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The Chartered Accountant STUDENT

Your monthly guide to CA news, information and events

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INSIDE

- 3 President's Communication
- 4 Vice President's Communication
- 5 Chairman's Communication
- 6 Article: Income Computation and Disclosure Standards:
A Preliminary Insight
- 16 Article: Central Excise Valuation and Legal Metrology Act
- 22 Article: Taxation of NRIs
- 25 Announcements
- 34 Poem

SWACHH BHARAT - A STEP TOWARDS CLEANLINESS

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|| PRESIDENT'S COMMUNICATION



My Dear Students,

“Consciously or unconsciously, everyone of us does render some service or another. If we cultivate the habit of doing this service deliberately, our desire for service will steadily grow stronger and it will make not only for our own happiness, but that of the world at large.” said Mahatma Gandhi.

Social responsibility is perhaps as old as mankind. The Companies Act, 2013 brought the concept of social responsibility at the forefront by having specific provisions to make it mandatory for specified class of companies. ICAI is also actively participating in the initiative of government. There are 573 chartered accountants who have offered their services, *pro bono*, to physically verify the project of construction of toilets by selected PSUs. The students who are larger in number can contribute a lot in general social improvement. They can organize or participate in activities such as cleanliness drives, tree plantation, etc. One important area where you must involve is education. Find people who are illiterate and teach them to read and write – one at a time. The collective efforts of about 8,50,000 students can be a major force to eradicate illiteracy in the country.

The profession of Chartered Accountancy functions within the ambit of a highly dynamic environment, which is characterized by frequent changes in economic conditions, laws, information technology and so on. To remain in tandem we periodically review the scheme of education and training. The New Proposed Scheme of Education and Training has elicited overwhelming response from students, members in practice, members in industry, HR professionals, parents, academicians, etc. We have received mails numbering around 1500 and more than 30 outreach meetings have been conducted across the country. In line with the present trend wherein a large number of members are preferring jobs over practice, we are seeking more inputs from industry.

An important achievement of the Institute that I would like to share with you is the Campus Placement Programme. The Institute has proved itself as an important destination for business organizations to recruit entry-level finance, audit and other executives. You will be pleased to know that the Institute, in February-March, organized the campus placement programme for the newly qualified Chartered Accountants at 20 centres across the country in two phases. The highest salary offered for domestic and international postings were ₹21.50 lakh and ₹30 lakh respectively. There is a huge demand for Chartered Accountants which is constantly growing. The growth of economy will also translate into more opportunities for all of you.

Students will also be happy that know that the Council of the Institute has decided that wealth-tax will not be made applicable for the November 2015 examination and subsequent ones.

This journal will reach you in the midst of CA examinations. My heartfelt best wishes to all the students who are taking these examinations. With a well planned strategy you can easily pass the examinations as they are not as difficult as some students perceive them to be. I am sure the students who have thoroughly studied all the subjects and have also completed revisions a couple of times will easily pass these examination. I am happy that, as a part of their preparation, a large number of students have participated in the Mock Tests organized by Board of Studies across the country.

The completion of the examination should also bring in period of relief and provide you with well deserved break to relax and do other important things. I would like to advise you to utilize the available time in a constructive manner. Do not allow break to unduly linger. A student of the Chartered Accountancy course has to remain as a student life long. Remain ever receptive to new knowledge. Learning in the professional journey of Chartered Accountancy has no final destination. Reaching intermittent milestones should not slow you down. Keep on studying and be abreast with the developments taking place around you. Remain focused and success will be yours. As Lord Buddha said, “The mind is everything. What you think, you become.” So, keep your mind strong, goals firm so that you can deliver the best.

With best wishes,

A handwritten signature in blue ink, appearing to read 'adnis' with a stylized flourish below it.

CA. MANOJ FADNIS

**PRESIDENT
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**

VICE PRESIDENT'S COMMUNICATION ||



Dear Students,

I would like to convey my best wishes to all the students appearing in the May 2015 examinations. I sincerely hope that all of you will do well in the examination. If you have planned and are preparing for the ensuing examination with devotion, dedication and passion, it is certain that your hard work will reap good dividends. Your meticulous study coupled with careful scheduling the strategy will definitely help you to achieve the set goal successfully.

As you all know that to become an efficacious Accountancy professional, it necessitates a righteous, dedicated and continuous hard work. Chartered Accountancy, like any other professional examinations require a great deal of devotion, dedication and commitment as well. Chartered Accountancy course is an arduous one and requires steadfast energies on the part of the students. Most of the students are not able to accomplish favorable results due to inadequate planning and not able to handle precisely the time management. If you can adopt and manage your time appropriately, you can attain the superlative results. Remember effective time management before the examination and during the examination is the key to success.

There are another set of students who do not recognize their true potential. Most of them have a tendency of settling down with whatever they are able to triumph. With the fast changing scenario, it has become fundamental for the students to accomplish good results and to surpass expectations. You should also have a clear cut and well-defined objectives about what you intend to succeed in your life. You should nurture a high degree of self-confidence to achieve your goals in life. As **Swami Vivekananda** said, *"We are responsible for what we are, and whatever*

we wish ourselves to be, we have the power to make ourselves. If what we are now has been the result of our own past actions, it certainly follows that whatever we wish to be in future can be produced by our present actions; so we have to know how to act."

For future Chartered Accountancy professionals, the road is paved with tremendous opportunities in diversified fields of Finance. However, the hardships and obstacles, which one encounters along the way, are so perplexing that a large percentage of students tend to give up their career path in the mid-way. The future Chartered Accountants prerequisite is to develop and articulate self-confidence to reach the goal of success. Your conscientious commitment has to be total. Half-hearted efforts are unlikely to produce desired results. So, whatever task or assignment you are undertaking, do it whole heartedly. Be dedicated to your well-defined goal and focus your energies, thoughts and time with single-minded devotion. I suggest you all to stay focused on your strategies of selected profession. If you remain devoted, you will never lose your aspiration and passion to achieve what you preferred.

As you all know that learning is a never ending process since competence development is the greatest tool, and even after qualifying in the examinations, you will agree that the learning process cannot be stopped and we have to resolutely keep abreast of new technologies to be competitive. A true professional never ceases to learn. Acquiring knowledge is not restricted for examination purpose alone. A genuine thirst for knowledge is quite stimulating, since, knowledge itself is a delightful experience. Hence, the stress and fear about any examination should automatically get dispelled.

Wishing you all the best in all your future endeavors.

Yours sincerely,

CA. M. DEVARAJA REDDY
VICE PRESIDENT
ICAI, NEW DELHI

CHAIRMAN'S COMMUNICATION



My Dear Students,

When the CA Student Journal reaches you, many of you will be knee deep in examinations. The Board of Studies wishes each and everyone of you all the very best. May you come out with flying colours and step ahead in your path to success. Music is Life, that is why our hearts have beats; Two letters CA is the motto of your life, that is why not only your heart but your parents' heart as well beat to attain the coveted qualification. The Board of Studies cares for you. A caring person in your life is like your heartbeat. Heartbeat is not visible, but silently supports your Life. Board of Studies silently supports you in every moment of your student life.

POINTS TO PONDER

Sri Sathya Sai Baba has given a wonderful Divine message: "When a few tiny stones get mixed in rice and get between the teeth, one laments in disgust that the plate of rice is but a plate of stones. It is human nature to exaggerate in order to create an impression. Often, people treat joy as incidental and insignificant and dwell more on grief and pain. Do not give in during times of trouble. The root-cause for losses, troubles, frustration and difficulties is the loss of self-confidence and enthusiasm. The secret of strength and courage lies within you. Good people and well-wishers endowed with spontaneity, sacrifice and a spirit of detachment are very much present amongst us. Have faith and do not despair or lose faith in yourself or God. Be pure, be simple, be sincere and He will answer your call." Immature people always want to win arguments even at the cost of a relationship. It is always better to lose an argument to retain a relationship. Stay away from negative people as they have a problem for every solution. Life becomes easier when one learns to accept the apology they never got.

KEYS FOR SUCCESS

1. Don't stop when you are tired, stop when you are done. Its hard to beat a person who never gives up.
2. Work hard in silence, let your success make the noise.
3. In order to succeed, your desire for success should be far greater than your fear of failure.
4. There are 3 C's in life – Choices, Chances and Changes. You must make a choice or take a chance or change for the better.
5. Investing in yourself is the best investment you will ever make. It will not only improve your life, but will improve the lives of all those around you.
6. You only have to endure to conquer.
7. Difficulties mastered are opportunities won.

8. Courage is what it takes to stand up and speak, sometimes, courage is also what it takes to sit down and listen.
9. Keep your face to the sunshine and you will not see the shadows.
10. It is better to light a small candle than to curse the darkness.

TO THOSE WHO HAVE NOT BEEN FORTUNATE TO CLEAR THE EARLIER CA EXAMINATIONS

Stay Positive, Stay fighting, stay brave, stay ambitious, stay focused and stay strong. Please remember apart from your hard work, your attitude is also the deciding factor for success. A person is happy not because everything is right in his life, but because his attitude to everything in his life is right. **Ability is what you are capable of doing. Motivation determines what you do. Attitude determines how well you do it.** Focus on what is ahead, resolve to keep yourself happy. Success and Happiness lies in you. Your joy and determination to succeed will form a wall against difficulties and you will be invincible. Create a road map for your successful journey through life. Be positive and always remember that the sharpest axe is the one that has been honed repeatedly. Of course, it is difficult to wait but it is more difficult to regret. Worrying is a waste of time. It doesn't change anything. It messes with your mind and steals your happiness. Please remember **God uses broken things Beautifully; Broken clouds pour rain; Broken soil sets as fields; Broken crops yield seeds; Broken seeds give life to new plants; So, when you feel you are broken, be rest assured that God is planning to utilize you for something great. There is always light at the end of the tunnel.**

WRAP UP POINT

The following Story is of great relevance to CA Students: Lord Buddha was staying with his disciples in a village and he was thirsty. He asked his disciple to fetch him water from the stream. The disciple went to the stream and to his dismay the water was muddy because of the children stomping around and the women washing clothes. He returned empty handed and told Buddha of his woes. Lord Buddha smiled and sent another disciple. He returned after a while with a jug full of clear water. The first disciple was amazed and queried Buddha how the second disciple got clear water for which Buddha smiled and said "Patience pays. He waited till the water settled, the mud moved down and just scooped the clear water at the top. In Life too sometimes, we must be patient – have a wait and watch approach, things will change for the better, difficulties and problems will settle down and you will have a clear path. Patience is the key to success." Relationships are hard these days because conversations have become texting, get-togethers are now whatsapp and feelings have turned into status updates. We can't upload luck, We can't download time. Google can't give all the solutions. So, just login to reality and like the status of your life. **Life has no pause buttons; dreams have no expiry date; time has no holiday, so cherish every moment of your life and make it count.**

With Warm Professional Regards,

Forever, yours in service,

(CA. V. MURALI)

CHAIRMAN, BOARD OF STUDIES, ICAI, NEW DELHI

Income Computation and Disclosure Standards : A Preliminary Insight

The contributor is Deputy
Director, ICAI

Background

Section 145 of the Income-tax Act, 1961 provides for the method of accounting. Section 145(1) requires income chargeable under the heads "Profits and gains of business or profession" or "Income from other sources" to be computed in accordance with either the cash or mercantile system of accounting regularly employed by the assessee, subject to the provisions of section 145(2). The Finance Act, 1995 empowered the Central Government to notify in the Official Gazette from time to time, under section 145(2), accounting standards to be followed by any class of assessee or in respect of any class of income. Accordingly, in 1996, the Central Government had notified two accounting standards under section 145(2), namely "Disclosure of Accounting Policies" and "Disclosure of Prior Period Items and Extraordinary Items and Changes in Accounting Policies". Thereafter, no other accounting standards have been notified under section 145(2). As a result, there was uncertainty and lack of clarity regarding application of accounting principles for tax purposes. Varying interpretations by the tax payer and the tax authorities gave rise to avoidable litigation.

Constitution of Accounting Standards Committee

For the purpose of addressing these issues, the CBDT constituted an "Accounting Standards Committee" in 2010 to *inter alia* study the harmonization of Accounting Standards with the provisions of direct tax laws in India and suggest the Accounting Standards which need to be adopted under section 145(2) of the Income-tax Act, 1961 with relevant modifications (to be termed as tax accounting standards). In August 2012, the Committee submitted its Final Report. In October 2012, the CBDT published the Final Report of the Committee along with fourteen draft tax accounting standards.

Origin of ICDSs

The Committee, in its Final Report, had recommended that the accounting standards notified under the Income-tax Act, 1961 should be made applicable only for computation of taxable income. There should be no requirement to maintain books of account

on the basis of accounting standards notified under the Income-tax Act, 1961. After examining the suggestions received from stakeholders and general public on the Final Report placed in public domain, the Committee had recommended that the provisions of section 145 be appropriately amended to clarify that the accounting standards notified thereunder are to be followed for computation of income and not for maintenance of books of account. Accordingly, in order to clarify that the notified standards are to be followed for computation of income and disclosure of information by any class of assessee or for any class of income, section 145(2) was amended by the Finance (No.2) Act, 2014 to provide that the Central Government may notify in the Official Gazette from time to time, **income computation and disclosure standards (ICDSs)** to be followed by any class of assessee or in respect of any class of income.

Notification of ICDSs

In January, 2015, a revised set of twelve draft ICDSs were put up for public comments. After considering the comments of the stakeholders, the Central Government has, vide Notification dated 31.3.2015, in exercise of the powers conferred under section 145(2), notified ten income computation and disclosure standards (ICDSs) to be followed by all assessee, following the mercantile system of accounting, for the purposes of computation of income chargeable to income-tax under the head "Profit and gains of business or profession" or "Income from other sources". This notification shall come into force with effect from 1st April, 2015, and shall accordingly apply to the A.Y. 2016-17 and subsequent assessment years. The ten notified ICDSs are:

- ICDS I : Accounting Policies
- ICDS II : Valuation of Inventories
- ICDS III : Construction Contracts
- ICDS IV : Revenue Recognition
- ICDS V : Tangible Fixed Assets
- ICDS VI : The Effects of Changes in Foreign Exchange Rates
- ICDS VII : Government Grants
- ICDS VIII : Securities

ICDS IX : Borrowing Costs
ICDS X : Provisions, Contingent Liabilities and Contingent Assets

Cardinal features of Notified ICDSs

- (i) **Applicability:** All the notified ICDSs are applicable for computation of income chargeable under the head “Profits and gains of business or profession” or “Income from other sources” and **not** for the purpose of maintenance of books of accounts. This is stated in the Preamble at the beginning of each ICDS.
- (ii) **Position in case of conflict with the Income-tax Act, 1961:** In the case of conflict between the provisions of the Income-tax Act, 1961 and the notified ICDSs, the provisions of the Act shall prevail to that extent. This is also stated in the Preamble at the beginning of each ICDS.
- (iii) **Scope Paragraph:** Each of the ten notified ICDSs has a scope paragraph explaining what exactly the ICDS deals with. In some standards, the scope paragraph also specifies what the ICDS does not deal with.
- (iv) **Transitional Provisions:** All ICDSs (except ICDS VIII on Securities) contain transitional provisions to facilitate first time adoption and prevent any tax leakage or any double taxation.
- (v) **Disclosure Requirements:** All ICDSs (except ICDS VI on Effects of changes in foreign exchange rates and ICDS VIII on Securities) contain specific disclosure requirements. The last paragraph(s) of these ICDSs is on disclosure.

The salient features of the ten notified ICDSs are given as an Appendix.

January 2015 Draft ICDSs *vis-à-vis* March 2015 Notified ICDSs

Draft ICDSs on Leases and Intangible Assets have not been notified. Further, certain inconsistencies in the January, 2015 Draft ICDSs have been set right in the Notified ICDSs. Also, certain clarifications which were needed have been incorporated. Some examples are given hereunder -

- (i) **Applicability to assessee following mercantile system of accounting:** The notification clarifies that the ICDSs have to be followed by all assessee, following the mercantile system of accounting, for the purposes of computation of income chargeable to income-tax under the head “Profit and gains of business or profession” or “Income from other sources”.
- (ii) **Meaning of “revenue” in agency relationship:** Notified ICDS IV on Revenue Recognition clarifies that in an agency relationship, the revenue is the amount of commission and not the gross inflow of cash, receivables or other consideration.

- (iii) **Removal of requirement to maintain fixed assets register:** In the notified ICDS V on Tangible Fixed Assets, the requirement of maintenance of fixed assets register has been removed, in view of irrelevance of identity of individual asset under “block of assets” concept under the income-tax law and to avoid duplication of such compliance under the Companies Act, 2013;
- (iv) **Incorporation of definition of “average rate”:** The Draft ICDS on “The Effects of Foreign Exchange Rates” provided that an average rate for a week or a month that approximates the actual rate at the date of the transaction may be used for all transaction in each foreign currency occurring during that period. However, the said term had not been defined in the draft ICDS. Average rate has now been defined in Paragraph 2 of the notified ICDS VI as “the mean of the exchange rates in force during a period.”
- (v) **Recognition of fair value of securities acquired in exchange of other securities:** Paragraph 6 of Draft ICDS on “Securities” provided that where a security is acquired in exchange for other securities, the security acquired shall be recognized at its fair value or fair value of the securities issued, whichever is lower. The phrase “fair value or the fair value of the securities issued” may have created ambiguity in the application of the ICDS especially in cases where securities are not listed on a recognized stock exchange, or listed but not quoted on a recognized stock exchange. This ambiguity has been removed in the notified ICDS VIII on “Securities”, which clarifies that where a security is acquired in exchange of other securities, the fair value of the security so acquired shall be its actual cost.

ICDSs *vis-à-vis* Accounting Standards & ICDSs *vis-à-vis* Judicial decisions : Significant deviations impacting computation of taxable income

Even though certain concerns and issues have been addressed in the notified ICDSs, there are still significant deviations between the notified ICDSs and Accounting Standards which are likely to have the effect of advancing the recognition of income or gains or postponing the recognition of expenditure or losses under tax laws and consequently, impacting the computation of tax liability under the Income-tax Act, 1961. These deviations would also increase the timing differences between taxable income and accounting income. Due to early recognition of income under tax laws, it is possible that in certain cases, income-tax is paid on income which may not be realized in future. In such cases, there would also be no possibility of claiming bad debts since the income would not have been recognized in the books of accounts as per the Accounting Standards and consequently, cannot be written off as bad debts in books of account. Further,

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the ICDSs, at many places, differ significantly from decisions pronounced by the Supreme Court and High Courts.

(1) **Non-consideration of the concepts of Prudence and Materiality**

ICDS I on Accounting Policies, while recognizing the fundamental accounting assumptions of going concern, consistency and accrual, does not recognize the concepts of “materiality” and “prudence” in selection and application of accounting policies. The standard also does not permit recognition of marked to market losses unless the recognition is in accordance with the provisions of any other ICDS. In this context, it may be noteworthy to mention that the concepts of “materiality” and “prudence” were recognized by the Accounting Standards notified in 1996 under section 145(2), which are now being superseded by the notified ICDSs with effect from A.Y.2016-17.

The concept of prudence requires that provisions should be made for all known liabilities and losses even though the amount cannot be determined with certainty and represents only a best estimate in the light of available information. Non-consideration of prudence in selection and application of accounting policies may have the impact of earlier recognition of income and gains or later recognition of expenses or losses for tax computation.

Examples of non-consideration of prudence in the ICDSs:

- (i) The requirement in ICDS VII on Government Grants that recognition of a Government grant shall not be postponed beyond the date of actual receipt, even if conditions attached to the grant are not fulfilled.
- (ii) Absence of requirement of “reasonable certainty of ultimate collection” for recognition of revenue from service transactions and use of resources by others yielding interest, royalties and dividends in ICDS IV on Revenue Recognition.
- (iii) Non-recognition of expected losses on construction contracts and contract costs, recovery of which is not probable, as an expense immediately, in ICDS III on Construction Contracts.
- (iv) Non-recognition of provision for loss on onerous contracts.

Deviation from settled judicial precedent:

Non-recognition of the concept of prudence in ICDSs also deviates from the principle laid down by the Supreme Court in *Bharat Earth*

Movers v. CIT (2000) 245 ITR 428, where it was held that when a business liability has arisen in an accounting year, the deduction should be allowed although the liability may have to be quantified and discharged at a future date. What should be certain is the incurring of the liability. The liability should also be capable of being estimated with reasonable certainty though the actual quantification may not be possible.

Consequence of non-recognition of the concept of materiality in the ICDSs:

Non-recognition of the concept of materiality in ICDSs may lead to increase in compliance burden and resultant increase in compliance costs. For example, Paragraph 2 of ICDS II on Valuation of Inventories defines “Inventories” as assets in form of materials or supplies to be consumed in the production process or in the rendering of services. In the absence of the concept of materiality, it would be difficult to value inventories, especially in case of rendering of services, since even the very insignificant items may have to be valued.

(2) **Valuation of inventory on the date of dissolution of a firm, where the business is continued by a partner(s)**

In case of dissolution of a partnership firm or association of persons or body of individuals, Paragraph 24 of ICDS II on Valuation of Inventories requires the inventory on the date of dissolution to be valued at the **net realisable value, notwithstanding whether business is discontinued or not.**

Deviation from settled judicial precedent:

This requirement in ICDS II is in deviation from the Supreme Court ruling *Shakti Trading Co. vs. CIT (2001) 250 ITR 871*, where it was held that if the firm is dissolved due to death of a partner and the surviving partners reconstitute the firm and continue the business as before, **the firm is entitled to adopt cost or market price, whichever is lower.** Since the firm has not discontinued the business, the question of adopting market value does not arise.

(3) **Point in time of recognition of expected loss on construction contracts**

AS 7 vis-à-vis ICDS III:

AS 7 permits recognition of expected loss on construction contract as well as contract costs, recovery of which is not probable, as an expense immediately. It also permits recognition of expected loss immediately as an expense, when

it is probable that total contract costs will exceed total contract revenue.

The absence of specific requirement in ICDS III to recognize such expected losses on construction contracts immediately as expense represents a significant deviation from AS 7 as well as judicial rulings permitting immediate recognition of such losses as long as the same are in accordance with the accounting standard or justified by the principle of prudence or by the nature and circumstances of the contract.

Postponement of recognition of losses:

By implication, such losses are also to be recognized on Percentage of Completion Method as per ICDS III. Consequently, recognition of losses for tax purposes is postponed.

Probable consequence of double taxation:

The deviation between AS 7 and ICDS III may also give rise to double taxation. The expected loss will be recognized for the purpose of book profit in an earlier year, whereas it would be recognized for tax computation only in a later year when there is an actual loss. In the later year when there is an actual loss, if the book profit is higher, the company will have to pay Minimum Alternate Tax (MAT) on book profits, which may lead to double taxation, in a case where brought forward depreciation as per books of account is lower than the brought forward loss as per books of account. In such a situation, the loss would not be considered for tax purposes in either of the years.

(4) Treatment of penalties arising from delays caused by the contractor in completion of the contract

AS 7 vis-à-vis ICDS III:

Paragraph 11 of AS 7 permits decrease in contract revenue as a result of penalties arising from delays caused by the contractor in the completion of the contract. However, ICDS III does not permit such reduction in contract revenue.

Non-recognition of decrease in contract revenue as a result of such penalties would have the effect of inflating the taxable income and consequent tax liability.

(5) Point in time of recognition of retention money

AS 7 vis-à-vis ICDS III:

ICDS III requires retention money to be treated as part of contract revenue and recognized

on percentage of completion method. As per paragraph 10 of ICDS III, "Contract Revenue" shall comprise of the initial amount of revenue agreed in the contract, **including retentions**. However, as per paragraph 10 of AS 7, contract revenue should comprise the initial amount of revenue agreed in the contract. While there is a specific requirement in paragraph 10 of ICDS III to include retentions, there is no such requirement in paragraph 10 of AS 7.

Deviation from settled judicial precedents:

In *CIT v. Associated Cables (P) Ltd.* (2006) 286 ITR 596 (Bom.) and *CIT v. Ignifluid Boilers (I) Ltd.* (2006) 283 ITR 295 (Mad), it was held that the payment of retention money in the case of contract is dependent on satisfactory completion of contract work. The right to receive the retention money accrues only after the obligations under the contract are fulfilled and, therefore, it would not amount to income of the assessee in the year in which the amount is retained.

In *Amarshiv Construction P Ltd v. Dy.CIT* (2014) 367 ITR 659 (Guj.), the contract agreement was subsequently modified to permit greater liquidity to the assessee-contractor by allowing release of retention money where the contractor provides a matching bank guarantee for the sum to be released. Such bank guarantee would be encashed to the extent of dues or any defect found in the construction carried out or discharged at the end of the warranty period. In that case, the issue before the High Court was whether the release of retention money based on bank guarantee results in accrual of income to the assessee-contractor. The High Court observed that all the amounts received would not mean receipt of income. Whether income did accrue or not would depend on whether the right to receive the same had accrued to the payee or not. The Court observed that the amount received was not a free entitlement and the bank guarantee could be invoked for recovery of dues for the defects in the work performed. Accordingly, the amount released based on bank guarantee with pending procedural formalities for approval of the work performed could not be taxed as income.

Thus, even in a case where the contractor receives the retention money on furnishing of bank guarantee, it was decided that the same was not a receipt chargeable to tax since the right to receive is ultimately dependent on fulfillment of conditions.

The requirement in ICDS III to recognize retention money on percentage of completion

method marks a significant deviation from the settled judicial position.

(6) Revenue recognition in case of rendering of services and use by others of person's resources yielding interest, dividend or royalty, where there is significant uncertainty as to collectability

AS 9 vis-à-vis ICDS IV:

AS 9 requires recognition of revenue only if no significant uncertainty exists regarding the amount of consideration that will be derived from sale of goods, rendering of services or use by others of enterprise resources yielding interest, royalties and dividends.

ICDS IV also requires recognition of revenue from sale of goods to be recognized when there is reasonable certainty of its ultimate collection. However, "reasonable certainty for ultimate collection" is not a criterion for recognition of revenue from rendering of services or use by others of person's resources yielding interest, royalties or dividends. By implication, revenue recognition cannot be postponed in case of significant uncertainty regarding collectability of consideration to be derived from rendering of services or use by others of person's resources yielding interest, dividend or royalty.

For example, interest on sticky loans or interest on overdue payments as mentioned in invoice may have to be recognized even though there is significant uncertainty regarding their collection. In case of non-realisation of such interest in future, it would not also be possible to claim bad debts since such interest, which would not have been recognized in the books of account as per AS 9, cannot be written off. Write off of bad debts in the books of account is an essential condition for claiming deduction under section 36(1)(vii).

The accelerated taxation of such notional interest may result in permanent difference if the income does not actually accrue in future in terms of AS 9.

Deviation from settled judicial precedents:

In this regard, ICDS IV is also in deviation with the Supreme Court ruling in *UCO Bank v. CIT* (1999) 237 ITR 889, where it was held that interest on sticky loans would not accrue if the same was not recoverable and the Delhi High Court ruling in *DIT v. Brahmaputra Capital Financial Services Ltd.* (2011) 335 ITR 182 (Del.), where it was held that interest on non-performing assets which is not received with no possibility of recovery may not be recognized.

(7) Recognition of revenue from service transactions

AS 9 vis-à-vis ICDS IV:

AS 9 permits revenue from service transactions to be recognised as the service is performed, either by the proportionate completion method or by the completed service contract method, whichever relates the revenue to the work accomplished.

ICDS IV requires revenue from service transactions to be recognised only on the basis of percentage completion method, which may, however, not be appropriate in case of all service transactions. For example, in case of courier services, revenue is recognized only when the goods are delivered at the specified destination.

Deviation from judicial precedent:

This requirement in ICDS IV is also not in line with the Madras High Court ruling in *CIT v. Coral Electronics P Ltd.* (2005) 274 ITR 336, where it was held that the amount received as service charges for services to be rendered in future could not be considered as an income and was not exigible to tax. It is only when the service is done, does the assessee have a right over the amount that was deposited. Till then, he has no right over the same. Hence, it cannot be considered as income of the assessee.

(8) Treatment of exchange differences in translation of financial statements of non-integral foreign operations

AS 11 vis-à-vis ICDS VI:

AS 11 requires the resulting exchange differences in translating the financial statements of a non-integral foreign operation to be accumulated in a foreign currency translation reserve until the disposal of the net investment.

ICDS VI on the other hand requires such exchange differences to be recognized as income or as expenses in that previous year.

It is noteworthy that the requirements in AS 11 and ICDS VI as regards translation of assets and liabilities and income and expenses items of the non-integral foreign operation in the financial statements are aligned. However, the treatment of resultant exchange differences are different. The requirement as per ICDS VI to recognize such exchange differences as income or expenses would result in volatility in tax liability due to currency fluctuations.

(9) Treatment of Government Grants of capital nature and Government Grants in the nature of promoter's contribution

AS 12 vis-à-vis ICDS VII:

AS 12 permit government grants in the nature of promoters' contribution, i.e., grants given with reference to the total investment in an undertaking or by way of contribution towards its total capital outlay (for example, central investment subsidy scheme) to be treated as capital reserve which can be neither distributed as dividend nor considered as deferred income.

ICDS VII, however, does not contain specific requirement to capitalize government grants in the nature of promoter's contribution. Except in case of government grant relating to a depreciable fixed asset, which has to be reduced from written down value or actual cost, all other grants have to be recognized as upfront income or as income over the periods necessary to match them with the related costs which they are intended to compensate.

Deviation from settled judicial precedents:

The Supreme Court in, *CIT v Ponni Sugar Mills (2008) 306 ITR 392*, observed that it is the object for which the subsidy/assistance is given which determines the nature of the incentive subsidy. If the object of the subsidy scheme was to enable the assessee to run the business more profitably then the receipt is on revenue account. On the other hand, if the object of the assistance under the subsidy scheme was to enable the assessee to set up a new unit or to expand the existing unit then the receipt of the subsidy was on capital account. The rationale of the Supreme Court ruling has been applied in many cases and accordingly, grants given with a view to develop backward area or to enable industries to trade over financial crisis or to generation of employment in a State have been regarded as being capital in nature. For instance, in *CIT v. Rasoi Ltd. (2011) 335 ITR 438 (Cal.)*, it was held that subsidy received by the assessee from the Government of West Bengal under the scheme of industrial promotion for expansion of its capacities, modernization and improving its marketing capabilities was a capital receipt, not chargeable to tax. In *CIT v. Kisan Sahkari Chini Mills Ltd. (2010) 328 ITR 27 (All.)*, it was held that incentive received under the scheme formulated by the Central Government for recoupment of capital employed and repayment of loans taken for setting up/expansion of a sugar factory was a capital receipt.

The requirement in ICDS VII to recognize such grants as upfront or deferred income is not in line with the rationale of the Supreme Court that the purpose of the grant would ultimately determine its nature.

(10) Manner of comparison of cost and NRV for valuation of securities held as stock-in-trade

ICDS VIII requires securities held as stock-in-trade to be valued at lower of actual cost initially recognized or net realizable value at the end of the year, whichever is lower. Further, such comparison has to be done **category-wise** and not for each individual security.

Deviation from judicial precedents:

This requirement in the ICDS deviates from the settled judicial position that anticipated profit should not be taken into consideration for valuation of stock-in-trade. The Supreme Court, in the case of *UCO Bank Ltd. v CIT 240 ITR 355*, observed that it is not proper to take into account anticipated profit in the shape of appreciated value of closing stock, as no prudent trader would show increased profit before actual realisation. This is the theory underlying the valuation of closing stock at the lower of cost or market price.

The requirement in ICDS VIII to compare the actual cost and net realizable value category-wise, in effect, results in recognition of anticipated profits since rise in value of some securities will absorb the decrease in value of the remaining securities in the same category.

(11) Minimum period for classification of an asset as a qualifying asset

AS 16 vis-à-vis ICDS IX:

As per AS 16, "qualifying asset" has been defined to mean an asset that necessarily takes a substantial period of time to get ready for its intended use or sale. AS 16 clarifies that ordinarily a period of 12 months is considered as substantial period of time unless a shorter or longer period can be justified on the basis of facts and circumstances of the case.

ICDS IX, however, does not provide any minimum period for treating an asset as a qualifying asset (except in the case of inventories). Consequently, borrowing costs in respect of assets have to be capitalized even if the asset, say, land or building or plant or machinery, does not take a substantial period of time to get ready for intended use. Even a plant and machinery which takes three to four months to get ready

for intended use may be classified as a qualifying asset. This is not in line with the definition of “qualifying asset” under AS 16.

ICDS IX vis-à-vis Section 36(1)(iii) of the Income-tax Act, 1961:

As a result, the borrowing costs of these assets which are not exactly in the nature of “qualifying assets” are also required to be capitalized in accordance with ICDS IX. This requirement is also not in consonance with section 36(1)(iii) of the Income-tax Act, 1961, according to which interest paid in respect of capital borrowed for the purposes of business or profession is allowable as deduction. It is only the interest paid in respect of capital borrowed for acquisition of an asset for extension of existing business or profession (for the period beginning from the date on which capital was borrowed for acquisition of the asset till the date on which such asset was first put to use) which has to be capitalized as per the proviso to section 36(1)(iii). Since, in case of inconsistency, the provisions of the Income-tax Act, 1961 will prevail, borrowing costs in the nature of interest (to the extent it does not fall within the ambit of the proviso to section 36(1)(iii)) will be allowable as deduction even if it is incurred in respect of a qualifying asset.

(12) Treatment of income earned from temporary investment of borrowed funds

AS 16 vis-à-vis ICDS IX:

Paragraph 11 of AS 16 permits income earned on temporary investment of borrowed funds pending their expenditure on the qualifying asset to be deducted from borrowing costs incurred. ICDS IX, however, does not permit such reduction from borrowing costs.

Paragraph 17 of AS 16 permits suspension of capitalization of borrowing costs during extended periods in which active development is interrupted. ICDS IX does not permit suspension of capitalization of borrowing costs in such cases.

The above deviations between AS 16 and ICDS IX would result in increase in taxable income.

(13) Condition for recognition of Provision

“Probability” as per AS 29 vis-à-vis “Reasonable certainty” as per ICDS X:

AS 29 requires recognition of a provision when it is **probable** that an outflow of resources embodying economic benefits will be required to settle the obligation.

ICDS X requires recognition of a provision only when it is **reasonably certain** that an outflow of resources embodying economic benefits will be required to settle the obligation.

The requirement of “reasonable certainty” in ICDS X to recognize a provision is more stringent as compared to the requirement of “probability” in AS 29. This will have the effect of postponing the recognition of provision for tax purposes and consequently, result in earlier payment of taxes.

(14) Condition for recognition of Contingent Asset

“Virtual certainty” as per AS 29 vis-à-vis “Reasonable certainty” as per ICDS X

Both AS 29 and ICDS X provide that a contingent asset should not be recognized. Further, both AS 29 and ICDS X require contingent assets to be assessed continually.

Thereafter, recognition of contingent assets and related income is required in –

- * AS 29, if inflow of economic benefits is “**virtually certain**”;
- * ICDS X, if inflow of economic benefits is “**reasonably certain**”.

The requirement of “reasonable certainty” in ICDS X to recognize a contingent asset and the related income is more stringent as compared to the requirement of “virtual certainty” in AS 29. This deviation between AS 29 and ICDS X would have the effect of advancing recognition of income for tax purposes and consequently, result in earlier payment of taxes.

Harmonisation of Accounting Standards with Direct Tax Laws : Would ICDSs help achieve the desired objective?

The significant deviations between the Accounting Standards and the ICDSs clearly indicate that the overall impact of ICDSs is the advancement of recognition of income and gains and postponement of recognition of expenses and losses. Consequently, timing differences between taxable income and accounting income would increase. Many of the ICDSs also tend to deviate significantly from the decisions pronounced by the Apex Court and High Courts recognizing accounting principles under tax laws. The moot point is whether ICDSs, having significant deviations vis-à-vis Accounting Standards and settled judicial decisions, would help in achieving the desired objective of harmonization of accounting standards with direct tax laws and minimizing litigation.

Notably, there are also instances where ICDSs may not be exactly in line with the provisions of the Income-tax Act, 1961. For example, the meaning of “actual cost” of tangible fixed assets in ICDS V appears to be narrower as compared to the definition of “actual cost” under section 43(1) of the Income-tax Act, 1961. Another example of probable differential tax treatment is the allowability of interest deduction under section 36(1) (iii) *vis-à-vis* the requirement of capitalization of borrowing costs as per ICDS IX. Although it has been clarified that the provisions of the Income-tax Act, 1961 will prevail in case of inconsistency with ICDS, a differential tax treatment in ICDS may still give rise to avoidable confusion.

Likewise, although it is clarified that ICDSs would apply only for income computation and not for maintenance of books of account, the deviations between ICDSs and Accounting Standards are such that they may require detailed computation and reconciliation which may, in effect, necessitate maintenance of separate records for tax purposes.

It is hoped that the concerns of taxpayers are suitably addressed, whether by way of issue of FAQs or otherwise, for facilitating smooth adoption and implementation of ICDSs and achieving the intended objectives of harmonising accounting standards with direct tax laws and minimizing litigation.

Appendix

Salient Features of ICDSs

◆ ICDS I: Accounting Policies

- ▶ This ICDS deals with significant accounting policies.
- ▶ While it recognizes the fundamental accounting assumptions of going concern, consistency and accrual, it does not recognize the concepts of “materiality” and “prudence” in selection of accounting policies.
- ▶ Treatment and presentation of transactions have to be governed by their substance and not form.
- ▶ Marked to market loss or an expected loss is not to be recognized unless recognition of such loss is in accordance with the provisions of any other ICDS.

◆ ICDS II :Valuation of Inventories

- ▶ “Inventories” has been defined to mean assets held for –
 - sale in the ordinary course of business;
 - in the process of production for such sale;
 - in the form of materials or supplies to be consumed in the production process or in the rendering of services.
- ▶ This ICDS requires inventory to be valued at cost or net realizable value, whichever is lower.
- ▶ This ICDS requires disclosure of the accounting policies adopted in measuring inventories including the cost formulae used and the total carrying amount of inventories and its classification appropriate to a person.

◆ ICDS III: Construction Contracts

- ▶ This ICDS is required to be applied in determination of income for a construction contract of a contractor.
- ▶ It recognizes percentage of completion method (POCM) for recognizing contract revenue and contract costs associated with a construction contract.
- ▶ This ICDS also contains certain disclosure requirements, like the amount of contract revenue recognized as revenue in the period, the methods used to determine the stage of completion of contracts in progress etc.

◆ ICDS IV: Revenue Recognition

- ▶ This ICDS deals with the bases for recognition of revenue arising in the course of the ordinary

activities of a person from –

- the sale of goods;
- the rendering of services;
- the use by others of the person’s resources yielding interest, royalties or dividends.
- ▶ It does not, however, deal with the aspects of revenue recognition which are dealt with by other ICDSs.
- ▶ “Revenue” is the gross inflow of cash, receivables or other consideration arising in the course of the ordinary activities of a person from the sale of goods, from the rendering of services, or from the use by others of the person’s resources yielding interest, royalties or dividends. In an agency relationship, the revenue is the amount of commission and not the gross inflow of cash, receivables or other consideration.
- ▶ This ICDS also contains a requirement wherein the revenue from sale of goods could be recognized when there is reasonable certainty of its ultimate collection.
- ▶ However, “reasonable certainty for ultimate collection” is not a criterion for recognition of revenue from rendering of services or use by others of person’s resources yielding interest, royalties or dividends.
- ▶ This ICDS contains certain disclosure requirements, like the amount of revenue from service transactions recognized as revenue during the previous year, the method used to determine the stage of completion of service transactions in progress, information relating to service transactions in progress at the end of the previous year etc.
- ◆ ICDS V: Tangible Fixed Assets
 - ▶ This ICDS deals with the treatment of tangible fixed assets.
 - ▶ It contains the definition of tangible fixed assets which also provides the criteria for determining whether an item is to be classified as a tangible fixed asset.
 - ▶ “Tangible fixed asset” is an asset being land, building, machinery, plant or furniture held with

the intention of being used for the purpose of producing or providing goods or services and is not held for sale in the normal course of business.

- ▶ This ICDS provides the components of actual cost of such assets and valuation of such assets in special cases.
- ▶ The fair value of a tangible fixed asset acquired in exchange for shares or other securities or another asset shall be its actual cost.
- ▶ The ICDS also provides that depreciation on such assets and income arising on transfer of such assets shall be computed in accordance with the provisions of the Income-tax Act, 1961.
- ▶ The ICDS also contains disclosure requirements in respect of such assets, like the description of asset or block of assets, rate of depreciation, actual cost or written down value, as the case may be, etc.

◆ **ICDS VI: The Effects of changes in foreign exchange rates**

- ▶ This ICDS deals with treatment of transactions in foreign currencies, translating the financial statements of foreign operations and treatment of foreign currency transactions in the nature of forward exchange contracts.
- ▶ This ICDS requires exchange differences arising on settlement of monetary items or conversion thereof at last day of the previous year to be recognized as income or as expense in that previous year.
- ▶ In respect of non-monetary items, exchange differences arising on conversion thereof as at the last day of the previous year shall not be recognized as income or as expense in that previous year.
- ▶ The ICDS contains requirements for initial recognition, conversion at the last date of the previous year and recognition of exchange differences. These requirements shall be subject to the provisions of section 43A of the Income-tax Act, 1961 and Rule 115 of the Income-tax Rules, 1962.
- ▶ The ICDS requires classification of a foreign operation as an integral foreign operation or a non-integral foreign operation.

◆ **ICDS VII: Government Grants**

- ▶ This ICDS deals with the treatment of government grants. It recognizes that government grants are sometimes called by other names such as subsidies, cash incentives, duty drawbacks etc.
- ▶ This ICDS does not deal with Government assistance other than in the form of Government grants and Government participation in the ownership of the enterprise.
- ▶ It requires recognition of Government Grants when there is a reasonable assurance that the person shall comply with the conditions attached to them and the grants shall be received. However, it also states that recognition of Government grant shall not be postponed beyond the date of actual receipt.
- ▶ This ICDS requires Government grants relatable to depreciable fixed assets to be reduced from actual cost/WDV. It further provides that where

the Government grant is not directly relatable to the asset acquired, then a pro-rata reduction of the amount of grant should be made in the same proportion as such asset bears to all assets with reference to which the Government grant is so received.

- ▶ The standard requires grants relating to non-depreciable fixed assets to be recognized as income over the same period over which the cost of meeting such obligations is charged to income.
- ▶ The standard also requires Government grants receivable as compensation for expenses or losses incurred in a previous financial year or for the purpose of giving immediate financial support to the person will no further related costs to be recognized as income of the period in which it is receivable.
- ▶ All other Government Grants have to be recognized as income over the periods necessary to match them with the related costs which they are intended to compensate.
- ▶ The standard contains certain disclosure requirements, like nature and extent of Government grants recognized during the previous year as income, nature and extent of Government grants not recognized during the previous year as income and reasons thereof etc.

◆ **ICDS VIII: Securities**

- ▶ This ICDS deals with securities held as stock-in-trade.
- ▶ It requires securities to be recognized at actual cost on acquisition, which shall comprise of its purchase price and include acquisition charges like brokerage, fees, tax, duty or cess.
- ▶ The actual cost of a security acquired in exchange for other securities or another asset shall be the fair value of the security so acquired.
- ▶ Subsequently, at the end of any previous year, securities held as stock-in-trade have to be valued at actual cost initially recognized or net realizable value at the end of that previous year, whichever is lower.
- ▶ It goes on to provide that such comparison of actual cost initially recognized and net realizable value has to be done category-wise and not for each individual security.

◆ **ICDS IX: Borrowing Costs**

- ▶ This ICDS deals with the treatment of borrowing costs. It does not deal with the actual or imputed cost of owners' equity and preference share capital.
- ▶ It requires borrowing costs which are directly attributable to the acquisition, construction or production of a qualifying asset to be capitalized as part of the cost of that asset. Other borrowing costs have to be recognized in accordance with the provisions of the Act.
- ▶ Qualifying asset has been defined to mean –
 - land, building, machinery, plant or furniture, being tangible assets;
 - know-how, patents, copyrights, trade marks,

licences, franchises or any other business or commercial rights of similar nature, being intangible assets;

- inventories that require a period of twelve months or more to bring them to a saleable condition.
- ▶ This ICDS requires capitalization of specific borrowing costs and general borrowing costs.
- ▶ This ICDS provides the formula for capitalization of borrowing costs when funds are borrowed generally and used for the purpose of acquisition, construction or production of a qualifying asset.
- ▶ It also provides as to when capitalization of borrowing costs would commence and cease.
- ▶ It requires disclosure of the accounting policy adopted for borrowing costs and the amount of borrowing costs capitalized during the year.
- ♦ **ICDS X: Provisions, Contingent Liabilities and Contingent Assets**
 - ▶ This ICDS deals with Provisions, Contingent Liabilities and Contingent Assets. However, it does not deal with provisions, contingent liabilities and contingent assets –
 - resulting from financial instruments,
 - resulting from executory contracts,
 - arising in insurance business from contracts with policyholders and

- covered by another ICDS.

It also does not deal with recognition of revenue dealt with by ICDS on Revenue Recognition.

- ▶ The ICDS specifies the conditions for recognition of a provision, namely, existence of a present obligation as a result of a past event, reasonable certainty that outflow of resources embodying economic benefits will be required to settle the obligation and making a reliable estimate of the amount of the obligation.
- ▶ It provides that a person shall not recognize a contingent liability or a contingent asset. However, it requires contingent assets to be assessed continually. When it becomes reasonably certain that inflow of economic benefit will arise, the asset and related income have to be recognized in the previous year in which the change occurs.
- ▶ It contains requirements for measurement and review of a provision and asset and related income.
- ▶ It also provides that a provision shall be used only for expenditures for which the provision was originally recognized.
- ▶ The ICDS also contains specific disclosure requirements in respect of each class of provision, asset and related income recognized.

CORRIGENDUM

Corrigendum in the Practice Manual of Paper No. 4, Corporate and Allied Laws (Final Level) in the printed copy (Edition: December, 2014)

1. Students are advised to delete question no. 2(iii) on page 1.1 and question no. 3(iii) on page no. 3.2 and the respective corresponding answers.
2. With respect to question no. 19, answer to Part (i) on page no. 3.17, para 3 stating “The disqualification of Mr. Kishore.....office of director in AB Ltd.” be substituted with the below mentioned para-
“As per section 167(1)(a) of the Companies Act, 2013, the office of a director shall become vacant in case he incurs any of the disqualifications specified under section 164(2) of the Companies Act, 2013. Since, Mr. Kishore has attracted disqualification under section 164(2) of the Companies Act, 2013, he has to vacate office of a director in AB Ltd.”
3. Question no. 29 along with its answer given on page no. 3.24, be deleted.
4. Question no. 16 (ii) and 23 (ii) on page nos. 19.19 and 19.26 respectively, along with their respective corresponding answers be deleted.

Corrigendum in the Study Material of Paper No. 4, Corporate and Allied Laws (Final Level) in the printed copy (Edition: October, 2014)

1. In the MCA clarification S.O. 1913(E) dated 25th July, 2014, at Pg 4.16 of Chapter Appointment and Remuneration of Managerial Personnel, read the limit of 1000 as 1000 crores.
2. On Pg. 5.38 of Chapter Meetings of Board and its Powers, students are advised to replace the para “According to the *Companies (Meetings of Board and its Powers) Rules, 2014*.....security or making acquisition” with “According to *Companies (Meetings of Board and its Powers) Rules, 2014*, every company shall maintain one or more registers in Form MBP 4, and contain such particulars as mentioned under Rule 16 to the mentioned rules.”

Central Excise Valuation and Legal Metrology Act



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Section 4A of Central Excise Act empowers Central Government to specify goods on which duty will be payable based on 'retail sale price'. As per section 4A(1) of Central Excise Act, the provisions of valuation on basis of MRP printed on package apply only when the goods should be covered under provisions of Legal Metrology Act and Rules.

As per section 4A(2) of Central Excise Act, Central Government has to issue a notification in Official Gazette specifying the commodities to which the provision is applicable and the abatements permissible.

Thus, both requirements must be satisfied – (a) Provisions of Legal Metrology Act and Rules should be applicable to those goods **and** (b) Central Government should issue a notification specifying commodities to which the provisions are applicable.

Since both the requirements must be satisfied, it is necessary to first find out whether the provisions of Legal Metrology Act and Rules are applicable to goods which are manufactured and cleared from the factory.

If an article is not covered under provisions in respect of marking MRP, provisions of duty payable on basis of MRP do not apply and in those cases, duty will be payable on *ad valorem* basis as per section 4 – view confirmed in *Jayanti Food Processing v. CCE* (2007) 10 STT 375 = 215 ELT 327 (SC).

The provisions apply only to retail package intended for retail sale

Section 18(1) of Legal Metrology Act provides that no person shall manufacture, pack, sell, import, distribute, deliver, offer, expose or possess for sale any pre-packed commodity unless such package is in such standard quantities or number and bears thereon such declarations and particulars in such manner as may be prescribed.

'Pre-packed commodity' means a commodity which without purchaser being present, is placed

in a package of whatever nature, whether sealed or opened, so that the commodity contained therein has a pre-determined quantity – Section 2(l) of Legal Metrology Act.

Section 52 of Legal Metrology Act empowers Central Government to make Rules. Under these powers, Legal Metrology (Packaged Commodities) Rules have been notified, which are effective from 1-4-2011. The Rules envisage only two types of packages – (a) Retail package and (b) Wholesale package.

'Retail package' means the packages which are intended for retail sale to the ultimate consumer for the purpose of consumption of the commodity contained therein and includes the imported packages: Provided that for purpose of this clause, the expression 'ultimate consumer' shall not include industrial or institutional consumers - Rule 2(jj) of Legal Metrology (Packaged Commodities) Rules.

'Retail sale', in relation to a commodity, means sale, distribution or delivery of such commodity through retail sale shops, agencies or other instrumentalities for consumption by an individual or a group of individuals or any other consumer – Rule 2(k) of Legal Metrology (Packaged Commodities) Rules.

As per rule 6(1)(e) of Legal Metrology (Packaged Commodities) Rules, every package shall have declaration of the retail sale price of the package.

Thus, the provisions of marking MRP are applicable to (a) retail package (b) which is intended for retail sale.

Provisions of Packaged Commodities applicable to all packaged commodities

The provision applies to all pre-packaged commodities. Specific notification indicating classes of goods is not required – *Khaitan Electricals v. UOI* (2011) 267 ELT 185 (Karn HC) * *Reebok India Co. v. UOI* (2011) 270 ELT 513 (Karn HC).

In *Reebok India Company v. UOI* (2009) 242 ELT 207 (Cal HC), it was held that MRP is required to be printed on footwear, accessories or garments sold in retail packing. This would be so even if product is not sold by weight or measure or where pre-packed commodity has to be opened and shown to customer at retail counter – same view in *Reebok India Co. v. UOI* (2011) 270 ELT 513 (Karn HC).

However, provisions of section 4A of Central Excise Act would apply only if a particular product is notified with abatement under provisions of the Act. Giving one example, hand tools do require MRP to be printed on package. However, these are not notified under section 4A and hence valuation will be on basis of transaction value under section 4 of Central Excise Act.

Not applicable for unpacked commodities or goods sole in bulk packs

In *CCE v. Trishul Research Lab* 2002(144) ELT 204 (CEGAT), assessee was manufacturing soap packed under a special contract for hotel for use of their guests. It was held that since goods are not packed for retail sale, the goods fall outside the purview of section 4A and valuation is required to be done u/s 4 i.e. transaction value.

In *CCE v. Tamilzh Ponni Exports* (2009) 243 ELT 269 (CESTAT), it has been held that if imported goods are in loose condition and not pre-packed commodity, MRP based valuation for CVD is not required.

In *Jayanti Food Processing v. CCE* (2007) 10 STT 375 = 215 ELT 327 (SC), ice cream was sold to hotels in 4 liter packs which was later sold by hotels in scoops to consumers. It was held that 4 liter pack is not a retail pack. It is exempted under rule 34 of Weights and Measures Rules [Now Rule 24 of Legal Metrology (Packaged Commodities) Rules] and not required to display MRP on package – reversing decision of Tribunal in *Jayanti Food Processing v. CCE* 2002(141) ELT 162 = 49 RLT 133 (CEGAT).

If goods are packed in bulk, MRP provisions do not apply – *Titan Industries v. CC* (2007) 216 ELT 327 (CESTAT) * *Starlite Components v. CCE* (2012) 286 ELT 43 (CESTAT) * *Phil Marketing Services v. CC* (2012) 286 ELT 582 (CESTAT).

Packaged commodities for industrial or institutional consumers

As per Rule 2(k) of Legal Metrology (Packaged Commodities) Rules, 'Retail package' shall not include industrial or institutional consumers.

'Institutional consumer' means any institution which hires or avails of the facilities or service in connection with transport, hotels, hospitals or any other service institutions which buy packaged

commodities directly from the manufacturer for use by that institution [Rule 2(bc) of Legal Metrology (Packaged Commodities) Rules]

'Industrial consumer' means the consumer who buys packaged commodities directly from the manufacturer for use by that industry [Rule 2(bb) of Legal Metrology (Packaged Commodities) Rules].

Rule 3(b) of Legal Metrology (Packaged Commodities) Rules states that the provisions of Chapter II of the Rules (which is relating to packages intended for retail sale) do not apply to packaged commodities meant for industrial consumers or institutional consumers .

This exclusion is irrespective of weight or volume of package.

In *Larsen and Toubro Ltd. v. UOI* (2012) 275 ELT 153 (Bom HC DB), it was held that switchgear packaged for safe transportation/protection during storage and handling are covered under MRP valuation provisions, even if meant for industrial use. Interesting in this case, it was noted that as per Black's Law Dictionary, 'Consumer' means one who consumes. Individuals who purchase, use, maintain and dispose of products and services. Users of the final product. - - Interestingly, after quoting these definitions, it was held that the MRP provisions will apply if such goods are sold through stockists. The MRP provisions will not apply only when goods are sold directly to institutional or industrial consumers.

In *Mexim Adhesive Tapes v. CCE* (2013) 291 ELT 195 (CESTAT), it was held that mere mentioning 'exclusively for industrial use' and 'not to be sold in loose' is not sufficient. Unless rule 34 of Weights and Measures Rules [Now Rule 24 of Legal Metrology (Packaged Commodities) Rules] is fully complied with, MRP valuation provisions will apply. It was also observed that the rule is not compulsory. The manufacturer has choice either to print MRP or not print MRP, even if sale is to industrial or institutional consumer.

'Consumer' means one who consumes. Individuals who purchase, use, maintain and dispose of products and services. Users of the final product – Black's Law Dictionary. 'Consumer' means one who consumes, especially one who use a product; person who buys or uses goods or services – Oxford English Dictionary – quoted with approval in *Swan Sweets v. CCE* 2006 (198) ELT 565 (CESTAT).

Construction is 'industry' and hence clearance for construction is covered under 'industrial or institutional consumers' – *Vikram Cement v. CCE* (2009) 238 ELT 92 (CESTAT) * *Heidelberg Cement v. CCE* (2015) 315 ELT 53 (CESTAT).

Institutional consumer includes 'construction company' – *Jaypee Sikandarabad Cement Grinding Unit v. CCE* (2014) 300 ELT 105 (CESTAT).

ARTICLE ||

Cookies sold to airlines without marking MRP price and without requirement of MRP declaration is sale to institutional customers and valuation is required to be under section 4 – *CCE v. Australian Foods* (2009) 242 ELT 504 (Mad HC) – view confirmed in *Australian Foods v. CCE* (2010) 254 ELT 392 (Mad HC DB).

Soap sold to Ministry of Defence and clearly marked as not for retail sale is to be valued on basis of section 4 and not on MRP basis u/s 4A – *Wipro v. CCE* (2009) 243 ELT 402 (CESTAT).

Colour Televisions (CTVs) sold for free distribution on behalf of Tamil Nadu State Government are covered under MRP valuation provisions as it is neither service industry nor industrial consumers. Paying excise duty on basis of RMP is correct – *PG Electroplast Ltd. v. CST* (2014) 307 ELT 787 (CESTAT) [really, what is the sanctity of MRP printed on the package of such CTV?]

Provisions not applicable if product is not packed

Provisions of Legal Metrology Act do not apply to sale of a car – *Mahindra and Mahindra v. Director of Standards of Weights and Measures* (2011) 272 ELT 488 (Ker HC).

If spare parts are cleared in loose condition to its sister unit for e-packing for retail sale, MRP provisions are not applicable. Duty can be paid on cost of production plus 10% – *Hero Motorcorp Ltd. v. CCE* (2013) 288 ELT 82 (CESTAT).

No MRP on free gifts/samples, hence valuation as per section 4

In *Jayanti Food Processing v. CCE* (2007) 10 STT 375 = 215 ELT 327 (SC), assessee as selling Kitkat chocolates to Pepsi. These were distributed as free gift along with Pepsi bottle as a marketing strategy. It was held that even if product (chocolate) is covered under MRP provisions, since the product was not to be sold in retail, MRP is not required. Hence, valuation should be on basis of section 4.

However, if MRP is printed on free samples, valuation has to be on basis of MRP – *CCE v. Godrej Industries* 2006 (200) ELT 348 (CESTAT).

MRP provisions do not apply to export goods

MRP provisions do not apply to goods under export (even export to Nepal or Bhutan). In such cases, valuation is required to be as per provisions of section 4. Such goods are not liable to confiscation if MRP is not printed on such goods – *Gillete India Ltd. v. CCE* 2006 (193) ELT 331 (CESTAT).

MRP provisions are not applicable to exported goods – *Modi Bakers v. CCE* (2014) 309 ELT 547 (CESTAT).

Same product partly sold in retail and partly in wholesale

CBE&C has further clarified in circular No. 737/53/2003-CX dated 19-8-2003 that when goods covered u/s 4A are supplied in bulk to large buyer (and not in retail), valuation is required to be done u/s 4. Provisions of section 4A apply only where manufacturer is legally obliged to print MRP on the packages of goods. Thus, there can be instances where the same commodity would be partly assessed on basis of section 4A and partly on basis of transaction value u/s 4 – view noted and approved in *Jayanti Food Processing v. CCE* (2007) 10 STT 375 = 215 ELT 327 (SC).

Some of the situations where MRP cannot be printed are – (1) bulk supplies for personal as well as industrial use (2) Bulk supplies against contract (3) Supplies to canteen store depots of defence (4) Item supplied free with another consumer item (5) Items supplied free as marketing strategy or market response (6) Items meant for export. In case of doubt, a clarification may be obtained from Meteorology Department of State Government. – CBE&C circular No. 625/16/2002-CX dated 28-2-2002. – followed in *Bharti Systel v. CCE* 2002(145) ELT 626 (CEGAT).

Provisions of Legal Metrology Act not applicable to electronic gadgets, consumer durables or items sold in one piece after inspection/checking

Provisions of Packaged Commodities Rules do not apply to electronic items and consumer durables like TV, audio equipments, computers etc., which require demonstration for their functioning. These are not sold by weight, measure or number – decision of Madras High Court in *Philips India Ltd. v. UOI* 2002 Writ LR 140, reproduced and followed in *M G Khan v. CCE* (2009) 235 ELT 125 (CESTAT).

In *Eureka Forbes Ltd. v. UOI* AIR 2003 AP HC 275, MRP provisions do not apply to vacuum cleaner sold as a single piece. MRP provisions are applicable only when manufacturer, packer or retailer intends to sale the goods in packaged form as a pre-packed commodity.

Similar view has been expressed in *State of Maharashtra v. Subhash Arjundas Kataria* (2011) 9 SCC 670 = 275 ELT 289 (SC). However, in view of contrary decision of Supreme Court in other case, the matter has been referred to large bench.

Now the issue can be settled only by SC. In my view, applying principle of purposive construction, the rule should apply only when goods are sold as packaged commodity without opening/checking/inspection. Rule should be interpreted keeping purpose in mind and not mechanically.

Wholesale Package

MRP is not required on wholesale package.

Wholesale package means a package containing (i) A number of retail packages, where such first named package (i.e. the wholesale package) is intended for sale, distribution or delivery to an intermediary and is not intended for sale direct to a single consumer or (ii) A commodity sold to an intermediary in bulk to enable the intermediary to sell, distribute or deliver such commodity to consumer in smaller quantities or (iii) packages containing ten or more than ten retail packages where the retail packages are labelled as required under the rules – Rule 2(q) of Legal Metrology (Packaged Commodities) Rules.

Such package should contain following declarations – (a) name and address of manufacturer/packer (b) identity of commodity and (c) number of retail packages contained in such wholesale package or net quantity – Rule 24 of Legal Metrology (Packaged Commodities) Rules.

In *CCE v. B G Constructions* (2010) 254 ELT 383 (CESTAT), it has been held that a package is wholesale package even if any one of the aforesaid condition is satisfied and in such cases, valuation will be on basis of section 4 of CEA (transaction value basis) and not under section 4A (MRP basis) [Department had taken a stand that unless all three conditions should be satisfied to qualify a package as ‘wholesale package’]

A package is ‘wholesale package’ only if it contains number of retail packages - In *Jayanti Food Processing v. CCE* (2007) 10 STT 375 = 215 ELT 327 (SC), assessee was supplying 12 bottles of mineral water in a single package to airline company (Jet Airways). MRP was displayed on the package. However, individual bottle did not contain MRP as these were to be distributed to passengers by the airline company and not intended for resale. Assessee was paying duty on basis of MRP printed on the package of 12 bottles. It was held that the package of 12 bottles is not wholesale package. The airline company itself is ultimate consumer. Hence, the package of 12 bottles itself is a ‘retail package’ and hence duty is correctly payable on basis of MRP.

Packaging for protection/safety during transportation is not wholesale package - Outer Packaging for protection/safety during transportation is not wholesale package. Such packing does not require details like name/address of manufacturer, cost, month, year etc. - *State of Maharashtra v. Raj Marketing* (2011) 272 ELT 8 (SC).

Statutory provisions regarding non-applicability of provisions of MRP as per rules

The Packaged Commodities Rules exclude some packages from provisions of marking MRP. These are as follows.

Packages above 25/50 Kg – Provisions do not apply to packages or commodities of more than 25 Kg or 25 litre, excluding cement and fertilizer sold in bags upto 50 Kg – Rule 3(a) of Legal Metrology (Packaged Commodities) Rules [This means that in case of cement and fertilizer, MRP provisions apply upto 50 Kg]

MRP provisions do not apply to pack of 210 ltr of lubricating oil - *Castrol India v. CCE* (2008) 223 ELT 638 (CESTAT) * *Castrol India v. CCE* (2009) 236 ELT 340 (CESTAT).

Even if MRP provisions apply to 50 Kg package of cement, excise duty is payable on basis of transaction value under section 4 if the goods are cleared to industrial/institutional consumer – *Grasim Industries v. CCE* (2009) 238 ELT 655 (CESTAT) * *Heidelberg Cement v. CCE* (2015) 315 ELT 53 (CESTAT) [This would be so even if the quantity is 50 Kg or less].

Small packages of 10gm/10 ml or less – The provisions do not apply to packages containing commodity if the net weight or measure of commodity is ten gram or ten millilitre or less, *if sold by weight or measure* - Rule 26(a) of Legal Metrology (Packaged Commodities) Rules.

Exemption does not apply, if not sold by weight or measure – ratio of *CCE v. Urison Cosmetics Ltd.* 2006 (198) ELT 508 (CESTAT 3 member bench)].

Exemption does not apply to lipstick of 2.2 gms sold in pieces and not by weight - *Hindustan Unilever Ltd. v. CC* (2011) 273 ELT 137 (CESTAT) [It can be argued that ‘number’ is ‘measure’]

Fast food items – Any package containing fast food items packed by restaurants or hotel and the like are exempt – Rule 26(b) of Legal Metrology (Packaged Commodities) Rules.

Scheduled drugs and formulations - Scheduled formulations and non-scheduled formulations covered under Drugs (Price Control) Order, 1995 – Rule 26(c) of Legal Metrology (Packaged Commodities) Rules [Now, Order 2013 has been issued]

However, under Drugs (Prices Control) Order, 2013 (DPCO Order) (earlier 1995 order) these packages are also required to indicate MRP inclusive of all taxes.

Agricultural farm produce - Agricultural farm produces in packages of above 50 Kgs are exempt – Rule 26(d) of Legal Metrology (Packaged Commodities) Rules. Really this exemption is meaningless, since all commodities above 25/50 Kgs are anyway excluded.

Thread sold in coils to handloom weavers - Thread sold in coils to handloom weavers is exempt - Rule 26(d) of Legal Metrology (Packaged Commodities) Rules inserted w.e.f. 4-12-2014.

Bidis for retail sale – Declaration of retail price is not required on any package containing bidis – *proviso* (C)(i) to Rule 6 of Legal Metrology (Packaged Commodities) Rules. Declaration of month and year is also not required on bidis.

Domestic LPG gas – MRP is not required to be indicated in domestic LPG of which the price is covered under Administrative Price Mechanism of Government – – *proviso* (C)(ii) to Rule 6 of Legal Metrology (Packaged Commodities) Rules.

Declaration of month and year is also not required on domestic LPG gas of 14.2 Kg or 5 Kg bottled and marketed by PSU.

No MRP on free samples – Since samples are to be distributed free, MRP is not necessary if clear marking as ‘free samples’ is made on package – noted in *CCE v. Acme Health Care* 2005 (189) ELT 82 (CESTAT) * *CCE v. VYF Ltd.* (2009) 236 ELT 604 (CESTAT).

Package containing more than one piece when individual package less than 10 gm/10 ml not liable to MRP valuation

As per rule 26(a) of Legal Metrology (Packaged Commodities) Rules, a package with net weight or measure of the commodity is ten gms or ten milli-litre or less, sold by weight or measure, is exempt from provisions of these Rules.

A package containing 10 retail packages of 20 cigarettes is a whole package. Provisions of rule 29 of Standards of Weights and Measures (Packaged Commodities) Rules [Now rule 24 of Legal Metrology (Packaged Commodities) Rules] apply to such package and MRP is not required on such wholesale package – *ITC Ltd. v. State of NCT Delhi* (2009) 243 ELT 24 (Del HC).

In *Swan Sweets v. CCE* 2006 (198) ELT 565 (CESTAT), assessee was manufacturing toffee (also toffee)/chocolate weighing 4 gms each, wrapped in a printed plastic film. These were packed in plastic jars or plastic bags. The jars/plastic bags were sold to retailers who sold the chocolates piecemeal to ultimate consumer. It was held that such packing in jar or plastic bag is for wholesale sale in and not for retail sale. Such packing is required to have declaration only as per rule 29. It is not required to have declaration of MRP. Hence, the jar is to be sold as per valuation u/s 4 and not on MRP basis u/s 4A. Even if there is voluntary declaration of MRP on individual package less than 10 gms, the valuation should be u/s 4 and not u/s 4A – followed in *Central Arecanut v. CCE* (2008) 226 ELT 369 (CESTAT), where it was held that package containing 100 or more pieces of chocolate each weighing 5.5 gms does not attract assessment under section 4A i.e. based on MRP.

In *CCE v. Makson Confectionery* (2010) 259 ELT 5 (SC), assessee was manufacturing ‘Eclairs’ brand chocolates each weighing 5.5 gms. These were packed in package containing 100 or more individual pieces. Assessee contended that these qualify for exemption from Standard of Weights and Measures Rules [Now Legal Metrology (Packaged Commodity) Rules]. Hence, MRP valuation provisions are not applicable. This contention of appellant upheld.

In *Careless Beauty Products v. CCE* 2004 (164) ELT 53 (CESTAT), assessee was manufacturing sachet with 8 ml shampoo. Such 16 sachets were in one string (series of sachets in a row with perforations between two sachets) and such 60 strings i.e. 960 sachets are packed in one packet. Assistant Controller of Legal Metrology, Mumbai clarified that the packet is not a ‘multi-piece’ package but a wholesale package, which attracts rule 29, i.e. MRP provisions do not apply. This was accepted, demand was dropped and matter was remanded to Commissioner (Appeals) for consideration on merit – view confirmed in *CCE v. Urison Cosmetics Ltd.* 2006 (198) ELT 508 (CESTAT 3 member bench).

The aforesaid view has been finally confirmed in *CCE v. Krafttech Products* (2008) 224 ELT 504 (SC) = AIR 2008 SC 2238.

Contrary decision of large bench upsetting settled law – Just when it was thought that the issue has been settled, it has been unsettled by a recent decision of large bench of Tribunal.

In *Roys Industries Ltd. v. CCE* 2006 (201) ELT 609 (CESTAT), the assessee was manufacturer of Caram Eclairs and Choco Eclairs weighing 5.5 gms each. Several such Eclairs were packed in pet jars and poly bags. Each such individual piece carried the marking on wrapper ‘MRP Re 1). On pet jars and poly bags, there were markings ‘Re 1 per unit’ and ‘Wholesale Pack. To be opened and sold loose’. The division bench was of the view that this not wholesale package but multi-piece package. The entire pet jar or polybag could be sold in retail also. Hence MRP provisions of valuation under section 4A will apply. However, in view of contrary decision of other bench, the issue was referred to large

The large bench in *Roys Industries Ltd. v. CCE* (2010) 259 ELT 387 (CESTAT 2 v. 1 decision) has upheld the view that the package is a multi-piece package and not wholesale package. Hence, valuation is required as per section 4A of Central Excise Act – followed in *Perfetti Van Melle v. CCE* (2011) 266 ELT 122 (CESTAT) – same view in *Arora Product v. CCE* (2012) 276 ELT 77 (CESTAT).

This has upset the settled law. In my view, the decision needs review for the following reasons.

Firstly, the definition of ‘multi-piece package’ has been omitted w.e.f. 14-1-2007 from Standards of Weights and Measures (Packaged Commodities) Rules.

Secondly, Wholesale package means a package containing (i) A number of retail packages, where the wholesale package is intended for sale, distribution or delivery to an intermediary and is not intended for sale direct to a single consumer or (ii) A commodity sold to an intermediary in bulk to enable the intermediary to sell, distribute or deliver such commodity to consumer in smaller quantities or (iii) packages containing ten or more than 10 retail packages where the retail packages are labelled as required under the rules.

Since the word used is 'or', it is sufficient if any one of the conditions is satisfied. Thus, indeed, the package in pet jar or poly bag is a wholesale package and not multi-piece package.

Valuation on MRP basis even if package is not really intended for retail sale ?

Sometimes, aberrations take place in decisions of Court or Tribunal, either because the case is not properly presented or because the definition is literally applied, without considering purpose behind that provision. Such aberrations do get corrected in due course but damage gets done in interim period.

In *ITEL Industries P Ltd. v. CCE* 2004 (163) ELT 219 (CESTAT 2 v. 1 decision), telephone instruments were supplied to DOT/MTNL in bulk with MRP duly marked. DOT/MTNL lent these to subscribers retaining their ownership. It was held that since goods were packed, the valuation is required to be done u/s 4A on basis of MRP, even if goods were not sold to customers – followed in *BPL Telecom v. CCE* (2004) 168 ELT 251 = 60 RLT 664 (CESTAT), where it was held that there is no requirement under Packaged Commodities Rules that goods covered by those provisions must be actually sold in retail – view confirmed in *Jayanti Food Processing v. CCE* (2007) 10 STT 375 = 215 ELT 327 (SC).

This was also followed in *Electrolux Kelvinator Ltd. v. CCE* 2005 (179) ELT 214 (CESTAT), where it was held that even if refrigerators are sold in bulk (but packed individually by declaring MRP on the package) to soft drink manufacturers, duty is payable on MRP affixed on them. The exemption under rule 34(a) of Weights & Measures Rules [Now rule 3 of Legal Metrology (Packaged Commodities) Rules] is applicable only if goods are specially packed for exclusive use of any industry or service in mining or quarry – view confirmed in *Jayanti Food Processing v. CCE* (2007) 10 STT 375 = 215 ELT 327 (SC).

In *Gwalior Leather v. CCE* (2009) 243 ELT 386 (CESTAT), goods bearing MRP were sold to institutional buyers under contract on basis of MRP printed. It was held that so long as there is no allegation or finding that sales to institutional buyers are at prices in excess of MRP printed, valuation shall be on basis of MRP printed.

The judgments seem technically correct on basis of definition of 'retail sale' as it covers not only sale, but also distribution or delivery through sale agencies or any other instrumentalities. However, what is ignored is that when a product, even if packed, is not to be further sold at all, where is the question of printing any MRP on such package? What sanctity or validity that MRP has when sale is in bulk?

Freeze, air conditioner packaged commodity?

A pre-packaged commodity is such that a consumer purchases it in packed form without opening it. In case of refrigerators, air conditioners etc., these are packed in factory for transport convenience. These are never sold to customer in packed form. These are shown to customer, tested and then sold.

It is true that, in *Whirlpool of India Ltd. v. UOI* 2001(137) ELT 42 (P&H HC DB), it was held that provisions of declaration of MRP are applicable to refrigerator. It is a 'packaged commodity', as it is packed in three wrappers. The position does not change merely because the dealer has to open the carton and exhibit the contents to the customer at the time of sale – view confirmed in *Jayanti Food Processing v. CCE* (2007) 10 STT 375 = 215 ELT 327 (SC) * *Whirlpool of India v. UOI* (2007) 14 SCC 468 = 11 STT 377 = 218 ELT 167 (SC) = AIR 2008 SC 397 * *UOI v. Godrej-GE Appliances* (2009) 235 ELT 435 (Ker HC DB).

However, this view has been doubted in *State of Maharashtra v. Subhash Arjundas Kataria* (2011) 9 SCC 670 = 275 ELT 289 (SC) and the matter has been referred to large bench.

In my view, really refrigerator is packed only for transport purposes. No customer buys freeze by checking MRP on the package.

Conclusion

Following is the summary -

- ◆ Provisions of valuation on basis of MRP less abatement apply only when goods are a packaged commodity intended for retail sale.
- ◆ MRP provisions are not applicable if goods are sold in bulk or to industrial or institutional consumers
- ◆ Small packages upto 10 gm/ml and big packages of above 25/50 Kg are exempt from provisions of the Act.
- ◆ Provisions do not apply if goods are not packed or not intended for retail sale
- ◆ There are some aberrations where it has been held that MRP provisions apply even if goods are not for retail sale. It was also held that provisions of MRP valuation apply to freeze and air conditioner, though they are never sold in packaged form. Such aberrations do get corrected in due course of time. ■

TAXATION OF NRIs



The Contributor is a student of
ICAI (Reg.No. WRO0368164)

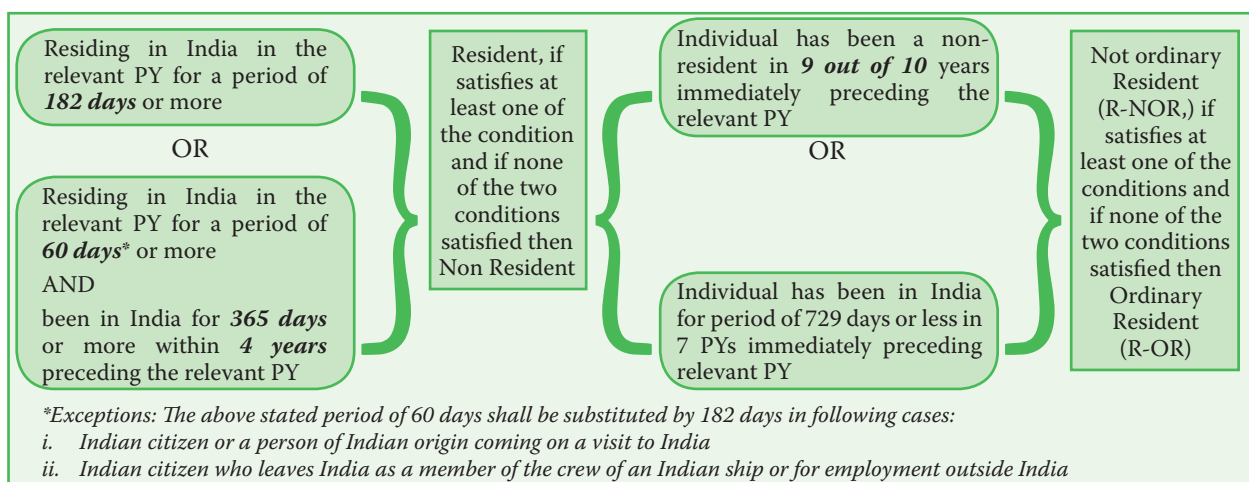
Residential Status (Section 6 of the Income Tax Act):

Resembling Income tax laws of many other countries, the liability under Indian Income tax also varies with the residential status of the concerned tax payer and not according to the nationality/domicile of the Tax Payer.

Section 6, does not define who is non-resident,

but defines who is resident. Therefore an Individual who is not a resident under the Income-tax Act is a non-resident Indian. Indian Income tax classifies an Individual as Resident (further classified into Ordinary resident and not ordinary resident) and Non-Resident.

Given below is the definition of Resident Individual given by Section 6 (only individuals covered and not HUF, Corporates, AOP, BOIs):



Income liable to tax (Section 5, 5A and 9 of the Income Tax Act):

Income-Received or is deemed to be received in India		
R-OR ✓	R-NOR ✓	NRI ✓
↓		
Income - Accrues or arises or is deemed to accrue or arise in India		
R-OR ✓	R-NOR ✓	NRI ✓
↓		
Income - Accrues or arises outside India but derived from a business controlled in or a profession setup in India		
R-OR ✓	R-NOR ✓	NRI ✗
↓		
Income - Accrues or arises outside India		
R-OR ✓	R-NOR ✗	NRI ✗

Important Points:

- ◆ NRIs are liable only for income received or deemed to be received in India or which accrues or arises or is deemed to accrue or arise in India.
- ◆ NRIs are not at all liable for Income that accrues or arises outside India even if such Income is remitted to India

Special provisions relating to certain incomes of Non-resident Indians [Chapter XII-A of the Income-tax Act]:

Non-Resident Indians (NRIs) are given an option with respect to taxability of their specified incomes. That is with respect to certain specified Incomes an NRI may choose to be taxed applying the normal provision of the Income Tax Act or the provision of this chapter whichever are more beneficial. A NRI may elect not to be governed by the provisions of this chapter for any assessment year by furnishing [his return of income for that assessment year under section 139 declaring therein] that the provisions of this chapter shall not apply to him for that assessment year. This option may be altered every year on year-to-year basis. [Section 115I]

Definitions [Section 115C]:

- ◆ **Convertible Foreign Exchange** means foreign exchange which is for the time being treated by the RBI as convertible foreign exchange for the purposes the FEMA, 1999
- ◆ **Foreign exchange asset** means any specified asset which the assessee has acquired or purchased with, or subscribed to in, convertible foreign exchange
 - **Specified Asset** means any of the following assets, namely:-
 1. Shares in an Indian Company (both public and private limited)
 2. Debentures by an Indian company which is not a private company
 3. Deposits with an Indian company which is not a private company
 4. Securities of the CG
 5. Such other assets as the CG may specify in this behalf by notification
- ◆ **Investment Income** means any income derived other than dividends referred to in section 115-O from a foreign exchange asset
- ◆ **Long-term capital gains** means income chargeable under the head "Capital gains" relating to a capital asset, being a foreign exchange asset which is not a short-term capital asset;
- ◆ **Non-resident Indian** means an individual, being a citizen of India or a person of Indian origin who is not a "resident"

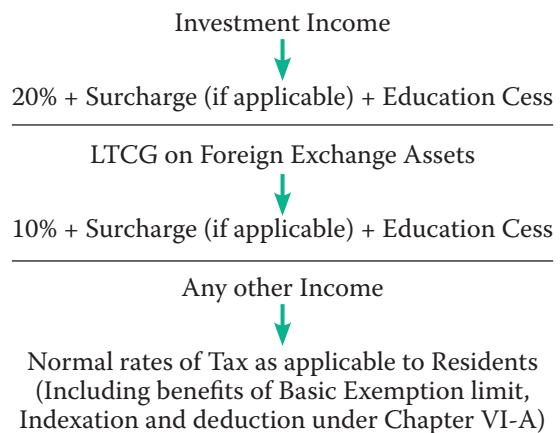
Computation [Section 115D]:

Particulars	Investment Income	LTCG on transfer of Foreign exchange asset
Expenditure incurred to earn Income	X	✓ (Transfer expenses)
Indexation (Second proviso to Section 48)	Not applicable	X
Basic Exemption Limit	X	X
Deduction under Chapter VI-A	X	X

While computing the investment income of a NRI no deduction in respect of any expenditure or allowance shall be allowed. However, Transfer expenses will be allowed while calculating Long term capital gains on transfer of specified foreign exchange assets.

No deduction will be allowed under Chapter VI-A in both the cases and also the benefit of basic exemption limit will not be available.

Tax on investment income and long-term capital gains [Section 115E]:



Capital gains exemption on transfer of foreign exchange assets [Section 115F]:

In case of an NRI, any LTCG arising from the transfer of a foreign exchange asset (original asset) can be claimed exempt on satisfaction of the following condition:

- ◆ Net consideration (Sale consideration less expenditure incurred for such transfer) is invested in another foreign exchange assets or
- ◆ In Saving certificates referred to in clause (4B) of Section 10

WITHIN 6 MONTHS OF TRANSFER OF ORIGINAL ASSET

If Amount invested => net consideration, then entire LTCG is exempt

If Amount invested < net consideration, then Exemption = $\frac{\text{LTCG} \times \text{Amount Invested}}{\text{Net Consideration}}$

Withdrawal of exemption:

Where the new asset is transferred or converted into money, within a period of three years from the date of its acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such new asset as computed above shall be deemed to be income chargeable under the head "Capital gains" in the previous year in which the new asset is transferred or converted into money.

Return of Income (ROI) not be filed in certain cases [Section 115G]:

It shall not be necessary for a non-resident Indian to furnish Return of Income under 139 (1) income if—

- his total income in respect of which he is assessable under this Act during the previous year consisted only of investment income or income by way of long-term capital gains or both; and
- the tax deductible at source under the provisions of Chapter XVII-B has been deducted from such income.

However, in case there is refund to be claimed then return of Income is required to be filed.

Benefit under Chapter to be available in certain cases even after the assessee becomes resident [Section 115H]:

Where a person, who is a NRI in any previous year, becomes assessable as resident in India he may furnish to the Assessing Officer a declaration in writing along with his return of income under section 139 for the assessment year for which he is so assessable, to the effect that the provisions of this Chapter shall continue to apply to him.

However such application may be made only in relation to the investment income derived from any foreign exchange asset being

- ◆ Debentures by an Indian company which is not a private company
- ◆ Deposits with an Indian company which is not a private company
- ◆ Securities of the CG
- ◆ Such other assets as the CG may specify in this behalf by notification

and if he does so, the provisions of this Chapter shall continue to apply to him in relation to such income for that assessment year and for every

subsequent assessment year until the transfer or conversion into money of such assets.

(Thus, this option to go for provisions of XII-A cannot be opted in respect of Shares of Indian Company once the NRI becomes Resident)

Chapter not to apply if the assessee so chooses [Section 115I]:

A Non-Resident Indian is by default governed by the provision of Chapter XII-A. However, Chapter XII-A is optional. The assessee may opt to be governed by normal provisions of the IT Act, 1961 if he wishes to. Moreover, this choice is available for every year on year-to-year basis.

Some other notable taxation points for NRIs:

- **No variable tax slabs for NRIs:** NRIs are taxed as per the tax rate and slabs prescribed for resident Indians below 60 years irrespective of whether he is a senior citizen or not.
- **TDS provisions applicable:** NRI interested in maintaining a Rupee account in India has two options – NRE account or NRO account. Interest earned on NRE account is tax free and hence no TDS is deducted. However, in case of every single Rupee (no limit of ₹10,000 as in case of Residents) of interest earned in NRO account is liable for TDS at maximum marginal rate of 30%.
- **Benefit of Double Taxation Avoidance Agreements:** By virtue of Section 90 (2) of the Income-tax Act, 1961, assessee has an option of choosing to be governed by the provisions of a specific DTAA as applicable to him or to be governed by the provisions of the Income Tax Act, whichever are more beneficial to him. To avail this benefit, assessee is required to furnish Tax Residency Certificate (TRC), issued by the authorities of the country in which such NRI resides.

Conclusion:

In order to attract NRIs to invest foreign currency in India, the Central Board of Direct Taxes has offered them a separate concessional tax regime for certain specific income falling under Chapter XII-A. Moreover, DTAAs that have an overriding effect on the provisions of Income Tax Law, has proved to be beneficial to these NRIs in avoiding double taxation of their Income. However, in order to avail this benefit of DTAAs the taxpayer is required to furnish a TRC, which is at times a cumbersome process. ■

References:

*<http://www.incometaxindia.gov.in/pages/Act-provisions-non-resident.aspx>

National Convention for CA Students - Ernakulam

20th & 21st May, 2015

**VENUE: GOKULAM CONVENTION
CENTRE, KALOOR,
ERNAKULAM**

Organized by: Board of Studies, ICAI

Hosted by: Ernakulam Branch of SIRC of ICAI & Ernakulam Branch of SICASA

THEME: UDAAN 2015

DAY-1

09:00 AM - 10:30 AM	Technical Session I – Convergence of IFRS to Ind AS Session Chairman : CA. Shiwaji Bhikaji Zaware Chairman, Ind AS (IFRS), Implementation, Committee, ICAI Session Speakers : Two Student Speakers
10:45 AM - 12:15 PM	Inaugural Session Chief Guest : CA. Manoj Fadnis, President, ICAI Guest of Honour : CA. M. Devaraja Reddy, Vice-President, ICAI
01:15 PM - 02:15 PM	Special Session I – Interaction with Board of Studies, ICAI Session Chairman : CA. V. Murali, Chairman, Board of Studies, ICAI CA. Nilesh S. Vikamsey, Vice-Chairman, Board of Studies, ICAI
02:15 PM - 03:45 PM	Technical Session II – Provisions Under Section 143 of Companies Act 2013 - Powers and Duties of an Auditor Session Chairman : CA. Babu Abraham Kallivayalil, Chairman, CPE Committee, ICAI Session Speakers : Two Student Speakers
04:00 PM - 05:30 PM	Technical Session III – Depreciation Provisions Under The Companies Act 2013 Session Chairman : CA. Vivek Krishna Govind Session Speakers : Two Student Speakers

DAY-2

09:00 AM - 10:30 AM	Technical Session IV – Income computation and Disclosure Standards (ICDS) Session Chairman : CA. G Sekar, Chairman, Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI Session Speakers : Two Student Speakers
10:45 AM - 11:45 AM	Special Session II – Motivational Session Speaker : CA. Jay Ajit Chhaira, Chairman, Committee on Management Accounting, ICAI
11:45 AM - 01:15 PM	Technical Session V – Companies Act 2013 vis-a-vis Auditing Standards Session Chairman : CA. Jomon K George, Member SIRC, ICAI Session Speakers : Two Student Speakers

The Inaugural Session will be on Day-1 and the Valedictory session on Day-2

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

Registration fees	₹ 500/- per student	Accommodation (Extra) @ ₹ 500/- per student
Payment Mode	Cash/DD/Cheque to be drawn in favour of “Ernakulam Branch of SIRC of ICAI”, payable at Ernakulam.	

For registration queries contact

Ernakulam Branch of SIRC of ICAI, ICAI Bhawan, Diwan's Road, Ernakulam, Kochi-682 016

Ph: 0484 2369238, 2372953. Fax: 0484 2381170 E-mail: ernakulam@icai.org

Students are invited to contribute papers for presentation (1500 to 2000 words in MS word) for topics in Technical Sessions and submit for approval a soft copy of the paper at ernakulam@icai.org and infosicasa@gmail.com by 5th May, 2015 and a hard copy of the same along with Student's Photograph (with his/her name on the back of the photograph), ICAI Students Registration No., Course pursuing, complete postal address, Mobile, Landline numbers and e-mail ID be also sent to the Ernakulam Branch. Outstation student speakers shall be reimbursed actual travelling expenses equivalent to 2 tier AC and DA @ ₹ 1500/- per day for lodging etc. Students who are interested to participate in the Cultural Programme are requested to register before 10th May, 2015 at Ernakulam Branch.

CA. V. Murali
Convention Chairman
& Chairman, Board
of Studies, ICAI

**CA. Nilesh S.
Vikamsey**
Convention Co-Chair-
man & Vice-Chairman,
Board of Studies, ICAI

**CA. Babu Abraham
Kallivayalil**
Convention Convener
& Central Council
Member, ICAI

CA. R. Balagopal
Convention Coordinator
& Chairman, Ernakulam
Branch of SIRC OF ICAI

CA. Tinu Anto K
Convention Coordinator &
Chairman SICASA, Ernakulam
Branch

National Conclave for CA Students - Jalgaon

6th & 7th June 2015

**JILHA NIYOJAN COMMITTEE
HALL, COLLECTOR OFFICE,
JALGAON**

Organized by: Board of Studies, ICAI

Hosted by: Jalgaon Branch of WIRC of ICAI & Jalgaon Branch of WICASA

THEME: Committed to Inspire Excellence...

DAY-1

11.00 am to 1.00 pm

Technical Session 1 – Companies Act, 2013

1. Concept of Independent Director & Women Director.
2. Deposits under Companies Act 2013.
3. Provisions Related to Appointment, Disqualification, Removal, and Resignation of Auditor Under Companies Act 2013.

2.00 pm to 3.30 pm

Special Session – Interaction with CA V. Murali, Chairman, Board of Studies, ICAI

03.00 pm to 05.00 pm

Technical Session 2— Indirect Tax

1. GST Impact on Economy.
2. CENVAT Credit in Service Tax.
3. Service Tax on Aggregator's Services

DAY-2

09.30 am to 11.30 am

Technical Session 3—Direct Taxes

1. Income Computation and Disclosure Standards (ICDS) Issued By CBDT
2. TDS Penalties & Prosecution under Income Tax Act 1961.
3. Taxation on Sale of immovable properties vis-à-vis Deemed valuation as per Sec. 50C of Income Tax Act 1961.

11.30 am to 01.00 pm

Spiritual/Motivational Session

02.00 pm to 04.00 pm

Technical Session 4—Information Technology

1. Use of Information Technology in CA profession.
2. Threats due to Information Technology & Security issues in Cyber Law.
3. Technology in CA Education – Satellite Learning & E Learning.

The Inaugural Session will be on Day-1 and the Valedictory session on Day-2

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

Registration fees ₹ 400/- per student

Accommodation @ ₹ 1000/- per student for 2 Days.

Payment Mode Cash/DD/Cheque to be drawn in favour of "Jalgaon Branch of WIRC of ICAI", payable at Jalgaon.

For registration queries contact

Jalgaon Branch of WIRC of ICAI, ICAI Bhawan, Plot no.10, Gajanan Colony, Ring Road, Jalgaon - 425001

Phone 0257-2224305, 2232205 & Email - jalgaon@icai.org & Website- www.jalgaon-icai.org

Students are invited to contribute papers for presentation (1500 to 2000 words) for topics in Technical -Sessions and submit for approval a soft copy of the Paper at jalgaon@icai.org by 21st May 2015 and a hard copy of the same along with Student's Photograph (with his/her name on the back of the photograph), ICAI Students Registration No., Course pursuing, complete postal address, Mobile, Landline numbers and e-mail ID be also sent to the Jalgaon Branch of WIRC of ICAI. As per Board of Studies student speakers can submit papers only in 2 programmes-Conclaves/Conventions/Conferences organized by the BOS in a year. Hence, a declaration to this effect shall be submitted by the paper presenter. Paper Presenters selected for presentation of paper at the Conclave are exempted from payment of registration fees. All selected outstation Paper Presenters will be reimbursed to and fro AC 3 tier railway fare by the shortest route on production of necessary proofs (both ways ticket). Students who are interested to participate in the Cultural Program are requested to register before 21st May 2015 at Jalgaon Branch

CA. V. Murali
Conclave Chairman &
Chairman, Board of
Studies, ICAI

**CA. Nilesh S.
Vikamsey**
Conclave Co-Chairman
& Vice-Chairman,
Board of Studies, ICAI

**CA. Prafulla P.
Chhajed**
Conclave Convener
& Central Council
Member, ICAI

**CA. Kaushal K.
Mundada**
Conclave Co-ordinator
& Chairman, Jalgaon
Branch of WIRC of ICAI,
9823116005

CA. Nitin M. Zawar
Conclave Co-ordinator &
Chairman, Jalgaon Branch of
WICASA, 9422995200

National Convention for CA Students - Aurangabad

4th & 5th JULY, 2015

**SANT TUKARAM NATYA GRUH,
CIDCO, AURANGABAD**

Organized by: Board of Studies, ICAI

Hosted by: Aurangabad Branch of WIRC of ICAI and Aurangabad Branch of WICASA

THEME: Spectrum of Opportunities

DAY-1

11.00 am to 1.00 pm	Technical Session 1 – I Taxation 1. Service Tax Implications – Real Estate & Construction Business 2. GST – Broad Overview 3. MAT & AMT – A Parallel Tax System
2.00 pm to 3.30 pm	Technical Session – II Corporate Law 1. Conversion of a Company into LLP: Procedure and its Merits & De-merits 2. Corporate Social Responsibility 3. Companies Act 2013 – Opportunities & Threats to Auditor's and Companies
3:30 pm – 4:45 pm	Special Session I – Motivational Session
4:45 pm – 5:30 pm	Interaction with CA. V. Murali, Chairman, Board of Studies, ICAI

DAY-2

09.30 am to 11.30 am	Technical Session – III- Present National Scenario 1. Make in India 2. New Land Acquisition Bill 3. Educational Institutions – Education Imparting or Money Making 4. Net Neutrality – A necessity or Luxury?
11:30 am – 1:00 pm	Special Session II – Income Tax: Search and Seizure Skit
02.00 pm to 03.30 pm	Technical Session – IV Economy & Finance 1. E-Commerce: Next Frontier in Global Expansion 2. New Banking Licenses 3. Impact of FDI on Various Sectors 4. Black Money: Are the regulations stringent enough?

The Inaugural Session will be on Day-1 and the Valedictory session on Day-2

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

Registration fees	Till 25th June , 2015 @ ₹ 700/- per student and After 25th June, 2015 @ ₹800/- per student
Payment Mode	Cash/DD/Cheque to be drawn in favour of "National Convention for CA students", payable at Aurangabad

For registration queries contact

Aurangabad Branch of WIRC of ICAI, ICAI Bhavan, Near MIT College, Beed-By Pass, Aurangabad - 431005

Phone: 240- 2342 157 & Email: aurangabad@icai.org

Students are invited to contribute papers for presentation (1500 to 2000 words) for topics in Technical Sessions and submit for approval a soft copy of the Paper at aurangabadwicasa@gmail.com with CC to aurangabad@icai.org by 20th June, 2015 and a hard copy of the same along with Student's Photograph (with his/her name on the back of the photograph), ICAI Students Registration No., Course pursuing, complete postal address, Mobile, Landline numbers and e-mail ID be also sent to the Aurangabad Branch. Outstation Student Speakers shall be reimbursed actual travelling expenses equivalent to 2 tier AC and DA @ 1500 per day for lodging etc. Students who are interested to participate in the Cultural Programme are requested to register before 25th June, 2015 at Aurangabad Branch.

CA. V. Murali
Convention Chairman
& Chairman, Board
of Studies, ICAI

CA. Nilesh S. Vikamsey
Convention
Co-Chairman &
Vice-Chairman,
Board of Studies, ICAI

CA. Prafulla P. Chhajed
Convention Convener
& Central Council
Member, ICAI

CA. Pankaj Kalantri
Convention Co-ordinator
& Chairman,
Aurangabad Branch
of WIRC of ICAI,
9890987017

CA. Alkesh Rawka
Convention Co-ordinator &
Chairman, Aurangabad
Branch of WICASA,
9823245507

ANNOUNCEMENT

In addition to the announcements published elsewhere in this issue, the following Conventions/Conclaves for CA students have been planned as of April, 2015. For further details, please contact the respective Regional Council / Branch.

S.N	Branch	Name of the Programme	Dates	Contact Details
1	Jaipur	National Convention	22nd & 23rd June, 2015	Ph: (141) 3044 200, 6598 796, E-mail: jaipur@icai.org
2	Surat	National Convention	26th & 27th June, 2015	Ph: (261) 2472 932, 2464 413, E-mail: surat@icai.org
3	Thane	National Convention	28th & 29th June, 2015	Ph: (22) 2538 2451/53/54/56, E-mail: thane@icai.org
4	Guwahati	National Convention	8th & 9th July, 2015	Ph: (361) 2207 660, E-mail: guwahati@icai.org
5	Kolkata	National Convention	11th & 12th July, 2015	Ph: (033) 3021 1140-41, E-mail: ero@icai.in
6	Nagpur	National Convention	13th & 14th July, 2015	Ph: (712) 2443 968, E-mail: nagpur@icai.org
7	New Delhi	National Convention	21st & 22nd July, 2015	Ph: (011) 3021 0601-605, E-mail: nirc@icai.in
8	Baroda	National Convention	23rd & 24th July, 2015	Ph: (265) 2681 115, 2680 593, E-mail: baroda@icai.org
9	Chennai	All India Conference	3rd & 4th August, 2015	Ph (044) 3021 0300, E-mail: sro@icai.in
10	Goa	Sub Regional Conference (Western Region)	11th & 12th August, 2015	Ph: (832) 2438 516, E-mail: goa@icai.org,
11	Vijayawada	National Convention	20th & 21st August, 2015	Ph: (866) 2576 666, E-mail: vijayawada@icai.org
12	Ahmedabad	National Convention	22nd & 23rd August, 2015	Ph: (079) 2768 0946, E-mail: ahmedabad@icai.org
13	Raipur	National Convention	29th & 30th August, 2015	Ph: (771) 4030 937, E-mail: raipur@icai.org
14	Bangalore	National Convention	5th & 6th December, 2015	Ph: (80) 3056 3500, E-mail: bangalore@icai.org
15	Siliguri	National Convention	6th & 7th November, 2015	Ph:(353) 2560 445, E-mail: siliguri@icai.org
16	Nashik	Two- Days Programme	19th & 20th December, 2015	Ph: (253) 2236 012/107, E-mail: nashik@icai.org
17	Calicut	National Conclave	9th & 10th January, 2016	Ph: (495) 2770 124, E-mail: calicut@icai.org

ANNOUNCEMENT

THE S. VAIDYANATH AIYAR MEMORIAL FUND (SVAMF), ICAI for 2014-2015

The Managing Committee of the S. Vaidyanath Aiyar Memorial Fund have decided to award scholarships to 100 students (who are currently undergoing articled training in accordance with The Chartered Accountants Regulations, 1988 who are poor, needy but meritorious) requiring scholarship to pursue the Chartered Accountancy course @ ₹1000/- p.m. for one year with effect from 1st April, 2014 to 31st March, 2015 to be paid in lump sum, subject to filing of application for the same.

The eligibility criteria for obtaining scholarship from SVAMF are as under:

- i) Passed 10 + 2 examination with a minimum of 70 percent marks and also have Passed Common Proficiency Test of ICAI in the first attempt

or

Passed B.Com Examination of a recognized University with a minimum of 60% marks.

- ii) Currently undergoing articled training as per CA Regulations.
- iii) Annual income of parents from all sources must be less than ₹1.50 lakh.

Students who are needy, poor but meritorious and are fulfilling the above criteria may apply for scholarship from the S. Vaidyanath Aiyar Memorial Fund. Students may send their request in the prescribed and duly filled Form to the Member Secretary, S. Vaidyanath Aiyar Memorial Fund at the following address so as to reach on or before 15th June, 2015. The form can be downloaded from website of the Institute www.icai.org.

The Managing Committee of the S.Vaidyanath Aiyar Memorial Fund will consider each of such cases on merit basis and decide at their discretion the amount to be granted from S.Vaidyanath Aiyar Memorial Fund

Member Secretary
S. Vaidyanath Aiyar Memorial Fund
C/ O The Institute of Chartered Accountants of India,
"ICAI Bhawan",
A-29, Sector-62, Noida-201309, Dist. Gautam Budh Nagar (U.P.)
website : www.icai.org email : cabf@icai.in

ANNOUNCEMENT

ELECTIONS - WICASA MANAGING COMMITTEE: 2015-16

Elections for the 12 student representatives would be held from 8.00 am to 12.00 noon on Sunday, 7th June, 2015 at the ICAI Tower, Plot No: C-40, G Block, Bandra Kurla Complex, Bandra(E), Mumbai- 400 051.

The detailed announcement regarding the aforesaid elections as well as eligibility criteria for students are hosted on the WIRC website. Students are advised to visit the WIRC website: www.wirc-icai.org for the detailed announcement and for obtaining the nomination form for the said elections.

25th May, 2015 to 5th June, 2015 during working hrs. i.e. 10.00 am to 05.30 pm.

ANNOUNCEMENT

Complete Advanced ITT Course well in time to appear for November, 2015 Final Exam

As per Regulation 29(c)(iv) of the Chartered Accountants' Regulations 1988, students who have registered for Practical Training on or after February 1, 2013 are required to complete Advanced IT Training before admission to the Final Examination. **Hence all such students whose Practical Training commenced on or after February 1, 2013 and are eligible to appear in November, 2015 Examination are advised to complete the Advanced ITT well in advance before appearing in the Final Examination so as to avoid any hardship at a later date.**

The fee for the Advanced ITT Course has been fixed at ₹5,000/- per student, which shall be charged by the concerned Regional Office/ Branch. The classes for this course would be organized for 4 or 6 hours per day. The students are advised to contact their concerned Decentralised Office or Branch for registration to batches of the Advanced ITT Course and ensure to complete the course well in time.

As per the Regulations, the time spent by the students for undergoing Advanced ITT will be treated as a part of the training as period actually served under articles.

Students are advised to complete their Advanced ITT course by July 31, 2015 such that they can fill information regarding Advanced ITT course completion in the Examination Form to be filled in August, 2015, for appearing in the Final Examination in November, 2015.

Director, Board of Studies

ANNOUNCEMENT

COMPANIES (AUDITOR'S REPORT) ORDER, 2015

The Ministry of Corporate Affairs (MCA) has notified the Companies (Auditor's Report) Order, 2015 on April 10, 2015. Click on the following URL for the text of the aforesaid Order.

http://www.mca.gov.in/Ministry/pdf/Companies_Auditors_Report_Order_2015.pdf

ANNOUNCEMENT

Extension of date to complete GMCS-I Course

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 have not completed the GMCS-I course, are required to complete GMCS-I Course latest by 31st December, 2015.

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, 2015.

Director, Board of Studies

ANNOUNCEMENT

Four Weeks Residential Programme on Professional Skills Development organised by Board of Studies (BoS) at Centre of Excellence, (CoE), Hyderabad

The Board of Studies is pleased to announce the next two batches of Four Weeks Residential Programme organised by Board of Studies as below:

Venue	Participant	Fees	Date	Links for Registration
Centre of Excellence (CoE), Hyderabad	Men	₹40,000/-	25th May 2015 to 21st June, 2015	http://icai.org/new_category.html?c_id=345
Centre of Excellence (CoE), Hyderabad	Women	₹40,000/-	25th June 2015 to 21st July, 2015	http://icai.org/new_category.html?c_id=345

The programme aims to help the Chartered Accountancy students and newly qualified Chartered Accountants in imbibing the professional skills required for effective functioning in business organisations and the profession. The Programme environment focuses on development of communication skills, personal qualities, interpersonal and teamwork skills, problem solving skills and leadership skills.

Salient Features of the Programme:

- o Emphasis on Soft Skills, Communication Skills and Personality Development.
- o Exemption from payment of Fees to Top 10 Rank holders.
- o Part of Articleship Training.
- o No need for Separate GMCS/GMCS II
- o Special Session on Group Discussion & Interview.
- o Preparation of Project and Presentation Skills.
- o Building Team Spirit.

Students who have passed Chartered Accountancy IPCC/ PCC/ PE- II examination and pursuing last year of article training or completed Articleship training are invited to join the course for respective batch. Recently qualified Chartered Accountants are also welcome to join the course.

For online registration, further details, visit the Board of Studies Announcements under the Students Icon on the Home Page of ICAI website www.icai.org.

For upcoming batches, please regularly visit www.icai.org or refer to the Chartered Accountant Student Journal. For any query, you can call at 0120-3045935/949/919.

For detailed brochure visit: <http://220.227.161.86/34091bos23791.pdf>

Director, Board of Studies

ANNOUNCEMENT

Non-applicability of Wealth-tax for November, 2015 CA Final Examination

The Finance Bill, 2015, introduced in the Parliament on 28 February 2015, has proposed to abolish the levy of wealth-tax under the Wealth-tax Act, 1957 with effect from assessment year 2016-17. The Finance Bill, 2015 would be enacted in May 2015, after it is passed by both the Houses of the Parliament and receives the assent of the President of India. The amendments made by the Finance Act, 2015 would be applicable from May 2016 examination. The relevant assessment year for May 2016 and November 2016 examinations is A.Y.2016-17. Hence, consequent to the abolition of levy of wealth-tax by the Finance Act, 2015 with effect from A.Y.2016-17, wealth-tax would **not** be applicable from May, 2016 examination.

The Council, at its 342nd meeting held from 15th to 17th April, 2015, decided that the Wealth-tax Act, 1957 and Rules thereunder would not be applicable for November, 2015 examination also, even though the relevant assessment year for November 2015 examination is A.Y.2015-16. Accordingly, **Wealth-tax Act, 1957 and Rules thereunder would NOT be applicable for November, 2015 examination of Paper 7: Direct Tax Laws.**

Director, Board of Studies

CROSSWORD PUZZLE SOLUTION FOR APRIL 2015

1 F	2 O	3 U	R		4 O		5 O	6 D	O	7 U	8 R
9 I	C	R			10 N	11 I	N	E		N	U
12 R	I	L		13 T	E	N		14 P	O	O	L
M			15 I	V		16 D	O	O	R		E
	17 C	18 P	S		19 M	I		S			S
20 C	O	O	P	E	R	A	21 T	I	22 V	E	
23 S	M	E	S				24 W	T	O		25 E
26 R	A	M		27 A	28 L	29 T	O		30 T	D	S
				31 U	A	E		32 I	E		O
33 L	34 V		35 A	D	D	R	36 E	S	S		P
37 A	I		38 L	I		39 M	N	C		40 E	
41 W	E	A	L	T	H		42 G	A	N	G	A



**The power to access
your classroom
from anywhere, anytime**

ICAI presents Cloud Campus

An online e-Education and Support platform



The Institute now introduces Cloud Campus that offers one-stop-window providing course information, course enrollment, online education, administrative support, examination forms/ results, and other requirements. It enables students to learn anytime and from anywhere at their own pace. Students can study the same lectures uniformly on pan India basis, with a dashboard tracking their e-Learning progress in terms of lessons available, attempted and completed; along with self-assessment. The ICAI Cloud Campus provides online practical exam oriented lectures free of cost, that enable students acquire benefits of brick-and-mortar-class teaching through video lectures. It also enables them to receive knowledge of the profession through online mentoring by experienced faculty members and experts; and at the same time concentrate on their practical training.

Key highlights:

- Learning anytime and anywhere
- Learn via Video Lectures, e-Learning, Audio Lectures, Webcasts and Online Mentoring
- One-stop-window to student requirements – information, forms, Knowledge Portal
- Regular updates – study materials, practice manual, e-Learning
- Articled Training Resources including checklists
- Easy navigation to access six portals: Students LMS for e-Learning, BoS Knowledge Portal, Webcasts, Online Registration Portal for GMCS, OP and ITT, Examination Portal and Articles Placement Portal

Please visit <http://cloudcampus.icaai.org>



The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)
www.icaai.org

Moving Towards New Frontiers

A Short poem written by CA.V.MURALI, Chairman, BOS of ICAI

Dedicated to the CA Students

SUCCESS IS YOURS

**“Let ICAI be your Kendra;
Let CA be your Mantra;
Let Dedication be your Astra;
Let Direction be your Sastra;
Let Ethics be your Vastra;
Let Consistency be your Sutra;
Let Strategy be your Tantra;
Then Success will be your Yatra!”**



ALL THE BEST FOR YOUR SURE SUCCESS

ANNOUNCEMENT

CONVOCATION -2015 (1st Round)

As you are aware, for promoting a sense of bonhomie among members, and also for bringing them closer to the Institute, the Institute of Chartered Accountants of India organize Convocations for distribution of Certificates. This is an occasion to mark the entry of new members into the fraternity.

ICAI invites members enrolled during the period of December 2014 to March, 2015 to participate in the Convocation wherein Certificates of Membership will be awarded amidst the august gathering of the President and other dignitaries. The schedule of the proposed Convocation is as under:

PLACE	DATE & DAY
AHMEDABAD	22ND MAY, 2015 (FRIDAY)
MUMBAI	23RD MAY, 2015 (SATURDAY)
CHENNAI	19TH JUNE, 2015 (FRIDAY)
JAIPUR	20TH JUNE, 2015 (SATURDAY)
HYDERABAD	10TH JULY, 2015 (FRIDAY)
KOLKATA	12TH JULY, 2015 (SUNDAY)
NEW DELHI	17TH JULY, 2015 (FRIDAY)
KANPUR	18TH JULY, 2015 (SATURDAY)

This schedule has been released for the advance information of the participants. Further, details about Venue and Timing of the Convocation Programme schedule will be intimated to the participants by the concerned Regional offices of ICAI.

Members who, due to any reason, could not attend the last convocation held in January- February 2015 at various centers may also participate in the proposed Convocation. They are advised to be in touch with concerned Regional Office of ICAI.

24th April, 2015

Joint Secretary
MC & MSS Section



CA. K. Ravi, Past Chairman SIRC of ICAI, Chief Guest at the GMCS Valedictory Function being honoured by CA. V. Murali, Chairman BOS and Students on 29th March



Public Meeting on CRET held at Chennai. Senior Faculty Mr. P. R. Vittal being honoured by CA. V. Murali, Chairman BOS



Faculty, Parent, Student Interactive Meeting at Chennai on 11th April. Group Photograph of Prize Winners along with CA. V. Murali, Chairman BOS and Faculty.



Dr. I. Vijayakumar IRS, CMD, Madras Fertilizers Ltd. Chief Guest at the GMCS Inaugural Function being honoured by CA. V. Murali, Chairman BOS on 14th April.



Group Photograph taken during the Felicitation of Office Bearers of Ahmedabad Branch of WIRC of ICAI by Vice President, ICAI, CA. M. Devaraja Reddy on 18th April



Group Photograph taken during the Felicitation Function of Office bearers of Ahmedabad Branch of WICASA by President ICAI – CA. Manoj Fadnis and Vice President ICAI – CA. M. Devaraja Reddy. Also seen Central Council Members CA. Dhinal Shah, CA. S. Santhanakrishnan and CA. V. Murali



Central Council Member, CA. Dhinal Shah, CA. V. Murali, Chairman BOS along with the Office Bearers of Ahmedabad Branch of WICASA at a Seminar for CA Students organized by Ahmedabad Branch.



Group Photograph taken at CA Students One Day Seminar organized by Bilaspur Branch of CICASA. Chief Guest, President, ICAI, CA. Manoj Fadnis seen with the Office Bearers and Students on 21st March.



Group Photograph taken during the visit of Vice President, ICAI, CA. M. Devaraja Reddy to Coimbatore Branch of SIRC of ICAI



Group Photograph taken during the CRET discussion with the industry members at ICAI Delhi. President, ICAI, CA. Manoj Fadnis seen with Central Council Members CA. C. S. Nanda, CA. V. Murali, CA. Mukesh Khushwah, Former Central Council Members CA. Shantilal Daga, CA. Vinod Jain, CA. Kashi Khandelwal and CA. P. Pareekh



Photograph taken at the CRET Interactive Meeting at Bangalore held with the University Commerce Professors and HOD's. The discussion was headed by Dr. Ramachandra Gowda, Professor and Chairman, Dept. of Commerce, Bangalore University.



CA. V. Murali, Chairman BOS, Prof. B. Thimma Gowda, Vice Chancellor Bangalore University, Mr Vijay Kapur, Director of Studies, ICAI and Mr Bharat Lal Meena, IAS Principal Secretary for Higher Education, Govt. of Karnataka at the interactive meeting with academic fraternity at Bangalore.



Photograph taken at the One Day National Seminar organized jointly by BOS and Bangalore University on 23rd April at Bangalore. Prof. B. Thimma Gowda, Vice Chancellor, CA. V. Murali, Chairman BOS, CA. Allama Prabhu, Chairman Bangalore Branch of SIRC and Mr Vijay Kapur, Director BOS at the function.

If undelivered, please return to: The
Institute of Chartered Accountants of
India, ICAI Bhawan, Indraprastha Marg,
New Delhi-110104