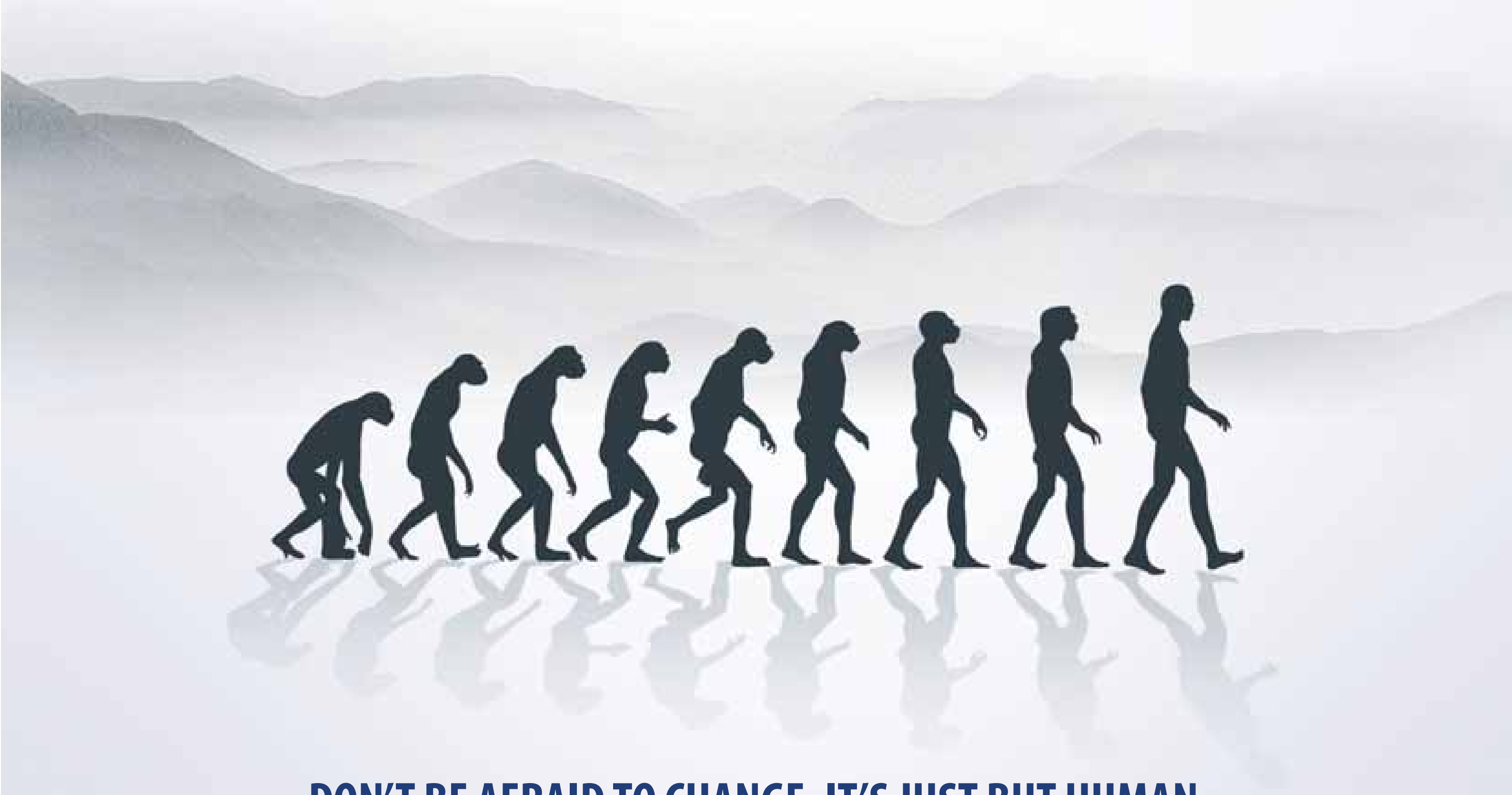
EIRC NEWSLETTER
VOL: 40 ISSUE: 4 MAY-JUNE 2014 RS. 10/-

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

EASTERN INDIA REGIONAL COUNCIL



DON'T BE AFRAID TO CHANGE, IT'S JUST BUT HUMAN

Adapting to change has been strengthening us since evolution

> **To live, one must grow.**
> **To grow, one must change.**
> **To change, we must endure transition.**
> **So, Transition Management is Life.**

My Dear Professional Colleagues,

Wishing you most and more…

Results of the General elections have been declared and many new facets of the Indian Economy came in front. History repeated itself after 30 years, and a very historic win has been witnessed. After 1984, it is the first time that a party has won with clear majority, setting aside rumors of any coalition for the 3rd term in a row, in terms of government formation, and contrarily it is the opposition this time that needs to form a coalition to raise their voice in the parliament.

This is a welcome change in the government for growth which must bring a change in the economy and general business sentiments. Everyone is hopeful that this government should deliver and should be able to walk the talk. The challenge with the new government will be to manage transition in the bureaucracy and likewise, we shall have the daunting task of managing the transition to the Companies Act, 2013 for our own growth.

This is not enough and we must prepare ourselves for the larger change in the offing by way of DTC, IFRS implementation road map submitted by the ICAI to the government and present government showing fast action for rolling out GST and like.

I would really like to stress again, that we professionals will be playing a very pivotal role in the nation building, not only to bureaucrats but to industrialists as well as emerging sectors. We do need to gear up with remarkable efficacy since a sea of changes will be hitting us and with the wave of dynamism in the air, it would not be an overstatement if we see any of these being enforced or given direction in the forthcoming budget itself.

The need of the hour is to hold the element of Leadership & Influence very high, while exploring new professional horizons and paradigms with our time tested tradition of professional excellence, ethics and integrity in the service to our nation. In this direction, we at EIRC have intensified interactions with State government, all tax authorities, other regulators to reinforce our value addition and to see that our professionals are respected and their client services does not suffer due to administrative issues.

The EIRC is continuously providing support to its members by way of organizing various Seminars, Conclaves and Workshops on varied topics which are being addressed by august speakers from the entire nation. I would also request members to provide their feedback and suggestions in course of our improvement for you. Besides, many programs on futuristic topics were also held during the month and I am sure that members are continuously lending support and getting knowledge to manage change. We also celebrated Rabindra Jayanti celebration with celebrity artists which was attended by over 500 members and their families.

Students are the lifeline of the profession and for their growth, knowledge enhancement and networking, we are hosting 'Students National Convention" on 26th and 27th July, 2013 at Science city Auditorium organized by Board of Studies, ICAI and I request to send your articles clerks to participate in the said Convention.

Examination for the May term have already started post-election and I extend my best wishes to all the students appearing for the examination in this term.

Moving in line with focus areas of our President, ICAI, EIRC have constituted committees for Young members and as well as for Women members. In this direction, a service tax workshop has been lined up for young members. We have also lined up a string of programs for the knowledge enhancement of its members; details of the same are mentioned subsequently in the publication. It will not be out of place to mention that we are interacting more with the industry leaders and CFOs to reinforce our value and services for the professional excellence in their organizations.

I am with you and for you always...

With Warm Regards

CA Subhash Chandra Saraf
Chairman, EIRC

EIRC

DAY AND DATE	KNOWLEDGE SESSION	RESOURCE PERSON	COORDINATOR	VENUE	DURATION	CPE HOURS	DELEGATE FEES ₹
Tuesday, 3rd June 2014	Section 185/186/188 of the Companies Act 2013	Dr.(CA) Debasish Mitra Past Chairman,EIRC	CA Sunil Sahoo	R Singhi Hall, EIRC Premises	5:30pm to 8.30pm	**3**	150 Spot 200
Friday, 6th June 2014	Effective Concurrent Audit of Banks	CA K.Kanagaraj Antonysamy, Chennai	CA Ranjeet Kumar Agarwal	R Singhi Hall, EIRC Premises	5:30pm to 8.30pm	**3**	150 Spot 200
Saturday, 7h June 2014	Object & Functions of Competition Commission of India (CCI) & Professional Opportunity for Members	Mr. Ratnesh Sahay, Advisor to CCI, New Delhi	CA Anirban Datta	R Singhi Hall, EIRC Premises	4:00pm to 6.00pm	**2**	100 Spot 150
Tuesday, 10th June 2014	Audit & Accounts under the Companies Act 2013	CA Krishanu Bhattacharyya Past Chairman,EIRC	CA Pramod Dayal Rungta	R Singhi Hall, EIRC Premises	5:30pm to 8.30pm	**3**	150 Spot 200
Saturday, 14th June 2014	Corporate Law Conclave-Three	Details inside in Page 11	CA Ranjeet Kr. Agarwal	R Singhi Hall, EIRC Premises	2.00pm to 8.30pm	**6**	600 Online 550 Spot 800
Wednesday, 18th June 2014	Investor Awarness Seminar	CS Rajesh Chura CS Rajendra Kumar Chotia	CA Anirban Datta	R Singhi Hall, EIRC Premises	5:30pm to 8.30pm	**3**	150 Spot 200
Thursday, 19th Friday, 20th June 2014	Workshop on Companies Act 2013	Details inside in Page 11	CA Sunil Kumar Sahoo	R Singhi Hall, EIRC Premises	10.00 am to 5.00 pm	**12**	3500 Online 3300 Spot 4200
Friday, 20th June 2014	Service Tax : Issues & Opportunities	CA Bimal Jain, New Delhi	CA Manish Goyal	R Singhi Hall, EIRC Premises	4:30pm to 8.30pm	**4**	400 Spot 500
Saturday, 21st June 2014	Seminar on Insurance	Details inside in Page 11	EIRC	R Singhi Hall, EIRC Premises	2.00 pm to 7.00 pm	**4**	400 Spot 500
Tuesday, 24th June 2014	Fines & Penalties under the Companies Act 2013	CA Manoj Banthia	CA Sunil Sahoo	R Singhi Hall, EIRC Premises	5:30pm to 8.30pm	**3**	150 Spot 200
Thursday, 26th June 2014	Seminar on Project Finance	CA Pradip Lath CA Vikash Jain	CA Ranjeet Kumar Agarwal	R Singhi Hall, EIRC Premises	5:30pm to 8.30pm	**3**	150 Spot 200
Saturday, 28th June 2014	Corporate Law Conclave-Four	Details inside in Page 11	CA Anirban Datta	Park Hotel	10.00pm to 5.00pm	**6**	1000 Online 900 Spot 1200
Friday, 4th July 2014	Tax Audit : Critical Issues	CA Sanjay Bhattacharya	CA Pramod Dayal Rungta	R Singhi Hall, EIRC Premises	5:30pm to 8.30pm	**3**	150 Spot 200
Tuesday, 8th July 2014	Opportunities and Challenges for CAs in changed Environment of Corporate Laws - Insurance Solution Perspective	CA Nirmal Bajaj Ms Deepika Mathur, Mumbai CA Manoj Kumar, Mumbai	CA Anirban Datta	R Singhi Hall, EIRC Premises	5:30pm to 8.30pm	**3**	150 Spot 200

Note : 1. Please note Online registration closes 1 days before the day of the Seminar 2. Spot Registration will be taken subject to availability of seats at the venue.

Important Date

DAY & DATE	PROGRAMME DETAILS	VENUE	TIME
Tuesday, 1st July 2014	CA Day Celebration : ● Hoisting of CA Flag ● Inauguration of Blood Donation Camp & CSR Activities ● Panel Discussion on "CA Profession : Expectation of Youth Vs. Experience of Veterans"	EIRC Premises	Details Inside in Page 6

BRANCHES

Branch	Day & Date	Programme	Speakers	Co- ordinator	Venue	Duration	CPE Hour
Siliguri Branch	Saturday, 7th June2014	Seminar on Indirect taxes	CA. Ashok Kr. Batra, Delhi	CA. Pratik Goyal 9749048344 siliguri@icai.org	ICAI Bhawan Teenbatti More Siliguri	3:30 pm to 6:30 pm	**3**

Siliguri Branch	Saturday 14th June 2014 & Sunday 15th June 2014	Practical Workshop on Tally ERP 9	CA. Anand Paurana, Mumbai (Organised by the IT Committee, ICAI)	CA. J. P Basudhar 9832377930 siliguri@icai.org	ICAI Bhawan Teenbatti More Siliguri	Day 1 3:30 pm to 6:30 pm Day 2 10.00am to 1.00 pm	6
Siliguri Branch	Saturday 21st June 2014	Workshop on Companies Act, 2013	CS. Mamta Binani, Kolkata CS. Vinod Kothari , Delhi (Organised by the Corporate Law & Corporate Governance Committee , ICAI)	CA. Harshika Prasad 9832364048 siliguri@icai.org	ICAI Bhawan Teenbatti More Siliguri	12.00pm to 6.00 pm	6
Guwahati Branch	From 06-06-2014 to 08-06-2014	Residential Programme at Kaziranga, Assam (World Heritage Site)	Eminent Speakers	CA. Rohit Agarwala 9435058514 aknc@rediffmail.com	IORA Resort Kaziranga	--	12
Guwahati Branch	14th,15th; 21st , 22nd; 28th, 29th June 2014	Certificate Course on Concurrent Audit	Eminent Speakers	CA. Rohit Agarwala 9435058514 aknc@rediffmail.com	ICAI Bhawan 2, Bye Lane, Maniknagar, Guwahati	10.00 am to 5.00 pm (Each Day)	36
Rourkela Branch	Saturday 7th June 2014	Seminar on Fixed Assets AS-10 & Schedule-II to the Companies Act 2013	CA. MKL Chand	CA Rakesh Mohan Bagri 9437041369 jainsethrourkela@rediffmail.com	Branch Premises 2nd floor, Unitech House, Uditnagar, Rourkela	5.30 pm to 8.30 pm	3
Rourkela Branch	Sunday 22nd June 2014	Sub Regional Conference on Service Tax	CA. Debasish Mitra CA. Mohit Bhuteria	CA Rakesh Mohan Bagri 9437041369 jainsethrourkela@rediffmail.com	Hotel May Fair Rourkela	--	6
Rourkela Branch	Monday 30th June 2014	Workshop on Advance Excel	Sachin Srivastav	CA Rakesh Mohan Bagr 9437041369 jainsethrourkela@rediffmail.com	Branch Premises 2nd floor, Unitech House, Uditnagar, Rourkela	5.30pm to 8.30pm	3
Sambalpur Branch	Saturday, 14th June 2014	Seminar on Companies Act 2013	Eminent Speaker	CA Seshadev Mishra 9439041843 sdmishra_ca@rediffmail.com	Hotel Sheela Towers	From 9.30am onwards	6
Bhubaneswar Branch	Saturday, 07th June 2014	Workshop on Tally	Eminent Speaker	CA. Partha Sarathi Mishra 9776044824 parthamishra1@yahoo.com	ICAI Bhawan, Plot No-A/122/1 Nayapalli, Bhubaneswar-751012	6 Hrs	5
Bhubaneswar Branch	Friday, 13th June 2014	Seminar on Companies Act 2013	Eminent Speaker	CA. Partha Sarathi Mishra 9776044824 parthamishra1@yahoo.com	ICAI Bhawan, Plot No-A/122/1 Nayapalli, Bhubaneswar-751012	6 Hrs	6
Bhubaneswar Branch	Saturday, 21st June 2014	CPE Meeting on Companies Act 2013	Sri K.N. Ravindra Company Secretary, NALCO	CA. Partha Sarathi Mishra 9776044824 parthamishra1@yahoo.com	ICAI Bhawan, Plot No-A/122/1 Nayapalli, Bhubaneswar-751012	2 Hrs	2
Cuttack Branch	Saturday, 07th June 2014	Seminar on Service	CA. Sushil Goyal & Others	CA. Pawan Kumar Udaypuria, 9937166049 cuttack@icai.org	ICAI Bhawan, Cuttack	4 pm to 9.00pm	4
Cuttack Branch	Saturday, 21st June 2014	Full Day Seminar on Companies Act, 2013	Eminent Speakers	CA. Pawan Kumar Udaypuria, 9937166049 cuttack@icai.org	ICAI Bhawan, Cuttack	9.30 am to 5.30 pm	6

STUDY CIRCLES

Study Circle	Day & Date	Programme	Speakers	Co- ordinator	Venue	Duration	CPE Hour
ACAE CPE Chartered Accountants Study Circle-EIRC	Wednesday 18th June 2014	Lecture Meeting on (a) Cessation of Liability-Taxability u/s 41(1) and (b) Gift-Taxability of Recipient u/s 56 (2) (vii)/ (viia) / (viib) of Income Tax Act, 1961	CA.Sanjay Bhattacharya	CA Ram Ratan Modi 9830080506 info@acaekolkata.org rrmodi@gmail.com	Emami Conference Hall, (ACAE) 6, Lyons Range, 3rd floor, Unit-2 Kolkata-700001	5.00pm to 8.00pm	3
ACAE CPE Chartered Accountants Study Circle-EIRC	Thursday 19th June 2014	Lecture Meeting on Compromise, Arrangements, Amalgamations and Winding up	CA.Debashis Mitra CA. S. S. Gupta	CA Ram Ratan Modi 9830080506 info@acaekolkata.org rrmodi@gmail.com	Emami Conference Hall, (ACAE) 6, Lyons Range, Kolkata-700001	5.00pm to 8.00pm	3

ACAE CPE Chartered Accountants Study Circle-EIRC	Wednesday 25th June 2014	Lecture Meeting on Alteration in Memorandum & Articles of Association (under Companies Act, 2013) Appointment Qualification and Remuneraion of Directors (under Companies Act, 2013	CA. Vikash Jain CA. Manoj Kr. Banthia	CA Ram Ratan Modi 9830080506 info@acaekolkata.org rrmodi@gmail.com	Emami Conference Hall, 6, Lyons Range, 3rd floor, Unit-2 Kolkata-700001	5.00pm to 8.00pm	3
ACAE CPE Chartered Accountants Study Circle-EIRC	Friday 27th June 2014	Lecture Meeting on Service Tax on Works Contract and Construction	CA.Pawan Kr. Agarwal CA. Arun Kr. Agarwal	CA Ram Ratan Modi 9830080506 info@acaekolkata.org rrmodi@gmail.com	Emami Conference Hall, 6, Lyons Range, 3rd floor, Unit-2 Kolkata-700001	5.00pm to 8.00pm	3
VIP ROAD CPE Chartered Accountants Study Circle-EIRC	Saturday 7th June 2014	Financial Statements, Director's Report, Auditor's Report under Companies Act 2013	CA.Debashis Mitra	CA Vijay Kr. Agarwal 9831083064 ca.ahco@gmail.com	Merchant Chamber of Commerce, 15B, Hemant Basu Sarani, 2nd Floor, Kolkata-700001	2.30pm to 5.30pm	3
CENTRAL KOLKATA Chartered Accountants Study Circle-EIRC	Thursday 12th June 2014	Auditing & Assurance Standard (SA-700,705,706)	Dr. Debashish Mitra	CA Anup Kumar Sanghai 9830026214 cenkolstudy@gmail.com	ITC Hall, Bengal Chamber of Commerce, 6, N.S. Road Kolkata-700001	5.00pm to 8.00pm	3
CENTRAL KOLKATA Chartered Accountants Study Circle-EIRC	Saturday 28th June 2014	Planning, Execution and Precautions on Income Tax assessment u/s 143(3) & u/s 148	CA. Sanjay Bhattacharya	CA Ramawatar Joshi 9331014068 cenkolstudy@gmail.com	ITC Hall, Bengal Chamber of Commerce, 6, N.S. Road Kolkata-700001	3.00pm to 6.00pm	3
DTPA Chartered Accountants Study Circle-EIRC	Wednesday 18th June 2014	Overlapping of VAT and Service Tax – Recent Judicial Pronuncement	CA. Arun Agarwal	CA Aghor Kr. Dudhwewala 9831039440 aghorassociates@yahoo.co.in	DTPA Conference Hall 3, Govt. Place(W) 2nd floor, Kolkata-700 001	4.00pm to 7.00pm	3
DTPA Chartered Accountants Study Circle-EIRC	Friday 20th June 2014	Share Capital & Private Placement (Covering Section 42 & Section 62 and the rules prescribed under the section)	CA. Anjan Roy	CA Aghor Kr. Dudhwewala 9831039440 aghorassociates@yahoo.co.in	DTPA Conference Hall 3, Govt. Place(W) 2nd floor, Kolkata-1	4.00pm to 7.00pm	3

Dear Students,

Conceive, Believe, Achieve!

The months are rolling like wheels on a wheelchair; and already May is here! And before I continue,I'd like to wish all the students who are appearing for their IPCE/CA Final examinations all the very best!! I hope each one of you passes the examination with flying colours.

A word to every student who is either facing the CA Examinations for the first time or not, Do Not Be Nervous! Be confident about your preparation. Revise your lessons properly. Students reappearing for their exams, just remember, "If you always do what you've done, you will always get what you've always got." So ponder over what went wrong the last time and give some serious thought on improving your mistakes.

Moreover, the Institute is forever taking steps to help the students in every way by uploading on it's portal, www.icai.org, subject-wise useful links like Study Material, Practice Manual, PowerPoint Presentations, Podcasts, Revision Test Papers, Suggested Answers, Mock Test Papers and Past Year's Question Papers. Examiner's Comments are also hoisted on the portal so that the students can get an idea as to how the papers are evaluated.

It is a request to all the students to avail most of the opportunities that the Institute is giving you for your benefit and betterment. EICASA also made efforts by conducting seminars on passing CA exams, crash courses on various subjects, etc. Students, who attended these seminars that were conducted by the esteemed professionals in their own fields, highly benefitted.

This time, too, EICASA is organizing events which you can use for your benefit:

11th – 15th June, 2014	**Industrial Visit to Guwahati.**
01st July 2014	**Branch Level Elocution & Quiz Contest**
26th – 27th July, 2014	**National Student's Convention.**

Students from all the regions are heartily welcome to participate in the National Student's Convention. ICAI takes steps every year to conduct the Student's Convention to help students connect with the professionals and esteemed guests on a single platform! So, students are hereby requested to take part in the National Student's Convention. Heated debates which force you think, listening to eminent speakers who will walk you through the world of intellect, logic and practicality, friends on the other side of the state border – all this and more awaits you and will be available to you when you participate. So, Hurry and Register Today till the passes are sold out !!

Before I wind up, a word to the students appearing for the upcoming exams - "Shallow men believe in luck or in circumstance. Strong men believe in cause and effect." Passing CA exams is not a matter of good luck or bad luck; Passing CA exams is about how much of sincere efforts you really put in and how many hours that you studied were fruitful. Always remember, students, the Harder you Work, the More Luck you have.

"There are two mistakes one can make along the road of Truth – not going all the way, and not starting", Buddha famously said. Let the "Truth" be your exams and the preparations for it, and en route to achieving your target, don't lose heart half way or worse, not start at all. Do not wait until the conditions are perfect to begin. Beginning makes the conditions perfect!

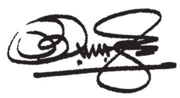
Every great dream begins with a dreamer. All successful men and women are big dreamers. They imagine what their future could be, ideal in every respect, and then they work every day toward their distant vision, that goal or purpose. So imagine the kind of future you want to be in and start working towards it. Never underestimate the power of dreams and the influence of human spirit. Always remember, you have within you the strength, the patience and the passion to reach for the stars and change the world. Things do not happen; they are made to happen!

Act as if what you do makes a difference. It does.

Looking forward to your views and / or suggestions for improvement, correction or modifications instudent activities and specially EICASA activities. Suggestions for the betterment and upliftment of the EICASA are also heartily welcome, all of which you may send directly to me at pdrungta@gmail.comwhile marking a copy to eicasakolkata@gmail.com.

Looking forward to an eventful journey.

With Best Wishes,

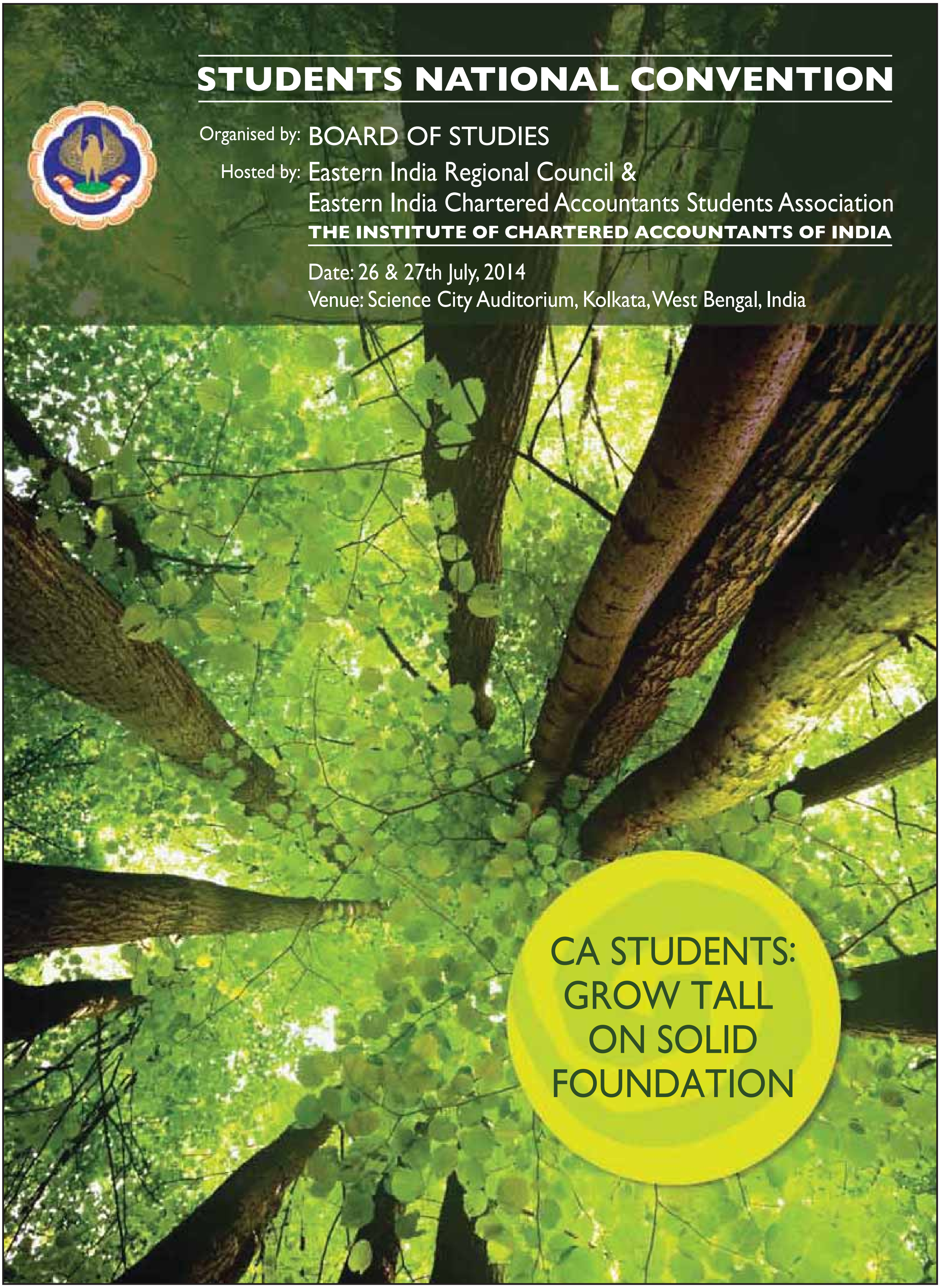


CA Pramod Dayal Rungta
Chairman, EICASA
Vice Chairman, EIRC

Crash Course on Operation Research by CA. Kavita Shukla

Crash Course on Advance Management Accounting by CA. Anuj Jalota

Full Day Seminar on Operation Research by CA.Kavita Shukla


STUDENTS NATIONAL CONVENTION
Organised by: BOARD OF STUDIES
Hosted by: Eastern India Regional Council &
Eastern India Chartered Accountants Students Association
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
Date: 26 & 27th July, 2014
Venue: Science City Auditorium, Kolkata, West Bengal, India
CA STUDENTS: GROW TALL ON SOLID FOUNDATION

STUDENTS NATIONAL CONVENTION

Theme: CA Students: Grow Tall on Solid Foundation

Dates: 26th & 27th July 2014

Venue: Science City Auditorium, Kolkata

Organized by: Board of Studies, ICAI

Hosted by: EIRC of ICAI & EICASA

The Institute of Chartered Accountants of India

(DAY I)	
8.30am – 9.30am	**Registration**
9.30am – 11:00am	**Inaugural session**
11:00am – 12.30pm	**Technical Session 1: Financial Reporting & Auditing & Assurance**
	(i) Effect on Consolidation of Account as per Companies Act,2013 (ii) Transitional effect on depreciation (iii) Audit Consideration relating to an entity using a service organization-SA 402
12.30pm –1.30pm	**Special Students' Interactive Session with Chairman, Board of Studies**
2.30pm – 3.30pm	**Special Session 1: How to shape your future?**
	Speaker : Padmashree CA T N Manoharan, Past President, ICAI
3.30pm – 4.30pm	**Special Session 2: C.R. Jain Foundation Group Of Industries**
5.00pm – 7.00pm	**Motivational Talk on Optimising Performance**
	Speaker : Mr. Shiv Khera
(DAY 2)	
9.30am- 11:00am	**Technical Session 2 : Companies Act 2013 (Blessing in Disguise)** (i) Corporate Governance – Role of Independent Directors (ii) Auditor's Role & liability in the Companies Act 2013 (iii) Corporate Social Responsibility
11:00am – 12:00pm	**Special Session 3 : Panel Discussion : FDI in Retail Sector**
12:00pm – 1:30pm	**Technical Session 3: Taxation (Direct & Indirect)**
	(i) Advance Pricing Agreement and Safe Harbour Rules (ii) Taxation on sale of Immovable Properties vis-à-vis Deemed Valuation as per section 50 C of Income Tax Act, 1961 (iii) Service tax implication on Work Contract and Job Work
2.30 pm –3.00 pm	**Valedictory Session and distribution of certificates**
3.00 pm- 7.00 pm	**Cultural Programme- Euphoria Band***

*(Subject to Confirmation)

Students are hereby requested to register for the Convention as per the following details:-		
Regn Fees	Rs. 500/- per student	Accommodation @ Rs. 400/- per day over and above registration fees of Rs.500 for outstation delegates.
Payment Mode	Cash/DD/Cheque to be drawn in favour of "The Institute of Chartered Accountants of India, EIRC", payable at Kolkata.	

Outstation students shall confirm their participation by 26th June, 14 for making accommodation arrangements accordingly. They should send their payment in Demand Draft along with duly filled-in delegate registration form. Delegate fee can be paid in cash only in case of submission in Person (not through Post /Courier) at EIRC office w.e.f 1st June 2014 during office hours on all working days between Monday and Friday.

Students joining the programme would get their participation certificates at the end of the Convention.

For registration queries contact:-

Mr Amaan Alam (Vice Chairman, EICASA) at 9836030110/ Mr Prateek Kabra (Treasurer , EICASA) at 8100495686 / Mr Amit Singh (EICASA MC MEMBER) at 9903240861.

Students are invited to contribute papers for presentation (1500 to 2000 words in MS word) on topics in Technical Sessions and submit for approval a soft copy of the paper to erobos@icai.in and jyoti.luharuka@icai.in by 20th June ,2014 along with Student's scanned photograph , Regn No, Course pursuing, complete postal address, Mobile, Landline numbers and e-mail ID . Selected outstation paper writers shall be reimbursed actual travelling expenses equivalent to 2 tier AC and DA @ 1500 per day for lodging etc.

An Appeal to Members : Please encourage your students to register for the Convention. You may also sponsor your students by sending us a Draft of consolidated amount payable at Kolkata favouring The Institute Of Chartered Accountants Of India ,EIRC along with a list containing Names, Registration nos and contact details of students.

CA. Pramod Dayal Rungta
Convention Co-Coordinator & Chairman, EICASA & Vice Chairman, EIRC

CA. Subhash Chandra Saraf
Convention Coordinator & Chairman, EIRC

CA. Sumantra Guha
Convention Director & Member , Board Of Studies, ICAI

CA. Prafulla Premsukh Chhajed
Convention Co-Chairman & Vice-Chairman Board of Studies, ICAI

CA. M. Devaraja Reddy
Convention Chairman & Chairman Board of Studies, ICAI

CA.Subodh Kumar Agrawal
Past President, ICAI & Convention Advisor

CO-OPTED MEMBERS - COMMITTEE OF EIRC FOR THE YEAR 2014-2015

STANDING COMMITTEE

Professional Development	Public Relations	Career Councelling	Student
CA Vijay Kumar Jodhani CA Anindra Nath Chatterjee CA N. C. Karnany CA R P Singh	CA Nihar Biswal CA Sanjeet Patra CA Jinesh Vanzara CA Ramesh Lodha	CA Dilip Mohanty CA Bhaskar Kr.Basu CA Raj Kumar Kothari CA Souvik Boral	CA Neeraj Kumar Sureka CA Suman Saha CA Ambika Prasad Mohanty CA Raj Kumar Bidasaria
Sub Group	Sub Group	Sub Group	Sub Group
CA Mahadev Agarwal CA Ramawatar Joshi	CA C S Sarda CA Santosh Agarwal	CA P C Gupta CA Abdul Rahim	CA Niraj Harodia CA Dharmendra Baid

OTHER COMMITTEES

Continuing Professional Education	Members in Industry	Editorial Board	Information Technology	Library
CA Koustav Roy Chowdhary CA Pramod Kumar Panda CA Subrata Roy CA Nirmal Bothra	CA Debayan Patra CA Rajesh Poddar CA Pankaj Dhanuka CA Sonal Singh	CA Ranjeesh Agarwal CA Sanjay Poddar CA Swatantra Kr. Rustagi CA Divya Mohta	CA Manoj Mani Agarwal CA Rajat Boobna CA Ravindra Agarwal CA Subhash Chanani	CA Goutam Mukherjee CA Sumit Modi CA Gopal Poddar CA Rajesh Kankaria
Sub Group	Sub Group		Sub Group	Sub Group
CA Kishore Dattani CA Ashok Tibrewal	CA Manohar Agarwal CA Alok Garodia		CA Sanjib Sanghi CA Arif Ahmed	CA Nitesh More CA Rishi Khator

Branch Co-ordination	Study Circle Co-ordination	GMCS Co-ordination	Financial & Markets & Investor's Protection	Member's Grievance
CA Manoj Kumar Patro CA Kamal Mour CA Rajesh Lihala CA Aghor Dudhewala	CA Shiv Khemka CA Praveen Jain CA Kamal Bagrodia CA Ravi Kumar Patwa	CA Navin Chand Agarwal CA Madhav Sureka CA Arun Patodia CA Shree Ram Agarwal	CA Jitendra Jain CA Rakesh Somani CA Bijay Mummria CA Binay Agarwal	CA Vijay Singhal CA J N Gupta CA Narendra Shah CA Ram Mohta
Sub Group	Sub Group	Sub Group	Sub Group	Sub Group
CA Lalit Shroff CA Vinod Khetan	CA Lalit Agarwal CA Anand Tiwari	CA Anup Banka CA Naveen Garg	CA Bina Gupta CA Nirmal Jain	CA Sonu Jain CA Ravi Murarka

Capacity Building of CA Firms & SMEs	Public Finance & Government Accounting	Accounting Standards for Local Bodies	Banking Insurance & Pension	Exposure Drafts
CA Ramesh Chokhani CA Sajjan Sultania CA Ram Ratan Modi CA Shyam Kanodia	CA Suman Chaudhuri CA Subrata Gupta CA Ashish Bharadwaj CA Suresh Kejriwal	CA Nilanjan Mitra CA K.L.Banerjee CA Narendra Garg CA Manoj Keshan	CA Pankaj Verma CA Sukomol Basu CA Kaushik Ghosh CA Ajay Agarwal	CA Sibasish Mitra CA Debasish Banerjee CA Sanjay Bajoria CA S K Agarwal
Sub Group	Sub Group	Sub Group	Sub Group	Sub Group
CA Nawal Rathi CA Ashwini Nagar	CA Dilip Todi CA Satish Patodia	CA Chiranjeeb Banik CA Dharam Chand Agarwal	CA Neena Maheswari CA Dilip Maroti	CA Vikash Dhanania CA Sandeep Moosaddee

Direct Tax	Indirect Tax	International Taxation	Internal Audit	Research
CA Sanjay Bhattacharya CA Sagar Jain CA Ramesh Patodia CA K.K.Chhaparia	CA Om Prakash Agarwal CA Pawan Agarwal CA Tarun Gupta CA Sushil Goyal	CA Naresh Agarwal CA Sunil Surana CA Dhanpat Ram Agarwal CA P. K. Lihla	CA Manish Agarwal CA Pradip Kumar Lath CA Rajesh Guraria CA Jai Parakh	CA Parthojit Ghosh CA R.B.Mantry CA Ankit Kanodia CA Vikram Khaitan
Sub Group	Sub Group	Sub Group	Sub Group	Sub Group
CA Akkal Dhudhewala CA Alo Chowdhary	CA Megha Agarwal CA Narayan Agarwal	CA Vinita Agarwal CA Manoj Tiwari	CA Vivek Jalan CA Jitendra Nagar	CA Anup Luhuraka CA Nirupam Haldar

Corporate & Other Allied Laws & Corporate Governance	Management Accounting	Women Members Group	Young Members Group
CA Santosh Kanodia CA Raj Bagri CA B K Newatia CA Sanjeev Agarwal	CA Samrat Nandy CA Abhijit Das CA Sunil Agarwal CA Mahendra Kedia	Convenor : CA Subhash Chandra Saraf RC Member : CA Ranjeet Kr. Agarwal CA Anirban Datta CCM : CA Sumantra Guha	Convenor : CA Subhash Chandra Saraf RC Member : CA Pramod Dayal Rungta CA Manish Goyal CCM : CA Sumantra Guha
Sub Group	Sub Group		
CA Ankita Agarwal CA Vivek Agarwal	CA Vishnu Tulsian CA Sanjay Poddar	CA Darshana Rampuria CA Kirti Jalan CA Anindita Bhaumik CA Priyanka Ganerwala CA Rajashree Chandra CA Rashmi Chhwacharia CA Shivani Shah CA Pranita Dalmia CA Veena Hingarh CA Shailey Gupta CA Minakshi Jhunjhunwala	CA Ayush Jain CA Apurva Maheswari CA Vinay Pagaria CA Vivek Newatia CA Ramesh Thalia CA Shio Kumar Gupta CA H V Bhardwaj CA Manaswy Kothari CA Manish Bindal CA Sunil Jain CA Vivek Goyal

CORPORATE LAW CONCLAVE – THREE

Organised by **Eastern India Regional Council**

The Institute of Chartered Accountants of India

Date: Saturday 14th June 2014
Venue: R Singhi Hall, EIRC Premises
Time: 2.00 PM to 8.30 PM

6 CPE

Fees ₹ 600 / ₹ 550 Online / ₹ 800 Spot

Topics

- All provisions impacting accounts and consolidation
- Audit, auditors & other related matters
- Managerial remuneration, directors, meetings and powers of Board
- Forms of companies, share capital and placements
- Provisions related to sections 185, 186 & 188 (including Claude 49 differences)

Speakers

CA Archana Bhutani, New Delhi (2.00pm-5.00pm)
CA Himanshu Kishandwala, Mumbai (5.30pm - 8.30pm)

SEMINAR ON INSURANCE

Organised by **Committee on Banking, Insurance and Pension, ICAI**

Hosted by **Eastern India Regional Council**

The Institute of Chartered Accountants of India

Date: Saturday 21st June 2014
Time: 2.00 PM to 7.00PM
Venue: R Singhi Hall, EIRC Premises

4 CPE

Fees ₹ 400 / ₹ 500 Spot

Inaugural Session

Chief Guest - **CA S.N. Jayasimhan,** Joint Director, Insurance Regulatory and Development Authority, Hyderabad

Guest of Honour - **CA Vijay Garg,** Chairman, Committee on Banking, Insurance & Pension, ICAI

Knowledge Session I

Topic	Speaker
• Evolution of Insurance and role of Accountants • Insurance Investment Systems & Opportunities for CAs	**CA S.N. Jayasimhan,** Joint Director, Insurance Regulatory and Development Authority

Knowledge Session II

Topic	Speaker
• A decade of Growth - Insurance Industry	**Mr. Sangramjit Sarangi,** Chief Finance Officer, SBI Life Insurance Co. Ltd., Mumbai

Knowledge Session III

Topic	Speaker
• Internal / Concurrent Audit of Investment Functions of Insurance Companies	**CA Pradipta Roy,** General Manager (Retired), National Insurance Ltd.

Knowledge Session IV

Topic	Speaker
• Audit of various entities of Insurance Industry	**CA Arijit Chakraborty,** Kolkata

CORPORATE LAW CONCLAVE – FOUR

Organised by **Corporate Laws & Corporate Governance Committee, ICAI**
Hosted by **Eastern India Regional Council**

The Institute of Chartered Accountants of India

Date: Saturday 28th June 2014
Venue: Park Hotel
Time: 10.00 AM to 5.00 PM

6 CPE

Fees ₹ 1000 / ₹ 900 Online / ₹ 1200 Spot

Knowledge Session I

Topic	Speaker
Loans, Investments & Related Party Transaction : Procedure and Substantive Law	**Mr. U. K. Chowdhary,** Advocate, New Delhi

Knowledge Session II

Topic	Speaker
Accounts & Audit - A Critical Analysis	**CA Harinderjit Singh,** Past Council Member, ICAI, Delhi

WORKSHOP ON COMPANIES ACT 2013

Organised by **Eastern India Regional Council**

The Institute of Chartered Accountants of India

Date : Thursday,19th June 2014 (10am to 5pm)
&
Friday, 20th June 2014 (9am to 4pm)

Venue : R Singhi Hall, EIRC Premises

12 CPE

Batch Size Limited to 50

Fees ₹ 3500 / ₹ 3300 Online / ₹ 4200 Spot

Faculties: CA Debasish Mitra, Past Chairman,EIRC
CA Manoj Banthia

WORKSHOP ON SERVICE TAX

"SERVICE TAX PRACTICE : YOUNG MEMBERS PARADISE "

(Registration open for CAs passed out during terms of 2005 to 2013)

Organised by **Eastern India Regional Council**
The Institute of Chartered Accountants of India

Date : Friday, 18th July 2014 (4pm to 8pm) &
Saturday, 19th July 2014 (10am to 2pm)

Venue : R Singhi Hall, EIRC Premises

8 CPE

Batch Size Limited to 50

Fees ₹ 2200 / ₹ 2000 Online / ₹ 2500 Spot

Faculty : CA Brijesh Verma, Agra

CERTIFICATE COURSE ON IFRS

At Kolkata commences from 28th June2014
(Batch Size Limited to 30)
For registration, visit http://icai.org/addupdate/regform.php
Or
Contact : CA Debashis Sen, Mobile: 9432211448/ ero@icai.in

Compiled by **CA Raj Singhania**
rajsinghania_ca@yahoo.co.in.

1. CIT vs. Bharat Bijlee Ltd (Bombay High Court)

S. 50B applies only to a "sale" for a "monetary consideration" and not to a case of "exchange" of the undertaking for shares under a s. 391/394 scheme of arrangement.

The assessee transferred its Lift Division to Tiger Elevators Pvt. Ltd under a scheme of arrangement u/s 391 & 394 of the Companies Act, 1956. The transfer of the undertaking took place in exchange of preference shares and bonds issued by Tiger Elevators as per a valuation report. The assessee claimed that the transfer was not liable to tax on capital gains on the basis that there was no "cost of acquisition" of the undertaking. The AO held that the transaction was a "slump sale" as defined in s. 2(42C) and that the gains had to be computed u/s 50B. This was upheld by the CIT (A). On appeal by the assessee to the Tribunal, the Tribunal 54 SOT 571 accepted the claim of the assessee. On appeal by the department to the High Court HELD dismissing the appeal:

The definition of the term "slump sale" in s. 2(42C) means the transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities in such sale. **In** Motors & General Stores (P) Ltd 66 ITR 692 (SC) it was held that a "sale" meant a transfer for a monetary consideration and that an "exchange" would not amount to a "sale". On facts, the scheme of arrangement shows that the transfer of the undertaking took place in exchange for issue of preference shares and bonds. Merely because there was quantification when bonds/preference shares were issued, does not mean that monetary consideration was determined and its discharge was only by way of issue of bonds/preference shares. In other words, this is not a case where the consideration was determined and decided by parties in terms of money but its disbursement was to be in terms of allotment or issue of bonds/preference shares. All the clauses read together and the entire Scheme of Arrangement envisages transfer of the Lift Division not for any monetary consideration. The Scheme does not refer to any monetary consideration for the transfer. The parties were agreed that the assessee was to transfer the undertaking and take bonds/preference shares as consideration. Thus, it was a case of exchange and not a sale. Therefore, s. 2(42C) of the Act was inapplicable. If that was not applicable and was not attracted, then, s. 50B was also inapplicable. The judgement of the Delhi High Court in SRIE Infrastructure Finance Ltd207 Taxman 74 (Del) is distinguishable on facts. There is no necessity to analyze the circumstances in which s. 50B was inserted in the statute book.

Comment : Justified considering that exchange of assets on amalgamation is not actual sales.

2. Kushalbhai Ratanbhai Rohit vs. State of Gujarat (Supreme Court)

Despite pronouncement of verdict in open court & signing of draft judgement, Judge entitled to alter verdict until judgement is signed & sealed

Up to the moment the judgment is delivered Judges have the right to change their mind. There is a sort of 'locus paenitentiae' and indeed last minute alterations often do occur. Therefore, however much a draft judgment may have been signed beforehand, it is nothing but a draft till formally delivered as the judgment of the Court. Only then does it crystallise into a full fledged judgment and become operative. It follows that the Judge who "delivers" the judgment, or causes it to be delivered by a brother Judge, must be in existence as a member of the Court at the moment of delivery so that he can, if necessary, stop delivery and say that he has changed his mind. There is no need for him to be physically present in court but he must be in existence as a member of the Court and be in a position to stop delivery and effect an alteration should there be any last minute change of mind on his part. If he hands in a draft and signs it and indicates that he intends that to be the final expository of his views it can be assumed that those are still his views at the moment of delivery if he is alive and in a position to change his mind but takes no steps to arrest delivery. But one cannot assume that he would not have changed his mind if he is no longer in a position to do so. A Judge's responsibility is heavy and when a man's life and liberty hang upon his decision nothing can be left to chance or doubt or conjecture; also, a question of public policy is involved. As we have indicated, it is frequently the practice to send a draft, sometimes a signed draft, to a brother Judge who also heard the case. This may be merely for his information, or for consideration and criticism. The mere signing of the draft does not necessarily indicate a closed mind. We feel it would be against public policy to leave the door open for an investigation whether a draft sent by a Judge was intended to embody his final and unalterable opinion or was only intended to be a tentative draft sent with an unwritten understanding that he is free to change his mind should fresh light drawn upon him before the delivery of judgment.

Comment : Apex court settled the principal that a judgement cannot be considered final unless delivered. Mere pronouncement of judgement should not be construed as final.

3. Kone Elevator India Pvt. Ltd vs. State of T. N (Supreme Court – 5 Judge Bench)

Important principles on distinction between "contract for sale of goods" and "works contract" explained

A Constitutional Bench of 5 Judges of the Supreme Court had to consider whether the law laid down by a three-Judge Bench in State of A.P. v. Kone Elevators (India) Ltd (2005) 3 SCC 389 that a contract for manufacture, supply and installation of lifts in a building is a "contract for sale of goods" and not a "works contract" is correct or not. HELD by the Constitution Bench over-ruling the three-Judge Bench judgement:

(i) In the case of a "contract for sale of goods", the entire sale consideration is taxable under the sales tax or value added tax enactments of the State legislatures. In the case of a "works contract", the consideration paid for the labour and service element has to be excluded from the total consideration received and only the balance is chargeable to sales tax or value added tax;

(ii) Four concepts have clearly emerged from the numerous judgements of the Supreme Court on the point. They are (a) the works contract is an indivisible contract but, by legal fiction, is divided into two parts, one for sale of goods, and the other for supply of labour and services; (b) the concept of "dominant nature test" or, for that matter, the "degree of intention test" or "overwhelming component test" for treating a contract as a works contract is not applicable; (c) the term "works contract" as used in Clause (29A) of Article 366 of the Constitution takes in its sweep all genre of works contract and is not to be narrowly construed to cover one species of contract to provide for labour and service alone; and (d) once the characteristics of works contract are met with in a contract entered into between the parties, any additional obligation incorporated in the contract would not change the nature of the contract;

(iii) The "dominant nature test" or "overwhelming component test" or "the degree of labour and service test" are really not applicable. If the contract is a composite one which falls under the definition of works contracts as engrafted under clause (29A)(b) of Article 366 of the Constitution, the incidental part as regards labour and service pales into total insignificance for the purpose of determining the nature of the contract;

(iv) On facts, the three-Bench judgement erred in taking the view that the major component was the equipment and that the skill and labour employed for converting the main components into the end product were only incidental. The principal logic applied, i.e., the incidental facet of labour and service is not correct because in all the cases, there is a composite contract for the purchase and installation of the lift. The price quoted is a composite one for both. Various technical aspects go into the installation of the lift. There has to be a safety device. In certain States, it is controlled by the legislative enactment and the rules. In certain States, it is not, but the fact remains that a lift is installed on certain norms and parameters keeping in view numerous factors. The installation requires considerable skill and experience.

The labour and service element is obvious. The preparatory work has to be done taking into consideration as to how the lift is going to be attached to the building. The nature of the contracts clearly exposit that they are contracts for supply and installation of the lift where labour and service element is involved. Individually manufactured goods such as lift car, motors, ropes, rails, etc. are the components of the lift which are eventually installed at the site for the lift to operate in the building. In constitutional terms, it is transfer either in goods or some other form. In fact, after the goods are assembled and installed with skill and labour at the site, it becomes a permanent fixture of the building. However, if there are two contracts, namely, purchase of the components of the lift from a dealer, it would be a contract for sale and similarly, if separate contract is entered into for installation, that would be a contract for labour and service. But, a pregnant one, which is a composite contract for supply and installation, has to be treated as a works contract, for it is not a sale of goods/chattel simpliciter. It is not chattel sold as chattel or, for that matter, a chattel being attached to another chattel.

Comment : Very Important Judgement considering the reversal of 3 Bench judgement by a major one. This law of principle can settle many litigations pending with various courts on similar issue.

4. CIT vs. Punjab Stainless Steel Industries (Supreme Court)

Meaning of the word "turnover" in s. 80HHC explained. Sale proceeds of scrap is not "turnover" for s. 80HHC. Revenue should encourage assessees to bring in foreign exchange

(i) The word "turnover" means only the amount of sale proceeds received in respect of the goods in which an assessee is dealing in. So far as the scrap is concerned, the sale proceeds from the scrap may either be shown separately in the Profit and Loss Account or may be deducted from the amount spent by the manufacturing unit on the raw material. When such scrap is sold the sale proceeds of the scrap cannot be included in the term 'turnover' for the reason that the unit is engaged primarily in the manufacturing and selling of steel utensils and not scrap of steel. Therefore, the proceeds of such scrap would not be included in 'sales' in the Profit and Loss Account of the assessee (The situation would be different in the case of a person who is primarily dealing in scrap);

(ii) The intention behind enactment of s. 80HHC was to encourage export so as to earn more foreign exchange. For the said purpose the Government wanted to encourage businessmen, traders and manufacturers to increase the export so as to bring more foreign exchange in our country. If the purpose is to bring more foreign exchange and to encourage export, we are of the view that the legislature would surely like to give more benefit to persons who are making an effort to help our nation in the process of bringing more foreign exchange. If a trader or a manufacturer is trying his best to increase his exports, even at the cost of his business in a local market, we are sure that the Government would like to encourage such a person. In our opinion, once the Government decides to give some benefit to someone who is helping the nation in bringing foreign exchange, the Revenue should also make all possible efforts to encourage such traders or manufacturers by giving such business units more benefits as contemplated under the provisions of law.

Comment : Section 80HHC being now redundant this may not be an important judgement by Apex Court, but Turnover not to include Scraps will have implications at other places also.

5. Radials International vs. ACIT (Delhi High Court)

Gains arising from PMS transactions are capital gains & not business profits

The assessee offered LTCG & STCG on sale of shares which had arisen through a Portfolio Management Scheme of Kotak and Reliance. The investments were shown under the head "investments" in the accounts and were made out of surplus funds. Delivery of the shares was taken. The AO, CIT (A) & Tribunal held that as the transactions by the PMS manager were frequent and the holding period was short, the LTCG & STCG were assessable as business profits. On appeal by the assessee, HELD allowing the appeal:

(i) The PMS Agreement in this case was a mere agreement of agency and cannot be used to infer any intention to make profit;

(ii) The intention of an assessee must be inferred holistically, from the conduct of the assessee, the circumstances of the transactions, and not just from the seeming motive at the time of depositing the money;

(iii) Along with the intention of the assessee, other crucial factors like the substantial nature of the transactions, frequency, volume etc. must be taken into account to evaluate whether the transactions are adventure in the nature of trade.

The block of transactions entered into by the portfolio manager must be tested against the principles laid down, in order to evaluate whether they are investments or adventures in the nature of trade. On facts, the source of funds of the assessee were its own surplus funds and not borrowed funds. About 71% of the total shares have been held for a period longer than 6 months, and have resulted in an accrual of about 81% of the total gains to the assessee. Only 18% of the total shares are held for a period less than 90 days, resulting in the accrual of only 4% of the total profits. This shows that a large volume of the shares purchased were, as reflected from the holding period, intended towards the end of investment. The fact that an average of 4-5 transactions were made daily, and that only eight transactions resulted in a holding period longer than one year is not relevant because the number of transactions per day, as determined by an average, cannot be an accurate reflection of the holding period/frequency of transactions. Moreover, even if only a small number of transactions resulted in a holding for a period longer than a year, the number becomes irrelevant when it is clear that a significant volume of shares was sold/ purchased in those transactions.

Comment : Very Good decision, will give relief to many assessees.

6. ICICI Bank Ltd vs. JCIT (ITAT Mumbai)

S. 32: Assessee (Bank) is entitled to depreciation on assets given on lease

In so far as the issue relating to the claim of depreciation on leased transactions is concerned, the Supreme Court in ICDS vs. CIT 350 ITR 527 had the occasion to consider the question "whether the Assessee is entitled to depreciation on vehicles financed by it which is neither owned by the Assessee nor used by the Assessee?" The Supreme Court after perusing the lease agreement and other related factors held that the lessor is the owner of the vehicles. As an owner, it used the assets in the course of its business satisfying both the requirements of S. 32 of the Act and hence is entitled to claim depreciation. A similar view was taken by the Delhi High Court in Cosmos Films338 ITR 266 wherein the Delhi High Court considered the implications of S. 19 of Sale of Goods Act, 1930. The Tribunal, Mumbai Bench in the case of Development Credit Bank Ltd has followed the decision of the Supreme Court in the case of ICDS and the decision of Delhi High Court in the case of Cosmos Films and allowed the claim of depreciation. The Tribunal, Mumbai bench, in the case of L&T has considered a similar issue and followed the findings of the Supreme Court in the case of ICDS and also of the co-ordinate bench in the case of Development Credit Bank Ltd and allowed the claim of depreciation on sale of lease back assets. Considering all these judicial decisions in the light of the facts, we direct the AO to allow depreciation

Comment : Already a settled issues by various Courts.

7. JM Financial Limited vs. ACIT (ITAT Mumbai)

No s. 14A/ Rule 8D disallowance for investment in shares of subsidiaries & Joint Ventures

In AY 2009-10, the assessee has specifically raised a point before the AO that 97.82% of the investment is in subsidiary companies and joint venture companies and, therefore, no expenditure was incurred for maintaining the portfolio on these investments or for holding the same. The assessee has also pointed out that these investments are long term investment and no decision is required in making the investment or disinvestment on regular basis because these investments are strategic in nature in the subsidiary companies on long term basis and, therefore, no direct or indirect expenditure is incurred. The department has not disputed this fact that out of the total investment about 98% of the investments are in subsidiary companies of the assessee and, therefore, the purpose of investment is not for earning the dividend income but having control and business purpose and consideration. Therefore, prima facie the assessee has made out a case to show that no expenditure has been incurred for maintaining these long term investment in subsidiary companies. The AO has not brought out any contrary fact or material to show that the assessee has incurred any expenditure for maintaining these investments or portfolio of these investments. Held : No disallowance can be made in such cases.

Comment : Similar Judgement were given in case of Garware Wall Ropes & Oriental Structural Engineers (Delhi High Court)

8. CIT vs. Shambhubhai Mahadev Ahir (Gujarat High Court – Full Bench)

CBDT's low tax effect circulars have prospective effect

The department filed an appeal in the High Court in 2008, the tax effect of which was more than Rs. 4 lakhs but less than Rs. 10 lakhs. The assessee claimed, relying on Sureshchandra Durgaprasad Khatod (HUF) & Madhukar K. Inamdar 318 ITR 149 (Bom), that as Instruction No. 3 of 2011 dated 9.2.2011 issued by the CBDT applied to pending appeals and as the tax effect was lower than the sum of Rs. 10 lakhs prescribed therein, the appeal was not maintainable. The department argued that the maintainability of the appeal had to be decided on the basis of the CBDT Instruction dated 15.5.2008 which was in force at the time of filing the appeal. The matter was referred to the Full Bench of the High Court. HELD by the Full Bench in favour of Department stating that the circulars are expressive of being prospective and cannot be applied on appeals filed before the said period.

Comment : Full bench endorsed the view expressed in the Circular itself.

9. Adobe Systems Software Ireland Ltd vs. ADIT (Delhi High Court)

Assessee is bound to furnish a return in response to a s. 148 notice. The reasons for reopening can be given only thereafter. A writ involving disputed factual issues cannot be entertained

(i) The petitioner did not file any returns of income in response to the notices issued u/s 148. Even under the judgment of the Supreme Court in G.K.N. Driveshafts 259 ITR 19, the petitioner would get the reasons recorded for reopening the assessment only upon filing the return of income pursuant to the notice issued u/s 148. The conduct of the petitioner has been one of defiance; it did not file returns in response to the notices issued u/s 148. The mere filing of the return can never amount to submitting to the jurisdiction. The filing of the return in response to the notice u/s 148 defines the stand taken by the assessee. S. 148 says that the return called for by the notice issued under that section shall be treated as if such a return were a return required to be furnished u/s 139 of the Act. Under the scheme of the Act, a return of income conveys the position taken by the assessee to the assessing authority – whether he has taxable income or not. It is not a mere scrap of paper. There is a sanctity attached to the return. If the assessing authority calls upon the assessee to file a return of income, the same shall be complied with by the assessee and it is no answer to the notice to say that since in his (assessee's) opinion there is no taxable income, he is under no obligation to file the return. The petitioner, not having made the Noida officer aware that no income chargeable to tax had escaped assessment and having merely told him that he has no jurisdiction to issue reassessment notices, was not acting strictly in accordance with law. The writ remedy being a discretionary remedy, the discretion can be exercised in favour of the writ petitioner only if his conduct has been in conformity with law. If it is not, the Court may refuse to exercise the discretion in favour of the writ petitioner;

Comment : Procedures contemplated in the Act must be followed, Writ filing is not enough.

10. CIT vs. Pooja Investment Pvt. Ltd (P&H High Court)

Even a solitary transaction of redemption of (non-tradeable) mutual fund units amounts to a business activity for an assessee dealing in securities

Merely because deposits in mutual funds are not traded in the nature of sale and purchase of equity shares and such transactions are different in effect and consequences is no ground to treat those differently. Frequency of dealings in deposits of mutual funds with the strategy of firstly investing in tenurial plans and then getting redemption within the same year of deposit and at times resulting in huge profits while at other times in loss, has been usual business activity of the assessee. Such before term redemption, is done in the usual course of business by the assessee clearly to increase its actual cash inflow to tide over its commitments made in the market and at times to earn higher interest in other lucrative investment plans contemporaneously emerging in the market. In this case, in the name of consistency the assessee had tried to hoodwink the authorities. Rather previous conduct of the assessee reveals that the accounts had been manipulated by the assessee to treat the investment as a capital asset only as a camouflage and smoke screen. It is a case where intention as also principle of consistency sought to be used by the assessee in its favour rather goes against it as year after year the same manipulation strategy and maneuverability had been adopted to hoodwink the revenue.

Comment : Nomenclature is not important, nature of transaction can only derive conclusion.

11. DIT vs. Wizcraft International Entertainment Pvt.Ltd (Bombay High Court)

Commission paid to an agent for services rendered abroad and payment by way of reimbursement of expenses are not taxable in India

The assessee paid remuneration to the artists, to the agent and reimbursed the expenses in connection with the visit and performance of the artists in India. The assessee deducted tax at source on fees paid to the international artists in India. Tax was deducted at source on the payment made to artists for performance in India but it was not deducted at source on the commission paid to Mr. Colin Davie who acted as an agent between the assessee and the artists performed in India. Under Article 18 of the India-UK DTAA, the payment made to the artists and by way of reimbursement has been completely misconstrued inasmuch as the agreements with the artists and the understanding with Mr. Colin Davie would indicate that the payment of commission to him is not covered by Article 18. Mr. Colin Davie never took part in the event organised. He did not exercise any personal activities in India. Mr. Colin Davie did not act as a performing artist or entertainer, all that he was concerned are the services which were rendered outside India. He contacted the artists and negotiated with them for performance in India in terms of the authority given by the assessee. The CIT(A) and Tribunal rightly arrived at the conclusion that Mr.Colin Davie did not perform any services in India, but they were rendered outside India. Therefore, commission income to the agent is not liable to tax in India and there was no obligation on the part of the assessee to deduct the tax at source at the time of making of payment. In so far as payment or reimbursement of expenses in connection with the visit and performance of the artists in India, the amount reimbursed to them was towards air travel and was supported by documents. On that tax need not be deducted.

Comment : Correct Interpretation of Law, appreciated.

12. CIT vs. Jindal Polyester & Steel Ltd (Allahabad High Court)

No s. 271(1)(c) penalty for concealment under normal provisions if s.115JB book profits assessed

No doubt, there was concealment but that had its repercussions only when the assessment was done under the normal procedure. The assessment as per the normal procedure was, however, not acted upon. On the contrary, it is the deemed income assessed u/s 115JB which has become the basis of assessment as it was higher of the two. Tax is thus paid on the income assessed u/s 115JB. Hence, when the computation was made u/s 115JB, the concealment had no role to play and was totally irrelevant. Therefore, the concealment did not lead to tax evasion at all and no penalty u/s 271(1)(c) is leviable (CIT vs. Aleo Manali Hydro Power (attached) & Nalwa Sons Investment327 ITR 543 (Del) (SLP dismissed) followed).

Comment : Very Important Judgement, many assessees will be relieved of harassment.

13. CWT vs. Estate of Late HMM Vikramsinghji of Gondal (Supreme Court)

Important principles of law on taxation of discretionary & specific trusts explained

The ex-Ruler of Gondal Shri Vikramsinhji executed three deeds of settlements (trust deeds) in the USA & UK. These trusts were created for the benefit of (a) the Settlor, (b) the children and remoter issue for the time being in existence of the Settlor and (c) any person for the time being in existence who is the wife or widow of the Settlor or the wife or widow or husband or widower of any of them, the children and remoter issue of the Settlor. During his life time, the settlor, Shri Vikramsinhji, was including the whole of the income arising from these trusts in his returns of income. The said income was also included in the two returns filed by his son Jyotendrasinhiji for the AY 1970-71. Thereafter, the assessee took the stand that the income from these trusts is not includible in his income. Jyotendrasinhiji also took the stand that inclusion of the said income in the returns submitted by his father for the AYs 1964-65 to 1969-70 and by himself for the assessment year 1970-71 was under a mistake. Clause 3 of the deeds of settlement executed in U.K. leaves at the discretion of the trustees to disburse benefits to the beneficiaries. The endorsement made in the returns, as noted above, shows that income was retained by the trustees and not disbursed. The Tribunal while considering clause 3(2) and Clause 4 of the U.K. Trust Deeds observed that if the trusts were really intended to be discretionary, the trustees had a duty cast on them to ascertain the relative needs and personal circumstances of all the beneficiaries and to allocate the income of the trusts, among them from time to time, according to the objects of the trusts, however, the tell tale facts bring out the intention of the settlor to treat the trust property as his own. The settlor and after his death his son have been showing the income of foreign trusts in the returns of income filed from time to time. Had the trust deeds been really understood by the trustees and the beneficiaries as discretionary by virtue of the operation of clause 3, one would have expected the state of affairs to have been different. Consequently, the Tribunal held that due to failure on the part of the Maharaja to appoint discretion exercisers as per clause 3(2), clause 4 has become operative and the U.K. trusts have to be held to be specific trusts. The High court did not agree with the Tribunal's view and held that on interpretation of the relevant clauses of the deeds of settlement executed in U.K., character of the trusts was discretionary and not specific. On appeal by the department to the Supreme Court HELD dismissing the appeal:

A discretionary trust is one which gives a beneficiary no right to any part of the income of the trust property, but vests in the trustees a discretionary power to pay him, or apply for his benefit, such part of the income as they think fit. The trustees must exercise their discretion as and when the income becomes available, but if they fail to distribute in due time, the power is not extinguished so that they can distribute later. They have no power to bind themselves for the future. The beneficiary thus has no more than a hope that the discretion will be exercised in his favour. Having regard to the above legal position about the discretionary trust which is also applied by by this Court in the earlier judgment and the fact that the income has been retained and not disbursed to the beneficiaries, the view taken by the High Court cannot be said to be legally flawed. Merely because the Settlor and after his death, his son did not exercise their power to appoint the discretion exercisers, the character of the subject trusts does not get altered. The two U.K. trusts continued to be 'discretionary trust' for the subject assessment years. The High Court has taken a correct view that the value of the assets cannot be assessed on the estate of the deceased Settlor (Snell's Principles of Equity, 28th Edition, Page 138 followed)

Comment : Very Important Judgement by Apex Court defining scope of Discretionary Trusts in favour of assessee, considering many such Trusts are even now in existence in India.

14. CIT vs. Sairang Developers and Promoters Pvt.Ltd (Bombay High Court)

High Court imposes costs of Rs. 50,000 on AO for filing frivolous appeal & wasting public money & judicial time

Though the Bench clearly indicated to the department's counsel that the appeal had no merit and gave the department an opportunity to withdraw, the department did not do so. HELD by the High Court, passing strictures and imposing costs:

"We do not find how Officers lower down in the hierarchy can take decisions to file Appeals and that too against the decision of the Tribunal. The tendency not to accept any adverse verdict on facts results in frivolous Appeals being filed in this Court. That causes huge loss to the public exchequer and results in wastage of precious judicial time of this Court. All this ought to have been discouraged long time back. The High Court has not adopted a strict approach and that has possibly encouraged the Revenue in filing Appeals to challenge essentially findings of fact and with regard to matters which should stand concluded at the level of the authorities. The officials should realize that the authorities like CIT(A) and the ITAT are envisaged as appellate and possibly final fact finding authorities and at least the Tribunal is last in that hierarchy. The fact finding therefore if demonstrably perverse or palpably erroneous and as would amount to unsettling the settled position in law alone should be questioned by filing Appeals to this Court. However, a routine exercise and by people who do not wish to take any responsibility, results in number of Appeals being filed and pending. This benefits no one and rather defeats larger public interest. The Revenue collection and equally the participation of the assessee in the exercise undertaken by the authorities to assess their income, therefore is affected adversely. None takes a position or decision because of pendency of matters and for a long time. In these circumstances, while dismissing this Appeal, we impose costs quantified at Rs.50,000/. The costs be paid to the assessee within four weeks from today. We at least now expect the authorities to take cognizance and initiate proceedings for recovery of this amount personally from such of the Officers who do not take decisions or postpone them endlessly. A copy of this order be forwarded to the CIT Pune. It should also be forwarded to the Chief CIT, Pune who may decide as to who should pay the costs personally as between them or anybody else who has brought about this situation."

Comment : Very Good Stricture both for the benefit of Revenue & the Assessee.

15. CIT vs. M/s D&M Components Ltd (Delhi High Court)

Not keeping separate books together with frequent transactions means that gains from shares have to be assessed as business profits instead of as STCG

The AO and CIT(A) held that separate books were not used. Amounts were freely transferred from the profits gained to business and vice-versa. However, perhaps the single-most telling circumstance is the volume, frequency, duration (of holding) of the transactions. Apart from the above significant aspect, the AO and the CIT (A) observed that the assessee had been purchasing and selling a large number of shares of a few companies. It was also held that the transactions involved large or substantial sums of money. Whenever any share is purchased with the intention of investment, it cannot be sold off within a very short span of time, since the share market is always fluctuating. Since in the present case, very frequent purchase and sale of shares have been done it indicates that the main intention of the assessee was to earn income out of these shares which have been claimed to be under the head of short term capital gains. Having regard to the short duration of holding of the shares, and the lack of clarity in the account books, thus Tribunal was wrong in assessing the gains as STCG instead of as business profits.

Comment : Correct Interpretation taking practical note.

16. Rajmoti Industries vs. ACIT (Gujarat High Court)

S. 40A(3): There is a difference between "crossed cheque" and "account payee cheque". Payment by crossed cheque attracts s. 40A(3) disallowance

The expression earlier used in s. 40A(3)(a) was a "crossed cheque or a crossed bank draft". This was amended by the legislature to be replaced by the expression "an account payee cheque or account payee bank draft". This was done in the background of the experience that even crossed cheques were being endorsed in favour of a person other than the drawee making it difficult to trace the constituent of the money. To plug this possible loophole the requirement of section 40A(3) was made more stringent. If we accept the contention of counsel for the assessee that there was no distinction between a crossed cheque and an account payee cheque, we would be obliterating this amendment brought in the statute with specific purpose in mind. Accordingly, payment by a crossed cheque is subject to disallowance u/s 40A(3) (Anupam Tele Services vs. ITO distinguished)

Comment : We need to be more cautious and any tampering with provisions will not be allowed.

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1. **Service Tax - Chhattisgarh High Court holds Section 66E(i) as regards service portion in restaurant/ outdoor catering service of Finance Act, 1994 intra vires the Constitution: (M/S Hotel East Park & Another Vs Union Of India & Others2014-Tiol-758-Hc-Chhattisgarh-St)**

The Division Bench of the Chhattisgarh High Court has held that the entry "service portion in an activity wherein goods, being food or any other article of human consumption or any drink (whether or not intoxicating) is supplied in any manner as a part of the activity" in Section 66E(i)of the Finance Act, 1994 is not ultra vires the Constitution and is valid as the same taxes only the service portion. In respect of the services provided by the hotel, Service Tax of 40% on the bill value of the food and drinks is charged in view of section 66E(i) of the 1994-Act read with rule 2C of the Service Tax (Determination of Value) Rules, 2006.

The High Court while answering the question as to "Whether in view of Article 366(29A)(f) service is subsumed in sale of food and drinks; & (iii)Whether section 66E(i) of the 1994-Act is violative of Article 366 (29A)(f) of the Constitution" held that Article 366(29A)(f) of the Constitution does not indicate that the service part is subsumed in the sale of the food; it rather separates sale of food and drinks from service. Section 65B (44) as well Section 66E(i) only charges service tax on the service part and not on the sale part. It indicates that the sale of the food has been taken out from the service part as was interpreted by the Supreme Court in the Associated-Hotel [A.I.R. 1972 S.C. 1131] case and the Northern-Caterers AIR 1980 SC 674: (1980) 2 SCC 163 case. "In our opinion, section 66E(i) of Chapter-V of the Finance Act, 1994 is intra vires the Constitution".

However, the Court also listed down certain difficulties for complying with rule 2C of the Service Tax (Determination of Value) Rules, 2006 and recommended that "The State Government will be well a dvised to issue a clarification/ direction in this regard and will ensure that the consumers are not unnecessarily doubly taxed over the same amount."

2. **Supreme Court's 5 judge Constitution Bench allows writ petitions of elevator companies (M/S. Kone Elevator India Pvt. Ltd. &Ors. Versus State of Tamil Nadu and Ors.TS-142-SC-2014-VAT)**

Supreme Court's 5 judge Constitution Bench allows writ petitions of elevator companies. Holds that contracts for supply, erection, installation and commissioning of lifts / elevators constitute "works contract" and not "contract for sale". The Apex Court also distinguished the earlier judgement decided against elevator companies in 2005. Post 46th Constitutional amendment, VAT/sales tax leviable only on goods involved in execution of works contract and not on total contract value.

The Constitution Bench of Supreme Court while holding that the contract for "manufacture, supply and installation" of lifts was a "works contract" and not a mere "sale" reiterated the following key judicial principles:

• Works contract to encompass within its ambit all such composite contracts entailing supply of goods and supply of services with proportion of element of goods and services involved being irrelevant;

• While works contract is an indivisible contract, by deeming fiction the same ought to be vivisected into supply of goods and provision of services;

• Once a composite contract qualifies to be "work contract", question of applicability of "test of dominant intention" so as to treat such contract to be "contract of sale" or "contract of services" in entirety does not arise.

3. **Excise duty paid on Inputs and Service Tax paid on Input services used in the construction of immovable property can be taken and utilized for discharging ST liability on the renting of such immovable property. (Oberoi Mall Ltd Vs Cst 2013-Tiol-604-Cestat-Mum)**

The appellant, M/s. Oberoi Mall Limited, Goregaon, Mumbai are engaged in rendering the taxable service of 'renting of immovable property' and they discharge service tax liability on these services. They availed CENVAT credit of various services used for construction of the said mall and utilized the credit for payment of service tax on renting of immovable property services. The CBEC vide a Circular No. 98/1/2007-S.T., dated 04/01/2008 inter alia clarified that commercial or industrial construction service or works contract service is an input service to the output 'immovable property' which is neither a service nor goods. Therefore, CENVAT credit of the service tax paid on construction service or works contract service cannot be taken. Accordingly, a show cause notice was issued to the appellants proposing to deny CENVAT credit taken by the appellant on the renting of immovable property service.

The Tribunal held that Excise duty paid on inputs and service tax paid on input services used in the construction of immovable property can be taken and utilized while discharging service tax liability on the renting of such immovable property. Accordingly, granted unconditional waiver from the pre-deposit of the dues.

4. **CENVAT Credit on inputs contained in scrap generated during manufacture of exempted goods - Assessee is entitled to credit - waste and scrap are "final products"(M/S Albert David Ltdvs Commissioner Of Central Excise (2013-Tiol-621-HC-ALL-CX)**

M/s. Albert David Ltd., the appellant, is eng aged in manufacture of goods including intravenous fluids (IV Fluids) falling under the Chapter 30 of the Central Excise Tariff Act, 1985. During the course of manufacture (iv fluids) by form fill and seal technology plastic scrap is generated as waste. The appellant availed exemption on clearance of waste and scrap under notification no.89 /95-CE dated 18th of May, 1995. The stand of the appellant that waste and scrap are exempt was not accepted by the department on the ground that the appellant was also manufacturing exciseable goods other than the exempted goods. A show cause notice dated 1stof June, 2001 was served on the appellant on the ground that the appellant has wrongly availed the CENVAT credit on plastic granules equivalent to the quantity cleared by them as wastes and scrap.The reply to the show cause notice did not find favour with the Commissioner of Central Excise, Meerut who vide order dated 30th of March, 2002 upheld the show cause notice by holding that the wastes and scrap was generated during the course of manufacture of (iv fluids) and as such wastes and scrap is not final product of the appellant. This order was challenged in appeal before the Customs, Excise and Service Appellate Tribunal. Before the Tribunal there was a difference of opinion between the member(judicial) and member (technical) of the Tribunal and the matter was referred to a third member. By the order of majority the Tribunal held that Cenvat Credit is not available to the appellants. Thus on appeal to the High Court the court held that in view of the fact that the waste and scrap is final product and excisable item, taking into consideration the scheme of CENVAT Credit, it is but obvious that the appellant is entitled to claim CENVAT Credit on the inputs of plastic granules proportionate to the waste and scrap. The Tribunal lost the sight of this aspect of the matter. It is held that the appellant was entitled for CENVAT Credit under Rule 57AA of the Central Excise Rules on proportionate plastic granules which generated the scrap in the manufacturing process of intravenous fluids.

A. Direct Taxes

Compiled by : **CA Raj Singhania**
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Notifications :

1. **S.O. 2045(E)** - In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

   1. (1) These rules may be called the Income–tax (5th Amendment) Rules, 2014.
      (2) They shall come into force on the date of their publication in the Official Gazette.
   2. In the Income-tax Rules, 1962, in Appendix II, for Forms 49A and 49AA, the following Forms shall be substituted, namely:—

Form no. 49A

Application for allotment of permanent account number

[In the case of indian citizens/indian companies/entities incorporated in india/ unincorporated entities formed in india]

Form no. 49AA

Application for allotment of permanent account number

[Individuals not being a citizen of india/entities incorporated outside india/ unincorporated entities formed outside india]

[Notification No. 26/2014/F. No. 142/15/2013-TPL] Dated 06.05.2014]

Circulars & Clarifications:

Clarification regarding treatment of expenditure incurred for development of roads/highways in BOT agreements under Income-tax Act, 1961 –regarding. - Circular No-09/2014 Dated 23-4-2014.

It has come to the notice of the Board that disputes have arisen as to whether the expenditure incurred on development and construction of infrastructural facilities like road /highways on Build-Operate-Transfer ('BOT') basis with right to collect toll is entitled for depreciation undersection 32(1)(ii) of the Act or the same can be amortized by treating it as an allowable business expenditure under the relevant provisions of the Income-tax Act, 1961 ('Act').

The CBDT, in exercise of the powers conferred undersection 119 of the Act hereby clarifies that the cost of construction on development of infrastructure facility of roads/highways under BOT projects may be amortized and claimed as allowable business expenditure under the Act.

CBDT releases Utility for Tax Audit Report filing for A.Y. 2014-15

Income Tax Department has releases the Utilities for AY 2014-15 for filing of Tax Audit Reports, Transfer Pricing Audit Report, MAT Audit, Trust Audit, Special Audit etc. Kindly log into https://incometaxindiaefiling.gov.in/efiling/ to to download utilities such as Form 3CA-CD, 3CB-CD etc.

B. SERVICE TAX

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1. **Trade Notice No. 21/13-14-ST-1 dated 11/03/2014 issued by Mumbai Commissionerate as regards rectification of mistake of payment of service tax deposited under wrong accounting code and wrong service taxcode** (http://www.servicetaxmumbai.gov.in/service_tax_1/trade_notices/ Trade%20Notice%2021.pdf)

C. CENTRAL EXCISE

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1. **Classification of rice par-boiling machinery–reg** (Circular no.982/06/ 2014-CX., Dated: May 15, 2014).

D.CUSTOMS

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1. **CBEC amends Tariff Value of Palm oil & others & reduces same for gold & silver** (Notification No. 36/ 2014-Customs (N.T.), Dated: April 30, 2014).
2. **CBEC notifies new Customs Exchange rates effective from May 02, 2014** (Notification No. 38/ 2014-Customs (N.T.), Dated: May 1, 2014).
3. **Kiranpani notified for loading / unloading of export / import goods** (Notification No. 39/ 2014-Customs (N.T.), Dated: May 7, 2014).
4. **CBEC notifies new Customs Exchange rates effective from May 16, 2014** (Notification No. 41/ 2014-Customs (N.T.), Dated: May 15, 2014).
5. **CBEC hikes tariff value of gold and silver marginally**(Notification No. 42/ 2014-Customs (N.T.), Dated: May 15, 2014).
6. **Anti-dumping on Vitamin E (all forms excluding natural forms) originating in, or exported from, the People's Republic of China extended till 26.03.2015.** (Notification No. 16/2014-Cus. (ADD), Dated: May 9, 2014).
7. **Anti-dumping duty on Flax Fabric falling originating in, or exported from, People's Republic of China and Hong Kong extended till 25.03.2015.** (Notification No. 17/2014-Cus. (ADD), Dated: May 9, 2014).
8. **Anti-Dumping duty on All Fully Drawn or Fully Oriented Yarn/Spin Draw Yarn/Flat Yarn of Polyester (non-textured and non-POY) originating in, or exported from, the People's Republic of China, Thailand and Vietnam extended till 25.03.2015.** (Notification No. 18/2014-Cus. (ADD), Dated: May 9, 2014).
9. **Micro Glass Fibre with fibre diameter in the range of 0.3 - 2.5 microns excluded from the ambit and scope of anti-dumping duty imposed in terms of No. 30/2011-Customs, dated the 4th March, 2011.**(Notification No. 19/2014-Cus. (ADD), Dated: May 9, 2014).
10. **Govt extends anti-dumping duty on Cold Rolled Flat products up to April 21, 2015**(Notification No. 20/2014-Cus. (ADD), Dated: May 12, 2014).
11. **Anti-Dumping duty on Nylon Tyre Cord Fabric extended upto April, 2015**(Notification No. 21/2014-Cus. (ADD), Dated: May 16, 2014).
12. **Anti-dumping duty on Peroxosulphates imposed for five years** (Notification No. 22/2014-Cus. (ADD), Dated: May 16, 2014).
13. **Provisional anti-dumping duty on phenol imposed for six months** (Notification No. 23/2014-Cus. (ADD), Dated: May 16, 2014).

E. FEMA & FDI

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Notification on A.P.D. Series.

1. Foreign Direct Investment in Pharmaceuticals sector – clarification

Reserve Bank of India vide Notification No. RBI/2013-14/ 567 A.P. (DIR Series) Circular No.124, dated 21st April, 2014, has continued up to 100% FDI under automatic route for greenfield investments and permitted under Government approval route for brownfield investments(i.e. investments in existing companies) in pharmaceuticals sector, with the condition that 'non-compete' clause would not be allowed except in special circumstances with the approval of the Foreign Investment Promotion Board (FIPB) of the Government of India.

2. Reporting of Cross Border Wire Transfers

Reserve Bank of India vide Notification No. RBI/2013-14/573A.P. (DIR Series) Circular No.125, dated 25thApril, 2014, and referring to A. P. (DIR Series) Circular No. 73 dated January 10, 2013 with the amendments to Prevention of Money Laundering (PML) Rules, notified by the Government of India vide Notification No. 12 of 2013 dated August 27, 2013; in this regard,advised that the 'Transaction Based Reporting Format' (TRF) already developed by FIU-IND and being used for reporting Cash Transaction Reports (CTRs), Suspicious Transaction Reports (STRs) and Non-Profit Organizations Transaction Reports (NTRs) may be used for reporting the Cross Border Wire Transfers. The information may be furnished electronically in the FIN-Net module developed by FIU-IND.All Authorised Persons, who are Indian Agents under MTSS are accordingly advised to take action as required by FIU-IND. The format along with sample datais available in the 'Downloads' section of the FIU-IND website.

3. Reporting of Cross Border Wire Transfers

Reserve Bank of India vide Notification No. RBI/2013-14/574A.P. (DIR Series) Circular No.126, dated 25thApril, 2014, and referring to A. P. (DIR Series) Circular No. 72 dated January 10, 2013 with the amendments to Prevention of Money Laundering (PML) Rules, notified by the Government of India vide Notification No. 12 of 2013 dated August 27, 2013; in this regard,advised that the 'Transaction Based Reporting Format' (TRF) already developed by FIU-IND and being used for reporting Cash Transaction Reports (CTRs), Suspicious Transaction Reports (STRs) and Non-Profit Organizations Transaction Reports (NTRs) may be used for reporting the Cross Border Wire Transfers. The information may be furnished electronically in the FIN-Net module developed by FIU-IND.All Authorised Personsare accordingly advised to take action as required by FIU-IND. The format along with sample datais available in the 'Downloads' section of the FIU-IND website.

4. Foreign Direct Investment (FDI) in India – Reporting mechanism for transfer of equity shares/ fully and mandatorily convertible preference shares/ fully and mandatorily convertible debentures

Reserve Bank of India vide Notification No. RBI/2013-14/577 A.P. (DIR Series) Circular No.127, dated 2ndMay, 2014, in terms of A.P. (DIR Series) Circular No. 38 dated September 6, 2013 has decided to rationalise the existing procedure, in cases where the NR investor including an NRI acquires shares on the stock exchanges, the investee company would have to file form FC-TRS with the AD Category-I bank.

In terms of paragraph 4 of A.P. (DIR Series) Circular No. 63 dated April 22, 2009it has been decided that the AD Category-I bank may approach Regional Office concerned of Reserve Bank of India, Foreign Exchange Department to regularize the delay in submission of form FC-TRS, beyond the prescribed period of 60 days and in all other cases, form FC-TRS shall continue to be scrutinised at AD bank level as per extant practice.

In terms of paragraph 6.4 of annex to A.P. (DIR Series) Circular No. 16 dated October 4, 2004,the AD banks shall continue to comply with the consolidated reporting requirement as stipulated.

5. External Commercial Borrowings (ECB) Policy: Re-schedulement of ECB - Simplification of procedure

Reserve Bank of India vide Notification No. RBI/2013-14/584 A.P. (DIR Series) Circular No.128, dated 9th May, 2014, As a measure of simplification of the existing procedurescontained in A.P. (DIR Series) Circular No.33 dated February 09, 2010has decided to delegate the power to the designated AD Category – I bank to allow re-schedulement of ECB due to changes in draw-down schedule and / or repayment schedule with prescribed conditions.

The facility will be available for ECBs raised both under the automatic and approval routes. Provisions of this Circular do not apply to FCCBs.The modification to the ECB policy will come into force with immediate effect. All other aspects of the ECB policy shall remain unchanged.

6. External Commercial Borrowings (ECB) Policy - Refinance / Repayment of Rupee loans raised from domestic banking system

Reserve Bank of India vide Notification No. RBI/2013-14/585 A.P. (DIR Series) Circular No.129, dated 9thMay, 2014, and drawing attention to Circular DBOD. No.BP.BC.107/ 21.04.048/2013-14 dated April 22, 2014 and various other circulars has decided that eligible Indian companies will not be permitted to raise ECB from overseas branches / subsidiaries of Indian banks for the purpose of refinance / repayment of the Rupee loans raised from the domestic banking system in respect of the following:

a. Scheme of take-out financing

b. Repayment of existing Rupee loans for companies in infrastructure sector

c. Spectrum allocation

d. Repayment of Rupee loans

7. External Commercial Borrowings (ECB) from Foreign Equity Holder - Simplification of Procedure

Reserve Bank of India vide Notification No. RBI/2013-14/ 594 A.P. (DIR Series) Circular No.130 dated, 16thMay, 2014, and drawing attention toA.P. (DIR Series) Circular No. 05 dated August 01, 2005, A. P. (DIR Series) Circular No. 11 dated September 07, 2011, A.P. (DIR Series) Circular No. 29 dated September 26, 2011, and A.P. (DIR Series) Circular No. 31 dated September 04, 2013, has decided to delegate powers to AD banks to approve the following cases under the automatic route:

i. Proposals for raising ECB by companies belonging to manufacturing, infrastructure, hotels, hospitals and software sectors from indirect equity holders and group companies.

ii. Proposals for raising ECB for companies in miscellaneous services from direct / indirect equity holders and group companies. Miscellaneous services mean companies engaged in training activities (but not educational institutes), research and development activities and companies supporting infrastructure sector. Companies doing trading business, companies providing logistics services, financial services and consultancy services are, however, not covered under the facility.

iii. Proposals for raising ECB by companies belonging to manufacturing, infrastructure, hotels, hospitals and software sectors for general corporate purpose. ECB for general corporate purpose (which includes working capital financing) is, however, permitted only from direct equity holder.

iv. Proposals involving change of lender when the ECB is from FEH – direct / indirect equity holders and group company.

8. Overseas Direct Investments – Limited Liability Partnership (LLP) as Indian Party

Reserve Bank of India vide Notification No. RBI/2013-14/ 595 A.P. (DIR Series) Circular No. 131, dated 19thMay, 2014, and drawing attention toNotification No. FEMA.120/RB-2004 dated July 07, 2004has been decided to notify a Limited Liability Partnership (LLP), registered under the Limited Liability Partnership Act, 2008 (6 of 2009), as an "Indian Party" under clause (k) of Regulation 2 of the Notification ibid. Accordingly, an LLP, may henceforth undertake financial commitment to / on behalf of a JV / WOS abroad in terms of the extant FEMA provisions under Regulation 6 (and regulation 7, if applicable) of the Notification ibid.Necessary amendment to the Notification ibid has been issued vide Notification No. FEMA.299/2014-RB dated March 24, 2014 (copy enclosed), which is effective from the date of publication in the Gazette i.e. May 07, 2014.

9. Export of Goods - Long Term Export Advances

Reserve Bank of India vide Notification No. RBI/2013-14/597 A.P. (DIR Series) Circular No.132, dated 21st May, 2014, and drawing attention to sub-regulation (2) of Regulation 16 of the Foreign Exchange Management (Export of Goods and Services) Regulations, 2000, notified vide Notification No.FEMA.23/RB- 2000, dated 3rd May 2000,&A.P. (DIR Series) Circular No.81 dated February 21, 2012has decided to permit AD Category- I banks to allow exporters having a minimum of three years' satisfactory track record to receive long term export advance up to a maximum tenor of 10 years to be utilized for execution of long term supply contracts for export of goods subject to prescribed conditions.

In case Authorized Dealer banks are required to issue bank guarantee (BG) / Stand by Letter of Credit (SBLC) for export performance, guidelines to adhere are also prescribed.

10. Import of Gold by Nominated Banks / Agencies / Entities

Reserve Bank of India vide Notification No. RBI/2013-14/600 A.P. (DIR Series) Circular No.133, dated 21st May, 2014, and drawing attention toA.P. (DIR Series) Circular No. 25 dated August 14, 2013;has been decided to modify the guidelines for import of Gold by the nominated banks / agencies / entities. These revised guidelines which will come into force with immediate effect are as under:

- Star Trading Houses / Premier Trading Houses (STH/PTH) which are registered as nominated agencies by the Director General of Foreign Trade (DGFT) may now import gold under 20:80 scheme subject to prescribed conditions
- Permit the nominated banks, to give Gold Metal Loans (GML) to domestic jewellery manufacturers out of the eligible domestic import quota of 80% to the extent of GML outstanding in their books as on March 31, 2013.

Procedure for Online Registration through EIRC website (www.eirc-icai.org)

1. Logon to www.eirc-icai.org
2. Create your user id on the EIRC Website by clicking on the tab Register.
3. On creation of the account please activate your account by clicking on the link sent to your email id.
4. Once your account is created login your account.
5. Under EIRC Upcoming Events click on Read more a list of Seminars will then be available
6. Register for the seminar of your choice by clicking on Register Now
7. You will then be directed to the payment gateway to make payment.

For any suggestions/quireies regarding EIRC website write to eircevents@icai.in/jyoti.luharuka@icai.in

Steps to be followed for problem arising on Online Registration

The domain name of EIRC Website has changed and the new website is

www.eirc-icai.org

In the new website if you are facing any payment gateway error then you are requested to follow the given steps.

STEP - 1 (Clear Temporary Files)
Go to Run and Type %Temp%. Click Ok. Select All Files and Delete

STEP - 2 (ClearPrefetch)
Go to Run and Type prefetch. Click Ok. Select All Files and Delete

STEP - 3 [Clear History (Browser - Google Chrome)]
Clear Browsing Data. In Obliterate the following items from:Select the begining of time. Then press on Clear Browsing Data at the bottom of the page OR
[Clear History (Browser - mozillafirefox)]
Clear Browsing History. In the time range everything. Tick Mark all the boxes and click on Click Now.
You may then restart the browser.
For more details click on Help menu at http://www.eirc-icai.org

EIRC Grievance Cell for Members

For any grievance/ query on any matter, members are requested to write to grievance.cell-eirc@icai.in
Contact no. : 3021 1144

EIRC DEEPLY MOURNS THE SAD DEMISE OF

CA NARAYAN CH. BANDOPADHYAY
Membership No. 002795
Passed away on 25th February 2014

CA ASHOK KUMAR GHOSH
Membership No. 012083
Passed away on 09th February 2014

We pray to the almighty that may their soul rest in peace

LIBRARY NEWS

Some of the latest and useful addition to the EIRC Library

Sl. No.	Title & Edition	Author	Publisher	Place & Year
1	CIA Text Books, 17th Ed	Irvin N. Gleim	Gleim Publications,	Florida 2013
2	Wiley GAAP	Joanne M. Flood	John Wiley & Sons	England 2014
3	The State of the Nation	Fali S. Nariman	Hay House	India, 2013
4	The Law and Practice of Income Tax	Kanga & Palkhivala	Lexis Nexis	Gurgaon 2014
5	FEMA 24th Ed	Khilnani	Snow White	Mumbai, 2014
6	Transfer Pricing W.T.P Audit, 3rd Ed	Taxmann	Taxmann	New Delhi, 2014
7	Building Rules Manual	Dasgupta B	Swastik Books	Kolkata, 2014
8	Guide to Bank Loans 2nd Ed	Bhattachary T P	Baba Bholanath Book Stores	Kolkata 2013
9	The Legal Metrology Act, 2009	Dasgupta B	Swastik Books	Kolkata 2014
10	Transfer Pricing Demyst, 1st Ed	Dinodia	Bharat Law House	New Delhi 2013
11	Parliament Power, Function	Chauhan	Lexis Nexis	Gurgaon, 2013

List of on line Journals/Databases

1. CAPITALINE – For Business information
2. Income tax reports – For case reference and decision
3. Direct/Indirect tax/Company cases encyclopaedia – for latest changes/ circulars etc.

Reading rooms for Students under EIRC Library

1. Park Circus Reading Room at 21D/1D,Gora Chand Road.Kol-14
2. Howrah reading room for Girls' at 16/4/1, Round Tank Lane.Near mullick Phatak. Howrah-711 101

Asansol

Seminar on Corporate Law Conclave on 18th May 2014. (L – R) CA Subhash Chandra Saraf, Chairman, EIRC, Mr.Amitava Saha, Director (Finance), BCCL, CA Debasish Mitra, Past Chairman, EIRC, CA Nirupam Haldar, Past Chairman, EIRC

Bhubaneswar

Student Seminar on Indirect Tax on 27th April 2014. The speaker was CA V C Datey

Guwahati

L to R: CA. Anil Kumar Agarwala; CA. Rakesh Agarwala, Secretary; CA. Dhiraj Jain, Key Note Speaker; CA. Prabesh Agarwala; CA. Vikash K Jain, Vice-Chairman; CA. Rohit Agarwal, CPE Committee Chairman

Cuttack

L to R: CA. Bimal Kumar Agarwalla, Vice-Chairman, Cuttack branch, CA. Premnath D. S, Speaker, Hyderabad, CA. Santanu Kumar Mishra, Secretary, Cuttack branch.

Raniganj

Annual Conference on The Companies Act, 2013. Seen are CA Subhash Chandra Saraf, Chairman, EIRC, CA Debasish Mitra, Past Chairman, EIRC

Rourkela

Seminar on Penalties & Prosecution under Income Tax Act, 1961 on 24th May 2014 (L – R) CA B D Shivhare, CA R M Bagri, Chairman of Rourkela Branch

Sambalpur

Seminar on Companies Act, 2013 on 3rd May 2014

Siliguri

Insurance Awareness Seminar At Siliguri Organised By COPIB , ICAI

Interaction Session with Past Leaders on 30th April 2014

L – R: CA Ranjeet Kumar Agarwal, Past Chairman & Member, EIRC (2014-15), CA Anirban Datta, Secretary, EIRC, CA Sumantra Guha, Council Member, ICAI, CA Subhash Chandra Saraf, Chairman, EIRC, CA Pramod Dayal Rungta, Vice Chairman, EIRC, CA Manish Goyal, Treasurer, EIRC, CA Sunil Kumar Sahoo, Member, EIRC

Seminar on Domestic Transfer Pricing on 1st May 2014

L – R : CA Anirban Datta, Secretary, EIRC, CA Amit Poddar, CA Subhash Chandra Saraf, Chairman, EIRC, CA Sachin Agarwal

Seminar on Data Analytics & Business Intelligence Tools & Techniques on 2nd May 2014

L – R : CA Pramod Dayal Rungta, Vice Chairman, EIRC, CA Subhash Chandra Saraf, Chairman, EIRC, CA G Kalyan Kumar

Seminar on Financial Due Diligence on 6th May 2014

L – R : CA Yogesh Somani, CA Subhash Chandra Saraf, Chairman, EIRC

Seminar on Limited Liability Partnership on 9th May 2014

L – R : CA Manish Goyal, Treasurer, EIRC, Mr. D Bandyopadhyay, ROC, WB, CA Subhash Chandra Saraf, Chairman, EIRC, CA Shashi Agarwal

Seminar on 'Related Party Transactions & Provision related to Private Company under the Companies Act 2013' on 13th May 2014

L – R: CA Subhash Chandra Saraf, Chairman, EIRC, CA Manoj Banthia

Seminar on NBFC Companies on 20th May 2014

L - R : Mr. Kishore Pariyar, DGM, RBI, CA Subhash Chandra Saraf, Chairman, EIRC, CA Manoj Banthia, CA Ranjeet Kumar Agarwal, Past Chairman, EIRC

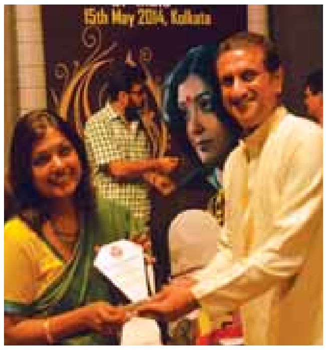
Seminar on Critical Analysis of Sec. 263 & Disallowance of Expenditure u/s 40(a)(ia) of the Income Tax Act 1961 on 21st May 2014

L - R : CA Anirban Datta, Secretary, EIRC, CA Manoj Tiwari, CA Pawan Agarwal, CA Subhash Chandra Saraf, Chairman, EIRC

Rabindra Jayanti Celebration on 15th May 2014 at G D Birla Sabhaghar (Birla Mandir)

Tribute to Rabindra Nath Tagore – L – R : CA A C Chakrabortti, Past President, ICAI, CA Subhash Chandra Saraf, Chairman, EIRC, CA Ranjeet Kumar Agarwal, Past Chairman, EIRC, CA Anirban Datta, Secretary, EIRC

CA Subhash Chandra Saraf, Chairman, EIRC, Shri Srikanto Acharya. Also seen is CA AnirbanDatta, Secretary, EIRC



CA Subhash Chandra Saraf, Chairman, EIRC presenting memento to Smt. Subhamita Banerjee

CA Subhash Chandra Saraf, Chairman EIRC in his Inaugural address spoke about Rabindranath Tagore and his various literary works

Performance by Shri Kaushik Bhattacharya and Smt. Olivia Banerjee

A Group Photograph of the Regional Council Members along with the artiste, Past Chairmen and others

Seminar on Whistle Blower Policy & Forensic Audit on 27th May 2014

L - R: CA Subhash Chandra Saraf, Chairman, EIRC, CA Suveer Khanna

Seminar on Change is the only constant - Are we prepared? on 29th May 2014

L : R - CA Pramod Dayal Rungta, Vice Chairman, EIRC. CA Subhash Chandra Saraf, Chairman, EIRC, Ms. Aditi Kohli, Pranic Healing Instructor

Inauguration of Certificate Course on "Forensic Accounting & Fraud Detection" at Kolkata on 31st May, 2014

National Conference : Corporate Law Conclave – TWO on 23rd& 24th May 2014 at Hotel Lalit Great Eastern, Kolkata

Lighting the Inaugural Lamp (L : R) : CA Ranjeet Kumar Agarwal, Past Chairman, EIRC, CA Subhash Chandra Saraf, Chairman, EIRC, CA Dipankar Chatterji, Past Council Member, ICAI, Dr.Navrang Saini, Regional Director, (ER), CA Sumantra Guha, Council Member, ICAI, CA Pramod Dayal Rungta, Vice Chairman, EIRC

Inaugural Session (L : R) : CA Sumantra Guha, Council Mmeber, ICAI, Dr. Navrang Saini, Regional Director, (ER), CA Subhash Chandra Saraf, Chairman, EIRC, CA Amarjit Chopra, Past President, ICAI, CA Dipankar Chatterji, Past Council Member, ICAI, CA Pramod Dayal Rungta, Vice Chairman, EIRC

Dr. Navrang Saini, Regional Director, (ER) delivering the Chief Guest address. Others seen from (L – R) are CA Sumantra Guha, Council Member, ICAI, CA Subhash Chandra Saraf, Chairman, EIRC, CA Dipankar Chatterji, Past Council Member, ICAI, CA Pramod Dayal Rungta, Vice Chairman, EIRC

L – R : CA Ranjeet Kumar Agarwal, Past Chairman, EIRC, CA Amarjit Chopra, Past President, ICAI, CA Dipankar Chatterji, Past Council Member, ICAI

L : R – CA Ranjeet Kumar Agarwal, Past Chairman, EIRC, CA K P Khandelwal, Past Council Member, ICAI, CA Ganesh Balakrishnan

L : R – CA Subhash Chandra Saraf, Chairman, EIRC, Advocate L V V Iyer, CA Khushroo B Panthaky, CA Vinod Kothari, CA Milan Sadhukhan, CA Pramod DayalRungta, Vice Chairman, EIRC

L – R: CA Abhijit Bandyopadhyay, Council Member, ICAI, CA Pramod Dayal Rungta, Vice Chairman, EIRC

L : R – Advocate L V V Iyer, CA Amitava Kothari, Past Council Member, ICAI, CA Anirban Datta, Secretary, EIRC

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Seminar on Direct Tax on 10th May 2014


Lighting the Inaugural Lamp – L – R : Dr. (CA) Rakesh Gupta, CA G Sekar, Chairman, DTC, ICAI, CA Subhash Chandra Saraf, Chairman, EIRC, Mr. G N Pande, IRS, Principal Chief Commissioner (Income Tax), WB & Sikkim, CA Manish Goyal, Treasurer, EIRC, CA AnirbanDatta, Secretary, EIRC, Mr. Praveen Kumar

L – R : CA G Sekar, Chairman, DTC, ICAI, Mr. G N Pande, Principal Chief Commissioner (Income Tax),W.B & Sikkim, CA Subhash Chandra Saraf, Chairman, EIRC, Mr. Praveen Kumar, CA AnirbanDatta, Secretary, EIRC

L – R : Dr. (CA) Girish Ahuja, CA Manish Goyal, Treasurer, EIRC, CA K K Chaitanya

L – R : Dr. (CA) Rakesh Gupta, CA Manoj Fadnis, Vice President, ICAI, CA Ranjeet Kumar Agarwal, Past Chairman, EIRC, CA Gautam Nayak


Felicitating CA Manoj Fadnis, Vice President, ICAI by CA Subhash Chandra Saraf, Chairman, EIRC. Other seen is CA GautamNayak


CA Manoj Fadnis, Vice President, ICAI, giving his address


Mr. G N Pande, Principal, IRS, Chief Commissioner (Income Tax), W. B. & Sikkim delivering the Inaugural Address

BOOK POST

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