

# THE CTC NEWS

Monthly Newsletter of The Chamber of Tax Consultants

(For Private Circulation - Members Only)

APRIL 2024



सुखदुःखे समे कृत्वा लाभालाभौ जयाजयौ।  
ततो युद्धाय युज्यस्व नैवं पापमवाप्स्यसि॥ २-३८

Happy  
**Gudi  
Padwa**

*Holding pleasure and pain, gain and loss, victory and  
defeat as alike, gird yourself up for the battle. Thus,  
you shall not incur any sin.*

*- Bhagavad Gita 2:38*

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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 & Journal - 8080254129**

**Manisha Kasbe : Manager-Accounts - 8104816841**

**Helpdesk: (1) Events: Mr. Pradeep Nambiar / Mr. Anand Kadam / Mr. Rajesh Patil Email: events@ctconline.org  
(2) Accounts: Ms. Manisha Kasbe Email: accounts@ctconline.org (3) Journal: Mr. Pradeep Nambiar Email: jou@ctconline.org  
(4) Membership: Ms. Neha Kadakia / Ms. Seema Kamble Email: member@ctconline.org**

**RENEWAL NOTICE – 2024-25**

Dear Members,

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

April 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
<b>I</b>	<b>MEMBERSHIP RENEWAL FOR EXISTING MEMBERS (APRIL TO MARCH)</b>			
1	ORDINARY MEMBERSHIP FEES - <b>WITH HARD COPY OF JOURNAL</b>	2500	450	2950
2	ORDINARY MEMBERSHIP FEES - <b>WITH SOFT COPY OF JOURNAL (E-JOURNAL)</b>	1500	270	1770
3	ASSOCIATE MEMBERSHIP -	7500	1350	8850
4	STUDENT MEMBERSHIP - INCLUDING E JOURNAL	500	90	590
<b>II</b>	<b>CHAMBER'S JOURNAL SUBSCRIPTION – (HARD COPY)</b>			
1	JOURNAL SUBSCRIPTION - LIFE MEMBERS	1350	0	1350
2	JOURNAL SUBSCRIPTION - NON MEMBERS	2500	0	2500
3	JOURNAL SUBSCRIPTION - STUDENT MEMBERS	1000	0	1000
<b>III</b>	<b>COURIER CHARGES FOR CHAMBER'S JOURNAL (OPTIONAL) (*) (Refer Note 7)</b>	<b>508</b>	<b>92</b>	<b>600</b>
<b>IV</b>	<b>CHAMBER'S E - JOURNAL SUBSCRIPTION (SOFT COPY)</b>			
1	E JOURNAL SUBSCRIPTION – FOR LIFE MEMBERS	700	126	826
2	E JOURNAL SUBSCRIPTION – FOR NON-MEMBERS	1000	180	1180
<b>V</b>	<b>ITJ SUBSCRIPTION</b>			
1	INTERNATIONAL TAX JOURNAL SUBSCRIPTION (QUARTERLY)	1400	0	1400
<b>VI</b>	<b>STUDY CIRCLES &amp; STUDY GROUPS</b>			
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
<b>VII</b>	<b>FEES FOR INCOMING NEW MEMBERS (APRIL TO MARCH)</b>			
1	LIFE MEMBERSHIP	15000	2700	17700
	SUBSCRIPTION OF JOURNAL (OPTIONAL)	1350	0	1350
2	ADMISSION FEES – (ORDINARY MEMBERSHIP)	750	135	885
	ORDINARY MEMBERSHIP FEES - <b>WITH HARD COPY OF JOURNAL</b>	2500	450	2950
	ORDINARY MEMBERSHIP FEES - <b>WITH SOFT COPY OF JOURNAL (E-JOURNAL)</b>	1500	270	1770
3	ADMISSION FEES – ( <b>ASSOCIATE MEMBERSHIP</b> )	1000	180	1180
	ASSOCIATE MEMBERSHIP FEES ( <b>INCLUDING HARD COPY OF JOURNAL</b> )	7500	1350	8850

### Notes:

- Members are requested to visit our website [www.ctconline.org](http://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 ₹ 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](http://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](mailto:accounts@ctconline.org)**



**Payment through UPI - [tech90049983@barodampay](https://api.whatsapp.com/send?phone=9190049983)**

**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](mailto:accounts@ctconline.org)**

### BANK DETAILS

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

## NOTICE OF ELECTION

To  
The Members,  
The Chamber of Tax Consultants,

The election of the President and Fourteen Members of the Managing Council for the ensuing year 2024-2025 shall take place on **Saturday, May 11, 2024 at the Office of The Chamber of Tax Consultants, 3, Rewa Chambers, Ground Floor, 31, New Marine Lines, Mumbai-400 020.**

The nomination forms shall be available at the CTC office from **Monday, April 22, 2024.** Nominations in the prescribed form should be submitted to the office of the CTC not later than **6.00 p.m. on Monday, April 29, 2024.**

FOR AND ON BEHALF OF THE MANAGING COUNCIL  
OF The Chamber of Tax Consultants

Sd/-

Sd/-

**NEHA GADA**

**VITANG SHAH**

*Hon. Jt. Secretaries*

**Place : Mumbai**

**Dated : 28th March, 2024**

**Office:** 3, Rewa Chambers, 31, New Marine Lines, Mumbai-400 020.

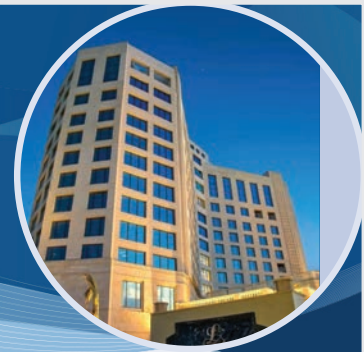
**Notes:**

1. Only Ordinary and Life Members are eligible to vote at the election.
2. A Member who has completed at least **two full years** as a member shall be entitled to contest for the post of Managing Council member or to propose or second a candidate for the election. Each such member can propose not more than **three** candidates. The candidate for the post of President should have completed ten years of post-qualification experience relating to tax laws or any branch of accountancy or company secretarial practice.
3. Members whose membership subscription is in arrears shall not be entitled to contest any election or to propose or second any candidate for the election or to vote at the election.
4. Withdrawal of nomination for the elections can be made by the candidate on or before 6.00 p.m. on **Monday, May 6, 2024.**
5. If elections are required to be held, the names of the valid candidates shall be intimated through the website of the Chamber as well as through a circular. The Members are requested to check through these mediums.
6. If elections are not required to be held, due to any reason whatsoever, the same shall be intimated through the website of the Chamber as well as through the Notice Board at the Chamber's office. The Members are requested to check through these mediums.
7. The voting, if required, will commence at 11.00 a.m. and shall end at 5.00 p.m. on **Saturday, May 11, 2024.**
8. The above is only the gist of the Elections Rules. Please read Election Rules of the Chamber carefully on the [website www.ctconline.org](http://www.ctconline.org)
9. Please note that the Election Committee comprising of the following persons is constituted for this purpose.  
(1) **Mr. Bhavesh Vora** (2) **Mr. Parimal Parikh** (3) **Mr. Yatin Desai**



## 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

## 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



### 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

Fees structure for residential participants is under

On Double occupancy basis		On Single occupancy basis	
Particulars	Fees	Particulars	Fees
Members	INR 24,500/- + 18% GST	Members	INR 40,800/- + 18% GST
Non-Members	INR 27,500/- + 18% GST	Non-Members	INR 43,800/- + 18% GST

### Registration fees for Non-residential participants (from Ahmedabad & Gandhinagar only)

Fees Upto 22nd April 2024		Fees from 23rd April 2024	
Particulars	Fees	Particulars	Fees
Members	INR 14,000/- + 18% GST	Members	INR 16,000/- + 18% GST
Non-Members	INR 16,000/- + 18% GST	Non-Members	INR 18,000/- + 18% GST

#### Notes:

1. The above fees for the conference includes course material, accommodation, meals during the entire conference.
2. For Non-Residential Participants, the fees for the Conference includes course materials, lunch on 21st, 22nd and 23rd June, 2024 and dinner on 20th June, 2024.
3. Sessions on Day 1 (Thursday, 20th June 2024) will start at 3 p.m. Participants are requested to make their travel arrangements accordingly. Airport pick up and drop facilities are NOT available. The Hotel is situated at around 17 km from Ahmedabad Airport which is half an hour drive.
4. The conference will conclude on Day 4 (Sunday, 23rd June 2024) at 12.30 p.m. followed by lunch.
5. Participants need to provide the scanned copies of the identity document by 01st June, 2024. A separate google link will follow for uploading the documents for ease of arrival at the Hotel.
6. 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 -

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

**Indirect Taxes Committee**

**Chairman** : Hemang Shah  
**Vice Chairman** : Keval Shah  
**Convenor(S)** : Raj Khona, Umang Talati,  
 Yash Parmar  
**Advisor** : Rajiv Luthia

**Indirect Taxes Study Circle Meeting on Effective Drafting and Responding to Show Cause Notice under GST (Virtual Mode)**

**Thursday, 4th April, 2024**

**5.00 p.m. to 7.00 p.m.**

**Speaker** : CA Jatin Christopher

In recent times, GST department has been issuing show cause notices under multiple sections of the Central/State GST Act, 2017. Replying to such notices is very crucial and very different from responding to a routine notice. All the allegations made by the revenue authorities have to be responded with several interpretational and practical issues. All the more, these replies to show cause notice form a basis for future litigations.

For the benefit of members of Chamber of Consultants, the Indirect Taxes Committee has planned a study circle meeting, the details of which are given below.

**Participation Fees**

<b>For IDT Study Circle Members</b>	NIL
<b>CTC Members</b>	₹ 200/- + ₹ 36/- (GST) = ₹ 236/-
<b>Non-Members</b>	₹ 400/- + ₹ 72/- (GST) = ₹ 472/-

**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 pm to 7.00 pm**

**Speaker** : **BK Deepa Behn** (She has been associated with Brahma Kumaris institution since childhood. She has dedicated her life for this institution since 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.

## Direct Taxes Committee

**Chairman** : Abhitan Mehta  
**Vice Chairmen** : Chirag Wadhwa  
 Viraj Mehta  
**Convenors** : Chintan Gandhi  
 Ketki Mittal  
 Radha Halbe  
**Advisor** : Mahendra Sanghvi

## Intensive Study Group (ISG) - Direct Taxes Meeting on Recent Important Decisions Under Direct Tax (Virtual Mode)

Wednesday, 10th April, 2024

6.00 pm to 8.00 pm

**Speaker** : Ms. Ritu Punjabi, Advocate

## 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

## Webinar on Panel Discussion on the practical issues faced by the Professionals under FEMA

Saturday, 20th April, 2024

9.30 am to 12.30 pm

**Panelist** : CA Paresh P. Shah | CA Naresh Ajwani  
 Mr Suhas Bendre (HSBC)

**Moderator** : CA Vijay Gupta

Over the years FEMA has become an integral part of practice of each professional in one way or another. Professionals in all fields come across transactions that would have implications under FEMA and therefore it would be beneficial for them to understand the practical aspects of FEMA that directly or indirectly affect their services.

To address various issues emerging under application of FEMA, the International Taxation Committee of The Chamber of Tax Consultants (CTC) has organized a Webinar on "Panel Discussion on the practical issues faced by the Professionals under FEMA" which is scheduled on 20th April, 2024.

### Participation Fees

**For FEMA Study Circle Members**

NIL

**For others**

₹ 500/- + ₹ 90/- (GST) = ₹ 590/-



## Important Decisions under GST and Service Tax Laws

By Vinay Kumar Jain and Jay Chheda, *Advocates*

**Whether 'hostel services' given to students and working women falls within the purview of Entry No. 12 of Exemption Notification No. 12 of 2017 – "Services by way of renting of residential dwelling for use as residence"?**

### Facts and Pleadings:

Thai Mookambikaa Ladies Hostel ('assessee') operates private ladies hostels by providing residential accommodation and food to the college students and working women on monthly basis with reasonable tariffs with a philanthropic motive. Relying on the entry 12 of the Exemption Notification 12/2017-Central Tax, the assessee contended that their provision of residential accommodation qualifies as 'residential dwelling' used for residence purposes and consequently, the charges collected from the students and working women are exempt from GST.

The assessee filed application for Advance Ruling before the Tamil Nadu State Appellate Authority for Advance Ruling (AAAR). Delving into the definition of 'residential dwelling' as outlined in the CBIC guide, the AAAR determined that a 'Hostel' does not align with the definition of 'residential dwelling', but can be categorized as 'social accommodation', akin to a hotel. It distinguished between 'accommodation' and 'residence', emphasizing that for the exemption to apply, two conditions must be met i.e. the renting of residential dwelling and its use as a residence.

Aggrieved by the ruling of the AAAR, the assessee filed a writ petition before the Hon'ble Madras High Court.

It was contended by the assessee that hostels run by it would fall within the purview of 'residential dwelling' occurring in Entry 12 of Exemption Notification No.12/2017. Reliance was placed on the definition of the term residential dwelling as per the Taxation of Services an Education Guide, dated 20.6.2012, wherein the term is defined as 'any residential accommodation', but does not include hotel, motel, inn, guest house, camp site, house, lodge, house-boat or like places meant for temporary stay.

It was contended by the Department that rendering residential accommodation and food services qualifies to be supply as per section 7 of CGST Act, 2017 and covered under the definition of the term

'business' as per Section 2(7) of CGST Act, 2017. It was further contended that renting of residential dwelling involves letting out any building or part of the building by a lessor to a person for rent towards the rental premises which form part of a house as kitchen, bedroom, and living room etc., on the whole as residence. It was also contended that renting of 'residential dwelling' does not include amenities, like food, housekeeping, or laundry whereas, a hostel is nothing but an establishment which provides living accommodation to specific categories of persons.

### Order passed by the Hon'ble High Court:

The Hon'ble High Court held that as per the exemption under Entry 12 of Exemption Notification 12/2017 [dt.28.06.2017], amended w.e.f. 18.07.2022, renting of residential accommodation for residence to an unregistered person is exempt from GST. Further, renting of residential accommodation for commercial purposes or to a person registered under GST for residential or commercial purposes is subject to GST.

The High Court also observed that the Ministry of Finance has issued a clarification on 12.02.2018 wherein it was stated that accommodation service in hostels, including trust, having declared tariff below one thousand rupees per day would be exempt GST.

The High Court analysed the definition of the term 'residential dwelling' inter alia referring to the decision of the Hon'ble Karnataka High Court in Taghar Vasudeva Ambrish Vs Appellate Authority for Advanced Rulings, Karnataka, 2022(2) TMI 780, wherein it was held that leasing out residential premises as hostel to students and working professionals is covered under Entry 13 of Notification No.9/2017 dated 28-09-2017. Service tax education guide dated 20-06-2012 was relied upon in the said decision of Taghar Vasudeva Ambarish to state that in a normal trade parlance residential dwelling means any residential accommodation and is different from hotel, motel, inn, guest house etc. Further, it was held that 'residence' and 'dwelling' have more or less the connotation in common parlance and therefore, no different meaning can be assigned to the expression 'residential dwelling' and it cannot be held that the same does not include hostel which used for residential purposes by students or working women.

It was held that no commercial activities can be attributed against the owners of the hostels since they have been providing only 'residential accommodation' to the girl students, working women. It was further held that purport and object of the legislation in issuing the present Notification is only to give exemption towards the services which are in residential nature and not towards commercial nature and the premises should be of residential dwelling for use as residence.

In view of the above, the Hon'ble Madras High Court held that the 'hostel services' provided by the petitioners would squarely fall within purview of Entry No.12 of Exemption Notification No. 12 of 2017.

Thai Mookambikaa Ladies Hostel vs Union of India & Ors., dated 22-03-2024 by Hon'ble Madras High Court

**Whether entities assigned to either Central or State Tax Authorities could be subject to investigation and proceedings by their counterparts under the respective GST enactments?**

**Facts and Pleadings:**

Vardhan Infrastructure ('assessee') was assigned to the State Tax authority at the time of taking registration under GST. Summons were issued to the assessee under Section 70 of CGST Act, 2017 by the Central Tax Authorities.

The assessee filed a writ petition before the Hon'ble Madras High Court to issue a direction to the Central Tax Authorities for not carrying out investigation and further proceedings given that the assessee has been assigned to the State tax Authority.

It was contended by the Petitioner that without a proper notification under Section 6 of the respective GST Enactments, if an assessee has been administratively assigned to Central GST then in such cases, the State GST officers cannot initiate proceedings against the assessee in view of lack of jurisdiction.

It was contended that Circular No.1/2017-GST (Council) dated 20-09-2017 was issued for a division of taxpayer base between the Centre and States to ensure a Single

Interface under GST Enactments between Tax Officers and Central Tax Officers under CGST/IGST and SGST Acts of 2017. It was contended that the said Circular specified that Notifications will be issued for cross empowerment and till date such Notification for cross empowerment has not been issued.

**Order passed by the Hon'ble High Court:**

The Hon'ble High Court observed that Section 6(1) of the Central and State GST enactments empower the Government to issue notification on the recommendation of GST Council for cross-empowerment. However, no notification has been issued except under Section 6(1) of the respective GST Enactments for the purpose of refund although officers from the Central GST and State GST are proper officers under the respective GST Enactments.

The Court further held that since no notifications have been issued for cross-empowerment with advice of GST Council, except for the purpose of refund of tax under Chapter – XI of the respective GST Enactments, impugned proceedings are to be held without jurisdiction.

It was held that the manner in which the provisions have been designed are to ensure that there is no cross interference by the counterparts and the only exception provided is under Section 6 of the respective GST enactments. Accordingly, it was held that in absence of a notification for cross-empowerment, the action taken by the respondents are without jurisdiction. Officers under the State or Central Tax Administration cannot usurp the power of investigation or adjudication of an assessee who is not assigned to them.

The Hon'ble Court also issued directions to the Central Authority/State Authority as the case may be to whom the respective assesseees have been assigned for administrative purpose to initiate appropriate proceedings afresh against them strictly in accordance with the provisions of the respective GST Enactments.

**Vardhan Infrastructure vs. Special Secretary, Head of GST Council & Ors. by the Hon'ble Madras High Court**

**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. 36(1)(iii) - Interest on borrowed capital - Gifts made to nephews

#### Facts:

Assessee claimed deduction under section 36(1)(iii). AO disallowed the assessee's claim proportionately on account of the assessee having gifted ₹ 42 lakhs to his two nephews. The Assessee pleaded to have sufficient own funds.

#### Held:

Self-owned funds available with assessee, i.e., 'opening balance', of his capital along with 'net profit' earned by him during the year under consideration, aggregated to ₹ 1.51 crore, was sufficient to source the gifts of ₹ 42 lakhs to the nephews. Thus, it could be safely presumed that the self-owned funds / profit generated during the year by the assessee were utilized for making gifts under consideration and no part of the interest-bearing funds was diverted for the purpose. Accordingly, no proportionate disallowance of deduction under section 36(1)(iii) was called for.

#### Rajesh Agrawal vs. Dy. CIT

[ITA No. 249/Rpr/2022 dated 19/10/2023] [AY 2010-11] - Raipur

### 2. S. 69A - Excess stock found during survey alleged as unexplained investment - Assessee did not maintain any stock register due to business of perishable items

#### Facts:

AO made addition under section 69A on account of excess stock found during the course of survey, treating the same as undisclosed investment. Assessee contended that entire stock could not be treated as undisclosed stock in absence of stock register and AO was required

to give credit of closing stock either on the date of survey or at the end of financial period because it could not be presumed that there was no accounted stock in the hands of assessee on the date of survey merely because assessee did not maintain any stock register due to business of perishable items.

#### Held:

In absence of stock register, it could not be presumed that entire stock inventorised by the survey team was unaccounted stock and there must be some accounted stock also on the date of survey which was included by the survey team in the inventory prepared on the date of survey. Even GP rate declared by assessee and accepted by AO, i.e., 3.45% turnover was an appropriate and undisputed bench mark for making reverse calculation to ascertain closing stock on the date of survey as on 19-2-2014 or on the date of end of financial period i.e. 31-3-2014. Since benchmark GP rate of 3.45% was arising from the audited books of account and balance sheet of assessee and assessee had not maintained stock register and wastage register, therefore, it was proper to ascertain closing stock on the date of end of financial period. As per trading account discernable from the audited balance sheet of assessee which was not disputed by AO, the closing stock came to ₹ 26,90,788 by taking gross profit rate @3.45%. Assessee was eligible for credit of ₹ 26,90,788 as closing stock out of alleged unaccounted stock of ₹ 72,23,450.

#### Bharat Bhushan Sawhney vs. ACIT

[ITA No. 1726/Del/2018 dated 22/09/2023] [A.Y.: 2014-15] - Delhi

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