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THE CTC NEWS

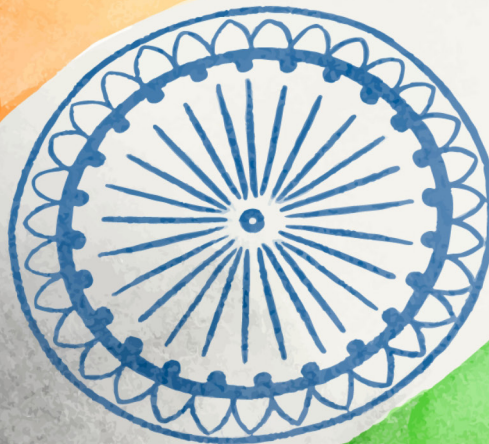
Monthly Newsletter of The Chamber of Tax Consultants

(For Private Circulation - Members Only)

AUGUST 2024

78th

INDEPENDENCE DAY



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

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(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
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 ₹ 600/- (Including GST) for timely receipt of the Journal by Courier Service.**
- Kindly pay your membership fees by 30th September, 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 - [tech90049983@barodampay](https://paytm.com/qr/tech90049983@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

Certificate Course on Practical Income Tax & Litigation

August & September

5.00 pm - 7.30 pm

Jointly with Government Law College

This Course offers :

- a comprehensive understanding of the Income Tax Act,
- expert insights from and interaction with tax practitioners,
- guest lectures from senior tax professionals, ITAT Members, and High Court Judges (subject to confirmation/availability) and
- Practical session in drafting tax representations.
- Practical exposure to the field of tax
- Certificate on completion
- Student Membership of CTC for student participant

WHO SHOULD REGISTER?

Anyone interested in learning or specialising in Income Tax Act, 1961

Registration Fee: ₹ 3,000/- (inclusive of GST)

Register here – <https://forms.gle/JRmpP6ttVkmsBKjK6>

Course Details:

Sr. No.	Day, Date & Time	Topic and Coverage breakdown	Speakers
1	02-08-2024 Friday 5.00 p.m. - 6.00 p.m.	Inaugural ceremony with Panel Discussions	Hon'ble Mr. Justice Abhay Ahuja, Dr. K. Shivaram, <i>Senior Advocate</i> CA Jayant Gokhale Moderator – Mr. K. Gopal, <i>Advocate</i>
	02-08-2024 Friday 6.00 p.m. to 8.00 p.m.	Basic Concepts	Mr. Devendra Jain, <i>Adv.</i>
2	06-08-2024 Tuesday 5.30 p.m. - 7.30 p.m.	Income from Capital Gains	Mr. Dharan Gandhi, <i>Adv.</i>
3	08-08-2024 Thursday 5.30 p.m. - 7.30 p.m.	Income from Capital Gains (continued)	
4	10-08-2024 Saturday 5.30 p.m. - 7.30 p.m.	Income from Capital Gains (continued)	
5	12-08-2024 Monday 5.30 p.m. - 7.30 p.m.	Income from House Property (including rules)	Ms. Jasmin Amalsadvala, <i>Adv</i>

Sr. No.	Day, Date & Time	Topic and Coverage breakdown	Speakers
6	14-08-2024 Wednesday 5.30 p.m. - 7.30 p.m.	Profits and Gains from Business or Profession	CA Ronak Doshi
7	16-08-2024 Friday 5.30 p.m. - 7.30 p.m.	Profits and Gains from Business or Profession (continued)	
8	20-08-2024 Tuesday 5.30 p.m. - 7.30 p.m.	Profits and Gains from Business or Profession (continued)	
9	22-08-2024 Thursday 5.30 p.m. - 7.30 p.m.	Income from Salaries (including Rules)	CA Akbarally Merchant
10	23-08-2024 Friday 5.30 pm – 7.30 pm	Income from Salaries (including Rules) (continued_	
11	26-08-2024 Monday 5.30 pm – 7.30 pm	Overview of International Taxation & Transfer Pricing	CA Naman Shrimal
12	28-08-2024 Wednesday 5.30 pm – 7.30 pm	Residential Status and Scope of Total Income	CA Paresh P. Shah
13	30-08-2024 Friday 5.30 pm – 7.30 pm	Income from Other Sources (including rules 11UA & 11UB):	CA Abhitan Mehta
14	02-09-2024 Monday 5.30 pm – 7.30 pm	Taxation of Unaccounted Income [Section 68 – 69D], Section 115BBE [Rate of Tax], Section 271AAC & Clubbing of Income	CA Jagdish Punjabi
15	04-09-2024 Wednesday 5.30 pm – 7.30 pm	Aggregation of Income, set-off & carry forward of losses	CA Ravi Savannah
16	05-09-2024 Thursday 5.30 pm – 7.30 pm	Deductions from Gross Total Income & other Exemptions	CA Shailesh Bandi
17	09/09/2024 Monday 5.30 pm – 7.30 pm	Taxation of Charitable institutions – Section 12	CA Ashok Mehta

Sr. No.	Day, Date & Time	Topic and Coverage breakdown	Speakers
18	11/09/2024 Wednesday 5.30 pm – 7.30 pm	Tax Deducted & Collected at Source & Advance Tax	CA Mahendra Sanghavi
19	13/09/2024 Friday 5.30 pm – 7.30 pm	Rate of tax & Special scheme of Taxation:	CA Sashank Mehta
20	19/09/2024 Thursday 5.30 pm – 7.30 pm	Return of Income and Tax Audit Forms:	CA Avinash Rawani
21	23/09/2024 Monday 5.30 pm – 7.30 pm	Assessment, Re-Assessment, Revision & Rectification	Mr. Shashi Bekal, Adv.
22	24/09/2024 Tuesday 5.30 pm – 7.30 pm	Assessment, Re-Assessment, Revision & Rectification (continued)	
23	25/09/2024 Wednesday 5.30 pm – 7.30 pm	Overview of the Provisions of Search & Seizure	Mr. Ajay Singh, Adv.
24	27/09/2024 Friday 5.30 pm – 7.30 pm	Prohibited transactions, Penalty & Prosecution, Fees	Mr. Paras S. Savla, Adv.
25	30/09/2024 Monday 5.30 pm – 7.30 pm	Dispute Resolution	Mr. Rahul Hakani, Adv.

Note :

- Inaugural ceremony will take place at Auditorium, Government Law College, Mumbai in hybrid mode
- 1st session on basic concept will be held in hybrid mode
- All sessions stated above (except for 1st session on basic concept) will be conducted virtually on Zoom

Online Transfer Pricing Master Class 2024 [Virtual Mode]

August & September, 2024

The Chamber of Tax Consultants is pleased to announce an Online Transfer Pricing Master Class 2024.

This program is aimed to have an insightful deliberation on various key Transfer Pricing issues by the experts in the field, as we approach the compliance season. We have a line-up of eminent speakers who can share their practical experiences on conceptual and advanced Transfer Pricing issues that you would be grappling during the compliance season. The Master Class will end with two interesting panel discussions which will address complex Transfer Pricing transactions and controversial issues including dispute resolution through APA / MAP. At the end of each session, you will have an opportunity to ask questions to the speaker / panel to get their technical and practical perspective.

The organizers of the conference invite all interested participants in this unique conference.

Particulars	Early Bird Fees upto 16 August 2024	Fees after 16 August 2024
CTC Member	₹ 2,500/- + GST	₹ 3,000/- + GST
Non-Member	₹ 3,500/- + GST	₹ 4,000/- + GST
Student Member	₹ 1,000/- + GST	₹ 1,500/- + GST
Student Non-Member	₹ 1,500/- + GST	₹ 2,000/- + GST

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

Sr. No.	Day, Date & Time	Topic	Speaker
1	Saturday 24/08/2024 9.30 am -11.15 am	Concept of Transfer Pricing - arm's length principle	CA Vispi T. Patel
2	Saturday 24/08/2024 11.30 am -1.00 pm	Local File Documentation - alongwith importance of FAR and Economic Analysis (concept of Most Appropriate Method, Tested Party, Profit Level Indicators, Filters, Search Strategy, etc.)	CA Namrata Dedhia
3	Thursday 29/08/2024 5.30 pm - 7.00 pm	Master File Documentation and CbCR and impact of the same on the ongoing litigation	CA Akshay Kenkre
4	Saturday 31/08/2024 9.30 am -11.30 am	Benchmarking using Indian & Foreign database, with Economic Adjustments, (including demonstration of how the search is carried out practically using the databases)	CA Chaitanya Maheshwari / CA Kunal Sawardekar
5	Saturday 31/08/2024 11.45 am -1.15 pm	Form No. 3CEB - clause by clause analysis	CA Smita Patni

Sr. No.	Day, Date & Time	Topic	Speaker
6	Friday 06/09/2024 5.30 pm – 7.00 pm	Benchmarking of unique transactions (financial transactions - post LIBOR era, management fees, cost contribution arrangement, cash pooling, etc.)	Ms. Shefali Shah, MBA (Finance)
7	Tuesday 10/09/2024 5.30 pm – 6.30 pm 6.45 pm – 7.30 pm	Interplay of TP with Pillar 1 and Pillar 2 Discussion on Amount B in Pillar 1	CA Radhakishan Rawal CA Sanjay Mistry
8	Saturday 14/09/2024 9.30 am – 11.00 am	TP assessment procedure and various dispute resolution forums (DRP, CIT(A), ITAT, APA, MAP)	Adv. Harsh Shah
9	Saturday 14/09/2024 11.15 am – 12.45 pm	TP in corporate governance (SEBI LODR, Companies Act 188, etc)	CA Munjal Almoula
10	Wednesday 18/09/2024 5.30 pm – 7.30 pm	TP for IP (alongwith benchmarking) and business restructuring	CA Bhavesh Dedhia
11	Saturday 21/09/2024 9.30 am - 11.30 am	Panel Discussion on Key transfer pricing issues for new age industry (Digital, ESG, financial transactions, etc)	Moderator – CA Vijay Iyer Panelists – 1. CA Rahul Mitra 2. CA Bipin Pawar 3. CA Shikha Gupta
12	Saturday 21/09/2024 11.45 am – 1.45 pm	Panel Discussion on Key transfer pricing controversies including resolution under APA and MAP	Moderator – CA Vispi T. Patel Panelists – 1. Eminent faculty member from Tribunal; 2. Eminent faculty member from Industry; 3. Sobhan Kar – Ex IRS - Director (APA), CBDT 4. CA Karishma R. Phatarphekar

Study Circle & Study Group Committee

Chairman: Dipesh Vora
Vice Chairman: Dinesh R. Shah
Convenor(s): Parth Sanghavi, Ritu Punjabi

Study Circle Meeting on Critical Analysis of Finance (No. 2) Bill, 2024 – As passed by Lok Sabha – Direct Tax [Hybrid Mode]

Wenesday 14 August, 2024

6.00 pm to 8.00 pm

Speaker: CA Praful Poladia

Finance (No. 2) Bill, 2024, which was introduced on 23rd July, 2024 has now been passed by Lok Sabha on 7th August 2024 with number of amendments. Study Circle is a platform, wherein we can have threadbare one to one discussions on the amended bill as passed by Lok Sabha.

The Study Circle and Study Group Committee of the Chamber of Tax Consultants is pleased to announce Study Circle Meeting on “Critical Analysis of Finance (No.2) Bill, 2024 as passed by Lok Sabha – Direct Tax”. Eminent Speaker CA Praful Poladia has agreed to lead the discussion.

Participation Fees

For Study Group Members	NIL
CTC Members	₹ 200/- + ₹ 36/- (GST) = ₹ 236/-
Non-Members	₹ 400/- + ₹ 72/- (GST) = ₹ 472/-

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

Venue for Physical : Chamber office, 3, Rewa Chambers, Ground Floor, 31, New Marine Lines, Mumbai – 400 020

For Virtual – Zoom link will be shared nearing to the event.

Pune Study Group

Convenor(s): Mehul Shah, Dhiraj Dandgaval, Parag Kiri

Webinar on Changed Dimensions of Assessments / Reassessments in Search & Seizure Cases post 2021 Amendments

Saturday, 17th August, 2024

9:00 am - 10:30 am

Speaker: CA Neelesh Khandelwal

The Pune Study Group of The Chamber of Tax Consultants (CTC) has organised a Study Group Meeting on “Changed Dimensions of Assessments / Reassessments in Search & Seizure Cases post 2021 Amendments” scheduled on 17th August, 2024. The details of the meeting which will be held via Zoom are as follows:

Participation Fees

For Pune Study Group Members	NIL
CTC Members	₹ 200/- + ₹ 36/- (GST) = ₹ 236/-
Non-Members	₹ 300/- + ₹ 54/- (GST) = ₹ 354/-

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

The Zoom link for joining the webinar will be shared prior to the session.

Members who have not renewed your membership / Pune Study Group / journal subscription may kindly register here – [CLICK HERE](#)

Looking forward to your active participation.

Direct Taxes Committee

Chairman: Viraj Mehta
Vice Chairman: Chirag Vadhva
Convenor(s): Ketki Mittal, Prasanna K.,
 Viral Shah

Webinar on Intricacies of critical clauses in Tax Audit, its Reporting, and the Impact of ICDS (Virtual Mode)

Thursday, 22nd August, 2024

4.00 pm – 8.00 pm

Navigating the intricacies of tax laws and regulations can be daunting for practitioners and businesses alike. The Tax Audit Programme is a comprehensive session focused on the nuances of tax audits. It covers various aspects of tax audits, including preparation, procedures, common pitfalls, and strategies for addressing various issues. Participants will gain firsthand knowledge from experts in tax law and audit practices.

Sr. No.	Time	Topics to be Covered	Speaker
1	4:00 pm - 4:15 pm	Opening Remarks and Introduction	
2	4.15 pm - 5:45 pm	ICDS – Impact and disclosures	CA Anjali Agarwal
3	5:45 pm - 7:15 pm	Critical Issues in Tax Audit – Key Clauses including 43B(h)	CA Chintan Gandhi
4	7:15 pm - 8:00 pm	Qualifications, Disclosure and Representation from an Audit Report Quality perspective	CA Mahendra Sanghvi

Participation Fees

CTC Members	NIL
CTC Student Member	NIL
Non-Members	₹ 300/- + ₹ 54/- (GST) = ₹ 354/-

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

Important Decisions under GST and Service Tax Laws

By Vinay Kumar Jain and Jay Chheda, *Advocates*

Whether 'royalty' determined under Sections 9 of the Mines and Minerals (Development and Regulation) Act, 1957 in the nature of tax?¹

Facts and Pleading:

A batch of petitions was filed before the Hon'ble Supreme Court to decide upon the distribution of legislative powers between the Centre and the States on the taxation of mineral rights. The Constitution empowers both Central Government and State Governments to frame rules for regulation of mines and mineral development. Further, Entry 50 of List II of the Seventh Schedule to the Constitution deals with taxing of mineral rights by the States subject to any limitations imposed by Parliament by law relating to mineral development. The Central Government passed the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act, 1957), wherein section 9 provides that a lessor of a mining lease shall pay royalty in respect of any mineral removed or consumed from the leased area at the specified rates.

In this background, the question arises whether 'royalty' determined under Sections 9 of the MMDR Act, 1957 is in the nature of tax or not. The 7-Judge Bench of Hon'ble Supreme Court in the judgement of *India Cement Ltd. v. State of Tamil Nadu*, held that royalty is tax, and the state legislatures lack competence to levy taxes on mineral rights. Subsequently, a 5-Judge Bench of Hon'ble Supreme Court in the judgement of *State of West Bengal v. Kesoram Industries Ltd* clarified that royalty was not in the nature of tax but a payment made to the owner of land for rights of extracting minerals. It was further held that the decision in *India Cements* contained a typographical error due to which the expression "cess on royalty is a tax" was erroneously printed as "royalty is a tax" and therefore cannot be relied upon. Thus, the State Governments also began charging royalty against the mineral rights and also imposed additional cess on the royalty. Therefore, the Batch of Petitions were referred to a 9-Judge Bench of the Hon'ble Supreme Court wherein one of the questions of law framed was whether Royalty determined under MMDR Act, 1957 is in the nature of tax or not.

Order of the Hon'ble Supreme Court:

The Hon'ble Supreme Court observed that the MMDR Act, 1957 deals with general restrictions on undertaking prospecting and mining operations. Section 9 of the

MMDR Act, 1957 deals with royalties in respect of mining leases. Royalty is generally understood as compensation paid for rights and privileges enjoyed by the grantee. Taxes are compulsory monetary burdens or charges imposed by legislative power upon persons, or property to raise revenues. The fact that the rates of royalty are prescribed under Section 9 of the MMD Act does not make it a "compulsory exaction by public authority for public purposes.

The compulsion to pay royalties stems from the contractual conditions of the mining lease agreed between the lessor and lessee. The demand is not made by a public authority, but the lessor (which can either be the State Government or a private party). The payment is not for public purposes, but a consideration paid to the lessor for parting with their exclusive privileges in the minerals.

Therefore, Hon'ble Supreme Court in the majority ruling inter alia held that Royalty is not a tax. Royalty is a contractual consideration paid by the mining lessee to the lessor for enjoyment of mineral rights. The liability to pay royalty arises out of the contractual conditions of the mining lease. The payments made to the Government cannot be deemed to be a tax merely because the statute provides for their recovery as arrears.

This ruling is set to impact the pending petitions challenging the levy of GST on royalty and/or cess on royalty against mineral rights.

[Mineral Area Development Authority. Vs. Steel Authority of India & Anr, dated 25.7.2024 by the Hon'ble Supreme Court.](#)

Whether proceedings can be initiated against a company in its erstwhile name after amalgamation?

Facts and Pleadings:

M/s. Trelleborg Sealing Solutions (India) Private Limited ('erstwhile entity') and M/s. Trelleborg Industrial Products Private Limited amalgamated vide a Scheme of Amalgamation approved by National Company Law Tribunal (NCLT). The amalgamation resulted in formation of new company by the name and style- Trelleborg India Private Limited ('assessee'). An application for cancellation of registration of the erstwhile entity- M/s. Trelleborg Sealing Solutions (India) Private Limited was filed by the assessee. The effective date of cancellation of registration was stipulated as 29.11.2021. The assessee also intimated the GST Department about the scheme of amalgamation and cancellation of registration of erstwhile entity.

However, almost after a year of cancellation of GST registration, a show cause notice was issued in the name of the erstwhile entity- Trelleborg Sealing Solutions (India) Private Limited.

The assessee contended that such proceedings initiated against a non-existent entity in spite of intimating the department are bad in law.

The Department contended that pursuant to amalgamation, the demand is transferred to the amalgamated entity.

The assessee filed a writ petition before the Hon'ble Karnataka High Court challenging the impugned show cause notices issued in the name of erstwhile entity.

Order passed by the Hon'ble High Court:

The Hon'ble High Court observed that the show cause notices have been issued to M/s. Trelleborg Sealing Solutions (India) Private Limited which was no more in existence. The Hon'ble High Court further observed that

the assessee had communicated the said fact about the amalgamation of companies and cancellation of the GST registration of the erstwhile entity to the Department in writing. The Hon'ble High Court followed the judgment of the Hon'ble Supreme Court in *Principal Commissioner of Income Tax, New Delhi v. Maruti Suzuki (India) Limited reported in (2020) 18 SCC 331*, wherein it was held that once an amalgamating entity ceases to exist upon approved Scheme of Amalgamation, continuing the proceedings as regards the non-existent Company cannot be permitted. Accordingly, the Hon'ble High Court allowed the petitions of the assessee and set aside the impugned show cause notice.

M/s Trelleborg India Private Limited Versus State of Karnataka dated 2.7.2024 by the Hon'ble Karnataka 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. 80P - Co-operative society - Disallowance of deduction by way of adjustment under section 143(1)**

Facts:

Assessee-society filed its return of income for relevant assessment year. Such return was processed under section 143(1), wherein AO disallowed assessee's claim of deduction under section 80P. CIT(A) confirmed the order of AO. Assessee contended that for assessment year under consideration, no such adjustment was permissible under section 143(1)(a), which could be only made from 1-4-2021 as per substituted section 143(1)(a)(v) by Finance Act, 2021.

Held:

Prior to amendment in deduction under section 143(1)(a)(v) by Finance Act on 1-4-2021, disallowance of deduction was limited to sections 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID

and 80-IE. Thus, deduction claimed under section 80P was not mentioned there. Thus, CIT(A) erred in interpreting the amendment. Hence, the impugned adjustment was not sustainable being impermissible under section 143(1)(a)(v).

Dayalbagh Cooperative Chrome Leather Tanneries Ltd. v. Dy. CIT [ITA No. 164/AGR/2022 dated 24/01/2024] [AY 2018-19]

2. **S. 80GGA - Denial of deduction on allegation of bogus donation to charitable trust - Subsequent withdrawal of notification under section 35AC**

Facts:

Assessee claimed deduction under section 80GGA in respect of donation made to a charitable trust, namely, 'N'. AO received information that 'N' accepted donations in cheques, which were later on returned in cash to donors after deducting commission and assessee was one of such beneficiaries.

Accordingly, AO denied deduction claimed under section 80GGA, which was upheld by CIT(A). Assessee submitted that 'N' was approved as an eligible trust under section 35AC vide Notification, dated 12-1-2009 issued by the Ministry of Finance for three financial years and thereafter, such approval was extended for a further three years vide Notification dated 27-4-2011, which was in force when he made the donation. Assessee further submitted that the said notification was subsequently withdrawn, however, the deduction under section 80GGA could not be denied merely on the basis of subsequent withdrawal of notifications under section 35AC.

Held:

From perusal of Explanation to section 35AC(2) as well as Explanation 1 to section 80GGA(2)(bb), it was evident that legislature has specifically provided that subsequent withdrawal of approval granted to association or institution or subsequent withdrawal of notification notifying the eligible project or scheme, cannot be the sole basis for disentitling the assessee to claim deduction in respect of payment made to the said association or institution. In the instant case, at the time of making of donation by assessee to 'N', 'N' was duly approved under section 35AC. Since the relevant provisions of Act applicable to instant case, specifically debar denial of deduction claimed by the assessee merely on the ground of subsequent withdrawal of approval or notification under section 35AC; there was no merit in denial of deduction under section 80GGA. Further, even though Revenue claimed that the assessee had been involved in bogus transactions of accommodation entries, however, denial of deduction was made merely

on the basis of subsequent withdrawal of notification under section 35AC. Accordingly, the impugned order upholding the denial of deduction claimed under section 80GGA was set aside.

Rabi Narayan Bastia v. Dy. CIT [ITA No. 2115/Mum/2023 dated 20/12/2023] AY 2010-11

3. S. 69A - Addition on account of cash deposit during demonetization period

Facts:

Assessee deposited cash in his bank account. AO made addition as unexplained money under section 69A. Assessee claimed that the deposits were sourced out of sale proceeds of agricultural produce.

Held:

Considering the source of income of assessee i.e. agricultural income, cash in hand to extent of Rs. 4 Lacs out of past year savings and out of current agricultural income can safely be held to be available with him for sourcing the cash deposits in his bank account during the demonetization period. There was substance in the claim of assessee that as the government had demonetized the currency, therefore, it was for the said reason that he was compelled to deposit the demonetized currency available with him in his bank account, which, thus, justified the change in trend concerning the cash deposits in his bank account as in comparison to the earlier year.

Sunil Solanki v. Income Tax Officer [ITA No. 95/RPR/2024 dated 08/04/2024] AY 2017-18

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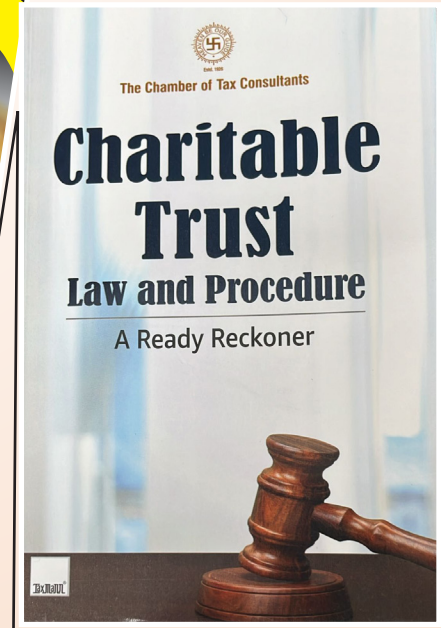
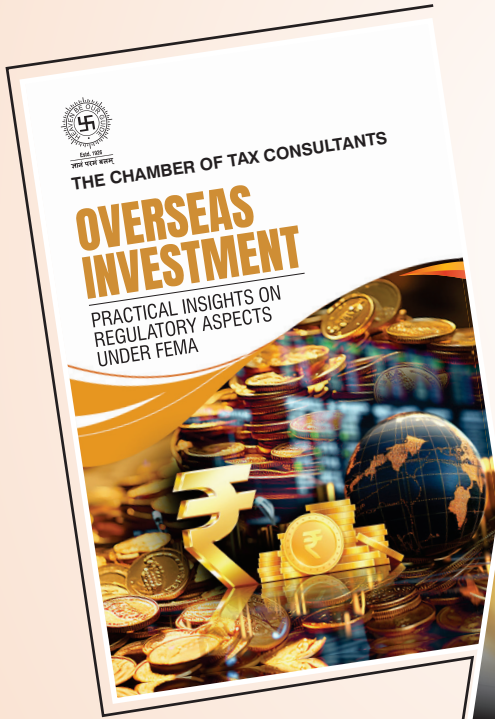
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