guwahati@icai

E-Newsletter of the Guwahati Branch of EIRC of ICAI

Volume VII, Issue 10, December 2013

Contents

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,

"December has ended. January started off with a new year, a new year with new beginning and new hopes. A new year hoping to be successful and praying that all your efforts and hard work will be paid off. This is a new horizon and a chance to start all over again."

"As the snow falls around me, I marvel at God's wholesome and worthy entity.

The Lord, on his special day, has given me a gift so precious and special;

He has opened my eyes to his wondrous glory.

The Lord above all has allowed me to see the beauty in the smallest of things:

The stars and moon at night, and the clouds and sun by day;

The little trickles of freezing cold, yet clean, fresh, clear water

Running down the mountainsides, quenching my insatiable thirst."

Slowing growth and rising inflation marked 2013 which the country's economic managers would like to forget quickly in the hope that the new year will bring in new government and some good news. The growth rate continued to slide throughout the year despite desperate attempts by the government to swim against the tide with a host of traditional and innovative measures. Pangs of inflation, driven mainly by rising prices of essential food items, added to the overall despondency in a year that saw the rupee dipping to its life time low level against the US dollar and the Current Account Deficit soaring to historic highs.

So is there something to rejoice about in the passing of the year? Is there a reason to celebrate as festivity definitely seems to be in the air?

After the passing of section 377, should we celebrate the fact that we no longer have the fundamental right to choose whom we love?

Yes, we do seem to have a lot to be cheerful about this season, not even mentioning the onion price rise (which will no doubt bring tears of joy!), the up-coming 2014 elections, humiliation of Devyani, a juvenile murderer walks freely in the streets of Delhi, the freedom & safety of the Indian women taking up any profession (specially journalism & law), the arrests of God-men and their sons, (Muzaffarnagar) riots, sugar-cane farmers suicides, mission to Mars, petrol prices hiked every alternate day and such common everyday happenings!

"We make them cry who care for us, we cry for those who never care for us, and we care for those who never cry for us." This is the truth of life, its strange but true. Once we realize this, it is never too late to change.

After the hectic days which saw through the hoisting of the National Conference with as many as 750 plus delegates, we hope we have been able to set the ball rolling for the future years and I take this opportunity to thank each and every one of you from the bottom of my heart for being instrumental in making this annual mega event a grand success. *"A single man's hard work may take years to prove, but a team's hard work is visible by sunset".*

I had the privilege of attending the Regional Conference in Kolkata which saw 2800 plus delegates and being a witness to an innovative National Debate with the likes of famous personalities like Dr. Subramaniam Swamy, Ms. Meenakshi Lekhi, Mr. Sougata Roy, Mr. Derek O'Brian, etc. *"Great minds discuss ideas; average minds discuss events; and small minds discuss people"*.

It was hardly a year and a half back when this young girl looked up at me with nervous eyes in apprehension about anchoring the cultural night in the Students Convention. This girl who has indeed come a long way is none other than Ms. Neha Navalakha, CA student from our Branch who has once again added another feather in her cap (this being the third time within this very short span of time) by winning the Best paper Presenter award in the National Convention for CA students held on 14th-15th December in Mumbai. Kudos to her & hope she keeps up this winning spree in the future too; at the same time setting an example to the other students that hard work & determination surely pays.

The Branch activities slated out for the near future is indoor & outdoor sports meets, besides a picnic. We request members to participate in these programs wholeheartedly & help in making them as interesting & fun-filled as they deserve to be.

Hope the year 2014 ushers in good fortune & happiness for all of us; let us pledge to stay strong & un-deterred through all the tidings. *"Alone we can build small homes, but together we can build towns, cities and nations."*

– CA. Kaberi Bhuyan

"Life is a canvas, throw all the paint you can on it."

Is *Mikhail Kalashnikov* in Hell?

The man was confident he would not go there..........

Mikhail Kalashnikov, whose work as a weapons designer for the Soviet Union is immortalized in the name of the world's most popular firearm, has died at the age of 94 on December 23, 2013. The AK-47 — "Avtomat Kalashnikov" and the year it went into production — is favored by guerrillas, terrorists and the soldiers of many armies. An estimated 100 million guns are spread worldwide.

Kalashnikov often said he felt personally untroubled by his contribution to bloodshed. **"I'm proud of my invention, but I'm sad that it is used by terrorists ... I would prefer to have invented a machine that people could use and that would help farmers with their work - for example a lawn mower."** He always blamed the Nazi Germans for making him become a gun designer ... he always wanted to construct agriculture machinery.

The AK-47 is a legendary firearm. It is the most widely-manufactured single weapon in modern history. With a form that has become iconic, it is synonymous with revolution, civil war and communism. Its image adorns t-shirts, posters and even a national flag. Even someone with little knowledge of firearms would probably be able to identify the venerable AK-47.

The inventor's ingenuity earned him widespread admiration, but his legacy became more controversial when his weapons were used in some of the world's bloodiest conflicts. As the rifle was more and more commonly seen in the hands of terrorists, radicals and child soldiers, he was often forced to defend himself to journalists.

On gun laws, we feel that guns don't kill people, people kill people. And we know that stricter gun laws won't end gun violence, the same way we know that laws against murder didn't end murder. Laws against rape didn't end rape...but does that mean we shouldn't have those laws?

Factually, the AK-47 is the apex of efficiency in terms of armaments. It can be buried, left underwater, cleaned quickly, etc, etc. But for some reason, the AC/DC song that goes, "Dirty deeds, Done Dirt Cheap!" comes to mind. However, the dirty people should be blamed for the dirt not the inventor of AK 47. The contribution of this great man is really unforgettable as we can sleep safely when our soldiers are safeguarding us with this great weapon "AK 47" in their hands.

N.B.: The latest inheritor of AK-47's mantle is the newest political storm trooper in Delhi – Arvind Kejriwal who shares the initials with Avtomat Kalashnikova. As one blog describes him he is "Agent AK-47" "the Batman that every Gotham needs."

– Compiled by Miss Lipika Tiwari

readers write

Dear Editor,

Received "NOVEM" edition of your branch e-newsletter **"guwahati@icai"** for the year 2013. Once again a great job with professional excellence and showing great zeal of commitment in journey of spreading lights of knowledge and information.

Its' never easy to come out with such a meaningful issues of e-Bulletin on a regular basis within a time bound frame but you and other members of editorial team has done a commendable job. My heartiest greetings to you and your team for setting new standards in ICAI, Guwahati Branch. Hope you will keep your spirit high and efforts running in future too.

Warm regards and best wishes for a Happy New Year - 2014,

CS. Narayan Sharma, Past Chairman
NE Chapter of ICSI

Editor's Desk...

Dear Colleagues and Student friends,

hello!

"We must accept finite disappointment, but never lose infinite hope" – Martin Luther King Jr.

The concept of "balance sheet" is integral to the ethos of any CA. Our work is geared towards getting that report card at the end, a snapshot of our positives and negatives and the balance of it; just as we check our assets and liabilities and whatever equity remains. As the year comes to a close, we attempt to get that snapshot of what happened around us, the various reports and news and stories this year.

If you delve a bit into the stories, you may notice the desperate cries of many of our fellow citizens — the screams of the Muzzafarnagar riot victims or the deceived investors of Bengal's Saradha chit fund scam or the helpless victims of the Uttarakhand calamity or the orphans of the Ratangarh temple stampede or the widows of the Thane building collapse or the expatriates of ethnic riots of Bodoland and many more. ***We wish the pain could be wiped away like tears!***

However, if you continue to probe further, you will also hear some loud cheers, not just the echoes of extraordinary accomplishments, but also the tales of countless struggles bearing fruition. The pain, sweat and hard work that went into these accomplishments make it special. The law for women's security, the overcome of cyclone Phailin in such a remarkable way, our surge towards Mars, the broom of AAM Aadmi to clean up politics, the right to say 'No' while voting, CA. Prema Jayakumar's fight to transform her dream into reality, the successful test launch of Agni V which significantly boosted India's military standing, among many other such triumphs — as they have infused hope into the veins of billions.

"Life has meaning only in the struggle. Triumph or defeat is in the hands of the Gods. So let us celebrate the struggle!!"

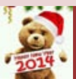
When we look back on the last year of our branch performance, the achievements give us enormous pleasure. We have a long list of successful activities at the branch level to our credit. Amongst others, we successfully organised national convention for CA students "TRANSCRIPT OF TRANSFORMATION" in the month of June which was inaugurated by the Hon'ble Chief Minister of Assam, Sri Tarun Gogoi. The fever of the convention was still in the air and we came up with another mega event. Our leap for organizing the national conference "SARATHI" was just like icing on the cake as it resulted in comradeship amongst the members. We were on cloud nine when the same was unveiled by the Governor of Assam H. E. Shri Janki Ballav Patnaik. Our branch premises was given a completely new look. A lot has been achieved, but we still have a long way to go. We accept the praise for the team, but we also know our limitations and shortcomings. The areas for improvement have been shortlisted and we are working on that with the hope to come out as winners in the years to come.

We are proud of our legacy, but we are not stuck in the past. It's all about the future. It's about helping the youth realise their full potential. As long as we keep doing that, we will remain an active and vibrant branch. ***Miracles can be achieved through patience and presence of mind.***

For a new year to bring you something new, make a move, like a butterfly tearing its cocoon! Make a move!!

Wishing you a very happy & successful new year 2014.

Happy Reading!
– CA. K P Sarda



CAN CENVAT CREDIT BE AVAILED PRIOR TO SERVICE TAX REGISTRATION?

By: CA. MANOJ NAHATA*

Availment of Cenvat Credit for the prior period has always been a disputed matter. Over and above that, availment of Cenvat Credit for the period prior to registration under service tax law has created one more new dispute. The tax dept. always denied the claim on the ground that during the disputed period the assessee has not provided or received taxable service as they were not registered with the Department. Time and again this matter was challenged before different forums and in many cases decided in favour of the assessee.

Summary of the Judgement:

Recently, the Hon'ble CESTAT Ahmedabad Bench is case of **Effective Teleservices (P.) Ltd. Vs. Commissioner of Central Excise, Ahmedabad-III [2013] 38 taxmann.com 94 (Ahmedabad - CESTAT)** has an occasion to deal with similar issue. It was held by the Tribunal that an **assessee may take credit even prior to registration, but, if he chooses to take credit after registration, such credit cannot be disallowed as belated.** Credit can be taken at any time and, therefore, credit availed after registration was in order. In order to understand this judgment let us first know the exact position of law in this regard.

Position of Law:

Under the Cenvat Credit Rules, 2004 an assessee is entitled to avail the credit of Input Services. Rule 3 of CENVAT credit Rules, 2004 allows a service provider to avail CENVAT credit of service tax paid on input services against the payment of service tax with the Central Government as prescribed in the rules. Further rule 4 of the Service Tax Rules requires a provider of output service is to register with the Central Excise department within a period of 30 days from the date on which the service tax is levied. Rule 4(1) of Cenvat Credit Rule state that CENVAT may be taken immediately on receipt of inputs in the factory or the premises of service provider.

Now, the question which arises is whether the service tax paid on input service prior to service tax registration is eligible for an assessee?

Facts of the case:

The appellant has availed Cenvat credit of Rs. 3,03,998/- in the month of 2008. It was noticed by the lower authorities that the assessee has got himself registered on 21.4.2006 while the credit availed by them in September 2008 was in respect of the input services received by them prior to the date of registration and the said credit was not availed immediately on receipt of the input services. Coming to such a conclusion, the demand along with interest and penalty was confirmed and even the first appellate authority also upheld the order passed by the adjudicating authority. Thus the issue to be decided by the tribunal is whether the appellant is eligible to avail the Cenvat credit for the services received by him from 01.9.2004 to 31.3.2006.

Detailed Judgment:

While deciding this case the Hon'ble tribunal in its finding held that the judgment delivered by the same Bench in the case of ***C. Metric Solution (P.) Ltd.* v. CCE [2013] 39 STT 313/31 taxmann.com 344 (Ahd. - CESTAT)** is on the issue and covers the case of the appellant in his favour.

In case of ***C. Metric Solution (P.) Ltd.* v. CCE,** the appellant had availed CENVAT credit of the service tax paid on input services during the period April 2008 to March 2009, after getting the service tax registration on 23.03.2009. The Department was of the view that the appellant is not eligible for CENVAT credit on the input services for the period prior to the registration granted to the appellant. The Department confirmed the demand which was also upheld by the first Appellate Authority. Before the Tribunal the appellant contended that the appellant is a Software Technology Park Unit (STP) which is not disputed by the Department. The appellant is exporting software manufactured by them. After getting the registration they have availed the CENVAT credit. The CENVAT credit was denied to them only on technical ground. The appellant relied on two judgments which are given below:

- **J.R. Herbal Care India Limited V. Commissioner of Central Excise, Noida' – 2010 (3) TMI 391 - CESTAT, NEW DELHI**
- **Well known polyesters Limited V. Commissioner of Central Excise, Vapi' – 2011 (1) TMI 664 - CESTAT, AHMEDABAD**

In J.R. Herbal's case the appellant had received the capital goods while availing SSI exemption without taking registration. Cenvat credit was taken on the capital goods for the years 2003-04 and 2004-05 but taken in the year 2005-06. This was allowed by the Tribunal. The Tribunal took a view that there is no provision in the rules that credit was not available to unregistered manufacturers. Manufacturers exempted from the registration do not cease to be a manufacturer of excisable goods. This case squarely covers the issue in this case also. Therefore, in respect of the goods manufactured during the period when the appellant was not registered, credit can be taken subsequently also. This view is further supported by the consistent stand taken by various judicial forums in the case of clandestine removals, even if the duty is paid subsequently, Cenvat credit on inputs used will be available to the assessee/manufacturer subject to the conditions that proper documents showing the payment of duty are available. In the case of SSI Units also, wherever SSI benefits have been denied, Cenvat credit has been allowed.

It can be seen from the above reproduced ratio of the Division Bench decision that the appellant is eligible to avail Cenvat credit of the service tax paid on input services after getting registration. In this case, it is recorded that the appellant has shown or recorded the service tax paid on input services in a register which is considered as a Cenvat account.

Author's comment:

Though the rule 4(1) of Cenvat Credit Rule prescribed that CENVAT *may be taken immediately* on receipt of inputs in the factory or the premises of service provider. Department has clarified that 'immediately' means the earliest opportunity when the inputs are received. However, this does not mean that if manufacturer/service provider does not take credit as soon as inputs are received in the factory/premises of service provider, he would be denied benefit of CENVAT credit. Such an interpretation is not tenable. *Immediately* does not mean within 24 hours. It is not necessary to take credit as soon as inputs are received in the factory. However, manufacturer/service provider should take credit at earliest opportunity. In author's opinion the word 'may' cannot be read as 'must'.

It is a settled legal position that that when a statute does not prescribed any time limit for any action, no time limit can be imputed into that statute from any other provision. Hence, there is no time limit for taking CENVAT credit. **Industrial Cables v CCE (2009** (1) TMI 281 - HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)= (2009) 236 ELT 658 (P&H - DB).

Unlike VAT law there is no such requirement under the service tax law that the Cenvatable invoice must bear the registration number of the service receiver. This also makes the assessee's position strong enough that in absence of requirement of registration number in the invoice the Cenvat credit even for the period prior to registration can be taken. But at the same time the author is of the view that the judgments should not be applied in a blanket manner in all the cases. There should be proper records maintained as prescribed under the Cenvat credit rules and further the unclaimed/unavailed input should clearly appear in the books and records of the assessee.

**The author is a practicing chartered accountant at Guwahati can be reached at: manoj_nahata2003@yahoo.co.in*

REVERSE CHARGE – OTHER ISSUES

By CA. S K Goyal, Past EIRC Chairman, Kolkata

REGISTRATION:

Every person liable to pay service tax including the recipient of a service is required to apply for registration to the Superintendent of Central Excise/Service Tax. The application shall be made within 30 days from the date on which first service is received.

A service recipient who is receiving services at more than one premises can make separate application for each premises or has an option to go for centralized registration too.

A single registration is sufficient even when the recipient is receiving more than one taxable service. However, the recipient has to mention all the services being received, in the application and shall get suitable entries done in the registration certificate.

In case where service tax is paid at the premises other than the premises where they wish to utilize the credit, the assessee has to make registration as an Input Service Distributor (ISD) to transfer the credit to unit/factory where they wish to avail the credit.

PAYMENT:

As discussed above, registration is required for each service in which the receiver is liable to pay tax. It is more important that the service receiver should make the payment of service tax in the specific codes prescribed for making such payment.

Service Tax is payable by service receiver on the basis of payment date i.e. when actual payment is made to the service provider. However, if payment is not made to the service provider within 6 months of date of invoice, then point of taxation shall be the date of invoice.

In the latter case where point of taxation is shifted back to the date of invoice and where the assessee does not get an option to revise the return of the earlier period, it is advisable for the assessee to pay the tax with interest and inform the department through a letter about the payment since no procedure has been prescribed for filing of return/declaration in such case.

BASIC EXEMPTION:

Benefit of Small Service Provider exemption of Rs 10 lakhs is not available when tax is payable by the service recipient under reverse charge. The service recipient shall have to pay service tax which he is required to pay under the full or partial reverse charge mechanism, although the service provider is entitled to avail the exemption in case his turnover is less than Rs 10 lakhs.

PARTIAL REVERSE CHARGE:

Reverse charge will be applicable if services are provided by way of *renting of motor vehicle* designed to carry any passengers to any persons who is not in the similar line of business or *supply of manpower* for any purpose or *security services* or service portion in *execution of works contract* by an individual, HUF or partnership firm whether registered or not , including association of persons located in the taxable territory to a business entity registered as *body corporate located* in the taxable territory.

Limited Liability Partnership which is in ordinary course considered as body corporate but in Rule 2(1)(cd) of the Service Tax Rules, 1994 prescribes partnership includes LLP. So one should apply all the provisions laid down in Service Tax for partnership to LLP.

VALUATION IN CASE OF WORKS CONTRACT:

The liability of the service provider and the recipient are independent of each other. Hence, the service recipient can avail or adapt different valuation method depending upon the ease, data available and economics.

CENVAT CREDIT:

The benefit of CENVAT credit cannot be availed for discharging the service tax liability under Reverse charge mechanism. However, any service recipient paying the service tax may take CENVAT CREDIT of service tax paid by him towards payment of service tax on other output services on the basis of copy of GAR-7 challan.

In some services (e.g. GTA, renting or hire of motor vehicle designed to carry passengers), the abatement is subject to condition of non-availment of Cenvat credit. This is in no way restricting credit of such tax paid (after taking abatement) and the same can be availed of and utilized against the other taxable output service or dutiable goods.

In case of input service where the service tax is paid on the reverse charge by the recipient of the service, the CENVAT credit in respect of such input service shall be allowed on or after the date on which payment is made of the full value of the input service.

REFUND OF CENVAT CREDIT:

A new rule, Rule 5B of CENVAT Credit Rules, 2004 which prescribes that a provider of service providing services under reverse charge and being unable to utilize the CENVAT credit availed on inputs and input services for payment of service tax on such output services, shall be allowed refund of such unutilized CENVAT credit subject to procedure, safeguards, conditions and limitations, as may be specified by the Board by notification in the Official Gazette.

The procedure for the same is yet to be notified even after lapse of a period of 18 months. It seems that the person who is eligible for refund has to wait for some more time.

CONTENTS OF INVOICE:

The service provider shall issue an invoice with respect to service provided. The invoice shall indicate the name, address and the registration number of the service provider; the name and address of the person receiving the taxable service, the description and value of taxable service provided or agreed to be provided and the service tax payable thereon. The service tax payable shall include the liability payable by the service provider and not of the service recipient under reverse charge. It may be noted that even if service provider does not charge service tax in his invoice, the service receiver is still liable to pay his part of service tax. However, by way of a note/remark he can provide the information about the liability to be discharged by the recipient.

RETURN:

Like service provider, every service receiver is also required to submit a half yearly return in the form ST-3 by 25th of the month following the particular half year. A revised return can be submitted to correct a mistake or omission within a period of 90 days from the date of submission of return.

Domestic Transfer Pricing

By: CA. Dinesh Kumar Mour

The provisions of transfer pricing were hitherto applicable to international transactions only. However, w.e.f AY 2013-14, specified domestic transactions(SDT's) have also been covered under the transfer pricing provisions.

Section 92 of the Income-tax Act 1961 provides that any income arising from SDT's shall be computed having regard to the arm's length price(ALP). The allowance for any expense or interest arising from SDT shall also be determined having regard to ALP

Domestic Transfer Pricing is applicable to the following:

- On any expenditure in respect of which payment is made or to be made u/s 40A(2)(b).
- On any transaction referred to in section 80A
- On any transfer of goods or services u/s 80-IA(8).
- On any business transacted between the assessee and other person u/s 80-IA(10).
- On any transaction referred to in any other section under chapter VI-A or section 10AA,to which provisions of sec 80-IA(8) and 80IA(10) are applicable.
- On any other transaction as may be prescribed

And where the aggregate of such transactions entered into by the assessee in the previous year **exceeds a sum of Rs. 5 crores.**

If two or more associated enterprises enter into a mutual agreement or arrangement for the allocation or appointment of, or any contribution to, any cost or expense incurred in connection with a benefit, service or facility provided or to be provided to anyone or more of such enterprises, the cost or expense allocated or apportioned to, or, as the case may be, contributed by, any such enterprises shall be determined having regard to the ALP of such benefit, service or facility, as the case may be.

For non-compliance of the above sections, penalty provisions u/s 271AA, 271BA and 271G have been incorporated and section 271 has been amended w.e.f. asst. year 2002-03.

Arm's Length Price (ALP)

Arm's Length Price (ALP) means a price which is applied or proposed to be applied in a transaction between persons other than associated enterprises, in uncontrolled conditions. In the case of *Coca Cola India Inc. vs. Assistant Commissioner of Income Tax and Ors,(2009)1CompLJ 460(P&H)* it was held that ALP is nothing but a fair price which would have been normal price.

As per ALP principle two associated enterprises should be treated as independent enterprises and all transactions between them would be considered at the market price.

The ALP has to be determined in accordance with the Safe Harbour Rules (Rule 10B). The ALP is determined by any of the prescribed methods, being the most appropriate method, which is best suited to the facts and circumstances of each particular transaction and which provides the most reliable measure of an ALP in relation to the transaction. The assessee must not only select a specified method of determining the arm's length price but such a method must also be best suited to the facts of the case. *Serdia Pharmaceuticals (India) (P.) Ltd. v. ACIT, (2011) 44 SOT 391(Mum)*

If more than one price is determined by the most appropriate method, the ALP shall be taken to be the arithmetical mean of such prices.

However, if the variation between the ALP and the price at which the transactionis undertaken does not exceed three per cent of the latter, the price at which the transaction is undertaken will be deemed to be the ALP

Methods of Calculating ALP

Comparable Uncontrolled Price Method (CUP)

As per this method ALP of the transaction in question is determined by comparing the price charged in a controlled transaction with the price charged in an uncontrolled transaction. If the price charged in the uncontrolled transaction is higher than the price charged in the controlled transaction, than the former price will prevail for computing the ALP.

Controlled transaction means a transaction which takes place between an enterprises and an associated enterprise, where the price charged is under the control of the parties.

Un-controlled transaction is a transaction which takes place between an enterprises and an independent entity.

Members' Section

Resale Price Method

As per this method ALP of the transaction in question is determined by comparing the GP margin earned by the enterprise by purchasing the goods from the associated enterprises and re-selling the same goods without any value addition to the independent enterprises.

This method is applicable when there is a transfer of goods between associated enterprises before resale of the same to the independent party.

Cost Plus Method (CPM)

Under this method the total cost of production incurred by an enterprise in respect of goods transferred or services provided to a related party are determined.

The amount of a normal GP mark-up to such costs arising from the transfer of the same or similar property or services by the enterprise, or by an unrelated enterprise, in a comparable uncontrolled transaction, is determined;

The normal GP mark-up is then adjusted to take into account the functional and other differences, if any, between the transaction in question and the comparable uncontrolled transactions

The value of the mark up added in the controlled transaction has to be compared with value of the mark up added in the uncontrolled transaction and by this ALP is to be determined.

Profit Spilt Method

This method would normally be adopted in those transactions where integrated services are provided by more than one enterprise, or in the case multiple inter-related transactions, which cannot be separately evaluated.

The combined net profit of the related parties arising from a transaction, in which they are engaged, is to be determined. The residual net profit shall then be split amongst the related parties in proportion to their relative contribution to the combined net profit.

The combined net profit will then be split amongst the enterprises in proportion to their relative contributions. The profit so apportioned shall be taken into account to arrive at an arm's length price.

Transactional Net Margin Method (TNMM)

In this method, net profit margin realised by the enterprise when transacting with associated enterprise is to be compared with the net profit margin earned by the same enterprises, when dealing with independent enterprise.

It is the duty of the assessee to select the most appropriate method and the assessee has also to substantiate the said selection by proper documentation.

The A.O. for the purpose of computation of ALP may refer the matter to Transfer Pricing Officer (TPO), if he considers it necessary or expedient to do so, with the previous approval of the Commissioner.

Transfer Pricing Officers have the power to examine additional transactions which were not formally referred by the AO if identified subsequently in the course of proceedings before him. Further TPO'shave also been empowered to conduct a survey.

The assessee entering into a SDT is required to furnish an audit report in Form No. 3CEB within the 30th November of the relevant assessment year. As per section 271BA, if an assessee fails to furnish the report of Chartered Accountant required u/s 92E, the A.O. may impose a penalty of Rs.1 Lakh.

If the assessee-

a) fails to maintain prescribed documents or information;

b) fails to report any transaction which is required to be reported; or

c) maintains or furnishes any incorrect information or documents.

a penalty @2% of the value of the transaction be may levied (Sec 271AA)

Note: The provisions of Sec 92 shall **not** apply where it has the effect of reducing the income chargeable to tax or increasing the loss, as the case may be, computed on the basis of entries made in the books of account in respect of the previous year in which the SDT was entered into.

Section 92 of the Income-tax Act 1961 provides that any income arising from SDT's shall be computed having regard to the arm's length price.

Provisions are applicable where the aggregate of such transactions entered into by the assessee in the previous year **exceeds a sum of Rs. 5 crores**

Members' Update

➢ COMPULSORY ONLINE PAYMENT OF SERVICE TAX

The Central Government has amended the provision relating to e-payment of Service Tax by amending Rule 6 sub rule 2 of Service Tax Rule 1994. As per this amendment, assessees who have paid service tax (including CENVAT Credit) of Rs. 1 lakh or more during the preceding financial year (2012-13) must deposit their service tax liability electronically, through internet banking, w.e.f. 01.01.2014.

Notification No 16 /2013-Service Tax Dt: 22/11/2013

For more details Click Here.

➢ REVISED LIST OF DOCUMENTS FOR PAN CARD APPLICATION

CBDT has revised list of documents to be enclosed with application for allotment of Permanent Account Number. It has notified certification formats for address and ID proof and also added an additional requirement of submitting Date of Birth Proof.

Notification No 96- Dt: 23/12/2013

For more details Click Here.

– Compiled by CA. Bikash Kr. Agarwala

Branch Activities

National Conference "Sarathi – Marching Ahead"

Lighting of the lamp by Hon'ble Governor of Assam Shri Janki Ballav Patnaik in the presence of Branch Chairperson CA. Kaberi Bhuyan and other dignitaries

The long awaited knowledge fest finally unfolded on 13th & 14th December' 2013 at Pragjyoti ITA Cultural Complex when Hon'ble Governor of Assam Shri Janki Ballav Patnaik lighted the lamp to inaugurate the mega event of our branch: National Conference "Sarathi – Marching Ahead". The two day long programme proved to be a platform for sharing immense knowledge and became a center of attraction for around 800 Chartered Accountants, Students and Other Professionals from all over the North Eastern Region. The attendants not only gathered knowledge from the event but also values, virtues and vision as the experiences spoke not just the speakers.

L to R: CA. Abhijit Bandyopadhyay, Council Member ICAI; CA. Charanjot Singh Nanda, Council Member ICAI; Shri M. A. Sahu, GM, North Eastern Circle, State Bank of India; Hon'ble Governor of Assam Shri Janki Ballav Patnaik; Guwahati Branch Chairperson CA. Kaberi Bhuyan

Jovial MC Members of Guwahati Branch with CA. Subodh Kr Agrawal, Hon'ble President, ICAI

Lighting of the lamp at Cultural Night by CA. Kamlesh Shivji Vikamsey, Past President, ICAI in the presence of Branch Chairperson CA. Kaberi Bhuyan and other dignitaries

The conference comprised of four technical sessions on various professional topics which were chaired by dignitaries from all over the country. To commemorate this historic occasion, the Hon'ble Governor released a souvenir edited by CA. Kamal Mour. A cultural extravaganza -"RAAS-XANDHIYA" was also organized in the evening for the delegates at Hotel Vishwaratna to embrace the event under the supervision of CA. Samikhya Das.

Team Sarathi

The presence of eminent speakers and dignitaries like CA. (Dr.) Girish Ahuja, CA. M Kandasami, Dr. Suman Mukerjee, CA. V Raghuraman, CA. Ashok Batra, CA. (Dr.) Debashis Mitra, CA. P R Ramesh along with past presidents CA. N D Gupta, CA. Kamlesh Shivji Vikamsey, Council Members CA. Charanjot Singh Nanda, CA. Abhijit Bandyopadhyay, CA. Sumantra Guha and president of the Institute CA. Subodh Kumar Agrawal enhanced the charm of the event.

CPE Seminar on "Investment in Capital Markets"

L to R: CA. Vikash K Jain, Chairman, CPE Committee, CA. Ankit Agarwal, Speaker, CA. O P Chandak, Session Chairman, CA. K P Sarda, Vice-Chairman, Ankit Jallan, Speaker, CA. Rakesh Agarwala, Secretary

They say that youngsters are the future of nation. Following the same footprints, the Guwahati Branch introduced two vibrant young speakers CA. Ankit Jallan and CA. Ankit Agarwal in a CPE Seminar on "Investment in capital markets" held on 21st December 2013 at the Branch premises. The seminar was chaired by senior member of the branch CA. O. P. Chandak. The programme was attended by large number of members. All the members present were overwhelmed to get brilliant ideas and tips for investing their money in Capital Market. The seminar was a huge success especially amongst the young members of the institute.

Branch Activities

CPE workshop on "Internal Audit"

L to R: CA. Rohit Agarwal, MC Member, CA. Vikash K Jain, Chairman, CPE Committee, CA. Anil Rai, Speaker, CA. Nirmal Kotecha, Session Chairman, CA. Kaberi Bhuyan, Chairperson, CA. Kamal Mour, Speaker, CA. Dhiraj Kr. Jain, MC Member

A Workshop on "Internal Audit" was organized by the Guwahati Branch of ICAI on Friday, the 27th December 2013 at the Institute's Auditorium. Chairperson CA. Kaberi Bhuyan briefed the participants about the various activities & programs undertaken by the Branch both for the benefit of the members & students and other programs scheduled for the near future. The technical session was chaired by CA. Nirmal Kotecha. The first address on the topic "Risk Based Internal Audit" was delivered by CA. Anil Rai, followed by CA. Kamal Mour who spoke on the topic "Stock & Receivable Audit".

Teleconferencing Programme

In addition to this, arrangements were also made for viewing of teleconferencing programme on the following dates –

Date/Day	Topic	Faculty
06/12/13	CPE Teleconference on Companies Act, 2013	CA. Manoj Fadnis, FCA
17/12/13	CPE Teleconference on Forensic Audit	CA. Chetan D. Dalal
24/12/13	CPE Teleconference on Taxability of Colloboration & Joint Development Agreement in Real Estate and Taxability of Foreign Remittances	CA. Sunil Arora and CA Munish Mehta

EICASA, Guwahati Branch Activity

EICASA, Guwahati Branch organized the following activities for the month of December 2013:-

- **Cricket Tournament** : On 1st of December 2013 EICASA organised a **Cricket Tournament** for the students in IOC Field Noonmati. It was a whole day program. A total of 8 teams participated in the Tournament wherein the winner and runners up team were awarded with trophy and Medals.
- **Industrial Visit** : An Industrial Visit was structured on 23rd December 2013 to ***"Frontier Labs, an ophthalmic lens manufacturing unit"*** situated at Jaswanta Road, Panbazar. A total of 26 students was headed by CA.Manoj Agarwala in the visit.
- **Educational Tours:** The following educational tours were conducted in the month of December 2013 :
  - To ***Chandubi Biodiversity Park*** on 25th December 2013. A total of 75 students participated in the program.
  - To ***Kokiilamukh*** near ***Jorhat*** on 29th December 2013. A total of 25 students participated in the tour.
- **Study Circle Meets:** The following study circle meet and workshops were organized during the month of December 2013 ;
  - Study Circle Meet on "**Special Aspects of Audit**" on 5th December 2013 at the ICAI Bhawan. The speaker of the Meet was CA. Kamal Mour. A total of 41 students were present in the Meet.
  - Study Circle Meet on "**Companies Act**" and a Workshop on "**Information Technology**" on 22nd of December 2013 at the ICAI Bhawan from 9 am onwards. The expert speakers of the meet were CS. Pravin Chajjer, CA. Prabesh Agarwal & CA. Ankit Jallan. Around 70 students were present in both the meets.
  - Study Circle on the topic "**Technical Aspect of Drafting**" at Lions Multiple Centre Jorhat on 24th day of December 2013, wherein almost 40 students attended. CA N C Karnany was the speaker of the meeting.
  - Study Circle Meet on ***"Understanding Kinesics"*** on 26th December 2013 at the ICAI Bhawan. The speaker of the meet was CA. Anjana Mour. A total of 45 students were present in the meet.
  - Study Circle Meet on ***"Internal Audit – An Overview"*** on 27th December 2013 at ICAI Bhawan. The speaker of the meet was CA. Mukunda Jalan. A total of 48 students were present in the meet.
  - Study Circle Meet on 28th December 2013 on the topic ***"Digital Signature Certificate"*** at ICAI Bhawan. The speaker of the meet was the past Chairman, Guwahati Branch CA. Anil Kumar Agarwala. A total of 90 students were present in this meet.

All the above programs were coordinated under the able leadership of EICASA, Guwahati Chairman CA. Dhiraj Jain, Nominated MC Member CA. Sharad Agarwalla, Secretary Mr. Vijay Sharma & Program Co-ordinator Mr. Manabendra Bora.

Notable Female Achiever, from Guwahati to Mumbai...........

Hearty congratulation to Miss Neha Navalakha for all the achievements she has made! She has proved herself on various public platforms by dint of her skills and talent. She is no longer a stranger to the CA fraternity as almost everyone is aware of her splendid performances whether it is in the Elocution Contest, Anchoring, Branch Level Quiz or the Best Paper Presentation in National Convention at Guwahati and Surat.

And once again Neha rocked! The girl has once more proved herself worthy when she participated in the National Convention for CA Students, held at Mumbai on the 14th & 15th of December 2013. The Guwahati Branch got another moment of pride when she held our head high by winning the Best Paper Presenter Award in Mumbai on the topic "Professional Etiquettes".

We are proud to have Neha amongst us as her talents have given Guwahati Branch much to boast of especially in the students' front. We hope she keeps on exploring her dreams and continue to come on top of all her endeavours with flying colors in the future too.

Take a Break !!

LIFE THROUGH MANDELA'S EYES..........

Everyone can rise above their circumstances and achieve success if they are dedicated to and passionate about what they do and have a fundamental concern for others. There is no passion to be found playing small -- in settling for a life that is less than the one you are capable of living." - Nelson Mandela

With the passing of Nobel Peace Prize winner Nelson Mandela at 95, one of the world's greatest icons is lost; but his legacy of leadership remains. He started a movement that positively affected, encouraged, and motivated millions. He inspired and helped others to help themselves.

He was a true leader and in many ways an entrepreneur. What we've experienced from Mandela's life is potentially just the start, and his legend is going to be bigger still. He has given the world many leadership lessons. Future leaders would do well to adopt the Mandela mindset and his profound lessons.

Here are 11 of the South African leader's many timeless lessons on leadership.

1. **Seek balance** -- Mandela said that a good head and a good heart were always a formidable combination. Today more than ever before, the world seems separated into two kinds of people: passionate people on one side (who primarily use their hearts to make decisions) and rational people on the other (who primarily use facts in order to decide). We will thrive if we can balance the use of our heart and our head, as Mandela was able to do.

2. **Be better not bitter** -- Mandela put the greater good over his ego. Imagine if you were imprisoned for 27 years under harsh conditions, wouldn't you be craving retaliation? Mandela had many opportunities to take revenge when he became the president of South Africa. To the surprise of the black population, he instead led the country to peace.

3. **Forget the past** -- Living in the past makes one suffer for nothing. We deserve a better life, and we can actively choose the kind of life we want. Like Mandela we can live in the present and strive to illuminate our personal and professional paths in order to build a bright, new future from the wreckage of the old.

4. **Get educated** -- To Mandela, education was the most powerful weapon he had to change the world. He used the power of education to reach the top and become one the greatest leaders of our time. Anyone who wants to thrive in his or her field of choice should follow his example. Education can be the best tool for reaching our goals.

5. **Dream big** -- Nelson Mandela refused to negotiate because he had one impossible dream in mind and accepting anything less wasn't an option. Our dreams should also be bigger than we can imagine. The more precisely and positively we can define what we want, and the more we program our brain to seek out and notice possibilities, the more likely we are to get what we want.

6. **Make things happen** -- "It always seems impossible until it's done," said Mandela. Being a dreamer was part of his success, but he also had a plan and actionable strategies to stay on track. These ultimately lead him to achieve his goals. We need to take action, follow a step-by-step plan, stay focused, be persistent, surround ourselves with like-minded people, and we can make a difference, as well.

7. **Create an image** -- Mandela was not only a symbol but he was a brand. He represented himself smiling, well-dressed, polite, and educated at all times. People are only starting to realize now that he was one of the first thought leaders to heavily rely on his public appearance, image, and reputation to achieve his goals.

8. **Know your opponents** -- This not only refers to the tactics and strategies your competitors have in mind but also to their mindset; especially if your success depends on the actions of others. Fully understanding where the other one is coming from was an essential part of Nelson Mandela's success.

9. **Be likable** -- Nelson Mandela sent gifts to his rivals on a regular basis. He invited them for dinner and consulted with them, even though he never trusted or relied on them. His charm and likability was a tactical weapon as much as it was a magnet for his followers.

10. **Empower people** -- Mandela lead his people from behind, valuing them and letting them believe they were in front. He was able to persuade people to do things and make them think it was their own idea. Mandela would interrupt whatever he was doing for impromptu meetings or greetings, and he was able to see and bring out the best in others.

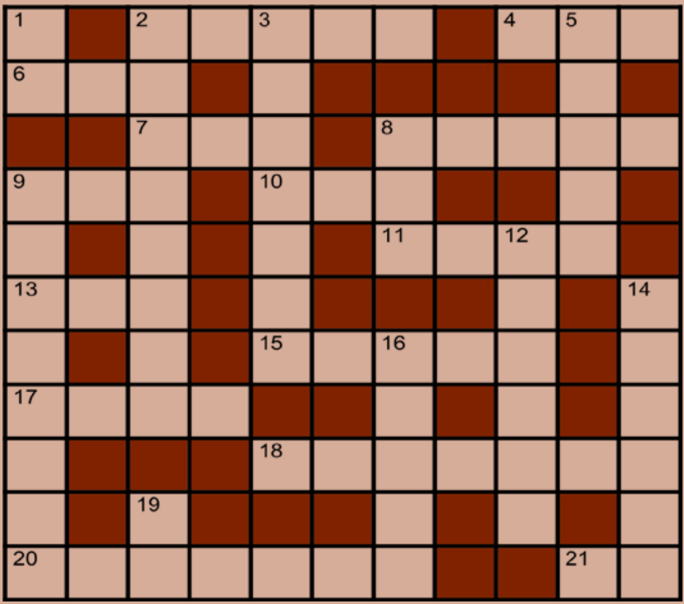
11. **Persevere** -- During his imprisonment he did backbreaking work in the lime quarry designed to break his spirit. It didn't! Even when the harsh sun on the white stone caused permanent damage to his eyes, he refused to give up. He contracted tuberculosis in solitary confinement, which drove most insane, but that didn't break him either. He fought on, declaring that after climbing a great hill, one only finds that there are many more hills to climb.

Having discharged his duty to his people and his country, Mandela can truly rest in peace. He showed us how one person with humility, a dream, great self-discipline and a passionate cause could magnify him and inspire us all.

One of the many things he learned was that until he changed himself, he could not change others. We can help his legacy continue to ripple across the world and future generations by following his example, using our time wisely and forever realizing that the time is always ripe to be better and do what's right.

– Compiled by CA. Pankaj Jain

CROSSWORD # 10



QUICK CLUES

Across:

2 SA240 deals with an auditor's responsibility relating to this (5)
4 Frozen water (3)
6 The Binary Notation is 10 (3)
7 Aggressive, Repulsive & Brutish humanoid character (J.R.R.Tolkien) (3)
8 ThisNew Year! (5)
9 "We aim above the mark to ...... the mark"(R.W.Emerson) (3)
10 Investment efficiency measure (3)
11 Accounting Body now headed by the current ICAI president (4)
13 Harvard Graduate School of Business Administration introduced this in 1908 (3)
15 Heaviest internal organ of human body (5)
17 This sport originated in Manipur (4)
18 River that flows by Goa (7)
20 Contractual term that is stated (7)
21 A classification to describe blood types in humans (2)

Down:

1 Study and use of systems for storing, retrieving and manipulating data (2)
2 Sunil Chetri represents India in this sport (8)
3 A basic accounting assumption (7)
5 Mo Yan in 2012 became the first Nobel Laureate in Literature of this country (5)
8 Information System used to analyze and facilitate strategic and operational activities (3)
9 Web Page often (traditionally) named index.html (8)
12 Popular actor who passed away very recently (with 14 down) (6, 6)
14 See 12 down (6, 6)
16 The Hottest Planet (5)
19 Numerical Label assigned to a device in a network (2)

SOLUTION CROSSWORD # 09

R	A	M	A	I	Y	A		O	R	E		
A		A		T		A		N		A	G	M
V			G	A	N	D	E	E	V		O	
A	M	T		T		H					I	P
N		W			C	A	R	L	S	E	N	
A	N	O	N			R			H		G	
		H		T	N		R	B	I		C	A
B	R	U	T	E					L		O	
U		N		J	A		H	E	L	E	N	
F		D		P		S			O		C	
F	O	R	M	A	T	P	A	I	N	T	E	R
E		E		L		A			G		R	
R	E	D			E	M	U			E	N	D

Congratulations to **CA. Deepak Jain** for submitting correct solution to crossword # 09

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

Designation	Name	Contact No.	E-mail
Chairperson	CA. Kaberi Bhuyan	9864095563	kaberibhuyan@sify.com
Vice-Chairman	CA. K P Sarda	9864060803	kpsarda@gmail.com
Secretary	CA. Rakesh Agarwala	9864020068	rakeshagrl_ca@yahoo.com
Treasurer	CA. Mahabir Agarwala	9435198133	mahabir_agarwala@rediffmail.com
Member	CA. Vikash Kumar Jain	9435043223	vikash196@gmail.com
Member	CA. Sharad Agarwalla	9435051237	sharad.agarwalla@gmail.com
Member	CA. Dhiraj Kumar Jain	9435013867	dhiraj@icai.org
Member	CA. Rohit Agarwal	9435058514	aknc@rediffmail.com

Contact us:
Guwahati Branch of EIRC of ICAI
ICAI Bhawan
Manik Nagar, 2nd Bye Lane
R G Baruah Road, Guwahati-781005
Telefax: +91-361-2207660
E-mail: icai.guwahati@gmail.com

चलते चलते.....