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NEWS LETTER **JAGRUTHI**

THE ANANTAPUR BRANCH OF SIRC OF ICAI

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EDITORIAL

The progress of any country depends mainly on the stable and increasing nature of its economy. Financial transactions are basically part of every country's economy and each country has to observe, verify, guard and take all precautionary measures to keep their economic system in tact. In the present scenario, the world has become a global village and economy of each country has direct nexus and impact of the economies of other countries. The stage has come to such a subtle position, wittingly it is said that, "if a giant country with a sound economy gets cold the other countries sneeze". In the process of improving one's own country's economy, every country is trying to improve its GDP, taking care to improve the employment opportunities, providing necessary infrastructure facilities, improve in the standards in educational institutions and making efforts to keep the standards in health institutions besides, observing the trends and developments happening in the other countries. For this purpose, every country is trying to organize business meets, industrial exhibitions, bilateral agreements, imparting training for other countries employees in technology and so on and so forth.

The steps for improving the economy of each country are not limited to a particular period and it is a continuous process and the results cannot be expected overnight. The appropriate axiom in this context is " Fittest will survive". So, all the countries have to make sincere efforts in boosting their countries economies and ultimately expecting a global healthy economy.

The year 2016 will definitely be rosy in the context of Indian economy and other countries in the world except US and China for the time being.

With Best Wishes,

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

Chairman Speaks.....

RESPECTED MEMBERS,

I wish you a professionally promising, happy and prosperous NEW YEAR 2016. It is a stock taking process and We have to reengineer our acts and commitments for the betterment of family members and development of our Country.

We are happy to note the successful completion and enthusiastic participation of members in the free and fair polling for our 23rd Council and 22 Regional Councils. We congratulate the winning members for the Council and Regional Council Members and extend our cooperation to take the Institute to greater heights of glory. We may win or lose elections but all have to serve the Institute, whatever the opportunity we get.

Education is the most powerful weapon which you can use to change the world, so rightly said Nelson Mandela. Benchmarking CA education with the best in the World. The new scheme started the process of reviewing and revising its scheme of education in line with relevant IES issued by IFAC, covering subjects Financial Accounting and Reporting, Business Laws and Regulations, Business Strategy and Management etc., so as to build the desired level of technical competence to enable students function as competent professional accountants, more dynamic, industry friendly, practical in their strategic role as watchdogs and enabler of compliance and fiscal discipline.

Quoting of PAN will be required for transactions of purchases and sale of an amount exceeding Rs 2 Lakhs regardless of the mode of payment per transaction, with effect from 1st January 2016 and we have to advise our clients to collect Photostat of PANs and validate the same. The requirement of PAN applies to opening of all bank accounts including in co-operate banks. The changes effective from 1st January 2016, relating to quoting of PAN are expected to be useful in widening the tax net by non-intrusive methods. They are also expected to help in curbing black money and move towards a cashless economy.

Instruction No.20/2015 of CBTD dated 29-12-2015, relating scrutiny assessments-some important issues and scope of scrutiny in cases selected through CASS. The Instruction is very useful to the members and act as per the Instruction.

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As per CBTD circular No. 23/2015 dated 28-12-2015, in view of Court Judgements, it is clarified that Interest on FDRs made in the name of Registrar General of the Courts or the depositor of the fund on the directions of the courts, will not be subject to TDS till the matter is decided by the Court.

CBTD issued Circular No. 21/2015 dated 10-12-2015, Revision of monetary limits for filing appeals by the Department and apply retrospectively to pending appeals also, measure for reducing litigation is useful to many Clients and members to proceed as per the Circular.

In the Supreme Court of India in the case of Hero Cycles (P) Ltd Versus commissioner of Income-tax(Central) Ludhiana explained clearly expenses incurred under Section 36 (1)(111) in business expediency. For the purpose of business is wider in scope than the expression for the purpose of earning profits. No business man can be compelled to maximise his profit and that Income tax Authorities must put themselves in the shoes of the assessee and see how a prudent business man would act. The Authorities must not look at the matter from their own view point out but that of a prudent business man. The decision is useful in many cases.

Finance Minister Arun Jaitley informed the Rajy Sabha, CBTD has devised a system based method in a centralised manner through CASS , scrutiny selection is made on the basis of detailed analysis of risk parameters and 360 degree data profiling of taxpayers, to reduce the manual intervention in the selection process, which is welcome step in right direction.

India has begun to merge its Direct and Indirect Tax Wings to be merged under Revenue Department. However a government official said it would be too early to say the two boards will be merged. But the developments are in sync with an evolving trend to create synergy in their functioning.

There are changes in Bonus Act, Minimum Wages Act and Provident Fund Contributio to be remitted before 15th of the following Month and removed grace period of five days. The respective amendments to be taken care.

Please note that a confirmed railway ticket can be transferred in your blood relations, very good initiative by our Railway Minister Sri Suresh Prabhu.

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Triennial Branch Managing Committee Elections for the term 2016-2019 are to be conducted for the Branch and Notice calling for Special General Meeting of Members for electing Six Managing Committee Members of the Branch as per Council directions is to be issued by the Anantapur Branch of SIRC and is in process.

The Companies Amendment Act 2015 which introduced materiality concept for reporting on fraud by the auditor as per Section 143(12) and omnibus and omnibus approval by Audit Committee for Related Party transactions as per Section was notified and made applicable from 29th May 2015.

I extend my warm greetings and best wishes to you and your family members and pledge our support to Nation Building as Partner on the eve of Republic Day

BEST WISHES

B SREENIVASA KUMAR

CHAIRMAN

ANANTAPUR BRANCH OF SIRC OF ICAI

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

It is a statutory weapon in the hands of the Income Tax Authorities to conduct a survey U/s 133A (or) 133B and search and seizure U/s 132, 132A and 132B, mainly for the purpose of confirming that :

- a) The Books of Account of the Assessee are maintained properly and up-to-date with all necessary bills and vouchers.
- b) To ensure that physical cash and bank balances are in tune with the books of accounts.
- c) To ensure that physical stocks are as per the stock registers maintained.
- d) No special and extraordinary transactions in the regular course of business take place.
- e) Under valuation of construction cost of buildings taken place during the year.
- f) Any other topic/subject which affects both unexplained investments and suppress income.

The Income Tax Authorities will normally take up survey/search operations every year having a reason to believe that any of the above circumstances exist. The Income Tax Authorities occasionally conduct survey and unfortunately during the conduct of such surveys, nearby business people of the premises where survey is taking place, close down their shutters due to fear. Basically, Sec 133A is termed as "Power of Survey" which is very specific while Sec 133B is termed as "Power to collect such information" which is general in nature. In case of Sec 133B, the business people are required to fill in form no 45D for the purpose of identifying the new Tax payers. In case of 133A survey by Income Tax officials is conducted on existing Tax Payers for the purpose of finding difference in inventory, physical cash and to know whether books of accounts are properly maintained or not. The Income Tax Authorities are empowered to impound/retain books of account or other documents inspected during the survey u/s 133A.

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Important issues in connection with survey u/s 133A:

1. Following persons are empowered to conduct survey
 - a) Commissioner
 - b) Joint Commissioner
 - c) Director
 - d) Joint Director
 - e) Assistant Director
 - f) Deputy Director
 - g) Assessing officer
 - h) Inspector of Income Tax
2. The books of account and other documents can be impounded/seized in the course of survey.
3. Survey can be conducted in the place of business or profession of assessee only during business hours and in any other place only after sunrise and before sunset. However, survey may continue till it is completed even if it is spill over beyond business hours.
4. The income tax authority has no power to enter the business premises/office of the CA/ Lawyer/ Tax Practitioner in connection with survey of the premises of their client unless the client states in the course of survey that his books of account/ documents and records are kept in their office.

To be continued....

**CONTRIBUTED BY
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Some issues regarding Income Tax Act,1961

Charitable trust –*Computation of income*-Depreciation in respect of assets, expenditure on which already allowable as application of income

The issue under consideration was whether depreciation was allowable on assets cost of which was allowed as a part of utilization while computing the income of an assessee registered under Sec 12A.

Held: In view of decision of Tribunal in Asstt. CIT v. Medical Relief Society of South Canara ITA. No. 1713/Bang/2013, date 10.12.201 (2015) 5 ITR (Trib)-OL 74 (Bang), the claim of allowed as a part of utilization while computing the income.

Followed: Asst. CIT v. Medical Relief Society of South Canara (2015) 5 ITR (Trib)-OL 74 (Bang)

ITO (Exemptions) v. Our Lady of Milagres Church 2015 TaxPub(DT) 4349 (Bang 'A'-Trib) : (2015) 43 ITR (Trib) 380 (Bang 'A'-Trib)

Charitable trust-Exemption under section 11-Computation of income vis-à-vis allowability of depreciation

The claim of assessee –trust for depreciation was disallowed on the ground that the capital expenditure on capital assets had been already allowed to assessee in the year under consideration, then the depreciation on same asset could not be allowed in computation of income of the trust. On appeal, CIT(A) affirmed the disallowance. On further appeal, Tribunal allowed the claim of assessee.

Held: Income of a charitable trust like the present assessee derived from the depreciable heads is liable to be computed on commercial basis, however, while doing so, it is to be kept in mind that ultimately assessee is a charitable institution and its income for tax purposes is required to be determined by taking into consideration provisions of section 11 after extending normal depreciation and deductions from its gross income. In computing the income of a charitable institution/trust, depreciation of assets owned by such institution is a necessary deduction on commercial principles, hence, the amount of depreciation has to be deducted to arrive at the income available. In view of the discussion made above, Tribunal had rightly allowed depreciation claimed by the assessee on capital assets for which capital expenditure was already given in the year under consideration.

Relied: Director of IT v. Framjee Cawasjee Institute (1993) 109 CTR (Bom) 463 and CIT v. Institute of Banking Personnel Selection (2003) 131 Taxman 386 (Bom).

Distinguished: Director of IT (Exemption) v. Charajiu Charitable Trust (2014) 43 Taxmann.com 300 (Del) and Kerala in Lissie Medical Institutions v. CIT (2012) 24 Taxmann.com 9(Ker).

CIT v. Krishi Upaj Mandi Samiti (2015) 66 (I) ITCL 473 (Raj-HC):2015 TaxPub(DT) 4261 (Raj-HC)

Deduction under section 80P-Co-operative Society-Assessee, not a co-operative Societies Act, 1959 was engaged in providing credit facility to its members. It had claimed deduction under section 80P(2)(a)(i). AO rejected the claim of assessee as he was of the view that the assessee as he was of the view that the assessee was a co-operative bank and therefore, in view of section 80P(4), deduction under section 80P(2)(a)(i), could not be allowed to the assessee. However, CIT(A) allowed the claim of assessee for deduction. On appeal by Revenue.

Held: Since the assessee was a co-operative society and not a co-operative bank, therefore, the provisions of section 80P(4) were not applicable. The order of CIT(A) was upheld in allowing the deduction under section 80P(2)(a)(i) to the assessee-society.

Followed: CIT v. Sri Biluru Gurubasava Oattina sahakari Sangha Niyamitha Bagalkot (2014) 369 ITR 86 (Karn), Asst. CIT v. Bangalore Commercial Transport Credit Co-operative Society Ltd. in I. T. A. No. 1069/Bang/2010, CIT v. Jafari Momin Vikts Co-op/Credit Society Ltd. (2014) 362 ITr 331 (Guj)

ITO v. Jamkhandi Taluka School Teachers Co-operative Credit Society Ltd. 2015 TaxPub(DT) 4347 (Bang 'A'-Trib) : (2015 43 ITR (Trib) 365 (Bang 'A'-Trib)

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Deduction under section 80P-Co-operative society-interest earned from fixed deposits with various banks

The assessee was a co-operative credit society and its main object was to provide credit/loans to its members and collect deposits from its members by way of fixed deposits, savings deposits and daily recurring deposits. It claimed deduction under section 80P(2)(a)(i). The AO, after referring to the provisions of the Banking Regulation Act, held that the assessee was a bank and hence, it was hit by the provisions of section 80P(4). Accordingly, he rejected the claim for deduction under section 80P. On appeal, Cit(A) reversed the order of AO holding that assessee could not be considered to be a co-operative Bank however held that the interest income received from fixed deposits from various banks were assessable as income under the head "Income from other sources" and accordingly, deduction under section 80P(2)(a)(i) was not available to it.

Held: The amount which was invested in banks to earn interest was not an amount due to any members. It was not the liability. It was not shown as liability in their account. In fact, this amount which was in the nature of profits and gains, was not immediately required by the assessee for lending money to the members, as there were no takers. Therefore, they had deposited the money in a bank so as to earn interest. The said interest income was attributable to carrying on the business of banking and therefore, it was liable to be deducted in terms of section 80P(1). Accordingly, order of CIT(A) was set aside.

Jaoli Taluka Sahakaripatpedhi Maryadit v. ITO 2015 TaxPub(DT) 4312 (Mum 'SMC'-Trib):2015 TaxPub(DT) 4325 (Mum 'SMC'-Trib) : (2015) 43 ITR (Trib) 138 (Mum 'SMC'-Trib)

Penalty under section 271(1)(c)-Concealment-Assessee suo moto revised its return declaring additional income

Assessee filed original return on 31.03.2011, wherein the assessee had declared rental income of only first floor of showroom. However, the assessee had not declared rental income of the remaining floor. Thereafter, assessee *suo moto* revised the return on 26.04.2011, where he had included the certain additional rental income. However the AO opined that the original return was not filed under section 139(1) and, therefore, the return filed subsequently on 26.04.2011 could not be treated as revised return. Therefore, the AO completed assessment of particulars relating to rental income. On appeal, CIT(A) confirmed the order of AO.

Held: There was no detection of concealed income by the Revenue Authorities. The assessee voluntarily offered the additional rental income for taxation and the same was accepted by the AO in the assessment order passed under section 143(3). No notice or query was raised regarding the entire facts, it could not be said that the assessee either concealed the income or furnished the inaccurate particulars of income and there, AO was not justified in levying penalty under section 271(c) and same was ordered to be deleted.

Harpreet singh v. ITO 2015 TaxPub(DT) 4284 (Chd 'SMC'-Trib) : (2015) 155 ITD 167 (Chd 'SMC'-(trib)

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NEWS

1. The results of CPT and FINAL exams conducted in December and November 2015 will be announced in the 3rd week of January 2016. The results of IPCC exams conducted in November 2015 will be announced around 31st of January 2016.
2. All the practicing Chartered Accountants may verify the position of their bank audits assignments for the FY 2015-16 and which is hosted at <http://www.meficai.org/CoveringletterforHostingMEF2015-16.htm>.
3. The election for the office bearers of the Anantapur branch of ICAI are due and details will be intimated to the individual members.
4. Scrutiny assessments u/s 143(3) of the IT Act, 1961 for the AY 2013-14 to be completed by 31st of March 2016.

QUOTATIONS FOR THE MONTH

“LIVE WITHOUT DEPENDING, LOVE WITHOUT PRETENDING, LISTEN WITHOUT DEFENDING AND SPEAK WITHOUT AFFENDING”

“TWO STEPS FOR A HAPPY AND SUCCESSFUL LIFE- MINIMUM REQUIREMENTS AND MAXIMUM ADJUSTMENTS”

“LIFE HAS NO PAUSE BUTTON, DREAMS HAVE NO EXPIRY DATE, TIME HAS NO HOLIDAY – SO, CHERISH EVERY MOMENT OF LIFE AND MAKE IT COUNT”

“FORGIVENESS SAVES THE EXPENSE OF ANGER, THE COST OF HATRED AND THE WASTE OF SPIRITS – SO, TRY TO BE GENEROUS”

“BEST COSMETICS FOR LIFE – TRUTH FOR LIPS, PITY FOR EYES, CHARITY FOR HANDS, SMILE FOR FACE, EMPATHY FOR HEART AND PRAYER FOR SOUL AND LASTLY EXERCISE FOR YOUR BODY”