



ज्ञानं परमं बलम्

THE CTC NEWS

Monthly Newsletter of The Chamber of Tax Consultants

(For Private Circulation - Members Only)

NOVEMBER 2023



HAPPY
Diwali

आ नो भद्राः क्रतवो यन्तु विश्वतः ।

Let noble thoughts come to me from all directions. - Rigveda 1.89.1

अप्राप्यं नाम नेहास्ति धीरस्य व्यवसायिनः ।

There is nothing unattainable to the one who has courage and who works hard.

- Kathasaritsagara 12.20.23

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If members have any query, kindly contact the following staff members.

Hitesh G. Shah : *Chief Manager* - 9821889249 | Pradeep Nambiar - *Manager-Events* - 8080254129
Bindu Mistry : *Manager-Technical* - 9637692312 Manisha Kasbe : *Manager-Accounts* - 8104816841

Helpdesk: (1) Events: Mr. Pradeep Nambiar / Mr. Anand Kadam Email: events@ctconline.org
(2) Accounts: Ms. Manisha Kasbe Email: accounts@ctconline.org (3) Journal: Ms. Bindu Mistry Email: jou@ctconline.org
(4) Membership: Ms. Savita Mane Email: member@ctconline.org

THE CHAMBER OF TAX CONSULTANTS

Dear Member,

We intend to streamline the office administration by allocating different email ids for improvising our communication system. Instead of one email id for all the staff, we have assigned Email ids to the staff in work allocated to them. For ease of reference, a chart is prepared giving a list of email ids, area of work, and staff handling the said area of work. The same is listed as under:

Sr. No.	Email ID	Area of Work	Staff handling the area of work
1	manager@ctconline.org	General Queries	Mr. Hitesh Shah, <i>Chief Manager</i>
2	events@ctconline.org	All event-related issues like webinar, conference, study circle / group meeting, payment related to events	Mr. Pradeep Nambiar / Mr. Anand Kadam / Ms. Neha Kadakia
3	accounts@ctconline.org	accounts related issues	Ms. Manisha Kasbe / Ms. Savita Mane
4	jou@ctconline.org	Chambers Journal printing matter, newsletter matter and other related matters	Ms. Bindu Mistry / Ms. Neha Kadakia
5	member@ctconline.org	Members queries such as Renewals / journal not received / change of address etc.	Ms. Manisha Kasbe / Ms. Savita Mane
6	office@ctconline.org	Will be used parallelly for 3-6 months. Thereafter, it will be used for communication with members only.	Ms. Savita Mane / Ms. Neha Kadakia

The members are requested to send emails on the above mentioned emails for smooth functioning of Chambers.

We solicit your wholehearted co-operation for smooth functioning of the Chambers office.

Thanks and regards,

For The Chamber of Tax Consultants

Sd/-

(Neha Gada)

Sd/-

(Vitang Shah)

Hon. Joint Secretaries

47th Residential Refresher Conference on Direct Taxes

Day & Date : Thursday, 29th February 2024 to Sunday, 3rd March 2024

Venue : Taj Hotel and Convention Center, Agra

Residential Refresher Course

Chairman : Ankit Sanghavi
Vice Chairmen : Darshak Shah, Vishal H. Shah
Convenor(s) : Bandish Hemani, Pratik Doshi
Advisor : Kishor Vanjara



The Chamber of Tax Consultants

• 3, Rewa Chambers, Ground Floor, 31 New Marine Lines, Mumbai-400 020
 • Tel.: 2200 1787 / 2209 0423 / 2200 2455
 • E-mail : office@ctconline.org • Visit us at : www.ctconline.org

Dear Colleagues,

"That is what learning is. You suddenly understand something you've understood all your life, but in a new way." — Doris Lessing

The ever-evolving Tax Laws warrants revision and reinventing the lens through which the provisions are viewed. The RRC gives us the chance to reinvent ourselves, invest quality time in honing our skill sets and gives us an opportunity to connect with fellow professionals.

At the 47th RRC, we endeavour to bring to you, topics that help you stay updated with the changes in tax laws, updates on various judicial pronouncements and certain ever so TeDiouS topics. This year our focus is on Intricacies in Investigation Proceedings under Tax Laws, a comprehensive understanding of expenses as Business Deductions and decoding the TDS and TCS provisions. This year we shall fall in love with Income Tax provisions amidst the aura of The Taj Mahal, one of the Seven Wonders of the world. The RRC will be held from **29th February 2024 Thursday to 3rd March 2024 at the Taj Hotel and Convention Centre, Agra.**

The organizers of the conference invite all Lawyers, Chartered Accountants, Tax Professionals industry to participate in high numbers and also encourage junior members to participate in this unique conference.

We would like you to mark your calendars today and look forward to welcoming you. Registration for conference programme will commence from 18th October 2023.

About the Venue

- Taj Hotel and Convention Centre is located about 700 meters from the Taj Mahal. It houses a rooftop infinity pool with Taj Mahal view.
- Houses 239 plush rooms including 12 lavish suites.
- Hotel has 3700 sq mt of event spaces, conference venues.

RRC Itinerary

Topics	Speaker
Paper for Discussion:	
<ul style="list-style-type: none"> • From Expense to Deduction <p>A Comprehensive understanding of Business Deductions (Covering Business Loss, Revenue and Capital Expenditure, Accrual of Expenditure, Interest, Depreciation, Proviso to Section 37, Section 43B, ICDS provisions, etc.)</p>	CA Ravikant Kamath
<ul style="list-style-type: none"> • Intricacies in Investigation Proceedings under Tax Laws • Search & Seizure • Survey • Enquiries • Other aspects • Related assessments, reassessments, and • Penalties & prosecutions <p>(in Case Studies Format)</p>	CA Pradip Kapasi
<ul style="list-style-type: none"> • Case Studies in Direct Taxation (In Mock-Tribunal Approach) 	Devendra Jain, Advocate
Paper for Presentation:	
TeDiouS Provisions - TDS & TCS Decoded	CA Mahendra Sanghvi
Brains' Trust	S. Ganesh, Senior Advocate CA Gautam Doshi



i n

Fees structure for residential participants is under:

Residential participants – Deluxe Rooms		
Double Occupancy Fees Upto 25th November 2023		Single Occupancy Fees Upto 25th November 2023
Members	₹ 22,000 *	₹ 37,500 *
Non-members	₹ 23,500 *	₹ 39,000 *
Double Occupancy Fees After 25th November 2023		Single Occupancy Fees After 25th November 2022
Members	₹ 23,500 *	₹ 39,000 *
Non-members	₹ 25,000 *	₹ 40,500 *

* Participation fees is excluding GST @ 18%

Mandatory : Participants need to provide the scanned copies of the following along with their registrations: a. Aadhar card / Driving License / Passport.

Near-by Attractions:

TAJ MAHAL, A symbol of Love

The Taj Mahal, one of the 7 wonders of the world, is widely considered as one of the most beautiful buildings ever created. The exquisite marble structure in Agra, India, is a mausoleum, an enduring monument to the love of a husband for his favourite wife. It's also an eternal testament to the artistic and scientific accomplishments of a wealthy empire.

FATEHPUR SIKHRI

Fatehpur Sikri, a city predominantly in red sandstone, situated at a distance of 37 kms from Agra, was built by the Mughal Emperor Akbar, in honour of the great Sufi saint Sheikh Salim Chisti; its magnificence and uniqueness offer a fine example of the emperor's architectural finesse.

MATHURA

Birthplace of Lord Krishna is home to some of the country's oldest and most beautiful temples and is considered one of the top tourist places near Agra.

It is also famous for its Holi celebrations and people from all over the world flock the city to celebrate the festival of colours.

VRINDAVAN

Vrindavan is a holy town in Uttar Pradesh, northern India. The Hindu deity Krishna is said to have spent his childhood here. It's home to temples, many dedicated to Krishna and his lover, the deity Radha.

Notes:

1. The Check in Time at Hotel: Thursday, 29th February 2024 at 2.00 p.m. The members who reach prior to check in time can proceed for lunch to be served from 12 noon onwards. Participants reaching early can enjoy the activities at the property. Check out time will be 12 noon on Sunday, 3rd March 2024.
2. Considering there are limited nos. of rooms available, participants must note that registrations will be subject to first-cum basis and availability of rooms.
3. Sessions on Day 1 (Thursday, 29th February 2024) will start at 3 p.m sharp. Participants are requested to make their travel arrangements accordingly. Airport pick up and drop facilities are PRESENTLY NOT available.

4. The conference will conclude on Day 4 (Sunday, 3rd March 2024) at 12.00 noon.
5. Participants need to provide the scanned copies of the following along with their registrations:
 - (a) Aadhar card / Driving Licence / Passport;
 - (b) Universal pass / double vaccination certificate.
6. For safety of members, it is mandatory to follow all Covid – 19 prevailing guidelines in the hotel premises.
7. In case of cancellation, member is requested to nominate someone to attend the RRC, no refund request shall be entertained, except under genuine unavoidable circumstances, subject to the approval of RRC Committee.
8. For Delegates travelling from Mumbai, there are three options to reach Agra:
 - There is one direct flight from Mumbai to Agra on Thursday.
 - Alternatively, flight can be taken upto Delhi and then travel by road from Delhi to Agra.

There are no direct flights from Agra to Mumbai on Sunday. Delegates can either take a one stop flight or opt to travel to Delhi and then take a flight to Mumbai.

There are two options to travel via rail:

- There is August Kranti Tejas express (Train no. 12953). Delegates can choose to get down at Mathura, from where it is a travel of about 60km.
- There is also an option to travel via Train Nizamuddin Rajdhani (Train No. 22221) which stops at Agra directly. This train starts from CSTM Station in Mumbai.

Both the above trains can be explored for the return journey.

For enrolment and any other conference related enquiry, pl contact: Mr. Darshak Shah on 9920226360 or Mr. Vishal Shah on 9819593006 Conference Directors or Mr. Hitesh Shah, Chief Manager on 9821889249 / 7977258507





The Chamber of Tax Consultants

Indirect Taxes

Chairman: Hemang Shah

Vice-Chairman: Keval Shah

Convenors: Raj Khona, Umang Talati, Yash Parmar

Advisor: Rajiv Luthia

Indirect tax Committee of The Chamber of Tax Consultants is pleased to announce much awaited and a sought after event by most tax professionals, 12th Residential Refresher Course (RRC) on GST, at Ananta Spa & Resorts, Jaipur from 11th January 2024 to 14th January 2024. This event is considered as a must attend for tax professionals practicing in GST. The event is a blend of Intellectual Professionals, Guiding Mentors, Luxurious Locations, Amazing Networking and much more.

Salient features of the RRC:

- RRC is for 3 Nights/4 Days to provide relaxed schedule for learning and enough time for participants to enjoy the venue and places around. The relaxed schedule also helps in

networking with professional colleagues coming from various parts of the country.

- The event shall occasion with the Keynote address by an Eminent faculty. There will be two discussion papers, one presentation paper, one panel discussion and one talk show covering substantive and conceptual aspects of GST and with insight to practice management. The papers will be contributed by senior, expert and experienced faculties invited from different part of the country.

RRC Itinerary:

Papers for Discussion		Faculties
KEY NOTE ADDRESS : GST and Constitutional challenges		Sr. Adv. Sanjay Jhanwar
DISCUSSION PAPER I	Case studies on burning GST issues on certain important sectors	CA Sunil Gabhawalla
DISCUSSION PAPER II	Case studies on business restructuring, sale of business, succession, resolution / liquidation under IBC, etc.	Adv. Rohit Jain
Panel Discussion		
III	Assorted case studies on Conceptual aspects	Panelist : CA Sushil Solanki, Adv. Jigar Shah Moderator : Adv. K Vaitheeswaran
Presentation Paper		
IV	Drafting of Business contracts from GST perspective.	Adv. Rohan Shah
Talk Show		
V	Insights / inputs on Growth strategies.	Experienced practioners from different backgrounds
Fees	Twin Sharing basis	
For CTC Member	₹ 23,500/- + ₹ 4,230/- (18% GST) = ₹ 27,730/-	
For Non-Member	₹ 25,000/- + ₹ 4,500/- (18% GST) = ₹ 29,500/-	
	Single Occupancy	
For CTC Member	₹ 37,500/- + ₹ 6,750/- (18% GST) = ₹ 44,250/-	
For Non-Member	₹ 39,000/- + ₹ 7,020/- (18% GST) = ₹ 46,020/-	

Other relevant information:

- The committee plans to restricts enrollment upto 250 delegates on first cum first serve basis. Members are requested to enroll at earliest, to avoid the disappointment.
- RRC will commence from Lunch at 12.30 PM on Thursday, 11th January 2024 and end at 12 PM (after lunch) on Sunday, 14th January, 2024.
- Check in time at Ananta Spa & Resorts is at 2.00 PM on 11th January 2024. Inaugural session will start at 3.00 PM on 11th January 2024. Participants are requested to plan accordingly.
- Participants have to make arrangements for reaching to Ananta Spa & Resort, Jaipur.
- RRC fees includes course materials, stay and all meals.
- Request for refund will be entertained subject to the discretion & approval of managing committee of chamber.
- Participants are requested to note that any damage to property will be recovered by Ananta Spa & Resorts directly from the participants.

Interested Members may enroll from the Chamber's Website www.ctconline.org to make online payment. Members can also download the "Form" from The Chamber's website www.ctconline.org or may collect it from The Chamber's office and send it along with the cheque/DD/Pay Order in favor of "The Chamber of Tax Consultants." or by at par Cheque / Demand Draft only

For enrollment and any other conference related inquiries, please contact Mr. Hitesh Shah – Manager (Mob: 9821889249)



**The Chamber of
Tax Consultants**

International Taxation Committee

Chairman: Kirit Dedhia

Co-Chairperson: Karishma Phatarphekar

Vice-Chairmen: Niraj Chheda & Shabbir Motorwala

Convenors: Tanvi Vora, Vishal D. Shah & Yash Bhatt

2nd Residential Conference on Foreign Exchange Management Act (FEMA)

Doubletree by Hilton, Ahmedabad, Gujarat

Friday, 15th December 2023 to Sunday 17th December 2023

The Chamber of Tax Consultant is pleased to announce its 2nd Residential Refresher Course on the Foreign Exchange Management Act 1999 and its Rules / Regulations ('FEMA') with focus on practical aspects.

In the past few years, FEMA has seen major changes in the law, procedures and approach of the regulators with two new path-breaking legal initiatives in the important areas of Foreign Direct Investment and Overseas Investment. The Conference is an opportunity to listen to and interact with leading FEMA experts and Bankers to understand such recent major developments in the law and procedures of FEMA.

Apart from comprehensively dealing with recent developments, the Conference is designed to impart thorough knowledge on key issues in important topics of FEMA in an interactive mode through group discussions.

The conference topics and the galaxy of speaker faculty given below.

In addition to the topic allotted, the experienced speakers shall share their knowledge and approach to the practice of FEMA including experience of dealings with various AD Banks which is an opportunity not to be missed.

Our endeavour with the help of handpicked faculties is to augment and enrich the knowledge of participants and to make the subject understood for usage in not only day-to-day working but also in critical and extraordinary assignments of professionals.

The conference is of relevance to all lawyers, chartered accountants, and professionals both in practice and in industry, including young and freshly qualified professionals.

We look forward to welcoming you at the conference for an active participation.

Topics		Speaker/s
Group discussions and Paper presentation		
Paper I	Structuring of Foreign Investment- Using FDI, NRI, NRI NR, AIF, FVCI, etc and Interplay with other laws.	CA Anup Shah
Paper II	Borrowings under FEMA	CA Vishal J Shah
Presentations & Panel Discussions		
Paper III	Overseas investment – structuring and issues	Mr. Siddharth Shah, Advocate
Paper IV	Brain Trust Session on various issues / case studies under FEMA.	Panelists: CA Pares P Shah, CA Naresh Ajwani & AD Banker

Fees structure is as under:

Non Residential participants (only for residents of Ahmedabad and Gandhinagar)	
Member	₹ 9,500/- + 18% GST
Non-members	₹ 10,500/- + 18% GST

Participation Fees to be paid online on the website: [CLICK HERE](#) to make payment

Notes:

- For Residential Participants. the fees for the conference include course material, accommodation, and all meals during the entire conference.
- For Non-Residential Participants, the fees for the Conference include course materials, lunch on 16th and 17th December, dinner on 15th December.
- The Check in Time at Hotel: Friday, 15th December, 2023 at 2.00 p.m. The members who reach early can proceed for lunch to be served from 12 noon onwards and then proceed for check-in.
- Check out time will be 12 pm on 17th December, 2023.
- Sessions on Day 1 (Friday, 15th December 2023) will start at 3.00 pm. Participants are requested to make their own travel arrangements accordingly. Airport pick up and drop facilities are NOT available.
- The conference will conclude on Day 3 (Sunday, 17 December 2023) at 12.30 p.m. Lunch has been arranged on Day 3 for the participants.
- In case of cancellation, member is requested to nominate someone to attend the RRC, no refund request shall be entertained, except under genuine unavoidable circumstances, subject to the approval of International taxation committee and Managing Council.

For enrolment and any other conference related enquiry, please contact the Conference Directors - **Mr. Yash Bhatt** - on +91 9924388339 and **Mr. Chintan Vajani** on +91 9327624759 or **Mr. Hitesh Shah**, Chief Manager on +91 9821889249/+91 7977258507

Delhi Chapter

Chairman: Prakash Sinha

Vice-Chairman: Saurav Bhattacharya

Advisor: C.S.Mathur

Study Circle Meeting on Discussion on Recent Supreme Court judgements [Virtual Mode]

Monday, 6th November, 2023

5.30 p.m. to 7.30 p.m.

The Delhi Chapter of The Chamber of Tax Consultants is organising a Study Circle Meeting on the topic of "Discussion on Supreme Court judgements" which is scheduled on 6th November, 2023.

Sr. No.	Topics	Chairman	Speakers
1.	Discussion on Recent Supreme Court judgements a) AO vs Nestla SA b) Kotak Mahindra Bank vs CIT	Hon'ble ITAT JM Shri Sudhanshu Srivastava - Lucknow bench	CA Saurav Bhattacharya and Ruchesh Sinha, Advocate

Direct Taxes

Chairman: Abhitan Mehta

Vice-Chairmen: Chirag Wadhwa, Viraj Mehta

Convenors: Chintan Gandhi, Ketki Mittal Radha Halbe

Advisor: Mahendra Sanghvi

Seminar on The Art of Representation in Faceless proceedings and before Appellate Authorities [Physical Mode]

Friday, 3rd November, 2023

3:00 p.m. to 7:15 p.m.

Saturday, 4th November, 2023

10:00 a.m. to 5:30 p.m.

Venue : Walchand Hirachand Hall, 4th floor, IMC Building, IMC Marg, near Churchgate, Mumbai, 400020

The Chamber of Tax Consultants jointly with Western India Regional Council of ICAI, IMC Chamber of Commerce & Industry & Bombay Chartered Accountants' Society is organizing a "Seminar on The Art of Representation in Faceless proceedings and before Appellate Authorities" scheduled on November 3 & 4, 2023.

Fees	
CTC Members	₹ 2,000/- + ₹ 360/- (18% GST) = ₹ 2,360/-
Non-Members	₹ 2,000/- + ₹ 360/- (18% GST) = ₹ 2,360/-
Student / Youth Under Age 30	₹ 1,500/- + ₹ 270/- (18% GST) = ₹ 1,770/-

Time	Topic	Speakers
DAY 1 – 3rd November 2023 – FRIDAY		
3.15 p.m. – 4.00 p.m.	Role of professionals in Tax Representation	Hiro Rai, Advocate
4.00 p.m. – 5.30 p.m.	Roadmap for Faceless Assessments and Appeals	Panelists: Shri Naresh Kumar Balodia (CCIT) Smt. Amrita Mishra (CIT), CA Yogesh Thar Moderator: CA Anish Thacker
5.45 p.m. – 7.15 p.m.	Role of tax professionals and the tax department in effective dispensation of justice	Hon'ble Justice R.V. Easwar (Retired Judge, Delhi High Court)

DAY 2 – 4th November 2023 – SATURDAY

10.05 a.m. – 10.45 a.m.	Keynote Address	Shri G. S. Pannu, Vice President, Income-Tax Appellate Tribunal
10.45 a.m. – 11.15 a.m.	Expectations of the Bar from young professionals	Sr. Advocate Dr. K. Shivram
11.30 a.m. – 1.00 p.m.	Bench and Bar: Role and Responsibilities	Chairman: Shri G.S. Pannu, Vice President, Income-Tax Appellate Tribunal Panelists: Shri Amit Shukla (Hon'ble Member, Income Tax Appellate Tribunal), Shri Prashant Maharishi (Hon'ble Member, Income Tax Appellate Tribunal), Sr. Advocate Saurabh Soparkar (CA) CA Rajan Vora Moderator : CA Anil Sathe
2.00 p.m. – 5.00 p.m.	Moot Court	Shri B. R. Baskaran (Hon'ble Member, Income Tax Appellate Tribunal) Shri Vikas Awasthy (Hon'ble Member, Income Tax Appellate Tribunal) Co-ordinator/Moderator: CA Sanjiv Brahme Assessee Representatives –To be Finalised CIT (DR)s – To be Finalised

International Taxation Committee

Chairman: Kirit Dedhia

Co-Chairperson: Karishma Phatarphekar

Vice-Chairmen: Niraj Chheda & Shabbir Motorwala

Convenors: Tanvi Vora, Vishal D. Shah & Yash Bhatt

International Taxation Study Circle Meeting on Practical Considerations - MFN clause

[Virtual Mode]

Speaker: CA Jimit Devani

Tuesday, 7th November, 2023

6.00 p.m. to 8.00 p.m.

Fees

For International Taxation Study Circle Members

NIL

CTC Members

₹ 200/- + ₹ 36/- (18% GST) = ₹ 236/-

Non-Members

₹ 300/- + ₹ 54/- (18% GST) = ₹ 354/-

Student Committee

Chairperson: Niyati Mankad

Vice-Chairperson: Charmi G. Shah

Convenors: Charmi A. Shah & Viral Shah

Advisor: Ajay Singh

Webinar on Bridging Divides - Embracing the Mediation Act, 2023 (Virtual Mode)

Tuesday, 7th November, 2023

5.30 p.m. to 7.30 p.m.

Speaker : Shruti Desai, Advocate

We are thrilled to invite you to an enlightening webinar that will delve into the groundbreaking changes brought about by the Mediation Act 2023. The new act has opened doors to fresh opportunities in the field of mediation, making it possible for anyone to embark on a rewarding career as a mediator.

Mediation has long been recognized as an effective and amicable method for resolving disputes, but the Mediation Act 2023 takes it to a new level by democratizing the profession. This act has dismantled barriers and simplified the process for individuals of all backgrounds to become mediators. Whether you're an Advocate, CA, CS, a business professional, a counsellor, or simply someone with a passion and qualification for conflict resolution, the Mediation Act 2023 opens a world of opportunities for you.

Moreover, the Act mandates mediation as a first recourse in certain civil disputes.

Understanding its intricacies is now crucial for legal practitioners, mediators, and professionals across various sectors.

**All are
Cordially
Invited**

Sr. No.	Topics
1.	Overview of the Mediation Act, 2023 – Application of the Act – Who can become mediator? – Mediation Council of India, – Mediation Service Providers – Mediation process – Mediation settlement Agreement – Enforcement – Appeal provisions

Indirect Taxes

Chairman: Hemang Shah

Vice-Chairman: Keval Shah

Convenors: Raj Khona, Umang Talati, Yash Parmar

Advisor: Rajiv Luthia

IDT Study Circle Meeting on Issues in GST Compliances and Portal Disclosures (Virtual Mode)

Group Leader: CA Deepali Mehta

Chairman: CA Vasant Bhat

Wednesday, November 8, 2023

5.00 p.m. to 7.00 p.m.

While GST has simplified the indirect taxation system to a large extent, there are certain challenges and issues related to GST compliances that businesses often face. More often than not it is referred to as 'Portal Law'. There are many challenges that taxpayers face in terms of filing their monthly GST returns, annual returns, making certain disclosures on the portal (opening balance of ITC), etc. To top it all, the circulars issued by the CBIC and GST portal add more to the confusion and chaos.

To discuss and deal with the issues in the GST compliances, the IDT Committee of The Chamber of Tax Consultants has organized a virtual Study Circle Meeting on "Issues in GST Compliances and Portal Disclosures". The details of the study circle meeting are as under:

Fees	
For IDT Study Circle Members	NIL
CTC Members	₹ 200/- + ₹ 36/- (18% GST) = ₹ 236/-
Non-Members	₹ 400/- + ₹ 72/- (18% GST) = ₹ 472/-

Study Circle and Study Group

Chairman: Ashok Sharma
Vice-Chairman: Dipesh Vora
Convenors: Dinesh R. Shah,
 Parth Sanghvi

Study Group Meeting on Recent Judgements under Income Tax Act (Virtual Mode)

Speaker: Kavita Jha, Advocate - New Delhi

Thursday, 23rd November, 2023

6.00 p.m. to 8.00 p.m.

The Study Circle and Study Group committee of The Chamber of Tax Consultants has organised a Study Group Meeting on "Recent Judgements under Income Tax Act" (Virtual Mode) which is scheduled on November 23, 2023. The details are as follows.

Fees	
For IDT Study Circle Members	NIL
CTC Members	₹ 200/- + ₹ 36/- (18% GST) = ₹ 236/-
Non-Members	₹ 400/- + ₹ 72/- (18% GST) = ₹ 472/-

Membership & PR Committee

Chairman: Premal Gandhi
Vice-Chairperson: Ashita Shah
Convenors: Sagar Mehta, Sneha Daftary
Advisor: Atul Bheda, Sujal Shah

We, professionals are always busy with some or the other compliances. Covid-19 really taught us a big lesson and that is – it's important to be close to nature, which makes us feel enriched and uplifted. We also need to increase our energies through lots of breath work and optimal movement therapy

SAS Meeting on STOP COUNTING, START LIVING! [Virtual Mode]

Tuesday, 12th December, 2023

5.30 p.m. to 7.00 p.m.

Speaker : Dr. Mickey Mehta, (A Global Leading Holistic Health Guru/ Corporate Spiritual Coach, author, poet, philosopher, brand, institution, the legendary having bagged many prestigious awards who gets you Immunized, Energized, Naturalized, Optimized, Maximized, Wellness Revolutionized, and gets you, MICKEYMIZED!!! Recently, he has received award at Azadi Ka Amrit Mahotsav's 75th-year celebrations from the Ministry of Cultural Affairs in Switzerland for "Excellence and Pioneer in holistic health".

We are meandering with technology currently and are lost in it with zillions of gadgets such as the calorie counters, the step counters, the heart rate machines, the sugar measurement machines and others. We count calories, we count reps, we count steps, all what we are doing is becoming accountants with life, so **Stop Counting, Start Living!** Moreover, technology has brought in interference with the electromagnetic field thus disturbing the energy field that could be causing biological deterioration. However, going back thousands of years; our seers of wisdom, reality and self-realization has discovered that the art of Yoga and Ayurveda remains constant even today.

The, Membership and Public Relations Committee has organised this very unique session to understand the impact of wellness, wellbeing and fitness on Professionals.

What will you learn from the workshop:

- Being mentally as well as physically fit by connecting to outdoors and environment.
- How being in the lap of nature one can utilise vibrant elements to stimulate oneself and enable our inner intelligence to get ignited.
- Augmented reality, Virtual Reality (VR) cum holistic-based, gamified-based fitness using a combination of mindful workouts.

Important Decisions under GST and Service Tax Laws

By Vinay Kumar Jain and Jay Chheda, Advocates

1. **Whether refund claim of Service Tax excess paid/ wrongly paid is maintainable in absence of any challenge to Service Tax returns filed and service tax liability self assessed by the assessee?**

Facts and Pleadings:

The issue was referred to Larger Bench of CESTAT as two contrary decisions of coordinate Division Benches existed on the maintainability of refund claim in absence of challenge to assessment in appeal. The Hon'ble Supreme Court in the case **ITC Limited vs. CCE, Kolkatta-2019 (368) ELT 216 (SC)** in relation to Bills of entry and customs law had held that a claim for refund cannot be entertained unless the order of assessment or self-assessment is challenged by taking recourse through appropriate proceedings. Based on the above, the Division Bench of CESTAT at Mumbai in the case of **Karanja Terminal and Logistics Pvt. Limited (2021-TIOL-76-CESTAT-MUM)** held that refund of service tax is not maintainable in the absence of any challenge to the order of assessment including self-assessment. Subsequently, contrary view was taken by the Ahmedabad Bench of CESTAT in the case of **Cadila Healthcare -2021-TIOL-257-CESTAT-AHM** wherein it was held that that the judgement of Hon'ble Supreme Court in the case of ITC Limited cannot be applied to service tax matters. Therefore, the issue was placed before the Larger Bench of CESTAT for resolution.

In the present case, the assessee had filed for a refund of service tax erroneously paid on the export of services. However, the refund claim was rejected by the department. The assessee contended that a return filed under service tax law based on self-assessment could not be equated with a bill of entry endorsed by a proper officer under the Customs Act. Therefore, a return under service tax law cannot be treated as an order passed by the proper officer for the purpose of filing an appeal.

The department contended that the decision of Supreme Court in ITC Limited (supra) was applicable and not restricted only to the bills of

entry endorsed by the proper officer under the Customs Act. They contended that there was no disparity in the definition of the term 'assessment' provided under the provisions of the Customs Act and the Service Tax as both included the concept of 'self-assessment' within the meaning of 'assessment'.

Judgement passed by the Larger Bench of CESTAT:

The Larger Bench in the present case by majority decision held that the rules, statutes and provisions under the Customs Act, 1962 and the Finance Act, 1994 regarding assessment, refund and appeals are not *pari-materia* as no appeal can be contemplated against the self-assessment made by an assessee under Service Tax laws. Further, an appeal under the Finance Act can be filed only under Section 85, which is against a decision or an order passed by an Adjudicating Authority. Under the Finance Act and service tax rules, there is no provision wherein the returns filed by the assessee are approved or ratified by the assessing officer. The ST-3 Returns filed by the assessee as per their own assessment cannot be equated to an order of assessment. On the other hand, returns filed by the assessee are approved/ratified by the assessing officer under the Customs Act. If the Finance Act allowed an assessee to file an appeal against its own assessment which is not ratified by a proper officer, principle of natural justice will get violated as "No one should be a judge in his own case".

The Larger Bench observed that the provisions of the Customs Act, which require an appeal against an assessment order before a refund claim can be entertained were not applicable to service tax law.

Thereby, it was held that the decision of the Hon'ble Supreme Court in the case of ITC Ltd. cannot be applied to a refund filed under the Service Tax law. Further, it was held that refund claims are maintainable even in an absence to challenge to the order of assessment.

M/s. Shree Balaji Warehouse v. Commissioner of Central Excise & Service Tax, Panchkula, Interim Order No. 9-12/2023 dated 29.9.2023.

2. Whether amendments made to the VAT Acts by various states are legally valid after the enforcement of 101st Constitutional Amendment?

Facts and Pleadings:

The states of Telangana and Gujarat made amendments to their VAT Act which allowed them to extend the period of limitation and re-open assessments. These amendments were made after the enforcement of 101st Constitutional Amendment (hereinafter referred to as 'Constitutional amendment') introducing Goods and Service Tax. The amendments made by the state legislatures to their respective VAT Act were struck down by the respective High Courts as the state legislatures lacked competence to amend the said provisions after the Constitutional amendment. Accordingly, the states have challenged the order before the Supreme Court.

Further, amendments were made in the Maharashtra VAT Act by the state legislature making pre-deposit mandatory for filing an appeal before the Appellate Authority. The said amendment was held legal by the Bombay High Court. The assessee has challenged the Bombay High Court decision before the Supreme Court.

As per the states of Telangana and Gujarat, the Constitutional Amendment unduly restricted the powers of the state legislatures with respect to taxation. The states argued that amendment made by the state legislature to extend the period of limitation is beneficial for the revenue. The State of Telangana argued that GST Council is comprised of Finance Ministers of all States and Union and the Union has only 1/3rd weightage in its decision making. The balance is with the States collectively. With the Constitutional amendment coming into force, Parliament and the states realized that any changes in the law or the practical application of the existing law would become impossible. As a consequence, provisions of Telangana VAT Act were amended through the ordinance which was later transformed into law through an Act of the State legislature and brought into force on 02.12.2017.

The State of Maharashtra argued that the existence of a power to legislate was preserved by Section 19 of the 101st Constitutional Amendment Act, 2016. Its purpose was to preserve both the portion of existing laws and the amended Constitution. They further argued that the amendment to Section 26 of MVAT Act requiring pre-deposit is not inconsistent with the Constitutional Amendment. It is procedural in nature and no vested right of the assessee was taken away. Further, the same is in respect of past levies prior to the introduction of GST and therefore, even otherwise are saved by Section 174 of the Maharashtra GST Act.

Judgement passed by the Supreme Court of India:

The Supreme Court observed that the power to amend the existing laws, after the coming into force of the GST laws, was limited. The Court noted that the power to amend is not a general power related to a general entry, but it specifically relates to goods and services tax. The Court held that the retrospective effect given to the amendment, which was brought into force with effect from 2006, cannot in any way be saved after the coming into force of the GST laws. The amendments to the VAT Act, in the case of both Telangana and Maharashtra, were not valid after the GST laws came into force.

Therefore, decision of the Telangana and Gujarat High court of striking down the amendments made to the Telangana and the Gujarat VAT Act after 01.07.2017 was upheld. On the other hand, decision of the Bombay High Court, to the extent it made pre-deposit mandatory for filing an appeal, was held void.

In view of the above, the appeals filed by the States of Telangana and Gujarat were dismissed and the appeals of the Assesses against the judgement of the Bombay High Court were allowed.

The State of Telangana & Ors. v. M/s Tirumala Constructions Civil Appeal No(s). 1628 of 2023 dated 20.10.2023.

Note : THE FULL DECISIONS CAN BE DOWNLOADED FROM THE WEBSITE WWW.CTCONLINE.ORG UNDER SEMINAR PRESENTATIONS - UNREPORTED DECISIONS

Unreported Tribunal Decisions

By Ajay R. Singh Advocate and CA Rohit Shah

1. **S. 11-Gross receipt of trust before deducting any sum towards application of income are to be considered for the purpose of Deemed application of income under section 11(1)(a).**

Facts:

Assessee was a charitable trust. AO noticed that administrative and establishment expenses were not directly incurred in relation to charitable purposes of trust nor were these expenditures incurred for achieving the objectives of charity. According to AO the net income after deducting these expenses in the hands of assessee was available for charitable activities. Accordingly, AO computed allowable accumulation of 15% under section 11(1)(a) on the said net income which was calculated after deducting the expenses of Rs. 43,14,446 incurred on account of administrative and establishment.

Held:

In case of trust there is no concept of net income but of gross receipts and application of funds. For the purpose of calculation of accumulation of income to the extent of 15% under section 11(1)(a) the gross receipts are to be taken as basis and not the net income after deducting expenses as done by AO. Accordingly, AO was directed to compute income to be accumulated under section 11(1)(a) on the gross receipts.

Sitaram Bhartia Institute of Science & Research vs. DCIT (Exemption), Circle-11(1), Kolkata

[ITA No.202/Kol/2020, dated 04/01/2023] [AY 2013-14]

2. **S. 69-Receipts surrendered during survey offered as part of total business receipts in the return of income**

Facts:

AO observed that assessee voluntarily surrendered receipt of Rs. 3,00,000. However, while filing return of income, assessee did not declare any income under section 69A/115BBE. Assessee submitted that these were normal business receipts from gymnasium business and aerobic classes and these receipts of Rs. 3,00,000 formed parts of the total receipt of Rs. 16,00,600 declared by assessee in his return of income filed under section 44AD. The submissions so filed by the assessee were considered but not found acceptable to AO. As per AO, assessee, on his statement recorded on oath, admitted that the entries in the register corresponded to gym receipt payments received in advance and keeping in view his inability to establish identity of persons and the source of advances made by those persons, assessee voluntarily came forward

with disclosure of additional income amounting to Rs. 3,00,000 on account of unexplained money and given that assessee had not declared the same in the return of income, the same was brought to tax under section 69.

Held:

Assessee submitted a cash book containing date-wise receipts from gym activities and total receipts reflected therein amounts to Rs. 16,00,600 and individual receipts totaling Rs. 3,00,000 were included therein. It is true that the assessee was not maintaining regular books of account but at the same time, as evident from the statement recorded during the course of survey as well, assessee was maintaining receipts book/bills in respect of his gym activities. Where entries corresponding to the entries in the receipts books were reflected in the cash book and were accepted by the revenue, there was no justifiable reason to not accept the entries in the cash book corresponding to receipts surrendered during the course of survey. It was a case where assessee surrendered business receipts amounting to Rs. 3,00,000 during the course of survey and the said receipts had subsequently been offered as part of the total business receipts in the return of income so filed by assessee under section 44AD. In the result, addition under section 69 could not be sustained.

Shri Vijay Bajaj vs. Central Circle, Patiala

[ITA No.569/Chd/2020, dated 19/01/2023] [AY 2018-19]

3. **S. 54B-Disallowance on the ground that agricultural land was sold by assessee on 20-3-2017, however, new agricultural land was purchased by assessee on 21-10-2016, i.e., prior to the date of sale of agricultural land on 20-3-2017--Purchase of new property was made out of advances received towards sale of agricultural properties**

Held:

New property was primarily purchased out of advances received from sale of two agricultural properties. Evidently, advances so received by assessee were invested in the new agricultural property after the same were received and within a period of 2 years from the date of receipt of advance. Accordingly, assessee was to be allowed benefit of exemption under section 54B since purchase of new property was made out of advances received towards sale of agricultural properties held by the assessee.

Dharmendra J. Patel v. DCIT, Anand Circle, Anand

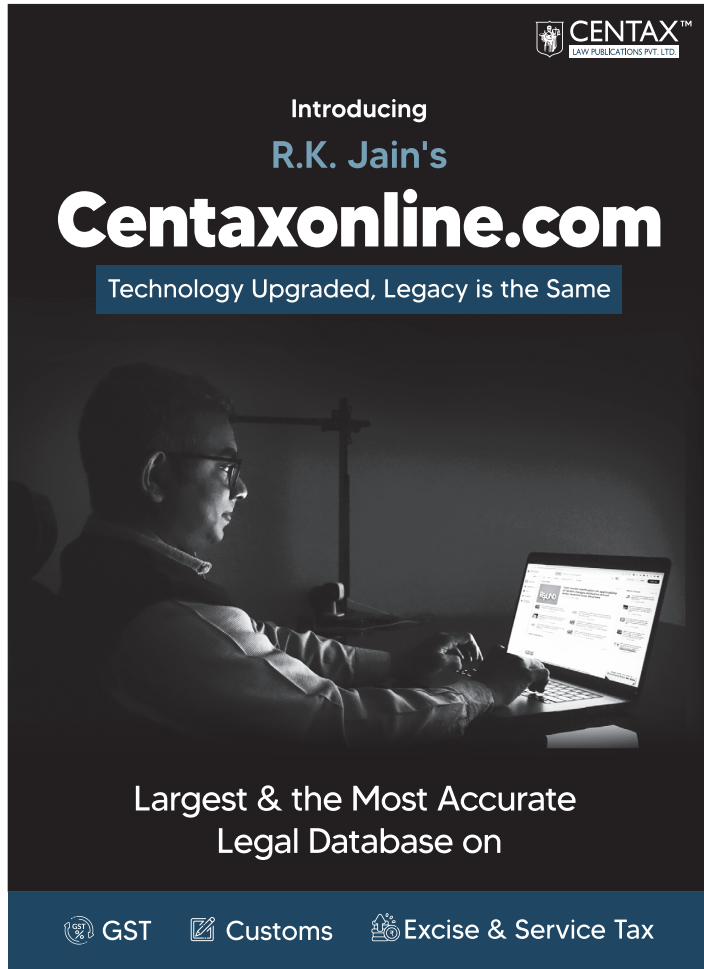
[ITA No. 561/Ahd/2020; dated 22/03/2023] [A.Y.: 2017-18]

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