guwahati@icai

E-Newsletter of the Guwahati Branch of EIRC of ICAI

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Editorial Board

Write to Editor

'Information is Power' and our ever-evolving profession needs more and more of that today than ever before. Do you have any relevant points to make, experiences to share, and views to spread among the CA fraternity? If yes, e-mail us at newsguwahati.icai@gmail.com.

Chairperson's Message ...

Dear Professional Friends, Colleagues & my dear Students,

"Come September" In those good old days when my father used to play this classic record in our birthday parties, we knew it was time to dance!! Dance to welcome the winter, when the air turned cooler, skies were clearer and we got the first mist in the early morning hours. It's strange how the years have made this very word "September" mean an entirely different concept. Slog, slog in this blistering heat, with sweat pouring down our foreheads, with no signs of the cool winter breeze whatsoever, heads bent over our computers, trying hard to meet the deadlines, totally at the mercy of the authorities who choose to introduce new schemes at the penultimate moments, not to mention our dear clients who prefer to remain oblivious to the circumstances! Anyway, who are we to complain when worse is happening elsewhere. When onion prices compete with petrol prices, when the rupee tries desperately to maintain some dignity in the International market, and when the stock market limps back to some sanity. The only silver lining is the much awaited verdict of Justice in the infamous Nirbhaya case which had put the whole of the Indian society to shame.

"You can't stop the future, You can't rewind the past, The only way to learn the secret ...is to press play."

Friends, between the sessions, we managed to finalise the speakers for the coming National Conference in the month of December. I am indeed elated to share with you that we shall be privileged to have a past President in each session of the Conference. On the more recent front, a much awaited seminar on the newly revised companies Act is scheduled to be held on the 26th of October with our very own Dr CA. Debashis Mitra at the helm of affairs. We are also planning to have for the first time in this part of the country, a residential workshop/ seminar either in Kaziranga or Shillong in the near future. It will be strictly on a 'first come first serve basis', so friends, please be on the lookout for the day when this program is on air.

"I alone cannot change the world, but I can cast a stone across the waters to create many ripples."

On the 7th of September, we had a surprise gathering of 120 plus delegates at the Seminar on service tax -"Enabling service Tax Practice" where speakers CA. Pankaj Jain from Delhi & CA. Saiprasad A. from Bengaluru kept us all rooted to our seats with their wonderful concoction of knowledge & wit, totally in sync with the challenges of the new pastures of our profession.

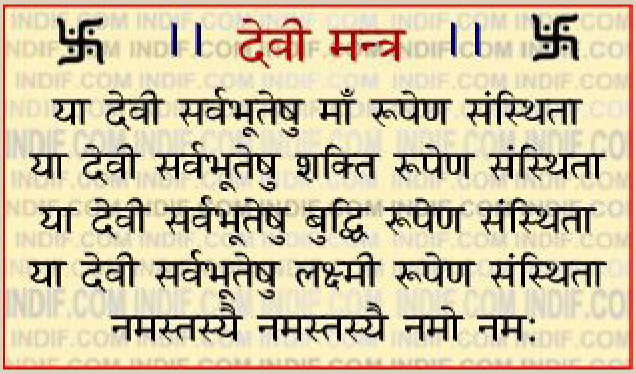
"It is not the strongest of the species that survive, nor the most intelligent, but the one most responsive to change."

Miss Saloni Bansal, a vibrant student of our branch put another feather in our cap when she was honoured with the best speaker award in the recently held International Convention for CA Students in Kolkata. Kudos to her and let us hope she continues with this winning streak in the future too! One batch of the Orientation class with 50 students & two batches of ITT class with 80 students were successfully completed.

As the festive season is around the corner, here's wishing you all a very Happy Durga Puja. Also may Goddess Laxmi shower her blessings on you & fill your coffers. Last but certainly not the least, Eid Mubarrak!!

On the occasion of Gandhi Jayanti let us remember Bapuji's valuable words **"You must be the change you wish to see in this world."**

– CA. Kaberi Bhuyan



॥ देवी मन्त्र ॥

या देवी सर्वभूतेषु माँ रूपेण संस्थिता

या देवी सर्वभूतेषु शक्ति रूपेण संस्थिता

या देवी सर्वभूतेषु बुद्धि रूपेण संस्थिता

या देवी सर्वभूतेषु लक्ष्मी रूपेण संस्थिता

नमस्तस्यै नमस्तस्यै नमो नम:

Meaning of Devi Mantra

The goddess who is omnipresent as the personification of universal mother;

The goddess who is omnipresent as the embodiment of power;

The goddess who is omnipresent as the symbol of peace;

The goddess who is omnipresent as the emblem of true wealth;

We bow to her, We bow to her, We bow to her!!

Durga Puja - the ceremonial worship of the mother goddess, is one of the most important festivals especially in this part of India. Apart from being a religious festival for the Hindus, it is also an occasion for reunion and rejuvenation, and a celebration of traditional culture and customs. While the rituals entail ten days of fast and worship, the last four days - Saptami, Ashtami, Navami and Dashami - are celebrated with much gaiety and grandeur in India and abroad, where the ten-armed goddess riding the lion is worshipped with great passion and devotion.

During Durga Puja, God in the form of the Divine Mother is worshipped in her various forms as Durga, Lakshmi and Saraswati. Though the Goddess is one, she is represented and worshipped in three different aspects. On the first three nights of the festival, Durga is worshiped. On the following three, Lakshmi and then Saraswati Devi on the last three nights. The following tenth day is called Vijayadasami. Vijaya means "victory of good over evil", the victory over one's own minds that can come only when these three: Durga, Lakshmi, and Saraswati are worshipped.

The complete image of Goddess Durga represents destruction of evil and protection of good and reflects the point that in order to become divine, one should keep one's animal instincts under control. Thus, by worshipping Durga the idea of ruthless destruction is invoked to annihilate all the desires and unfold divinity.

readers write

Dear Editor,

Looks like your recent visit abroad has infused you with the qualities of the dollar and you've taken your e-newsletter northwards in pursuit of excellence. The only grievance one can have now is that you should probably think on the lines of adding more pages to it !

Great Job once again-congratulations!!

Regards,

Mr. Manoj Sharma, Advocate
Guwahati

Editor's Desk...

Dear Colleagues and Student friends,

hello!

Friends, a teacher whose blessings and expert guidance always help us in overcoming the hurdles of life, comes next only to our parents in the order of reverence. I would like to begin this edition with a grand salute to all my teachers for making me the person I am today.

As the world observed the 9/11 anniversary, closer home, a strong message came from the Indian Judiciary that perpetrators of inhuman crimes will not be tolerated in the country. The death sentences awarded to men convicted in the gang-rape and murder of the young woman in Delhi on the night of December 16, 2012, would not have come as much of a surprise to anyone, though. Rarely has a crime caused such mass outrage in the country; rarely have so many common citizens taken to the streets to express their anger, braving police lathicharge, tear gas and water cannons.

The crime led to a much larger debate on the status and safety of women in our society, the shortcomings in our policing system, and even whether juvenile criminals should receive the same punishment as adults in case of particularly serious crimes. But the question remains—is it sufficient? Will hanging a few rapists make the streets safer for women, or make them more secure in their own homes? Will it ensure forsaking of the deep misogyny of potential assailants?

Ironical, we would say as we immerse ourselves in the week-long celebrations of the power of the feminine self, which in our parts is celebrated with great pomp and gaiety as Durga Puja. May the all merciful mother bless us all, and endow our society with the deserving respect for its fairer half.

Meanwhile, amidst the rising cacophony for the division of the State on ethnic lines, Assam observed 8th September as 'Integration Day'. State-wide programmes were held on the day with the rendition of Bhupen Hazarika's songs on universal brotherhood, humanism, communal amity, universal justice and empathy. The quote from one of the organisers ....."Unity is the need of the hour and Bhupenda always spread the message of peace and unity. So, we chose to focus on unity on his birthday." What more can we gift this legend than the peaceful and united Assam of his dream.

Let's conclude by a few lines composed by this great human-

জিলিকাব লুইতৰে পাৰ
জিলিকাব লুইতৰে পাৰ,
এন্ধাৰৰ ভেঁটা ভাঙি
প্ৰাগজ্যোতিষত বয়
জেউতী নিজৰাৰে ধাৰ,

শত-শত বন্তিৰে
জ্ঞানৰে দিপালীয়ে,
জিলিকাব লুইতৰে পাৰ
জিলিকাব লুইতৰে পাৰ....

(Will illuminate the banks of the *Luit*
Breaking the embankments of darkness;
In *Pragjyotishpur* flows
The waves of rippling fountains
With thousands of lights and flames of knowledge
It will illuminate the banks of the *Luit*)

Happy Reading!

– CA. K P Sarda

SUPREME COURT ON CENVAT CREDIT

Non-payment of Duty by Supplier cannot be Ground for Denial

By: CA. MANOJ NAHATA*

There has been a long ongoing judicial dispute on the matter of allowability of Cenvat Credit claim especially in a case where the seller fails to deposit the amount of duty collected from the buyers. This situation is not restricted only to the Central Excise cases but it is also extended to Service Tax and VAT cases. Several appellate authorities, Tribunals & Courts have interpreted the matter in their own ways and in a few of the cases, were harsh enough to deny the Cenvat claim of the bonafide purchaser. Recently the Hon'ble Apex Court had an occasion to deal one such case under the Central Excise law.

Summary of the Judgment

The Hon'ble Apex Court in the case **Commissioner of Central Excise, Jalandhar Vs. M/s. Kay Kay Industries** while disposing off the SLP filed by the revenue held that *to require the assessee to find out from the departmental authorities about the payment of excise duty on the inputs used in the final product which have been made allowable by the notification would be travelling beyond the notification, and in a way, transgressing the same. This would be practically impossible on the part of the assessee and would lead to transactions getting delayed. It was never the intention of law to caste such an obligation on the assessee.* The Hon'ble Apex Court dismissing the appeal of the revenue concurred with the view expressed by the High Court of Punjab & Haryana.

Brief Facts & Judgment

The respondent-company availed deemed MODVAT credit on the strength of invoices issued by the supplier of inputs. During MODVAT verification it was found that the supplier had not discharged full duty liability for the period covered by the invoices. The Competent Authority was of the view that appropriate duty of excise had not been paid by the manufacturer of inputs under the invoices on the strength of which the respondent took the benefit of deemed MODVAT credit and it was obligatory on the part of the respondent to take all reasonable steps to ensure that the appropriate duty of excise had been paid on the inputs used in the manufacture of their final product as required under Rule 57A(6) of the Central Excise Rules, 1944 read withnotification No. 58/97-CE(NT) dated 30.8.1997.Accordingly he issued a show-cause notice proposing recovery of deemed MODVAT credit and imposition of penalty and finally disallowed the deemed MODVAT benefit earlier availed and ordered for recovery of the said sum along with interest, and, further imposed a penalty.

On appeal before the Commissioner (Appeals), Central Excise, Jalandhar, the appellate authority observed that unless and until payment of *appropriate duty* had been made, the assessee could not have availed the benefit and accordingly, it concurred with the view taken by the adjudicating authority. However, The Customs, Excise and Service Tax Appellate Tribunal placing reliance on the decision in *Vikas Pipes v. CCE* came to hold that the declaration given by the appellant therein satisfied the conditions enumerated in the notification for claiming the deemed MODVAT credit and accordingly quashed the assessment order.

Upon appeal by the Revenue the High Court of Punjab & Haryana referred to its earlier decision in *Vikas Pipes (supra)* and distinguished the decision in *Collector of Central Excise, Vadodara v. Dhiren Chemical Industries* and ultimately concurring with the view expressed by the tribunal dismissed the appeal.

In its SLP before the Supreme Court of India,the main contention of the revenue was that in terms of the Rule 57A(6) of the Rules and the notification which imposes conditions, it is obligatory on the part of the manufacturer of the final products to satisfy the adjudicating authority that appropriate duty of excise had been paid. It was the duty of the assessee-respondent, the manufacturer of the final products, to see that the manufacturer of the inputs had actually paid the appropriate duty on the inputs on the bedrock of law laid down by the Constitution Bench in *Dhiren Chemical Industries (supra)*.

The Court observed that proviso to Sub-rule (6) of Rule 57A stipulates that the manufacturer shall take all reasonable steps to ensure that the inputs acquired by him are goods on which the appropriate duty of excise, as indicated in the documents accompanying the goods, has been paid.

On a plain reading of the clauses of notification No. 58/97-CE dated 30.8.1997 it is clear that there are two mandates to avail the benefit of the said notification. One part is couched in the affirmative language and the other part is in the negative. As per the first part it is obligatory on the part of the assessee to produce the invoice declaring that the appropriate duty of excise has been paid on such inputs under the provision of section 3-A of the Act The second command, couched in the negative, is that the provisions of the said notification shall not apply to inputs where the manufacturer of the said inputs has not declared the invoice price of the said inputs correctly in the documents at the time of their clearance from his factory.

There is no dispute that a declaration was given by the manufacturer of the inputs indicating that the excise duty had been paid on the said inputs under the Act. It is also not in dispute that the said inputs were directly received from the manufacturer but not purchased from the market. There is no cavil over the fact that the manufacturer of the inputs had declared the invoice price of the inputs correctly in the documents. It is perceivable from the factual matrix that the only allegation is that at the time of MODVAT verification it was found that the supplier of the inputs had not discharged full duty liable for the period covered under the invoices. This lapse of the seller is different and not a condition or rather a pre-condition postulated in the notification.

When there is a prescribed procedure and that has been duly followed by the manufacturer of final products, the Court do not perceive any justifiable reason to hold that the assessee-appellant had not taken reasonable care as prescribed in the notification. Due care and caution was taken by the respondent. It is not stated what further care and caution could have been taken. The proviso postulates and requires "reasonable care" and not verification from the department whether the duty stands paid by the manufacturer-seller.

In view of the above findings the Court dismissed the SLP filed by the revenue.

Author's Comments

The above judgment has far reaching effects in settling down the issues relating to cases where purchasing parties are disallowed the Cenvat Credit on the ground that the seller has not discharged its tax liability on the amount collected from the purchasers. The judgment makes it clear that when the law does not clearly prescribe what care and cautions has to be taken it is not justifiable to assume that the *'reasonable care'* as stated in the law would mean that the purchaser should go to the tax department and verify whether the seller has actually paid tax collected from him. However it would be the duty of the purchaser to verify whether the invoice is issued to him properly in accordance with the provision of law stating all the particulars as required. Let us examine the position under the VAT and Service Tax laws.

Position under VAT law

Section 14 of the Assam Value Added Tax Act, 2003 stipulates the conditions for availing input tax credit. Clause (l) of subsection (6) of section 14 states that no input tax credit shall be claimed by a registered dealer or shall be allowed to him where **tax invoice** is not available with the dealer or there is evidence that the same has not been issued by the selling dealer from whom the goods are purported to have been purchased or the original invoice does not contain the details of tax charges separately. Further section 56 read with rule 32 prescribes the manner and conditions of issuing tax invoice. The Assam Value Added Tax Act, 2003 also does not cast any obligation on the purchaser to enquire or verify whether the seller has actually paid the tax collected from him. Hence the denial of input tax credit to the buyer where the seller has not deposited the amount would not be justifiable in the light of various judicial pronouncements including the above judgment.

In the **Casecentrum Industries Pvt Ltd (46 MTJ 484),** Karnataka appellate tribunal has held that if a dealer establish his claim for input tax by furnishing valid tax invoice issued by registered dealer indicating the vat collected in it, he would be discharging liability cast upon him under section 70(1). It is the responsibility of authorities concerned for taking appropriate action under the law against non-compliant dealers.

Similarly the Punjab & Haryana High Court in a landmark judgment in case of **Gheru Lal Bal Chand V. State of Haryana and Another (2011) 45 VAT 195 (P& H)** held that no liability can be fastened on the purchasing registered dealer on account of non-payment of tax by the selling registered dealer in the treasury unless it is fraudulent, or collusion or connivance with the registered selling dealer or its predecessors with the purchasing registered dealer is established. The selling-registered dealer who had collected tax from the purchasing-registered dealer acts as an agent for the Government.

Position under Service Tax Law

Rule 9 (1) of the Cenvat Credit Rules,2004 makes it clear that Cenvat Credit shall be taken by an output service provider only on the basis of any documents as specified in that sub-rule. The basic document for taking Cenvat credit under Service Tax is Invoice or bill or challan issued by the provider of input service. Further rule 4 prescribes the conditions for allowing Cenvat credit. A conjoint reading of various provisions of Cenvat Credit Rules, 2004 makes it amply clear that it is none of the responsibility of the person taking input to verify whether the service tax is paid by the person issuing the invoice. The responsibility of service receiver is restricted to verify whether the documents bears the contents as prescribed and is issued in the manner as laid down in the rules.

In *Elveety Industries v.CCE 2001 (130) ELT 199(CEGAT SMB),* assessee had taken Cenvat credit on basis of dealer's invoice. The dealer had taken credit on basis of original invoice of manufacturer (and not on duplicate copy of invoice as was required during that time). It was held that assessee cannot be denied Cenvat credit even if dealer had taken credit wrongly. Similar view in *CCE v. Unichem Trading Co. 1998 (102) ELT 284 (CEGAT).*

Assessee buying goods from registered dealer cannot be expected to go beyond checking identity and address of manufacturer or supplier. He cannot examine whether supplier/manufacturer has actually paid the duty.-*Transpek Industry v. CCE (2010) 249 ELT 91 (CESTAT SMB).*

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The full text of the judgment is available at:http://indiankanoon.org/doc/122670562/

One Person Company concept introduced in Companies Act, 2013 ("the Act")

The new Act allows One Person Companies (OPC) to be formed. The salient features are as under:

- OPC will be treated as private company.
- Perpetual succession in OPC is sought to be ensured through "succession clause" in MOA. The sole member nominating other person who will be the member of the OPC in the event of the death or incapacity to contract of the sole member.
- Nomination will be with other person's consent.
- Nomination can be varied by sole member. Such variation shall not be treated as alteration of memorandum.
- Only natural person being Indian citizen resident in India can form an OPC.
- Nominee of sole member of OPC must be an Indian citizen resident in India.
- The term "resident in India" means a person who has stayed in India for a period of not less than 182 during the immediately preceding one financial year.
- Where a natural person, being member in OPC in accordance with this rule becomes a member in another OPC by virtue of his being a nominee in that OPC, he/she shall meet the eligibility criteria specified in draft rule 2.1(2) to Companies Act, 2013, within a period of one hundred and eighty days.
- Such OPC will have to be Compulsory into public company or private company if its paid-up share capital exceeds Rs.50 lakhs or average annual turnover during the relevant period exceeds Rs.2 crores or its balance sheet total exceeds Rs.1 crore.
- Such One Person Company shall be required to convert itself, within six months of the date on which its paid up share capital is increased beyond fifty lakh rupees or the last day of the relevant period during which its average annual turnover exceeds two crore rupees or the close of the financial year during which its balance sheet total exceeds one crore rupees, as the case may be, into either a private company with minimum of two members and two directors or a public company with minimum of seven members and three directors in accordance with the provisions of section 18 of the Act.
- No person shall be eligible to incorporate more than five One Person Companies.

Contributed by
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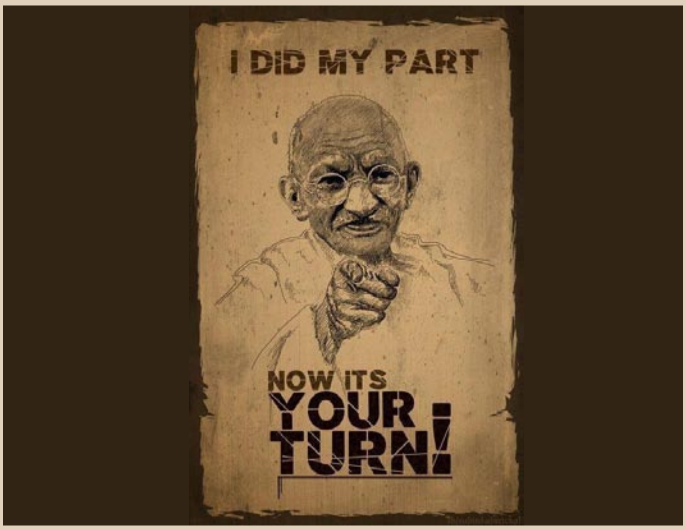
Congratulations...

Ms. Saloni Bansal has won the best paper presenter award in International Conference for CA students held at Kolkata on 14th & 15th September 2013 on the topic "Audit Reporting - Recent Developments" in the Technical Session of Audit: **Dynamic Shift.**

She had also won 2nd best paper presenter award at Guwahati National Convention for CA Students last year on the topic "Excelling in Excel".

Further she has to her credit much appreciated presentations in the National Convention(s) held at Bhubaneswar, Mumbai and Guwahati in the year 2013. She along with her team mate Ms. Neha Navalakha was also the Branch Level Quiz contest winner. We congratulate her for this success and wish her a great future ahead.



Service Tax on 'Restaurants Services'

Service Tax on restaurant services was levied with effect from 1st May 2011 by insertion of sub clause (zzzzv) under Clause (105) of Section 65 of Finance Act. The relevant Notification is Notification No. 34/2011 ST dated 25th April 2011. However, services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having (i) the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year, and (ii) a license to serve alcoholic beverages, were exempted from the levy of service tax. Percentage abatement prescribed for such services was 70% levying tax on 30% of the gross bill amount. The rate of service tax was then 10.2% which was later increased to 12.36%.

After the Negative list concept was brought in, as per Notification no. 25/2012 ST dated 20th June 2012, similar exemption was provided, and the service tax levy brought in by Notification 34/2011 ST remained in force but with a different valuation as prescribed under Rule 2C.

However, after the Budget 2013, this exemption has been restricted and made available only to non air-conditioned or non-centrally air-heated restaurants. The requirement that it should also have a license to serve alcohol is being done away with after 1st April 2013. Therefore, service tax is leviable on taxable services provided in restaurants with air-conditioning or central air heating in any part of the establishment at any time during the year, whether the same serves liquor or not. It covers all restaurants, eating joints or a mess which may be having the facility of air conditioning or central air heating in any part of the establishment at any time during the year. Thus, restaurants, Cafes, Food Courts, Food Kiosks, Lunch canteens, pubs, etc shall have all been brought into the net, as soon as an AC is fixed in any part of the premises.

The effective date of the above mentioned amendment is 1st April 2013 vide amendment of Entry No. 19 of the Notification No. 25/2012 ST notified under Notification No. 3/2013 ST dated 1st March 2013.

The change brought in by Budget 2013 has however, raised more issues by withdrawing the exemption from eating joints, restaurants etc which do not have licenses to sell liquor but have air conditioning/ air heating facility. There has been a lot of confusion in the matter of levy of ST on air-conditioned restaurants. Most of these restaurants had started charging service tax on self-service, take-away/parcel as also on home delivery, which does not arise and seems highly unjustified. Truly speaking, these are transactions of sale, with a negligible service component. The question that arises and prevails here is that can a canteen run by an educational institution or a factory or a software company or a canteen run by a sports club for the benefit of its members be treated, at par, with a restaurant, eating joint or a mess. Air-conditioned canteens (which cannot be treated at par with restaurants, etc) since they are not run on commercial basis cannot be subjected to service tax. Opinions throughout have been in the negative, as such a canteen cannot be treated at par with a restaurant, eating joint or a mess vis a vis the objective, set up and operational pattern etc. Talking specifically further of canteens run by companies, even if they are air-conditioned, no service tax can be levied, though a view has been expressed that employee/staff canteens are also liable to service tax.

A Service provider who has air conditioning or air heating facility is required to get registered with the service tax authorities as soon as the aggregate taxable turnover exceeds Rs. 9.00 lacs (Rs. Nine Lacs) in a financial year. The service tax is required to be charged as and when the taxable turnover exceeds Rs. 10.00 lacs (Rs. Ten Lacs) in a financial year. In other words, no registration is required up to the taxable turnover of Rs. 9.00 lacs. The assessees may maintain their records in accordance with Rule 5 of the Service Tax Rules, 1994 and Rule 9 of the CENVAT Credit Rules, 2004. The Accounting codes for registration are as follows:

Finance Act, 1994 erstwhile Section 65(105)	Descriptions of Taxable Services	Accounting Codes		
		Tax Collection	Other Receipts (interest)	Penalties
(zzzzv)	Restaurant Service	00441067	00441068	00441478

Rate of Service Tax prescribed is as per Valuation Rule 2C inserted vide Notification 24/2012 ST dated 6th June 2012. The abatement is 60%, thus taxable value is 40% of 12.36% i.e. 4.944% of the total bill amount including Service charges, but excluding VAT levied on food / beverages served.

Example:

Food & Beverages	₹	1,000.00
VAT @ 13.50%	₹	135.00
Total	₹	1,135.00
Service Charges	₹	100.00
Total amount before Service Tax	₹	1,235.00
Service Tax Rate (40% of 12.36%)		
Net Service Tax Rate (4.944%)		
Total amount chargeable for Service Tax (Total amount before Service Tax less VAT)	₹	1,100.00
Total Service Tax (4.944% of Rs. 1100/-)	₹	54.38
Total amount payable by customer (Rs.1,245 + 54.38)	₹	1,299.38

As per Explanation 2, the provider of taxable service shall not take CENVAT credit of duties or cess paid on any goods classifiable under Chapters 1 to 22 of the Central Excise Tariff Act, 1985. However, there is no bar on the service tax assessee for restaurant services for taking input credit of duties and taxes paid by them besides those specified, i.e. on any expenses and capital goods used specifically for providing the taxable output services, in accordance with the CENVAT Credit Rules, 2004. For example, one of the most common input services is rental charges of restaurant premises paid by restaurants which is thus entitled to Input Credit of Service Tax, the rent paid exclusively for restaurants by the assessee, can avail the CENVAT Credit of such rent paid in full. Pro rata credit may be availed if space is shared or used otherwise. However, since the Rule 2C was made effective from 1st July 2012, service tax on the input services pertaining to the period prior to 01.07.2012 is not entitled to Input Credit due to the condition laid in the earlier Notification 34/2011 ST.

All other procedural compliance for Restaurant Services are also like other taxable service providers.

By: CA. Raginee Goyal, B.Com(Hons), FCA, DISA (ICAI)

The above article has been presented as a summary of provisions which govern the levy of service tax on restaurant services after the huge hula-boo following a mail/notice from the Delhi High Court Bar Association was circulated on various social media/networking sites. This notice has alleged that restaurants are incorrectly charging service tax while billing customers. Though the air has now been cleared, the matter being of interest to many and hence a reference is being made.

In case the readers have any views or opinions to share on the subject or any queries or observations to make, please feel free to write to raginee@gmail.com

Branch Activities

Seminar On Service Tax

L to R: CA. Vikash K Jain, Chairman, CPE Committee, Guwahati Branch; CA. Sushil K Goyal, Past Chairman, EIRC; Mr. B B Mahapatra, IRS, Commissioner of Central Excise and Service Tax; CA. Kaberi Bhuyan, Chairperson, Guwahati Branch; CA. Pankaj Jain, Delhi; CA. Rakesh Agarwala, Secretary, Guwahati Branch

A seminar on Service Taxes was organized by the Indirect Taxes Committee, ICAI and hosted by the Guwahati Branch on September 7th at the Branch auditorium. Branch Chairperson CA. Kaberi Bhuyan welcomed the delegates and briefed them about the functioning of the branch and the forthcoming events. The first session was chaired by Mr. B. B. Mohapatra, IRS, Commissioner of Central Excise and Service Tax, Guwahati. CA. Pankaj Jain from Delhi spoke on the topic “Definition of service and its taxability & declared service” followed by CA. Sushil Kr. Goyal, who spoke on the topic “Reverse and Joint Charge and Abatements VCES 2013”.

CA. Sushil K Goyal, Past Chairman, EIRC

During the second session, CA. Pankaj Jain spoke on the topic “Concept of negative list of services and exempted service” followed by CA. Saiprasad A from Bengaluru who spoke on the topic “Procedural aspects on service tax including e-filing.”

Chartered accountants, Officials of service tax department, other professionals and students attended in large numbers, thereby making the programme a grand success.

CA. Pankaj Jain, Delhi & CA. Saiprasad A, Bengaluru

Teleconferencing Programme

Arrangements were also made for viewing of teleconferencing programme on the following dates:

Date/Day	Topic	Faculty
25/09/2013 (Wednesday)	Recent Issues in Direct Taxes	CA. Ved Jain
	Issues in Real Estate Transactions and Capital Gain	CA. G. Ramaswamy
20/09/2013 (Friday)	Recent Judgements in Direct Taxes	CA. Nihar Niranjan Jambusaria
03/09/2013 (Tuesday)	FCRA	CA. Subhash Mittal
	Tax assessment of Charitable Trust	CA. P. S. Kohli
	Tax Exemption of NPOs/ Registration u/s 12AA & withdrawal of Registration	CA. Akhil B. S. Jindal

Forthcoming CPE Programme

A 6 hour CPE programme on Companies Act, 2013 is scheduled to be held on Saturday, 26th October 2013 at the Branch Auditorium. CA. (Dr.) Debashis Mitra and CA. Manoj Banthia have given their consent to act as speakers in the said seminar.

EICASA, Guwahati Branch New Team

The new committee of EICASA, Guwahati Branch has been formed w.e.f. 16/09/2013 which is as follows:

1. Chairman: CA. Dhiraj Kumar Jain
2. Vice Chair person: Ms. Kiran Khaitan
3. Secretary: Mr. Vijay Sarma
4. Treasurer: Mr. Shubham Agarwal
5. Program coordinator: Mr. Manabendra Bora
6. Study Circle coordinator: Ms. Monika Jain
7. Sport & Culture coordinator: Mr. Lohit Poddar
8. Co-opted Member: CA. Sharad Agarwalla

EICASA GUWAHATI BRANCH ACTIVITY

- One Batch of orientation class was held from 3rd September to 10th September. Total 50 Students participated.
- Three members of EICASA Guwahati Team (CA. Dhiraj Kumar Jain, Mr. Subham Agarwal & Mr. Lohit Poddar) attended the International Conference of Students held at Kolkata on 14th and September 2013. Total 2600 Students were registered from all part of India as well as Students from Nepal, Sri Lanka, Pakistan and Bangladesh. Ms. Saloni Bansal, CA Student from Guwahati was adjudged as the best Paper Presenter in the Technical Session of Audit: Dynamic Shift.

PROPOSED ACTIVITY

- Navaratra Celebration at Hotel Raj Mahal for CA Students, Members and their spouse on 9th day of October 2013 from 6 PM onwards.
- One Study Circle programme proposed in the last week of October.

Members' Update

Increase in Rate of Tax in Assam under VAT

Rate to Tax of Schedule V goods has been enhanced to 14.5% w.e.f 13th Sep 2013 under The Assam VAT Act 2013. For details visit:

http://www.tax.assam.gov.in/vat21/vat21/notification/FTX_55_2005_Pt_197.pdf

Change in Rate of Tax under Assam Entry Tax Act 2008

The rates of entry tax on selected commodities under the Assam Entry Tax Act, 2008 have been changed to 6% w.e.f 13th Sep 2013.

For Details Visit:

http://www.tax.assam.gov.in/agriculture/agri/aet/notification/FTX_47_2013_2.pdf

Composition Scheme under Works contract in Mizoram

A composition Scheme similar to Assam has been introduced in Mizoram works contract Tax payable @ 2% on Gross Bill Value w.e.f 1st June 2013. Under The Scheme the dealer has the option to opt for composition Scheme and the dealer is eligible to purchase goods against concessional rate of Tax using "C" forms. For Details Visit:

http://www.zotax.nic.in/sites/zotax.nic.in/files/NOMs/No.J.19013_1_2001-TAX_the_24th%20May_2013.pdf

Entry Tax Imposed in Nagaland

Government of Nagaland vide Notification dated 30th Aug 2013 introduced Nagaland Entry Tax Act 2013 imposing Entry Tax on 60 (Sixty) specified goods @ 2% and 4% as per the Schedule. For Details Visit:

http://nagalandtax.nic.in/docs/Entry_Tax.PDF

98 sections of The Companies Act 2013 are applicable from 12th September, 2013 onwards.

The Central Government Vide Notification No. 1/15/2013-CL.V issued by MCA has made 98 sections of The Companies Act 2013 applicable from 12th September, 2013 onwards. For details visit:

http://220.227.161.86/30915clcgc20885.pdf

Announcement on Issue of Certificate for contribution made towards "ICAI Uttarakhand Flood Relief Fund"

To facilitate, issue of certificate for claiming deductions u/s 80G, all the donors are requested to kindly provide requisite information to the Institute. For details regarding format and submission visit:

http://220.227.161.86/30966icaiufrf.pdf

7th ICAI's Award- Invitation for Nomination.

Committee for Members in Industry (CMII) of ICAI is organising 7th ICAI Awards 2013 at Siri Fort Auditorium, New Delhi. All the members in the industry are invited to come forward to be a part of this prestigious award function by nominating themselves and other members whom they deem fit for the grant of these awards. For details visit:

http://www.icai.org/post.html?post_id=9813

Compiled by CA. Bikash Agarwala
Past Chairman, Guwahati Branch

Service Tax Return Due Date 25-10-2013

Service Tax Return (ST-3) for the period April - September' 2013 is now available in ACES for e-filing by the assesses in both offline and online version. The last date of filing the ST-3 return for the said period is 25th October, 2013. The assesses can file return either online or use the offline utility by downloading the latest version from http://acesdownload.nic.in/ or from 'DOWNLOADS' Section of ACES website.

TDS Credit must be given even if TDS Certificate is not available/ entry is not shown in Form 26AS

The assessee claimed credit for TDS which was denied by the AO on the ground that the claim did not match the entries shown in Form No. 26AS and that there was a discrepancy. On appeal, the CIT(A) held that the assessee would be entitled to credit to the extent shown in the computer system of the department. On further appeal by the assessee to the Tribunal HELD:

The AO is not justified in denying credit for TDS on the ground that the TDS is not reflected in the computer generated Form 26AS. In **Yashpal Sahwney** 293 ITR 539 the Bombay High Court has noted the difficulty faced by taxpayers in the matter of credit of TDS and held that even if the deductor had not issued a TDS certificate, still the claim of the assessee has to be considered on the basis of the evidence produced for deduction of tax at source. The Revenue is empowered to recover tax from the person responsible if he had not deducted tax at source or after deducting failed to deposit with Central Government. The Delhi High Court has in **Court On Its Own Motion Vs. CIT** 352 ITR 273 directed the department to ensure that credit is given to the assessee even where the deductor had failed to upload the correct details in Form 26AS on the basis of evidence produced before the department. Therefore, the department is required to give credit for TDS once valid TDS certificate had been produced or even where the deductor had not issued TDS certificates on the basis of evidence produced by assessee regarding deduction of tax at source and on the basis of indemnity bond.

Important Announcement for students

Education Loan for Students

With a view to facilitate the students pursuing the Chartered Accountancy Course, the Institute of Chartered Accountants of India has made tie-up with Four Banks under the "Join CA Educational Loan Scheme" to provide the Education loan to its aspiring students to meet out the Course fees etc. For Details Visit:

http://www.icai.org/new_post.html?post_id=9877&c_id=347

Take a Break !!

How to Manage and Resolve Conflict Effectively

"If war is the violent resolution of conflict, then peace is not the absence of conflict, but rather, the ability to resolve conflict without violence."

Conflict is a normal, and even healthy part of relationships. After all, two people can't be expected to agree on everything at all times. Since relationship conflicts are inevitable, learning to deal with them in a healthy way is crucial. When conflict is mismanaged, it can harm the relationship. But when handled in a respectful and positive way, conflict provides an opportunity for growth, ultimately strengthening the bond between two people. By learning the skills you need for successful conflict resolution, you can keep your personal and professional relationships strong and positive.

Successful conflict resolution depends on your ability to

- **Recognize and resolve conflicting needs**
- **Manage stress while remaining alert and calm**
- **Control your emotions and behavior**
- **Pay attention to the feelings being expressed**
- **Be aware of and respectful of differences**
- **Improve non verbal communication skills**
- **Use humor to deal with conflicts**
- **Learn how to listen**

Tips for managing and resolving conflict

Managing and resolving conflict requires emotional maturity, self-control, and empathy. It can be tricky, frustrating, and even frightening. You can ensure that the process is as positive as possible by sticking to the following conflict resolution guidelines:

- **Make the relationship your priority**. Maintaining and strengthening the relationship, rather than "winning" the argument, should always be your first priority. Be respectful of the other person and his or her viewpoint.
- **Focus on the present**. Paying attention to the actual problem is important rather than holding on to old hurts and resentments.
- **Pick your battles**. Conflicts can be draining, so it is important to consider whether the issue is really worthy of your time and energy.
- **Be willing to forgive**. Resolving conflict is impossible if you're unwilling or unable to forgive. The urge to punish can only add to our injury by further depleting and draining our lives.
- **Know when to let something go**. If you cannot come to an agreement, agree to disagree. It takes two people to keep an argument going. If a conflict is going nowhere, you can choose to disengage and move on.

How to play fair in an argument

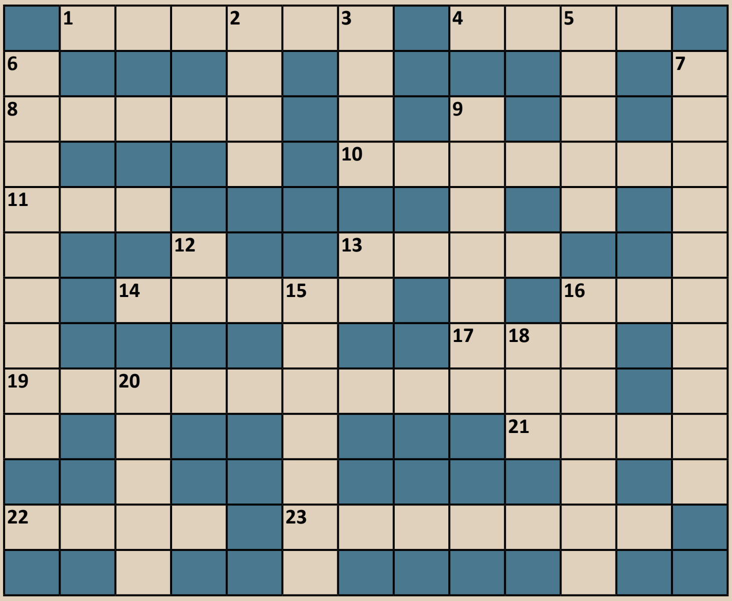
- **Remain calm**. Try not to overreact to difficult situations. By remaining calm it will be more likely that others will consider your viewpoint.
- **Express feelings in words, not actions**. Telling someone directly and honestly how you feel can be a very powerful form of communication.
- **Be specific about what is bothering you**. Vague complaints are hard to work on.
- **Deal with only one issue at a time**. Don't introduce other topics until each is fully discussed to avoid the "kitchen sink" effect where people throw in all their complaints while not allowing anything to be resolved.
- **No "hitting below the belt."** Attacking areas of personal sensitivity creates an atmosphere of distrust, anger, and vulnerability.
- **Avoid accusations**. Accusations will cause others to defend themselves. Instead, talk about how someone's actions made you feel.
- **Don't generalize**. Avoid words like "never" or "always." Such generalizations are usually inaccurate and will heighten tensions.
- **Avoid "make believe."** Exaggerating or inventing a complaint - or your feelings about it - will prevent the real issues from surfacing. Stick with the facts and your honest feelings.
- **Avoid clamming up**. When one person becomes silent and stops responding to the other, frustration and anger can result. Positive results can only be attained with two-way communication.

When listening to the other person's point of view, the following responses are often helpful

- **Encourage** the other person to share his or her issues as fully as possible.
- **Clarify** the real issues, rather than making assumptions. Ask questions that allow you to gain this information, and which let the other person know you are trying to understand.
- **Restate** what you have heard, so you are both able to see what has been understood so far, it may be that the other person will then realize that additional information is needed.
- **Reflect** feelings to be as clear as possible.
- **Validate** the concerns of the other person, even if a solution is elusive at this time. Expressing appreciation can be a very powerful message if it is conveyed with integrity and respect.

Compiled by CA. Ankit Jain

CROSSWORD # 07



QUICK CLUES

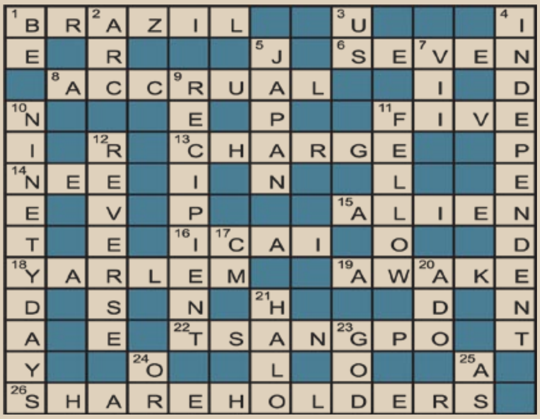
Across:

1 RBI Headquarters (6)
4 Signed MOU with NISM for joint promotion of securities market governance (4)
8 50 billion apps downloaded on its devices till May (5)
10 NBFC to get approval from RBI for establishing White Label ATMs (7)
11 Tax under section 115JC (3)
13 Horn-like envelope covering the dorsal aspect of the terminal phalanges of fingers! (4)
14 Indian Co-op which signed long term agreement with Brazilian mining company Vale SA for supply of rock phosphate (5)
16 In the past (3)
17 Self-financing social security and health insurance scheme for Indian workers (3)
19 Online travel portal that acquired GateGuru, the mobile resource for flight information across the globe (11)
21 Remuneration paid by an employer to an employee (4)
22 Another Maharatna announced along with 2 down (4)
23 Walmart India Head who resigned in June (7)

Down:

2 PSU Granted Maharatna status in February (4)
3 .... Sharmila: Crusader against the AFSP act (4)
5 LICI Chairman (5)
6 Chief Advisor of AirAsia's India board (9)
7 Company which holds the largest coffee plantation in Asia (10)
9 .... Acrolab: Drug firm to receive WHO pre- qualification for new antimalarial tablets (7)
12 Welfare Fund managed by the EPFO (2)
13 Expression used for disagreement or negation (2)
15 Confectionery giant caught in Rs. 250 cr. excise evasion net (7)
16 Malaysian budget carrier cleared to launch new airline in India (7)
18 Formal document that captures and defines the work activities, deliverables and timeline a vendor must execute (3)
20 World's Largest Producer-Consumer of chickpeas (5)

SOLUTION CROSSWORD # 06



Congratulations to **CA. Manish Agarwal,** Tinsukia for submitting correct solution to crossword # 06

Guwahati Branch Managing Committee for the Session 2013-16 and Office Bearers for the year 2013-14

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चलते चलते.....