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ज्ञानं परमं बलम्

# THE CTC NEWS

Monthly Newsletter of The Chamber of Tax Consultants

(For Private Circulation - Members Only)

SEPTEMBER  
2024



HAPPY  
*Ganesh* CHATURTHI

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

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**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 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](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



**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

**48<sup>th</sup> Residential Refresher Course**

**Venue: Mayfair Lake Resort, Raipur**

**Thursday, 6th March 2025 to Sunday, 9th March 2025**

Dear Colleagues,

*“Wisdom is not a product of schooling but of the lifelong attempt to acquire it.”*  
 – Albert Einstein

The dynamic nature of Tax Laws necessitates ongoing learning and a fresh perspective to their application. The 48th Residential Refresher Course is an invaluable opportunity to enhance our understanding, refine our expertise, and foster meaningful connections with our peers. This event is designed to help us grow both professionally and personally, ensuring we remain at the forefront of our field. It’s more than just an educational experience—it’s about growing together as a community of tax professionals.



At the 48th RRC, we are focussing on topics which are going to enable the delegates to strengthen their foundations, allow them to stay updated with the recent amendments and consider the impact of direct taxes as well as indirect taxes, on transactions of immovable properties. We intend to take the focus to Accruals of income, Source of income, Residency and other related provisions, Case Studies on recent amendments to capital gains, and other live topics, and bring the views of Panellists on the Direct Tax and Indirect Tax impact on taxation of Immovable Properties. The RRC will be held from **6th March 2025, Thursday to 9th March 2025, Sunday at the Mayfair Lake Resort, Raipur.**

We cordially invite Lawyers, Chartered Accountants, and Tax Professionals from diverse industries to attend this outstanding conference in great numbers. We highly urge younger members to actively participate in this exceptional event, as it provides them with a tremendous chance to acquire knowledge, establish connections, and develop their skills alongside experienced experts.

We would like you to mark your calendars today and look forward to welcoming you. Registration for conference programme will commence from 5th September, 2024.

**About the Venue**

- Nestled beside the pristine Janjh Lake, the Mayfair Lake Resort offers a serene and luxurious environment, perfect for a productive and relaxing experience.
- The resort features modern amenities, including a wellness spa, swimming pool, and various recreational activities.
- Houses 178 plush rooms including 10 lavish suites.
- Its proximity to Janjh Lake, the Swami Vivekananda Airport, and other notable landmarks like the Naya Raipur Musical Fountain and Nandavan Jungle Safari make it an ideal location.



## RRC Itinerary

Topics	Speakers
<b>Papers for Discussion:</b>	
<ul style="list-style-type: none"> <li>Case Studies in Direct Taxation (Covering Recent Amendments to Capital Gains and other Live Topics)</li> </ul>	CA Abhitan Mehta
<ul style="list-style-type: none"> <li>Foundational Tax Concepts: A Focus on Sections 4, 5, 6 &amp; 9 of the Income Tax Act, 1961</li> </ul>	CA H. Padamchand Khincha
<ul style="list-style-type: none"> <li>Tax Terrain of Real Estate: Direct and Indirect Dimensions in Panel Discussion Format</li> </ul>	<b>Panelists:</b> Mr. Tushar Hemani, <i>Sr. Advocate</i> Mr. Bharat Raichandani, <i>Advocate</i>  <b>Moderator:</b> Mr. Dharan Gandhi, <i>Advocate</i>
<b>Paper for Presentation:</b>	
<ul style="list-style-type: none"> <li>Compliance, Concessions, and Corrections: Inside Sections 139, 119, &amp; 264</li> </ul>	CA Shailesh Bandi
<b>Brains' Trust</b>	Mr. Saurabh Soparkar, <i>Sr. Advocate</i> & <i>Eminent Faculty</i>

### Fees structure for Residential Participants is under:

#### Early Bird - upto 20th October, 2024:

		Cosy Club Rooms*	Spacious Executive Rooms*	Cosy Club Rooms*
		Double Occupancy	Double Occupancy	Single Occupancy
<b>Members</b>	Fees	₹ 22,500	₹ 24,000	₹ 38,000
	+ GST	+ ₹ 4,050	+ ₹ 4,320	+ ₹ 6,840
	= Total	= ₹ 26,550	= ₹ 28,320	= ₹ 44,840
<b>Non-Members</b>	Fees	₹ 24,500	₹ 26,000	₹ 40,000
	+ GST	+ ₹ 4,410	+ ₹ 4,680	+ ₹ 7,200
	= Total	= ₹ 28,910	= ₹ 30,680	= ₹ 47,200

#### After Early Bird - 21st October, 2024 onwards:

		Cosy Club Rooms*	Spacious Executive Rooms*	Cosy Club Rooms*
		Double Occupancy	Double Occupancy	Single Occupancy
<b>Members</b>	Fees	₹ 24,000	₹ 25,500	₹ 39,500
	+ GST	+ ₹ 4,320	+ ₹ 4,590	+ ₹ 7,110
	= Total	= ₹ 28,320	= ₹ 30,090	= ₹ 46,610
<b>Non-Members</b>	Fees	₹ 26,500	₹ 28,000	₹ 42,000
	+ GST	+ ₹ 4,770	+ ₹ 5,040	+ ₹ 7,560
	= Total	= ₹ 31,270	= ₹ 33,040	= ₹ 49,560

\* Single Occupancy only available in Club room category.

\* Club Rooms are of 520 sq ft & Executive Rooms are of 750 sq ft.

\* Only 50 Club rooms are provided by the hotel. These will be allocated on first come basis only.

### Near-by Attractions:

#### Nandavan Zoo

Spread over 800 acres of land, the zoo was built with the objective of breeding and conserving endangered species. With 32 species, the zoo is populated with tigers, lions, hyenas, leopards, birds, reptiles and other herbivore animals. There were also 55,000 saplings that were planted around the zoo, making it appear like a blanket of greenery.

#### Mahamaya Temple

An 11th century shrine in Raipur, the Mahamaya Temple is located in the old fort area on Kharoon riverbank. The shrine is dedicated to Goddess Durga and is thus visited by a large number of devotees at the time of Navratri and Durga Puja. Idols of Mahakali, Bhadrakali, Lord Shiva, Lord Hanuman, Lord Vishnu and Lord Hanuman are also installed within the temple complex. Attending the daily puja at this shrine can be a serene experience for the religious.

#### Doodhadhari Monastery and Temple

The beautiful Doodhadhari Monastery and Temple is located along the ancient Maharajbandh River. The temple was built during the 17th century and is dedicated to Lord Rama. It houses a number of stunning murals which you can admire while exploring the complex and the river it overlooks. The temple shares its space with a monastery dedicated to Swami Balbhadra Das, who only survived on milk and no grains. This is also how the monastery gets its name and popularity.

#### Ghatarani Waterfalls

Located 85 km from the city of Raipur is Ghatarani Waterfalls, the largest in the state of Chattisgarh. Surrounded by lush greenery, this breathtaking sight is a popular picnic spot. A small trek through a forest would lead you to this beautiful natural beauty. The revered Jatmai Temple which draws a number of pilgrims is also located here

#### Notes:

1. The above fee for the conference includes course material, Sight Seeing (subject to confirmation), accommodation, meals during the entire conference including lunch on Sunday.
2. The Check in Time at Hotel: Thursday, 6th March 2025 at 2.00 p.m. The members who reach prior to check in time can proceed for lunch to be served from 12 noon onwards. Participants reaching early can enjoy the activities at the property. Check out time will be 12 noon on 9th March 2025.
3. Considering there are limited nos. of rooms available, **participants must note that registrations will be subject to first-cum basis and availability of rooms.**

4. The Hotel is situated in the midst of a lake and is surrounded by greenery on all sides. Being so close to the nature, there are bound to be certain mosquitoes / insects in the common area. Members may take necessary precautions for the same.
5. Sessions on Day 1 (Thursday, 6th March 2025) will start at 3 p.m sharp. Participants are requested to make their travel arrangements accordingly. Airport pick up and drop facilities are **PRESENTLY NOT** available.
6. The conference will conclude on Day 4 (Sunday, 9th March 2025) at 12.00 noon.
7. Participants need to provide the scanned copies of ANY ONE of the following along with their registrations: a. Aadhar card / Driving Licence / Voters ID / Passport; b. Universal pass / double vaccination certificate.
8. In case of cancellation, member is requested to nominate someone to attend the RRC, no refund request shall be entertained, except under genuine unavoidable circumstances, subject to the approval of RRC Committee.
9. For Delegates travelling from Mumbai, the following are the travel options:
  - a. There are two direct flights from Mumbai to Raipur on Thursday. There are two direct flights from Raipur to Mumbai on Sunday. The Hotel is 11 km from the Airport
  - b. There is also an option to travel via rail. There is a Howrah Duronto (Train No. 12261). From Raipur railway station the Hotel is about 27 km
10. For enrolment and any other conference related enquiry, pl contact:

Conference Directors
Mr. Darshak Shah on 9920226360 or
Mr. Vishal Shah on 9819593006 or
Mr. Hitesh Shah, Chief Manager on 9821889249 / 7977258507





**Pune Study Group**

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

**Pune Study Group Meeting on Changing Horizons of Fiscal and Criminal Laws and it's Interplay (Physical Mode)**

**Sunday, 8th September, 2024**

10.30 am to 12.30 pm

**Speaker :** CA & Advocate Sagar Tilak

**Venue :** Bhvisa Sabhagruha, Perugate Bhawe Highschool Parisar, Limaye Wadi, Sadashiv Peth, Pune 411030

The Pune Study Group of The Chamber of Tax Consultants (CTC) has organised a Study Group Meeting on **“Changing Horizons of Fiscal and Criminal Laws and it's Interplay”** scheduled on **8th September, 2024.**

**Coverage** – Practical scenario in Fiscal Laws such as Income Tax Act, Benami Act and Black Money Act with Criminal Laws including PMLA, and other related laws. Sharing of practical experience while representing before ED and SFIO, etc.

**Participation Fees**

**For Pune 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.**

Looking forward to your active participation.

**Study Circle & Study Group**

**Chairman:** Dipesh Vora

**Vice-Chairman:** Dinesh R. Shah

**Ex-Officio:** Vijay Bhatt, Jayant Gokhale

**Advisor:** Ashok Sharma

**Convenors:** Parth Sanghvi, Ritu Punjabi

**Study Circle Meeting on Issues in Tax Audit (Hybrid Mode)**

**Tuesday, 10th September, 2024**

6.00 pm to 8.00 pm

**Speaker :** CA Mahendra Sanghvi

Dear Member,

The Study Circle and Study Group Committee of the Chamber of Tax Consultants is pleased to announce Study Circle Meeting on “Issues in Tax Audit”. Eminent Speaker CA Mahendra Sanghvi has agreed to lead the discussion.

**Participation Fees**

**For Study Circle Members**

NIL

**CTC Members**

₹ 200/- + ₹ 36/- (GST) = ₹ 236/-

**Non-Members**

₹ 400/- + ₹ 72/- (GST) = ₹ 472/-

**Participation Fees to be paid online on the website**

**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.

Looking forward for your active participation.

## Study Circle & Study Group

**Chairman:** Dipesh Vora

**Vice-Chairman:** Dinesh R. Shah

**Ex-Officio:** Vijay Bhatt, Jayant Gokhale

**Advisor:** Ashok Sharma

**Convenors:** Parth Sanghvi, Ritu Punjabi

## Study Circle Meeting on “Audit Report in case of Charitable Trust Form 10B and 10 BB and Filing of Income Tax Return – Form ITR 7” (Hybrid Mode)

**Saturday, 14th September, 2024**

11.00 am to 1.00 pm

**Group Leader :** CA Deven Shah

**Chairman :** CA Vipin Batavia

The Study Circle and Study Group committee of The Chamber of Tax Consultants has organised a Study Circle Meeting on “Audit Report in case of Charitable Trust Form 10B and 10 BB and Filing of Income Tax Return – Form ITR 7” (Hybrid Mode) which is scheduled on September 14, 2024. The details are as follows.

### Participation Fees

	Physical	*	Virtual
<b>Study Circle member</b>	NIL	#	NIL
<b>Others</b>	₹ 200/- + GST	\$	NIL

\* Limited Capacity on First-come-first-serve basis

# Please call or email us at CTC office and register your name for physical participation. Call on 2200 1787 / 2209 0423 or Email at [events@ctconline.org](mailto:events@ctconline.org).

\$ To be paid at the venue

### Participation Fees to be paid online on the website

**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.**

**Looking forward for your active participation.**

## Important Decisions under GST and Service Tax Laws

By Vinay Kumar Jain and Jay Chheda, *Advocates*

### Whether the GST proceedings which were initiated by State Tax Department can be taken over by DGGI vide an administrative Order?

#### Facts and Pleadings:

M/s Slatwart Alloys Private Limited ('Petitioner') is a company operating in the State of Haryana.

Enquiry was initiated by the Haryana State Tax department as well as Directorate General of Goods and Service Tax, Meerut Zonal Unit pertaining to alleged wrongful availment of Input Tax Credit (ITC) for a period from July 2017 to December 2018. The Petitioner filed Writ Petition before the Punjab and Haryana High Court being aggrieved due to parallel proceedings. The Hon'ble High Court ordered the State Tax Department to proceed further with the investigation. The State Tax Department requisitioned records up to January 2021 from the Petitioner which were duly submitted by the Petitioner.

Thereafter, the DGGI initiated investigation for subsequent period - July 2019 to January 2021 and called for certain documents. The DGGI accorded permission to the office of the DGGI, Meerut Zonal Unit to conduct the centralized investigation against the Petitioner from July 2019 to January 2021. Accordingly, the State Tax Department transferred the proceedings pertaining to the petitioner company to the DGGI, Meerut Zonal Unit for the period from July 2019 to January 2021.

Aggrieved, the Petitioner filed a Writ Petition before the Punjab and Haryana High Court challenging the transfer of proceedings from State Tax Department to DGGI or the period from July 2019 to January 2021.

The Petitioner contended that Section 6(2)(b) of the HGST Act stipulates that once a State Tax Officer has initiated proceedings on a subject matter, no other officer can initiate or take over proceedings on the same subject matter. Thus, the Petitioner claimed that the investigation conducted by the DGGI, Meerut Zonal Unit, was unwarranted and contrary to law. The Revenue contended that the transfer of proceedings to the DGGI, Meerut Zonal Unit, was justified, as the DGGI has PAN-India jurisdiction and can investigate cases involving the fraudulent availment of ITC across different states. Further, it was also contended that the investigation is carried out for separate periods- i.e. up to 2019 by the State Tax Department and post 2019 by the DGGI.

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

The Hon'ble High Court held that once a proper officer under the State GST Act has initiated proceeding on a subject matter, no other officer can initiate or take over the proceedings on the same subject matter as per Section 6(2)(b) of HGST Act, 2017. The Hon'ble High Court rejected the argument regarding PAN-India jurisdiction of DGGI, stating merely having information about similar alleged fraudulent ITC claim in other State does not empower the DGGI to take over the ongoing proceedings initiated by the State Tax Department. The Hon'ble High Court observed that any findings or evidence gathered by DGGI could still be shared with the State authorities for further action for the periods post 2019. The Hon'ble High Court thus held that the transfer of proceedings from the State Tax Department to the DGGI was contrary to the statutory scheme of the GST Act, which does not warrant any such transfer of jurisdiction.

It was also observed that the word 'subject matter' used in Section 6(2)(b) of CGST Act, 2017 would mean 'the nature of proceedings'. Thus, if the State has already initiated proceedings by issuing notice under Section 74 of the Act for the period up to 2019 for alleged fraudulent availment of ITC, the DGGI cannot be allowed to initiate proceedings for the same subject matter. The Hon'ble High Court emphasized that the State and Central Authorities should act in consonance with each other and Central Government should not override the jurisdiction of the State GST Departments and thus the judicial proceedings cannot be transferred by an administrative action.

The Hon'ble High Court allowed the Petition and held that the transfer of proceedings from State Tax Department to the DGGI was not sustainable in law.

### Stalwart Alloys India Private Limited Vs Union of India dated 28.8.2024 (Punjab and Haryana High Court)

### Whether the Limitation Act, 1963 can extend the statutory period of filing appeal before Commissioner (Appeals) under section 107 of the CGST Act, 2017?

#### Facts and Pleadings:

The Petitioner preferred a Writ Petition before the Hon'ble Andhra Pradesh High Court being aggrieved by the dismissal of appeals filed before the Ld. Commissioner (Appeals) under section 107 of the CGST Act, 2017 on the ground that the appeals filed were barred by limitation.

It was contended by the Petitioners that even though Section 107(4) of the CGST Act, 2017 empowers the appellate authority to permit condonation of delay for a period of one month beyond the statutory period of three months or six months provided under Section 107(1) and (2), the provisions of Section 29(2) of the Limitation Act, 1963 would permit the appellate authority to condone the delay beyond the period provided under Section 107 (2) or (3). The Petitioners relied on various judicial precedents to contend that the provisions of the Limitation Act are applicable to special laws unless expressly excluded by such laws. The Petitioners also contended that the denial of right to appeal due to a technical limitation period would result in a miscarriage of justice and that the legislative intent behind the CGST Act does not expressly exclude the application of the Limitation Act, thereby implying that the appellate authority should have the power to condone delays beyond the statutory limit.

The Revenue contended that the GST Law is a special statute with its own set of rules and timelines that specifically govern tax-related disputes. Further, it was contended that Section 10 of the CGST Act, 2017 clearly prescribes a limitation period for filing appeals, which includes a provision for a maximum of one month's extension beyond the three-month period, and this is the only period within which appeals can be filed. Section 29(2) of the Limitation Act, 1963 does not apply because the CGST Act, 2017 implicitly excludes the applicability of the Limitation Act by setting a clear and definitive period for appeals. Accordingly, extending the appeal period beyond what is stipulated in the CGST Act, 2017 would contravene the intent of the legislature and disrupt the timelines for tax dispute resolution.

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

The Hon'ble High Court after analyzing various judgments and Sections of both Goods and Service Act and Limitation Act, 1963 stated GST being a special law and has its own procedures and timelines and governs matter with its own guidelines.

Reliance was inter alia placed on the decision of the Supreme Court rendered in the context of pre-GST regime in Singh Enterprises Vs. Commissioner of Central Tax wherein it was held that specific provisions for condonation in Section 35 of the Central Excise Act prevail over the Limitation law. The time limits provided in the Central Excise Act are strict and cannot be extended by invoking Section 5 of the Limitation Act. This implies that beyond the additional 30 days allowed by the proviso to Section 35, no further extension can be granted, even if "sufficient cause" is shown.

The Hon'ble High Court held that section 107 of the CGST Act, 2017 which deals with appeals against orders passed under the Act, which provides that an appeal can be filed within three months or six months from the date of the communication of order. If the appellant fails to file an appeal within the stipulated time of Section 107, the Appellant authority can condone the delay for a period of one month if the authority is satisfied that the delay was due to genuine causes. The law of limitation cannot further extend the timelines prescribed under the GST law.

Accordingly, the High Court dismissed the Petitions and held that the Appellate authority under Section 107 would not have any power to condone the delay in filing an appeal beyond the prescribed period.

Venkateswara Rao Kesanakurti vs The State Of Andhra Pradesh dated 23.8.2024 (Andhra Pradesh 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. 115BBE - Unaccounted stock declared during survey - Excess stock being part of total business stock

#### Facts:

Assessee was engaged in manufacturing of confectionery and related items like candies, wafers, jellies, etc. During survey, assessee declared/

surrendered income of ₹ 1,20,49,234 on account of excess stock. AO held that the income offered by the assessee on account of excess stock was liable to be taxed under section 115BBE. CIT(A) held that section 115BBE was not applicable and income offered by assessee is business income and liable to be taxed under the head 'Income from Business or profession'.

**Held:**

Alleged excess stock was not kept separately at any other place and was part of the total business stock found at assessee's business premises and thus alleged investment in excess stock was part of the business income and, therefore, could not be treated as deemed income under section 69 or 69B liable for taxation under section 115BBE.

**ACIT (Central) Ujjain Vs. M/s. Italian Edibles Pvt. Ltd [ITA No. 219/IND/2022 dated 19/12/2023] [AY 2019-20]**

**2. S. 68 - Unexplained loan –Burden of Proof - Assessee submitted primary documents establishing identity and creditworthiness of creditor and genuineness of loan:**

**Facts:**

Assessee was asked to file details of loans taken during the year. Assessee submitted details of loan taken from one 'A' along with A/c confirmation, copy of bank A/c and PAN of creditor. However, assessee failed to produce copy of ITR of creditor. Then, AO made enquiry about 'A', wherein it was found that he did not file any return. Thus, AO was of the view that creditor being a non-filer of return, bank A/c was opened for the purpose of giving unsecured loan only and assessee did not make any repayment of loan. Accordingly, he held that assessee failed to prove identity and creditworthiness of creditor and genuineness of transaction and made addition under section 68 on account of unexplained loan. Assessee contended that despite submission of primary documents, if at all AO had any doubt, he could have conducted necessary enquiry from creditor directly, which he failed to do.

**Held:**

Assessee filed three documents, namely, A/c confirmation, bank pass-book and PAN card, which were un-disputably accepted by both AO and CIT(A). The A/c confirmation was duly signed by creditor and contained full address as well as PAN of creditor.

Thus, identity of creditor was duly proved. Further, bank pass-book clearly showed that creditor received certain amount through clearing and loan was given to assessee out of it. Therefore, capacity/ creditworthiness of creditor was proved. Further, genuineness of loan was also established by bank pass-book, which clearly reflected that loan was taken through banking channel and there was no involvement or flow of cash. Thus, all the elements of section 68 were satisfied. Hence, assessee discharged primary burden cast upon him and still if AO was not satisfied, he ought to have made enquiry from creditor. However, he had not done any such enquiry and fastened tax liability upon assessee without any basis. Hence, the impugned addition was deleted.

**Naresh Navlani Vs. DCIT/ACIT, (Central Circle)-2, Indore.**

**[ITA No. 391/IND/2022 dated 18/08/2023] AY 2019-20**

**3. S. 37(1) – Business expenditure - Allowability of RoC filing fees paid for increase in share capital:**

**Facts:**

Assessee was partner in two Partnership Firms which were converted into Private Limited Companies under Part-IX of the Companies Act, 1956 and both the companies were amalgamated with assessee company in the year under consideration. Due to such business re-organization, the authorized share capital of the company was increased and assessee claimed deduction of RoC filing fees paid for increase in share capital. AO disallowed assessee's claim.

**Held:**

Expenditure incurred by the assessee was directly connected with increase in authorized capital and such expenditure being a capital in nature, could not be allowed as deduction.

**Sun Pharma Laboratories Ltd. Vs. The DCIT, Circle-2(1) (1), Vadodara**

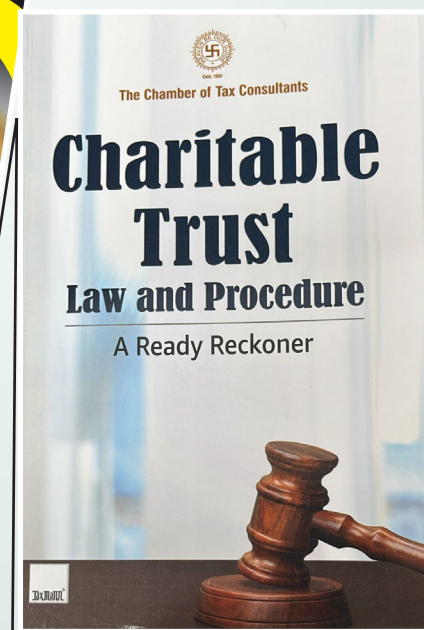
**[ITA No. 1464,1465,1521,1522/AHD/2018 dated 06/10/2023] AY 2013-14, AY 2014-15**

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