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NEWS LETTER

JAGRUTHI

THE ANANTAPUR BRANCH OF SIRC OF ICAI

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EDITORIAL

This is the month in which all the stakeholders related to taxation in particular and economy of the country in general looking forward for the budget speech by the finance Minister for the year 2016-17. It is glad to note that the GDP rate of our country is around 7.5% for the fiscal year ending 2016 where the average GDP in the other countries is only 3%. It is a healthy sign where rest of the countries in the world is looking towards our country as far as new opportunities, new avenues, scope for fresh investments are abundant. The new government is trying sincerely to enhance the image of our country in the world economy by new concepts like **“make-in-India”**, **“Start-up companies”** and more so not to initiate retrospective tax amendments. The direct and indirect tax collections are very positive and in the last 5 years this is the first time where the indirect taxes have reached the budgeted targets. The efforts of the government is widening the tax-base, probable reduction in corporate tax as promised by the finance minister in the last year’s budget and rationalizing the subsidy schemes in various sectors will definitely go a long way in strengthening the economy. In spite of natural disasters, strained relations with some of the neighbouring countries and slow economic growth in other countries, our country’s economic growth is very encouraging.

Let the new team of members in the institute level put forth additional efforts in rendering the services to students and the members at large to effectively showcase the image of the students, the members and the institute.

With Best Wishes,

CA DR. D.HARISCHANDRA RAMA
CHAIRMAN
NEWSLETTER COMMITTEE
ANANTAPUR BRANCH OF SIRC OF ICAI

Chairman Speaks.....

RESPECTED MEMBERS,

This is the Month February 2016 normally called Budget Month and Government will spend lot of its time in preparation of Budget and will be presented on 29th February 2016, with much expectations and comfortable growth rate at about 7.5% in the current fiscal year. The ICAI in its Pre-Budget Memorandum suggested ways to improve tax collection, reduce/minimize litigations, facilitate rationalisation and remove administrative and procedural difficulties. With positive mind, we hope the forth coming Budget pushes India towards double digit growth.

The recent news report that the income tax authorities have brought 12 lakh additional tax payers into the income tax net was met with a lot of scepticism. This is because most people believe the widely accepted notion that just a meagre 30 million plus of the Indian population of 1210 million pay income tax which is just about a 3% of the full base. But these numbers distort the real picture that shows almost 44% of the eligible population in India pays income taxes to the government. The mechanism still needs improvement.

The revised CARO recommendations submitted by ICAI to the MCA for onward consideration of the Committee on CARO applicable from financial year 2015-16 expects many particulars and disclosures.

ICAI has taken a conscious decision to prepare financial statements starting from financial year 2015-16 on the basis of Ind AS. As per ICAI President CA Monoj Fadnis, the project is being implemented in phases involving customisation, data migration, testing and training

On 2nd February 2016, a CPE Seminar was arranged for the benefit of members on **“Introduction to Cloud ERP”**, the main speaker was **Mr.Viswak Avanan** VDSP (IIT) Madras, members attended appreciated since, the subject relates to technology.

STUDENTS ACTIVITIES

1 From the Branch formation, the following number of students attended the regular classes

<u>STUDENTS</u>	<u>2014-15</u>	<u>2015-16</u>
ITT	175	305
ORIENTATION	160	275
GMCS 1	44	74

2 Mock Tests for CPT, IPCC and Final were conducted

3 Kiosk Machine was inaugurated for the benefit of students

4 The students are making use of the reading room and library provided

In the recent examinations held in November 2015 and December 2015 in CPT 25 Students, IPCC Both Groups 3 Students, Group 1 48 Students, Group 11 20 Students, Final Both Groups 3 Students, Group 1 10 Students and Group 11 5 students passed at Anantapur Centre. I congratulate all students who have passed.

VAT AUDIT:

Section 21 of AP VAT Act amended enabling Vat Dealer to furnish Certificate of Audit of the Accounts for every financial year, by 31st December subsequent to the financial year to which the statements related, along with other statements as may be prescribed duly certified by the Chartered Accountant, from the financial year 2015-16. For TOT dealers certification may be by Sales Tax Practitioners. The Institute to represent to Government to assign audit of TOT dealers by Chartered Accountants/Sales Tax Practitioners, option convenience to the TOT dealers.

Notification No. 3/2016/2015 dated 14-01-2016 of Income tax Form No. 9A has been prescribed, which shall be furnished before the expiry of the time allowed under Section 139(1) for furnishing the Return of Income of the relevant assessment year for exercising option in accordance with the provisions of the Explanation to Section 11(1) in respect of income of any previous year relevant to the assessment year beginning on or after the 1st April 2016.

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. Section 11(2) permits accumulation of 15% of the income indefinitely by the institution. However 85% of income can only be accumulated for a period not exceeding 5 years subject to the conditions that such person submits the statement in prescribed form i.e. Form No. 10 to the Assessing Officer and the money so accumulated is invested in the specified forms or modes. The said requirements are to be fulfilled by all Trusts.

The Income tax Department facilitating taxpayers' electronic interface and so direction that henceforth any notice/letter/communication issued by any officer to taxpayers should invariably contain mention of e-mail address and office phone numbers, of the officers signing such communications/notice/letters for facilitating taxpayers' electronic interface with the Department.

Instruction No. 19/2015 dated 29-12-2015 in cases selected for scrutiny, it should be the endeavour of the Assessing Officer that the initial notice issued under Section 143(2) of the Income tax Act is accompanied by a notice under Section 143(1) along with the questionnaire containing the details of specific documents/information/evidence etc., that are required to be furnished by the taxpayers in connection with scrutiny assessment proceedings in their respective case. Instruction No. 20/2015 dated 29-12-2015: scrutiny Assessment – some important issues and scope of scrutiny in cases selection through CASS, the Assessing Officers to comply the said instruction.

Service Tax F.NO.354/311/2015-TRU dated 20-01-2016 directed that in valuing the service of construction provided by a builder/developer to a land owner, who transfer his land/development rights to a builder, for getting in return, constructed flat, the service tax authorities should be guided by the Board Circular dated 10-02-2012 and not the education guide.

Prime Minister Narendra Modi has announced a slew of measures for start-up companies, while unveiling the action plan for the section recently. Start-ups will not be required to pay income tax on their profits for the first three years, and will also be exempt from capital gains tax. In order to simplify the process of registration, a system of self-certification on the part of such enterprises, with an additional provision of no inspection for three years. For Import Export Code can be obtained with the uploading of Digital photograph, copy of PAN, Cancelled cheque bearing entity name effective from 01-04-2016.

As per MCA Notification under section 396 of Companies Act 2013 dated 22-01-2016 all applications for reservation of name would be directed to Central Registration Centre from 26th January 2016. As per MCA Circular No.2/2006, HUF or its kartha cannot become partner in LLP.

10 Member panel recommended sweeping changes to Companies Act 2013, covering significant areas of the Act including definitions, rising of capital, accounts and audit, corporate governance, managerial remuneration, companies incorporated outside India and offences/penalties for ease of doing business. Feed back on the recommendations can be given to the Corporate Affairs Ministry.

New CERSAI Rules notified. All kinds of mortgages to be registered with CERSAI. Earlier covered only equitable mortgages.

The Council of ICAI at its meeting held on 18-01-2016, to bring uniformity in all certificates issued by Chartered Accountants, details in their signature include: Name of the CA firm, Firm Registration Number (FRN), Name of the member, Designation (Partner/Proprietor), Membership Number

The process of Elections for Anantapur Branch of SIRC has commenced and the New Managing Committee to be formed having more responsibilities to have good Infrastructure (Own Buildings), to conduct career counselling programmes qualitatively, students welfare activities i.e. Good Library with books required and Reading Rooms to accommodate many students, conducting CPE Programmes, workshops and others for the benefit of Members, popularising Government Programmes and educating compliances for the tax payers, implementation of technology changes at all levels. The Branch cordiality with the Officials and Elected Representatives to be improved. The Institute Officials at all levels, Central Council Members, Regional Council Members and all elderly people will guide the Branch and the Branch is to take advantage from them for scales of new heights of success, elevation and development.

I am leaving the office as chairman of the Branch. I am thankful to my membership fraternity and particularly to the Committee Members and young members, whose constant help and support I worked for two years and fortunate to be the first chairman of the branch. I am grateful to them for sharing their ideas, opinions, vision etc.; with me in the interest of the Branch I take this opportunity to thank them all for their indomitable spirit to extend all possible help. I thank all the Central Council, Regional Council Members, Other Branch Managing Committee Members and elders of the profession who helped me directly or indirectly. I am also thankful to the staff for their cooperation.

Friends, this will be my last message as a Chairman and I take this opportunity to thank all resource persons for sharing their knowledge, members and students for actively participating in all the programmes conducted in all the two years by the Branch

Nothing is permanent in this life. Every work is holy. Any work can be rendered as an offering. But its fruit is not in our hands. Trees give fruit for the good of others. Rivers flow for the good of others. Cows give milk for the good of others. Similarly the possessions of the saints are used only for the good of others. Concluding with Swamy Vivekananda's message: " This life is short, the vanities of the world are transient, by they alone live who live for others, the rest are more dead than alive"

Best Wishes

B SREENIVASA KUMAR

CHAIRMAN

ANANTAPUR BRANCH OF SIRC

SURVEY U/S 133A OF THE INCOME TAX ACT, 1961

.....continuing from previous month

5. It is the obligation of the assessee/employee to attend to the tax officials and submit the necessary and required information.
6. In case the assessee refuses/evades to furnish the required information, the IT officials have the authority to enforce the attendance of such person, compel the production of books of account and issues summons.
7. A survey 133A can be converted into a search u/s 132 if the conditions prescribed of that section are satisfied. Under section 133A(4), the IT authority shall not remove or cause to be removed from the place wherein he has entered, any cash, stock or other valuable article/thing.
8. The information collected during the course of survey u/s 133A can be used by the assessing officer for the purpose of assessment.
9. As far as the presence of a tax consultant or a legal advisor is concerned, there is no express prohibition in the Act. During interrogation in the process of survey proceedings, legal advisors may be called to be present.
10. Under no circumstances, the authorities should abuse their powers of survey.
11. In the course of survey, if the stock found is less or more than reflected in the books of account, a rational conclusion could be drawn that the unexplained difference represents sales outside the books where the deficiency of stock is not properly explained to the assessing officer. In case, excess stock is found the value of such excess stock may be treated as current year's income.
12. Suppose officers of IT department go to assessee's business place as decoy customers and the bill is obtained to subsequently verify with the books of account maintained by the assessee. In case, it is found that the amount of sale bills are altered or manipulated for IT purpose what will happen:
In such cases, the books of account may be rejected by the A.O. and sale as well as profits may be estimated as was held in the recent cases OF **Overseas Chinese Cuisine (India) P. Ltd. v. ACIT by Bombay Bench of ITAT (3rd Member decision) - [1996] 218 ITR (A.T.) 80.**
In such cases, even the assessments of earlier years and subsequent years may also be affected if it is established that the assessee was in the habit of making of alterations in the same bills.

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1. The department has power to record a statement which is useful at the time of assessment for the department, is only an evidence for the department. However, the assessee may retract from the information given in the statement on the pretext that it was given under duress/coercion.
2. All the survey cases are necessarily converted for scrutiny u/s 143(3) of the Income Tax Act, 1961.

Important case laws and References

- CIT v. Manorajyam (1995) 54 ITD 116 (Coch-Trib.)

It was observed that survey party is not empowered under Section 133 A, to draw inferences and conclusion to support its report in addition to collection of the required information.

- Sugan Chand Vinod Kumar v. CIT (1989) 175 ITR (Raj)

It was held that where no reasons for impounding the books were recorded under section 131(3), the impounding would be in contravention of the legal provisions and therefore not justified.

- Sri Venkateswara Tourist (p) Ltd. v. Assistant Director of IT (Investigation) (1999) 7D TC 436 (Cal-HC); (1999) 238 ITR 572 (Cal)

It was observed that the seizure of the documents during the survey was illegal as there was no evidence of non-cooperation by the assessee; therefore, the assessee was entitled to the return of the documents so seized.

- Dr Vijay Pahwa v. Dy. CIT (1996) 84 Taxman 416(Cal)

The Calcutta High Court imposed a personal penalty on the leader of the survey party for arbitrary exercise of power under section 133A. As summons under section 131(1) can be served only in the case of obstruction by the person concerned or when some sort of hindrance is put up by him but in the instant case there was no pending adjudication where the summoning power can be used at all. Further, it can be said the assessee's books were seized, without any apparent authority. The assessing officer and authorities do not have any power to interrupt the ordinary peaceful citizens of the country in any manner they like by utilizing the large powers given to them without keeping themselves strictly in the four concerns of those large powers.

- Raj kumar Jain v. Asstt.CIT (1994) 50 ITD 1 (All-Trib)

Survey at the time of functions and ceremonies- The concerned authority on the basis of the information gathered or the statement recorded by him may make addition u/s 69C for unexplained expenditure. However in view of the above case, the onus of proving the incurring the above expenditure lies in the assessing officer and no addition can be sustained when made on estimated basis only. The wordings of sub-section (5) empower the authority to verify the expenditure of an assessee, therefore it can be inferred that this sub-section does not apply to those who are not assesses.

Important Circulars

- Circular No.7-D (LXIII-7), dt. 3-5-1967

Business and /or residential premises of third parties or residential premises of assessee cannot be entered into for conducting surveys.

- Circular No.179, dt. 30-9-1975

Inspector of Income Tax can exercise powers of survey only with the permission of Income Tax Officer.

Conclusion:

The best way to avoid surveys is to maintain the books of account on day-to-day basis, to make all bills and vouchers available and to keep the cash and bank balances as per BOA.

CONTRIBUTED BY

CA DR D HARISCHANDRA RAMA

Some issues regarding service tax

1. Services provided under the Power System Development Fund Scheme of the Ministry of Power exempted from service tax

Exemption from service tax has been granted to taxable services provided under the Power System Development Fund Scheme of the Ministry of Power by way of-

(A) re-gasification of Liquefied Natural Gas (LNG) imported by the Gas Authority of India Limited (GAIL);

(B) transportation of the incremental Regasified Liquefied Natural Gas (RLNG) (e-bid RLNG) to specified power generating companies or plants subject to fulfillment of certain conditions prescribed in the exemption notification.

However, the exemption shall not be available if such RLNG and LNG are used for generation of electrical energy by captive generating plant as defined in section 2(8) of the Electricity Act, 2003. Further, the exemption shall be valid only till 31.03.2017.

[Notification No. 17/2015 ST dated 19.05.2015]

2. Section 11C benefits granted to MTSO agents in relation to remittance of forex from outside India for disputed period (01.07.2012 to 13.10.2014)

During the period between 01.07.2012 and 13.10.2014, service tax was not being levied and paid on the services provided by an Indian Bank or other entity acting as an agent to the Money Transfer Service Operators (MTSO) in relation to remittance of foreign currency from outside India to India, in terms of a practice that was generally prevalent at that time. However, this service was liable to service tax as also clarified vide Circular No. 180/06/2014 ST dated 14.10.2014. Now, the Central Government, in exercise of the powers conferred by section 11C of the Central Excise Act, 1944 [as made applicable to like matters in service tax vide section 83 of the Finance Act, 1994] has directed that the service tax payable on the service provided by an Indian Bank or other entity acting as an agent to the MTSO in relation to remittance of foreign currency from outside India to India, in the said period, but for the said practice, shall not be required to be paid.

[Notification No. 19/2015 ST dated 14.10.2015]

Note: Circular No. 180/06/2014 ST dated 14.10.2014 clarified that the services provided by an Indian Bank or other entity acting as an agent to MTSO in relation to remittance of foreign currency from outside India to India are liable to service tax.

3. Yoga included in the definition of charitable activities

Mega Exemption Notification No. 25/2012 ST dated 20.06.2012 exempts services by an entity registered under section 12AA of the Income tax Act, 1961 by way of charitable activities. Activities relating to advancement of religion or spirituality are included in the definition of charitable activities. Now yoga has also been included therein. Thus, services relating to advancement of yoga provided by charitable entities registered under section 12AA of the Income-tax Act, 1961 will not be liable to service tax e.g., service tax will not be payable on fee charged for yoga camps conducted by charitable trusts.

[Notification No. 20/2015 ST dated 21.10.2015]

4. Services provided by

(i) business facilitator/business correspondent with respect to Basic Savings Bank Deposit Accounts covered by Pradhan Mantri Jan Dhan Yojana and

(ii) an intermediary to business facilitator/ business correspondent with respect to such services, exempt from service tax With a view to promote financial inclusion, Mega Exemption Notification No. 25/2012 ST dated 20.06.2012 has been amended to exempt the services provided by a business facilitator or a business correspondent to a banking company with respect to Basic Savings Bank Deposit Accounts covered by Pradhan Mantri Jan Dhan Yojana (PMJDY) by way of account opening, cash deposits, cash withdrawals, obtaining e-life certificates and Aadhar seeding, in the rural area branches of banking companies, from service tax. Further, the services provided by any person as an intermediary to a business facilitator or a business correspondent with respect to the above mentioned services, have also been exempted from service tax. For this purpose, Basic Savings Bank Deposit Account has been defined to mean a Basic Savings Bank Deposit Account opened under the guidelines issued by Reserve Bank of India relating thereto.

[Notification No. 20/2015 ST dated 21.10.2015]

5. 70% abatement available on ancillary services provided by a GTA in the course of transportation of goods

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It has been clarified that ancillary services such as loading/ unloading, packing/unpacking, transshipment, temporary storage etc., would form part of the goods transport agency's (GTA) service if such services are provided by a GTA in the course of transportation of goods and the charges for such services are included in the invoice issued by the GTA, and not by any other person. Thus, abatement of 70%, applicable to GTA service, would also be available to the ancillary services. In other words, a single composite service need not be broken into its components and need not be considered as constituting separate services, if it is provided as such in the ordinary course of business. Thus, a composite service should be treated as a single service based on the main or principal service. It has also been clarified that in cases where GTA undertakes to deliver goods at a destination within a stipulated time, it should be considered as services of GTA in relation to transportation of goods. Thus abatement of 70% will be applicable if the entire transportation of goods is by road and the GTA issues a consignment note, by whatever name called.

[Circular No. 186/5/2015 dated 05.10.2015]

**COMPILED BY
V. SHRAVANI
CA FINAL STUDENT**

THE ANANTAPUR BRANCH OF SIRC OF ICAI

NEWS

1. **Sri CA M.Devaraja Reddy** and **Sri CA Nilesh S. Vikamsey** are elected as New Torch- bearers of ICAI for the year 2016-17 on 12th of February 2016 as **President** and **Vice-president** respectively. The Anantapur branch wishes all the best and full support to the president, vice-president and their team.
2. Exam dates for IPCC and Final are announced and all the aspirants are advised to send their exam applications in time.
3. All the members are advised to go through the election process of our Anantapur branch to elect new office bearers of the branch for period 2016 to 2019.

TOPICS of INTEREST

1. Let all the members may actively involve in 2016 budget discussions. Finance budget will be presented by the Honorable Finance Minister on 29th of February 2016.
2. Members are suggested to speed up and complete their scrutiny assessments with their respective assessing officers

QUOTATIONS FOR THE MONTH

1. The right temperature of a "HOME" is not maintained by heaters and air-conditioners. It is maintained by warm hearts and cool minds.
2. Never forget the three powerful resources you always have with you –
LOVE, PRAYER and FORGIVENESS
3. The expression one makes by his speech has a great impact. Those who speak rude cannot sell Honey but those who speak Sweet can sell chillies.
4. The actual meaning of morning is "**MORE + INING**", means One more Inning given by God to play and Win.