



The Institute of Chartered Accountants of India

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NEWS LETTER

JAGRUTHI

THE ANANTAPUR BRANCH OF SIRC OF ICAI

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EDITORIAL

The season for the exercise of working on budget 2016 has started. Asusual the intention of the Government Is to mobilize more funds by way of taxes from the public under the guise of widening of tax-base by getting new tax-payers into tax net and making the existing tax payers to contribute more by taxes to the Government expectations. On the other hand the tax payers expect a lot of concessions, exemptions, deductions, rebates and reliefs starting from increase in basic exemption limit, increase in savings under chapter VI-A and reduction in rates of taxes.

The Finance Minister has promised in the 2015 budget that he is going to reduce the corporate Tax from 30-25 over a period of 4 years probably, by all means, in 2016 Budget he may reduce corporate tax from 30-29 which will have impact of tax collection by more than Rs.15,000 crores. Probably, to compensate such revenue loss, the recent notification numbers 21 & 22/2015 dated 06.11.2015 existing Service rate of 14% is increased to 14.5% though, increase of 0.5% is termed as swacch Bharat. An important issue where the tax payers are finding difficult to comply with is sec 234E which is very typical and speaks about payment of 200 by way of fee for delay in filing of TDS returns. Probably, all stake holders should definitely in their memorandum to the Finance Minister should raise this issue. The other aspect of collection of more taxes from the Assessee's is that Assessments were made known as high-pitched assessments which resulted in heavy demands and naturally such demands were disputed by the Assessee's. To add fuel to the fire, unfortunately, many Assessing Officers are making assessments under the concept of budget target oriented assessments which is not a healthy sign by better compliance of taxes by the Assessee's. Hope the Govt. will try to be Assessee friendly for better tax compliance.

CA Dr. D.Harischandra Rama
Chairman
Newsletter Committee
Anantapur Branch of SIRC of ICAI

CHAIRMAN SPEAKS...

RESPECTED MEMBERS,

Wishing all the Members, Students and Staff and their family members a very peaceful, happy and radiant DIWALI. Let us always share light and spread smiles.

The Prime Minister Shri Narendra Modi exuding confidence of the roll out is well set on course of the largest indirect tax reform since the introduction of the Value-Added Tax in 2005. We have to support this mega tax reform, which will create a single, unified Indian market to make the economy stronger, besides boosting tax collections and reducing litigations. Kindly visit www.mygov.in , invited opinions.

As. per Notification No. 21/2015-Service Tax dated 06.11.2015 and Notification No. 22/2015-Service Tax dated 06.11.2015, With effect from 15th November, 2015, Swachh Bharat Cess will be levied at the rate of 0.5% of the Value of Taxable Services, in addition to existing Service Tax rate of 14% i.e. from 15th November, 2015, Effective Service Tax will be 14.50%.

Simplification of procedure for Form No. 15G & 15H – Notification No. 76/2015 dated 29-09-2015: The requirement of submitting physical copy of 15G and 15H by the deductor to the Income-tax authorities has been dispensed with. The deductor will however be required to retain simplified Form No. 15G and 15H for seven years(self declarations). The particulars of will have to be furnished by the Deductor along with UIN in the quarterly TDS statements. The revised procedure shall be effective from 1st October 2015.

Validation of tax returns through Electronic Verification Code- order dated 06-10-2015 has through this order directed that returns of income which are filed on or after 01-04-2015 electronically pertaining to Assessment Year 2014-15 or returns filed in response to various statutory notices or returns filed as a consequence of condonation of delay under Section 119 of the Act can also be validated through EVC.

The facility to view tax and computation sheet for demand raised by AO is made available to the assessee in the e-filing portal i.e. <https://incometaxindiaefiling.gov.in/>.

The Summary of provisions that are notified vide Notification dated 05-06-2015 to exempt private companies u/s 462 of the Companies Act, 2013. Kindly visit the relevant Notification in the www.icai.org

The Ministry of Corporate Affairs has issued circular no. 14/2015 to extend the due date of filing of Forms AOC-4, AOC-4 XBRL and MGT-7 and relax the additional fees for the forms filed till 30th November, 2015.

The elections to the Central Council and the Regional Councils of the Institute of Chartered Accountants of India are scheduled on December 4 & 5 2015. For Anantapur on 5th December 2015. We request members to participate actively and record their votes.

The 1st Annual General Body Meeting members of Anantapur Branch of SIRC of ICAI was held on 26th October 2015 and annual accounts were approved for the year ending 31-03-2015.

On 23rd October, 2015 at ICAI Bhavan, Chennai Thiru Rajeev Chandrasekhar, Member of Parliament, Rajya Sabha in his address on 8th V. Sankar Aiyar Memorial Lecture on "Transforming the Government-Business Relationship" mentioned that the NPA's of Private Sector Banks especially the new private sector banks constitute only about 8% of the total NPAs, compared to the 74% constitute by the Public Sector Banks, which is a challenge to the nation to deal with and overcome by making strong and transparent regulatory institutions which leaves no scope for government and bureaucratic meddling.

We have to remember birthday of Guru Nanak who taught all to live with equality, honesty, tolerance, peace and love.

BEST WISHES

CA.B.Sreenivasa kumar
Chairman of the branch,
Anantapur branch of SIRC of ICAI

Some issues regarding Income Tax Act,1961

Income -*Chargeability*-Professional advances

The assessee was a proprietor of M/s. O.P.Kaitan and Company, a firm of solicitors and advocates. The assessee follows the cash system of accounting since inception and this had been consistently accepted by the Department since 1990. The assessee received advances from its clients for various legal matters for meting out of pocket payments towards expenses in traveling, preparation of cases, engaging lawyers, etc. Such advance receipts were kept in debited from time to time. At the end of the year, the credit balances in the accounts, where the matters were completed or settled, were transferred to profit and loss account. Where the cases are pending, the credit balances were carried forward to the next year as sundry creditors. For the year under consideration, AO made an addition of Rs.10,78,1,478 representing balances outstanding on 31.10.2008, out of the total credit balance of Rs.20,79,97,695 as on 31.03.2009. The AO held that since the assessee adopted the cash system of accounting, the taxing of the income could not be deferred to the subsequent years. Income had to be taxed in the year in which it was receive. Since the above amount had not been returned or shown as professional fee, it had to be taxed during the current assessment year.

Held: The issue of lawyers, accepting monies from clients on account to defray the expenses and appropriating fees as income only upon completion of case has been examined in the past and a consistent view had been taken by the Tribunal. This has been adverted to in the impugned order of the Tribunal. The principles on the basis of which those decisions were taken are unexceptionable. Given the manner and functioning of the lawyers and law firms, it is correct that the categorization of a receipt can take place only at the time of appropriation, i.e., in case of fees only when the matter is over or as when the assessee decides on the quantum of fees. This will not be the entire advance received as at the time it is received it does not bear any particular characterization for the purposes of treating it as income. Accordingly, addition was deleted.

CIT v. Om Prakash Khaitan 2015 TaxPub(DT) 3415 (Del-HC) : (2015) 376 ITR 390 (Del)

Income-Chargeability-Payment reflected in form 26AS

Assessee was a retired soldier. He received certain security contracts from the Government bodies such as BHEL on his retirement. During the course of scrutiny assessment proceedings, the AO, based on information as per form 26AS, noted that the assessee had not disclosed certain contractual receipts: and proceeded to bring to tax those receipts as unaccounted income. On appeal, CIT(A) upheld the action of the AO but restricted the addition to 40 per cent.

Held: Merely because a payment was reflected in form 26AS and was shown to have been made to the assessee, it could not be brought to tax in his hands when the said money was not received by the assessee. It was noted that the stand of the assessee was that these payments were never received by the assessee, and the monies, received fraudulently in the name of and on behalf of the assessee, were received by some other person. In view of the matter, additions were deleted and matter was restored to the file of AO. It was a fit case in which the AO ought to have established the trail of money and find out actual beneficiary of the payments which were admittedly made through banking other person had opened a bank account in assessee's name and appropriated the funds on his own, in such account. All these facts, require to be properly investigated. In view of the matter, additions were deleted and matter was restored to the file of AO with the direction that the same could be brought to tax in hands of the assessee only when a result of proper inquiries to be carried out in the above observations.

Ravinra Patap Thareja v. ITO 2015 TaxPub(DT) 3460 (Jab-Trib)

Income-Mutuality principle-Interest received from non-members

During the course of scrutiny, AO brought to tax a certain amount being interest received by the assessee company on account of fixed deposit held by it in banks and financial institutions. Being aggrieved, assessee preferred appeal and submitted that the interest income from deposits and investments were governed by the principle of mutuality and as such were not taxable income of the institute. However CIT(A) rejected the plea of assessee and upheld the order of AO.

Held: The financial institutions from whom the interest was received by the assessee were not members of the assessee company but third parties. The relation between them was only as clients of the financial institutions and there was no scope of mutuality existing between them. Further it was an income earned by the assessee company from its resources out of the transactions with third parties which were

available for the members of the assessee company for their collective enjoyment, though not available for distribution as dividend. Therefore, order of CIT(A) was confirmed.

Followed: Bangalore Club v. CIT Civil Appeal Nos. 124 & 125 of 2007 & 272 to 278 of 2013, dt. 14-1-2013.

Ootavamund Club v. ITO 2015 TaxPub(DT) 3598 (Chenn 'A'-Trib) : (2015) 42 ITR (Trib) 435 (Chenn 'A'-Trib)

Income-Accrual-Retention money

During the assessment proceedings, the AO noted that the assessee had shown turnover in respect of MCGM contract by reducing the retention money. AO asked the assessee to explain the assessee as to why the retention money should not be treated as turnover. The assessee explained that the assessee was a contractor and sub-contractor for making concrete road on contract basis for various Government and Semi-Government and local authority. The payment was received after deduction of retention money being kept to secure various things such as defects in the work, any claim, some technical problems, etc., and after satisfying the authority may release the total retention money or make deduction of various count and release balance amount. Thus the assessee claimed that so long the money was retained by the authorities till their satisfaction and expiry to time of maintenance, the same could not be treated as income of the assessee. The assessee had accounted retention money in the year in which it had accrued and received. The AO did not accept the contention of the assessee. On appeal, the CIT(A) has deleted the addition made by the AO.

Held: The right to receive the retention money was accrued only after the obligations under the contract were fulfilled and, therefore, it would not amount to an income of the assessee in the year in which the amount is retained. There was no dispute that the AO had accepted this method of accounting for all the previous assessment years right from the Aus. 2002-03 to 2008-09. Therefore, when the assessee is following this method of accounting regularly and consistently and which has been accepted by the AO in all the earlier years then the AO is not permitted to take a different view to *de hors* the principle of consistency until and unless the facts for the year warrants to take a different view. Therefore, the addition made by the AO is not justified even on the principle of consistency.

Followed: CIT v. Associated Cables (P) Ltd. (2006) 286 ITR 596 (Bom).

Asstt. CIT v. Hemanshu K. Modi 2015 TaxPub(DT) 907 (Mum 'H'-Trib)

Business Income-Chargeability-Agreement for sale of Land, Whether could be treated as sales

Assessee was engaged in business of Real Estate. Its return of income declaring loss was accepted by AO. CIT u/s. 263 set aside assessment to re-examine afresh whether transaction of agreement of sale which assessee had with M/s L, amounted to sale or not. Assessee had entered into an agreement of sale with M/s L to sell land for a consideration of Rs. 5.01 crores and it had received same advance. CIT directed AO to examine case in-depth and also assesability of Rs.5.01 crore. Tribunal confirmed action of CIT. Consequent to order passed u/s. 263, AO passed consequent order bringing to tax excess of sale consideration over purchase price. Aggrieved assessee filed appeal before CIT(A) who allowing appeal deleted addition. Revenue was in appeal before Tribunal.

Held: It was only an agreement of sale, which was entered into between the assessee and M/s L No Sale Deed was either executed or registered. Therefore, applying the law laid down by the Supreme Court in *CIT v. Bhurangya Coal Co.* 1958) 34 ITR 802 (SC) and *Alapati Venkatramiah* (1965) 57 ITR 185 (SC), it Sale. Tribunal concurred with order of CIT(A) and declined to interfere in CIT(A)'s order.

Applied: *Cit v. Bhurangya Coal Co.* 1958) 34 ITR 802 (SC) and *Alapati Venkatramiah* (1965) 57 ITR 185 (SC).

ITO v. Leo Township Developers India (P) Ltd. 2015 TaxPub(DT) 3267 (Hyd 'A'-Trib)

Business income-Interest from banks on deposits-Business income vis-à-vis income from other sources

Assessee firm being engaged in the business of manufacture and export of garments and was also carrying on business of money lending. It showed interest income in the Profit and Loss Account. And deducted 90% of the interest income from the profit for the purpose of claiming deduction u/s. 80HHC. While AO opined that interest income received by assessee was not profit from export business and thus it could not be regarded as 'business income'. Accordingly, AO treated interest as income from other sources. However, CIT(A) held that the interest earned by the assessee was business income, as it was evident from the record that the assessee was in the business of money lending for several years and the same had also been accepted by the department. On Appeal, The Tribunal without understanding the scope of the order of the AO or that of the CIT(A) remanded the matter back to AO.

Held: Both the authorities, as was event from their orders, gave their finding for treating the said income under the relevant heads,. However, the Tribunal had lost sight of the said findings recorded by the authorities below, and in its order had stated that no finding had been rendered on this issue on facts by the authorities below, which was factually incorrect. In such view of the matter, the issue at this point of time on the questions of law raised could not be decided since the Tribunal had failed to go into the relevant portion of the orders of the AO and CIT(A) and come to a definite finding as to which view, i.e., whether the view of the AO or the view of the CIT(A), in regard to bringing the interest income earned from money lending business under appropriate head, was right on the facts of the instant case, Accordingly, matter was remanded back to the Tribunal to decide the issue afresh on the basis of the materials available on record.

Paridhan Exports v. Asstt. CIT 2015 TaxPub(DT) 32569 Mad-HC) : (2015 232 Tax-man 586 (Mad)

**Complied by
CA D.Aravind Rama**

Indian Accounting Standards (Ind AS)

As per Notification of Ministry of Corporate Affairs on 16th February 2015 Ind AS shall come into force from **1st day of April, 2015**.

➤ **Applicability of Accounting Standards:**

- The Indian Accounting Standards (Ind AS) shall be the accounting standards applicable to classes of companies specified in rule 4 of Companies (Indian Accounting Standards) Rules, 2015.
- The Accounting Standards Rules, 2006 shall be the Accounting Standards applicable to the companies other than the classes of companies specified in rule 4. (3)
- A company which follows the Indian Accounting Standards (Ind AS) specified in rule 4 of Companies (Indian Accounting Standards) Rules, 2015 shall follow such standards only.
- A company which follows the accounting standards specified in Annexure to the Companies (Accounting Standards) Rules, 2006 shall comply with such standards only and not the Standards specified in Companies (Indian Accounting Standards) Rules, 2015.

➤ **Obligation to comply with Indian accounting Standards (Ind AS)**

The Companies and their auditors shall comply with the Indian Accounting Standards (Ind AS) specified in Annexure to Companies (Indian Accounting Standards) Rules, 2015 in preparation of their financial statements and audit respectively, in the following manner, namely:-

- For Accounting periods beginning on or after 1st April, 2015 with the comparatives for periods ending on 31st March, 2015, or thereafter.

Any company may comply with the Ind AS.

Companies specified in rule 4 of Companies (Indian Accounting Standards) Rules,
2015

S.No	Conditions	Net worth of Rs. 500 Cores or more	Net worth less than Rs. 500 Cores.
(a)	Companies whose equity or debt securities are listed or are in the process of being listed in India or outside India.	Apply Accounting periods beginning on or after 1st April, 2016 with the comparatives for periods ending on 31st March, 2016, or thereafter	Apply For Accounting periods beginning on or after 1st April, 2017 with the comparatives for periods ending on 31st March, 2017, or thereafter
(b)	Companies whose equity or debt securities are Not listed on any stock exchange in India or outside India.	Apply Accounting periods beginning on or after 1st April, 2016 with the comparatives for periods ending on 31st March, 2016, or thereafter	<i>Net worth of Rs. 250 Crores but less than Rs. 500 Cores.</i> Apply For Accounting periods beginning on or after 1st April, 2017 with the comparatives for periods ending on 31st March, 2017, or thereafter
(c)	Holding, subsidiary, joint venture or associate companies of companies covered in point 1 , & 2 of this table.		

Note: Both conditions of Net worth & Listing are mandatory to apply Ind As.

- Companies whose securities are listed or are in the process of being listed on SME exchange (*as referred to in Chapter XB or on the Institutional Trading Platform*) without initial public offering (*in accordance with the provisions of Chapter XC of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009*) only clause (i) i.e. Any company may comply with Ind AS for financial statements for accounting periods beginning on or after 1st April, 2015, with the comparatives for the periods ending on 31st March, 2015, or thereafter; shall apply.

➤ **Points to be noted for the compliance:**

- Ind AS once required to be complied with in accordance with Companies (Indian Accounting Standards) Rules, 2015, shall apply to both stand-alone financial statements and consolidated financial statements.
- For companies which are not in existence on 31st March, 2014 or an existing company falling under any of thresholds specified for the first time after 31st March, 2014, the net worth shall be calculated on the basis of the first audited financial statements ending after that date in respect of which it meets the thresholds specified.
- The companies meeting the specified thresholds given in sub-rule (1) for the first time at the end of an accounting year shall apply Ind AS from the immediate next accounting year in the manner specified.

- Overseas subsidiary, associate, joint venture and other similar entities of an Indian company may prepare its standalone financial statements in accordance with the requirements of the specific jurisdiction, provided that such Indian company shall prepare its consolidated financial statements in accordance with Ind AS either voluntarily or mandatorily if it meets the criteria.
- Indian company which is a subsidiary, associate, joint venture and other similar entities of a foreign company shall prepare its financial statements in accordance with the Ind AS either voluntarily or mandatorily if it meets the criteria.
- Any company opting to apply the Ind AS voluntarily shall prepare its financial statements as per the Ind AS consistently.
- Once the Ind AS are applied voluntarily, it shall be irrevocable and such companies shall not be required to prepare another set of financial statements in accordance with Accounting Standards specified in Annexure to Companies (Accounting Standards) Rules, 2006.
- Once a company starts following the Ind AS either voluntarily or mandatorily on the basis of criteria, it shall be required to follow the Ind AS for all the subsequent financial statements even if any of the criteria specified in this rule does not subsequently apply to it.

Exemption of Ind As Applicability:

- (i) Insurance companies,
- (ii) Banking companies and
- (iii) non-banking finance companies

Shall not be required to apply Ind AS for preparation of their financial statements either voluntarily or mandatorily as specified.

Complied by
CA RASHMI AINAPUR

Quotations for the month

1. It is better to be unique than the best, because being the best makes us the number one but being unique makes us the **"only one"**.
2. If you have the spirit of understanding everything and taking it in positive way, you will enjoy every second of life whether it is **"pleasure"** or **pressure**.
3. Raise the quality level of words but not the **"voice"**. As the rain that grows flowers but not the thunders.
4. Half of the sorrows we earn by expecting great things from wrong people and the other half we earn by detecting wrong things in good people.