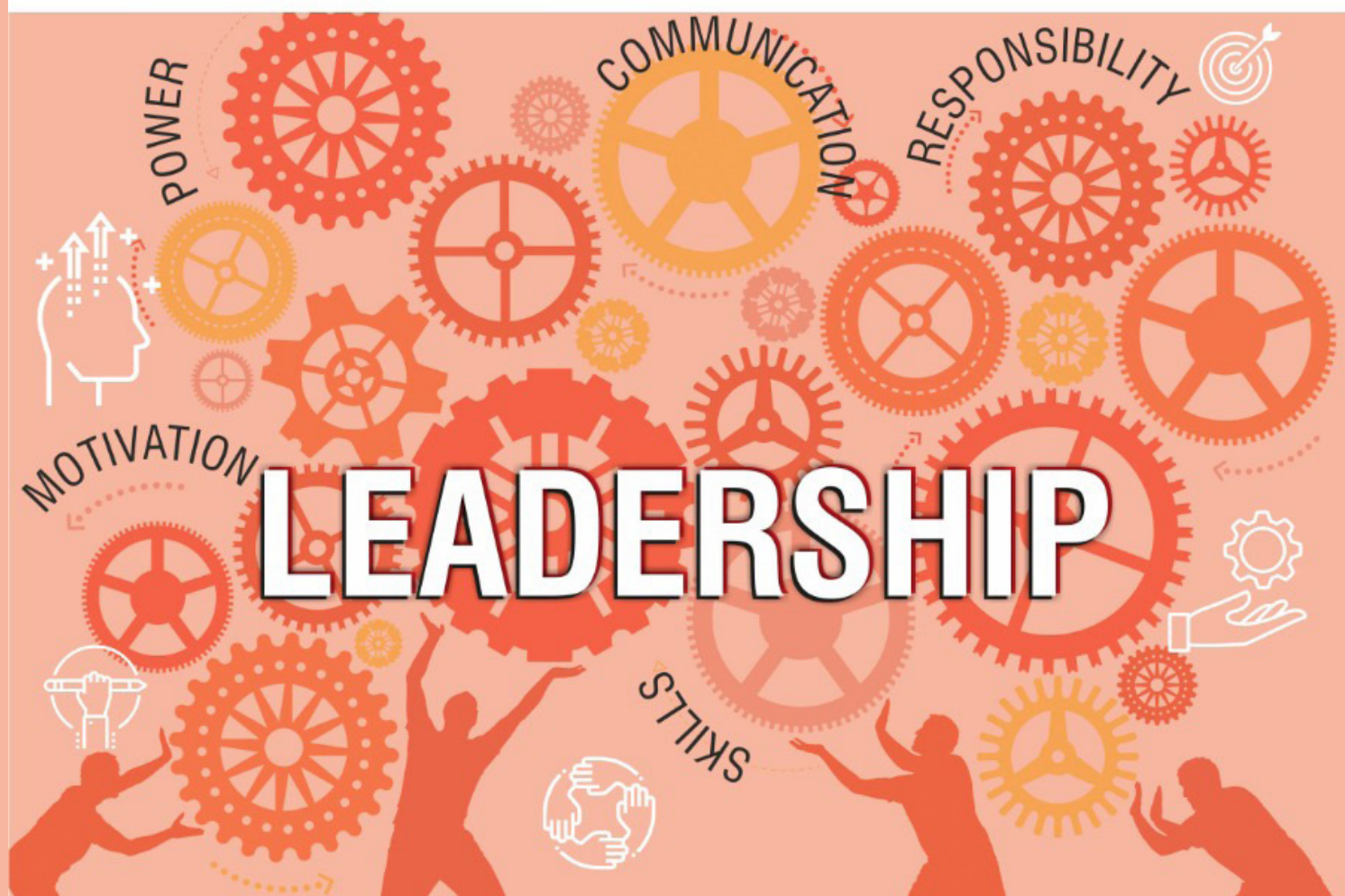


THE CTC NEWS

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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3.	12-06-2021	Pune Study Group	Pune Study Group Meeting on Recent Amendments to Companies Act, 2013 & MSME Act, from Audit & Compliance Perspective	9
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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

In view of the current COVID-19 situation and Government Notification, office has been temporarily closed and all staff members are working remotely. 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**



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

NOTICE OF THE NINETY FOURTH ANNUAL GENERAL MEETING

Notice is hereby given that the Ninety Fourth Annual General Meeting of **THE CHAMBER OF TAX CONSULTANTS** will be held through Video Conferencing ("VC")/Other Audio Visual Means ("OAVM") on Saturday, July 3, 2021 at 4.30 p.m. to transact the following business:

1. To read and adopt the minutes of the 93rd Annual General Meeting held on July 4, 2020.
2. To consider the Annual Report of the Managing Council for the year 2020-21.
3. To consider and adopt the Annual Audited accounts for the year ended March 31, 2021.
4. To appoint auditors for the year for the financial year 2021-2022 and fix their honorarium
5. To announce the results of the elections of President and fourteen Members of the Managing Council
6. Any other matter with the permission of the Chair.

FOR AND ON BEHALF OF THE MANAGING COUNCIL

Sd/-

Place: Mumbai

Haresh Kenia / Neha Gada

Dated: June 7, 2021

Hon. Jt. Secretaries

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

Notes:

1. In view of the continuing COVID-19 pandemic situation and the difficulties arising therefrom, taking recourse to Rule 32 of the Chamber's Rules and Regulations that form a part of the Chamber's byelaws, the Managing Council of The Chamber of Tax Consultants in its meeting held on 24th April, 2021 has resolved to hold the 94th Annual General Meeting of the Chamber through Video Conferencing (VC) or any other Audio Visual Mode (OAVM) so as to adhere to the social distancing norms. Accordingly, the Annual General Meeting will be held through VC / OAVM. The other modalities and the online platform to be used for the meeting will be informed to the members in due course.
2. If there is no quorum by 4.30 p.m. the meeting will be adjourned for half an hour and the members present at such adjourned meeting shall constitute the quorum.
3. As per the decision taken at the 86th Annual General Meeting, the Annual Report is to be circulated in electronic form. For the year ended March 31, 2021, the Annual Report is under compilation and shall be available on the Chamber's website as soon as it is ready.



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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 March, 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 + MUMBAI STUDY CIRCLES	3500	630	4130
9	PUNE STUDY GROUP ONLY	2000	360	2360
10	BENGALURU STUDY GROUP	1600	288	1888
11	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 June, 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.

Chairman: Rajesh L. Shah | **Vice-Chairmen:** Kirit Dedhia, Shabbir Motorwala

Convenors: Isha Sekhri, Ronak Doshi, Kartik Mehta | **Course Co-ordinators:** CA Ronak Doshi & CA Kartik Badiani

Conference Directors: CA Kartik Mehta & CA Siddharth Parekh



The Chamber of Tax Consultants

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14th Residential Conference on International Taxation

• [Week I - Friday 18th to Sunday 20th June 2021] • [Week II - Friday 25th to Sunday 27th June 2021]

Mentors: CA Dilip J. Thakkar, CA T. P. Ostwal & CA Padamchand Khincha

Conference Directors: CA Kartik Mehta & CA Siddharth Parekh

Keeping in mind the words of Benjamin Franklin, "An investment in knowledge always pays the best interest", alongwith the ever changing and dynamic world of international taxation, the International Taxation Committee is pleased to announce the 14th Residential Conference on International Taxation which is poised to discuss and deliberate on some of the most prominent and recent issues in the subject of international taxation.

We invite you to register for the conference and join us in this journey of knowledge as we bring together experienced professionals for enriching your knowledge to reflect upon the continually transforming policies in the international tax arena.

Conference fees includes two complimentary CTC publications

Galaxy of Knowledge Powerhouse

Group Discussion



An Art yet to be Mastered: Advanced Principles on Interpretation of key tax treaties in light of recent developments

CA Gautam B. Doshi



Emerging concept of nexus in the context of business and its paradigm shift

CA Padamchand H. Khincha



Residential status – nuances involved including stateless person in view of the recent amendments

CA Milin Mehta

Presentation



International tax dispute resolution, the road travelled and the road ahead

Shri Pramod Kumar, Hon'ble Vice President of ITAT (West Zone)



Unsettled controversy in respect of cross border payments for software and similar services post the recent SC Decision

CA Vishal J. Shah



Tax considerations for employers and employees arising from "Home Office" in a cross border context

CA Himanshu Parekh



GST Implications on Certain Cross Border Transactions

CA A. R. Krishnan



Discussion on the OECD Unified Approach

Shri Dhruv Sanghavi

Panel Discussion



Case Studies on attribution of income, DEMPE and FAR analysis and attribution data points (including digital taxation)

Moderator cum Panelist: CA Hitesh Gajaria

Panelist: Shri Rajat Bansal, Chief Commissioner of I.Tax, Jt. Secretary-FI&TR2 Senior Advocate Ajay Vohra, CA Shefali Goradia

Case Studies on International Taxation (including issues on High Net Worth Individuals)

Moderator cum Panelist: CA T. P. Ostwal

Panelist: Shri Kamlesh Varshney Jt. Secretary CBDT, TPL-Finance Ministry, Senior Advocate S. Ganesan, Adv. Mukesh Butani and CA Dileep Choksi



Importance of Spirituality and Meditation in Modern Times

Sister Brahma Kumari Shivani

Fees for the Online Conference is as under

Particulars	Fees up to June 10, 2021	Fees from June 11, 2021
Members	₹ 3,500/- + ₹ 630/- (18% GST) = ₹ 4,130/-	₹ 4,000/- + ₹ 720/- (18% GST) = ₹ 4,720/-
Non-Members	₹ 4,000/- + ₹ 720/- (18% GST) = ₹ 4,720/-	₹ 4,500/- + ₹ 810/- (18% GST) = ₹ 5,310/-

We request all chartered accountants, lawyers and international tax enthusiasts to block calendar and participate in this Conference to make the most of this opportunity. Other relevant information:

- The Conference fees include two complimentary CTC publication issued by The Chamber of Tax Consultants on 'Section 56(2) (x) A Treatise' and 'Permanent Establishment Emerging Trends', course material and access to attend all sessions through the virtual platform.
- Conference fees also include course material and access to attend all sessions through the virtual platform.
- The hard copies of the course material will be couriered to all the participants before or after the conference depending upon the availability of the logistics and the pandemic situation in different parts of the country.
- In no situation, request for refund of the conference fees will be entertained except where cancellation is for genuine unavoidable circumstances and it will be subject to the discretion and approval of Managing Council of CTC.
- Please provide your **unique email ID** from which you will join technical sessions of the Conference. Please note that the group allocations for Group Discussion papers and entry to sessions will be based on such **unique email ID** provided by participants at the time of registration.
- Members can also download the "Enrolment Form" from The Chamber's website and make online payment - [CLICK HERE](#)
- Participants will get to view the recordings of the session for a limited period after the 14th Residential Conference on International Taxation is over.

For enrollment and Conference related inquiries, please contact Mr. Hitesh Shah, Chief Manager – (M) +91 7977258507 Mr. Pradeep Nambiar, Dy. Manager (M) +91 8080254129 at Chamber's Office or email at office@ctconline.org

Organised by International Taxation Committee

STUDENT

Chairperson: Varsha Galvankar | **Vice-Chairperson:** Niyati Mankad | **Vice-Chairman:** Vitang Shah

Convenors: Raj Khona, Charmi Shah | **Advisor:** Ajay Singh

Days & Dates:

Friday, 18th June 2021
Saturday, 19th June 2021
Friday, 25th June 2021
Saturday, 26th June 2021

A Boot Camp on Valuation

When it comes to making crucial business and financial decisions, the financial analyst wants the right tools on hand for performing valuations. The need for 'Valuation' arises from various reasons like fund raising, mergers and acquisitions, sale of businesses, shareholders/family disputes, accounting requirements, regulatory requirements under Income-tax Act, Companies Act, FEMA regulations, SEBI Regulations, etc. or for internal assessment of management / shareholders.

With the introduction of Valuation Standards by professional bodies, Valuation Rules and Regulations being introduced under Companies Act, integration of valuation practice with globally accepted valuation methodologies and various other factors, the valuation practice in

India is now heading towards uniformity in valuation approach and methodologies.

With the current Indian and global economic scenario, the ever increasing transactions/deals across sectors and increasing regulatory requirements for independent valuation, the scope for Valuation has widened.

A Boot camp on valuation is a first step designed by the Students Committee of the Chamber of Tax Consultants to gain the essential valuation tools under the Armor of professionals. The course, spread over four sessions on four days, will try to give participants an overview of various valuation methods with practical examples and problems.

Days & Dates	Topics	Speakers
Friday, 18th June 2021 5.00 p.m. to 7.00 p.m.	Valuation Overview <ul style="list-style-type: none"> Valuation requirements under various Indian statutes Valuation Approaches and Methods Overview of ICAI Valuation Standards 	CA Sujal Shah
Saturday, 19th June 2021 10.00 a.m. to 1.00 p.m.	Market and Cost Approach of Valuation <ul style="list-style-type: none"> Comparable Companies Multiple (CCM) Method Comparable Transaction Multiple (CTM) Method Market Price (MP) Method Assets based value Method Other methods of valuation Practical Problems 	CA Bhavik Shah
Friday, 25th June 2021 5.00 p.m. to 8.00 p.m.	Demystifying Discounted Cash Flow (DCF) Method under Income Approach with Practical Problems	CA Vitang Shah
Saturday, 26th June 2021 10.00 a.m. to 1.00 p.m.	Valuation of Intangible Assets with Practical Problems	CA Aseem Mankodi

Fees	
Student Participants	NIL
Others	₹ 500/- + ₹ 90/- (18% GST) = ₹ 590/-

INDIRECT TAXES

Chairman: Atul Mehta | **Vice-Chairman:** Sumit Jhunjhunwala

Convenors: Hemang Shah, Kush Vora, Keval Shah | **Advisor:** Rajiv Luthia

GST Issues in Job Work transactions and Goods sent on approval (IDT SC)

Day & Date:

Tuesday, 29th June, 2021

Time:

05.00 p.m. to 07.00 p.m.

Sr. No.	Speakers
1.	CA Archit Agarwal & Chairman - CA Vasant Bhat

DIRECT TAXES

Chairman: Dinesh Poddar | **Co-Chairman:** Ashok Mehta | **Vice-Chairman:** Abhitan Mehta

Convenors: Chintan Gandhi, Nimesh Chothani, Viraj Mehta | **Advisor:** Mahendra Sanghvi

GST Implications on Business Restructuring

Days & Dates:
Saturday, 12th June, 2021
Time:
10.00 a.m. to 12.00 p.m.

Sr. No.	Speaker
1.	Rohit Jain, Advocate

Fees

CTC Members

₹ 300/- + ₹ 54/- (18 % GST) = ₹ 354/-

Non-Members

₹ 500/- + ₹ 90/- (18% GST) = ₹ 590/-

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

Issues in Taxation of Real Estate Transactions (SC)

Day & Date:
Thursday, June 17, 2021
Time:
06.00 p.m. to 08.15 p.m.

Sr. No.	Speaker
1	CA Jagdish Punjabi

Fees

Study Circle Members

NIL

CTC Members

₹ 200/- + ₹ 36/- (18% GST) = ₹ 236/-

Non-Members

₹ 400/- + ₹ 72/- (18% GST) = ₹ 472/-

BENGALURU STUDY GROUP

Convenors: Narendra Jain, Vishnu Bagri | **Co-ordinators:** Tata Krishna, Hanish S.

Private Trusts – Tax & regulatory concepts and issues (BSG)

Day & Date:
Thursday, 24th June, 2021
Time:
05.00 p.m. to 06.30 p.m.

Sr. No.	Speaker
1.	CA Paresh Shah, Mumbai

Fees

For Bengaluru Study Group Member

NIL

CTC Members

₹ 200/- + ₹ 36/- (18% GST) = ₹ 236/-

Non-Members

₹ 300/- + ₹ 54/- (18% GST) = ₹ 354/-

Recent Important Decisions under Direct Tax (ISG)

Day & Date:
Tuesday, 22nd June, 2021
Time:
06.00 p.m. to 08.00 p.m.

Sr. No.	Speaker
1.	CA Viraj Mehta

PUNE STUDY GROUP

Convenors: Sachin Sastakar, Shridhar Pathak | **Co-ordinators:** Govind Agrawal, Mehul Shah, Sunil Vaidya

Recent Amendments to Companies Act, 2013 & MSME Act, from Audit & Compliance Perspective

Day & Date:
Saturday, 12th June, 2021
Time:
10.00 a.m. to 12.30 p.m.

The Pune Study Group of The Chamber of Tax Consultants (CTC) has organised a Pune Study Group meeting on “Recent

Amendments to Companies Act, 2013 & MSME Act, from Audit & Compliance Perspective” scheduled on 12th June, 2021.

Sr. No.	Speaker
1.	CS Anoop Deshpande
Fees	
For Pune Study Group Members	NIL
CTC Members	₹ 200/- + ₹ 36/- (18% GST) = ₹ 236/-
Non-Members	₹ 300/- + ₹ 54/- (18% GST) = ₹ 354/-

MEMBERSHIP & PUBLIC RELATIONS

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

Handling Success and Overcoming Failure (SAS)

Day & Date:
Saturday, 23rd June 2021
Time:
05.30 p.m. to 07.00 p.m.

We look for success in every endeavour and obviously are overjoyed at our successes; but when we undergo failures we are in the depths of anguish and sorrow. We oscillate between extreme highs and lows of our emotional well being when confronted by varying results of our efforts. We are unable to strike a balance and learn the art of remaining happy independent of the results of our efforts. Learning this art, of handling success or failures as part of life experiences is made possible by our self awareness to these extremes.

The upcoming webinar as part of its Self Awareness Series (SAS) organized by the Membership and Public Relations Committee will dwell on learning this art of handling success and failures with equanimity. The learned speaker of this webinar is Swami Swatmananda, one of the most dynamic Acharyas of **Chinmaya Mission**.

**All are
cordially
invited**

Sr. No.	Speaker
1.	Swami Swatmananda, Chinmaya Mission

IT CONNECT

Chairperson: Maitri P. Savla | **Vice-Chairman:** Alok Jajodia
Convenors: Murtuza Ghadiali, Anand Paurana, Mayur Jain | **Advisor:** Dinesh Tejwani

New Income Tax e-Filing Portal: A paradigm shift?

Day & Date:
Wednesday, 9th June, 2021
Time:
05.00 p.m. to 06.30 p.m.

The Income Tax E-filing portal will get a new avatar on 7th June 2021. There are huge expectations among taxpayers. Whether it provides the promised ease of use? Will a taxpayer be able to file a return by just answering questions? Join The Chamber of Tax

Consultants as speakers CA Mitesh Katira and CA Ashok Mehta will take us through the changes and their impact.

**All are
cordially
invited**

Sr. No.	Speaker
1.	CA Mitesh Katira & CA Ashok Mehta

IMPORTANT DECISIONS UNDER GST

By Vinay Kumar Jain and Sachin Mishra, Advocates

1. **Whether the State's action, of imposing IGST on oxygen concentrators, which were directly imported by individuals free of cost, without the aid of a canalizing agency, violative of Article 14 and 21 of the Constitution and unconstitutional?**

Facts and Pleadings: Mr. Gurucharan Singh (hereinafter "Petitioner") is an 85-year-old, who approached the High Court of Delhi against the imposition of IGST on the import of oxygen concentrator which has been gifted to him by this nephew, asserting that the same is discriminatory, unfair and unreasonable upon his right to life and health. As per Notification No.30/2021-Customs dated 01.05.2021, IGST on oxygen concentrators imported by individuals for personal use, was scaled down to 12%. Whereas, as per Notification No.4/2021-Customs dated 03.05.2021, the State exempted, completely, oxygen concentrators imported for the purpose of COVID relief from the imposition of IGST, where the importer was the State Government, or, any entity, relief agency or statutory body authorized by the Government.

The Petitioners submitted that a perusal of Mega Exemption notification no.50/2017, would show that several items where BCD is exempted or reduced, the IGST is nil. Therefore, imposition of 12% IGST on oxygen generators, when BCD on them is exempted, is contrary to the prevailing practice. As per Petitioner, a perusal of entry no. 607A of General Exemption no. 190 completely exempts BCD and IGST on life-saving drugs/medicines imported for personal use, which are supplied free of cost by overseas supplier. Therefore, the Petitioner submitted that Oxygen concentrators, would fall within the ambit of entry no. 607A, since the definition of drugs as per the Drugs and Cosmetics Act 1940 would include the same. Further, the Petitioner submitted that there is no discernible rationale as to why the exemption from levy of IGST is not extended to oxygen concentrators imported by individuals for personal use, the distinction drawn between the two classes of importers is clearly unreasonable and hence, violative of Article 14 of the Constitution. The Petitioner also submitted that the CBEC Circular no. 9/2014-Customs, sets forth the guideline to issue exemption notification under section 25(2) of the Customs in respect of goods imported for relief and rehabilitation of people affected by natural disaster and epidemics. Even though there's no right to claim exemption from taxes, but once the provisions under section 25 of the Customs Act are invoked, such delegated legislation can be judicially reviewed, and the same is arbitrary and violative of Article 14. The Petitioner contended that the right to life encompasses within it, the right to health and the right to

affordable treatment, and the State not only has a duty but a positive obligation to ensure that the health of citizens is duly protected. There is a "distinct and noticeable burdensomeness" that is clearly and directly attributable to the impugned tax. Therefore, as per the Petitioner, the impugned notification violates not only right health but also the right to human dignity, which is interwoven in Article 21 of the Constitution.

The Respondents submitted that the GOI has provided considerable relief insofar as oxygen concentrators imported for personal use are concerned, as BCD has been reduced from 38.5% to nil, while IGST has been scaled down from 28% to 12%. This reduction has been brought to bring parity between oxygen concentrators imported for commercial use as against those imported for personal use. The duty incidence has come down from 77% to 12%. The Respondents claimed that it is felt by the State that any person importing oxygen concentrator for personal use as also those finding resources to receive gifts would be in a position to afford payment of IGST at the nominal rate of 12%. The Respondents also submitted that the decision to impose a tax and/or fixation of the rate at which tax is to be imposed cannot be subjected to judicial review. The courts have refrained from exercising the power of judicial review over matters concerning economic issues. As per the Respondents, the imposition of IGST, which are gifted for personal use, does not violate Article 21 of the Constitution, if the same is accepted that would lead to absurd consequences.

Judgment: The Hon'ble High Court held that the conditions prescribed in the notification dated 03.05.2021, exempting the imposition of IGST on only those oxygen concentrators that are imported for Covid relief through a canalizing agency, creates a manifestly arbitrary and an unreasonable distinction between two identically circumstanced users depending on how the oxygen concentrator has been imported. As per the Hon'ble High Court, the exclusion of individuals, from the benefits of the said notification only because they chose to receive the oxygen concentrators as a gift, albeit directly, without going through a canalizing agency is violative of Article 14 of the Constitution. The Hon'ble High Court held that while it is permissible for the State to identify a class of persons, to whom tax exemption would be extended, it is not permissible for the State to exclude a set of persons who would ordinarily fall within the exempted class by creating an artificial, unreasonable and substantially unsustainable distinction. The Courts and State have to adopt a humanistic approach, which in our view, is a facet of Article 21 of the Constitution. The Hon'ble High Court observed that there is a positive obligation on

the State to take ameliorative measures so that adequate resources are available to protect and preserve the health of persons residing within its jurisdiction. As per the Hon'ble High Court, the State should relent, or at least lessen the burden of exactions, in times of war, famine, floods, epidemic and pandemics, since such an approach allows a person to live a life of dignity which is a facet of Article 21. The Hon'ble High Court held that persons who are similarly circumstanced as the petitioner, i.e., those who obtain imported oxygen concentrators as gifts, for personal use, cannot also be equated with those who import oxygen concentrators for commercial use. Therefore, the Hon'ble High Court held that notification bearing no. 30/2021-Customs, dated 01.05.2021, will also have to be quashed and levy of IGST is unconstitutional. The Hon'ble High Court observed that the oxygen concentrators would also fall within the ambit of entry no. 607A, since the definition of drugs as per the Drugs and Cosmetics Act 1940 would include the same, therefore also not requiring the State to issue a separate exemption notification. The Hon'ble High Court also directed that to prevent misuse of the oxygen concentrators, by any person, they would have to furnish a letter of undertaking to the officer designated by the State that the same would not be put to commercial use.

Gurcharan Singh vs Ministry of Finance (Department of Revenue), Government of India, High Court of Delhi, decided on 21.05.2021, in W.P.(C) 5149/2021, CM No. 16554/2021

2. Whether service tax is leviable on the trade discount received by the Petitioner from the manufacturers on reaching a certain sales target?

Facts & Pleadings: M/s T.V. Sundram Iyengar & Sons Pvt. Ltd. (hereinafter "Petitioner") is engaged in the business of purchasing motor vehicle parts and chassis from the manufacturers and reselling the same in its own name and on its own account. The Petitioner had entered into dealership agreements with various manufacturing entities. The Petitioner were also eligible for trade discount by way of credit notes from such manufacturers on reaching a certain sales target. The department issued a show cause notice proposing to levy service tax on the trade discounts received by the Petitioner from the manufacturers by way of credit notes. The said demand was confirmed by the adjudicating authority. The Petitioner filed a writ petition challenging the aforesaid order.

The Petitioner relied upon some relevant clauses in the dealership agreements and contended that the core activity of the Petitioner is to engage in sales of the goods sold to them by the respective manufacturers. The Petitioner further submitted that the incidental clauses regarding the attainment of business performance are not relevant for

the determination of the issue in hand. The Petitioner also submitted that the relationship between the parties is on a principal to principal basis, and that there was no element of service but only sale.

The department had alleged that the Petitioner's contention that it was having only principal to principal relationship with manufacturers was not correct, and accordingly the activity of the Petitioner would fall within Section 66E(e) of the Finance Act 1994.

Judgment: The Hon'ble High Court of Madras held that a mere reading of the dealership agreement would indicate that the petitioner purchases the goods from the manufacturers by way of sale. It is only when the Petitioner has reached a certain sales target, the manufacturer on his own disburses trade discount to the petitioner by way of credit notes, in fact the dealership agreement does not contain any clause regarding trade discount. The Hon'ble High Court referred to the reasoning adopted in AAR Ruling No. AAR/ST/11/2016 wherein it was ruled that since there was no agreement or contractual obligation between the applicant and the media owner to give volume discounts, and the same was not fixed and at the discretion of the media owner, the applicant could not be said to be providing declared services to the media owner as per Section 66E(e) of the Finance Act 1994. Further, the Hon'ble High Court also held that the adjudicating authority had only gone by some clauses of the dealership agreement, whereas the document has to be read as a whole, reference was made to Super Poly Fabricks Ltd. vs Commissioner of C.Ex. Punjab, 2008 (10) S.T.R. 545. Therefore, the Hon'ble High Court held that even though the document may be styled as a dealership agreement and the Petitioner may have to be conform to certain business standards, if the agreement is read as a whole, one can come to the safe conclusion that the relationship between the parties was one of seller and buyer on a principal to principal basis. Accordingly, the Hon'ble High Court has held that merely a discount passed by the manufacturer in a sale transaction cannot be subject to service tax.

M/s T.V. Sundram Iyengar & Sons Pvt. Ltd. vs The Commissioner of CGST & Central Excise, Madurai, High Court of Madras, decided on 30.03.2021 in W.P.(MD) No.4252 of 2021 and W.M.P.(MD) No.3448 of 2021.

3. Whether the requirement under section 107 of the CGST/SGST Act 2017 mandating a deposit of 10% of the demand as a pre-deposit for filing appeal, be waived off or reduced?

Facts and Pleadings: M/s Utkal Udyog (hereinafter "Petitioner") aggrieved by the requirement under Section 107 of the Orissa GST Act, 2017 read with Rule 10 of

Orrisa GST Rules, 2017 that mandates a deposit of 10% of the demand as a pre-deposit for the appeal to be considered, filed a writ petition before the Hon'ble High Court of Orrisa.

The Petitioner submitted that since he had no financial means at this stage, he was unable to even upload the appeal without pre-deposit. The Petitioner relied on the decision of Punjab and Haryana High Court in *Kelmar (India) Exports v State of Punjab* (CWP No.17975 of 2020 decided on 02.11.2020), to submit that the Court should exercise its power under Article 226 of the Constitution to either waive or reduce the pre-deposit percentage to enable the Petitioner to file the appeal.

Judgement: The Hon'ble High Court of Orrisa held that firstly, Section 107 of the OGST Act is a mandatory provision and that there is no discretion with the appellate authority to waive the requirement of pre-deposit, therefore, even the High Court itself cannot direct the appellate forum to do so, contrary to the statute. Further, the Hon'ble High Court also held that the as far as the judgment in *Kelmar (India) Exports* (supra) is concerned it was in the context of Punjab Value Added Tax Act. Further, the High Court of Punjab and Haryana in the judgment of *Kelmar (India) Exports* thought it fit to reduce the pre-deposit from 25 % to 10% on the basis of the facts of that case, however, the Hon'ble High Court was not persuaded to adopt the same approach in view of the clear language of the statute applicable here. The Hon'ble High Court also noticed that as per Section 107 of the OGST Act, upon making a pre-deposit of 10% there is an automatic stay on the balance of 90% of the demand, which cannot, under any circumstances, be said to be unfair or unreasonable. Therefore, the writ petition is not to be entertained and accordingly dismissed.

M/s Utkal Udyog vs Commissioner CT & GST and Others, High Court of Orrisa, decided on 30.04.2021, in W.P.(C) No.15190 of 2021

4. Whether the activity of crushing, pulverizing, converting and packing of spices into powder form amount to manufacture or not? If not, whether service tax is payable under the category of 'Business Auxiliary Service'?

Facts and Pleadings: M/s Nilgiri Oil & Allied Industries (hereinafter referred to as "the appellant"), has contracted with M/s Shalimar Chemical Works Ltd, Kolkata to process whole 'turmeric' and 'chilly' as well as seeds of 'coriander' and 'cumin' supplied by the latter into powder which is then packed and returned.

Revenue alleged that the activity of conversion of these spices into powder does not amount to manufacture, therefore, with effect from 1.9.2009, the activity undertaken by the Appellant of job work is covered under 'Business Auxiliary Services'.

As there were contrary decisions of the CESTAT in *Jayakrishna Flour Mills (P) Ltd vs. Commissioner of Central Excise, Madura* [2015 (37) STR 1079 (Tri-Chennai)] and in *Sara Spices vs. Commissioner of Central Excise, Cochin* [2018 (362) ELT 151 (Tri-Bang)], the matter was referred to larger bench of the CESTAT. The Hon'ble CESTAT in the case of *Jayakrishna Flour Mills Pvt. Ltd. (supra)* relied on the CBEC Circular No. 11/01/2012-CX.1, dated 9-7-2013 to come to the conclusion that the process, in question, would amount to manufacture and no service tax is leviable. Contrary, the Hon'ble CESTAT has held that crushing of chilli to make chilli powder does not amount to manufacture in the case of *Sara Spices (supra)*, relying on the CEBC Circular dated 16-3-2000.

Judgement: The Hon'ble Larger Bench of the CESTAT has held that w.e.f. 01.09.2009, the Section 65(19) of Finance Act, 1994 was amended to restrict taxation to activities involving production or processing of goods that do not amount to manufacture of excisable goods which pass the test of transformation into marketable outputs that have distinct use. As per Hon'ble Larger Bench of the CESTAT, in the present case, whole spices or seeds is subject to processing for production of powder. The transformed product has its own market similar to, and yet independent of, the harvested product that is subjected to processing. It is the particular use to which powdered spice is put to that prompted the establishment of an entire industry and therefore, Hon'ble Larger Bench of the CESTAT has held that every aspect of 'manufacture', as settled by judicial determination, is complied with in the present issue. Thus, Hon'ble Larger Bench of the CESTAT further held that the activity of crushing, pulverizing, converting and packing of spices into powder form amounts to manufacture and no service tax is payable. Hon'ble Larger Bench of the CESTAT observed that 'manufacturing' as held by the Tribunal in *Jayakrishna Flour Rolling Mills (P) Ltd (supra)* has relevance to the present dispute rather than the decision in *Sara Spices (supra)* which resolved an entirely different dispute. Accordingly, the reference was answered in favour of assessee.

M/s Nilgiri Oil & Allied Industries vs CCE, Cus & ST, Larger Bench, CESTAT, Hyderabad, decided on 25.05.2021 in Service Tax Appeal No: 28261 of 2013.

Note : THE FULL DECISIONS CAN BE DOWNLOADED FROM THE WEBSITE WWW.CTCONLINE.ORG UNDER SEMINAR PRESENTATIONS - UNREPORTED DECISIONS

UNREPORTED TRIBUNAL DECISIONS

By Ajay R. Singh, Advocate and CA Rohit Shah

1. **S. 36(1)(vii): Bad Debts Written Off** - Since, the debts had become irrecoverable - post amendment to clause (vii) of section 36(1) w.e.f. 1-4-1989, the only requirement is that the debt should be written off in the books:

The assessee is engaged in the business of supply of chemicals. The business model of the assessee is that the assessee procures chemicals from M/s. Standard Mills Ltd. (in short 'SML') and supply the same to Ganesh Benzoplast Ltd. (in short 'GBL') and others on commission basis. The goods are directly supplied by SML to GBL. The transport of goods is organized by the assessee. The payment of goods is directly made by GBL to SML and the transporter. In one of the transactions in FY : 2002-03, an amount of Rs.1,66,806/- due from GBL for supplies made by SML was outstanding on account of some dispute. GBL did not pay the said amount to SML. SML adjusted the said amount due from GBL against the commission payable to the assessee. The assessee in its books debited the said amount to GBL's account as recoverable and reflected the same under the schedule 'Sundry Debtors' since FY : 2003-04. During the period relevant to assessment year under appeal, the assessee written off said amount as bad debt irrecoverable.

Assessing Officer rejected assessee's claim of bad debts written off u/s 36(1)(vii) of the Act . CIT(A) also rejected the contentions of the assessee and confirmed the addition.

Before Hon'ble ITAT, the Id. DR submitted that the assessee has failed to produce invoices raised on the said parties to show that the amount was outstanding.

Hon'ble ITAT noted that the amount written off is reflected in the books of the assessee since FY: 2003-04. This fact has not been disputed by the Revenue and therefore, followed the decision of Hon'ble SC in the case of TRF Ltd. held that post amendment to clause (vii) of section 36(1) w.e.f. 1-4-1989, the only requirement is that the debt should be written off in the books.

Editors Note: Assessee being a commission agent and considering Business model/ modus operandi Invoices are not required for claiming bad debts.

Shri Hanuman International Corporation vs. ITO Ward25(3)(4), Mumbai [ITA No. 4450/Mum/2019, Bench. "SMC", AY: 2012-13 dt :05/04/2021]

2. **S. 250: Admission of fresh claim- MAT credit not claimed in return - claim of assessee regarding carry forward of MAT credit was to be allowed :**

Brief facts of the case are that the assessee had undisputedly MAT credit of ₹ 54,21,075/- which the assessee did not claim in the assessment year under consideration. Therefore, when the assessee's return was processed and intimation given u/s. 143(1) of the Act, it was not granted to the assessee. Therefore, the assessee moved an application u/s. 154 of the Act before the assessing officer for rectification of the same which was denied on the reason that the Hon'ble Supreme Court in Goetz (India) Ltd. v. CIT 284 ITR 323 has held that the assessing officer cannot entertain a claim unless the assessee has put forward such claim by filing return u/s. 139(1) of the Act. Aggrieved, the assessee preferred an appeal before the Id. CIT (Appeals), who was of the view that there was no error in the order of rectification passed by the assessing officer and since the issue is a debatable one, he refused to interfere and dismissed the appeal of the assessee.

It was submitted by the AR that there is no provision that the assessing officers should determine the tax credit, which shall be carried forward and set off. It is an inbuilt mechanism of the law of the credit and set off. Therefore, on application of a particular formula, if the tax payable under the normal computation is higher than the minimum alternate tax payable by the assessee, and if the assessee has MAT credit available, same shall be granted as a credit to the assessee against the tax liability. There is no option available either to the assessing officer or to the assessee. It is automatic.

Hon'ble ITAT held that even though the Hon'ble Supreme court in Goetz (India) Ltd. (supra) held that the assessing officer is not competent to grant any claim without the assessee claiming it in its return of income u/s. 139(1) of the Act has specifically clarified that the embargo on the power of assessing officer not to entertain claims which was not claimed by assessee while filing of return u/s. 139(1) of the Act, is not there for the appellate authorities. Therefore, claim of assessee regarding carry forward of MAT credit was accepted and matter was remanded back to AO so that he can verify the claim of the assessee and if found to be correct then AO should allow the claim of assessee in accordance with law.

The Hanuman Estates Ltd. v. Dy. CIT [ITA NO.: 1872/KOL/2019, A.Y. 2015-16, Date: 19/08/2020 (Kolkata) (Trib)]



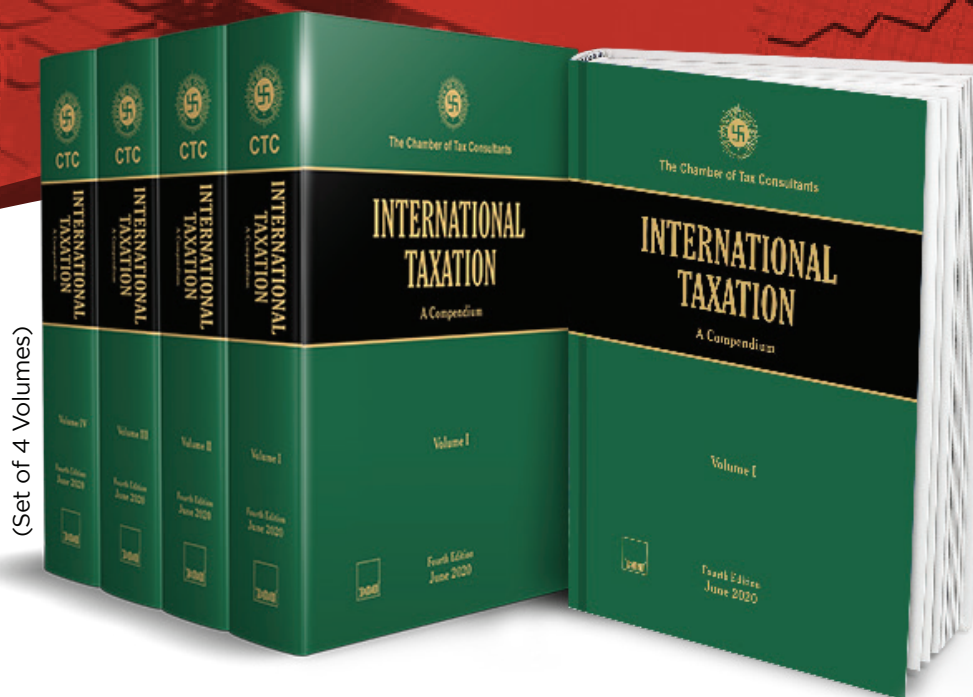
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