



ज्ञानं परमं बलम्

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THE CTC NEWS

Monthly Newsletter of The Chamber of Tax Consultants

(For Private Circulation - Members Only)



“ Leaders should embrace rather than avoid formidable challenges because they bring out the leaders' greatest strength ”

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Note : All the events will be held through virtual platform (Zoom App)

Kindly enrol at the earliest to avoid disappointment. Participation Fees to be paid online on the website : www.ctconline.org

Due to lock down, The Chamber's office is not fully functional.

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

Hitesh G. Shah : Chief Manager - 9821889249 | Pradeep Nambiar - Dy. Manager-Events - 8080254129

Bindu Mistry : Dy. Manager-Technical - 9637692312 Manisha Kasbe : Dy. Manager-Accounts - 8104816841

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 2021-22 shall take place on **Wednesday, May 12th, 2021** at the **Office of The Chamber of Tax Consultants, 3, Rewa Chambers, Ground Floor, 31, New Marine Lines, Mumbai-400 020.**

Nominations in the prescribed form should be filed so as to reach the office of the CTC not later than **6.00 p.m.** on **Monday, April 26th, 2021.** The nomination forms shall be available at the CTC office from Monday, April 19th, 2021.

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

Sd/- Sd/-

HARESH P. KENIA / NEHA R. GADA

Hon. Jt. Secretaries

Place: Mumbai

Dated: 6th March, 2021

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 3rd, 2021.**
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.
8. The above is only a gist of the Elections Rules. Please read Election Rules of the Chamber carefully on the website www.ctconline.org
9. Please note that the Election Committee comprising of the following persons is constituted for this purpose.

(1) Mr. Keshav Bhujle

(2) Mr. Ajit Rohira

(3) Mr. Bhavesh Vora



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
WhatsApp No.: 9004945579 **FB Page:** https://www.facebook.com/ctcconnect

1st April, 2021

Brothers and Sisters at the Chamber,

Greetings!!!

My Best Wishes to you for the upcoming Financial Year, F.Y. 2021-22.

I am writing to you to thank you for the continued support and encouragement given to the Chamber in the present Financial Year, F.Y. 2020-21, which has been an unusual and challenging year, to say the least. I am also writing to you to kindly continue your support and encouragement to the Chamber for the next Financial Year, F.Y. 2021-22.

In F.Y. 2020-21, we could not hold a single physical meeting due to the onset of the pandemic caused by COVID-19. Our devotion to the education of tax professionals, and our belief in our motto that Knowledge is indeed the Supreme Power has further strengthened. We embraced technology relatively early as compared to other institutions and from 1 April 2020 to date, we have held more than 165 web-based learning programmes, some of which have had multiple sessions. Despite not being able to meet physically even once, Team Chamber has given its members enhanced value, not only in terms of the number of programmes but also by inviting experienced and erudite senior faculty from across the country who have readily shared their rich learning and wisdom with us.

A year later, we again find ourselves at the crossroads where, due to an impending second wave of the pandemic and restrictions increasing, we are in a position where we are uncertain as to when we will start physical learning sessions. However, the Chamber will make all the possible efforts to start the physical meetings as soon as possible. Needless to say in the process we will continue to adhere to the norms and guidelines laid down by the Central / State government so as to ensure complete safety for all our members. We have therefore, kept our fees for renewal of membership subscription as well as subscription to study circles/study group exactly the same as for F.Y. 2020-21.

We have been conscious of feedback that since we did not have any physical programmes particularly study circle/study group meetings in F.Y. 2020-21, we ought to have a lower fee for participation in study circles/study group. We have carefully considered the suggestions received. On reflection, we are of the view that even though we may not have spent on physical meetings, our fixed expenses continued to remain static. We have not reduced salary to any of our staff, not let any staff member leave us and in fact have given them a small increment. We also have made special arrangements for their travel to and from the office twice a week from August 2020. The efficacy of the measures is evidenced by the fact that to date, none of our staff has tested positive for COVID-19. We have also been very active in providing excellent learning content to the members and have given access to speakers across the country whom we would normally not have had on our platform.

We have also for the benefit of the members made available, a learning management platform, as a value add. Videos of some important programmes held last year (include all programmes available on LMS [Click here](#)) are available and as a special value added gesture we will be providing free access to the LMS from 1 April 2021 to 30 June 2021 to the members who on request to the office, can be granted access thereto. Also the members will have access to the online SAS programs during the year without any fees to be paid for the same.

We have also reviewed the Chamber's receipt and payment position till 31 December 2020 and have come to a *prima facie* view that the difference between receipts and payments has remained within an acceptable tolerance range of the position at the same time in the previous F.Y. i.e. 2019-20. This is despite the reduction of 368 ordinary members and several subscribers to our periodicals and study circle/study group members.

I therefore appeal to all of you to continue to support us as you have always done and renew your membership and subscription to various study circles/study group and the journals as soon as possible, the fees for which have been kept the same as in F.Y. 2020-21.

Thank You,

Yours Sincerely

Sd/-

Anish Thacker
President

RENEWAL NOTICE – 2021-22

Dear Members,

SUB: PAYMENT OF ANNUAL MEMBERSHIP FEES FOR 2021-22

1st April, 2021

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 and subscription of The Chamber's Journal, Study Group and Study Circle Meetings and other subscription of The Chamber of Tax Consultants ("The Chamber"). The renewal fees for Annual Membership, Study Group and Study Circle and other Subscription for the financial year 2021-2022. 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 Parag S. Ved

Hon. Treasurer

Sr. No.	Particulars	Fees	GST @18%	Total
I	MEMBERSHIP			
1	LIFE MEMBERSHIP FEES	15000	2700	17700
2	ORDINARY MEMBERSHIP FEES - YEARLY (APRIL'21 TO MARCH'22)	2500	450	2950
3	ADMISSION FEES - ORDINARY MEMBERSHIP	750	135	885
4	ASSOCIATE MEMBERSHIP - YEARLY (APRIL'21 TO MARCH'22)	7500	1350	8850
5	ADMISSION FEES - ASSOCIATE MEMBERSHIP	1000	180	1180
6	STUDENT MEMBERSHIP - INCLUDING E JOURNAL (APRIL'21 TO MARCH'22)	500	90	590
II	CHAMBER'S JOURNAL SUBSCRIPTION - YEARLY (HARD COPIES)			
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	CHAMBER'S E - JOURNAL SUBSCRIPTION (SOFT COPIES)			
1	E JOURNAL SUBSCRIPTION - LIFE MEMBERS (YEARLY)	700	126	826
2	E JOURNAL SUBSCRIPTION - NON MEMBERS (YEARLY)	1000	180	1180
IV	ITJ SUBSCRIPTION			
1	INTERNATIONAL TAX JOURNAL SUBSCRIPTION (QTRLY)	1400	0	1400
V	STUDY CIRCLES & STUDY GROUPS (RENEWAL)			
1	STUDY GROUP (DIRECT TAXES)	2400	432	2832
2	STUDY CIRCLE (DIRECT TAXES)	2000	360	2360
3	STUDY CIRCLE (INTERNATIONAL TAXATION)	1800	324	2124
4	STUDY CIRCLE (INDIRECT TAXES)	2250	405	2655
5	ECONOMIC AND ALLIED LAW STUDY CIRCLE	1500	270	1770
6	INTENSIVE STUDY GROUP ON DIRECT TAX	2000	360	2360
7	FEMA STUDY CIRCLE	1800	324	2124
8	PUNE STUDY GROUP	3500	630	4130
9	BENGALURU STUDY GROUP	1600	288	1888
10	HYDERABAD STUDY GROUP	2000	360	2360

Notes:

- 10% Discount applicable for the registration of 3 or more Study Circles & Study Groups
- Members are requested to visit 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 on the reverse of Cheque/DD.
- Kindly pay your membership fees by 30th April, 2021 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.
- 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.



THE CHAMBER OF TAX CONSULTANTS

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Collaboration with the Bhatia Hospital for COVID-19 Vaccine

Dear Members,

At the Chamber of Tax Consultants (the Chamber), we place paramount importance on our social responsibility towards our mother land, India and secondly towards the profession. We have strived to provide support to our members for the challenges faced in the profession by voicing our representations which is heard and recognized by all Government and Regulatory agencies. We have also strived to make knowledge available and accessible to the members in a remote environment in order to keep them updated. And now, we wish to take a step forward and make the vaccine easily available to the members and their immediate family members.

The Chamber takes care of its members so that the members in turn can serve our society. As the COVID-19 Vaccination drive is now in full swing, as part of the #largestvaccinedrive to support the cause of our Government of India and to reach as many citizens as possible, the Chamber is pleased to inform that we have entered into collaboration up with the Bhatia Hospital, Mumbai for vaccination of our members & their immediate family members.

The members and their immediate family members who are eligible as per Government regulations will get COVID-19 Vaccine on a priority basis. Currently, the Bhatia Hospital has allotted a fixed time slot from 2:00 p.m. to 4:00 p.m. daily for a maximum of 20 members in a day.

Currently eligible person* as per Government Regulation is as under:

- Individuals above the age of 60 years
- Individuals between the Age of 45 to 59 years with co-morbidities
(Medical Certificate from the Registered Medical Practitioner is required)
- Individuals above the age of 45 Years
(Medical Certificate from the Registered Medical Practitioner is not required)

*As and when the Government Regulations allow vaccinating the younger age group, we will also extend the benefit accordingly.

Click Here: The process to be followed for vaccination is outlined in detail in the attachment (refer file 'CTC Vaccination Process.pdf') along with the forms and format of medical certificate issued by Bhatia Hospital **Click Here.** The members will be required to carry duly filled form (**Form 1** or **Form 2** as may be applicable), medical certificate if applicable, along with PAN and AADHAR card in original.

We at Chamber urge all of you to motivate all those who are 45 plus of age to take the vaccine as we endeavor to collaborate further with other institutions for benefit of the members. We are also pleased to inform you that Bhatia Hospital has further extended a 20 percent discount on diagnostic tests on OPD basis **Click here** for the discount coupon.

Together, let us make India COVID-19 free!

Yours Sincerely,

Anish Thacker
President

Nishtha Pandya
Chairperson-Membership & Public Relations Committee



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A certificate of appreciation will be awarded to all the participants. The **top 3 essays** will be published along with a photograph of the participant in The Chamber's Journal and also in e-Journal Jignyasa top 10 essays will be uploaded on our website www.ctconline.org

THE DASTUR ESSAY COMPETITION 2021

For Students of Law & Accountancy

The Dastur Essay Competition

The Chamber is one of the oldest professional organisations founded in 1926 and is now in its 94th year. The Chamber has been organising the Dastur Essay Competition since 2012 for Law Students and Articled Trainees pursuing CA, CS and ICWA Courses, where essays on current topics are invited and then the same are judged by senior professionals with prizes and certificates being awarded to meritorious essays.

We, at the Chamber believe that young students are the future leaders of our nation. They have the strength to bring ideas to life. Writing, a dying art today, is an important tool for encouraging the young fresh minds with novel ideas, to express themselves on topics of professional interest and get recognised by a professional forum, with around 4,000 members, through publication of the top three essays in 'The Chamber's Journal' and e-Journal Jignyasa.

Hence, by participating in the Tenth Dastur Essay Competition of the Chamber, we request the budding professionals to be passionate about expressing themselves through their words and to take this opportunity to get the creative ideas flowing and allow the author within to blossom.

Topics for the Tenth Dastur Essay Competition are:

1. *Impact of Covid-19 on human behaviour, habits and how should one tackle the problem.*
2. *The Agricultural Imbroglio – Is it justified and its Solutions.*
3. *Freedom of expression is a Citizen's inalienable right.*

Objectives

The objectives of the Competition are to cultivate good reading and writing communication skills coupled with encouraging "passion for writing" and "creativity", a quality which every human being possesses, which is possibly hidden and may be unknown to the individual himself.

The Dastur Essay Competition gives a platform to the young professionals to showcase their characteristics that illuminate the good students and potentially great writers. This Essay Competition invites students to explore a wide range of challenging and interesting questions beyond the confines of the college curriculum.

Interested participants may register by sending their details to ctcessay@gmail.com or by contacting the Chamber's Office

REGISTRATION
CLOSES ON

15

April
2021

SUBMISSION
DEADLINE

15

May
2021

Chairperson
Ms. Varsha Galvankar

Organised by the STUDENT COMMITTEE

President
Mr. Anish Thacker

Vice Chairpersons
Mr. Vitang Shah | Ms. Niyati Mankad

Convenors
Ms. Charmi G. Shah | Mr. Raj khona

Advisor
Mr. Ajay R. Singh

For Rules & Regulation please visit our website www.ctconline.org

Enrollment Form

Ind AS Programme - Practical Aspects

Days & Dates:

Friday 02-04-2021, Saturday 03-04-2021
 Sunday 04-04-2021, Friday 09-04-2021
 Saturday 10-04-2021, Sunday 11-04-2021

The accounting and auditing committee of the CTC has organised a webinar series on practical aspects of Ind AS. The webinar series will be held over 6 sessions covering recent developments, practical experience of handling Ind AS accounts and issues faced during accounts finalisation. The sessions will also try and cover inter-play of the subject with Income-tax and other aspects to highlight the potential issues and solutions. The sessions will be taken a by group of expert speakers who have hands on experience in handling such situations.

With the growth in the economy and increasing number of companies going for IPO, the overall basket of companies to whom

Ind AS applies is continuously increasing. This leads to various day to day challenges and at time unique accounting & taxation questions which needs to be dealt with. Through this webinar, the committee endeavours to bring to forefront the practical challenges and issues along with potential solutions.

The webinar series would be extremely useful for CFO, practicing CA, Students and also tax consultants who are involved in accounting, auditing and taxation matters of the company's to whom Ind AS apply. The details of the programme are as under:

Dates and Time	Topics	Brief coverage	Speakers
02-04-2021 (Friday) 5.30 pm to 7.30 pm	Overview and Recent amendments	<ul style="list-style-type: none"> Key challenges in IND AS convergence over last 4 years. Changes in Ind AS 1 (changes in definition of materiality etc.) Uncertain tax treatments Amendments in Lease standard International developments in IFRS 	CA Jiger Parikh
03-04-2021 (Saturday) 10.30 am to 12.30 pm	Ind AS related to Merger and Acquisitions, Consolidation	<ul style="list-style-type: none"> Practical cases (including from educational material) ITFG and expert advisory opinions Inter-play with Income-tax (demerger / merger schemes, goodwill etc.) 	CA Santosh Maller
04-04-2021 (Sunday) 10.30 am to 12.30 pm	Ind AS-115 and Ind AS-116	<ul style="list-style-type: none"> Revenue Recognition challenges – Key issues Key impact on financials due to adoption of lease standards Lease concessions due to Covid Practical Challenges 	CA Priya Vora
09-04-2021 (Friday) 5.30 pm to 7.30 pm	Ind AS-32, 109, 107 – Financial Instruments	<ul style="list-style-type: none"> Practical Examples, case studies and issues Impact on NBFC / Banks To cover examples on CCD, CPS, CCPS, OCD, ESOP, contracts with complex clauses 	CA R. Venkata Subramani
10-04-2021 (Saturday) 5.30 pm to 7.30pm	Ind AS-32, 109, 107 – Financial Instruments	<ul style="list-style-type: none"> Case studies (equity / debt clarification, compound financial instruments) – Presentation and Measurement Accounting for derivatives / hedging ITFG and recent expert advisory opinions 	CA R. Venkata Subramani
11-04-2021 (Sunday) 10.30 am to 12.30 pm	Practical experience of handling Ind AS accounts	<ul style="list-style-type: none"> Commonly found errors in IndAS implementation Practical issues in preparation and review of Ind AS financials Additional disclosures under Ind AS 	CA Milan Mody

Fees	
CTC Members	₹ 1,000/- + ₹ 180/- (18% GST) = ₹ 1,180/-
Non-Members	₹ 1,500/- + ₹ 270/- (18% GST) = ₹ 1,770/-

Enrollment is restricted to 100 participants on a First-come-first-served basis.



THE CHAMBER OF TAX CONSULTANTS



“Aaa Dekhe Zara”... Unlocking the Talent within...

...a Talent Contest for the CTC Members & the CTC Students”

The Membership & Public Relations Committee and The Students' Committee of the CTC are pleased to announce the Online Talent Contest for **CTC Members, CTC Students Members & Students registered under CTC Members**, in the following categories of Solo Performances:

◆ Singing ◆ Dance ◆ Other Performing Art : Instrumental Music, Beat Boxing, Mimicry & Stand-up comedy.

Basic Structure

1. The Members' Talent Contest shall be separate from the Students' Talent Contest.
2. The number of entries shall be restricted to 25 for Members & 50 for Students-members on First Come-First Served basis.
3. Each contestant to participate in maximum of any 2 categories.
4. Elimination Round:
 - a. 3 minutes for each Performance.
 - b. Depending upon the number of entries, top 5 participants from each category will enter the Finals.
5. Final Round:
 - a. 5 minutes for each Performance.
 - b. Depending upon the number of entries, top 3 participants will be winners.

However, the number of contestants for the finals & number of prizes for each category, shall be decided by the organizers, depending upon the number of entries received for each categories, which decision shall be final & binding.

6. Singers/ Musicians may perform with their own Karaoke track. Alternately, maximum of 2 accompanist musicians may be allowed. Dancers may perform with their own music track. All performances shall be Live and no streaming of pre-recorded performances will be permitted.
7. Each category shall have different criteria for marks viz. Sur, Taal, Tempo, expressions, content, presentation etc. Each category shall be judged by a panel of 2 or more judges.
8. The Judges' decision shall be final & binding.

Day 1	Day 2
Elimination Round : Friday, 11th, June, 2021	Final Round : Saturday, 12th June, 2021
CTC Members' Elimination Round	CTC Members' Final Round
Time: 11.00 a.m. to 1.30 p.m.	Time: 11.00 a.m. to 1.00 p.m.
CTC Students' Elimination Round	CTC Students' Final Round
Time: 3.00 p.m. to 6.30 p.m.	Time: 3.00 p.m. to 5.00 p.m.

The Interested Members & the Students are requested to send their entries By Email to the office of the CTC at office@ctconline.org, stating their name, Status- CTC Member/CTC Student/CTC Member's student, name of the Firm, Category (Max 2), age, mobile no., Email ID.

The Members & the Students are requested to enrol for this First ever Talent Contest of the CTC. CTC wishes to promote performances by the students at this program and hence, request the firms to encourage their talented students to participate for this Talent Contest.

MEMBERSHIP & PUBLIC RELATIONS

Chairperson: Nishtha Pandya | **Co-Chairman:** Premal Gandhi | **Vice-Chairperson:** Ashita Shah
Convenors: Bandish Hemani, Tanvi Vora | **Advisor:** Hitesh R. Shah

STUDENTS' COMMITTEE

Chairperson: Ms. Varsha Galvankar | **Vice Chairmen:** Vitang Shah & Niyati Mankad, Advocate
Convenors: Charmi G. Shah & Raj Khona | **Advisor:** Ajay Singh, Advocate

Co-Ordinators: Vijay Bhatt (98202 10728) | Suresh Subramanian (98332 09454)

DIRECT TAXES

Chairman: Dinesh Poddar | **Co-Chairman:** Ashok Mehta | **Vice-Chairman:** Abhitan Mehta
Convenors: Chintan Gandhi, Nimesh Chothani, Viraj Mehta | **Advisor:** Mahendra Sanghvi

Constitutional Remedies and Other Alternate Remedies Under Income-tax Act, 1961 (Other Than Appellate Proceedings)

Day & Date:
Saturday, 17th April, 2021
Time:
10.00 a.m. to 01.30 p.m.

We are all aware that if one doesn't agree with the view taken by the tax officer, generally relief can be obtained by filing an appeal against the order of the tax officer to appropriate forum generally, Commissioner of Income-tax (Appeals).

Many times we forget or are not aware of other remedies available under the Income-tax Act or under the Constitution of India like for example making an application directly to the Central Board of Direct Taxes (CBDT) for waiver of interest to be levied u/s 234A/B/C or allowing of carry forward of loss in case of belated return or for example filing a writ-petition to the High Court against any blatantly unjust order of the tax officer or even at the

juncture of receipt of notice for initiating the assessment or other tax proceeding.

With the era of faceless proceedings, the importance of exploring alternative remedies would increase and therefore, a need was felt to elucidate the members on alternate/parallel remedies that can be explored by the tax payer along with filing of appeal against the order of the tax officer.

In order to educate tax professional on the topic, Direct Tax Committee of Chamber of tax consultants is organizing a detailed webinar on Constitutional Remedies & Alternate Remedies under the Income-tax Act, 1961

Sr. No.	Topics	Speakers
1.	Constitutional Remedies under Income-tax Act, 1961	V. Sridharan, <i>Senior Advocate</i>
2.	Alternate Remedies under Income-tax Act, 1961	Ajay Singh, <i>Advocate</i>
Fees		
CTC Members	₹ 300/- + ₹ 54/- (18% GST) = ₹ 354/-	
Non-Members	₹ 500/- + 90/- (18% GST) = ₹ 590/-	

MEMBERSHIP & PUBLIC RELATIONS

Chairperson: Nishtha Pandya | **Co-Chairman:** Premal Gandhi | **Vice-Chairperson:** Ashita Shah
Convenors: Bandish Hemani, Tanvi Vora | **Advisor:** Hitesh R. Shah

SAS Meeting on 'Reality & Projection' - the complexity of life and profession

Day & Date:
Thursday, 8th April 2021
Time:
5.30 pm - 7.00 pm

Challenges and opportunities help us carve the path of our life. Every individual has inherent potential that needs to be identified and tapped to make the most of the challenges and opportunities. That is positivity. This very realisation and understanding are what will help us realise the difference between what is perceived and what is the truth. Being true and realistic to self is honesty. How to project this is the skill and art of an individual to balance the personal and professional side.

As professionals, a regular reminder of this very basic is what the programme will offer in a very simplistic and humorous form.

The faculty Dr. Tushar Guha, a psychologist, educationist, performing artiste, corporate trainer, and mentor represents the very balance through his diverse interests and achievements. A sort-after speaker believes that "If I am not beautiful in my own eyes, how can I be beautiful in the eyes of others", and it is I who has to strike the equation by being humble while being objective.

The faculty through his experiences and based on his 32 years of research on human mind and its thinking capacity, will help us with few practical tips on the ability to identify the challenges and opportunities, realise the potential in it for self and others, and learn the art to project the Reality that is most appropriate in the given situation to help self and others make the most of it while maintaining a harmonious human equation.

The Membership and Public Relations Committee of the Chamber of Tax Consultants is organising a free webinar on "Reality & Projection' - the complexity of life and profession" as part of its Self Awareness Series (SAS). The session will aid the personal and professional growth of all participants.

**All are
cordially
invited**

Sr. No.	Topics	Speakers
1.	'Reality & Projection' - the complexity of life and profession	Dr. Tushar Guha

2-Day Online Webinar on TDS & TCS Provisions – A 360° Perspective

(Jointly with IMC Chamber of Commerce and Industry, Bombay Chamber of Commerce and Industry and Bombay Chartered Accountants' Society)

Days & Dates:
 Wednesday, 7th April, 2021
 Thursday, 8th April, 2021
Time:
 03.00 p.m. to 06.00 p.m.

The Chamber of Tax Consultants, jointly with IMC Chamber of Commerce and Industry, Bombay Chamber of Commerce and Industry and Bombay Chartered Accountants' Society has organized a 2-day online webinar on "TDS and TCS provisions – a 360° Perspective" – to be held on Wednesday and Thursday, April 7 & 8, 2021 from 3.00 p.m. to 6.00 p.m. to understand the major effects of recent developments and changes relating to TDS & TCS in a holistic manner.

TDS and TCS provisions have changed and compliances have increased substantially in last few years, impacting MSMEs and other

tax payers both big and small. These compliances have become even more onerous than before with serious repercussions. The consequences of non-compliance or erroneous compliances are immense. The Webinar will cover important and current topics to be dealt with by subject experts and industry representatives through a blend of panel discussions and presentation sessions.

The Webinar will be useful for Tax Managers, Tax Heads, CFOs, Tax Consultants, Tax Practitioners and tax payers keen to keep abreast with the rapid changes in TDS and TCS Provisions.

Fees

CTC Members & Non-Members ₹ 500/- + ₹ 90/- (18% GST) = ₹ 590/-

Wednesday, 7th April 2021

Sr. No.	Topics	Speakers
1.	Practical issues: TDS and TCS issues faced by traders, merchants, retailers, e-commerce operators and their participants including TDS on Purchase of Goods, TCS on Sale of Goods, etc. and impact of amendments proposed in Finance Bill 2021.	Moderator: CA Anil Sathe Panelists: CA Daksha Baxi, Shaunak Gupta
2.	Practical issues: Non-filers checking, Lower deduction of tax; Rectifications of returns filed; Excess deduction – refund; Penal provision and compounding of offences; Belated filing of returns/ belated payment of taxes; Interest u/s 201 and 201(1A); Mechanism for Clarifications; etc.	Moderator: CA Atul Suraiya Panelists: Rakesh Gupta, CA Mahendra Sanghvi & CA Hema Lohiya

Thursday, 8th April, 2021

1.	Presentation on practical issues related to TDS & TCS Compliances including in Return filing/ Reporting	CA Avinash Rawani
2.	Practical issues related with TDS u/s. 195 from payments to non-residents including impact of SC decision on Taxation of Software.	Moderator: CA Sushil Lakhani Panelists: Dr. CA Mayur Nayak & CA Sanjiv Chaudhary
3.	Specific issues related to TDS provisions u/ss. 192, 194C and 194J including issues emanating from Finance Act 2021.	Moderator: A. Ravi Mahajan Panelists: Shri Hemant Kadel & CA Sonalee Godbole

STUDY CIRCLE & STUDY GROUP

Chairman: Ashok Sharma | **Co-Chairman:** Dilip Sanghvi | **Vice-Chairman:** Sanjay Choksi
Convenors: Dinesh Shah, Dipesh Vora, Dhaval Shah | **Advisor:** Keshav Bhujle, Akbar Merchant

Study Group Meeting

Day & Date:
Saturday, 3rd April, 2021
Time:
06.00 p.m. to 08.00 p.m.

Dear Member,

The Study Circle and Study Group committee of The Chamber of Tax Consultants has organised a Study Group meeting on “Recent Judgments under Income-tax” scheduled on April 3, 2021.

Sr. No.	Topic	Group Leader
1	Recent Judgments under Income-tax	CA S. Ramasubramanian, Bengaluru

Fees	
Study Group Members	NIL
CTC Members	₹ 200/- + ₹ 36/- (18% GST) = ₹ 236/-
Non-Members	₹ 400/- + ₹ 72/- (18% GST) = ₹ 472/-

INDIRECT TAXES

Chairman: Atul Mehta | **Vice-Chairman:** Sumit Jhunjhunwala
Convenors: Hemang Shah, Kush Vora, Keval Shah | **Advisor:** Rajiv Luthia

“Refund Workshop”

Jointly with AIFTP (WZ), BCAS, GSTPAM, MCTC & WIRC

Days & Dates:
Thursday, 6th May, 2021, Friday,
7th May, 2021, Monday, 10th May,
2021, Wednesday, 12th May, 2021,
Friday, 14th May, 2021
Time:
04.00 p.m. to 06.00 p.m.

“Refund Workshop” will broadly cover the following areas under each of the refund topics.

1. Cases getting covered under the specified refund scheme
2. Periodicity of refund
3. Conditions to be fulfilled for claiming of refund under the scheme
4. Calculation of refund amount
5. The time limit for filing of refund application
6. Submission of documents while filing refund under specified Refund scheme
7. Advantages under specified Refund scheme
8. Disadvantages under specified Refund scheme
9. Comparisons between with payment refund and without payment refund

Sr. No.	Topics	
1.	Refund of Zero Rate Supply - (Part 1)	CA Jignesh Kansara
2.	Refund of Zero Rate Supply - (Part 2)	CA Jignesh Kansara
3.	Refund under Inverted Duty	Rahul Thaker, Advocate
4.	All other Refunds under GST	CA Mandar Telang
5.	Remission of Duties and Taxes on Export Products (RODTEP)	Rohit Jain, Advocate

Fees	
CTC Members	₹ 700/- + ₹ 126/- (18% GST) = ₹ 826/-
Non-Members	₹ 1,000/- + ₹ 180/- (18% GST) = ₹ 1,180/-

DIRECT TAXES

Chairman: Dinesh Poddar | **Co-Chairman:** Ashok Mehta | **Vice-Chairman:** Abhitan Mehta
Convenors: Chintan Gandhi, Nimesh Chothani, Viraj Mehta | **Advisor:** Mahendra Sanghvi

Recent Developments in Charitable Trust Provisions under the Income-tax Act

Day & Date:
Friday, 23rd April, 2021
Time:
05.30 p.m. to 07.30 p.m.

It is felt that the compliance work for Charitable Trusts has increased over the last few years. Non compliance with the provisions of the Income-tax Act can lead to huge tax liabilities for Charitable Trusts. The Finance Act 2020 has made provisions requiring all the existing trusts to re-register for both 80G and 12A and has further provided that trusts will have to file a statement of donations received on the same lines as TDS returns. Recently the government has notified the rules for re-registration of trust and also for filing donation statements online on an annual basis.

It is imperative that those involved with the management of the trust and especially professional like lawyers, Chartered accountants and other consultants understand the recent changes.

With a view to understand the **“Recent Developments in Charitable Trust Provisions under the Income-tax Act.”** the Direct Tax Committee of Chamber of Tax Consultants has organized a webinar:-

Sr. No.	Speakers
1.	CA Paras K. Savla

Intensive Study Group Meeting (For ISG Members Only)

Day & Date:
Tuesday, 27th April, 2021
Time:
06.00 p.m. - 08.00 p.m.

Sr. No.	Topic	Group Leader
1	Recent Important Direct Tax Decisions	CA Sanjay Chokshi

DIRECT TAXES

Chairman: Dinesh Poddar | **Co-Chairman:** Ashok Mehta | **Vice-Chairman:** Abhitan Mehta
Convenors: Chintan Gandhi, Nimesh Chothani, Viraj Mehta | **Advisor:** Mahendra Sanghvi

Lecture Meeting on Amendments by the Finance Act, 2021

Day & Date:
Monday, 5th April, 2021
Time:
06.00 p.m. to 08.00 p.m.

The Finance Act, 2021 has received the assent of the President of India on the 28th March, 2021, More than 60 changes have been made to the Income-tax part of the original Finance Bill, 2021 at the time of passing the Bill by the Lok Sabha.

The amendments include revamping the proposed taxation on dissolution or reconstitution of partnership, introducing the deemed consideration for slump sale, providing a mechanism for removing

value of goodwill from block of asset, levying a fee for late intimation of Aadhaar etc and some of these amendments even have retrospective impact.

With a view to unlearn and relearn the changes made, Direct Taxes Committee of Chamber of Tax Consultants for the benefit of members /tax professionals have organized a detailed webinar on Amendment By Finance Act, 2021 :-

Sr. No.	Topic	Group Leader
1	Amendments by Finance Act, 2021	CA Gautam Nayak

IMPORTANT DECISIONS UNDER GST AND SERVICE TAX LAWS

By Vinay Kumar Jain and Sachin Mishra, *Advocates*

1. **Whether the target incentives/Performance Linked Bonus ('PLB') received by air travel agents from airlines and commission received from Central Reservation System ('CRS') companies taxable under the category Business Auxiliary Service? Whether the incentive is consideration for any Service? Under what provision of law CESTAT can accept intervention application? Whether there will be merger of the order of the CESTAT with Supreme Court order when Supreme court merely disposes the Civil appeal without going in to the merits?**

Facts and Pleadings: Kafila Hospitality & Travels Pvt. Ltd. (hereinafter "Appellant") is an approved agent of International Air Ticketing Association and is engaged in providing air tickets. For sale of tickets, apart from the general commission, the airlines also incentivize agents by paying target-based incentives known as 'PLB Commission'. Further, the Computer Reservation System (CRS) companies provide online information database access retrieval services to airlines for which the airlines pay consideration to the CRS companies. Further, the CRS companies allow air travel agents to subscribe to their portals for booking tickets for the passengers. In order to increase the flow of business, the CRS companies pay part of their consideration to the air travel agents when the agents achieve a minimum quantum of bookings through the concerned CRS portal. This incentive is normally termed as 'CRS commission'.

The department sought to levy service tax on PLB Commission and CRS Commission under the category Business Auxiliary Services ("BAS") on the ground that the Air Travel Agents are promoting the business of Airline/CRS company. As there was contrary view on the aforesaid issue by two different benches of CESTAT, the New Delhi Bench of CESTAT in the case of Kafila Hospitality and Travels Pvt. Ltd. referred the matter to the Larger Bench. Further, several parties approached before the Large Bench via intervention applications. However, the department objected to the Intervention Applications filed by various intervenors on the ground that there is no procedure prescribed for intervention before a Larger Bench of the Tribunal. The department also raised objection regarding the admissibility of the reference to the Larger Bench. It contended that the Supreme Court has disposed the Civil Appeal filed against the decision in D. Pauls Consumer Benefit Ltd. [2017 (52) S.T.R. 429 (Tri. - Del.)] and therefore the said decision of the Tribunal has attained finality.

The Appellant relied upon the decision of the Madras High Court in Airlines Agents Association v Union of India to argue that the air travel agent was promoting its own business and not the business of the airlines. The Appellant also argued that the air travel agent was not promoting the business of the CRS companies as the CRS portal used by the agents is immaterial to the passengers. The Appellant further submitted that the services rendered by air travel agents are more specifically classifiable under the category 'Air travel Agents' services in view of Section 65A of the Finance Act, 1994. The Appellant also relied upon Intercontinental Consultants and Technocrats Pvt. Ltd. and the decision of Federal Court of Australia in AP Group Limited to submit that the incentives paid for achieving targets are not taxable.

Judgement: The Hon'ble Larger Bench of CESTAT has decided in favour of the Appellant and held that the target incentive and the CRS Commission cannot be subject to service tax under the category of BAS. The Hon'ble Larger Bench relied upon the Madras High Court decision in *Airline Agents Association*, to opine that the air travel agent was not promoting or marketing the business of airlines and that the commission paid to air travel agents by the airlines has direct nexus to 'Air Travel Agent' services. Further, the Larger Bench observed that the passenger is not aware of the CRS company being utilised by the travel agent for booking the air ticket. For tax to be levied under 'Business Auxiliary Service', promotional activity should be undertaken, and the passenger should be able to directly use the service of CRS company. The Hon'ble Larger Bench observed that the Department had failed to point out any activity undertaken by air travel agent that promotes the business of CRS company. The Hon'ble Bench stated that incentives are based on general performance of the service provider and not related to any particular transaction of service. Further, reliance was placed upon the decision of the Federal Court of Australia in *AP Group Limited*, where it was held that to levy tax, a payment must be attributable to a particular supply and not just be attributable to supplies in general. The Hon'ble Larger Bench observed that Section 67 provides for levy of service tax on the gross amount charged for providing 'such'

taxable service, reliance placed upon *Intercontinental Consultancy and Technocats* (Supreme Court), therefore, a direct correlation should be established between consideration and the activity undertaken. Incentives paid for achieving targets cannot be termed as consideration and therefore not liable to service tax under section 67 of the Finance Act 1994. Further, the Hon'ble Larger Bench dismissed objection of department on intervention application and held that any decision taken by the Larger Bench on the issues referred to it would bind the Division Bench as well and therefore in the interest of justice such intervention applications are allowed. Rule 41 of CESTAT Procedure Rules, 1982 confer power on the Tribunal to make such orders as may be necessary to secure the ends of justice. Further, the Hon'ble Larger Bench dismissed objection of department on doctrine of merger and held that doctrine of merger will apply only when the appeal is dismissed on merits. Thus, when appeal is dismissed without going into merits of the case the doctrine of merger will not apply. In the case of D Pauls, the appeal filed by D Pauls was remanded by Supreme Court to Appellate Tribunal for reconsideration of the order with regard to invocation of extended period of limitation. The Supreme Court had not disposed the appeal on merits.

Kafila Hospitality & Travels Pvt. Ltd. v. Commissioner, Service Tax, New Delhi decided on 18/03/2021 in Interim Order No. 4 /2021.

2. **Whether the Petitioner is entitled to seek rectification of Form GSTR-3B for the month of May 2019 on the count of wrongly uploading the entries of M/s. Deepak Process instead of M/s. Deepak Print?**

Facts and Pleadings: M/s. Deepak Print (hereinafter referred to as 'the Petitioner') is a proprietary concern and is engaged in the business of printing of dress materials etc. The Petitioner had submitted the return of his business in the month of May 2019 through the Online process, i.e, the GST Online Portal. However, inadvertently, in the course of making entries in the GSTR-3B for the month of May 2019, the Petitioner wrongly uploaded the entries of M/s. Deepak Process instead of M/s. Deepak Print. Thereafter, the Petitioner preferred a representation in writing addressed to the Nodal Officer, SGST Office, Rajkot as there was no option available with the Petitioner to rectify Form GSTR-3B. As no response was received from the Nodal Office, the Petitioner approached before the Hon'ble High Court.

Judgement: The Hon'ble High Court relied on *Bharti Airtel Limited vs. Union of India & Ors.*,

Writ Petition (Civil) No.6345 of 2018, decided on 05.05.2020 wherein it was held that the rectification of the return for that very month to which it relates is imperative and, accordingly, para 4 of the Circular No. 26/26/2017-GST dated 29.12.2017 was read down to the extent that it restricted the rectification of Form GSTR-3B in respect of the period in which the error has occurred. In view of the above, the Hon'ble High Court has held that the Petitioner should be permitted to rectify the Form-GSTR-3B in respect of relevant period.

M/s. Deepak Print vs. UOI, High Court of Gujarat, Ahmedabad, decided on 9.3.2021 in R/ Special Civil Application No.18157 of 2019.

3. **Whether the Petitioner is entitled to rectify GSTR-1 return, wherein it has, instead of the GST number of the purchaser in Andhra Pradesh, mentioned the GST number of the purchaser in Uttar Pradesh?**

Facts and Pleadings: M/s Pantacle Plant Machineries Pvt. Ltd. (hereinafter referred to as the 'Petitioner') is engaged in the manufacture of Construction Equipment, is registered with State GST Authority/R2 and files returns in terms of the provisions of the Central Goods and Services Tax Act, 2017. The Petitioner had mistakenly filed GSTR-1 return, wherein it has, instead of the GST number of the purchaser in Andhra Pradesh, mentioned the GST number of the purchaser in Uttar Pradesh. The Petitioner came to know about the mismatch only when the revenue denied the credit claimed on the basis of accompanying invoices solely on account of the mismatch in GSTR number and the recipient sought amendment of the return and threatened legal action against the Petitioner. Accordingly, the Petitioner approached before Hon'ble High Court to allow it to rectify GSTR-1.

Judgement: The Hon'ble High Court observed that had the requisite statutory Forms been notified, this error would have been captured in the GSTR-2 return, wherein the details of transactions contained in the GSTR-3 return would be auto-populated and any mismatch noted. Likewise, had the GSTR-1A return been notified, the mismatch might have been noticed at the end of the purchaser/recipient. However, neither Form GSTR-2 nor Form GSTR-1A have been notified till date. Further, the Hon'ble High Court held that the revenue has neither disputed the fact that Forms GSTR-2 and 1A are yet to be notified nor that goods have reached the intended recipient. However, the credit claimed on the basis

of accompanying invoices has been denied solely on account of the mismatch in GSTR number. The Hon'ble High Court relied on *Sun Dye Chem Vs. The Assistant Commissioner (ST)* [2020 VIL 524 (Mad)] to hold that since Forms GSTR-1A and GSTR-2 are yet to be notified, the petitioner should not be mulcted with any liability on account of the bonafide, human error and the petitioner must be permitted to correct the same.

M/s. Pantacle Plant Machineries Pvt. Ltd. vs. CCE, The High Court of Madras, decided on 23.2.2021 in WP No.1022 of 2020.

4. Whether initiation of enquiry after 30.06.2019 fatal for filing declaration under voluntary disclosure category under Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019?

Judgement: The Hon'ble Bombay High Court has held that an enquiry or investigation or audit initiated post 30.06.2019 would not act as a bar to filing of declaration under the voluntary disclosure category of Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019. The Hon'ble High Court is of the view that if clauses (e) and (f) of Section 125 of the Finance (No.2) Act, 2019 are to be read in a harmonious manner then logically it follows that the enquiry or investigation or audit referred to in clause (f) (i) would necessarily have to be initiated on or before 30.06.2019, i.e. before the cut-off date of the scheme. The Hon'ble High Court also relied on Question No. 39 and the answer thereto in the FAQs released by the CBIC was also relied for this purpose. The department had earlier rejected the declaration under the Scheme as the same was filed after the enquiry was initiated against the assessee in December 2019.

New India Civil Erectors Pvt. Ltd. v. Union of India, High Court of Bombay, Bombay, decided on 12.03.2021 in Writ Petition (L) No.989 of 2020.

5. Whether declaration can be filed in litigation category in a remand by tribunal back to the stage of show cause notice under Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019?

Judgement: The Petitioner challenged a rejection of the declaration filed under the litigation category in Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 before the Hon'ble Bombay High Court. The declaration was rejected on the count of ineligibility as the appeal was finally heard on 10.5.2019 by CESTAT i.e. before 30.06.2019. Referring to Section 125(1) of the Finance (No.2) Act, 2019, it was

contended that a person who had filed an appeal before the appellate forum and whose appeal had been heard finally on or before 30.06.2019 would be ineligible to make a declaration. The Hon'ble High Court held that in a case where the appeal was finally heard by the CESTAT before 30.06.2019 but by order dated 8.11.2019, CESTAT set aside the order-in-original and remanded the matter back to the original authority for a fresh decision, the matter was reverted back to the stage of show cause notice since the adjudication order was set aside by the Tribunal. The Hon'ble High Court is of the view that if petitioner was at the stage of show cause notice with no fresh adjudication order then certainly it would be eligible to file declaration under the litigation category.

Morde Foods Pvt. Ltd. v. Union of India, High Court of Bombay, Bombay, decided on 8.03.2021 in Writ Petition (ST) No.3880 of 2020.

6. Whether the phrase 'Quantification' under Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 shall include unilateral quantification in writing by the petitioner to the department?

Judgement: In a case where the Petitioner was issued summons by the Anti- Evasion, Central Excise & Service Tax, the Hon'ble Delhi High Court has held that unilateral quantification by writing the petitioner by the letter/communication to the department cannot render the assessee eligible for Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 under the tax dues that are linked to an enquiry, investigation or audit against the declarant. The letter/communication to the department cannot render the assessee eligible for Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019. The Hon'ble High Court was of the view that such admission in itself would not rendered the petitioner eligible under the Scheme. The Hon'ble High Court observed that in the category of cases where investigation or audit was continuing as on the introduction of SVLDRS, the benefit of the scheme would be available to only such cases, Where, during investigation, the department quantifies the amount and not vice versa. According to the Hon'ble High Court, the quantification of the amount in question can only mean to be a duty liability which has determined by the department.

Karan Singh v. Designated Committee, High Court of Delhi, Delhi, decided on 22.02.2021 in W.P.(C) 2408/2021.

UNREPORTED TRIBUNAL DECISION

By Ajay R. Singh, *Advocates*

- 1. Low Tax Effect Appeals – Applicability to penalty appeals- Clause 10(e) of the CBDT Circular No. 3/2018 (as amended on 20.08.2018), the same applied only to additions which were based on information received from external sources - Since the levy of penalty by no means could be construed as an addition within the meaning of Clause 10(e) of the aforesaid circular.**

The assessee company which is engaged in the business of manufacturing of AC and grills dampers etc, had e-filed its return of income for A.Y. 2011-12 on 20.09.2011, declaring a total income of ₹ 2,11,35,525/-. On the basis of information received from the DGIT(Inv.), that the assessee as a beneficiary had obtained accommodation bills of purchases, its case was reopened u/s. 147 of the Act.

During the course of the assessment proceedings it was observed by the A.O. that the assessee had claimed to have made purchases, from the Renuka Sales Corporation of ₹ 47,89,018/-. As the assessee failed to substantiate the genuineness and veracity of the aforesaid purchase transaction, the A.O. disallowed the entire amount of the aforesaid purchases. At the same time, the A.O while culminating the assessment also initiated penalty proceedings u/s. 271(1)(c) of the Act.

As the assessee did not assail the quantum assessment any further in appeal before the CIT(A), the same, thus attained finality. After the culmination of the assessment proceedings, the A.O vide his notice issued u/s. 274 r.w.s 271(1) (c) called upon the assessee to explain as to why penalty under the aforesaid statutory provision may not be imposed on it for furnishing of inaccurate particulars of income relating to claim of non-genuine purchases. The A.O not finding favour with the claim of the assessee imposed a penalty of ₹ 14,79,806/- for furnishing of inaccurate particulars of income within the meaning of Sec. 271(1)(c) of the Act r.w. Explanation 1.

Aggrieved, the assessee assailed the penalty imposed by the A.O under Sec. 271(1)(c) before the CIT(A). The CIT(A) found favour with the claim of the assessee that no penalty under Sec. 271(1)(c) was liable to be imposed .

The revenue carried the matter in appeal before ITAT. The Tribunal held that the quantum of penalty under dispute is ₹ 14,79,806/- which is substantially below the threshold limit of ₹ 50 lac as had been provided in the latest CBDT circular No. 17/2019, dated 08.08.2019, that contemplates the tax effect for filing of the appeals by the revenue. It is the claim of the ld. D.R that as the present appeal is covered by the exception carved out in clause 10(e) of the CBDT Circular No. 3 of 2018 (as amended on 20.08.2018) thus, the appeal filed by the revenue is maintainable.

The exception carved out in clause 10(e) of the CBDT Circular No. 3/2018 (as amended on 20.08.2018), which reads as under:

“10. Adverse judgments relating to the following issues should be contested on merits notwithstanding that the tax effect entailed is less than the monetary limits specified in para 3 above or there is no tax

effect:-

(e) Where addition is based on information received from external sources in the nature of law enforcement agencies such as CBI / ED / DRI / SFIO / Directorate General of GST Intelligence (DGGI)”.

The Tribunal held that it is a settled position of law that quantum proceedings and penalty proceedings are independent and distinct proceedings and confirmation of an addition cannot on a standalone basis justify imposition/upholding of a penalty u/s 271(1)(c) of the Act. Adopting the same logic, it was held that unless a specific exception is provided in the circular w.r.t penalty also, it could by no means be construed that penalty was to be treated

at par with the quantum additions. As is discernible from Clause 10(e) of the aforesaid CBDT Circular No. 3/2018 (as amended on 20.08.2018), the same applied only to additions which were based on information received from external sources. Since the levy of penalty by no means could be construed as an addition within the meaning of Clause 10(e) of the aforesaid circular, therefore, the contentions advanced by the revenue is rejected. Accordingly, the appeal of the revenue is covered by the CBDT Circular No. 17/2019, dated 08.08.2019, the same, thus, is not maintainable. Accordingly, the appeal of the revenue was dismissed, for the reason, that the tax effect therein involved is lower than that contemplated in the aforesaid CBDT Circular fixing the monetary limit of filing of appeals by the revenue before the Tribunal.

Income-tax Officer-12(1)(1) v. M/s. Air Vision Technologies, [ITA No. 4130/Mum/2019, A.Y. 2011-12, Bench. "A", DOH:19/02/2021 (Mum) (Trib)]

2. **S. 147: Reassessment - notice was issued beyond the period of four years - Where reasons recorded by Assessing Officer nowhere stated there was failure on part of assessee to disclose fully and truly all material facts necessary for assessment of that assessment year -the reopening of assessment is bad in law.**

The assessee company is engaged in the business of marketing, promotion and distribution of 'Red Hat Subscriptions' to customers in Indian Sub-Continent. The assessee basically acts as a distributor of Red Hat Subscription which enables the customers in India to avail the support services for open source software systems. The return of income for the Asst Year 2007-08 was filed by the assessee company on 31.10.2007 admitting loss of ₹ 5,27,32,540/-. The original assessment was completed u/s. 143(3) of the Act on 26.11.2009 determining total loss of ₹ 5,03,97,261/-. Later this assessment was sought to be reopened by the ld AO vide issuance of notice u/s. 148 of the Act dated 2.12.2013. This reopening notice was

admittedly issued beyond 4 years but within 6 years from the end of the relevant assessment year.

Tribunal held that it is mandatory on the part of the ld AO to duly mention in the reasons recorded itself as to whether there is any failure on the part of the assessee in disclosing fully and truly all material facts necessary for the assessment. In the instant case, from the reasons recorded, it could be seen that there is absolutely no mention of any failure on the part of the assessee in disclosing fully and truly all material facts necessary for the assessment during the original assessment proceedings. Admittedly the original assessment proceedings were completed u/s. 143(3) of the Act. Further, Tribunal find that the law is now very well settled that the reasons recorded by the ld AO for reopening the assessment should duly mention the failure, if any, on the part of the assessee in disclosing full and true information relevant for the assessment if the reopening is made beyond 4 years from the end of the relevant assessment year; and that the reasons recorded cannot be substituted at a later point in time by subsequent evidences by the ld AO and that the reasons recorded should speak by itself and duly express the clear mind of the ld AO which enabled him to frame an opinion that income of the assessee had escaped assessment within the meaning of section 147 of the Act. Reliance in this regard is placed on the decision of the Hon'ble Jurisdictional *wherein it was held that where reasons recorded by Assessing Officer nowhere stated there was failure on part of assessee to disclose fully and truly all material facts necessary for assessment of that assessment year and notice was clearly beyond the period of four years reassessment was barred by limitation. The reopening of assessment is bad in law.*

Respectfully following the aforesaid decision of Hon'ble Jurisdictional High Court, Tribunal held that the reopening of assessment made for the Asst Year 2007-08 is to be declared void abinitio and quashed..

M/s. Red Hat India Pvt. Ltd v DCIT-15(3)(1), [ITA NO.: 5832/M/2017, A.Y. 2007-08, Bench. "D", date : 30/03/2021 (Mum)(Trib)]



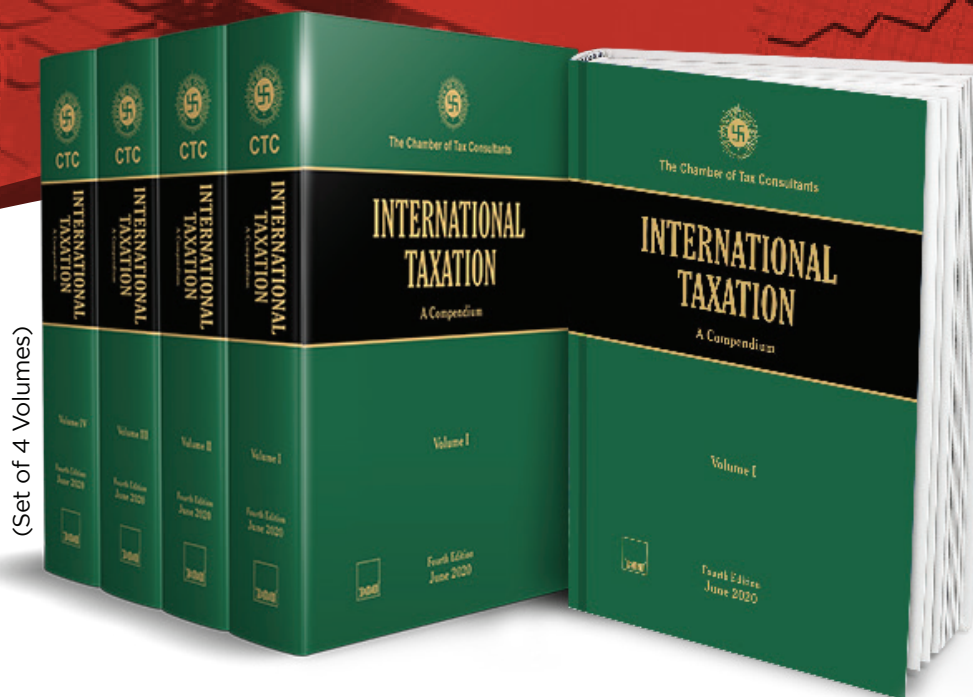
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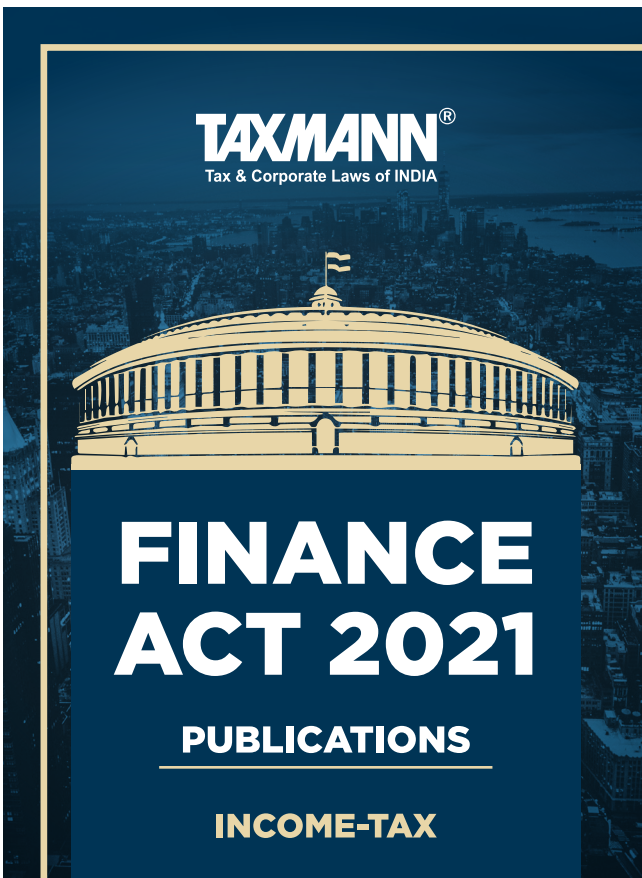
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