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ज्ञानं परमं बलम्

THE CTC NEWS

Monthly Newsletter of The Chamber of Tax Consultants

(For Private Circulation - Members Only)

MARCH 2024

Happy

Holi



न हि ज्ञानेन सदृशं पवित्रमिह विद्यते।

तत्स्ययं योगसंसिद्धः

कालेनात्मनि विन्दति ॥३८॥

In this world, there is nothing as purifying as divine knowledge. One who has attained purity of mind through prolonged practice of Yog, receives such knowledge within the heart, in due course of time.

- Bhagavad Gita 4:38

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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. Neha Kadakia Email: member@ctconline.org

RENEWAL NOTICE – 2024-25

Dear Members,

SUB: RENEWAL OF ANNUAL MEMBERSHIP FEES FOR F.Y. 2024-25

March 01, 2024

It is our privilege to have been of service to you over the years. We truly appreciate and value your association. It is time to renew annual membership, subscription of The Chamber's Journal, Study Groups and Study Circles for the financial year 2024-25. We thank you for your subscription. Your involvement is important and very much appreciated. We hope you will always continue to support The Chamber in its activities and growth as done in the past.

Thanking You,

For The Chamber of Tax Consultants

CA Mehul R. Sheth

Hon. Treasurer

Sr. No.	Particulars	Fees	GST @18%	Total
I	MEMBERSHIP RENEWAL FOR EXISTING MEMBERS (APRIL TO MARCH)			
1	ORDINARY MEMBERSHIP FEES - WITH HARD COPY OF JOURNAL	2500	450	2950
2	ORDINARY MEMBERSHIP FEES - WITH SOFT COPY OF JOURNAL (E-JOURNAL)	1500	270	1770
3	ASSOCIATE MEMBERSHIP -	7500	1350	8850
4	STUDENT MEMBERSHIP - INCLUDING E JOURNAL	500	90	590
II	CHAMBER'S JOURNAL SUBSCRIPTION – (HARD COPY)			
1	JOURNAL SUBSCRIPTION - LIFE MEMBERS	1350	0	1350
2	JOURNAL SUBSCRIPTION - NON MEMBERS	2500	0	2500
3	JOURNAL SUBSCRIPTION - STUDENT MEMBERS	1000	0	1000
III	COURIER CHARGES FOR CHAMBER'S JOURNAL (OPTIONAL) (*) (Refer Note 7)	508	92	600
IV	CHAMBER'S E - JOURNAL SUBSCRIPTION (SOFT COPY)			
1	E JOURNAL SUBSCRIPTION – FOR LIFE MEMBERS	700	126	826
2	E JOURNAL SUBSCRIPTION – FOR NON-MEMBERS	1000	180	1180
V	ITJ SUBSCRIPTION			
1	INTERNATIONAL TAX JOURNAL SUBSCRIPTION (QUARTERLY)	1400	0	1400
VI	STUDY CIRCLES & STUDY GROUPS			
1	STUDY GROUP (DIRECT TAXES)	2150	387	2537
2	STUDY CIRCLE (DIRECT TAXES)	1800	324	2124
3	STUDY CIRCLE (INTERNATIONAL TAXATION)	1600	288	1888
4	STUDY CIRCLE (INDIRECT TAXES)	2000	360	2360
5	CORPORATE AND IBC STUDY CIRCLE (VIRTUAL MEETINGS ONLY)	500	90	590
6	INTENSIVE STUDY GROUP ON DIRECT TAX	1800	324	2124
7	FEMA STUDY CIRCLE	1600	288	1888
8	PUNE STUDY GROUP	2000	360	2360
9	BENGALURU STUDY GROUP	1600	288	1888
10	HYDERABAD STUDY GROUP	2000	360	2360
11	ALL STUDY CIRCLES / STUDY GROUPS MEETINGS HELD AT MUMBAI - (ONLY FOR OUTSTATION MEMBERS ON VIRTUAL MODE ONLY)	3000	540	3540

Sr. No.	Particulars	Fees	GST @18%	Total
VII	FEES FOR INCOMING NEW MEMBERS (APRIL TO MARCH)			
1	LIFE MEMBERSHIP	15000	2700	17700
	SUBSCRIPTION OF JOURNAL (OPTIONAL)	1350	0	1350
2	ADMISSION FEES – (ORDINARY MEMBERSHIP)	750	135	885
	ORDINARY MEMBERSHIP FEES - WITH HARD COPY OF JOURNAL	2500	450	2950
	ORDINARY MEMBERSHIP FEES - WITH SOFT COPY OF JOURNAL (E-JOURNAL)	1500	270	1770
3	ADMISSION FEES – (ASSOCIATE MEMBERSHIP)	1000	180	1180
	ASSOCIATE MEMBERSHIP FEES (INCLUDING HARD COPY OF JOURNAL)	7500	1350	8850

Notes:

- Members are requested to visit our website www.ctconline.org for online payment.
- Payments should be made by Account Payee Cheque/Demand Draft in favour of **"THE CHAMBER OF TAX CONSULTANTS"**. Outstation members are requested to send payments only by "Demand Draft or At Par Cheque". Members who are paying by NEFT are requested to share the UTR NO for the payment done.
- A consolidated Cheque/Draft may be sent for all payments.
- Please also update your Mobile number & e-mail address to ensure receipt of regular updates on activities of The Chamber.
- Please write your full name and Mobile No on the reverse of Cheque/DD.
- (*) In view of feedback from many members regarding Non-receipt / Late receipt of Hard Copy of Monthly Journal by Post, members may opt for Yearly Courier Charges of Rs. 600/- (Including GST) for timely receipt of the Journal by Courier Service.**
- Kindly pay your membership fees by 30th April, 2024 for uninterrupted service of the Chamber's Journal.
- Members are requested to download the Renewal Form from Chamber's website www.ctconline.org
- Renewal Notices are also sent separately and members are requested to fill up the same and send it to The Chamber's office along with the cheque/DD in favour of The Chamber of Tax Consultants
- Renewal Notice contains entire information of Members as per CTC database. In case of any change in information of Member as shown in Form, kindly provide updated information along with the form.
- For better administration and faster processing, **Members are requested to make payments of Membership Fees, Renewal charges as well as for Study Circle, Study Group, Journals, Seminars, Webinars and all the other various events of the CTC, by using the following QR Code and sending Transactions details by e-mail to the CTC on accounts@ctconline.org**



Payment through UPI - [thech90049983@barodampay](https://paytm.com/qr/thech90049983@barodampay)

OR

SCAN QR Code

Alternately, members may make payments by Account Payee Cheque or by NEFT / RTGS to the following Bank Account and sending Transactions details by e-mail to the CTC on accounts@ctconline.org

BANK DETAILS

NAME OF THE ACCOUNT	THE CHAMBER OF TAX CONSULTANTS
NAME OF BANK	IDBI BANK
BRANCH NAME	NANA CHOWK, MUMBAI - 400 007
ACCOUNT TYPE	SAVING
ACCOUNT NUMBER	0166104000060738
IFS CODE	IBKL0000166



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
15th March, 2024**

**SUBMISSION
DEADLINE
15th April, 2024**

Student Committee

Chairperson:
Niyati Mankad

Vice Chairperson:
Charmi G. Shah

Advisor:
Ajay Singh

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
For queries pls mails us on ctcessay@gmail.com or contact on 022- 22001787/ 22090423/ 22002455



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



17th Residential Conference on International Taxation

The Leela, Gandhinagar

Thursday, 20th June 2024 to Sunday, 23rd June 2024

Participants who enrol on or before 15 March will receive a **COMPLIMENTARY TROLLEY BAG**

GALAXY OF KNOWLEDGE POWERHOUSE

PAPERS FOR DISCUSSION



Taxation of Software Transactions Including SAAS & Online Database Subscription - Latest Developments Post Engineering Analysis

Mr. P. V. Srinivasan

Taxation of Cross Border ESOPs from the Employer and Employee Perspective including Transfer Pricing Aspects.

CA H. Padamchand Khincha



PRESENTATION & FIRE SIDE CHAT



Current Litigation Trends in International Tax
Mr. N. Venkataraman - Senior Advocate & Additional Solicitor General

A Case Study – Tax, Succession Planning and Estate Duty Aspects of a HNI Family
CA Vishal Gada



International Tax and Transfer Pricing Issues For Intangible Transactions and Business Restructuring
Mr. Sanjeev Sharma

Fire Side Chat : Opportunities in IFSC – Gift City
Dr. Dipesh Shah - Executive Director (Development) – IFSC
CA Suresh Swamy, CA Vipul Gandhi & AD Banker*



PANEL DISCUSSION

Panel Discussion on Case Studies on International Taxation and Dispute Resolution Alternatives (including APAs)

Mr. Rajat Bansal | CA Gautam Doshi | Sr. Adv Tushar Hemani

Residential participants – On Double occupancy basis

Particulars	Fees upto 15th March, 2024	Fees from 16th March, 2024 onwards
Members	INR 21,500/- + 18% GST	INR 24,500/- + 18% GST
Non – Members	INR 24,500/- + 18% GST	INR 27,500/- + 18% GST

Residential participants – On Single occupancy basis

Particulars	Fees upto 15th March, 2024	Fees from 16th March, 2024 onwards
Members	INR 37,800/- + 18% GST	INR 40,800/- + 18% GST
Non – Members	INR 40,800/- + 18% GST	INR 43,800/- + 18% GST

For enrolment and any other conference related enquiry, please Contact the Conference Directors -

CA Vishal D. Shah on +91 9920917939 and CA Ujwal Thakrar on +91 9819946379
or Mr. Hitesh Shah, Chief Manager on +91 9821889249/+91 7977258507

*Subject to Confirmation

INTERNATIONAL TAXATION COMMITTEE

Student Committee

Chairperson: Niyati Mankad
Vice-Chairperson: Charmi G. Shah
Convenors: Charmi A. Shah & Viral Shah
Advisor: Ajay Singh

CA Students' Orientation Course (Virtual Mode)

**Monday, 11th March, 2024 to
 Friday, 15th March, 2024**

5.30 p.m. to 7.30 p.m.

Who Should Attend: CA Article Students and others.

The Student Committee of The Chamber of Tax Consultants is delighted to announce the "CA Student Orientation Course", meticulously crafted to introduce students to crucial aspects of articleship and provide a practical understanding of key subjects essential for their curriculum.

This 5-day course, with sessions lasting 2 hours each day, aims to equip students with fundamental insights into prominent work areas, bridging academic concepts with practical guidance for their articleship training. By facilitating a seamless flow of office work, the course empowers students to navigate their professional journey with confidence and proficiency.

Fees	
For CTC Student Members	NIL
For Other Participants	₹ 250/- + ₹ 45/- (18% GST) = ₹ 295/-

Sr. No.	Topics	Speakers
1	Exploring Diverse Practice Areas for CAs	CA Jayant Gokhale
	Masterclass in Professionalism: Soft Skills and Office Etiquette Training	CA Srinivas Vakati
2	Mastering Income tax filings	CA Charmi G. Shah
3	Valuation Overview and Methodologies'	CA Sujal Shah CA Vitang Shah
4	GST Landscape: Best Practices for Returns and Compliance	CA Yash Parmar
5	Audit Insights 2.0: Checklist, AI tools and best practices	CA Priya Vora

Direct Taxes Committee

Chairman: Abhitan Mehta

Vice Chairmen: Chirag Wadhwa,
Viraj Mehta

Convenors: Chintan Gandhi, 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, 4th 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.	Panellists: 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)	Panellists: 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.	Speaker: CA Dinesh Kanabar Moderator from IMC



The Chamber of
Tax Consultants



Esteemed Professional Colleagues,

It is our pleasure to inform you that –

Tax Bar Association, Amravati, jointly with
Vidarbha Tax Practitioners' Association, Nagpur and
The Chamber of Tax Consultants, Mumbai ,
has organized



In the Memory of Late Adv. Shri. D.D. Sikchi

“Full Day Seminar on Direct Taxes”

Day and Date : Saturday, 16th March 2024

Venue : Hotel Grand Mehfil, Camp, Amravati

Seminar Schedule

Session	Particulars	Timings	Speakers
	Registration and Breakfast	08.30 AM to 09.00 AM	-
	Inaugural Session	09.00 AM to 09.30 AM	-
1	Practical approach to Reassessment in Income Tax	09.30 AM to 11.15 AM	Adv. (CA) Dharan Gandhi, Mumbai
2	Applicability of Section 68, 69A and 115BBE in cases of cash deposits and cash transactions	11.15 AM to 01.00 PM	CA Ashok Mehta, Mumbai
	Lunch Break	01.00 PM to 01.30 PM	
3	Tax planning through Wills, Private Trusts & Family arrangements	01.30 PM to 03.15 PM	CA Anish Thacker, Mumbai
4	Issues in assessments of Charitable Trusts	03.15 PM to 04.45 PM	CA Premal Gandhi, Mumbai
5	Invoking of writ jurisdiction for Direct Tax Matters	04.45 PM to 06.15 PM	Adv.(CA) Milind Sharma, Bhopal
	Brain Trust and Valedictory	06.15 PM to 06.45 PM	

Seminar fees :- Rs. 1500/- (Members *), Rs. 2000/- (Non-Members)

*Members of TBA Amravati, VTPA, CTC and/or Local Tax Bar/Practitioners' Association

Our Bank Details :

Tax Bar Association Amravati
Abhinandan Urban Co-Op. Bank Limited,
Account No.- 000120231003997
IFSC – HDFCOCMAN01

Please Scan to pay with any UPI App >>
UPI id – 9923958584@axl



Registration Form Link -
<https://bit.ly/AMT160324>

Before registration, please be ready with payment screenshot of Seminar Fees.

Yours in Profession: -

- | | | |
|---|--|--|
| <ul style="list-style-type: none"> • CA. Jitendra Khandelwal, (President, TBA) • CA Pravin C. Agrawal, (Vice-President, TBA) • Adv. Aiyaz Khan, (Secretary, TBA) | <ul style="list-style-type: none"> • CA Haresh P. Kenia, (President, CTC) • CA Vijay Bhatt, (Vice-President, CTC) • CA Premal Gandhi, (Mem. & PR Com., CTC) | <ul style="list-style-type: none"> • Adv. Jagdish N. Sharma, (President, VTPA) • CA Ajit A. Gokarn, (Vice-President, VTPA) • Adv. Nitin Gautam, (Secretary, VTPA) |
|---|--|--|

Seminar Conveners: - CA Lalit Tambi (Cell - 9422683388), CA Mohit Ganeshani (Cell- 9029009517)

Accounting & Auditing

Chairman: Tejas Parikh

Vice-Chairman: Yogesh Amal

Convenors: Deepak K. Shah,

Prashant Daftary

Advisor: Nilesh Vikamsey

Webinar on Key learnings from NFRA orders / QRB reports [Virtual Mode]

Tuesday, 19th March, 2024

4.00 p.m. to 6.30 p.m.

Speaker : Mr. Khushroo B. Panthaky

Indian regulatory agencies have started reviewing quality standards followed by audit firms and undertaking inspections of firms/ audit files periodically. NFRA orders/ QRB reports are available in public domain whereby the regulators have set expectations from auditing firms.

To discuss, deliberate and assess key learnings from these reports as well as changes required by the auditing firms to meet these expectations, Accounting and Auditing Committee of The Chamber of Tax Consultants is planning webinar on this topic as per below details:

Membership & PR Committee

Chairman: Premal Gandhi

Vice-Chairperson: Ashita Shah

Convenors: Sagar Mehta, Sneha Daftary

Advisor: Atul Bheda, Sujal Shah

SAS Meeting on Self-Empowerment for excellence (Virtual Mode)

Tuesday, 30th April, 2024

5.30 p.m. to 7.00 p.m.

Speaker : BK Deepa Behn, (She has been associated with Brahma Kumaris institution since childhood. She has dedicated her life to this institution for the last 25 years, serving society at large to impart spiritual knowledge and teach Rajyoga Meditation.)

Many times, we find very talented, educated, and capable professionals always doubting themselves while some professionals with an average background become overachievers.

This is due to low self- esteem. Self- empowerment is the combination of thoughts, feelings and actions that create a person's life blueprint. Principles, skills and goals also form part of this blueprint, held together with one's mindset and level of personal awareness.

The process of gaining freedom and power to do what you want or to control what happens to you is the idea of SELF EMPOWERMENT.

The essence of self-empowerment is the acceptance of the fact that YOU cannot always determine what comes your way in life, but you need to equip yourself well enough so that you can steer yourself towards a more effective and fulfilling life.

The Membership and Public Relations Committee has therefore finalised this very unique session to understand the components of Self-Empowerment.

What will you learn from the workshop: -

- Sense of self worth
- Right to have and determine choices
- Right to have access to opportunities
- Right to have power to control your own life
- Ability to go outside yourself to influence change in the socio-economic environment in which we live.

Important Decisions under GST and Service Tax Laws

By Vinay Kumar Jain and Jay Chheda, *Advocates*

1. Whether the transfer of development rights is subject to GST?

Facts and Pleadings:

Prahitha Constructions Private Limited ('assessee') had entered into a Joint Development Agreement (JDA) with landowners for development of land into residential property with modern, common amenities and facilities as per the terms of the JDA. The assessee contended that the transfer of development rights of land by the landowners was akin to sale of the land and therefore the execution of the JDA should not be subject to levy of GST.

The assessee filed a writ petition before the Hon'ble Telangana High Court for a direction to declare that the transfer of development rights of land should not be subjected to levy of GST and should be covered under Entry 5 of Schedule III of CGST Act, 2017. The vires of the Notification No.4 of 2018-Central Tax (Rate) (Notification) dated 30.09.2019 imposing GST on transfer of development rights of land by the landowners was also challenged by the assessee.

It was contended that JDAs are normally entered enabling the landowners the sale of land and procure residential or commercial apartments in lieu of such sale. It was also contended that the execution of JDA results in transfer of development rights of property in favour of the assessee, which results in sale of land proportionate to the investment made by the assessee.

It was further contended that the said Notification would amount to a delegated legislation and such a delegated legislation cannot travel beyond the scope of substantive law. It was also contended that in absence of a mechanism to determine the quantum of tax liability upon the transfer of development rights, the taxing rights of the statute cannot be expanded vide a Notification.

The department contended that to conclude whether the transaction amounts to sale of land or not is a fact specific exercise and requires a perusal of the clauses or recitals of the JDA. It was contended that in the JDA entered into by the assessee, the title of the land remained with the owners and the role of the assessee was restricted to development only. Mere execution of JDA by itself would not mean that the ownership

of the property stands transferred in the name of the assessee.

Order passed by the High Court:

The High Court observed that the plain reading of the JDA reveals that there was no outright sale of land being effectuated and the JDA per se cannot be considered merely as a medium adopted by the landowner for selling his land. It was further observed that transferring of the development rights does not result in transfer of ownership rights.

The transfer of ownership from the landowner goes directly to the purchaser of the constructed property and not in favour of the petitioner unless and until the land stands transferred in the name of the petitioner. Therefore, the same cannot be brought within the ambit of sale.

The JDA incorporates two sets of transactions- the first being agreement between the landowners and the assessee and the other is supply of construction services by the assessee. Therefore, it was held that aforesaid two supplies cannot be termed as sale of land under Entry 5 of Schedule-III.

It was observed by the High Court that the Notification deals with the time of supply of services of transfer of development rights which was otherwise always taxable, since introduction of GST, has now been postponed to a time when the petitioner transfers the possession of the constructed/developed area to the landowner. Accordingly, it was held that the challenge to the Notification was devoid of merits.

In view of the above, it was held that the mere transfer of development rights do not indicate an automatic transfer of ownership or title rights over any portion of land belonging to the landowner in favour of the assessee.

Prahitha Constructions Private Limited Vs Union of India-Order dated 09.02.2024 by Telangana High Court

2. Whether cash/currency (money), is included under the scope of 'goods' or 'thing' and accordingly can be seized under section 67(2) of CGST Act, 2017?

Facts and Pleadings:

A search was carried out on the business premises belonging to Mr. Mukesh Kapoor, Director of M/s. K.M. Food Infrastructure Pvt. Ltd ('assessee'). During the course of search, various documents/records viz.

balance sheets, invoices, e-way bills, GST sales ledger etc., belonging to the assessee were seized. Further, Indian currency (cash/money) was also seized.

The assessee through its Directors submitted the details of the cash and contended that entire amount seized was duly accounted in the books of accounts of the assessee. It was contended that currency is excluded from the definition of goods and thus cannot be seized as 'goods' or 'thing' under section 67(2) of the CGST Act, 2017.

The department contended that director of the assessee could not offer any valid explanation regarding the source of the cash and therefore the department was under bona fide belief that the cash was generated out of illegal activities of the assessee. Reliance was placed by the department on the decision of Kanishka Matta Vs. UOI W.P. (C) No. 8204/2020, decided on 26.08.2020, wherein, the Hon'ble High Court interpreted the word "things" appearing in Section 67 (2) of the CGST Act, 2017 to include the money and therefore could be seized.

Order passed by the High Court:

It was observed by the High Court that section 67(2) of the CGST Act, 2017 specifies the power to seize the 'goods' or 'thing'. It was further observed that the Second Proviso to section 67(2) of the Act clarifies that the seized documents or goods or things shall be retained only so long as it is necessary for their examination and for any inquiry or proceedings under the Act.

It was further observed that the definition of goods as per section 2(75) of CGST Act, 2017 excludes cash. It was held that investigation had revealed that there was no evidence that the cash so seized was representing the sale proceeds of unaccounted goods and therefore such seizure was invalid.

The Court placed reliance on its coordinate Bench decision in Deepak Khandelwal Vs. Commissioner of CGST Delhi West (2023) 9 Centax 244 (Delhi), wherein it was held that the power under Section 67 of the Act cannot be read to extend to enable the seizure of assets on the ground that the same are not accounted for. The word 'things' is required to be read, ejusdem generis, with the preceding words 'documents' and 'books' in section 67(2) of CGST Act, 2017. The word 'things' must take colour from the preceding words, 'documents' and 'books'. The legislative intent of using a wide term such as 'things' is to include all material that may be informative or contain information like pen-drives, personal computers, hard disks, mobiles, communication devices etc. Therefore, the word "things" cannot be interpreted expansively to include cash.

In view of the above, it was held that there was no valid justification of seizure and continued retention of cash by the Department.

M/s. K. M. Food Infrastructure Pvt Ltd through Director Mukesh Kapoor versus DGGI Headquarters, New Delhi and Anr Dated 13.02.2024- Delhi High Court



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. 270A- Issuance of Show Cause Notice without specifying corresponding Limb for which Penalty is being initiated.**

Facts:

The AO levied penalty us 270A(8) of the Act wherein show cause notice was issued without specifying the corresponding limb in sub-sec.270A(9) of the Act.

Held:

The Revenue argued that this omission was unintentional and did not prejudice the proceedings. However, the tribunal found in favor of the

assessee, citing judicial precedents submitted by the Assessee and stating that the failure to specify the relevant limb at the initiation of the penalty proceedings invalidated the entire process. Consequently, the penalties were deleted for both assessment years. Additionally, a delay in filing one of the appeals was condoned for reasons of justice. The appeals were allowed based on these grounds **Shri Shivaji Dattatray Sonawane vs. ITO, Ward 2(1), Nashik [ITA No.708,1089/Pun/2023, dated 02/02/2024] [AY 2017-18, AY 2018-19]**

2. S. 54B- Land purchased in name of Assessee's wife

Facts:

Assessee sold an agricultural land and claimed exemption under section 54B on the ground that he purchased a land. AO denied the exemption as he noted that said land was purchased by the assessee in his wife's name.

Held:

In view of decision of Tribunal in case of Ashok Kumar S/o Tej Pal Singh v. ITO, [ITA No. 7460/Del/2018, dt. 28-12-2022], deduction under section 54B/54F is available in cases, where investments are made in property purchased in name of wife. Accordingly, AO was directed to allow deduction under section 54B to assessee.

Ravinder Kumar vs. ITO Ward – 2(2) Meerut [ITA No.2265/Del/2023, dated 08/11/2023] [AY 2011-12]

3. S. 271(1)(c)- Notice to legal representative- Proceedings itself initiated after assessee's demise

Facts:

By way of an instant appeal, penalty proceedings under section 271(1)(c) were challenged on the ground that said proceedings itself were initiated after assessee's demise. On the other hand, Revenue argued that penalty proceedings are very much akin to an assessment proceedings giving rise to recovery of tax demands and therefore, assessee's legal representatives would be liable for corresponding default under section 271(1)(c) in light of section 159(1) to (6).

Held:

In view of decision of High Court in case of CIT, Central-1, v. S. Gowri (Mad-HC), an assessee's legal representatives are not liable in penalty proceedings after his/her demise in terms of section 159. Hence, penalty proceedings under section 271(1)(c) were set aside.

Late Jayant Maneklal Wagle vs. ACIT Circle-2, Pune

[ITA No. 1018/Pun/2023; dated 03/11/2023] [A.Y.: 2005-06]

4. S. 271(1)(c)- Notice to legal representative- Proceedings itself initiated after assessee's demise

Facts:

An assessment under section 143(3) read with sections 143(3A) and 143(3B) was completed accepting assessee's claim of deduction under section 80-IA. Pr. CIT observed that the assessee was engaged in setting up of motor vehicle weighbridge check post under PPP Model with State Government in multi-locations in the State and that said motor vehicle weighbridge was not integral part of national highway project, rather, it was an infrastructure to be constructed under West Bengal Motor Vehicle Rules for claiming of fees through weighbridge for all the heavy vehicles. Thus, he referring to Explanation to section 80-IA (4), observed that construction of motor vehicle weighbridge check-post was not covered under definition of infrastructure facility as defined under section 80-IA(4)(i). He accordingly set aside the assessment order and remanded the matter to AO for fresh assessment.

Held:

Return of assessee was selected for scrutiny on limited issue of claim of deduction under section 80-IA and the assessee duly furnished all the information and answered various queries raised by AO in that respect. AO was satisfied that motor vehicle weighbridge along with toll road of 1 kilometer was integral part of highway/toll road and accordingly accepted the claim of the assessee. Pr. CIT misconstrued the purpose for which Government entered into concession agreement for construction of motor vehicle weighbridge along with connecting road with highway/toll road. The motor vehicle weighbridge in, itself, was not a separate infrastructure project, rather, it was a part and parcel of highway/toll road and was constructed for the purpose of passing and monitoring of movement of heavy vehicles on the toll road and collection of toll charges from heavy vehicles and said infrastructure facilities independently would be of no use, rather, it was part and parcel of the highway project. Therefore, order of AO was not erroneous and consequently.

West Bengal Motor Vehicles Weigh Bridge Corporation Ltd vs. PCIT-2, Kolkata [ITA No. 385/Kol/2023; dated 09/11/2023] [A.Y.: 2018-19]

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