



NEWS LETTER

# Bangalore

branch of SIRC of

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

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*Think Differently  
Act Perfectly*



# Chairman Communique



Dear Professional Colleagues,  
It is an honor and pride to communicate to you as the Chairman of the largest branch of the country. I along with my team assumed office on 15<sup>th</sup> of February. It's really a challenging task ahead to cater to the requirements of students and members. I pray the almighty that enough strength and confidence is bestowed on me and my team to discharge the required responsibilities to precision. Also I require the continuous support from all of you and your students to take this branch to newer heights.

### **Best Branch and Best SICASA Award:**

At this point of time I would like to congratulate CA. Prabhudev Aradhya and CA. K Babu the immediate past Chairmen of Bangalore Branch and Bangalore SICASA for bagging the Best Branch and Best SICASA award for the year 2008-09 at the regional level. Congratulations to both of them and their entire team who worked tirelessly during the previous year.

### **Secretary of SIRC:**

SIRC has replaced one dynamic secretary with the other both being from Bangalore branch. Let me personally and on behalf of my committee heartily congratulate and wish all the best to the newly elected Secretary CA. P. R. Suresh.

### **Greetings from the Committee:**

The entire managing committee wishes "Happy Birthday and Happy Anniversary" to all those members who were born in the month of March or who got married in the month of March. Wishing you all a happy month ahead, looking forward to meeting you for the forthcoming programmes.

### **Boom in Recession:**

Considering the present economic situation and the challenges faced by the profession. It is the need of the hour that every person should be creative to sustain and grow in these difficult situations and professionals are no exception to this rule. Gone are those days, where we used to find problems amidst the opportunities, now we need to find opportunities amidst the problems. I am confident that, you members are willing to face these problems and grab the opportunities in it, and we promise to equip you with the required skills and knowledge by conducting various programmes. Under these circumstances, we thought it apt to have the theme for the year as "Think Differently Act perfectly".

### **Initiatives for 2009-10:**

We have planned many initiatives during the year which includes Administration and Infrastructure at the branch, Development of the profession and Student activities. We also have the responsibility of building the public image of our profession for which we need to brand our institute and also educate the general public by conducting public awareness programmes which is also part of our initiatives.

### **Publications:**

We are planning to bring out study circle series booklet for the benefit of members, students and general public. I invite the members to come forward, to pen down your thoughts and experiences in the form of a book which could be handy for easy reference. Interested members may please contact us at bangalore@icai.org with subject as "Publications".

### **Study Circle Meetings in South:**

Bangalore South is a region which hosts majority of our professionals in practice. To cater to their needs, we are conducting two CPE Programmes every month. Members should make use of this opportunity in large numbers. We are also initiating Study Circle Meetings viz "TT" meaning Teaching and Training on Tuesdays and Thursdays at the Branch. Study Circle Meetings is a platform provided to share ones knowledge and experience among the professional friends. We invite members to come forward and make a presentation. Members should make use of this opportunity in large numbers. We are also initiating Study Circle Meetings viz "TT" meaning Teaching and Training on Tuesdays and Thursdays at the Branch. Study Circle Meetings is a platform provided to share ones knowledge and experience among the professional friends. We invite members to come forward and make a presentation.

### **Tax Clinic:**

Bangalore Branch with the help of Direct Tax and Indirect Tax Core Committee has come out with a unique idea of having Tax Clinic during third Friday of every month at Branch Premises. Members are requested to send queries with reference to Income Tax, Service Tax and VAT. Experts in the field will answer the queries. Queries should be sent in advance to bangalore@icai.org with subject as "Tax Clinic". It is advisable to maintain the confidentiality of the client while sending the query.

### **Plans for the Year:**

As financial professionals, we know one way of curbing recession is by spending. We are planning to provide ample opportunities for you during the year by organizing no of programmes. Do participate in large numbers.

Yours affectionately,

CA. Cotha S Srinivas  
Chairman

## Men Leading our Institute during 2009-10



**CA. Uttam Prakash Agarwal**  
President, ICAI



**CA. Amarjit Chopra**  
Vice President, ICAI

## Men Leading Regional Council during 2009-10



**CA. M. Devaraja Reddy**  
Chairman, SIRC



**CA. P.R. Suresh**  
Secretary, SIRC

## Men Leading Bangalore Branch during 2009-10



**CA. Cotha S. Srinivas**  
Chairman



**CA. H. Shambhu Sharma**  
Vice Chairman



**CA. T.R. Venkatesh Babu**  
Secretary



**CA. K. Babu**  
Treasurer

## Congratulations



CA. K. Raghu

**CA K.RAGHU**, Central Council Member from Bangalore has been nominated as the Chairman of the Information Technology Committee and Peer Review Board of ICAI for the year 2009-10.

He has also been nominated on various non-standing committees of ICAI as under:

- ◆ Accounting Standards Board
- ◆ Editorial Board
- ◆ International Affairs Committee
- ◆ Board of Studies
- ◆ Professional Development Committee
- ◆ CPE Committee
- ◆ Committee for Members in Industry
- ◆ Committee for Capacity Building of CA firms
- ◆ Diamond Jubilee Committee
- ◆ Infrastructure Committee

## Initiatives for 2009-10

- ★ Information Technology Training Centre Bangalore South
- ★ Online Payment and Registrations to the Members
- ★ International Conference
- ★ State Level CPE Conference
- ★ Residential Course
- ★ International Study Tour
- ★ Tax Clinic
- ★ Publications
- ★ Intensive Workshop on Income Tax, Transfer Pricing, International Taxation, Service Tax, Immovable Property, VAT, FEMA
- ★ Scholarships and Prizes to Students
- ★ Innovative and Different Programmes
- ★ Interactive Sessions with Departmental Officials
- ★ Study Circle Meetings at Bangalore South
- ★ Joint Programmes with other Organizations
- ★ All India Students Conference



# CALENDAR OF EVENTS

## March 2009

Date/Day	Topic /Speaker	Venue/Time	CPE Credit for the month
04.03.2009 Wednesday	Social Security / PF Ammendments by <b>CA. Ms. Mrudula</b> , BSR & Co.	Branch Premises 6.00 to 8.00 pm	<b>2 Hrs.</b>
05.03.2009 Thursday	New Companies Bill 2008 by <b>CA. Vijay Raja</b>	Branch Premises 6.00 to 8.00 pm	<b>2 Hrs.</b>
10.03.2009 Tuesday	Practical Issues in Audit of Bank Branches by <b>CA. P. R. Suresh</b>	Branch Premises 6.00 to 8.00 pm	<b>2 Hrs.</b>
11.03.2009 Wednesday	TDS - Updates & Issues by <b>CA. D. R. Venkatesh</b> Delegate Fee : Rs. 200/-	Vasavi Vidya Niketan Vani Vilas Road 5.00 to 8.00 pm	<b>3 Hrs.</b>
17.03.2009 Tuesday	Recent Circulars issued by RBI with respect to Bank Audit by <b>CA. H. Anil Kumar</b>	Branch Premises 6.00 to 8.00 pm	<b>2 Hrs.</b>
19.03.2009 Thursday	National Seminar for Statutory Central Auditors of Public Sector Banks For details refer page no. 22	Hotel Le Meridian 10.00 am to 6.00 pm	<b>6 Hrs.</b>
19.03.2009 Thursday	An Overview of Foreign Direct Investment (FDI) by <b>CA. D. S. Vivek</b>	Branch Premises 6.00 to 8.00 pm	<b>2 Hrs.</b>
20.03.2009 Friday	Seminar on Indirect Taxes Implications For details refer page no. 18	Hotel Le Meridian 9.00 am to 5.30 pm	---
	Tax Clinic on Direct & Indirect Taxes	Branch premises 6.00 to 8.00 pm	---
21.03.2009 Saturday	Bank Audit Seminar For details refer page no. 19	Hotel Le Meridian 9.00 am to 5.30 pm	<b>6 Hrs.</b>
	Meet the president of ICAI	Branch premises 6.30 pm onwards	---
24.03.2009 Tuesday	Audit Methodologies Revenue Recognition Addressing Fraud Risk by <b>CA. Simant Prakash</b>	Branch Premises 6.00 to 8.00 pm	<b>2 Hrs.</b>
25.03.2009 Wednesday	Recent developments in ROC procedures by <b>CA. Raviprasad</b> & <b>Interaction with ROC Officials</b>	Branch Premises 6.00 to 8.00 pm	<b>2 Hrs.</b>
26.03.2009 Thursday	Case Study-Restriction on Input Service Credit-Rule 6 by <b>CA. Madhukar N. Hiregange</b> Delegate Fee : Rs. 200/-	Vasavi Vidya Niketan Vani Vilas Road 5.00 to 8.00 pm	<b>3 Hrs.</b>
31.03.2009 Tuesday	Credit Crises and its Impact by <b>CA. Chandra Kumar Rampuria</b>	Branch Premises 6.00 to 8.00 pm	<b>2 Hrs.</b>
02.04.2009 Thursday	No Programme Scheduled due to Bank Audits		---

Note : High Tea for Programmes at Branch Premises at 5.30 pm.

High Tea for Programmes at Vasavi Vidya Niketan at 4.30 pm

### Advertisement Tariff for the Branch Newsletter

Colour full page		Inside Black & White	
Outside back	<b>Rs. 20,000/-</b>	Full page	<b>Rs. 10,000/-</b>
Inside front	<b>Rs. 15,000/-</b>	Half page	<b>Rs. 6,000/-</b>
Inside back	<b>Rs. 15,000/-</b>	Quarter page	<b>Rs. 3,000/-</b>

**Advt. material should reach us before 22nd of previous month.**

The Branch does not accept any responsibility for the views expressed in Articles / Contributions / Advertisements published in this News Letter.

Editor : **CA. Cotha S. Srinivas**  
Sub Editors : **CA. S.N. Ravindranath**  
**CA. T.R. Venkatesh Babu**



# TAX UPDATES January 2009

Chythanya K.K., B.com, FCA, LL.B., Advocate

## VAT, CST, ENTRY TAX, PROFESSIONAL TAX

### PARTS DIGESTED:

- a) 2008- 09(13) KCTJ-Part 10
- b) 2009 (66) KLJ - Part 1

Reference	Description
2009 (66) KLJ 1	<b>Philips Electronics India Limited, Bangalore vs. State of Karnataka (Karnataka-HC)</b> In this case, it was held that, when penalty for delay in remitting tax exceeds amount of tax to be remitted, it becomes confiscatory. It also held that, when penalty reaches such unreasonable level it assumes nature of direct tax on income of dealer, which is beyond legislative competence of State Legislature under relevant entry. Imposition of such penalty which is disproportionate to nature of mischief sought to be curbed, fails test of reasonability, and is therefore to be struck down as unconstitutional. It was accordingly held that, provisions of sub-section (1) of Section 72 of the Act as it stood during the different periods in respect of which the validity is challenged in this case are declared unconstitutional.
2009 (66) KLJ 39	<b>K.P. Ramanna Shetty vs. State of Karnataka (Karnataka Appellate Tribunal at Bangalore)</b> In this case, it was held that, levy of penalty is not automatic or compulsive. Even where tax paid in advance on basis of return filed by assessee is found to be short of tax assessed as payable on basis of return, levy penalty is discretionary. Penalty is not to be levied for technical or venial breach of Statutory provision or where breach flows from bona fide belief that expenditure incurred on purchase of spray chemicals, manures, etc., wages paid, telephone charges vehicle maintenance charges, etc. are admissible as deduction. Mere fact that these items of expenditure were disallowed by Assessing Authority on ground that materials purchased at the end of year by incurring such expenditure, could not have been used during relevant year, does not warrant levy of penalty.
2009 (66) KLJ 67	<b>Eveready Industries India Ltd vs. State of Karnataka (Karnataka Appellate Tribunal at Bangalore)</b> In this case, entry tax that was wrongly recovered in respect of raw materials, assessee dealer claimed refund. Affidavit was filed by assessee averring that price charged for his finished product is uniform throughout country irrespective of tax structures in different States and that tax burden has not been passed on to customers. It was held that whether tax burden has been passed on to customers or not is question of fact, which has to be established and burden to establish same, is on revenue. It was further held that there is no presumption that entry tax paid in respect of raw materials has been passed on to customers, as there can be no sale of raw materials which get consumed in manufacturing process and cease to exist as such. Accordingly, it was held that the order of forfeiture passed on mere presumption of unjust enrichment, without factual basis, has to be quashed.

**“Required for Bangalore Office of a well established firm of Chartered Accountants based in Mumbai, Chartered Accountants / Semi qualified personnel. Remuneration will not be a constraint for the right candidate.**

**Reply within 7 days to [pinjoshi@gmail.com](mailto:pinjoshi@gmail.com)**

Adv.



## INCOME TAX

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|--|--|
| <p>a) 308 ITR – Part 1 to 5</p> <p>b) 175 Taxman – Part 4 to 5</p> <p>c) 115 ITD – Part 7 to 9</p> <p>d) 116 ITD – Part 1 to 4</p> <p>e) 119 TTJ – Part 5 to 7</p> | <p>f) 120 TTJ – Part 1 to 4</p> <p>g) 25 CAPJ – Part 1 to 2</p> <p>h) 40-B BCAJ – Part 4</p> <p>i) 57 TCA – Part 7</p> |
|--|--|

Reference	Description
308 ITR 28	<b>Dr. Virindra Kumar Raina, In re (AAR)</b> In this case, the applicant, a non-resident Indian, who was living abroad and working there for several years, had opened non-resident ordinary rupee (NRO) accounts with the State Bank of India and other nationalized banks through convertible foreign currency remittances. He intended to return to India for an indefinite period. It was held that, after the permanent return of the applicant to India, he would be eligible to concessional provisions to Chapter XII-A only so long as his bank account is treated as a NRO account by the RBI. The moment that account is converted into a rupee account by the RBI, the provisions of this Chapter would cease to apply. This is a matter of fact to be determined on the basis of the RBI instructions at the relevant point of time.
308 ITR 82	<b>CIT (TDS) vs. Reliance Industries Ltd. (Gujarat–HC)</b> In this case, it was held that, in respect of misuse of free meal coupons by employees, employer is not expected to presume misuse of coupons to warrant deduction of tax at source. As regards exemption by virtue of proviso to section 17 (2) (iii), it was held that there is no qualification as to the nature of the vehicle or as to ownership of the vehicle. In fact, the Assessing Officer also accepts that if the vehicle is owned by the employer or hired by the employer the amount of expenditure cannot be treated as perquisite in hands of the employee. Once this is the position it is not possible to read any further prohibition as the revenue wants, namely, if the vehicle is owned by the employee the expenditure is not allowable and has to be taxed as perquisite in hands of the employee.
308 ITR (ST) 2	<b>Delhi Milk Scheme vs. CIT: S.L.P. (C) No. 26397 of 2008</b> In this case, honorable Supreme Court dismissed the assessee's special leave petition by holding that the assessee was liable to deduct tax on payments to its agents, called concessionaires, through whom it sold its milk and milk products under section 194H.
308 ITR (ST) 3	<b>CIT vs. TVS Leen Logistics Ltd: S.L.P. (C) No. 29051 of 2008</b> In this case, honorable Supreme Court dismissed the department's petition holding that Explanation 1 to section 32(1) was not attracted to the case of the assessee which had constructed a building on leasehold land.
308 ITR (ST) 5	<b>Circular No. 11 of 2008, dated 19<sup>th</sup> December, 2008. Definition of "Charitable purpose" under section 2(15) of the Income-tax Act, 1961</b> The board issued a clarification through the aforesaid circular by specifying that the amendment to section 2 (15) would apply only to the last limb, that is, the advancement of any other object of the general public utility and not to the first three limbs. The circular also stated that the objects like education and medical relief will have to be broadly construed.
308 ITR 133	<b>U.K. Mahapatra and Co. vs. ITO (Orissa–HC)</b> In this case, it was held that, the precondition for conducting survey under section 133A in the premises of a chartered accountant, lawyer, tax practitioner in connection with survey of the business place of their client is that the client must state that his books of account/documents and records are kept in the office of his chartered accountant/lawyer/tax practitioner. Unless this precondition is fulfilled, the income-tax authority cannot assume any power to enter the business premises/office of the chartered accountant/lawyer/tax practitioner to conduct survey under section 133A of the Act in connection with survey of the premises of their client. Section 133A (3) (ia) makes it clear that the income-tax authority shall not impound any books of account or other documents except after recording his reasons for doing so. Section 133A (3) (ia) authorizes an income-tax authority to impound only those books of account



	<p>which are inspected by him. "Inspection" involves intelligent application of mind. Recording of reasons again involves intelligent application of mind. Thus, inspection and recording of reasons are cumulative pre-conditions for impounding books of account or other documents under section 133A (3) (ia).</p>
308 ITR 202	<p><b>Canara Bank Golden Jubilee Staff Welfare Fund vs. DCIT (Karnataka-HC)</b>In this case, it was held that, concept of mutuality will extend even to interest income on investments and dividend income on shares. In other words, if a mutual concern deposits its surplus with the bank for the purpose of safe custody, interest earned in respect thereof would be exempt from tax.</p>
308 ITR 228	<p><b>Sakthi Tourist Home vs. CIT (Kerala-HC)</b>In this case, it was held that, for the purpose of section 69, the claim for spreading over of the investment for several years can be granted only if it is proved that the investment is made in several years. In the absence of such proof, entire investment will have to be taxed in the year in which the investment is found to have been made.</p>
308 ITR 249	<p><b>CIT vs. Qatalys Software Technologies Ltd. (Madras-HC)</b>In this case, the High Court held in favour of the assessee on the issue of reopening of the assessment when the time for issuing notice under section 143(2); had not expired, by following the decision of Madras High Court in the case of CIT vs. K.M. Pachayappan [2008] 304 ITR 264 (Mad) in T.C.A. No. 870 of 2007, dated July 4, 2007, wherein it was held that no reassessment proceeding could be initiated so long as the assessment proceedings pending on the basis of the return already filed are not terminated.</p>
308 ITR 251	<p><b>CIT vs. Hycon India Ltd. (Rajasthan-HC)</b>In this case, it was held that, where the assessee purchased goods from its sister concern making payment in advance to seller and earned interest from advance amount, such interest income is assessable as business income and eligible for exemption under section 10B.</p>
308 ITR 297	<p><b>Karnataka Urban Infrastructure Development Finance Corporation vs. CIT (Karnataka-HC)</b>In this case, the appellant-company has entrusted certain contracts to a foreign company which is non-resident company to provide technical know-how and consultancy in terms of contract. In terms of the agreement, the appellant-company has to take care of the tax liability of the non-resident company. In these circumstances, it was held that, the levy of penalty under section 201 in respect of the tax not deducted on account of the reimbursement made by the assessee had to be set aside. It was also held that, levy of penalty under section 201 and levy of interest under section 201(1A) are entirely different. An AO is having discretion to drop the penalty proceedings. But if the tax is not deducted under section 195 of the Income-tax Act, the assessee is bound to pay interest, as it is a mandatory provision. Even if the penalty proceedings are dropped under section 201, the assessee cannot escape his liability to pay interest under section 201(1A). Therefore, both the sections are independent and they are not interlinked and they cannot be read conjunctively as levy of interest and levy of penalty are two different proceedings. <b>The aforesaid decision cannot be taken as an authority for deciding that the reimbursement constitutes income. This is for the reason that in the above case, it was conceded that the reimbursement in the instant case constituted the income of the recipient.</b></p>
308 ITR 302	<p><b>Anurag Jain vs. Authority for Advance Rulings (Madras-HC)</b>In this case, it was held that, assessee was bound by ruling of the AAR unless procedure followed by authority is not in accordance with law and basically opposed to law or against principles of natural justice. <b>It was further held that the deferred consideration to be paid in future is linked to employment contract and therefore the same has to be regarded as profits in lieu of salary in the year of receipt</b></p>
308 ITR (AT) 236	<p><b>Financial Co-Op. Bank Ltd. vs. ITO (Ahmedabad-ITAT)</b>In this case, it was held that, the rules and the provision of the Act did not cast an obligation on a bank to ensure that Form No. 60 filed by the customer was duly filled in. Since the furnishing of incomplete declaration by the customer was a mistake committed by the customer and not by the bank, the failure to comply with the provisions of section 139A as envisaged in section 272B (1) was of the customer and not of the bank. The penalty if any, it was held, was to be imposed on the customer and not on bank.</p>





308 ITR (AT) 271	<b>R.G. Keswani vs. ACIT (Mumbai-ITAT)</b> In this case, it was held that, “Any other business or commercial rights of similar nature” in clause (ii) of section 32 (1) of the Income-tax Act, 1961, are not by themselves intangible assets eligible for depreciation. The rights may be of similar nature: similar in nature to know-how, patents, copyrights, trade marks, licences, franchises. Any business or commercial rights not similar in nature to the abovementioned six items cannot be treated as intangible assets qualified for depreciation. Accordingly, it was held that goodwill is not an intangible asset eligible for depreciation.
308 ITR (ST) 9	<b>Income-tax (First Amendment) Rules, 2009 Notification No. S.O. 19(E), dated 5<sup>th</sup> January, 2009</b> In exercise of the power conferred by the section 295 read with sub-clause (iii) of clause (B) of sub-section (2) of section 115WB of the Income-tax Act, 1961, the CBDT inserted the rule 40E providing for rules in respect of electronic meal card. It may be noted that the aforesaid rules would apply only to prepaid electronic meal card covered by section 115 WB (2) (B) (iii) and not to the paid vouchers referred to in section 115 WB (2) (B) (ii).
308 ITR 417	<b>Solid Containers Ltd. vs. DCIT (Bombay-HC)</b> In this case, it was held that, waiver of loan taken by assessee for business purposes, and consequent transfer of the amount to profit and loss account, is assessable as business income under section 41(1) of the Income-tax Act, 1961. With due respect, the aforesaid decision requires reconsideration as loans being on the capital field cannot become revenue in nature merely upon waiver.
308 ITR (AT) 362	<b>Darshan Enterprises vs. ITO (Pune-ITAT)</b> In this case, the assessee-firm filed its return of income computing the total income under sections 44AF and 44AE of the Act. During the survey conducted under section 133A of the Act at the business premises of the assessee, it was noticed that the assessee was maintaining regular books of account which showed higher income than the income mentioned in its return of income. Subsequently, the assessee filed a revised return. The Assessing Officer levied penalty under section 271 (1) (c) of the Act. It was held that, the assessee-firm was admittedly engaged in retail business and its total turnover did not exceed Rs. 40 lakhs and therefore it was governed by the deeming provisions of section 44AF(1). The provisions of sections 28 to 43C were not applicable because of the non obstante clause. Therefore, it was held that there was no concealment or furnishing of inaccurate particulars of income on the part of the assessee within the meaning of section 271 (1) (c) of the Act.
308 ITR (AT) 369	<b>Travel Agents Association of India vs. ACIT (Mumbai -ITAT)</b> In this case, the assessee was a professional association and there were no non-members involved in the affairs of the assessee-company. The activities carried on by the assessee-company were meant for member travel agents alone and were obviously mutual in character. It was held that, the assessee was a mutual concern carrying on the activities of earning receipts and making payments for all mutual activities. Accordingly, it was held that the assessee did not come under the minimum alternate tax regime as it neither declared dividends nor distributed its income. Therefore, section 115JA of the Act was held to be not applicable.
308 ITR (AT) 414	<b>Patni Telecom P. Ltd. vs. ITO (Hyderabad-ITAT)</b> In this case, it was held that the expenditure on internet service provider did not come within the scope of telecommunication charges as provided under clause (iv) of Explanation 2 to section 10A of the Income-tax Act, 1961, as the internet service was provided for transmitting the data. The internet service provision expenses incurred were in respect of development of software and the same is not attributable to the delivery of computer software. Therefore, such expenses need not be excluded from consideration in foreign exchange. The invoices, agreement and the turnover clearly showed that the assessee received consideration against software. Accordingly, it was held that there was no scope for exclusion from the export turnover on account of such expenses.
308 ITR (ST) 67	<b>Income-tax (Third Amendment) Rules, 2009 Notification No. S.O. 197(E), dated 19<sup>th</sup> January, 2009</b> In exercise of the power conferred by the section 295 of the Income-tax Act, 1961, the CBDT hereby makes the rules further to amend the Income-tax Rules, 1962, with effect from 1 <sup>st</sup> day of April 2009, in the Table to New Appendix 1, in Part A relating to tangible assets, under the heading III. Machinery



	<p>and Plant, in item (3), after sub-item (vi) and entries relating thereto, the following shall be inserted, namely:-“(via) New commercial vehicle which is acquired on or after the 1<sup>st</sup> day of January, 2009 but before the 1<sup>st</sup> day of April, 2009 and is put to use before the 1<sup>st</sup> day of April, 2009 for the purpose of business or profession”<b>Accordingly, new commercial vehicle including cars bought during the aforesaid period and put to use would be eligible for a higher depreciation of 50%.</b></p>
308 ITR (ST) 67	<p><b>Income-tax (Fourth Amendment) Rules, 2009 Notification No. S.O. ....(E), dated 21<sup>st</sup> January, 2009</b>In exercise of the power conferred by the section 295 read with sub-section (3) of section 200 of the Income-tax Act, 1961, the CBDT hereby makes the rules further to amend the Income-tax Rules, 1962, in rule 37A. Accordingly, the due date for filing the quarterly returns in case of tax deduction at source from nonresidents are changed from earlier ‘ within 14 days from the end of the quarter ‘ to ‘ 15th of the month following the quarter for the first three quarters and for the last quarter, 15th of June ‘.</p>
175 Taxman 449	<p><b>CIT vs. Atam Prakash &amp; Sons (Delhi-HC)</b>In this case, assessee, being 1/6th co-owner of property in question had entered into an agreement for sale of his undivided share in said property to ‘SSPL’ on 24-6-1997. For diverse reasons, parties had given up their rights under said agreement and substituted same with two agreements, namely, agreement to sale and collaboration agreement. As per terms of agreements, SSPL would construct a multi-storeyed commercial building on said property and in lieu of assessee transferring his share in said property he would get in return 6,000 square feet of built-up area and three garages along with proportionate open area in proposed multi-storeyed building, out of which 4,000 square feet along with two garages and proportionate open area had to be conveyed by assessee to SSPL for certain consideration. Assessing Officer assessed capital gains on said transaction. It was held that, in absence of conveyance deed executed by assessee in favour of ‘SSPL’ no right in property within meaning of section 45 had got transferred in favour of SSPL; and mere grant of a permissive right to ‘SSPL’ to construct building on said plot of land would not amount to a transfer of capital asset. This is a landmark decision to protect the landowner in a joint development agreement from the indiscriminate use of section 2 (47) (v) of the Act read with section 53A of the Transfer of Property Act. This decision also supports the theory that the permissive possession given under the Easement Act does not amount to giving away possession in part performance of the contract under section 53A of the Transfer of Property Act.</p>
115 ITD 411	<p><b>Drawing &amp; Disbursing Officer vs. ACIT (TDS) (Allahabad-ITAT)</b>In this case, assessee was Drawing &amp; Disbursing Officer (DDO) being employee in college. While calculating annual tax of each employee, a few of employees of college gave donation receipts and claimed 100% exemption of donation amount under section 80GGA. Assessee allowed deductions as per donation receipts and deducted tax thereafter. Later, it was found that said receipts were not genuine. For filing wrong TDS certificates, Assessing Officer raised demand under section 201 for shortfall in payment of tax. It was held that, as per Circular No. 6/2004, deductions under sections 80G and 80GGA are clearly not admissible for purpose of determination of tax deductible source under section 192. Even otherwise, when similar donation receipts for hefty amounts were submitted by a number of employees, then it was expected from DDO by applying commonsense to examine genuineness of so-called receipts. It also held that, since DDO failed to do so, action of Assessing Officer in treating DDO to be an assessee-in-default under section 201 in respect of shortfall relating to deductions in question had to be upheld.</p>
115 ITD (BN) iv	<p><b>Splendor Constructions Pvt. Ltd. vs. ITO (Delhi-ITAT)</b>In this case, it was held that, where the land in question was held by the assessee-company as the stock-in-trade for the purpose of its business, the period for which the said property was held by the assessee as stock-in-trade of its business could not be reckoned for ascertaining as to whether it was a long-term capital asset or a short-term capital asset within the meaning given in section 2 (29A) and 2 (42A); it was only when the same was converted into investment that the same was held by it as capital asset and as the same was held for not more than 36 months immediately preceding the date of its transfer, it was a short term capital asset as defined in section 2 (42A) and the capital gain arising from the sale thereof was chargeable to tax as “short term capital gain” as defined in section 2 (42B).</p>



115 ITD (BN) vi	<b>Pet Plastics Ltd. vs. ACIT (Mumbai-ITAT)</b> In this case, it was held that, if a particular item of receipt is claimed by the assessee, eligible for exemption under section 10A, then, it must form part of the three items i.e., profit of the business of the undertaking, export turnover and total turnover of the business of the undertaking. If that is not so in case of any receipt, then such receipt cannot be treated as eligible for consideration in computing exemption under section 10A. Accordingly, it was held that the amount received in rupee currency, cannot be treated as 'export turnover'.
115 ITD (BN) ii	<b>ITO vs. Smt. Sundari Chimandas (Chennai-ITAT)</b> In this case, it was held that, the corresponding deductions, which are applicable to the incomes under any of the heads of income under section 14, will not be attracted in the case of deemed incomes which are covered under the provisions of sections 69, 69A, 69B and 69C in view of the scheme of those provisions. Accordingly, it was held that no deduction shall be permissible in case of additions made under chapter VI.
115 ITD (BN) ii	<b>Global Capital Ltd. vs. DCIT (Delhi-ITAT)</b> In this case, it was held that, the Explanation below section 36 (1) (vii) does not require that the debt should be written off in the profit and loss account of the assessee. So long as the debt account is written off and it does not show any closing balance as on the last date of the accounting year, it should be taken as proper write off within the meaning of said Explanation.
115 ITD (BN) ii	<b>Avdesh Choudhary vs. ACTI (Delhi-ITAT)</b> In this case, it was held that, the issue of notice for scrutiny of return under section 143 (2) (ii) is based upon the consideration of the Assessing Officer and he is the authority to decide whether a notice should be issued or not. Thus, the general guidelines issued by the CBDT in the matter to the Assessing Officer's are not in the nature of binding instructions; it can only be said to be recommendatory in nature; laying down general principles for selection of cases for scrutiny.
116 ITD (BN) iii	<b>Emerson Network Power India (P) Ltd. vs. ACIT (Mumbai-ITAT)</b> In this case, it was held that, trading activities carried on by the assessee are of the assessee-company and not of the industrial undertaking; hence, trading activities carried on by an industrial undertaking cannot be considered as eligible for deduction under section 80-IA.
116 ITD 123	<b>BHPE Kinhill Joint Venture vs. ADIT (Delhi-ITAT)</b> In this case, it was held that, notice under section 143 (2) is required to be served on assessee within 12 months from end of month in which return of income has been filed and mere issuance of notice within a period of 12 months is not sufficient. It also held that, onus to prove service of notice on assessee within statutory period is upon Assessing Officer.
116 ITD (BN) i	<b>ITO vs. Modi Motors (Mumbai-ITAT)</b> In this case, it was held that, only employer and employee relationship is not envisaged to allow the premium paid on Keyman Insurance Policy as business expenditure and there can exist other types of relationship; consequently, it was held that the Keyman Insurance Premium paid by the firm on the life of its partners is allowable as business expenditure.
116 ITD 328	<b>JCIT (Asst.) vs. George Williamson (Assam) Ltd. (Gauhati-ITAT)</b> In this case, it was held that, in view of Board's Circular No. 786, dt. 7-2-2000, no income by way of commission had accrued or arise in India either under section 5 (2) or under section 9 and, therefore, no tax was deductible under section 195.
119 TTJ 643	<b>Rupee Finance &amp; Management (P) Ltd. vs. ACIT (Mumbai-ITAT)</b> In this case, it was held that, in case of transfer of shares to a group company at cost price, differences between FMV of the shares and their cost price cannot be brought to tax as capital gains, there being no material to show that assessee had received more consideration than recorded in the books. Expression 'full consideration' cannot be construed as having reference to the market value of the assets transferred but refers to the price bargained for by the parties and it cannot refer to the adequacy of the consideration.
119 TTJ 679	<b>Shree Govardhan Builders vs. ITO (Jaipur-ITAT)</b> In this case, it was held that, section 142A did not mention section 69C, and therefore it only permits reference for purposes of estimating investment under sections 69 and 69B.



<b>119 TTJ 721</b>	<p><b>Philips Software Centre (P) Ltd. v. ACIT (Bangalore-ITAT)</b>In this case, it was held that, as per CBDT Circular No. 14 of 2001, which is binding on the Department, intention of transfer pricing provisions is to curtail avoidance of taxes by shifting profits outside India. Since the assessee was availing the benefit under s. 10A, it would be devoid of logic to argue that the assessee had manipulated prices and shifted profits to an overseas jurisdiction for the purpose of avoiding tax in India. Reference by Departmental Representative to the proviso to s. 92C (4) and OECD Guidelines is out of context and irrelevant. So is the argument on intention to avoid dividend distribution tax. Since the basic intention behind introducing the TP provisions is to prevent shifting of profits outside India, and the assessee is claiming benefit under s. 10A, the TP provisions ought not to be applied to the assessee. It was also held that, before the ALP is determined by the TPO or AO, he has to prove that at least one of the four conditions laid down in sub-s. (3) of s. 92C has been satisfied and communicate the same to assessee. Analogy can also be drawn from the provisions of s. 145 prior to amendment w.e.f. 1st April, 1997. Even where any infirmity is identified by the AO/TPO, the action of the AO/TPO would be restricted to taking remedial action commensurate with the infirmity identified by him, and not beyond. TPO or AO having not satisfied and communicated to the assessee the relevant clause s. 92C (3) which has been triggered by the assessee, the transfer pricing order is void. It was also held that, a combined reading of ss. 92C and 92D and rr. 10B and 10D make it clear that the data used for the purpose of conducting a comparability analysis should relate to the relevant financial year [if the proviso to r. 10B (4) is not attracted], and be available as on the specific date and both the conditions are cumulative in nature. Comparability analysis conducted by assessee in October, 2003, using database updated as on 30th Sept., 2003, a period reasonably close to the specified date, was valid and TPO was not justified in conducting a fresh comparability analysis through show-cause notice dt. 23rd Feb., 2006, i.e., after the specified date, using non-contemporaneous data. It was also held that, while conducting transfer pricing study the assessee, after evaluating the criterion laid down in r. 10C (2), having selected the CPM as the most appropriate method, TPO, without sharing with the assessee any analysis, basis or reason which led him to reject CPM and select TNMM as the most appropriate method, was not justified in doing so. TPO/AO can conduct a scrutiny of the most appropriate method employed by assessee only after proving that the documentation maintained by the assessee is deficient or insufficient in any manner. Data used by the assessee being reliable and correct and assessee having discharged the onus by preparing a transfer pricing documentation, conducting a comparability analysis and furnishing the same to the TPO, there could be no intervention by the Department. It was also held that, without questioning or rejecting the database selected by the assessee and without questioning the results emanating from such database, TPO could not have used another database in making the transfer pricing assessment. It was also held that, as is clear from r. 10A (a), for the purpose of the comparability analysis, the comparables should not be having transactions with its AE. In other words a company having any related party transaction (i.e. even a single rupee of related party transaction) should not be considered as a comparable company.</p> <p>It was also held that, Rule 10D(4) clearly stipulates that so long as there is no significant change in the nature/terms of international transactions, there is no requirement for creating fresh set of documentation for the subsequent year. Hence, if the value of the international transactions as recorded in the books of account have been accepted during an earlier year as the ALP and there is no significant change in the nature/terms of international transactions in the subsequent year, then there is no reason to reject the value of the international transactions in the books of account for the subsequent year.</p>
<b>120 TTJ 1</b>	<p><b>ITO vs. Varia Pratik Engineering (Ahmedabad-ITAT)</b>In this case, it was held that, section 292BB has been specifically given effect from 1st April, 2008 and not from any particular assessment year. Validity of notices/served will have to be decided after 31st March, 2008 in accordance with the provisions of s. 292BB irrespective of the fact whether the A.Y. involved is 2008-09 or any subsequent year or any preceding assessment year. Sec. 292BB makes no reference to any date before or after which the notice should have been issued or served to attract the applicability of that section. Likewise, there is nothing in this section that it would apply only where an assessee has appeared in</p>



	<p>any proceeding or co-operated in any enquiry relating to an assessment or reassessment after 1st April, 2008. Applicability of the legal fiction created by s. 292BB depends on the existence of only one fact, i.e., where an assessee has appeared in any proceeding or co-operated in any enquiry relating to an assessment or reassessment. Words “related to an assessment or reassessment” signify past and thus refer to the assessments that are past as on 1st April, 2008. Therefore, mere fact that the assessee has appeared in any proceeding or co-operated at any time in the past, i.e., prior to 1st April, 2008, in any enquiry relating to an assessment or reassessment is per se sufficient to invoke the fiction created by s. 292BB and thereby preclude the assessee from raising any objection in terms of the third limb of the provision. Therefore, legal fiction created by s. 292BB would govern all the cases irrespective of whether the notices were issued/served before or after 1st April, 2008, and whether the assessee has participated in any proceeding or co-operated in any enquiry relating to the assessment for asst. yr. 2008-09 or any preceding or succeeding assessment year. It is intended to cure the notices of their invalidity in the matter of service after 31st March, 2008, regardless of the fact whether such notices were/are issued/served before or after 1st April, 2008. Sec. 292BB deals with service of notices which are matters of procedure and hence has retroactive operation. Further, s. 292BB is a declaratory provision and, therefore, it applies with full force to all pending matters after 31st March, 2008. Provisions of s. 292BB are curative provisions and thus have to be applied after 31st March, 2008, on the conditions already existing regardless of the fact that such conditions are found to be existing from the time antecedent to the date from which the provisions have been made effective. Provisions of s. 292BB have to be invoked in all pending proceedings including appellate proceedings after 31st March, 2008.</p>
120 TTJ 107	<p><b>RDB Industries Ltd. vs. DCIT (Kolkata-ITAT)</b> In this case, it was held that, provident fund contributions deposited with an unrecognized institution, are admissible under s. 37 as bona fide business expenditure. Reliance was taken from the decision of Decom Marketing (P) Ltd. vs. CIT reported in (2000) 164 CTR (Guj) 230: (2000) 251 ITR 398 (Guj).</p>
120 TTJ 305	<p><b>eFunds International (P) Ltd. vs. DCIT (Delhi-ITAT)</b> In this case, it was held that, where assessee was engaged in business of providing technology based solution to efund group entities, interest income earned by the assessee from the housing loans advanced to its employees does not form part of the profits of the business of the assessee undertaking. It was held that the same is not eligible for deduction under s. 10A.</p>
120 TTJ 422	<p><b>P.S. Kapur vs. ACIT (Jaipur-ITAT)</b> In this case, it was held that, clause (d) inserted in proviso to sub-s. (5) of s. 43 by the Finance Act, 2005 w.e.f. 1st April, 2006 is retrospective in application by necessary implication. If the said clause is held prospective in operation it would result in hardship and double jeopardy. Loss claimed by the assessee in derivative transaction is therefore allowable as a business loss as the same is not covered by s. 43 (5).</p>
120 TTJ 433	<p><b>Pal &amp; Pal Electromechanical (P) Ltd. vs. CIT (Agra-ITAT)</b> In this case, it was held that assessee engaged in repair of burnt transformers by using only the cabinet and lamination of burnt transformers and replacing various parts by parts manufactured by it, which were independently saleable in the market, granted exemption from payment of excise duty on such manufactured parts, was rightly granted deduction under s. 80-IA (2) (iv) (c) by the AO. Assessee’s claim that it is manufacturing electromechanical parts and accessories like winding coils, insulation material etc. from different material is clearly established. The further claim of the assessee that in its case repair tantamounts to manufacture of transformers was also to be viewed in the light of facts and circumstances.</p>
120 TTJ 567	<p><b>M. Vijaya Kumar vs. ITO (Bangalore-ITAT)</b> In this case, the assessee purchased old house, demolished the same and constructed a new house. It was held that, assessee having employed long-term capital gains in purchasing a dilapidated house, demolishing the same and constructing new residential house is eligible for relief under 54F. This view is supported by CBDT Circular No. 667, dt. 18th Oct., 1993. It was also held that, lower authorities erred in restricting relief under s. 54F to cost of land and building and in not extending the same to the cost of construction of the new building on the very site where the old house was demolished.</p>



## Recent judicial pronouncements in Indirect Taxes

NR Badrinath Grad C.W.A., F.C.A., Madhur Harlalka B. Com., F.C.A.

### Service Tax:

1. In respect of tyre retreading, the appellants were paying service tax only on 30% of the total charges collected. The balance 70% of the contract value was treated as sale of tread rubber used for treading. The invoices raised by the appellants showed re-sales tax at 1% of the material cost (70%) and service tax at 10.2% on the making charges (30%). It is held that the benefit of Notification No.12/03 dated 20.01.2003 providing exemption to cost of materials sold is available to the assessees. Hence, payment of service tax on 30% of the value of the contract, viz., towards services is appropriate. That, once it is possible to bifurcate any transaction into sales portion and service portion, the respective tax is to be levied on the respective portion only. **PLA Tyre Works Vs CCE & ST, Trichy (16.12.2008) Chennai CESTAT - 2009-TIOL-304**

2. The taxable event is providing the taxable services as defined by Section 65(105) of the Service Tax provisions is the providing of service and not raising of invoice. In circumstances where the taxable services are rendered prior to the date on which they became taxable, but merely the invoice is raised subsequently and money received thereafter, the transaction does not become taxable.

The liability cannot be fastened on the recipient of the services as the taxable event had already occurred in the past and raising of invoices and/or making of payment cannot be considered to be a taxable event. At the same time, it is also not possible to hold that the provision of Rule 2(1)(d)(iv) of the Rules is retrospectively applicable to services rendered prior to 16.08.2002. Thus, neither the Section nor the Rule even suggests that the taxable event is the raising of an invoice for making of payment.

**CCE & CC, Vadodara-II Vs Schott Glass India Pvt Ltd (22.01.2009) Guj HC - 2009-TIOL-82**

3. **Input Services Distributor is not like a dealer under the Central Excise provisions and thus the eligibility or otherwise of the service tax credit has to be examined at the end of input service distributor only.** The definition of the input service distributor clearly says that he is not merely a dealer, but is an office of the manufacturer or producer of final products or provider of output service who will distribute the credit to his manufacturing units or service providing units as the case may be.

When we look at the functions of the input service distributor and the documents to be issued by him for passing on the credit, it becomes quite clear that the document issued by him for passing on the credit does not contain the nature of service provided and the details

of services. It contains the service provider's details, distributor's details and the amount. Therefore, the eligibility or otherwise of the service tax credit has to be examined at the end of input service distributor only. **CST, Ahmedabad Vs Godfrey Philips India Pvt (31.12. 2008) – Ahd CESTAT, 2009-TIOL-269**

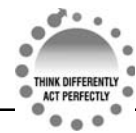
4. The assessee prepared tableau for the State Govt for its display on the Republic Day. The Revenue has raised demand on the ground that it is for publicity and the definition of the advertising is inclusive in nature. The assessee contested that the tableau prepared is not for any commercial purpose but is only for display by the State Govt and further that since the activity involved was only preparation of the tableau and the exhibition was done by the State Govt and the fact that after the preparation, the assessee has no role to play, it cannot be covered under advertising service. **CST, Ahmedabad Vs Identity Communication Pvt Ltd (07.01.2009) Ahd CESTAT, 2009-TIOL-197**

5. In respect of GTA services, the assessee had mistakenly availed abatement of only 25% instead of 75%. Upon knowing that the rate of abatement is 75%, the assessee made an application for refund of excess tax paid. While the Revenue rejected it as it was filed after one year period, the Commissioner(A) allowed the appeal on the ground that Sec 11B of Central Excise is not applicable and unjust enrichment cannot be alleged as in cases of tax collected without authority of law. The CESTAT has held that the refund claim filed beyond the period of one year is hit by time bar in terms of Sec 11B and Commissioner(A) order is not sustainable. Therefore, the assessee is not entitled for refund. **CCE, Pune-III Vs Beharay & Rathi Constructions (05.12.2008) – Mumbai CESTAT, 2009-TIOL-178**

### Central Excise:

6. In terms of Rule 5 of the Central Excise Valuation Rules, 2000, freight charges are allowable as a deduction if they are on actual basis. It is not necessary that the actual amount of freight is shown on the invoice. Though the amount shown on invoice is an approximation vis-à-vis that was actually collected from buyer, the deduction of freight cannot be denied in its entirety by contending that only the actual, if shown on invoice, is allowable.

It is held that as per Rule 5, the deduction of freight is limited to actual cost of transportation, provided the transportation charges are shown separately. There is no requirement that the actual cost incurred should be shown and once the amount shown is the actual recovered from customer, then the requirement of Rule 5 stands satisfied



because ultimately the deduction has been claimed of the actual cost of transportation and not the average cost of transportation. **Indo Rama Synthetics (I) Ltd Vs CCE, Nagpur (16.12.2008) CESTAT - 2009-TIOL-310**

7. On the question whether the assessee was entitled to deduction in respect of trade discount and whether the machine usage charges forms part of the assessable value of the product in question, the SC has held that – since there is no flow back/return of the trade discount, the assessee is entitled to claim deduction for the trade discount.

On the machine usage charges, it is observed that the vending machine stood installed by the holding company, while the ownership of the vending machine vested in the marketing company. The machine charges were payable to the marketing company and not to the holding company. In these circumstances, the said charges are not includable in the assessable value. **CCE, Mumbai Vs Pepsico India Holdings (P) Ltd (14.01.2009) – SC - 2009-TIOL-20**

8. **The exemption granted therein is subjected to the condition that the said goods are ‘Used within the same factory’. This cannot be extended to be read as the goods which were to be used must be manufactured in the same factory.** It only means that the imported goods are required to be used in the factory belonging to the importer where the manufacturing activity takes place.

There cannot be any doubt whatsoever that if excise duty is not leviable on manufacture of goods, the question of the importer paying any additional duty for import of like goods would not arise. An exemption notification should be read literally. A person claiming benefit of an exemption notification must show that he satisfies the eligibility criteria. Once, however, it is found that the exemption notification is applicable to the case of the assessee, the same should be construed liberally. **CC, Amritsar Vs Malwa Industries Ltd (12.02.2009) SC - 2009-TIOL-17**

9. In respect of refunds to be granted under Rule 5 of the CENVAT Credit Rules, it should be allowed only if the inputs in question are consumed. No refund shall be available for unutilized credit attributable to inputs lying in stock and WIP. **ACE Techniks Vs CCE, Bangalore (09.09.2008) – Bangalore CESTAT - 2009-TIOL-281**
10. It is noted that the applicability of Sec. 4A (MRP based valuation) is dependent upon the applicability of the said Standards of Weights and Measures Act, 1976. The once the authorities under the Standards of Weights and Measures Act, 1976 have held that no MRP is required to be affixed on the product in question, the revenue’s insistence that the same should have been affixed and the goods should have been assessed under Sec. 4A cannot be upheld. **SAF Yeast Co Pvt Ltd Vs CCE, Pune II (12.01.2009) Mumbai CESTAT, 2009-TIOL-224**

## CENVAT:

11. In respect of any inventory of inputs which is written off in the books of account, it is not required to reverse the CENVAT credit attributable to such items. As long as the inputs are capable of being used and available in the factory, credit is not deniable. **B H P V Ltd Vs CCE, Visakhapatnam (25.09.2008) CESTAT - 2009-TIOL-308**
12. On the matter relating to utilisation of CENVAT credit, it is held that restraining a manufacturer from utilising the CENVAT credit has serious civil consequences. A manufacturer purchases duty paid inputs and utilises the same in the manufacture of final product and thus is entitled to take credit of duty paid on the inputs and utilise the same in payment of excise duty payable on the final product. An interim stay is now granted against the order of the CBEC on the applicability of the restriction laid down under Rule 12CC of Central Excise Rules and 12AA of CENVAT Credit Rules - For reference, the restriction laid down under Rule 12AA of CENVAT Credit Rules is that the Central Government having regard to the extent of misuse of credit, nature and type of such misuse and other factors may provide for certain measures including restrictions on utilisation of credit and suspension of registration. **Hiren Aluminium Ltd Vs UoI (16.01.2009) Mumbai HC - 2009-TIOL-83**

## Customs:

13. In respect of any exemption to be availed based on a license, it is necessary that the license is valid as on the date on which such goods are assessed to duty. In respect of a transaction where the license is valid on the date of import but has lapsed at the time of clearance from warehouse, the importer shall not be entitled to avail the exemption. The importer’s right to bring in the goods duty-free depends on the Advance licence, and when the Licence is not valid on the date when the duty is to be assessed, the right of exemption ceases. The incidence of duty depends on the time of clearance, and if the licence entitling the importer to bring in goods duty free had expired at the time when the goods were cleared, the department is right in objecting to the claim for exemption from duty. **CC, Chennai Vs Bangalore Mano Filament Pvt Ltd (18.12.2008) – Madras HC - 2009-TIOL-85**

## Others:

**It is held that once the tribunal has granted full waiver of pre deposit in at least two similarly situated cases, it would not be proper to take a different view and deny full waiver of pre-deposit. A similar fact situation in SSV Coat Carriers Pvt. Ltd was expressed.** It is true that on merely establishing a prima facie case, interim order of protection should not be passed. But if on a cursory glance it appears that the demand raised has no leg to stand, the assessee should be waived from requiring to pay full or substantive part of the demand. **Wardha Coal Transport Pvt Ltd Vs UoI (14.01.2009) Bombay HC - 2009-TIOL-79**

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Advanced Accounting	02/04/09 & 03/04/09	10.00amTo 6.00pm	CA.Jaison MF
Business & Corporate Law	04/04/09 & 05/04/09	10.00amTo 6.00pm	CA.Sundarraman
Costing & FM	06/04/09 & 07/04/09	10.00amTo 6.00pm	CA.Gopal Krishna Raju
Income Tax	08/04/09 & 09/04/09	10.00amTo 6.00pm	CA.Suresh T G
FINAL			
SUBJECT	DATE	TIME	FACULTY
Advanced Accounting	11/03/09 & 12/03/09	10.00am To6.00pm	CA.Muralidharan.L
MAFA	13/03/09 & 14/03/09	10.00am 6.00pm	CA.Muralidharan.L
Corporate Law	16/03/09 & 17/03/09	10.00amTo 6.00pm	CA.S.Srikanth
Cost Management	18/03/09 & 19/03/09	10.00amTo 6.00pm	CA.Saravana Prasath
Direct Taxes	20/03/09 & 21/03/09	10.00amTo 6.00pm	CA.Sekar G
Indirect Taxes	23/03/09 & 24/03/09	10.00amTo 6.00pm	CA.G.V.Rao
Management Information & Control System	25/03/09 & 26/03/09	10.00amTo 6.00pm	MR.B V N Rajeswar
QT	28/03/09 & 29/03/09	10.00amTo 6.00pm	Mrs.Malathy Sundarrajan

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# ONE DAY SEMINAR ON INDIRECT TAX IMPLICATIONS

*jointly organized by*

**Bangalore Branch of SIRC of ICAI**

and

**Federation of Karnataka Chambers of Commerce and Industry (FKCCI)**

on **Friday, 20th March 2009** at **Hotel Le-Meridian, Bangalore**

## Programme Schedule

Timing	Topic	Speaker
9.00 am to 9.30am	Inauguration of the seminar	
9.30am to 10.15am	An insight into GST	CA. Sampath Raghunathan Senior Tax Advisor, Hyderabad
10.15 to 10.30am	High Tea	
10.30 to 1.00pm	Indirect Tax Implications on the IT Sector	CA. Parind Mehta Partner, BSR & Co., Mumbai
1.00pm to 2.00pm	Lunch	
2.00pm to 4.30pm	Indirect Taxes Implications on the Real Estate Sector	CA. Madhukar Hiregange Partner, Hiregange & Associates, Bangalore
4.30pm to 5.30pm	Panel Discussion	CA. Madhukar Hiregange CA. P.V. Srinivasan Mr. Rajesh Chandra Kumar CA. Madhu Murthy (to be Confirmed)
5.30pm to 5.45pm	Vote of Thanks	

**Delegate Fee: Rs. 2,500/-**

Registration: Restricted to 150 participants on first come first served basis

For further details contact **Mrs. Jyothi Vasudev** on

Tel Nos. **30563513/30563500**

Email: **bangalore@icai.org**

For Registration Form: please visit **www.icai-bangalore.org**

**CA. Cotha S. Srinivas**

Chairman  
Bangalore Branch

**CA. T. R Venkatesh Babu**

Secretary  
Bangalore Branch

**CA. Deepak Kumar Jain**  
Seminar Co-ordinator

**CA. D. Muralidhar**  
President, FKCCI

**CA. I.S. Prasad**  
Chairman Central Tax  
Committee, FKCCI

# DIAMOND JUBILEE SEMINAR ON BANK AUDIT

Organised By

**BANGALORE BRANCH OF SIRC OF ICAI**

ON 21<sup>ST</sup> MARCH 2009 AT HOTEL LE-MERIDIAN, BANGALORE



Timing	Topic
09.00 AM - 10.00 AM	Inaugural & Keynote Address
10.00 AM - 11.30 AM	Audit Of Cbs Branches
11.30 AM - 11.45 AM	Tea Break
11.45 AM - 01.30 PM	Audit Of Advances - Rbi Circulars
01.30 PM - 02.30 PM	Lunch
02.30 PM - 03.30 PM	Exception Reports, Data Analysis Etc
03.30 PM - 03.45 PM	Tea Break
03.45 PM - 05.00 PM	Audit Documentation, Cdr, Agricultural Waiver, Audit Of Specialised Branches

Speakers to be announced

**Delegate Fee: Rs. 1500/-**

**Cheque / DD in favour of "Bangalore Branch of SIRC of ICAI"**

**Restricted to 500 delegates on first come first serve**

For further details contact

**Mrs. Jyothi Vasudev** Tel Nos: **30563513/30563500** Email: **bangalore@icai.org**

For registration form: **Please visit [www.icai-bangalore.org](http://www.icai-bangalore.org)**

**CA. Cotha S. Srinivas**  
Chairman, Bangalore Branch

**CA. P.R. Suresh**  
Seminar Co-ordinator

**CA. T. R Venkatesh Babu**  
Secretary, Bangalore Branch

## Important Dates to remember during the month of March 2009

- 5-Mar-09 - Payment of Service Tax for the month of February 2009. (in case of persons other than individual, proprietor & partnership firms)
- Payment of Central Excise Duty for the month of February 2009.
- 7-Mar-09 - Payment of Tax deducted & Tax collected for the month of February 2009.
- 10-Mar-09 - Filing of monthly returns of Central Excise for the month of February 2009.
- 15-Mar-09 - Payment of **Advance Tax** - Last Instalment.
- Payment of **Advance Fringe Benefit Tax** - Last Instalment.
- 20-Mar-09 - Filing of **VAT 100** under KVAT Laws.
- Payment of Professional Tax for the month of February, 2009.
- 31-Mar-09 - Filing of **Income Tax Return** for the Assessment Year 2008-09 without penalty.
- Payment of TDS, which was deducted during April to Feb, 2009 if not paid.
- Payment of Service Tax for the month of March 2009.
- Payment of Service Tax in case of individuals, proprietor & partnership firms for the quarter ended March 2009
- Payment of Central Excise Duty for the month of March 2009.



**BANGALORE BRANCH OF SICASA  
BANK AUDIT SEMINAR  
FOR STUDENTS**

ON SUNDAY, 22<sup>nd</sup> MARCH 2009,  
BETWEEN 9:30 AM TO 5:00 PM  
AT BANGALORE BRANCH PREMISES

**SUBJECT DISCUSSED**

- PRACTICAL ISSUES IN AUDIT OF ADVANCES (NPA)
- LFAR
- TAX AUDIT AND CERTIFICATION
- SYSTEM AUDIT UNDER COMPUTERISED ENVIRONMENT
- ASSET CLASSIFICATION, INCOME RECOGNITION

\* FEES : Rs. 200/- per student  
(Including Material, Tea and Lunch)  
Cheque / DD to be drawn in favour of:  
**Bangalore Branch of SICASA**

MEMBERS REQUESTED TO SPONSOR THE STUDENTS.  
KINDLY CIRCULATE INFORMATION TO STUDENTS

Restricted to **200** Students only on first cum first serve basis.

For Registration Contact: **Mrs. Jyothi Vasudev**  
Tel Nos: **30563513/30563500**  
Email: **bangalore@icai.org**

**KIND ATTENTION  
IPCC STUDENTS**

**ADMISSIONS OPEN FOR IPCC  
COACHING CLASSES  
November 2009 Examinations**

**Tentative Date of Commencement  
of the Classes 25<sup>th</sup> March 2009**

Course fee : **7000/-** BOTH GROUPS  
**4500/-** FIRST GROUP  
**4000/-** SECOND GROUP

Timings : 7.30AM To 9.30AM AND  
6.00PM To 8.00PM

**Note:**

1. Cash/ Demand Draft should be payable in favour of "**BANGALORE BRANCH OF SIRC OF ICAI**"
2. Two photograph.
3. Admissions on first come first served basis.

**CA.COTHA S SRINIVAS**  
CHAIRMAN

**KIND ATTENTION STUDENTS PURSUING GMCS COURSE**

**ANNOUNCEMENT:**

**REGISTRATIONS OPEN FOR THE COURSE ON  
"GENERAL MANAGEMENT AND COMMUNICATION SKILLS"  
61<sup>ST</sup> & 62<sup>ND</sup> batches**

**Proposed date for the Commencement of the**

**61<sup>st</sup> Batch- 18-6-2009 To 04-07-2009**

**62<sup>nd</sup> Batch- 07-7-2009 To 23-07-2009**

Course Fee: **Rs.4500/-** DD in favour of "**Bangalore branch of SIRC of the ICAI**" / Cash

Duration : 15 days

- Eligibility:
1. Would have completed minimum 2 years of article training
  2. Would have passed PE-II course/ taken up either one group or both the groups of final exams/qualified CA
  3. One passport size photograph

**CA.COTHA S SRINIVAS**  
CHAIRMAN

# Human Resource at Branch



**Ms. Rema Sujith**  
MDP officer



**Mr. K.R. Kulkarni**  
Section officer



**Mr. T.V. Srinivasan**  
Assistant Secretary



**Ms. Rajalakshmi C R**  
DO Assistant



**Ms. Jyothi Vasudev**  
MDP Assistant



**Mr. Syed Md Hussain**  
Computer Faculty



**Ms. Ramani R**  
Computer Faculty



**Mr. Seshadri. S**  
Accountant



**Ms. Ramya J**  
Secretary



**Ms. Roopa**  
Receptionist



**Mr. Muni Narasimha**  
Office Assistant



**Mr. K N Prasanna**  
Office Assistant



**Mr. Satish M V**  
Office Assistant



**Mr. Girisha B C**  
Office Assistant



**Mr. Mallesh**  
Office Assistant



**Mr. Raghu**  
Office Assistant



# National Seminar for Statutory Central Auditors of Public Sector Banks

Organised By

Professional Development Committee of ICAI

Hosted By

Bangalore Branch of SIRC of ICAI



on Thursday, 19<sup>th</sup> March 2009 at Hotel Le-Meridian, Bangalore

Time	Session
1000 to 1045hrs	<b>Inaugural Session</b>
1045 to 1230 hrs	<b>Session I</b> <ul style="list-style-type: none"><li>- Income Recognition</li><li>- Advances</li><li>- Investments and Treasury</li><li>- Prudential Norms</li></ul>
1230 to 1400 hrs	<b>Session II</b> <ul style="list-style-type: none"><li>- Restructuring, Recovery, Rehabilitation Securitisation BIFR</li><li>- Advances , including CDRs.</li></ul>
1400 to 1445 hrs	<b>Lunch Break</b>
1445 to 1600 hrs	<b>Session III</b> <ul style="list-style-type: none"><li>- LFAR</li><li>- GHOSH &amp; JILANI REPORTS</li><li>- Compilation, Consolidation &amp; Disclosures</li><li>- Accounting Standards</li><li>- CBS</li></ul>
1600 to 1615 hrs	<b>Coffee Break</b>
1615 to 1745 hrs	<b>Session IV</b> <ul style="list-style-type: none"><li>- Basel II</li><li>- CAR</li><li>- Certification</li><li>- Peer review/Quality review/FRRB /Audit Documentation</li></ul>
1745 to 1800 hrs	<b>Valedictory Address</b>

Speakers to be announced

**Delegate Fee: Rs. 1,500/-**

**Cheque / DD in favour of "Bangalore Branch of SIRC of ICAI"**

Registration: Restricted to 150 participants on first come first served basis

For further details contact Mrs. Jyothi Vasudev on Tel Nos. 30563513/30563500

Email: bangalore@icai.org

**For Registration Form: please visit [www.icai-bangalore.org](http://www.icai-bangalore.org)**

**CA. Anuj Goyal**

Chairman – Professional  
Development Committee

**CA. K.Raghu**

Central Council Member  
Workshop Co-ordinator

**CA. Cotha S. Srinivas**

Chairman  
Bangalore Branch

**CA. T.R. Venkatesh Babu**

Secretary  
Bangalore Branch

## Speakers at Accounting Standards Workshop



CA. T.S. Shekhar



CA. V. Balaji



CA. N. Nityananda



CA. K. Gururaj Acharya



CA. S. Krishna Swamy



CA. Shyam Ramadhyani



CA. Madhusudhan



CA. Vikas Bagaria

## Speakers at Service Tax Workshop



Mr. G. Shivadasan



CA. A.R. Krishnan



Mr. Sridharan



Mr. Maheshjai Singh



CA. Rajesh Kumar

## Speakers at Workshop on International Taxation



CA. Rashmin Sanghvi



CA. Rishi Harlalka



CA. Vikram Bapat



CA. S. Krishnan



CA. K.R. Sekhar

## Inauguration of 59th Batch of GMCS



Chief Guest lighting the lamp



Dr. B.G. Sathya Prasad



Cross section of the participants

## First ISA Meet



CA. Atul C. Bheda, Chairman, IT Committee of ICAI inaugurated the First ISA Meet held at Bangalore



CA. Atul C. Bheda, Chairman & CA. K. Raghu, Vice Chairman, IT Committee of ICAI seen with members of ISA study group held at Bangalore

## Chartered Accountants Meet



CA. Sanjeev Maheshwari, Chairman, CMII addressing delegates

## Managing Committee 2009-10



Cross Section of participants

## First Batch of IFRS



Shri S.C. Kalia, ED, Vijaya Bank inaugurating by lighting the lamp

## Study Circle Meetings



CA. Santhosh Kumar



CA. Babu Jayendran



CA. Vikas Oswal