picture.



Regional Residential CPE Seminar at Courtallam - July 25 & 26, 2015: SIRC Chairman CA. P.R. Aruloli addressing the delegates. Also seen in the picture Tirunelveli Branch Chairman CA. RBK Samuel, Kumbakonam Branch Chairman CA. Guhaneswaran & SIRC Secretary CA. E Phalgun Kumar.



CA Month Programme at Hubli Branch - July 3, 2015: ICAI Vice President CA. M. Devaraja Reddy, SIRC Chairman CA. P.R. Aruloli, CCM CA. Babu Abraham Kallivayalil, RCM CA. M. Nitin, Hubli Branch Chairman CA. Prakash Kadur Office Bearers and Members of the Branch together planted the sapling.

Glimpses of CA Month Programmes at other branches follows...