EIRC NEWSLETTER
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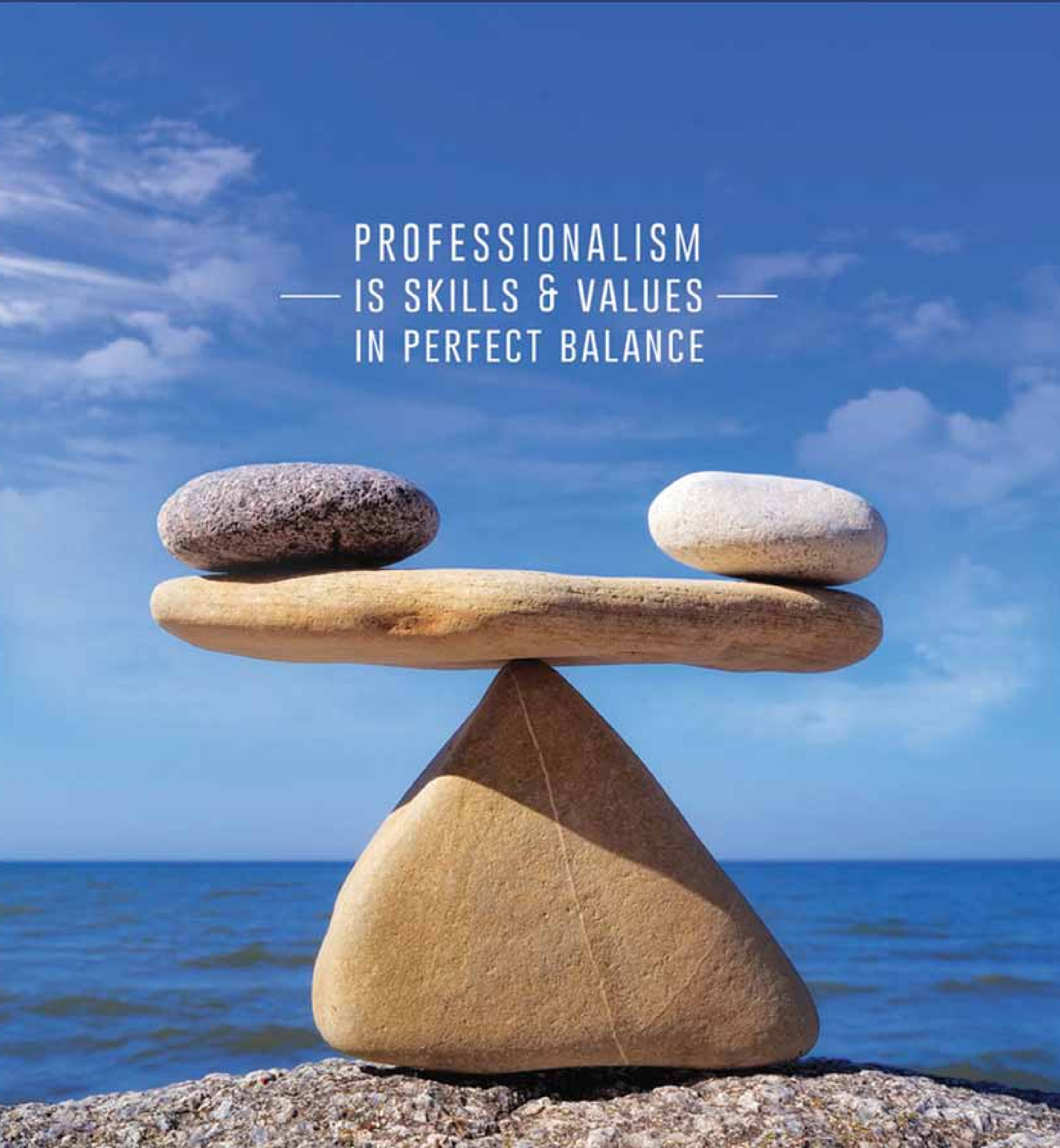
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

EASTERN INDIA REGIONAL COUNCIL

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> **"Our success will greatly depend on our ability to remain disciplined and stick to our values during tough times"**
>
> mahātria Rā

My Dear Professional Colleagues,

Wishing you most and more…

It's September and every practicing member would be assiduously engrossed under the encumbrance of accounts closures and audit for the financial year 2013-14 and filing of tax returns. While there would be some respite, since the due date for filing of Tax Audit Report only has been extended by 2 months to 30th November 2014 in view of the new provisions introduced in the Form 3CD, the professionals would have to file the tax returns within time provided as per statute.

With radical changes lined up in virtually every sphere of our professional area, like I have been saying these past months, our intellect and mettle will be tested and retested on a continuous basis, and we have to prove our professional performance by balancing our skills and values perfectly. During such changing and opportune time, our quality success will also greatly depend upon our ability to remain disciplined in all matters while keeping our values intact. Towards this goal, we recently held and concluded All Region Joint Conference on 8th and 9th August,2014 at Kolkata with the theme **"CA Profession at 75: A decade ahead",** which was a resplendent event and will definitely exalt our efforts in developing the practice of the future which cannot happen unless we demonstrate our excellent skills and values of the highest standards with disciplined approach towards profession.

We have also taken steps to enhance the skills of the members in our region and towards this objective; we have started three certificate courses viz. IFRS, DISA and Concurrent Audit in the month of August which are being attended full house and mostly by young members which is a welcome feature.

Examination results for the May, 2014 were announced by the Institute last month and I hereby congratulate all the members who entered the profession. Campus placement program for newly qualified members at Kolkata is being held from 14th to 20th October, 2014 whereas it is being held on 3rd September, 2014 at Bhubaneswar, biggest branch of our Region.I wish all the participating young members a great future ahead.

NDA government has brought in high level of optimism among business fraternity and one of the barometers is the buoyancy in the capital market. In order that best brains of the country could meet and deliberate, we have lined up a Seminar on Capital market with the theme **"Vibrant Capital market: A Myth or Realty"** on Saturday, 6th September, 2014 at Hotel Oberoi Grand. I appeal to members to attend and take benefit of the presence of the dignitaries from regulators and also from capital market.

We at EIRC are also striving to help our members remain updated and aware of any developments as well as to educate them on both, emerging and contemporary topics. Thus, EIRC is organizing seminars on some novel areas viz. Digital threats and securities, succession planning, code of ethics, women members empowerment, young members empowerment, information technology etc. whose details are given elsewhere in this newsletter. Indoor sports competition has also been lined up on 7th September, 2014 at YMCA and I appeal members to participate in maximum members for more informal interaction and brotherhood.

As we move closer to the September and finish our tax return filings, festive season will start simultaneously. Most important festival in this part of India being **"Durga Puja"** will bring longest vacation and break for all of us. I wish all the members a great vacation with fun and gaiety. I wish and seek blessings of Maa Durga that each one of us and our families be blessed with best of health, love, power, prosperity and spitrituality.

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 ₹
Thursday, 4th September 2014	Seminar on Investors Awareness	Mr. Debasish Bandhyopadhya, ROC CA Siddhartha Chatterjee CA M L Rawat	CA Ranjeet Kumar Agarwal	R Singhi Hall, EIRC Premises	5.30pm to 8.30pm	**3**	150 Spot 200
Saturday, 6th September 2014	Seminar on Capital Market with ANMI	Details inside in Page 9	EIRC	Grand Hotel	10.00am to 5.00pm	**NIL**	Online 1000 Members 1100 Non Members 1300 Spot 1400
Monday, 8th September 2014	New Provisions in Tax Audit Report	CA K K Chapparia	CA Pramod Dayal Rungta	R Singhi Hall, EIRC Premises	5.30pm to 8.30pm	**3**	150 Spot 200
Tuesday, 9th September 2014	Life after Death- Succession Planning through HUF, AOP, and Trust	CA Ramesh Patodia	CA Anirban Datta	R Singhi Hall, EIRC Premises	5.30pm to 8.30pm	**3**	150 Spot 200
Saturday, 13th September 2014	Seminar on Women Members Empowerment (Open for Male Member also)	Details inside in Page 7	EIRC	R Singhi Hall, EIRC Premises	2.30pm to 8.30pm	**6**	500 Spot 600
Tuesday, 16th September 2014	Finance (No.2) Act, 2014- Direct Tax Implications	CA Sanjay Bhattacharya	CA Manish Goyal	R Singhi Hall, EIRC Premises	5.30pm to 8.30pm	**3**	150 Spot 200
Tuesday, 23rd September 2014	Professional Opportunities in Systems area w.r.t DISA qualifications	Mr. Aveek Gupta	CA Sunil Kumar Sahoo	R Singhi Hall, EIRC Premises	5.30pm to 8.30pm	**3**	150 Spot 200
Tuesday, 14th October 2014	Seminar on Code of Ethics	CA K P Khandelwal	CA Ranjeet Kumar Agarwal	R Singhi Hall, EIRC Premises	5.30pm to 8.30pm	**3**	150 Spot 200
Saturday, 18th October 2014	Seminar on Information Technology	Details inside in Page 7	EIRC	R Singhi Hall, EIRC Premises	9.30am to 2.30pm	**5**	600 Spot 750

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 Dates

DAY & DATE	PROGRAMME DETAILS	VENUE	TIME
Sunday, 7th September 2014	Indoor Sports Meet (Registration Fees : Members ₹ 100 Students ₹ 50)	YMCA, Chowringhee Branch	10.00am onwards
Friday,10th October 2014	Bijoya Sammilani along with All Study Circle	EIRC	6.00pm onwards
Friday, 31st October 2014	Deepawali get together along with All Study Circle	27, Ballygunge Park, Kolkata-19	6.00pm onwards
Saturday, 1st November 2014	Young Members Seminar (6 CPE Hrs)	Park Hotel	10.00am-5.00pm
Friday, 28th November & Saturday, 29th November 2014	39th Regional Conference (12 CPE Hrs) Details inside in Page 7	Science City Auditorium	10.00am onwards

BRANCHES

Branch	Day & Date	Programme	Speakers	Co- ordinator	Venue	Duration	CPE Hour
Rourkela Branch	Saturday, 6th September 2014	CPE workshop on Changes in Tax Audit Report	CA Rohit Gupta	CA Yogesh Banka, yogeshbanka@gmail.com	Branch Premises	5.30pm to 8.30pm	**3**
Rourkela Branch	Sunday,14th September 2014	Seminar on Auditing Standard	Eminent Speaker	CA Yogesh Banka, yogeshbanka@gmail.com	Hotel Mayfair	10.00am to 06.00pm	**6**
Guwahati Branch	Saturday, 6th September 2014	Women Empowerment	Eminent Speakers	CA Rohit Agarwala 9435058514 aknc@rediffmail.com	Branch Premises	2.00 pm to 5.00 pm	**3**
Sambalpur Branch	Tuesday, 16th September 2014	One Day CPE Seminar on Tax Audit	Eminent Speakers	CA Seshadev Mishra 09439041843	Hotel Sheela Towers	10.00am to 5.00pm	**6**

STUDY CIRCLES

Study Circle	Day & Date	Programme	Speakers	Co- ordinator	Venue	Duration	CPE Hour
VIP Chartered Accountants Study Circle – EIRC	Sunday, 21st September 2014	Tax Audit Report with new requirements and Returns of Income and Net Wealth – Preparation and e-filing	CA Sanjay Bhattacharya	CA S N Jojodia (M) 9830071300	VIPCA Library, 220, Bangur Avenue, BL-A, Kolkata-700055	10 am to 1.00 pm	**3**

Payment of Membership Fee and Certificate of Practice Fee

Kind Attention of the Members Payment of Membership Fee and Certificate of Practice for the year 2014-15

Fee circular for Payment of Membership Fee and Certificate of Practice Fee has already been sent to all the members of the Institute with request to remit applicable amount of Membership Fee and COP Fee so as to reach the Institute on or before 30th September 2014.

The applicable amount of Membership Fee and COP Fee is given below:

Particulars of Fee	For Members aged on 1.04.2014	
	Below 60 years	**Above 60 years**
Associate Membership Fee	₹ 800/-	₹ 600/-
Fellow Membership Fee	₹ 2200/-	₹ 1600/-
Certificate of Practice Fee	₹ 2000/-	₹ 1500/-

Members are also requested to pay following:

Chartered Accountant Benevolent Fund	
Life Membership	₹ 2500/-
Yearly Subscription	₹ 500/-
Voluntary Contribution	A respectable amount
S Vaidyanath Aivar Memorial Fund	
Life Membership	₹ 500/-
Yearly subscription	₹ 50/-
Voluntary contribution	A respectable amount
Air Mail charges for CA Journal (in case of members abroad)	₹ 2100/-

Payment of above Fee and amount can be made through Local or at par cheque/DD favouring The Secretary, ICAI payable at the city of concerned Regional Office of ICAI so as to reach to the office on or before 30th September, 2014. Member may also make payment online **http://www.icai.org/member.html.**

Eastern India Regional Council

The Institute of Chartered Accountants of India

Wishes you Happy Puja

Bijoya Sammilani

organised by EIRC along with all its Study Circles

Friday, 10th October 2014

EIRC Auditorium, 6PM onwards

Dear Students,

Conceive, Believe, Achieve!

I feel August needs no introduction. This year marks the celebration of India's 68th year of Freedom, Democracy, Unity, Integrity and Independence! So before I continue, let me wish the whole CA Fraternity, especially the students, A very Happy Independence Day!

August, it seems, was an important month not only for our country, but for the CA Final and IPCC students as well. The results this time for CA Final was around 8% and that of IPCC was around 9%. **I give my hearty congratulations to all the students who have successfully cleared their exams. May you go on to achieve the best in life!**

Students who were unable to clear, I just have three words for you – Don't Lose Hope. Your peers and your seniors in the CA Fraternity are always ready to help you with open arms. At the virtual level, the Institute also takes various steps by constantly updating about the latest amendments and chapters to be included/excluded in the upcoming curriculum on it's website, www.icai.org. Ongoing and upcoming events are also updated regularly on the same site.

A major step initiated by ICAI was the launch of "Cloud Campus" – an interactive learning management system for CA Students. The site can be accessed at http://cloudcampus.icai.org/. Students now have the added advantage to revise their lessons via the webcasts, audio/video lectures and e-books. There is also an option for online mentoring where the students can interact with faculty members and clear their doubts/ questions. A complete schedule has been posted online.

Moreover, the online registrations for Orientation/ITT and GMCS courses along with the payment options are ongoing in order to mitigate the hardships faced by the students. Also, students who have cleared their first or both groups of the IPCC examinations and are searching for the CA firms for their articleship now have the option to search for the firms directly and communicate with them by logging into the website, http://bosapp.icai.org/. Students can register themselves for free and upload their bio-data and can avail these services to the fullest.

The student association of the eastern region of the CA Fraternity, **"EICASA",** also makes efforts to conduct seminars and crash courses to help the students cope up with the latest amendments and changes in the CA Curriculum.

This time the list of activities planned out by EICASA is as follows:

➢ **Events Ongoing/ Completed Till Date:**

- **12th August, 2014 – Seminar on Companies Act, 2013 by CA. Arijit Chakraborty and Debashish Mitra.**
- **15th August, 2014 – Independence Day Celebrations**
- **21st – 31st August, 2014 – Crash course on MAFA by CA. Aaditya Jain.**
- **26th – 28th August, 2014 – Crash course on Amendments on Service Tax by CA. Sanjay Mundhra.**

➢ **Events Planned:**

- **7th September, 2014 – Sports Day. (Registrations ongoing at nominal fee of ₹ 50/-).**
- **9th – 10th September, 2014 – Crash Course on the amended portions of ISCA by CA Sanjay Khemka.**
- **Full day seminar on Advanced MS Excel by Satish Jalan– Date to be announced shortly.**
- **Seminar on all applicable sections of Companies Act, 2013 for CA Final Exams, November, 2014 – Date to be announced shortly.**

EICASA ELECTIONS

Students, I'd like to draw your attention to an important announcement. Elections are going to be held on 5th September, 2014 for change of guards in the present body of EICASA. A golden opportunity is thus presented before the students who are willing to take up the role of **The Guardians** of the student body of the Eastern Region of the ICAI. **Nomination/ Withdrawal of Forms for the candidature of EICASA Board have already been concluded. Hence, I'd like to encourage each and every student to step forward and participate in the elections. Cast your vote for the strong and vibrant EICASA Team! Hoping to receive a great response! The newly elected team will take over charge on 15th September, 2014.**

Looking forward to your views and / or suggestions for improvement, correction or modifications in student 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.com while 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

EICASA Member Molly Loharuka Presenting Memento to faculty CA Arijit Chakrobarty.

Students attending the Seminar on Companies Act,2013 at R Singhi Hall.

CA Dr Debashis Mitra, faculty for the seminar deliberating to the Students

SEMINAR ON WOMEN MEMBERS EMPOWERMENT

(Open to Male Members also)

Organised by **Women Members Empowerment Committee, ICAI**

Hosted By **Eastern India Regional Council**

The Institute of Chartered Accountants of India

Day & Date: Saturday, 13th September 2014

Time: 2.30pm to 8.30pm

6 CPE

Venue: R Singhi Hall, EIRC Premises

Fees ₹ 500 / ₹ 600 Spot

Topics	Speakers
Women : A New force in Profession	**CA C S Nanda,** Delhi
Opportunities arising out of Companies Act	**CA Sreeja Marar,** Mumbai
How to Excel in Service Tax Practice	**CA Shivani Shah,** Kolkata
Work life Balance - How to achieve	**Sister B. K. Asmita** (Brahmakumari), Kolkata
Emerging Trends in Accounting	**CA Veena Hingarh,** Kolkata

SEMINAR ON INFORMATION TECHNOLOGY

Organised by Information Technology Committee, ICAI

Hosted By Eastern India Regional Council

The Institute of Chartered Accountants of India

Day & Date: Saturday, 18th October 2014

5 CPE

Time: 9.30am to 2.30pm

(Followed by Lunch)

Fees ₹ 600 / ₹ 750 Spot

Venue: R Singhi Hall, EIRC Premises

Topics	Speakers
• Paradigm Shift in Enterprise Financial Data Security	**Mr. Shivaji Basu,** Kolkata
• Digital Threats and Forensic Audit - Growing Need and Professional Opportunity	**Adv. Prashant Mali,** Mumbai
• Growing IT & Digital Requirements for CA Practitioners	**CA R Sundar,** E & Y*

* Confirmation awated

39th REGIONAL CONFERENCE OF EIRC – 2014

12 CPE

EASTERN INDIA REGIONAL COUNCIL

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

Fees ₹ 1500 Online / ₹ 1600 / ₹ 1800 Spot / ₹ 1000 Students

Theme : CA Profession Ahead–Dynamic, Vibrant & Challenging

Venue: Science City, Main Auditorium, Kolkata

BLOCK YOUR DIARY FOR

Friday 28th & Saturday, 29th November 2014

Invited Speakers for Knowledge Sessions

- **CA Amarjit Chopra, Past President, ICAI**
- **CA PR Ramesh, Deloitte, Hyderabad**
- **CA Dinesh Kanavar, KPMG, Mumbai***
- **CA Pinakin Desai, E&Y, Mumbai***
- **CA Bimal Jain, Delhi**

& NATIONAL DEBATE

in Association with

THE ECONOMICS TIMES

* Confirmation awaited

SEMINAR ON CAPITAL MARKET

anmi

VIBRANT CAPITAL MARKET : A MYTH OR REALITY

Organised by
Committee on Financial Markets & Investor's Protection, ICAI

Hosted by
EASTERN INDIA REGIONAL COUNCIL
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

Jointly with
ASSOCIATION OF NATIONAL EXCHANGES MEMBERS OF INDIA (EIRC)

Date - Saturday, 6th September, 2014
Venue - Hotel Oberoi Grand, Kolkata

PRINCIPAL SPONSOR: NSE

ASSOCIATE SPONSOR

CO-SPONSOR: SUMEDHA adding values to value

ASSOCIATE SPONSOR: Bombay Stock Exchange Limited BSE The edge is efficiency

MEDIA PARTNER: BRAND CAPITAL

Seminar on Capital Market

VIBRANT CAPITAL MARKET : A MYTH OR REALITY

Fees : Member (ICAI & ANMI) - ` 1100 » Online Regn. - ` 1000 » Non-Member - ` 1300 » Spot - ` 1400

Date - Saturday, 6th September, 2014

Venue - Hotel Oberoi Grand, Kolkata

PROGRAMME

Inaugural Session	:	**10.00 am to 11.00 am**
Welcome Address	:	**CA Subhash Chandra Saraf,** Chairman, EIRC, ICAI
Address by	:	**CA Jay Chhaira** Chairman, Committee on Financial Markets & Investors' Protection, ICAI
Address by	:	**ANMI Representative**
Special Address	:	**Mr. Ravi Varanasi,** Chief Business Development, NSE **"EMERGE-NSE SME Platform"**
Chief Guest	:	**Mr. Rajiv Kr. Agarwal,** Whole Time Member, SEBI

KNOWLEDGE SESSIONS

Topics

1. **Different Asset Class Vis-à-vis Equity**
2. **National Footprint: Ways & Means**

PANEL DISCUSSION

Is Today's Vibrancy in Capital Market: A myth or reality ?

INVITED SPEAKERS

- **Mr. Prithvi Haldea** – Prime Database
- **Mr. Nilesh Shah** – MD & CEO, Axis Capital
- **Mr. Gopal Agrawal** - CIO, Mirae Asset Global
- **Mr. Mudar Patherya** – CPO,Trisys
- **Mr. R Venkataraman** - MD, India Infoline
- **Mr. P K Choudhary** - Vice Chairman & Group CEO, ICRA Limited
- **Mr. Sanjay Sinha** – Founder, Citrus Advisors
- **Mr. S P Tulsian** - CEO & Editor, Premium Investments
- **Mr. Sudip Bandyopadhyay** – MD & CEO, Destimoney Securities

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For registration contact :

Mr. Amit Paul Sr. Executive Officer – ICAI-EIRC Mob: 09674073910 amit.paul@icai.in

Mr. Chandi Das Ghosh – ANMI-EIRC Mob: 09830067503

Extension of Time to Complete GMCS-I Course by the Students Registered for Articleship Training on or after 1st May, 2012

It has been decided to grant extension to students, who were registered for practical training on or after 1st May, 2012 and completed one year of their practical training but not completed the GMCS-I course are, required to complete GMCS-I Course latest by 31st December, 2014.

The above students are advised to register at the portal www.icaionlineregistration.org or contact the nearest Regional Council/Branch for registration in GMCS-I Course and complete the same at the earliest but not later than 31st December, 2014.

You are requested to give due publicity to this matter by publishing it in your newsletter/hosting it at your website etc., so that the above category of students who have not completed the GMCS-I within the specified period could avail of this opportunity and undergo the training timely but not later than 31st December, 2014.

Yours sincerely

(CA M. Devaraja Reddy)
Chairman, Board of Studies

Registration for Certificate Course on Concurrent Audit of Banks

Contact :

CA. Debashis Sen

Phone No. 30211117, Moblie No. 09903424014

Email Id : ero@icai.in

Facility of Payment by Swiping Credit / Debit Card Introduced

You can make payment for the following Services :

1) EIRC Sales Counter – Purchase of Books/ Publications

2) Seminar Registration – Delegate Fees at EIRC & Other Venues

CAMPUS PLACEMENT PROGRAMME

August-September-October 2014

For Newly Qualified Chartered Accountants

INVITATION FOR PARTICIPATION

The Institute of Chartered Accountants of India (ICAI) has achieved recognition as a premier accounting body not only in the country but also globally for its contribution in the field of education, professional development, maintenance of high accounting and auditing standards. The Committee for Members in Industry (CMII) of ICAI has been successfully organizing Campus Placement Programmes for the Newly Qualified Chartered Accountants and is pleased to announce the next Campus Placement Programme to recruit Newly Qualified CAs during August-September- October 2014.

Chairman, CMII

The Revised Schedule of the Campus Placement Programme August-September-October 2014

Centre	Date
Baroda, Coimbatore & Ernakulam	2nd – 3rd September, 2014
Bhubaneswar, Chandigarh, Kanpur, Navi Mumbai & Thane	3rd – 4th September, 2014
Indore & Nagpur	4th – 5th September, 2014
Ahmedabad & Jaipur	10th – 11th September, 2014
Pune	11th – 12th September, 2014
Mumbai & New Delhi	13th, 14th, 15th, 16th, 17th, 18th & 20th October, 2014
Bangalore, Chennai & Kolkata	14th, 15th, 16th, 17th, 18th & 20th October, 2014
Hyderabad	15th, 16th, 17th, 18th & 20th October, 2014

For Complete details please visit http://placement.icai.org

Organised By:
Committee for Members in Industry (CMII)
The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
'ICAI BHAWAN', Post Box No 7100, Indraprastha Marg, New Delhi-110 002
Tel. No. (011) 30110491/548/549
E-mail: cmii@icai.in, campus@icai.in, placements@icai.in
Website: www.icai.org, www.placement.icai.org

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

1. CIT vs. Vector Shipping Services (P) Ltd (Supreme Court)

Dept's SLP against High Court's verdict that s. 40(a)(ia) disallowance applies only to amounts "payable" as of 31st March and not to amounts already "paid" during the year dismissed

In CIT vs. Vector Shipping Services (P) Ltd 357 ITR 642, the Allahabad High Court held that disallowance u/s 40(a)(ia) applies only to amounts "payable" as of 31st March and not to amounts already "paid" during the year. The majority judgement in Merilyn Shipping 136 ITD 23 (SB) was approved. The department filed a Special Leave Petition (SLP) in the Supreme Court. The said SLP has been dismissed by the Supreme Court in limine.

Comment : Upholds special bench verdict.

2. Sanjeev Lal vs. CIT (Supreme Court)

S. 2(47)/ 54: If an agreement to sell is entered into within the prescribed period, there is a transfer of some rights in favour of the vendee. Fact that sale deed could not be executed within the time limit owing to supervening problem is not a bar for s. 54 exemption

Consequences of execution of the agreement to sell are very clear and they are to the effect that the appellants could not have sold the property to someone else. In practical life, there are events when a person, even after executing an agreement to sell an immoveable property in favour of one person, tries to sell the property to another. In our opinion, such an act would not be in accordance with law because once an agreement to sell is executed in favour of one person, the said person gets a right to get the property transferred in his favour by filing a suit for specific performance and therefore, without hesitation we can say that some right, in respect of the said property, belonging to the appellants had been extinguished and some right had been created in favour of the vendee/transferee, when the agreement to sell had been executed. A right in respect of the capital asset, viz. the property in question had been transferred by the appellants in favour of the vendee/transferee on 27.12.2002. The sale deed could not be executed for the reason that the appellants had been prevented from dealing with the residential house by an order of a competent court, which they could not have violated. As held in Oxford University Press vs. CIT [(2001) 3 SCC 359] a purposive interpretation of the provisions of the Act should be given while considering a claim for exemption from tax and one can very well interpret the provisions of Section 54 read with Section 2(47) of the Act, i.e. definition of "transfer", which would enable the appellants to get the benefit under Section 54 of the Act.

Comment : Settling the matter that an agreement to purchase a property would constitute a legal Right which eventually if transferred will lead to Capital Gains only.

3. Madhukar Khosla vs. ACIT (Delhi High Court)

S. 147: If "reasons to believe" are not based on new, "tangible materials", the reopening amounts to an impermissible review

In AY 2006-07 the AO passed an assessment order u/s 143(3). Thereafter, after the expiry of four years from the end of the AY, he issued a notice u/s 148 reopening the assessment on the ground that the records showed that an amount of Rs. 25L had to been added to the capital account for which the assessee had offered no explanation and that the same constituted undisclosed income u/s 68. The assessee challenged the reopening on the ground that there was no failure on its part to make a disclosure of material facts and the reopening was based on change of opinion. The department relied on the Full Bench verdict in Usha International 348 ITR 485 and argued that as the AO did not apply his mind at all to the question regarding the said capital contribution, it could not be said that there was a "change of opinion". HELD by the High Court allowing the Petition:

(i) In the recorded reasons, no details are provided as to what such information is which excited the AO's notice and attention. The reasons must indicate specifically what such objective and new material facts are, on the basis of which a reopening is initiated u/s 148. This reassessment is clearly not on the basis of new (or "tangible") information or facts that which the Revenue came by. It is in effect a re-appreciation or review of the facts that were provided along with the original return filed by the assessee;

(ii) The foundation of the AO's jurisdiction and the raison d'etre of a reassessment notice are the "reasons to believe". Now this should have a relation or a link with an objective fact, in the form of information or facts external to the materials on the record. Such external facts or material constitute the driver, or the key which enables the authority to legitimately re-open the completed assessment. In absence of this objective "trigger", the AO does not possess jurisdiction to reopen the assessment. It is at the next stage that the question, whether the re-opening of assessment amounts to "review" or "change of opinion" arises. In other words, if there are no "reasons to believe" based on new, "tangible materials", then the reopening amounts to an impermissible review. Here, there is nothing to show what triggered the issuance of notice of reassessment – no information or new facts which led the AO to believe that full disclosure had not been made (Kelvinator of India Ltd 320 ITR 561 (SC) and Orient Craft Ltd 354 ITR 536 (Delhi) followed, Usha International 348 ITR 485 (Del) (FB) referred)

Comment : 'New Tangible Material' - an effective deterrent for arbitrary reopening of cases.

4. Sumit Devendra Rajani vs. ACIT (Gujarat High Court)

Upon issue of Form 16A TDS certificate, TDS credit has to be given to the payee even if there is Form 26AS mismatch or deductor is at fault for non-deposit of TDS with Govt.

The assessee filed a Writ Petition claiming that though the deductor-employer, Amar Remedies Ltd, had deducted TDS from salary and issued Form 16A, the department had not given him credit of the said TDS solely on the ground that the credit did not appear on the ITD system (Form 26AS) of the department and / or same does not match with the ITD system of the department. HELD by the High Court allowing the Petition:

U/s 204, the liability to deduct TDS is on the employer / payer. U/s 205, when tax is deductible at source, the assessee shall not be called upon to pay tax himself to the extent to which tax has been deducted from that income. This means that the assessee / deductee is entitled to credit of such amount of TDS. Even if the deductor, after deducting the TDS, does not deposit the sum with the department, the department has to recover the said amount from the deductor and cannot deny credit to the deductee (Om Prakas Gattani242 ITR 638 (Gau) & Yashpal Sahni 293 ITR 539 (Bom) followed)

Comment : Correct Saying as for one's fault another cannot be denied of his rights.

5. Aroni Commercials Ltd vs. ACIT (Bombay High Court)

S. 147/ 148: Writ Petition challenging lack of jurisdiction to issue s. 148 notice on the ground that it is based on 'change of opinion' & preconditions of s. 147 are not satisfied is maintainable

The assessee filed a Writ Petition to challenge a notice issued u/s 148 to reopen the assessment. The department relied on the judgement of the Madras High Court in JCIT vs. Kalanithi Maran and argued that a Writ Petition to challenge a notice issued u/s 148 was not maintainable. HELD by the High Court rejecting the plea:

The argument, based on JCIT vs. Kalanithi Maran, that this Court should not exercise its writ jurisdiction under Article 226 of the Constitution of India and the petitioner should be left to avail of the statutory remedies available under the Act is not acceptable. The decision of the Madras High Court in Kalanithi Maran proceeded on the basis that the dispute urged before it were with regard to adjudicatory facts and not with regard to jurisdictional facts as raised in this petition. The Madras High Court itself points out that that when an assessment sought to be reopened by an Officer who is not competent to do so or where on the face of it would appear that the reopening is barred by limitation or lacks inherent jurisdiction, the court would certainly entertain a challenge to the reopening notice in its writ jurisdiction. The Madras High Court itself drew a distinction between the adjudicating facts and jurisdictional facts. It was in the above context that challenges to the reopening notice u/s 147 and 148 of the Act was not interfered with by the Madras High Court as the challenge before it appears to have been with regard to adjudicating facts as contrasted with the jurisdictional facts raised in this case. Jurisdictional facts are those facts which gives jurisdiction to enter upon enquiry, while adjudicatory facts come up for consideration after validly entering upon enquiry i.e. having jurisdiction. In this case, the challenge is based on lack of jurisdiction in issuing the impugned notice by the AO on the ground that the pre-condition for issuing notice u/s 147 of the Act is not satisfied i.e. notice should not be on account of the change of opinion. It is only when jurisdictional facts are satisfied will the AO acquire the authority to deal with the matter on adjudicatory facts. The decision of the Madras High Court is of no avail in the facts of the present case. It may be pointed out that there could be occasions where jurisdictional facts could itself be a matter of factual enquiry. i.e. leading of evidence and appreciation of facts. In such a case even if the challenge is with regard to jurisdictional facts, yet the Court in its discretion may not entertain the petition as it could be best left for determination before the authorities under the Act.

Comment : Difference between Adjudicatory and Judiciary Facts explained in Madras High Court Judgement well interpreted.

6. Ace Multi Axes Systems Ltd vs. DCIT (Karnataka High Court)

S. 80-IB: If the undertaking satisfies the conditions for eligibility in the initial year, it must get deduction for 10 years & non-compliance in a subsequent year is irrelevant

The assessee was initially set up as a small scale (SSI) undertaking and was eligible for deduction u/s 80-IB. In the ninth year, the assessee ceased to be a SSI undertaking as its investment in plant & machinery exceeded Rs. 1 crore. The AO, CIT(A) and Tribunal (order attached) held that as each AY was separate and independent, the assessee was not eligible to claim deduction u/s 80-IB in the ninth year. On appeal by the assessee to the High Court HELD allowing the appeal:

There is no indication in s. 80-IB that the conditions stipulated therein has to be fulfilled by the assessee in all the 10 years. When once the benefit of 10 years, commencing from the initial year, is granted, if the undertaking satisfy all these conditions initially, the undertaking is entitled to the benefit of 10 consecutive years. The argument that, in the course of 10 years, if the growth of the industry is fast and it acquires machinery and the total value of the machinery exceeds Rs.1 crore, it ceases to have the said benefit, do not follow from any of the provisions. It is true that there is no express provision indicating either way, what would be the position if the small scale industry ceases to be a small scale industry during the said period of 10 years. Because of that ambiguity, a need for interpretation arises. If we keep in mind the object of the Legislature providing for these incentives and when a period of 10 years is prescribed, that is the period, probably, which is required for any industry to stabilize itself. During that period the industry not only manufactures products, it generates employment and it adds to the wealth of the country. Merely because an industry stabilizes early, makes profits, makes future investment in the said business, and it goes out of the definition of the small scale industry, the benefit u/s 80IB cannot be denied. If such a literal interpretation is placed on the said provision, it would run counter to the very object of granting incentives. It would kill the industry. Therefore keeping in mind the object with which these provisions are enacted, keeping in mind the industrial growth which is required to be achieved, if two interpretations are possible, the courts have to lean in favour of extending the benefit of deduction to an assessee who has availed the opportunity given to him under law and has grown in his business. Therefore we are of the view, if a small scale industry, in the course of 10 years, stabilizes early, makes further investments in the business and it results in it's going outside the purview of the definition of a small scale industry, that should not come in the way of its claiming benefit u/s 80IB for 10 consecutive years, from the initial assessment year.

Comment : Correct Interpretation reversing the order of Tribunal giving the Assessee its due benefit.

7. CIT vs. Murli Agro Products Ltd (Bombay High Court)

S. 153A: No addition can be made in respect of an unabated assessment which has become final if no incriminating material is found during the search

In AY 1998-99, the AO passed an assessment order u/s 143(3) on 29.12.2000. Thereafter, on 3.12.2003, there was a search action u/s 132 wherein incriminating documents/ articles were seized. Pursuant to the search, the AO passed an order u/s 153A determining the concealed income at Rs.89 lakhs. The assessee filed an appeal before the CIT(A), who deleted the concealed income computed by the AO. The AO gave effect to the said order of the CIT(A) and recomputed the income at the same figure as it was in the s. 143(3) order. The CIT passed an order u/s 263 stating that as the income computed by the AO in the effect order was less than 30% of the book profit, the AO ought to have computed the total income by invoking s. 115JA. He also held that in the said order, the AO had incorrectly computed s. 80HHC deduction. The assessee filed an appeal before the Tribunal claiming that as the computation of s. 115JA book profit and s. 80HHC deduction were not the subject matter of the s. 153A proceedings, the CIT could not have invoked jurisdiction u/s 263. The Tribunal accepted the assessee's plea. On appeal by the department to the High Court HELD dismissing the appeal:

(i) On initiation of proceedings u/s 153A, it is only the assessment proceedings that are pending on the date of conducting search u/s 132 or making requisition u/s 132A of the Act that stand abated and not the assessments already finalised. This is made clear in Circular No. 8 of 2003 dated 18.9.2003 (See 263 ITR (St) 61 at 107) issued by the CBDT. Therefore, the argument of the revenue, that on initiation of proceedings u/s 153A, the assessments finalised for the assessment years covered u/s 153A stand abated cannot be accepted. Similarly on annulment of assessment made u/s 153A (1) what stands revived is the pending assessment proceedings which stood abated as per s. 153A(1);

(ii) In the present case, the assessment for AY 1998-99 was finalised on 29.12.2000 and search was conducted thereafter on 3.12.2003. Therefore, initiation of proceedings u/s 153A would not affect the assessment finalised on 29.12.2000;

(iii) Once it is held that the assessment finalized on 29.12.2000 has attained finality, then the deduction allowed u/s 80HHC would attain finality. In such a case, the AO, while passing the independent assessment order u/s 153A could not have disturbed the assessment order which has attained finality, unless the materials gathered in the course of the proceedings u/s 153A establish that the reliefs granted under the finalized assessment were contrary to the facts unearthed during the course of s. 153 A proceedings. In the present case, there is nothing on record to suggest that any material was unearthed during the search or during the s. 153A proceedings which would show that the relief u/s 80HHC was erroneous. In such a case, the AO, while passing the assessment order u/s 153A could not have disturbed the assessment order finalised on 29.12.2000 relating to s. 80HHC deduction and consequently the CIT could not have invoked jurisdiction u/s 263. Moreover, since the AO had made addition on account of undisclosed income at Rs.89 lakhs in the s. 153A assessment order, there was no question of computing book profits u/s 115 JA. When the CIT (A) deleted the addition without any direction to compute the book profits, the AO was bound to modify the assessment order as directed by the CIT (A). Therefore, no fault could be found with the AO in giving effect to the order of the CIT (A). Consequently, the CIT could not invoke jurisdiction u/s 263 on the ground that the assessment u/s 153A was erroneous or prejudicial to the interests of the revenue.

Comment : Assessment once completed cannot be challenged or reopened unless new material facts comes in the knowledge of the department.

8. Canara Housing Development Co vs. DCIT (Karnataka High Court)

S. 153A: AO is required to assess the "total income" and is not confined only to income which was unearthed during search. Law laid down in All Cargo Global Logistics disapproved

For AY 2008-09, the AO passed an assessment order u/s 143(3) on 31.12.2010. A search u/s 132 was condiucted on 12.04.2011 in the course of which incriminating material leading to undisclosed income was seized. The AO initiated proceedings u/s 153A of the Act calling upon the assessee to file return of income u/s 153A(1)(a) for six years. The assessee complied with the same. When the said return was under consideration, the CIT passed an order u/s 263 on the ground that the assessment order dated 31.12.2010 passed u/s 143(3) was erroneous and prejudicial to the interests of the revenue. The assessee filed an appeal to the Tribunal in which it claimed that as the assessments u/s 153A were open, the AO could pass appropriate orders thereon. The Tribunal, relying on All Cargo Global Logistics137 ITD 287 (SB) (Mum) held that as the s. 143(3) order did not abate and had become final, the AO, in the s. 153A assessment had to confine himself to the incriminating material found during search and could not take into consideration other materials while making the s. 153A assessment. It consequently upheld the CIT's power to revise the s. 143(3) order. On appeal by the assessee to the High Court, HELD reversing the Tribunal:

The Tribunal has proceeded on the assumption by virtue of the judgment of the Special Bench in All Cargo Global, the scope of enquiry u/s 153A is to be confined only to the undisclosed income unearthed during search and if there is any other income which is not the subject matter of search, the same cannot be taken into consideration. Therefore, the revisional authority can exercise the power u/s 263. In the entire scheme of s. 153A of the Act, there is no prohibition for the assessing authority to take note of such income. On the contrary, it is expressly provided u/s 153A of the Act that the AO shall assess or reassess the "total income" of six assessment years which means the said total income includes income which was returned in the earlier return, the income which was unearthed during search and income which is not the subject matter of aforesaid two income. If the CIT has come across any income that the assessing authority has not taken note of while passing the earlier order, the said material can be furnished to the assessing authority and the assessing authority shall take note of the said income also in determining the total income of the assessee when the earlier proceedings are reopened and that income also shall become the subject matter of said proceedings. In that view of the matter the reasoning given by the Tribunal is not justified. The CIT did not have jurisdiction to initiate any proceedings u/s 263 of the Act (Anil Kumar Bhatia 352 ITR 493 (Del) referred).

Comment : Upholding the HC Special Bench view reiterating that reassessment should only be made if something on record is found during the search. Relief to assessees.

9. CIT vs. Tip Top Typography (Bombay High Court)

S. 23(1)(a): Entire law on determination of "annual value" explained

The High Court had to consider the question of determination of "annual value" u/s 23(1)(a) in the context of (i) whether the municipal valuation of the property was binding on the AO, (ii) whether notional interest on interest-free security deposit could be added and (iii) whether if the property was covered by the Rent Control Act but no standard rent there under, the AO can disregard the standard rent? HELD by the High Court:

As regards municipal valuation:

(i) We are not in agreement with the department that the municipal rateable value cannot be accepted as a bonafide rental value of the property and it must be discarded straightway in all cases. There cannot be a blanket rejection of the same. If that is taken to be a safe guide, then, to discard it there must be cogent and reliable material;

(ii) The market rate in the locality is an approved method for determining the fair rental value but it is only when the AO is convinced that the case before him is suspicious, determination by the parties is doubtful that he can resort to enquire about the prevailing rate in the locality. The municipal rateable value may not be binding on the AO but that is only in cases of afore referred nature. It is definitely a safe guide;

(iii) In the event the security deposit collected and refundable interest free and the monthly compensation shows a total mismatch or does not reflect the prevailing rate or the attempt is to deflate or inflate the rent by such methods, then, as held by the Delhi High Court in Moni Kumar Subba 333 ITR 38 (Del) (FB), the AO is not prevented from carrying out the necessary investigation and enquiry. He must have cogent and satisfactory material in his possession and which will indicate that the parties have concealed the real position. He must not make a guess work or act on conjectures and surmises. There must be definite and positive material to indicate that the parties have suppressed the prevailing rate. Then, the enquiries that the AO can make would be for ascertaining the going rate. He can make a comparative study and make a analysis. In that regard, transactions of identical or similar nature can be ascertained by obtaining the requisite details. However, there also the AO must safeguard against adopting the rate stated therein straightway. He must find out as to whether the property which has been let out or given on leave and license basis is of a similar nature, namely, commercial or residential. He should also satisfy himself as to whether the rate obtained by him from the deals and transactions and documents in relation thereto can be applied or whether a departure therefrom can be made, for example, because of the area, the measurement, the location, the use to which the property has been put, the access thereto and the special advantages or benefits. It is possible that in a high rise building because of special advantages and benefits an office or a block on the upper floor may fetch higher returns or vice versa. Therefore, there is no magic formula and everything depends upon the facts and circumstances in each case. However, we emphasize that before the AO determines the rate by the above exercise or similar permissible process he is bound to disclose the material in his possession to the parties. He must not proceed to rely upon the material in his possession and disbelieve the parties. The satisfaction of the AO that the bargain reveals an inflated or deflated rate based on fraud, emergency, relationship and other considerations makes it unreasonable must precede the undertaking of the above exercise. After the above ascertainment is done by the AO he must, then, comply with the principles of fairness and justice and make the disclosure to the Assessee so as to obtain his view;

As regards addition of notional interest:

(iv) Notional rent on the security deposit cannot be taken into account for the determination of the annual value. If the transaction itself does not reflect any of the aforestated aspects, then, merely because a security deposit which is refundable and interest free has been obtained, the AO should not presume that this sum or the interest derived therefrom at Bank rate is the income of the assessee till the determination or conclusion of the transaction. The AO ought to be aware of several aspects and matters involved in such transactions. It is not necessary that if the license is for three years that it will operative and continuing till the end. There are terms and conditions on which the leave and license agreement is executed by parties. These terms and conditions are willingly accepted. They enable the license to be determined even before the stated period expires. Equally, the licensee can opt out of the deal. A leave and license does not create any interest in the property. Therefore, it is not as if the security deposit being made, it will be necessarily refundable after the third year and not otherwise. Everything depends upon the facts and circumstances in each case and the nature of the deal or transaction. These are not matters which abide by any fixed formula and which can be universally applied. Today, it may be commercially unviable to enter into a lease and, therefore, this mode of inducting a 'third party' in the premises is adopted. This may not be the trend tomorrow. Therefore, we do not wish to conclude the matter by evolving any rigid test;

As regards properties where standard rent is not fixed:

(v) As regards properties covered by rent control legislation, the AO cannot brush aside the rent control legislation. The AO has to undertake the exercise contemplated by the rent control legislation for fixation of standard rent. The AO either must undertake the exercise to fix the standard rent himself and in terms of the Maharashtra Rent Control Act, 1999 if the same is applicable or leave the parties to have it determined by the Court or Tribunal under that Act.

Comment : Very well interpreted explanation of a long standing controversial issue.

10. CIT vs. M/s Nayan Builders and Developers (Bombay High Court)

Mere admission of Appeal by High Court sufficient to disbar s. 271(1)(c) penalty

In quantum proceedings, the Tribunal upheld the addition of three items of income. The assessee filed an appeal to the High Court which was admitted. The AO levied penalty u/s 271(1)(c) in respect of the said three items. The penalty was upheld by the CIT (A). The Tribunal deleted the penalty on the ground that when the High Court admits substantial question of law on an addition, it becomes apparent that the addition is certainly debatable. In such circumstances penalty cannot be levied u/s 271(1) (c). It held that the admission of substantial question of law by the High Court lends credence to the bona fides of the assessee in claiming deduction. It added that once it turns out that the claim of the assessee could have been considered for deduction as per a person properly instructed in law and is not completely debarred at all, the mere fact of confirmation of disallowance would not per se lead to the imposition of penalty. On appeal by the department to the High Court HELD dismissing the appeal:

This Appeal cannot be entertained as it does not raise any substantial question of law. The imposition of penalty was found not to be justified and the Appeal was allowed. As a proof that the penalty was debatable and arguable issue, the Tribunal referred to the order on Assessee's Appeal in Quantum proceedings and the substantial questions of law which have been framed therein. We have also perused that order dated 27.09.2010 admitting Income Tax Appeal No.2368 of 2009. In our view, there was no case made out for imposition of penalty and the same was rightly set aside.

Comment : Penalty u/s 271(i)(c) should not be imposed if the same is pending before higher authorities.

11. CIT vs. HDFC Bank Ltd (Bombay High Court)

No s. 14A disallowance of interest paid on borrowings if assessee's own funds and non-interest bearing funds exceeds investment in tax-free securities

For AY 2001-02 to 2005-06, the Tribunal deleted the disallowance made u/s 14A on the ground that as the assessee's own funds were more than its borrowed funds, the investments in tax-free securities had to be regarded as being made out of the own funds and no disallowance u/s 14A for the interest on the borrowed funds could be made. On appeal by the department to the High Court HELD dismissing the appeal:

In principle, if there are funds available, both interest-free and over draft and/or loans taken, then a presumption would arise that investments would be out of the interest-free funds generated or available with the company if the interest-free funds were sufficient to meet the investment. On facts, the assessee's own funds and other non-interest bearing funds were more than the investment in the tax free securities. Consequently, the ITAT rightly held that there was no basis for deeming that the assessee had used borrowed funds for investment in tax free securities (Reliance Utilities and Power Ltd 313 ITR 340 (Bom), East India Pharmaceutical Works 224 ITR 627 (SC) & Woolcombers 134 ITR 219 (Cal) followed)

Comment : Much to the relief of assessees in many cases.

12. Bellwether Microfinance Fund Pvt. Ltd vs. ITO (ITAT Hyderabad)

S. 14A: For Rule 8D(2)(i) only expenditure relating to investments resulting in tax-free income can be considered. For Rule 8D(2)(iii) all investments, whether yielding tax-free income or not, have to be considered

The Tribunal had to consider whether in computing the figure of disallowance under Rule 8D(2)(i) and 8D(2)(iii), it was necessary that the investments had to have yielded income which was not chargeable to tax. HELD by the Tribunal:

Rule 8D(2)(i) speaks of expenditure directly relating to income which does not form part of "total income". In the context of s. 2(45) & s. 5, the expression 'total income' in Rule 8D(2)(i) must relate to an income which is sought to be assessed. Therefore, only expenditure directly relating to income which is earned either on receipt basis or on accrual basis and which does not form part of total income of a particular assessment year can be disallowed under clause (i) of Rule 8D(2). However, while computing disallowance under Rule 8D(2)(iii), the average of the total investment of the assessee as appearing in the balance sheet on the first day and last day of the year irrespective of the fact whether it has yielded income or not can be considered for the purpose of disallowance.

Comment : I do not fully agree with this judgement as in Rule 8(2)(iii) it is clearly written that "Investment, Income from which does not and shall not form part of total income" which means although Investments in instruments which have not yielded exempted income during the year but may yield exempted income can be included [such as listed equity shares, mutual funds (Equity or Dividend option), tax free bonds], Investment in those Instruments which cannot yield any exempt income should be excluded [such as Debentures, taxable bonds, Non Equity Mutual funds(growth option), Foreign securities or even unlisted equities of closely held companies]

13. ACIT vs. M. Baskaran (ITAT Chennai)

S. 14A/ Rule 8D: No disallowance can be made if there is no exempt income.Cheminvest (SB) & CBDT Circular are not good law

In AY 2009-10, the assessee held investments worth Rs. 14.05 crore and incurred interest expenditure of Rs. 34.80 lakhs. The assessee claimed that no disallowance u/s 14A & Rule 8D could be made as the investments were made out of own funds and no income was derived from the investments. The AO rejected the claim and made a disallowance of Rs. 19.28 lakhs though the CIT(A) deleted it. Before the Tribunal the department relied onCheminvest Ltd 121 ITD 318 (SB) & Circular No.5/2014 dated 11.2.2014 and argued that even if the assessee has not earned any exempt income, still disallowance u/s 14A read with Rule 8D has to be made and it is mandatory. HELD by the Tribunal dismissing the appeal:

No doubt in Cheminvest Ltd vs. ITO 121 ITD 318 (SB) the Special Bench of the Tribunal has held that disallowance u/s 14A can be made even in the year in which no exempt income has been earned or received by the assessee. This decision of Special Bench of the Tribunal has been impliedly overruled by the decisions of High Courts in Shivam Motors P Ltd (All HC), CIT vs. Corrtech Energy Pvt. Ltd (Guj HC), CIT vs. Delite Enterprises (Bom HC), CIT vs. Lakhani Marketing (P&H HC), CIT vs. Winsome Textiles Industries Ltd 319 ITR 204 (P&H) where it has been held that when there is no exempt income and no claim for exemption, s. 14A and Rule 8D have no application and no disallowance can be made.

Comment : That's a settled law now that decision of Cheminvest (Delhi HC SB) is gone.

14. ACIT vs. Iqbal M. Chagala (ITAT Mumbai)

S. 14A & Rule 8D cannot be applied in a mechanical manner. Disallowance cannot exceed expenditure claimed as a deduction

In AY 2009-10, the assessee was assessed to income of Rs. 12.62 crore. The assessee had investments of Rs. 32.71 crore. The investment transactions were managed by investment advisers and the assessee paid portfolio management services (PMS) fees which were debited to his capital account. The demat expenses and security transaction tax (STT) was also debited to the capital account. The assessee claimed that the expenses relating to salary, telephone and other administrative expenses were incurred by him for his professional income and not for earning tax-free income. However, the AO rejected the claim and made a disallowance of Rs. 16.35 lakhs, being 0.5% of the average investments under Rule 8D(2)(iii). The CIT(A) deleted the disallowance on the ground that it was without establishing any nexus. On appeal by the department to the Tribunal HELD dismissing the appeal:

The assessee had debited direct expenses on account of dematerialization and STT in the capital account and not in the Profit and loss account. The AO had presumed that the assessee had must have incurred some expenditure under the heads salary, telephone and other administrative charges for earning the exempt income. It is further found that the total expenditure claimed by the assessee for the year is about 13 lakhs and the AO had made a disallowance of about Rs.16 lakhs. He has just adopted the formula of estimating expenditure on the basis of investments. But, the justification for calculating the disallowance is missing. The assessee had not claimed any expenditure in its P&L account and so the onus was on the AO to prove that out of the expenditure incurred under various heads were related to earning of exempt income. Not only this he had to give the basis of such calculation. In any manner disallowance of Rs.16.35 lakhs as against the total expenditure of Rs.13 lakhs claimed by the assessee in P&L account is not justified. Rule 8D cannot and should not be applied in a mechanical way. Facts of the case have to be analyzed before invoking them. Consequently the disallowance is deleted (Justice Sam P. Bharucha 53 SOT 192 (Mum) referred).

Comment : Definitely assessing officers must apply there prudence while deciding any disallowance.

15. EIH Associated Hotels Ltd vs. DCIT (ITAT Chennai)

S. 14A & Rule 8D: Investments in subsidiaries to be excluded while computing disallowance

In AY 2008-09, the assessee had investments of Rs. 64 crore of which Rs. 9.4 crore was made in the present year. The entire investment was either in subsidiary or associated companies. The assessee claimed that the investments were not made for the purpose of earning dividend but out of business expediency and that no disallowance u/s 14A and Rule 8D could be made. The AO made a disallowance of Rs. 4.32 crore which was reduced to Rs. 34.20 lakhs by the CIT(A). On appeal by the assessee HELD allowing the appeal:

The investments made by the assessee in the subsidiary company are not on account of investment for earning capital gains or dividend income. Such investments have been made by the assessee to promote subsidiary company into the hotel industry. A perusal of the order of the CIT(A) shows that out of total investment of Rs. 64.18 crore, Rs. 63.31 crore is invested in wholly owned subsidiary. This fact supports the case of the assessee that the assessee is not into the business of investment and the investments made by the assessee are on account of business expediency. Any dividend earned by the assessee from investment in subsidiary company is purely incidental. Therefore, the investment made by the assessee in its subsidiary are not to be reckoned for disallowance u/s 14A r.w.r. 8D. The AO is directed to re-compute the average value of investment under the provisions of Rule 8D after deleting investments made by the assessee in subsidiary company.

Comment : Can be of relief to many holding companies.

16. CIT vs. Impact Containers Pvt. Ltd (Bombay High Court)

S. 2(22)(e): The law laid down in Universal Medicare 324 ITR 263 (Bom) (approving Bhaumik Colour 313 ITR 146 (SB)), that s. 2(22)(e) does not apply to a non-shareholder, is good law

The Tribunal held that s. 2(22)(e) did not apply to the assessee as it was not a shareholder of the entity which lent advances to the assessee. It was held that the addition could be considered in the hands of the shareholder. The Tribunal followed Bhaumik Colour Pvt. Ltd 313 ITR (AT) 146(Mum)(SB) which has been approved in Universal Medicare Pvt Ltd 324 ITR 263 (Bom). The Revenue claimed that Universal Medicare was per incuriam and not good law and that an addition u/s 2(22)(e) could be made even in the case of an entity which is not a shareholder. HELD by the High Court dismissing the appeal:

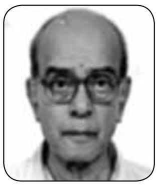
(i) We have perused the provision carefully and equally the judgment in the case of Universal Medicare and the view following the same rendered by several High Courts. We are of the opinion that there is no merit in the contentions of the Revenue that Universal Medicare was either erroneously decided or that the view taken in Universal Medicare requires reconsideration. In that regard, we must not brush aside the binding precedent or the judgment of a coordinate bench simply because some of the arguments canvassed before us were either not canvassed or if canvassed were not considered. The binding precedent can be ignored only if it is per incuriam. Such is not the stand before us. All that is urged is several facets and which emerge from a reading of section namely Section 2(22) together with its sub-clauses have not been noticed by the Division Bench while deciding Universal's case. We are unable to agree with the Revenue in this behalf;

(ii) We do not see how with this legal position and the status of the shareholder recognized in law can be ignored while interpreting Section 2 (22) (e) of the I. T. Act. Precisely, this is what has been done by this Court in the judgment rendered in the case of Universal Medicare. It is not necessary for us to make a detailed reference to the order of the Special Bench of the Tribunal in the case of Bhaumik Colour Pvt Ltd. Suffice it to hold that the view taken by this Court in the case of M/s. Universal Medicare does not require any reconsideration. We are not in agreement with Shri Gupta that the definition does not contemplate or does not stipulate any requirement of assessee being a shareholder of the assessee like the one in the present case. The view taken in the present case that the recipient/assessee was not a shareholder, thus is in consonance with the legal position noted by us hereinabove. We are of the further view that this Court merely restated this principle and which remains unaltered throughout from the case of Rameshwarlal Sanwarmal v/s CIT 122 ITR 1 (SC).

Comment : I don't understand that a matter which is embedded in the law itself and is upheld by the Apex Court, why time and again is raised by the department just to waste time of judiciary and money of exchequer.

EIRC DEEPLY MOURNS THE SAD DEMISE OF

CA NIRMALENDU CHATTOPADHYAY
Membership No. 012872
Passed away on 20th April 2014



CA BIJAN CHANDRA RAY
Membership No. 009353
Passed away on 8th March 2014

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

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1. **No audit by service tax department- Rule 5A(2) of the Service Tax Rules, 1994 struck down- Delhi High Court -(Travelite (India) Vs. UOI & Ors 2014-TIOL-1304-HC-DEL-ST)**

The Delhi High Court in its judgment dated 04/08/2014 has quashed the Rule 5A(2) of the ST Rules, 1994 as ulta vires the Constitution as also the CBEC Circular F. No. 137/26/2007-CX.4 dated 01.01.2008 regarding audit by department.

Applicants plea:

In the given case the assessee petitioner challenged before the High Court a letter dated 07-11-2012 of the respondent Commissioner seeking records for the period 2007-08 till 2011-12 for scrutiny of an audit party; Rule 5A (2) of the Service Tax Rules is also impugned as ultra vires .It is contended that the powers of an assessing officer to call for records in respect of any period during which the respondents seek to intensively scrutinize receipts etc. i.e. a special audit can be ordered by recourse to Section 72-A of the Finance Act, 1994. Barring these, the Finance Act, does not contain any substantive power to call for records for scrutiny as is permissible under Rule 5A(2) or for the purpose of scrutiny by any authority outside of those created under the Act, such as the Comptroller and Auditor General's office.

The petitioner also challenged the CBEC instruction in F. No. 137/26/2007-CX.4 dated 1.1.2008.

Revenue Contention

The Revenue representative submitted that the impugned notice and introduction of Rule 5A, arguing that the rule authorizing audit was made pursuant to the power conferred under Section 94 of the Finance Act, 1994 and not pursuant to Section 72A. The rule is also sought to be justified by invoking the Service Tax Audit Manual, 2011 as the basis for ordering an audit. The respondent states that after its initial letter, it had sent repeated reminders to the petitioner (dated 26.12.2012, 30.1.2013, 8.3.2013) before it had issued summons on 17.5.2013. It urges that the petitioner alleged arbitrariness of the rule only on 1.4.2013 for the first time; until then, the petitioner had maintained that it would cooperate with the authorities of the respondent towards completing the audit. These delaying tactics of the petitioner, the respondent argues, betray mala fides.

Observation of the High Court

"Section 72A envisages an audit of an assessee's records only in special circumstances, namely, when there is a failure to declare or compute the value of the taxable service, when the utilization of CENVAT credit in excessive of the limit permissible or by fraud etc., and when the business operations of the assessee are dispersed across multiple locations. Apart from Section 94, the Revenue could not show any other substantive provision which justifies a probe into the records of the assessee, under conditions akin to those contemplated by Rule 5A(2). The Revenue was also unable to show the compulsion of arming authorities with such sweeping powers, under the Rules.

It is well known that if the legislature contemplates a situation and enacts or provides for a part of it, the other parts are deemed to have been excluded. The law is also well settled that a rule acquires statutory force, so long as it first, conforms to the provisions of the statute under which it is framed and second, it must be within the rulemaking power of the executive authority charged with framing the rules.

The mere fact that a rule-making power is phrased in terms that indicates a general delegation of power, cannot lead to the inference that such power may be exercised to make rules that exceed the bounds of the statute. Rules may only give effect to the statute's provisions and intent and cannot be used to create substantive rights, obligations or liabilities that are not within the contemplation of the statute.

It is apparent that the only type of audit within the contemplation of the statute is that stipulated for in Section 74A, i.e. a special audit when only certain circumstances are fulfilled. The Parliament thus had a clear intention to provide for only a special audit. The fact that Section 74A prescribes the conditions meriting such special audit compels the necessary inference that the Parliament did not intend to provide for a general audit that "every assessee" may be subjected to, "on demand". This Court is thus of the opinion that any attempt to include provision for such a general audit through the back-door, such as through the impugned rule, is ultra-vires the rule making power conferred under Section 94(1). Rule 5A(2) must consequently be struck down.

Likewise, this Court finds that the impugned CBEC instruction, being in furtherance of Rule 5A(2), which rule is ultra-vires the Finance Act, 1994, is void for the same reasons. Executive instructions without statutory force, cannot possibly override the law; consequently, any notice, circular, guideline etc. contrary to statutory laws cannot be enforced.

The impugned circular seeks to put in place a mechanism for audit and scrutiny of documents with the objective of safeguarding the interests of the Revenue, in furtherance of the amendments made in the Service Tax Rules, as indicated in paragraph 7 of the circular. Since the parent statute in this regard, the Finance Act, 1994 itself does not authorise a general audit of the type envisioned by the impugned Rule 5A(2), and furthermore only stipulates that a special audit can be undertaken if the circumstances outlined in Section 72A are fulfilled, this Court finds that the impugned CBEC circular is not only an attempt to widen the scope of the law impermissibly but also is patently contrary to the statute. The impugned circular, to the extent it provides clarifications on a Rule5A(2) audit, is hereby quashed; consequently, the impugned letter is quashed and set aside.

The Service Tax Audit Manual, 2011 is merely an instrument of instructions for the service tax authorities; it is but obvious that it is not a statutory instrument and has no statutory force. Thus, Rule 5A(2) cannot be sought to be justified as against it."

Comments

The practice of audit by service tax department had been a topic of discussion in recent past owing to the rampant growth of corruption and show cause notices all along. the law prescribed only Special audit to be conducted by CA's and ordered by Commissioner of Service Tax under section 72A of the Finance Act, 1994 as amended. Rule 5A(2) was only a rule for furnishing of documents to the department for scrutiny. It never allowed the department to audit the assesses at their will. However, the same was being conducted by the revenue officers citing the Service Tax Audit Manual of the department. This judgment would now put a rest to the audit being conducted by the department under the aegis of the above rule. Ofcourse, the same can be challenged by the revenue in higher forum. Till then assesses can claim the benefit of the above judgment to avoid any sort of so called audit by the department.

2. **Revenue could recover excise dues of lessor by detaining excisable goods belonging to lessee- [BOGIDHOLA TEA & TRADING CO. (P.) LTD. V. UOI (2014) 47 taxmann.com 221 (Gauhati)]**

Section 11 of Central Excise Act read with section 142 of Customs Act empower authorities to attach/detain excisable goods belonging to defaulting-assessee including transferee/lessee/buyer of its business.

Facts:

a) The assessee (lessor), engaged in manufacture of tea, had failed to pay certain excise dues. The assessee leased out tea garden/factory to two petitioners (lessees). Department attached and detained goods (tea) to recover excise dues from lessor.

b) The lessees argued that duty was already paid on tea owned by them and, therefore, such tea could not be detained for recovery of dues of lessor.

c) The assessee further argued that only Commissioner could issue order of attachment/detention and not Deputy Commissioner.

The High Court held in favour of revenue as under:

1) Officers who signed attachment/detention orders were 'Central Excise Officer' under section 2(b) ibid and were empowered to issue impugned orders.

2) Moreover, once provisions relating to detention/attachment contained in Customs Act were made applicable for recovery of dues under Central Excise Act, all provisions of Central Excise Act including section 2(b) would apply for recovery.

3) Furthermore, section 11 read with section 142 empower authorities to raise demand and also to issue attachment/detention orders to detain goods belonging to defaulting assessee including his transferee who stepped into his shoes to carry on business either by purchasing said business or otherwise. Hence, impugned demands/orders were valid.

3. CENVAT Credit on Import of H.R. Carbon Steel Plates & availment of credit **(JSW Steel Ltd Vs CCE 2014-TIOL-1585-CESTAT-MUM)**

In this case the Appellants had availed Cenvat credit on imported HR Carbon Steel plates. These plates were imported for the purpose of rolling to reduce the thickness of the same and clear in the market after doing the process of manufacturing but were unable to process the goods for quality reasons / process was not viable. The Appellant thus cleared the same on payment of duty by reversing the credit availed under Rule 3(5) of CCR, 2004. The allegation of the Revenue is that the impugned goods were neither their inputs nor capital goods, and these goods were finished goods, therefore, the appellant had purchased the said goods for their trading activity and no manufacturing activities were involved in the said goods and, therefore, credit is not admissible.

The Hon'ble CESTAT held that Reversal of credit is not disputed by the department and the duty paid by the appellant at the time of clearance of these goods by reversal of CENVAT Credit amounts to non-availment of the Credit. Thus the order of the lower authority was not sustainable and the appeal was allowed.

A. Direct Tax

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

1. S.O. 1902 (E) In exercise of the powers conferred by section 295 read with section 44AB 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) These rules may be called the Income-tax (7th Amendment) Rules, 2014.

(2) They shall come into force on the date of their publication in the Official Gazette.

In the Income-tax Rules, 1962, in Appendix-II, Form No. 3CA, Form No. 3CB and Form No. 3CD, shall be substituted by new Form No. 3CA, Form No. 3CB and Form No. 3CD.

[Notification No. 33/2014, F.No.133/1/2014-TPL dated 25/07/2014]

2. S.O. 1996.(E) Whereas, the Agreement and the Protocol (hereinafter referred to as the said Agreement and the Protocol) was entered into between the Government of the Republic of India and the Government of Malta, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

And whereas, the date of entry into force of the said Agreement and the Protocol is the 7th day of February, 2014, being the date of later of the notifications of completion of the procedures as required by the respective laws for entry into force of the said Agreement and the Protocol, in accordance with paragraph 1 of article 29 of the said Agreement.

And whereas, sub-paragraph (a) of paragraph 3 of Article 29 of the said Agreement provides that the provisions of the said Agreement shall have effect in India in respect of income derived in any fiscal year beginning on or after the first day of April next following the calendar year in which the said Agreement enters into force;

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby directs that all the provisions of said Agreement and the Protocol between the Government of the Republic of India and the Government of Malta for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, as set out in the Annexure hereto, shall be given effect to in the Union of India with effect from the 1st day of April, 2015.

[Notification No. 34/2014/ F.No. 504/06/2003-FTD-I dated 05.08.2014]

Circulars

CIRCULAR NO. 13/2014: CBDT Issues Circular On Clarification regarding Taxation of ' Alternative investment Funds' having status of Non – Charitable Trusts under the Income Tax Act, 1961

The SEBI (Alternative investment Funds) Regulations, 2012 ('AIF Regulations') vide Regulation No 4 issued in May 2012 aims at regulating all forms of private pool of funds in India. The said Regulations divide the Alternative Instrument Funds ('AIFs') into three broad categories – Category - I, Category – II and Category – III Alternative Investments Funds , depending upon the operational strategies, objectives and fund structure. A large number of AIFs registered with SEBI have been set up in the form of Non Charitable Trusts.

While the AIFs, being venture capital funds, making investment in the venture Capital undertakings have been accorded 'tax pass through' status under section 10(23FB) read with section 115U of the Income tax Act, 1961 (Act) , while investors of such funds would become liable to tax liability on as if the investors have made the investments directly in the venture capital undertaking)

Board has been requested to clarify whether the income of such funds would be taxable in the hands of the Trustees of the AIF or in the hands of the investors.

The matter has been examined. In the situation where the trust deed either does not name the investors or does not specify their beneficial interests, the entire income of the fund shall be liable to be taxed at the Maximum Marginal Rate of Income Tax in the hands of the Trustees. It is also clarified that in such cases, provisions of Section 166 of the Act need not be invoked in the hands of the investors, as corresponding income has already been taxed in the hands of the representative assessee in accordance with section 161(1A) of the Act.

However, in cases of funds, where names of the beneficiaries and their interests in he Fund are determined the tax on whole of the income of the fund would be leviable omn the Trustees of such AIF at the Maximum Marginal Rate of Income Tax in accordance with section 161(1A) of the Act.

The clarification given above shall not be operative in the area falling in the jurisdiction of a High Court which has taken or takes a contrary decision on the issue.

F.No.133/24/2014-TPL
Order Under Section 119 of the Income-tax Act, 1961

1. In exercise of power conferred by section 119 of the Income-tax Act ('the Act'), the Central Board of Direct Taxes (CBDT) hereby extends the due date for obtaining and furnishing of the report of audit under section 44AB of the Act for Assessment Year 2014-15 in case of assessees who are not required to furnish report under section 92E of the Act from 30th day of September, 2014 to 30th November, 2014.

2. It is further clarified that the tax audit report under section 44AB of the Act filed during the period from 1st April, 2014 to 24th July, 2014 in the pre-revised Forms shall be treated as valid tax audit report furnished under section 44AB of the Act.

(J.Saravanan)
Under Secretary (TPL-III)

Note : A clarification regarding extension of due date of filing of Income Tax Return u/s 139(1) for the assessees who are required to obtain report u/s 44AB, is awaited from the CBDT.

B. Service Tax

Compiled by **CA Ankit Kanodia**
ankit@skkassociates.com

1. CBEC Notifies 'Principal Chief Commissioner' in Rules and Notifications (Notification no. 16/2014- Service Tax, Dated: August 6, 2014).
2. Services related to religious pilgrimage facilitated by 'specified organisations' exempted from service tax (Notification no. 17/2014- Service Tax, Dated: August 20, 2014).

C. Central Excise

Compiled by **CA Ankit Kanodia**
ankit@skkassociates.com

1. CBEC Notifies 'Principal Chief Commissioner' in Rules and Notifications (Notification no. 23/2014- Central Excise (NT), Dated: August 6, 2014).
2. Central Act - Govt fixes 6% interest rate on delayed refund of pre-deposit (Notification no. 24/2014- Central Excise (NT), Dated: August 12, 2014).

D. Customs

Compiled by **CA Ankit Kanodia**
ankit@skkassociates.com

1. Import duty on Raw/Refined/White Sugar hiked to 25% (Notification no. 26/2014- Customs, Dated: August 21, 2014).
2. CBEC Notifies 'Principal Chief Commissioner' in Rules and Notifications (Notification no. 56/2014-Customs (NT), Dated: August 6, 2014).
3. CBEC notifies new Customs Exchange rates effective from August 8, 2014 (Notification no. 57/2014-Customs (NT), Dated: August 7, 2014).
4. Customs Act - Govt fixes 6% interest rate on delayed refund of pre-deposit (Notification no. 70/2014-Customs (NT), Dated: August 12, 2014).
5. Govt reduces tariff value of silver but hikes for same for gold (Notification no. 71/2014-Customs (NT), Dated: August 14, 2014).
6. CBEC notifies new Customs Exchange rates effective from August 22, 2014 (Notification no. 72/2014-Customs (NT), Dated: August 21, 2014).
7. Board's Instruction F.No. 609/156/2013-DBK dated 25.02.2014 (Instruction no. F.No.609/156/2013-DBK, Dated: August 11, 2014).
8. Guidelines for considering request for exemption from payment of Customs Duty under Section 25(2) of Customs Act, 1962 (Circular no. 9/2014 -Cus., Datd: August 19, 2014).
9. Definitive anti-dumping duty on Sodium Nitrite imposed for five years (Notification no. 37/2014-Cus.,(ADD), Dated: August 08, 2014).
10. Anti-dumping duty on polypropylene - period extended up to July, 2015 (Notification no. 38/2014-Cus.,(ADD), Dated: August 13, 2014).
11. Govt imposes definitive anti-dumping duty on Ceftriaxone Sodium Sterile (Notification no. 39/2014-Cus.,(ADD), Dated: August 14, 2014).

E. FEMA & FDI

Compiled by **CA Gautam Sharma**
gautam@sarafchandra.com

1. **Know Your Customer (KYC) Norms/Anti-Money Laundering (AML) Standards/ Combating of Financing of Terrorism (CFT)/ Obligation of Authorised Persons under Prevention of Money Laundering Act (PMLA), 2002 – Money Changing Activities – Recognising E-Aadhaar as an 'Officially Valid Document' under PML Rules**

   Reserve Bank vide Notification No. **RBI/2013-14/137 A. P. (DIR Series) Circular No.9, dated 21st July, 2014** has drawn Attention of Authorised Persons, is invited to F-Part-II of our A.P. (DIR Series) Circular No.17 [A.P. (FL/RL Series) Circular No.05] dated 27th November, 2009, as amended from time to time that physical Aadhaar card/ letter issued by the Unique Identification Authority of India (UIDAI) containing details of name, address and Aadhaar number may be accepted as an 'Officially Valid Document'. F-Part-II of the above mentioned circular lists officially valid documents for customer identification.

2. **Know Your Customer (KYC) Norms/Anti-Money Laundering (AML) Standards/ Combating of Financing of Terrorism (CFT)/ Obligation of Authorised Persons under Prevention of Money Laundering Act (PMLA), 2002 – Money Transfer Service Scheme – Recognising E-Aadhaar as an 'Officially Valid Document' under PML Rules**

   Reserve Bank vide Notification No. **RBI/2014-15/138 A. P. (DIR Series) Circular No.10, dated 21st July, 2014** has drawn Attention of Authorised Persons who are Indian Agents under MTSS is invited to Annex II of our A.P. (DIR Series) Circular No.18 [A.P. (FL/RL Series) Circular No.05] dated 27th November, 2009, as amended from time to timethat physical Aadhaar card/ letter issued by the Unique Identification Authority of India (UIDAI) containing details of name, address and Aadhaar number may be accepted as an 'Officially Valid Document'. F-Part-II of the above mentioned circular lists officially valid documents for customer identification.

3. **Export of Goods and Services – Project Exports**

   Reserve Bank vide Notification No. **RBI/2014-15/141 A.P. (DIR Series) Circular No.11, dated 22nd July, 2014** ask the attention of AD to Regulation 18 of Notification No. FEMA 23/2000-RB, dated 3rd May, 2000 in term of which prior approval of approving authority requires for export of goods or services on deferred payment terms or in execution of turnkey project or civil construction, A.P. (DIR Series) Circular No. 32, dated 28th October, 2003 (Memorandum of Instructions on PEM has been revised), A.P. (DIR Series) Circular No. 118, dated 26th June 2013 (time limit to submit form DPX 1/ PEX-1/ TCS-1 was increased to 30days of entering into contract) and A. P. (DIR Series) Circular No. 51 dated September 20, 2013 (Submission of forms DPX1, PEX-1, TCS-1 and DPX-3 to the Regional Office of the RBI (Foreign Exchange Department) within whose jurisdiction the Head Office of the exporter is situated by the AA).

4. **Exim Bank's Line of Credit of USD 41.96 million to the Government of the Republic of Senegal**

   Reserve Bank vide Notification No. **RBI/2014-15/144 A. P. (DIR Series) Circular No. 12, dated 23rd July, 2014** has entered into agreement for making available to the latter that w.e.f. 25th June, 2014LOC of USD 41.96 million for financing eligible goods, machinery, equipment and services including consultancy services from India for the purpose of financing purchase of setting up of Modern Abattoir, Meat processing, Cold Storage, Rendering and Tannery Plant and Market Place in Senegal. The goods and services including consultancy services of the value of at least 75% of the contract price shall be supplied by the seller from India and the remaining 25% goods and services may be for the purpose of Eligible Contract from outside India.

5. **Foreign investment in India by SEBI registered Long term investors in Government dated Securities**

   Reserve Bank vide Notification No. **RBI/2014-15/145 A. P. (DIR Series) Circular No. 13, dated 23rd July, 2014** has amended earlier notification in relating to purchase of Government securities and NCDs/ bonds issued by an Indian company on repatriation basis by Foreign Institutional Investors, SEBI registered Qualified Foreign Investors and long term investors registered with SEBI and enhancing the investment limit in government securities by USD 5 billion, the same incremental invested in government bonds with a minimum residual maturity of 3 years, by correspondingly reducing the amount available to long term investor from USD 10 billion to USD 5 billion within the overall limit of USD 30 billion.

6. **Issue of Prepaid Forex Cards- Due Diligence and Adherence to KYC norms**

   Reserve Bank vide Notification No. **RBI/2014-15/147 A.P. (DIR Series) Circular No.14, dated 25th July, 2014** has clarifies that prepaid foreign currency cards are a form of foreign currency, similar to foreign currency notes or travellers cheques. AD/ FFMCs selling pre-paid foreign currency cards for travel purposes are required to comply with the same rigorous standards of due diligence and KYC.

7. **Compilation of R-return: Reporting under FETERS-Discontinuation of ENC and Sch 3 to 6 file**

   Reserve Bank vide Notification No. **RBI/2014-15/151 A.P. (DIR Series) Circular No. 15, dated 28th July, 2014** has announce thatw.e.f 01st March, 2014 comprehensive IT- based system called Export Data Processing and Monitoring System (EDPMS) has been operationalisedand facilitating AD banks to report various returns through a single platform. Further, w.e.f. first fortnight of September 2014, only two files (i.e. Viz. BOP6 file and QE file) need to be submitted under FETERS and ENC and Sch. 3 to 6 file submitted under FETERS will be discontinued.

8. **Trade Credits for Imports into India — Review of all-in-cost ceiling**

   Reserve Bank vide Notification No. **RBI/2014-15/152 A.P. (DIR Series) Circular No.16, dated 28th July, 2014** has been decided that the all-in-cost ceiling as specified under paragraph 4 of A.P. (DIR Series) Circular No.28, dated 11th September, 2012 will continue to be applicable till 31st December, 2014 and is subject to review thereafter.

9. **External Commercial Borrowing (ECB) Policy — Review of all-in-cost ceiling**

   Reserve Bank vide Notification No. **RBI/2014-15/153 A.P. (DIR Series) Circular No.17, dated 28th July, 2014** has been decided that the all-in-cost ceiling as specified under paragraph 2 of A.P. (DIR Series) Circular No. 99, dated 30th March, 2012 will continue to be applicable till 31st December, 2014 and is subject to review thereafter. All other aspects of ECB policy remain unchanged.

10. **Constitution of Special Investigating Team – sharing of information**

    Government of India has constituted a Special Investigation Team (SIT) under the Chairmanship of Hon'ble Justice M.B. Shah on the ground of the Hon'ble Supreme Court Judgment dated 4th July, 2011. Reserve Bank vide Notification No. **RBI/2014-15/154 A. P. (DIR Series) Circular No. 18, dated 30th July, 2014** has mentioned that all Authorised Persons are advised to ensure that information/documents required by the SIT are made available, as and when required.

11. **Liberalised Remittance Scheme for resident individuals-clarification**

    Reserve Bank vide Notification No. **RBI/2014-15/171 A. P. (DIR Series) Circular No. 19, dated 11th August, 2014** hasclarifies that the Scheme in term of A.P. (DIR Series) Circular No. 5 dated July 17, 2014 can also be used for acquisition of immovable property outside India. Further, the requirement of post facto reporting stipulated in terms of A.P. (DIR Series) Circular No.32 dated September 04, 2013, (Sr. no. 4 of Annexure to the Circular) stands withdrawn.

12. **Deferred Payment Protocols dated April 30, 1981 and December 23, 1985 between Government of India and erstwhile USSR**

    Reserve Bank issues Notification No. **RBI/2013-14/172 A.P. (DIR Series) Circular No.20, dated 12th August, 2014.** W.e.f. 12th August, 2014 the Rupee value of the Special Currency Basket has been revised and fixed at Rs.83.137417. AD Category-I banks may bring the contents of this Circular to the notice of their constituents concerned.

WORK DISPOSAL

WORK DISPOSAL STATUS OF VARIOUS ACTIVITIES RELEATED TO MEMBERS SECTION as on 29/08/2014

1)	New Enrolment	19/08/2014
2)	Grant of Certificate of Practice	22/08/2014
3)	Grant of Fellow Admission	22/08/2014
4)	Firm Registration / Constitution	25/08/2014
5)	Reconstitution of Firms	11/08/2014
6)	Restoration	25/08/2014
7)	Change of address	18/08/2014
8)	Permission of other engagement	18/08/2014

ARTICLES SECTION as on 26/08/2014

New Registration	15/08/2014
Industrial training Registration	20/08/2014
Re registration	22/08/2014
Termination	22/08/2014
Completion	18/08/2014
Permission to Study	26/08/2014
Supplementary Registration	26/08/2014
Change of Address	26/08/2014

BOARD OF STUDIES SECTION as on 27/08/2014

CPT REGISTRATION	13/08/2014	
IPCC REGISTRATION	04/08/2014	
FINAL REGISTRATION	14/08/2014	
	BY HAND	**BY POST**
ISSUANCE OF STUDY MATERIALS CPT	UPTO DATE	25/07/2014
ISSUANCE OF STUDY MATERIALS IPCC	UPTO DATE	31/07/2014
ISSUANCE OF STUDY MATERIALS FINAL	UPTO DATE	18/07/2014
GMCS CERTIFICATE ISSUANCE	UPTO DATE	
ORIENTATION CERTIFICATE ISSUANCE	UPTO DATE	
ITT CERTIFICATE ISSUANCE	08/06/2014	
CHANGE OF NAME/ADDRESS	UPTO DATE	

ASANSOL BRANCH

L – R: CA Bamdeb Biswas, Chairman, Asansol Branch, CA Arijit Chakraborty, CA Sanjay Bhattacharya, CA Chandan Kumar Dey

BHUBANESWAR BRANCH

Welcoming the President, ICAI, CA K Raghu at Bhubaneaswar Airport on the occasion of the All India Conference at Bhubaneswar

GUWAHATI BRANCH

Seminar on Recent Changes in Tax Audit & State Taxes held on 16th August, 2014 at ICAI Bhawan, Guwahati

ROURKELA BRANCH

Members attending the Seminar of Companies Act 2013

SAMBALPUR BRANCH

L – R: CA Pradip Kumar Shaw, Secretary, Sambalpur Branch, Shri A K Pandey, CA Seshadev Mishra, Chairman, Sambalpur Branch, Shri R P Gupta

Seminar organised by the Branch

SILIGURI BRANCH

Faculty Sri Vinay Saini , CA Sanjay Goyal (Chairman, Siliguri Br.) , CA Pushpak Sinhal (Prog Coordinator) & Others on Inaugural Session of DISA PT Batch at Siliguri

Faculty CA Raginee Goyal , CA Suneel Keshwani , CA Sanjay Goyal (Chairman, Siliguri Branch) with others at Seminar on Women Empowerment at Siliguri on 8th August 2014

4th ICAI All Region Joint Conference on 8th and 9th August 2014 at Royal Bengal Room, City Centre, Salt Lake, Kolkata

L-R : CA Raj Singhania, CA Pramod Dayal Rungta, Vice Chairman, EIRC, CA Radhey Shyam Bansal, Chairman, NIRC, CA Anil S Bhandari, Chairman, WIRC, CA Subhash Chandra Saraf, Chairman, EIRC, CA C M Bachhawat, IAS, Principal Secretary, Dept. of Commerce, Govt. of WB, CA N P Sarda, Past President, ICAI, CA Abhijit Bandyopadhyay, Council Member, ICAI, CA P V Rajarajeswaran, Chairman, SIRC, CA Anirban Datta, Secretary, EIRC

Releasing the Official Souvenir- L –R: CA Raj Singhania, CA Pramod Dayal Rungta, Vice Chairman, EIRC, CA Radhey Shyam Bansal, Chairman, NIRC, CA Anil S Bhandari, Chairman, WIRC, CA Subhash Chandra Saraf, Chairman, EIRC, CA C M Bachhawat, IAS, Principal Secretary, Dept. of Commerce, Govt. of WB, CA N P Sarda, Past President, ICAI, CA Abhijit Bandyopadhyay, Council Member, ICAI, CA P V Rajarajeswaran, Chairman, SIRC, CA Anirban Datta, Secretary, EIRC

Lighting the inauguration lamp by the dignitaries

Group Photograph of the dignitaries

L – R : CA Manish Goyal, Treasurer, EIRC, CA Shruti J Shah, Secretary, WIRC, Padmashree CA T N Manoharan, Past President, ICAI, CA N P Sarda, Past President, ICAI, CA Sunil Kumar Sahoo, Member, EIRC

L – R: Ranjeet Kumar Agarwal, Past Chairman, EIRC, CA Pramod Kumar Maheswari, CA Vineet Mehta, CA Sandeep Baldava, CA Pramod Dayal Rungta, Vice Chairman, EIRC

L – R : CA Nawshir Mirza, CA Dipankar Chatterji, Past Council Member, ICAI, CA Subhash Chandra Saraf, Chairman, EIRC, CA S Gurumurthy

L – R : CA Anirban Datta, Secretary, EIRC, CA P R Ramesh, CA Subhash Chandra Saraf, Chairman, EIRC

Amendments to Form 3CD & Important Changes in Income Tax by Finance Bill 2014 on 11th August 2014

L – R: CA Anirban Datta, Secretary, EIRC, Advocate Subash Agarwal, CA Subhash Chandra Saraf, Chairman, EIRC, CA Sunil Surana

Seminar on Investor Awareness on 13th August 2014

L – R: Mr. Debasish Bandyopadhyay, ROC, WB, CA Subhash Chandra Saraf, Chairman, EIRC, CS Rajesh Chura

Independence Day Celebration on 15th August 2014

L – R: CA Manish Goyal, Treasurer, EIRC, CA Pramod Dayal Rungta, Vice Chairman, EIRC, CA Subhash Chandra Saraf, Chairman, EIRC, CA Anirban Datta, Secretary, EIRC

Changes in MCA Portal Relating to ROC form 19th August 2014

L – R: CA Anirban Datta, Secretary, EIRC , CA Pramod Dayal Rungta, Vice Chairman, EIRC, CA Mohan Ram Goenka

Corporate Governance in the Light of Companies Act 2013 on 20th August 2014

L – R: CA Arijit Roy, CA Abhijit Bandyopadhyay, Council Member, ICAI, CA Pramod Dayal Rungta, Vice Chairman, EIRC, CA Manoj Chandak, CA Manish Goyal, Treasurer, EIRC

L – R : CA Palash Lahiri, CA Ranjeet Kumar Agarwal, Past Chairman, EIRC

Seminar on Professional Opportunities in NPO on 21st August 2014

L – R: CA Manish Goyal, Treasurer, EIRC, CA Rajkumar S Adukia, Council Member, ICAI, CA Suresh Kejriwal, CA Subhash Chandra Saraf, Chairman, EIRC

L- R : CA Manoj Fogla, CA Vishal Pachisia, CA Suresh Kejriwal

Registered RN 27144/75 Registered KOL RMS / 227 / 2013-2015

Programme on Investor Awareness with Rotary Club of Kasba on 23rd August 2014

Programme on Investor Awareness

Seminar on Digital Threats and Securities on 27th August 2014

L-R : CA Pramod Dayal Rungta, Vice Chaiman, EIRC, Mr. Rakshit Tandon, CA Subhash Chandra Saraf, Chairman, EIRC

Commencement of Certificate Course of IFRS at Kolkata

Commencement of ISA Course at Kolkata

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Commencement of Certificate Course on Concurrent Audit of Banks at Kolkata

BOOK POST

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