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ज्ञानं परमं बलम्

# THE CTC NEWS

Monthly Newsletter of The Chamber of Tax Consultants

(For Private Circulation - Members Only)

FEBRUARY 2024



योगस्थः कुरु कर्माणि सङ्गं त्यक्त्वा धनञ्जय ।  
सिद्ध्यसिद्ध्योः समो भूत्वा समत्वं योग उच्यते

॥2.48॥

*Be steadfast in the performance of your duty,  
O Arjun, abandoning attachment to success and failure.  
Such equanimity is called Yog.*

*- Bhagavad Gita 2:48*

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

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THE CHAMBER OF  
TAX CONSULTANTS

# THE DASTUR ESSAY COMPETITION 2024

For Students of Law & Accountancy

## OBJECTIVES

The objectives of the Competition are to cultivate good reading and writing communication skills coupled with encouraging “**passion for writing**” and “**creativity**”, a quality which every human being possesses, which is possibly hidden and may be unknown to the individual himself.

The Dastur Essay Competition gives a platform to the young professionals to showcase their characteristics that illuminate the good students and potentially great writers. This Essay Competition invites students to explore a wide range of challenging and interesting questions beyond the confines of the college curriculum.

**REGISTRATION  
CLOSES ON  
28th February, 2024**

**SUBMISSION  
DEADLINE  
31st March, 2024**

Student Committee

**Chairperson:**  
Niyati Mankad

**Vice Chairperson:**  
Charmi G. Shah

**Advisor:**  
Ajay Singh

**Ex-officio:**  
Haresh Kenia,  
Vijay Bhatt

**Convenors:**  
Charmi A. Shah,  
Viral Shah

## ABOUT THE COMPETITION

The Chamber is one of the oldest professional organizations, founded in 1926. Since 2012, the Chamber has been organizing the Dastur Essay Competition for students pursuing CA, Law, CS, and ICWA courses. The competition invites essays on current topics, which are then judged by senior professionals. Prizes and certificates are awarded to meritorious essays.

We, at The Chamber believe that young students are the future leaders of our nation. They have the strength to bring ideas to life. Writing, a dying art today, is an important tool for encouraging the young fresh minds with novel ideas, to express themselves on topics of professional interest and get recognised by a professional forum, with around 4,000 members, through publication of the top three essays in 'The Chamber's Journal'.

Hence, by participating in the Thirteenth Dastur Essay Competition of The Chamber, we request the budding professionals to be passionate about expressing themselves through their words and to take this opportunity to get the creative ideas flowing and allow the author within, to blossom.

### Topics for the Thirteenth Dastur Essay Competition are:

1. Abortion Law Worldwide: Comparative analysis and Ethical Consideration
2. Enactment of
  - (I) Bhartiya Nyaya Sanhita
  - (II) Bhartiya Nagarik Suraksha Sanhita and
  - (III) Bhartiya Sakshi Sanhita
 is a positive reform.
3. Was revocation of Article 370 of the Constitution of India justified and desirable?

For Rules & Regulations and Enrolment, please visit our website [www.ctconline.org](http://www.ctconline.org)  
For queries pls mails us on [ctcessay@gmail.com](mailto:ctcessay@gmail.com) or contact on 022- 22001787/ 22090423/ 22002455



THE CHAMBER OF TAX CONSULTANTS  
IN ASSOCIATION WITH  
THE ILS LAW COLLEGE, PUNE



PRESENTS

**1<sup>ST</sup> NATIONAL THE CHAMBER OF TAX  
CONSULTANTS INDIRECT TAX  
MOOT COURT COMPETITION, 2024**

EVENT	DATE	MODE/ VENUE
PRELIM, QUARTER AND SEMI-FINAL ROUND:	MARCH 16, 2024	VIRTUAL
FINAL ROUND:	MARCH 30, 2024	AT ILS LAW COLLEGE, PUNE CAMPUS

FOR ANY QUERIES CONTACT:

[ILSCTC.MOOT@GMAIL.COM](mailto:ILSCTC.MOOT@GMAIL.COM)

**Membership & PR Committee**

**Chairman:** Premal Gandhi  
**Vice Chairman:** Ashita Shah  
**Convenor(s):** Sagar Mehta  
 Sneha Daftary

**Lecture Meeting on Impact of Union Budget (Vote on Account) on Capital Market (Jointly with Matunga Gymkhana, Matunga CPE Study circle of WIRC, Investors' Grievances Forum, Forum of Free Enterprise & Interact Foundation) (Physical Mode)**

<b>Friday, 2nd February, 2024</b>	<b>6.00 p.m. to 7.30 p.m.</b>
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**Speakers :** Mr. Mehraboon Irani, CA Kanu Doshi

The Chamber of Tax Consultants along with Matunga Gymkhana, Matunga CPE Study circle of WIRC, Investors' Grievances Forum, Forum of Free Enterprise & Interact Foundation organises a Lecture Meeting on "Impact of Union Budget on Capital Market".

**IT Connect Committee**

**Chairman:** Dinesh Tejwani  
**Co-Chairman:** Murtaza Ghadiali  
**Vice-Chairman:** Anand Paurana  
**Convenors:** Jigar Shah & Virag Shah

**Webinar on AI in CA and Legal Practice: Exploring ChatGPT and Other Tools (Virtual Mode)**

<b>Thursday, 8th February, 2024</b>	<b>5.30 p.m. to 7.30 p.m.</b>
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**Speaker 1 :** CA Mitesh Katira

To highlight on: 7 Use cases of ChatGPT in day-to-day CA Practice

**Speaker 2 :** Paras S. Savla, Advocate

To highlight on: 7 AI tools used in Tax/Legal Practice

The IT Connect committee has organised a Webinar on "AI in CA and Legal Practice: Exploring ChatGPT and Other Tools" scheduled on 8th February, 2024. The details of the session which will be held via Zoom are as follows:

Details – This session will examine how ChatGPT and other AI tools can assist Chartered Accountants (CAs) and Lawyers in boosting their productivity and workflow efficiency.

Speakers will delve into the advantages, limitations, potential risks, and practical applications of these tools, providing insights on how they can be leveraged to enhance professional practices in both fields.

## Indirect Taxes Committee

**Chairman:** Hemang Shah

**Vice Chairman:** Keval Shah

**Convenor(S):** Raj Khona, Umang Talati,  
Yash Parmar

## Workshop on GST Law (Virtual Mode)

*(Jointly with GSTPAM, AIFTP (WZ), BCAS, MCTC & WIRC of ICAI)*

We are happy to announce "Workshop on GST Law" jointly with AIFTP (WZ), BCAS, CTC, MCTC, and WIRC of ICAI to be held from 16th January 2024 to 27th February 2024. The GSTPAM has been organising this Joint Workshop from 2009, where all the above Associations have agreed & are continuing in the path of spreading knowledge to the professional community.

The object of Workshop is to share the essence of professional experience and expertise of the faculties which they have gained over the years. Here, the Delegates will get an opportunity to gain knowledge and wisdom by interacting with seniors.

The topics selected for Workshop will cover in-depth and practical understanding of GST Law and Challenges to be faced in GST Era. There will be 12 sessions on different topics of GST & a special Mega Brain Trust is arranged at end as 13th session, to seek views from seniors on issues faced by all members with regards to interpretation of law and practical difficulties. These topics are of immense importance and will be of enormous help and use to Professionals/Delegates handling Indirect Tax Matters.

### Fees

<b>Members</b>	₹ 1,600/- + ₹ 288/- (18% GST) = ₹ 1,888/-
<b>Non-Members</b>	₹ 21,00/- + ₹ 378/- (18% GST) = ₹ 2,478/-

Sr. No.	Day & Date	Time	Topics	Speakers
1	Tuesday, 6.02.2024	2.30 p.m.- 5.45 p.m.	Provisions Related To Summons, Inspections, Search, Seizure, Bail, Prosecution	<b>Nikita Badheka, Advocate</b>
2	Friday, 9.02.2024	2.30 p.m.- 4.00 p.m.	Important Circulars & Clarifications	<b>CA (Dr.) Shailendra Saxena</b>
3	Friday, 9.02.2024	4.15 p.m.- 5.45 p.m.	Issues in Intermediary Services.	<b>CA Pauloma Dalal</b>
4	Tuesday, 13.02.2024	2.30 p.m.- 5.45 p.m.	Departmental Audit, Assessment, Recovery	<b>CA Pritam Mahure</b>
5	Friday, 16.02.2024	2.30 p.m.- 5.30 p.m.	Issues related to JDA, Redevelopment, Builders & Developers.	<b>CA Jayesh Gogri</b>
6	Wednesday, 21.02.2024	2.30 p.m.- 5.45 p.m.	Issues related to Liquidated Damages, Actionable Claims, Lottery, Gaming, etc	<b>Ishaan Patkar, Advocate</b>
7	Friday, 23.02.2024	2.30 p.m.- 5.45 p.m.	Provisions related to Appeals, Interest & Penalty	<b>CA Rajiv Luthia</b>
	Tuesday, 27.02.2024	2.30 p.m.- 5.45 p.m.	Mega Brain Trust Session	<b>CA Deepak Thakkar</b> <b>CA Ashit Shah,</b> <b>Dinesh Tambde, Advocate,</b> <b>Deepak Bapat, Advocate</b>



### International Taxation Committee

**Chairman:** Kirit Dedhia

**Co-Chairperson:** Karishma Phatarphekar

**Vice Chairmen:** Niraj Chheda,  
Shabbir Motorwala

**Convenor(s):** Tanvi Vora, Vishal D. Shah,  
Yash Bhatt

### Beneficial Ownership - Concept & Recent Trends with Indian & Foreign Case Laws | Case Studies (Virtual Mode) (In association with Taxmann)

**Friday, 16th February, 2024**

**5.00 p.m. to 6.30 p.m.**

**Speaker : CA Anish Thacker**

Beneficial ownership is the true ownership of an asset or property, even though another person may hold the legal title. The concept of Beneficial Ownership and the recent decisions from Indian and foreign courts. The concept will be discussed with reference to different streams of Income. Impact under BEPS will also be discussed.

The key points of discussion are as follows:

- Meaning of Beneficial Ownership
- Ownership of Income v. Ownership of Assets
- Legal Ownership v. Beneficial Ownership
- Case Studies on Beneficial Ownership
- Beneficial Ownership and Tax Treaties
- Streams of Income to which Beneficial Ownership Applies
- What are the specific points to be noted for beneficial ownership of all these streams of income?
- Indian Judicial Precedents on Beneficial Ownership
- Foreign Judicial Precedents on Beneficial Ownership
- Beneficial Ownership and Capital Gains
- Interplay with Principal Purpose Test and Limitation of Benefit in the Multilateral Instruments

#### Benefits to Participants:

Complimentary Virtual Access to Taxmann's International Taxation Ready Rec for one week [Virtual/e-Book]

### Study Circle & Study Group Committee

**Chairman:** Ashok Sharma

**Vice Chairman:** Dipesh Vora

**Convenor(s):** Dinesh R. Shah,  
Parth Sanghvi

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

**Thursday, 22nd February, 2024**

**6.00 p.m. to 8.00 p.m.**

**Speaker : Kavita Jha, Advocate – New Delhi**

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 February 16, 2024. The details are as follows.

Fees	
<b>For Study Group Members</b>	NIL
<b>CTC Members</b>	₹ 200/- + ₹ 36/- (18% GST) = ₹ 236/-
<b>Non-Members</b>	₹ 400/- + ₹ 72/- (18% GST) = ₹ 472/-



THE CHAMBER OF TAX CONSULTANTS



PRAVIN GANDHI COLLEGE OF LAW



CENTRE FOR CONFLICT RESOLUTION

## Mediation Training in Commercial Disputes

<b>Saturday, 17th February, 2024</b>	<b>Sunday, 18th February, 2024</b>
<b>10.00 a.m. to 05.30 p.m.</b>	<b>09.30 a.m. to 06.00 p.m.</b>

**Venue :** Pravin Gandhi College of Law, Mumbai, 8th Floor, Mithibai College Campus,  
Bhakti Vedanta Swami Marg, Vile Parle (W), Mumbai-400 056

**Speakers :** Eminent Faculties to be announced soon

**Number of Participants:** Maximum 50

**Join us in embracing the transformative potential of mediation under the Mediation Act, 2023.**

**What to Expect:** Comprehensive Legal Insights from seasoned Legal Practitioners and Mediators  
Interactive Workshops including demonstrations, Games and Role Play  
knowledge and skills needed to excel in the evolving landscape of dispute resolution i.e Mediation .

**Certification upon Completion**

**Who Should Attend:**

- Open to All - Lawyers, Law Students Management Professionals, Chartered Accountants Company Secretaries
- Anyone interested in acquiring mediation skills.
- No prior experience and qualification in mediation is required.

**Fees: (Includes Tea, Snacks and Lunch on both days)**

<b>Students</b>	₹ 2,500/- (Inclusive of GST) <b>Registration Link for Students:</b> <a href="https://forms.gle/m3JD7m2jzL21t4oE9">https://forms.gle/m3JD7m2jzL21t4oE9</a>
<b>Professionals</b>	₹ 3500/- + ₹ 630/- (GST) = ₹ 4,130/- <b>Registration Link For Professionals:</b> <a href="https://forms.gle/r9gdzJVArwn3XdyRA">https://forms.gle/r9gdzJVArwn3XdyRA</a>

**Bank Details For Payment:**

**Name of Account:** SVKM'S Pravin Gandhi College of Law  
**Name of Bank:** HDFC BANK | **A/C NO:** 03210330000171  
**Branch:** JVPD SCHEME, MUMBAI-400056  
**Type of Account:** Current Account | **IFSC Code:** HDFC0000321

Day 1 - 17TH FEBRUARY, 2024		Day 2 - 18TH FEBRUARY, 2024	
TIME	TOPIC	TIME	TOPIC
10:00 a.m.-10: 15 a.m.	Welcome Address	09:30 a.m.-11:00 a.m. <b>MODULE-5</b>	Mediation Formalities: • Appointment as a mediator • Time line for mediation
10: 15 a.m.-11:15 a.m.	Key Note Address by Chief Guest	11:00 a.m.-11:15 a.m.	<b>TEA BREAK</b>
11:15 a.m.-11:30 p.m.	Tea Break	11:15 a.m.-1:00 p.m. <b>MODULE-6</b>	• Problem Solving • BATNA WATNA MALATA, ZOPA • Role of Mediator
11:30 p.m.-01:15 p.m. <b>Module-1</b>	• Mediation Principles • Disputes Which Can be Mediated • Styles of Mediation	01:00 p.m.-01:45 p.m.	<b>Lunch Break</b>
01:15 p.m.-02:00 p.m.	<b>Lunch</b>	01:45 p.m.-02:45 p.m. <b>MODULE-7</b>	• Drafting of Mediation Settlement Agreement • Legal formalities for Settlement Agreement • Closing Statements in Mediation
02:00 p.m.-03:15 p.m. <b>Module-2</b>	• Understanding Disputes through Principles of Conflict Iceberg/ Conflict Wheel/Conflict Triangle	02:45 p.m.-03:45 p.m. <b>MODULE-8</b>	• Discussion on Mediation Act, 2023 • Role of Mediation Council
03:15 p.m.-03:30 p.m.	<b>Tea Break</b>	03:45 p.m.-04:00 p.m.	<b>Tea break</b>
03:30 p.m.-04:30 p.m. <b>Module-3</b>	• Dispute Resolution Approach in Mediation • Position Vs Interest	04:00 p.m.-05:00 p.m. <b>MODULE-9</b>	• Mediation - The Road Map Ahead • Qualities and Skills of a Mediator • Opportunities in the field of Mediation
04:30 p.m.-05:30 p.m. <b>Module-4</b>	• Mediation Process: • Opening Statement /Introductions • Communication • Agreement • Closure	05:00pm - 06:00pm	<b>Valedictory</b>

STUDENT COORDINATORS	CTC COORDINATORS
Harshita Tyagi - +91 97844 48409 Shubhi Dotiya - +91 98194 23927	CA Viral Shah: +91 99204 99016 Mr. Pradeep Nambiar: +91 80802 54129
For any queries please email us at PGCLCCR@GMAIL.COM	



## Direct Taxes Committee

**Chairman:** Abhitan Mehta

**Vice Chairman:** Viraj Mehta

**Convenor(S):** Chirag Wadhwa,  
Ketki Mittal, Radha Halbe

## Half-day Seminar on Restructuring of Family-Owned Businesses (Hybrid Mode)

*(Jointly with IMC's Direct Taxation Committee and Bombay Chartered Accountants Society)*

**Friday, 15th March, 2024**

**2:30 p.m. to 7:00 p.m.**

**Venue :** Walchand Hirachand Hall, 4 th Floor, IMC Building IMC Marg, Churchgate, Mumbai

In light of the changes in economic scenarios across the globe, the business has been changing the manner in which it operates, and there have been lot of chop and churn and acquisitions of the entities for purposes of aligning of the businesses. Also, there have been lot of family businesses which have gone for IPOs and fund-raising activities and for that purpose there is need to re-align the structures and also in-line the family succession plan and how to hold their investments.

However, time and again there have been changes in Income Tax Act, like revamping the taxation regime on reconstitution of partnership, not allowing depreciation on goodwill etc. and similarly the divergent judicial precedents like in the case of Celerity, Gabs, Ozone etc. which keeps the controversies in relation to business restructuring 'alive and kicking'. To add fuel to the fire you have Sections like 56(2) (x) and GAAR which adds a level of difficulty and uncertainty to any business restructuring.

This hybrid seminar will be in a Panel Discussion format where these topics will be discussed in detail by the Experts. It will be useful for Tax Managers, Tax Heads, CFOs, Tax Consultants, Tax Practitioners and others keen to keep abreast with the rapid changes in Business Restructuring.

In view of the importance of the topic and its overall impact on taxpayers, we hope you would surely like to attend this seminar and get more clarifications on tax issues relating to business restructuring.

### Fees

**Physical/Virtual**

₹ 1500 + ₹ 270/- (18% GST) = ₹ 1770/-

Sr. No.	Topics	Speakers
1	Family-owned Business –Succession / Estate planning (Live case studies) – Including to cover conversion from firm/LLP/ Companies – Private Trust etc.	<b>Panellists:</b> CA Amrish Shah, CA Anup Shah CA Shweta Shah, Moderator from BCAS
2	Restructuring of Businesses – including getting ready for IPO and fund-raising and for that purpose undertaking Merger/ Demerger, Slump Sale to carve out core business vs Investments vs separating Brands/Patents etc. (live Case Studies)	<b>Panellists:</b> CA Ketan Dalal, CA Pranav Sayta CA Girish Vanvari Moderator from CTC
3	Family Governance and need for family constitution- Impact on private vs public companies – Binding nature – can it over-ride AOA etc.	<b>Speaker:</b> CA Dinesh Kanabar Moderator from IMC

## Important Decisions under GST and Service Tax Laws

By Vinay Kumar Jain and Jay Chheda, Advocates

1. **Whether the Assessee is liable to pay interest for delayed filing of GSTR 3B returns when GST was duly deposited in the Electronic Cash Ledger within the prescribed due dates?**

### Facts and Pleadings:

Eicher Motors Limited ('assessee') made a belated filing of GSTR 3B returns for the period from July 2017 to December 2018 owing to certain technical glitches faced while transitioning the accumulated balance of CENVAT Credit. However, the GST liability was periodically deposited by the assessee in their Electronic Cash Ledger (ECL) within the due dates.

Superintendent of GST and Central Excise, Chennai passed an order against the assessee on the ground that the deposit of tax into the ECL would not tantamount to payment of tax and interest liability would be attracted for the delayed filing of returns in GSTR 3B.

The assessee challenged the order submitting that ECL is nothing but the deposit of tax in Government Account maintained with RBI and the tax deposited to the ECL belongs to the Government. The assessee further contended that a debit to the ECL is merely an entry in books of accounts and the taxes stand paid at the time of remittance. The assessee further argued that the delay in the filing of GSTR 3B was due to technical glitches in the filing of Form TRAN 1 and accordingly, no interest was leviable. Reliance was placed by the assessee on an RTI query wherein it was stated that GST collection figures are prepared by the Government on the basis of the amount deposited in the electronic cash ledger.

The department contended that non-availability of transitional credit is not an impediment to filing of the mandatory monthly returns in GSTR-3B. Further, it was contended that transitional credit could be availed as and when it was credited to the Electronic Credit ledger. It was also contended that as per Section 49 of the GST Act read with Rule 87 of the GST Rules the tax deposited in the ECL is not tax paid unless the same is debited while

filing monthly GSTR 3B returns. The failure to file the returns within the prescribed due dates would accordingly attract interest.

Reliance was inter alia placed by the Department on the decision in **RSB Transmission (India) Ltd. vs. Union of India (Jharkhand High Court)** and **Megha Engineering and Infrastructures Limited vs. CCT (Telangana High Court)** wherein it was held that a deposit in ECL prior to due date of filing GSTR 3B does not amount to discharge of tax liability.

### Order passed by Madras High Court:

The High Court observed that as per section 39(1) of the CGST Act, 2017, the tax should have been paid by using the challan GST PMT-06. Further, as per section 39(7) of the CGST Act, 2017, such tax should be paid not later than the last date of filing the returns under GSTR-3B.

It was further observed that assessee was unable to file the GSTR 3B returns within the time limit due to the transitional credit not being reflected. But the entire tax amount had been deposited by the assessee in time without any delay in line with section 39(7) of the CGST Act, 2017. It was immaterial whether GSTR-3B was filed in time or not for remittance of tax to the account of Government. Once the tax has been deposited through GST PMT 06, the Government cannot be deprived of its right to utilize the tax amount for non-filing of GSTR 3B returns within the prescribed timelines.

It was observed that the findings in the decision of RSB Transmission and *Megha Engineering and Infrastructures Limited (supra)* go against the provisions of Section 39(1) and 39(7) of the Act since it can negatively impact the utilization of tax collected by the Government.

Reliance was placed by the High Court on the decision of the Gujarat High Court in **Vishnu Aroma Pouching Private Limited vs. Union of India**, wherein it was held that the assessee cannot be held responsible for non-filing of returns due to technical glitches where the amount of tax has been deposited.

In view of this, it was held that where GST is credited to the account of the Government not later than the last date for filing the monthly returns, i.e., on or before 20th of every succeeding month, no interest liability arises under the CGST Act, 2017.

**M/s. Eicher Motors Limited Vs Superintendent of GST and Central Excise- Order dated 23rd January 2024 by Madras High Court**

**2. Whether gift vouchers or Prepaid Payment Instruments are actionable claims under GST and what will be the taxability and time of supply of such vouchers or Prepaid Payment Instruments?**

**Facts and Pleadings:**

Kalyan Jewellers India Ltd ('assessee') had issued non-refundable Pre-Paid Instruments (PPIs) or gift vouchers. The Tamil Nadu State Appellate Authority for Advance Ruling passed an order wherein it was held that a voucher is a means for payment of consideration and the same would be taxable at the time of issue of the voucher.

The assessee challenged the order submitting that the amount received against PPI's/vouchers are recorded as an "Advance" in the books of accounts. Customers have an option to redeem the vouchers/Cards in return for the products. Tax liability does not arise at the time of issue of vouchers.

The department contended that PPIs are merely pre-paid card instruments and tax liability is on the goods to be delivered on a future date against the vouchers. Thus, the PPIs or Vouchers are taxable on the date of issue and suitable changes in the billing and accounting system should be made by the assessee.

**Order passed by Madras High Court:**

The High Court observed that PPIs can be issued in line with the RBI Master directions under section 5 of the Payment and Settlement Act, 2007. Further, the definitions of goods, actionable claim, voucher and instrument were analyzed by the High Court.

It was further observed that PPIs are instruments that acknowledge debt and can be redeemed on a future date on its presentation towards 'sale consideration' for purchase of goods.

PPIs qualify as "actionable claim" within the meaning of the definition of "actionable claim" in Section 3 of the Transfer Act, 1882 as incorporated in Section 2(1) of the CGST Act, 2017. Further, as per Schedule III read with section 7 of CGST Act, 2017, actionable claims are neither supply of goods nor supply of services. In view of the above, it was held that the PPIs or vouchers issued by the assessee would not be taxed on the date of issue.

Further, it was held that any transfer of title in goods under an agreement which stipulates that property in goods shall pass on a future date and the taxability of vouchers or PPIs is governed by section 12(4)(a) of the CGST Act, 2017. It was also held that the PPIs as per the definition in the RBI Master guidelines should be refundable in nature. Since the PPIs issued by the assessee were non-refundable, it was held that the same was in contravention with the RBI guidelines and the buyers or PPI holders have recourse to seek refund of the same before Civil Courts.

**TVL. Kalyan Jewellers India Ltd Vs Union of India- Order dated 27.11.2023 by Madras High Court**

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Note : THE FULL DECISIONS CAN BE DOWNLOADED FROM THE WEBSITE [WWW.CTCONLINE.ORG](http://WWW.CTCONLINE.ORG) UNDER SEMINAR PRESENTATIONS - UNREPORTED DECISIONS

## Unreported Tribunal Decisions

By Ajay R. Singh Advocate and CA Rohit Shah

**1. S. 271D--Contravention of section 269SS-- Cash accepted under inevitably unavoidable circumstances and immediately deposited in bank account**

**Facts:**

Assessee received advance against sale of a property, partly through cheque and partly in cash, which resulted in violation of provisions of

section 269SS. The AO imposed penalty under section 271D. Assessee submitted that he did not receive any cash in advance and entire amount of advance was received by cheque. Assessee further submitted that sale of property was a distress sale as he was only having a registered Will in his name and his mother's name and being a senior citizen, he could not procure proper buyers for the site and thus, he sold the property at a lower price

and accepted the consideration as paid by the buyer. Assessee further submitted that he did not take any advance in cash before the registration and immediately on receipt of remaining sale consideration in cash, he deposited the same in his bank account, which clearly showed genuineness of transaction.

## Held:

It was undisputed that assessee received cash partly against sale of a property. Such cash was deposited by the assessee into his bank account, thus, the same did not attract provisions of section 269SS since there was no suppression of cash receipts by the assessee. Further, the explanation given by the assessee for receipt of sale consideration in cash, constituted a "reasonable cause" as contemplated in section 273B as the assessee accepted the cash under inevitably unavoidable circumstances. Further, the assessee immediately deposited the cash in his bank account, which contemplated genuineness of transaction and moreover the assessee paid capital gain tax thereon. Hence, penalty levied under section 271D, was deleted.

**Vijapurapu Sudha Rao vs. ITO, Ward 3(1), Visakhapatnam [ITA No.111/Viz/2023, dated 29/11/2023] [AY 2017-18]**

## 2. S. 68. Receipt of share capital/premium- Summons issued to investors returned unserved

### Facts:

Assessee raised share capital of by issuing equity shares of face value of Rs. 10 at a premium of 90 per share. AO treated amount received by assessee as unexplained credit under section 68 on the ground that summons issued to investors under section 131 were returned unserved.

### Held:

Assessee has filed names, address and PAN of the investors, copies of share allotment advice, share application forms, bank statements, statement giving complete details of share application money received during the year, Form No. 2 evidencing return of allotment and Form 5 for increase in authorized capital. Also, AO issued notices under section 133(6) to all the investors for carrying

out independent verification of these transactions which were duly responded by these investors by filing all the requisite details comprising shares subscribed, ledger accounts, bank statements, explanation for source of funds, ITRs and audited financial statements and also assessment order framed under section 143(3) in all the cases. AO had not pointed out any defect or deficiency in the evidences filed by assessee as well as by investors. Accordingly, no addition could be made under section 68 for the mere reason that summons issued to investors were returned unserved.

**ITO, Ward-13(1), Kolkata vs. M/s. Gitika Commodities Pvt. Ltd.**

**[ITA No.588/Kol/2020, dated 16/01/2023] [AY 2012-13]**

## 3. S. 271(1)(c)- Concealment of income or furnishing of inaccurate particulars- Addition under section 56(2)(vii)(b)

### Facts:

Assessee purchased a property for a consideration, which was less than FMV for the purpose of stamp duty valuation. Accordingly, AO added the difference to income of assessee under section 56(vii)(b). Thereafter, the AO levied penalty under section 271(1)(c). Assessee contended that addition was made by invoking "deeming provisions" under section 56(2)(vii)(b) and no penalty could be levied under section 271(1)(c) on "deemed addition".

### Held:

Addition was made by invoking "deeming provisions" under section 56(2)(vii)(b) and nothing was brought on record to demonstrate that assessee concealed particulars of income or deliberately furnished inaccurate particulars of income. Merely because the assessee agreed to addition on the basis of valuation made by stamp valuation authority, it could not be a conclusive proof that sale consideration as per sale agreement was deemed to be incorrect. Hence, penalty could not be levied on the basis of deeming provision.

**Bankimbhai Natverbhai Patel vs. ITO Ward-3, Anand**

**[ITA No. 45/Ahd/2022; dated 13/12/2023] [A.Y.: 2015-16]**

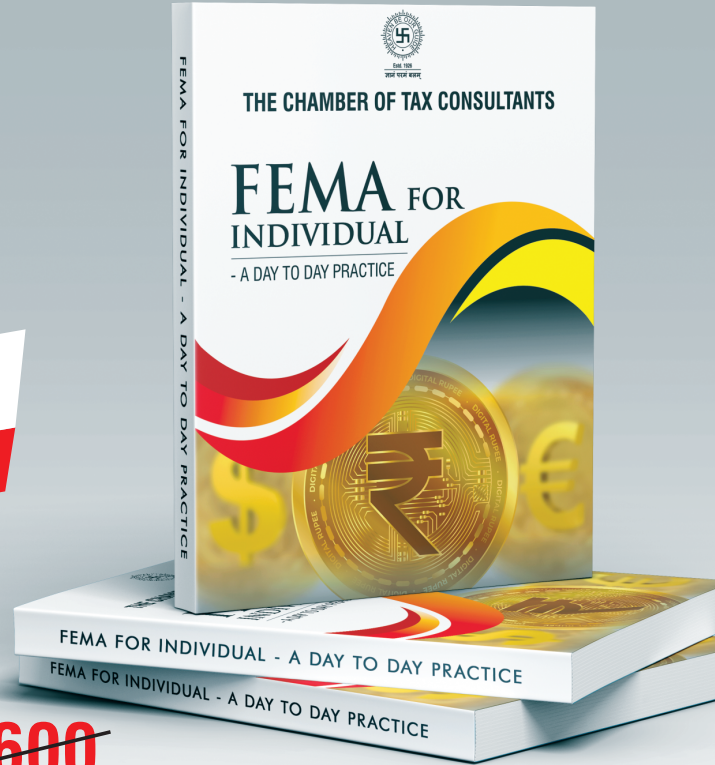
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### HIGHLIGHTS

- |  |   |
|--|---|
| ▲ Residential status under FEMA & under ITA        | ▲ Foreign Direct Investment and Investment by NRI                                     |
| ▲ Procedure for changing Residential status        | ▲ Portfolio Investment by PROI and KYC norms  |
| ▲ Do's & Don'ts by Emigrating Indians              | ▲ Acquisition of Immovable Properties in India and outside India – Gift & Inheritance |
| ▲ Current Account and Capital Account transactions | ▲ Returning Indians – Do's & Don'ts   |
| ▲ Liberalised Remittance Scheme                    | ▲ Overseas Investment – Portfolio & Direct  |
| ▲ Holding of assets in India by PROI               | ▲ Holding of Currency and its surrender   |
| ▲ Borrowing by PRII                                | ▲ Trust – Taxation and FEMA   |
| ▲ Bank & Deposits Account in India by PROI         |   |

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