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# THE CTC NEWS

Monthly Newsletter of The Chamber of Tax Consultants

(For Private Circulation - Members Only)

**FEBRUARY 2025**

**YOU ARE THE  
CREATOR OF YOUR  
OWN DESTINY  
SWAMI VIVEKANANDA**

## CONTENTS

Sr No.	Date	Committee	Programme Description	Pg. No.
1	21-02-2025	Accounting & Auditing	Lecture meeting on "SA 600 Revised Special Considerations – Audit of group financial statements (including the work of Component Auditors)" (Virtual Mode)	3
2	10, 14, 15-02-2025	–	The 8th Dastur National Debate Competition	4
3	01-03-2025	International Taxation & Commercial & Allied Laws	Gujarat International Finance Tec-City (GIFT CITY) – Demystifying Tax and Regulatory Insights (Virtual Mode)	5
4	28-02-2025	Accounting & Auditing	Lecture Meeting on Key Learnings from Recent NFRA orders (Virtual Mode)	6
5	13-02-2025	Indirect Taxes Committee	Indirect Taxes Study Circle Meeting on Important budget proposals, elaborate discussion on its impact on ISD vs cross charge and Safari Retreat judgement (Virtual Mode)	7
6	22-02-2025	International Taxation Committee	One Day Conference on Practical issues under FEMA [Physical Mode only]	8
7	25-02-2025	International Taxation Committee	International Taxation Study Circle Meeting on Value Chain Analysis ('VCA') and Operational Transfer Pricing ('OTP') [Virtual Mode]	9
8	–	–	Important Decisions under GST and Service Tax Laws	10
9	–	–	Unreported Tribunal Decisions	12
10	–	–	Publications By The Chamber	13

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**Accounting & Auditing Committee****Chairman** : Tejas Parikh**Vice-Chairman** : Yogesh Amal**Ex-Officio** : Vijay Bhatt, Jayant Gokhale**Convenors** : Deepak K. Shah,

Prashant Daftary

**Advisor** : Nilesh Vikamsey**Lecture meeting on “SA 600 Revised Special Considerations – Audit of group financial statements (including the work of Component Auditors)” (Virtual Mode)****Friday, 21st February, 2025**

5:00 p.m. - 6:30 p.m.

**Speaker** : Mr. Milan Mody

The accounting and auditing committee of The Chambers of Tax Consultants is pleased to announce a virtual lecture meeting on the topic of “SA 600 Revised Special Considerations -Audit of group financial statements (including the work of Component Auditors) “.

The revisions proposed in SA 600 are highly significant for auditing professionals and corporates as they introduce new guidelines and standards which are aligned with the international auditing standards. The revised standards significantly enhance the responsibility of the group auditors, particularly concerning the reliance on the work of the component auditors. Understanding these changes is crucial for ensuring compliance and maintaining the integrity of audit processes.

National Financial Reporting Authority has issued this revised standard which would be effective 1st April 2026 subject to notification by MCA.

This virtual meeting organised by the accounting and the auditing committee will provide an in-depth understanding of the recent revisions to SA 600, circular issued by NFRA in this regard and their implications on audit practice

**Zoom Registration Link : [CLICK HERE](#)**

After registering, you will receive a confirmation email containing information about joining the webinar. We encourage all members to attend this informative session and gain valuable insights into the revised standards.

## Student Committee

Chairperson : Niyati Mankad  
Vice-Chairperson : Charmi A. Shah, Charmi G. Shah  
Ex-Officio : Vijay Bhatt, Jayant Gokhale  
Convenors : Kimi Nagda, Shreyas Sanghavi | Advisor: Ajay Singh



## 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 : ctcd Debatecompetition@gmail.com | Visit us at: www.ctconline.org



## H. R. College of Commerce and Economics

Vidyasagar Principal K.M Kundnani Chowk,  
123 Dinshaw Vaccha Road,  
Churchgate, Mumbai 400 020



# The 8<sup>th</sup> Dastur National Debate Competition

Monday, 10th February 2025 | Friday, 14th February 2025 | Saturday, 15th February 2025

The Chamber of Tax Consultants in Association with H. R. College of Commerce and Economics is Pleased to Announce its Eighth Debate Competition.

## ABOUT THE COMPETITION

Debate is the art of dialectic, placing questioning, reasoning, critical thinking, and logic at the heart of intellectual engagement. These skills are integral to a great education and foster academic and social success.

The 8th Dastur National Debate Competition aims to inspire students to think critically and bring forth innovative perspectives. The virtual format ensures participation from colleges and firms across India, broadening the competition's reach.

## DETAILS OF THE COMPETITION:

### A. Eligibility Criteria for Debate Competition:

- (1) Each team must comprise of two student participants.
- (2) Student participants should be under the age of 24 years.
- (3) Participants must be enrolled as students in a law or commerce college.
- (4) Participants can represent their college or any CA, Law, or CS firm.
- (5) Participants must not hold any professional qualifications such as CA, LL.B., CS, ICWA, etc.

#### Note/ Clarification:

- (a) CA/CS Article Assistants are allowed to participate.
- (b) CA/ CS/ Law Firm, including proprietary concern or individual professional can send a team of 2 students.
- (c) **Enrolment is restricted to a First-Come-First-Served-Basis.**

### B. Schedule of the Competition:

**Monday, 10th February, 2025 - 12:00 noon**

Pre-event / Orientation, etc. [to brief participants about the event and to assign the topics at 12 noon on a virtual e-platform.]

**Friday, 14th February, 2025 - 9.00 a.m. – 6.00 p.m.**  
Preliminary Rounds

**Saturday, 15th February, 2025 - 9.00 a.m. – 6.00 p.m.**  
Quarter Final, Semi Final Round and Final Round

### C. Registration details:

Interested students may send their enrolment along with participation details on [ctcd Debatecompetition@gmail.com](mailto:ctcd Debatecompetition@gmail.com) or before **Saturday, 8th February, 2025**



- Trophies, Certificates & Prize Vouchers for the winning team, 1st and 2nd runner-up teams.
- Trophy & Certificate for the Best and 2nd Best Speaker
- Physical Certificates of Participation for all participants.

**1<sup>st</sup>** Prize worth  
₹ 7,500/-

**2<sup>nd</sup>** Prize worth  
₹ 5,000/-

**3<sup>rd</sup>** Prize worth  
₹ 2,500/-



**Click Here**

For Rules & Regulations please visit our website [www.ctconline.org](http://www.ctconline.org) or call on CTC Office: 2200 1787 / 2209 0423 / 2200 2455 or HR College: Ms. Trisha Dutta - 7738907722 / Ms. Tanvi K - 9004111381

## International Taxation Committee

**Chairperson:** Karishma Phatarphekar  
**Co-Chairman:** Shabbir Motorwala  
**Vice-Chairman/Vice-Chairperson:**  
 Namrata Dedhia, Niraj Chheda  
**Ex-Officio:** Vijay Bhatt, Jayant Gokhale  
**Convenors:** Chaitanya Maheshwari, Monica Wadhani,  
 Tanvi Vora, Vishal D. Shah

## Commercial & Allied Laws Committee

**Chairperson:** Mallika Devendra  
**Vice-Chairman:** Raj Kapadia  
**Ex-Officio:** Vijay Bhatt, Jayant P. Gokhale  
**Past Chairman:** Dharan Gandhi  
**Convenors:** Abhishek Tilak, Parth Patani, Rajen Gada

## Gujarat International Finance Tec-City (GIFT CITY) – Demystifying Tax and Regulatory Insights (Virtual Mode)

**Saturday, March 1, 2025**

10.00 am to 6.00 pm

India's emergence as a preferred destination for foreign investment which has been further accelerated by the rapid growth and evolution of Gujarat International Finance Tec-City (GIFT CITY). As the country's first International Financial Services Centre (IFSC), GIFT Special Economic Zone ('SEZ') offers a distinctive platform that enables Indian businesses to seamlessly connect with global markets and provides international investors with unparalleled opportunities to tap into India's fast-expanding economy.

This program is designed for tax, regulatory, and legal professionals, providing them with a comprehensive understanding of GIFT CITY and SEZ evolving landscape. With a focus on the latest developments, attendees will gain practical insights into direct tax, indirect tax, and regulatory matters.

The organizers of the conference invite lawyers, chartered accountants, and tax professionals to participate in this unique conference to explore the dynamic opportunities and challenges within GIFT CITY and SEZ, helping them navigate the future of global finance with confidence.

### Participation Fees

**CTC Members** ₹ 1,100/- + ₹ 198/- (GST) = ₹ 1,298/-

**Non-Members** ₹ 1,500/- + ₹ 270/- (GST) = ₹ 1,770/-

**Participation Fees to be paid online on the website  
 The Zoom Link will be shared nearing to the event**

Sr. No.	Date	Time	Topics	Speakers
1	01.03.2025	10.00 a.m. to 10.15 a.m.	Introduction of session	CA Karishma Phatarphekar
2	01.03.2025	10.15 am to 11.15 am	Transforming IFSC - Chairman's vision	Mr. K. Rajaram, Chairman, IFSCA
3	01.03.2025	11.30 am to 1.00 pm	Regulatory Framework for Diverse Entities in GIFT City: An In-Depth Overview	CA Paresh P. Shah
4	01.03.2025	2.00 pm to 3.30 pm	Tax Implications for Entities Operating in GIFT City: A Comprehensive Guide	CA Vishal Gada (Aurtus Consulting)
5	01.03.2025	3.45 pm to 4.45 pm	Decoding Roadblocks: Practical Challenges in GIFT City's Tax and Regulatory Landscape	Moderator : Eminent Faculty <b>Panellist -</b> – Mr. Jaiman Patel, Partner, EY India – Ms. Shefali Shah, Partner, Deloitte India – Eminent Faculty

Sr. No.	Date	Time	Topics	Speakers
6	01.03.2025	4.45 pm to 5.45 pm	Braintrust session	Moderator: Mr. Rajesh Gandhi, Partner, Deloitte India <b>Panellist -</b> – Dr. Dipesh Shah, ED, IFSCA – Ms. Parul Jain, Head International Tax Practice - Nishith Desai Associates – Mr. Tushar Sachde, Partner, PwC India
7	01.03.2025	5.45 pm to 6.00 pm	Closing session and vote of thanks	<b>Closing remarks</b> CA Mallika Devendra <b>Vote of thanks</b> CA Sanjay Mistry

## Accounting & Auditing Committee

**Chairman :** Tejas Parikh

**Vice-Chairman :** Yogesh Amal

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

**Convenors :** Deepak K. Shah,  
Prashant Daftary

**Advisor :** Nilesh Vikamsey

## Lecture Meeting on Key Learnings from Recent NFRA orders (Virtual Mode)

**Friday, 28th February, 2025**

5.00 pm to 7.00 pm

**Speaker :** CA Padmashree Crasto

The Accounting & Auditing committee of The Chamber of Tax Consultants has organised a Lecture Meeting on “Key Learnings from Recent NFRA orders” (Virtual Mode) scheduled on Friday, 28th February, 2025.

### Key Learnings from NFRA Orders and recent NFRA circulars :

The NFRA’s initiative to harmonize Indian auditing standards with international norms represents a significant step forward in enhancing corporate governance. Considering this NFRA have started reviewing existing auditing standards and undertaking inspections of firms/ audit files periodically. NFRA orders 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, The Accounting and Auditing Committee of CTC have organised this virtual meeting.

**Zoom Registration Link : [CLICK HERE](#)**

After registering, you will receive a confirmation email containing information about joining the webinar.

**Looking forward for your active participation.**

**Indirect Taxes Committee**

**Chairman :** Hemang Shah  
**Vice-Chairman:** Keval Shah  
**Advisor:** Rajiv Luthia  
**Convenors:** Raj Khona, Umang Talati,  
 Yash Parmar

## Indirect Taxes Study Circle Meeting on Important budget proposals, elaborate discussion on its impact on ISD vs cross charge and Safari Retreat judgement (Virtual Mode)

<b>Thursday, 13th February 2025</b>	<b>5.00 pm to 7.00 pm</b>
-------------------------------------	---------------------------

**Group Leader :** CA Naresh Sheth

We are pleased to announce a study circle meeting on "Important budget proposals, elaborate discussion on its impact on ISD vs cross charge and Safari Retreat judgement".

With mandatory compliance requirement of ISD around the corner, this meeting aims to provide a comprehensive understanding of ISD provisions, its implications, and practical aspects.

**Agenda:**

- Overview of ISD provisions under GST
- Registration and compliance requirements
- ISD invoice and credit note
- Distribution of ITC to recipients
- Practical challenges and case studies

Come prepared with your questions and concerns! We look forward to an interactive and informative discussion.

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/-

**Participation Fees to be paid online on the website  
 Looking forward for your active participation.**



## International Taxation Committee

**Chairperson:** Karishma Phatarphekar  
**Co-Chairman:** Shabbir Motorwala  
**Vice-Chairman/Vice-Chairperson:** Namrata Dedhia, Niraj Chheda  
**Ex-Officio:** Vijay Bhatt, Jayant Gokhale  
**Convenors:** Chaitanya Maheshwari, Monica Wadhani, Tanvi Vora, Vishal D. Shah

## One Day Conference on Practical issues under FEMA [Physical Mode only]

**Saturday, 22nd February 2025**

10.00 am to 5.30 pm  
 Registration start at 9.00 am

**Venue:** Walchand Hirachand Hall, 4th Floor, IMC Building, IMC Marg, Near Churchgate, Mumbai-400020

**Jointly with: Bombay Chartered Accountants' Society**

FEMA is a dynamic subject that demands continuous learning. To stay updated on amendments and to hear perspectives of the Reserve Bank of India (RBI) and professionals, the Conference on practical issues under FEMA is being organized. This platform enables stakeholders to discuss challenges, share insights and enhance compliance frameworks.

The detailed schedule is as under

Sr. No.	Time	Subject	Speaker
1	9.00 am - 10.00 am	<b>Registration and Breakfast</b>	
2	10.00 am-10.10 am	<b>Opening session</b>	
3	10.10 am – 10.45 am	Keynote address by RBI	Dr. Aditya Gaiha, Chief General Manager-in-Charge, RBI
4	10.45 am – 11.45 am	Panel discussion with RBI (Questions will be distributed in advance)	Dr. Aditya Gaiha, Chief General Manager-in-Charge and RBI senior managers
5	11.45 am – 12.00 pm	<b>Tea break</b>	
6	12.00 pm – 1.15 pm	Panel discussion with RBI (contd.)	Dr. Aditya Gaiha, Chief General Manager-in-Charge and RBI senior managers
7	1.15 pm - 2.15 pm	<b>Lunch</b>	
8	2.15 pm - 3.45 pm	Recent Developments in FEMA – Capital and Current Account Transactions	Session Chairman – CA Mayur Nayak Speaker – CA Rutvik Sanghvi
9	3.45 pm – 5.30 pm	Panel Discussion on practical issues such as cross border share swap transactions , cross border mergers, recent foreign investment clarifications and issues on certain specific transactions from AD banker perspective	Chairman and Moderator – CA Paresh P. Shah Panelists – Shri. Himansu Mohanty, (Ex-General Manager, RBI) Mr. Suyog Puntambekar – AD Banker, CA Shabbir Motorwala

### Fees (Including Breakfast, Lunch and Refreshments)

<b>CTC Members</b>	₹ 1,800 (plus GST)
<b>Non-Members</b>	₹ 2,100 (plus GST)

**Participation Fees to be paid online on the website  
 Looking forward for your active participation.**



### International Taxation Committee

**Chairperson:** Karishma Phatarphekar  
**Co-Chairman:** Shabbir Motorwala  
**Vice-Chairman/Vice-Chairperson:**  
 Namrata Dedhia, Niraj Chheda  
**Ex-Officio:** Vijay Bhatt, Jayant Gokhale  
**Convenors:** Chaitanya Maheshwari,  
 Monica Wadhani, Tanvi Vora,  
 Vishal D. Shah

### International Taxation Study Circle Meeting on Value Chain Analysis ('VCA') and Operational Transfer Pricing ('OTP') [Virtual Mode]

**Tuesday, 25th February, 2025**

6.00 pm to 8.00 pm

**Speaker :** CA Ajit Jain

**Venue :** Value Chain Analysis ('VCA') and Operational Transfer Pricing ('OTP')

The International Taxation Committee of The Chamber of Tax Consultants has organised a Study Circle Meeting on "Value Chain Analysis ('VCA') and Operational Transfer Pricing ('OTP')" scheduled on 25th February, 2025.

#### Coverage :

- i. Functional analysis and DEMPE
- ii. VCA: Concepts, value drivers and profit allocation with substance
- iii. OTP: Introduction, Level 3 process map and Automation tools

#### Participation Fees

<b>For International Taxation Study Circle Members</b>	<b>NIL</b>
<b>CTC Members</b>	₹ 200/- + ₹ 36/- (GST) = ₹ 236/-
<b>Non-Members</b>	₹ 300/- + ₹ 54/- (GST) = ₹ 354/-

#### Participation Fees to be paid online

Zoom link will be shared nearing to the event.

Looking forward to your active participation.

## Important Decisions under GST and Service Tax Laws

By Vinay Kumar Jain and Jay Chheda, *Advocates*

**Whether the foreign head office expenses allocated to Indian Branch be subject to service tax under reverse charge?**

### Facts and Pleadings

Standard Chartered Bank (“assessee”) is a branch office in India of Standard Chartered Bank Plc, UK (SCB - UK). The Head office incurred certain common administration expenses for its global operations and were allocated at cost i.e. without any mark-up by SCB-UK to all its branches, inter alia including the assessee only for Income Tax purposes. The assessee claimed expenditure under Income Tax Act of the said allocated admin expenses under Section 44C of the Income Tax Act 1961. The said expenses were allocated on certain criteria like gross revenue, employee headcount, profits of each branch or other suitable allocation parameters.

The Department contended that these expenses incurred by SCB-UK were intrinsically linked to the business operations of the Assessee in India and therefore attributed to the Assessee as head office expenses. In the absence of such support from SCB-UK, the Assessee’s branches in India couldn’t have functioned independently and therefore SCB-UK has provided Business Support services to the Assessee. The Assessee is a recipient of the Business Support Service from SCB-UK and tax is payable under reverse charge. The period of dispute was 2008 till 2016.

The Assessee contended that Assessee has not entered into any agreement or contract with respect to the said expenses or for receipt of any services. Further, the said amount is not recorded by the Assessee in its books of accounts as expenditure. Further, no invoice is raised for the said amounts by SCB-UK on the Assessee. The said amount has not been paid to SCB-UK i.e. there is no payment of the said allocated expenditure by the Assessee to SCB-UK. Only surplus profits, if any, is remitted to SCB UK as per RBI guidelines. Accordingly, levy of service tax fails since there has been no rendition of services or a contractually enforceable consideration. The said expenses were merely claimed as deduction in Income Tax as per the provisions of Income Tax Act.

### Order of the Hon’ble CESTAT, Mumbai:

The Hon’ble CESTAT observed that the Assessee has been allocated with certain costs towards the general administrative expenses incurred by their head office situated at London in United Kingdom. These expenses have been allocated at cost i.e., without any mark-up by SCB-UK duly complying with the RBI Guidelines.

It was further observed that the assessee by itself or the Head office through the assessee have not provided any service to their account holders in India. As the Assessee has only been shared with the expenses relating ‘head office executive and general administrative expenses’ apportioned by their headquarters, there is no element of any service involved therein.

It was also observed that the assessee has not entered into any agreement or contract with respect to the said expenses or for receipt of any services. The said amount is not recorded by the assessee in its books of accounts as expenditure, no invoice was raised for the said amounts by SCB-UK on the Assessee. The said amount has not been paid to SCB-UK i.e., there is no payment of the said allocated expenditure by the assessee to SCB-UK.

It was observed that the deduction claimed under section 44C of the Income-tax Act, 1961 per se does not tantamount to the same being treated as ‘gross amount’ received for provision of services between head office situated abroad and branch office in India, in the absence of any element of service involved therein.

The Hon’ble CESTAT held that merely because the assessee and its head office at UK are being considered as establishment of distinct persons, there cannot be any charge of service tax. Further, it was held that the transactions between the foreign Head office and its various vendors have been undertaken and consumed outside India.

It was also held that in any case, the sharing of expenditure by associated enterprises cannot be held to be treated as service rendered by one to another. This position was laid down by CESTAT in the case of Haldiram Marketing Pvt. Ltd, which has been affirmed by Hon’ble Supreme Court.

Accordingly, CESTAT, Mumbai allowed the appeal of the assessee and set aside the demand of service tax.

Standard Chartered Bank v. Commissioner of CGST & CX, Mumbai South FINAL ORDER NO. A/85045-85050/2025 dated 20.1.2025

**Whether upfront “premium” or “salami” paid for acquiring possession of immovable property can be subject to levy of service tax?**

**Facts and Pleadings:**

The issue involved was whether value of “premium” or “salami” i.e. the consideration paid for being let into possession prior to the creation of the tenancy so as to enable the person to enjoy the benefits of immovable property, is leviable to service tax under the category of “Renting of immovable property”. The demand under consideration was for both pre and post negative list.

The Hon’ble CESTAT, Delhi in the decision of *Greater Noida Industrial Development Authority, Noida* and Hon’ble CESTAT, Mumbai in *Kagal Nagar Parishad*, held that service tax cannot be charged on the premium or salami amount paid by the lessee to the lessor for transfer of interest in the property.

However, the Hon’ble CESTAT, Mumbai in the decision of *City and Industrial Development Corporation and Starcity Entertainment Private Limited*, held that service tax would be leviable on such premium or salami.

In view of conflicting decisions, the issue was placed before the Larger Bench of CESTAT.

**Order of the Larger Bench of CESTAT:**

The Larger Bench analyzed a foray of decisions and observed that premium or salami is a single payment made by the lessee for acquiring rights to enjoy the benefits of the immovable property. It is a consideration paid by a lessee for being let into possession. Rent is a periodical payment made by the lessee for the continuous enjoyment of the benefits under the lease.

For the service tax demand pertaining to the period prior to 1.7.2012 (pre-Negative list), it was observed by the Larger Bench that “Renting of immovable property”, defined under section 65(90a) of the Finance Act amongst others, includes leasing or other similar arrangement of immovable property for use in the course or furtherance of business. Further, it was observed that the term ‘Lease’ under section 105 of the Transfer of Property Act, 1882

is defined as transfer of a right to enjoy such property, made for a certain time in consideration of a price paid or promised. Accordingly, there a distinction between the price paid for transfer of a right to enjoy the property and the rent to be paid periodically for continuous enjoyment of the benefits under the lease. A lease would include both upfront premium and the periodical rent.

Accordingly, it was held by the Larger Bench that ‘renting of immovable property’ includes leasing, the value of premium would be taxable under section 65(105)(zzzz) of the Finance Act.

Further, it was also held that the view taken in the decision of Greater Noida Industrial Development Authority that the taxing event under section 65(105)(zzzz) of the Finance Act is “renting of immovable property”, service tax would be leviable only on the element of rent and not the lease premium is incorrect.

For the period post 1.7.2012, the Larger Bench observed that the term “Service” has been defined under section 65B(44) of the Finance Act to mean any activity carried out by a person for another for consideration, and includes a declared service. Further “Renting of immovable property” is a “declared service” under section 66E of the Finance Act.

It was also observed that the term “renting” was defined in section 65(41) of the Finance Act to mean allowing, permitting or granting access, entry, occupation, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property.

Since “Premium” is a payment for transfer of possession of property i.e. for transfer of right to enjoy the property, it was held that premium is the amount received for “renting” of immovable property.

Accordingly, it was held by the Larger Bench that the value of “premium” or “salami” is exigible to service tax under “renting of immovable property” for the period prior to 01.07.2012 under section 65(105)(zzzz) of the Finance Act and from 01.07.2012 under section 66B of the Finance Act *Rajasthan State Industrial Development & Investment Corporation Ltd v. Commissioner of CE and ST Service Tax Appeal No. 50553 of 2017 (Larger Bench) dated 27.1.2025*

**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. 80-IA - Allowability of - Delay in filing of Form 10CCB

### Facts:

Assessee claimed deduction under section 80-IA. AO disallowed assessee's claim on account of delay in filing of Form 10CCB. Before CIT(A), assessee pleaded that delay in filing of Form 10CCB was due to technical glitches which prevailed in the income-tax portal in the night of 31-10-2022 at the time of filing of Form 10CCB. CIT(A) allowed the deduction under section 80-IA by condoning the delay in filing of Form 10CCB. Revenue challenged this.

### Held:

Assessee substantiated that Form 10CCB was attempted to be filed within the stipulated time, however, due to the reasons beyond control of the assessee i.e., technical glitches on the web portal of the department, Form could not be filed in time but was uploaded with a slight delay of 1 hour 22 minute. As delay had not occurred due to any negligence or inaction on the part of assessee, therefore, in the interest of justice assessee could not be saddled with any penal action and, therefore, deduction was rightly allowed by CIT(A).

**DCIT v. Shri Shyam Ispat (India) (P) Ltd.**  
[ITA No. 380/RPR/2023 dated 23/08/2024] [AY 2022-23]

## 2. S. 271D and 271E - Contravention of section 269SS/269T - Leviability - No concrete finding of violation of section 269SS/269T

### Facts:

AO levied penalty under sections 271D and 271E on the ground that 11 cheques of Rs. 75,000 each pertaining to the assessee were found at Sudama Resorts whose Director contended that cheques were obtained from financiers for arranging loans in cash to them. Assessee challenged the penalty.

### Held:

Except for the statement of the Director of Sudama Resorts, there was no other evidence with AO. Assessee had in fact sought for cross-examination of the Director of the Sudama Resorts however, same was not given by AO. Therefore, statement of Director of Sudama Resorts had no evidentiary value in the eyes of law. As there was no concrete finding of the assessee having accepted loans in violation of section 269SS or having repaid the same in violation of section 269T, therefore, no penalty could be levied under sections 271D and 271E.

**Atul N Shah v. Jt. CIT [ITA No. 952,953/AHD/2023 dated 23/08/2024] AY 2013-14**

## 3. Rule 46A- Appeal [CIT(A)] - Additional evidence - Requirement of insisting on the comment of AO

### Facts:

AO disallowed various expenses claimed by assessee on the ground of non-submission of documentary evidence in support of the claim. CIT(A) allowed the same on the basis of evidence produced by assessee during appellate proceedings. Revenue contended that CIT(A) erred in allowing appeal of the assessee without insisting on the comments of AO through remand report with regard to the evidence produced by assessee as required under Rule 46A.

### Held:

It was evident from the order of CIT(A) that AO was requested to offer his comment on the submission made by the assessee, in conformity of provisions of Rule 46A. However, AO did not respond to such request and did not file remand report with regard to submission made by the assessee. Since reasonable opportunity was allowed to AO before passing appellate order and there is no provision under Rule 46A requiring CIT(A) to insist on the comments of AO, there was no merits in the contention of revenue.

**DCIT v. Mirage Clothing Co. (P) Ltd.**  
[ITA No. 1263/MUM/2024 dated 22/08/2024]

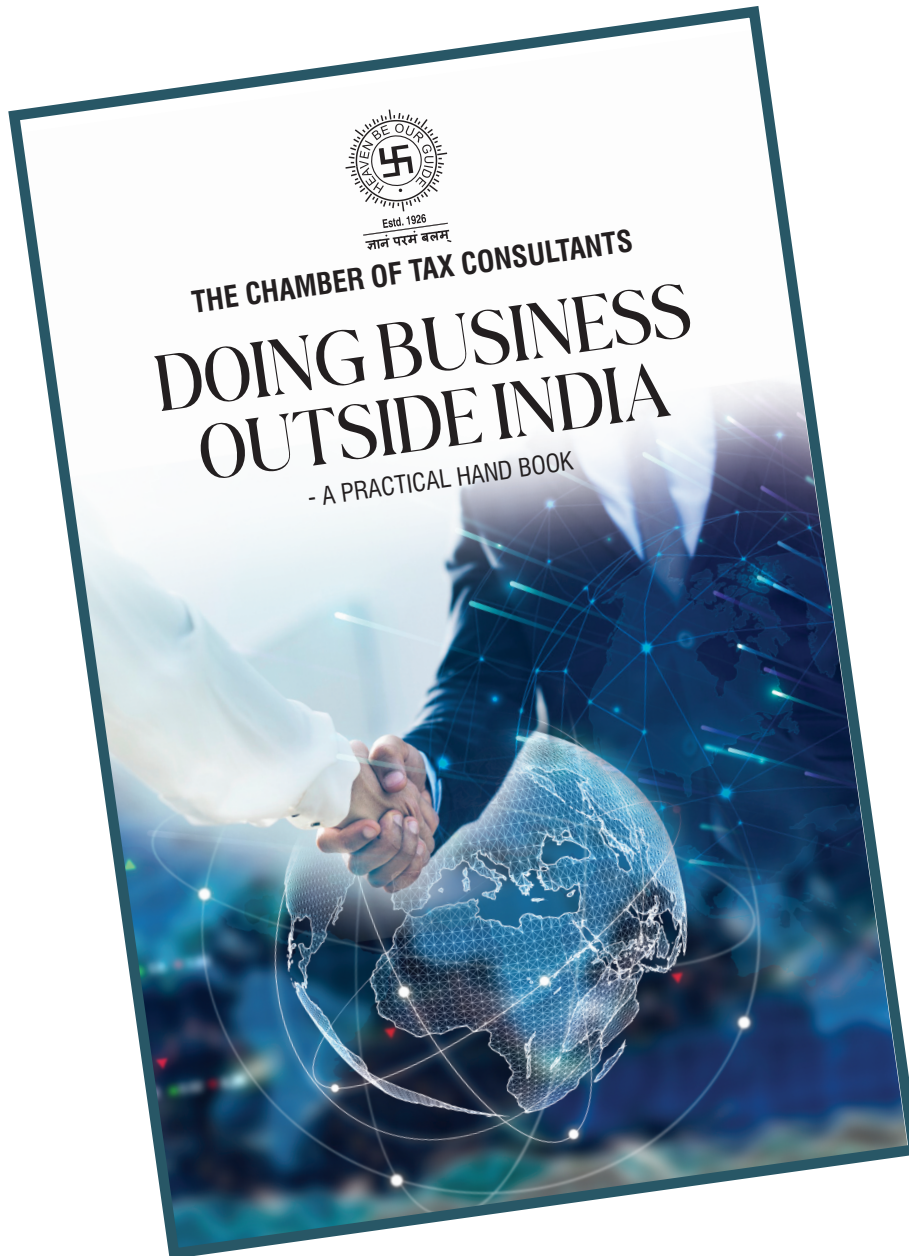
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