



ज्ञानं परमं बलम्

THE CTC NEWS

Monthly Newsletter of The Chamber of Tax Consultants

(For Private Circulation - Members Only)

MARCH 2023



When you are doing any work.. do it as worship, as
the highest worship

- by SWAMI VIVEKANANDA



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

Hitesh G. Shah : *Chief Manager* - 9821889249 | Pradeep Nambiar - *Manager-Events* - 8080254129
Bindu Mistry : *Manager-Technical* - 9637692312 Manisha Kasbe : *Manager-Accounts* - 8104816841

Helpdesk: (1) Events: Mr. Pradeep Nambiar / Mr. Anand Kadam Email: events@ctconline.org
(2) Accounts: Ms. Manisha Kasbe Email: accounts@ctconline.org (3) Journal: Ms. Bindu Mistry Email: jou@ctconline.org
(4) Membership: Ms. Savita Mane Email: member@ctconline.org

THE CHAMBER OF TAX CONSULTANTS

Dear Member,

We intend to streamline the office administration by allocating different email ids for improvising our communication system. Instead of one email id for all the staff, we have assigned Email ids to the staff in work allocated to them. For ease of reference, a chart is prepared giving a list of email ids, area of work, and staff handling the said area of work. The same is listed as under:

| Sr. No. | Email ID | Area of Work | Staff handling the area of work |
|---------|------------------------|--|--|
| 1 | manager@ctconline.org | General Queries | Mr. Hitesh Shah, <i>Chief Manager</i> |
| 2 | events@ctconline.org | All event-related issues like webinar, conference, study circle/group meeting, payment related to events | Mr. Pradeep Nambiar / Mr. Anand Kadam / Ms. Neha Kadakia / Mr. Dinesh Dalvi |
| 3 | accounts@ctconline.org | accounts related issues | Ms. Manisha Kasbe / Ms. Savita Mane |
| 4 | jou@ctconline.org | Chambers Journal printing matter, newsletter matter and other related matters | Ms. Bindu Mistry / Ms. Neha Kadakia |
| 5 | it@ctconline.org | All website and social media related matters | Mr. Dinesh Dalvi / Mr. Pradeep Nambiar |
| 6 | member@ctconline.org | Members queries such as Renewals/ journal not received/change of address etc | Ms. Manisha Kasbe / Ms. Savita Mane |
| 7 | office@ctconline.org | Will be used parallelly for 3-6 months. Thereafter, it will be used for communication with members only. | Ms. Savita Mane / Ms. Neha Kadakia |

The members are requested to send emails on the above mentioned emails for smooth functioning of Chambers.

We solicit your wholehearted co-operation for smooth functioning of the Chambers office.

Thanks and regards,

For The Chamber of Tax Consultants

Sd/-

(Vijay Bhatt)

Hon. Joint Secretaries

Sd/-

(Mehul Sheth)

RENEWAL NOTICE – 2023-24

Dear Members,

SUB: RENEWAL OF ANNUAL MEMBERSHIP FEES FOR 2023-2024

24th January, 2023

It is our privilege to have been of service to you over the years. We truly appreciate and value your association. It is time to renew annual membership, subscription of The Chamber's Journal, Study Groups and Study Circles for the financial year 2023-24. 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 Neha R. Gada

Hon. Treasurer

| Sr. No. | Particulars | Fees | GST @18% | Total |
|------------|---|------------|-----------|------------|
| I | MEMBERSHIP RENEWAL FOR EXISTING MEMBERS | | | |
| 1 | ORDINARY MEMBERSHIP FEES - (APRIL TO MARCH) – WITH HARD COPY OF JOURNAL | 2500 | 450 | 2950 |
| 2 | ORDINARY MEMBERSHIP FEES - (APRIL TO MARCH) – WITH SOFT COPY OF JOURNAL (E- JOURNAL) | 1500 | 270 | 1770 |
| 3 | ASSOCIATE MEMBERSHIP - (APRIL TO MARCH) | 7500 | 1350 | 8850 |
| 4 | STUDENT MEMBERSHIP - INCLUDING E JOURNAL (APRIL TO MARCH) | 500 | 90 | 590 |
| II | CHAMBER'S JOURNAL SUBSCRIPTION – (APRIL TO MARCH) (HARD COPY) | | | |
| 1 | JOURNAL SUBSCRIPTION - LIFE MEMBERS | 1350 | 0 | 1350 |
| 2 | JOURNAL SUBSCRIPTION – NON-MEMBERS | 2500 | 0 | 2500 |
| 3 | JOURNAL SUBSCRIPTION - STUDENT MEMBERS | 1000 | 0 | 1000 |
| III | COURIER CHARGES FOR CHAMBER'S JOURNAL (OPTIONAL) | 339 | 61 | 400 |
| IV | CHAMBER'S E - JOURNAL SUBSCRIPTION (SOFT COPY) | | | |
| 1 | E JOURNAL SUBSCRIPTION – FOR LIFE MEMBERS (APRIL TO MARCH) | 700 | 126 | 826 |
| 2 | E JOURNAL SUBSCRIPTION – FOR NON MEMBERS (APRIL TO MARCH) | 1000 | 180 | 1180 |
| V | ITJ SUBSCRIPTION | | | |
| 1 | INTERNATIONAL TAX JOURNAL SUBSCRIPTION (QUARTERLY – APRIL TO MARCH) | 1400 | 0 | 1400 |
| VI | STUDY CIRCLES & STUDY GROUPS | | | |
| 1 | STUDY GROUP (DIRECT TAXES) | 2150 | 387 | 2537 |
| 2 | STUDY CIRCLE (DIRECT TAXES.) | 1800 | 324 | 2124 |
| 3 | STUDY CIRCLE (INTERNATIONAL TAXATION) | 1600 | 288 | 1888 |
| 4 | STUDY CIRCLE (INDIRECT TAXES) | 2000 | 360 | 2360 |
| 5 | CORPORATE AND IBC STUDY CIRCLE (VIRTUAL MEETINGS ONLY) | 500 | 90 | 590 |
| 6 | INTENSIVE STUDY GROUP ON DIRECT TAX | 1800 | 324 | 2124 |
| 7 | FEMA STUDY CIRCLE | 1600 | 288 | 1888 |
| 8 | PUNE STUDY GROUP | 2000 | 360 | 2360 |
| 9 | BENGALURU STUDY GROUP | 1600 | 288 | 1888 |
| 10 | HYDERABAD STUDY GROUP | 2000 | 360 | 2360 |
| 11 | ALL STUDY CIRCLES / STUDY GROUPS MEETINGS HELD AT MUMBAI - (ONLY FOR OUTSTATION MEMBERS ON VIRTUAL MODE ONLY) | 3000 | 540 | 3540 |
| VII | FEES FOR INCOMING NEW MEMBERS | | | |
| 1 | LIFE MEMBERSHIP | 15000 | 2700 | 17700 |
| | SUBSCRIPTION OF JOURNAL (OPTIONAL) | 1350 | 0 | 1350 |
| 2 | ADMISSION FEES – (ORDINARY MEMBERSHIP) | 750 | 135 | 885 |
| | ORDINARY MEMBERSHIP FEES - (APRIL TO MARCH) – WITH HARD COPY OF JOURNAL | 2500 | 450 | 2950 |
| | ORDINARY MEMBERSHIP FEES - (APRIL TO MARCH) – WITH SOFT COPY OF JOURNAL (E- JOURNAL) | 1500 | 270 | 1770 |
| 3 | ADMISSION FEES – (ASSOCIATE MEMBERSHIP) | 1000 | 180 | 1180 |
| | ASSOCIATE MEMBERSHIP FEES | 7500 | 1350 | 8850 |

Notes:

- Members are requested to visit our website www.ctconline.org for online payment.
- Payments should be made by Account Payee Cheque/Demand Draft in favour of "THE CHAMBER OF TAX CONSULTANTS". Outstation members are requested to send payments only by "Demand Draft or At Par Cheque". Members who are paying by NEFT are requested to share the UTR NO for the payment done.
- A consolidated Cheque/Draft may be sent for all payments.
- Please also update your Mobile number & e-mail address to ensure receipt of regular updates on activities of The Chamber.
- Please write your full name and Mobile No on the reverse of Cheque/DD.
- Kindly pay your membership fees by **30th April, 2023** for uninterrupted service of the Chamber's Journal.
- Members are requested to download the Renewal Form from Chamber's website www.ctconline.org
- Renewal Notices are also sent separately and members are requested to fill up the same and send it to The Chamber's office along with the cheque/DD.
- 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.



Estd. 1926
ज्ञानं परमं बलम्

**THE CHAMBER OF
TAX CONSULTANTS**



THE DASTUR ESSAY COMPETITION 2023

For Students of Law & Accountancy

REGISTRATION
CLOSES ON
**31st March,
2023**

SUBMISSION
DEADLINE
**30th April,
2023**

The Dastur Essay Competition

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.

The Chamber is one of the oldest professional organisations founded in 1926. 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'.

Hence, by participating in the Twelfth 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.

Cash Prizes Awarded



₹ 10,000/-



₹ 7,500/-



₹ 5,000/-

Student committee

Chairman:
Vitang Shah

Vice Chairpersons:
Charmi G. Shah,
Niyati Mankad

Ex-officio:
Parag Ved,
Haresh Kenia

Convenors:
Charmi A. Shah,
Viral Shah

Advisor:
Ajay Singh

Topics for the Twelfth Dastur Essay Competition are:

1. Do Indian Labour Laws require to be reformed and, if so, how?
2. After 75 years of Independence, what should be India's vision for the next 75 years?
3. To have smarter and success-oriented students, should our school/ college syllabi be changed and, if so, in what manner?

For Rules & Regulations and Enrolment, please visit our website www.ctconline.org
For queries pls mails us on ctcessay@gmail.com or contact on 022- 22001787/ 22090423/ 22002455

Student Committee

Chairman: Vitang Shah

Vice-Chairperson: Charmi G. Shah,
Niyati Mankad

Convenors: Charmi A. Shah, Viral Shah

Advisor: Ajay Singh

CA Student Orientation Course (Virtual Mode)

Monday, 13th ,
Tuesday, 14th ,
Wednesday, 15th,
Thursday, 16th
and Friday, 17th
March, 2023

04.00 p.m. to
06.00 p.m.

The Student Committee of The Chamber of Tax Consultants is pleased to announce "CA Student Orientation Course" (Virtual Mode), which is uniquely designed to acquaint students in some of the important aspects of articleship along with understanding of subjects in a practical manner which will be helpful in their curriculum also.

It is a 5 day – 2 hours daily course which will provide basic understanding to students on the prominent work areas in terms of academic concepts as well as provide practical guidance for their articleship training and smooth flow of office work.

Who Should Attend: CA Article Students and others.

The Objective: To Provide basic knowledge of all day-to-day activities undertaken during the course of articleship along with understanding of subjects in a practical manner.

Fees

For Student Member of the Chamber

NIL

For all other participants

₹ 250/- + ₹ 45/- (18% GST) = ₹ 295/-

| Sr. No. | Topics | Speakers |
|---------|--|----------------------|
| 1 | Basics of GST and Annual Return | CA Sumit Jhunjunwala |
| 2 | Company Law | CA Priya Vora |
| 3 | Basics of Income tax and Return filing and Basics of TDS/TCS & advance Tax | CA Kalpesh Katira |
| 4 | Office Etiques and Soft Skills | CA Srinivas Vakati |
| 5 | Introduction to Audit, Auditing Standards and its practical aspects | CA Mehul Sheth |

Note : Non-CTC Student can become Student Member of The Chamber by paying minimal registration fee of ₹ 590/- (incl. of GST) and take benefit of above program as free of cost as well as future programs which would be free of cost or at concessional fees. For membership and other details please contact CTC office (Ms. Savita Mane) – +91-22-2200 1787 / 2209 0423 / 2200 2455

International Taxation Committee

Chairman: Kirit Dedhia

Co-Chairperson: Karishma Phatharphekar

Vice Chairman/Chairperson: Shabbir

Motorwala, Isha Sekhri

Convenor(s): Kartik Mehta, Niraj Chheda,
Vishal D. Shah

Study Circle Meeting on "Recent Judicial Decisions".

Speaker : CA Fenil Bhatt

Tuesday, 21st
March, 2023

6.00 p.m. to
8.00 p.m.

Fees

| | |
|---|--------------------------------------|
| International Taxation Study Circle Members | NIL |
| CTC Members | ₹ 200/- + ₹ 36/- (18% GST) = ₹ 236/- |
| Non-Members | ₹ 300/- + ₹ 54/- (18% GST) = ₹ 354/- |

Indirect Taxes

Chairman: Sumit Jhunjhunwalla

Vice-Chairman: Hemang Shah

Convenors: Keval Shah, Raj Khona,
Yash Parmar

Advisor: Rajiv Luthia

IDT Study Circle Meeting on Issues under GST for Services provided by Government (Virtual Mode)

Chairman : CA A. R. Krishnan
Group Leader : CA Payal Shah

Thursday, 23rd
March 2023

5.00 p.m. to
7.00 p.m.

Fees

| | |
|------------------------------|--------------------------------------|
| For IDT Study Circle Members | NIL |
| CTC Members | ₹ 200/- + ₹ 36/- (18% GST) = ₹ 236/- |
| Non-Members | ₹ 400/- + ₹ 72/- (18% GST) = ₹ 472/- |

STATEMENT AS PER PRESS AND REGISTRATION OF BOOKS ACT Form IV (See Rule 8) CITC NEWS

- Place of Publication : The Chamber of Tax Consultants, 3, Rewa Chambers, Ground Floor, 31, New Marine Lines, Mumbai-400 020.
- Periodicity of its publication : Monthly
- Printer's Name & Nationality : Shri Kishor Vanjara, Indian
Address : 3, Rewa Chambers, Ground Floor, 31, New Marine Lines, Mumbai-400 020.
- Publisher's Name & Nationality : Shri Kishor Vanjara, Indian
Address : 3, Rewa Chambers, Ground Floor, 31, New Marine Lines, Mumbai-400 020.
- Editor's Name & Nationality : Shri Kishor Vanjara, Indian
Address : 3, Rewa Chambers, Ground Floor, 31, New Marine Lines, Mumbai-400 020.
- Names & Addresses of Individuals who own the newspaper and partners or share holders holding more than one per cent of the capital : The Chamber of Tax Consultants
3, Rewa Chambers, Ground Floor,
31, New Marine Lines, Mumbai-400 020.

I, Kishor Vanjara, hereby, declare that the particulars given above are true to the best of my knowledge and belief.

Date: 1st March, 2023

Kishor Vanjara
Signature of the Publisher



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

16th RESIDENTIAL CONFERENCE ON INTERNATIONAL TAXATION, 2023

(Embracing Future)

Thursday, 15th June 2023 to Sunday, 18th June 2023
Le Méridien , Coimbatore, Tamil Nadu

Invitation to 16th Residential Conference on International Taxation 2023

Dear Colleagues,

The Residential Conference on International Taxation provides a unique opportunity to discuss international tax topics of current significant interest and importance. A new way of doing business is emerging at a rapid speed and so the challenges around its taxation. The theme of this Conference is "Embracing Future" and keeping it in the background, topics of the Conference are selected and eminent faculties are invited to deliberate.

The 16th Residential Conference on International Taxation will be held from Thursday, 15th June 2023 to Sunday, 18th June 2023 at Le Méridien, Coimbatore, Tamil Nadu.

We would like you to mark your calendars today and look forward to welcome you in June 2023.

The conference topics and the galaxy of speaker faculty given below.

| Topics | Speaker/s |
|--|--|
| PAPERS FOR DISCUSSION | |
| Paper I International tax aspects of the new age phenomena (Artificial Intelligence (AI), Web3, Metaverse, Online Gaming etc) | CA Padamchand Khincha |
| Paper II Trends in international taxation | CA Bhaumik Goda, Chairman: CA T. P. Ostwal |
| Paper III Case studies on cross border structuring & re-structuring | CA Gautam Doshi |
| PRESENTATIONS | |
| III Structuring of real estate investments for domestic and international capital | CA Amithraj AN |
| IV Trends and challenges in bench marking of new business models | CA Vijay Iyer |
| PANEL DISCUSSION | |
| V Case studies – Int'l Tax and Transfer Pricing (Emerging Issues) | CA T. P. Ostwal, CA Geeta Jani, Adv. Zoheb Hossain, Senior Department Standing Counsel & Adv. K K Chythanya |

Fees structure for participants are as under:

| Residential Participants – Double Occupancy Basis | | |
|---|--------------------------|--------------------------|
| | Fees upto 8th April 2023 | Fees from 9th April 2023 |
| CTC Member | ₹ 21,500/- + 18% GST | ₹ 23,500/- + 18% GST |
| Non-Member | ₹ 23,500/- + 18% GST | ₹ 25,500/- + 18% GST |
| Residential Participants – Single Occupancy Basis | | |
| | Fees upto 8th April 2023 | Fees from 9th April 2023 |
| CTC Member | ₹ 32,000/- + 18% GST | ₹ 34,000/- + 18% GST |
| Non-Member | ₹ 34,000/- + 18% GST | ₹ 36,000/- + 18% GST |
| Non Residential Participants (For The Residents of Coimbatore Only) | | |
| | Fees upto 8th April 2023 | Fees from 9th April 2023 |
| CTC Member | ₹ 12,500/- + 18% GST | ₹ 14,500/- + 18% GST |
| Non-Member | ₹ 14,500/- + 18% GST | ₹ 16,500/- + 18% GST |

Notes:

- For Residential Participants, the fees for the conference includes course material, accommodation, and all meals during the entire conference.
- For Non Residential Participants, the fees for the Conference includes course materials, lunch on 16th, 17th and 18th June and dinner on 15th and 17th June
- Sessions on Day 1 (Thursday, 15th June 2023) will start at 3 p.m. Participants are requested to make their travel arrangements accordingly. Airport pick up and drop facilities are NOT available. The Check in Time at Hotel is at 2.00 pm. The members who reach prior to check in time can proceed for lunch to be served from 12.30 pm onwards. The early check in shall be subject to availability of rooms.
- The conference will conclude on Day 4 (Sunday, 18 June 2023) at 11.30 am followed by lunch
- Participants need to provide the scanned copies of the following by 01st June, 2023
 - Aadhar card;
 - Universal pass / double vaccination certificate.
- In case of cancellation, member is requested to nominate someone to attend the RRC, no refund request shall be entertained, except under genuine unavoidable circumstances, subject to the approval of International taxation committee and Managing Council.
- For enrolment and any other conference related enquiry, please contact **Mr. Niraj Chheda** on 9821787080 & **Mr Vishal Shah** on 9920917939 Conference Directors or **Mr. Hitesh Shah, Chief Manager** on 9821889249 / 7977258507

Organised by International Taxation Committee

| | |
|-----------------------------|---|
| Chairman | : CA Kirit P Dedhia |
| Co-Chairperson | : CA Karishma Phatarphekar |
| Vice-Chairperson | : CA Shabbir Motorwala and CA Isha Sekhri |
| Conference Directors | : CA Niraj Chheda & CA Vishal Shah |

Important Decisions under GST and Service Tax Laws

By Vinay Kumar Jain and Jay Chheda, Advocates

Whether Service Tax can be levied on the activity of take-away food as well as on the Rental cost shared with Associated Enterprise?

Facts and Pleadings:

The Appellant is engaged in running food outlets where customers can either purchase packaged foods like sweets or namkeen or avail restaurant dining facilities. The Appellant also provides take-away facility on food items. The department contended that the Appellant has failed to pay Service Tax on the activity of take-away of food items. The Appellant was also undertaking sale of certain products to its associated enterprise and had granted access to space within its premises and collected rent from its associate enterprise. The Appellant did not discharge service tax on such rent received from its associated enterprise. The department contended that service tax is payable under the category Renting of Immovable Property service.

The department alleged that the services provided by way of take-away should be subject to Service Tax at the same rate as dine-in service since the services of preparing and packing of food was done for the convenience of the customer. The Appellant submitted that the activities of take-away are that of pure sale and do not involve any element of service being rendered to the customer. Further, reliance was placed on various clarificatory circulars issued by the Government of India through the Ministry of Finance (F.No. 334/3/2011-TRU dated 28.02.2011, Clarification dated 13.08.2015 issued by Deputy Commissioner, CE & ST, Chandigarh, etc) wherein it was laid down that availing take-away service would amount to a mere sale and would fall outside the purview of Service Tax.

With regards to sharing of rent, the department alleged that the rental amount received from the associated enterprise was in lieu of sub-letting of immovable property. The Appellant contended that along with selling its own goods, they also sell goods of the associated enterprise purchased by it in the leased premises. Thus, to that extent, the transaction between the appellant and the associated enterprise is a sale transaction. Therefore, the rent received by the Appellant from the associated enterprise is in lieu of the economic benefit granted to the associated enterprise. Owing to this, the amount paid by the associated enterprise is not for any service but rental cost sharing between the associated enterprise and the Appellant.

Judgement:

Taking into account the circulars, case laws and contentions submitted by both the parties, the CESTAT held that no service tax can be levied on the activity of take-away food as it would amount to pure sale and does not involve additional service elements such as dining facility, washing, cleaning of tables after the food that has been eaten, etc. Reliance was also placed on the case of **Anjappar Chettinad A/C Restaurant and Ors v. Joint Commissioner and Ors. (W.P No. 13469 of 2020 decided by Madras High Court)** wherein it was held that the intention of the customer while availing take-away is to merely buy such packaged food and not avail any restaurant services and thus, no service tax will be attracted.

On the second issue, the CESTAT held that since the goods of the associated enterprise are also being sold from the same premises and certain portion of the rent is received from the associated enterprise, the associated enterprise is also benefiting from such arrangement. Therefore, such arrangement would qualify as 'sharing of expenses' and not 'Renting of immovable property'. Reliance was placed on **Gujarat State Fertilizers & Chemicals Ltd. V. Commissioner of C.Ex (2014 (45) S.T.R 489 (S.C))** wherein it was held that sharing of expenditure cannot be treated as service rendered by one to another.

Accordingly, the impugned order was set aside on both counts.

Haldiram Marketing Pvt. Ltd. Vs Commissioner New Delhi - 2023 (2) TMI 783 - CESTAT NEW DELHI

Whether services provided by a Non-Profit Society towards the furtherance of its objectives can fall within the category of 'Business Support Services' and be subject to service tax?

Facts and Pleadings:

The Appellant is Tamil Nadu Cricket Association, a non-profit society which is affiliated to the Board of Control for Cricket in India ("BCCI"). In the ongoing efforts of BCCI to promote the game of cricket, they devised the Indian Premier League ("IPL") whereby various franchisees are given the right to form their own IPL cricket team and would compete amongst themselves. In furtherance to this, the Appellant herein had provided a stadium and other services for the conduct of IPL cricket matches at Chennai. In lieu of such services, an amount of Rs. 10,00,00,000/- was received by the Appellant from the BCCI.

According to the department, such services would fall under 'Business Support Services' as the Appellant is providing a service to the BCCI for a consideration. Thus, such amount shall be subject to Service Tax.

The Appellant argued that Appellant is a non-profit society which is affiliated to BCCI, which is also a non-profit society intended to promote and control the game of cricket in India. In its efforts to promote the game, the BCCI has devised the Indian Premier League. The surplus income generated by the BCCI from the conduct of the IPL are distributed by it to its various member associations (State Associations of Cricket, like the appellant herein) as the IPL subvention money. The quantum of such IPL subvention money payable to various State Associations are decided by the BCCI in its Annual General Body Meetings. The amounts are given by the BCCI as grant / assistance, to promote the object of developing the game of cricket.

Judgement:

The CESTAT held that the department has failed to provide any evidence to show that there was an understanding

between the Appellant and the BCCI for providing any such services for a consideration. The Court further held that unless there is a service provided and a consideration is received for that service that is provided, there cannot be levy of Service Tax. Further, it was held that non-profit organisations such as the Appellant and BCCI, that are providing services in lieu of the objectives laid down in their memorandum of association, cannot be considered as providing services similar to that of a "commercial organisation" as conducting of sports or sporting events are not commercial or business transactions. It was further observed that the assessee had provided the Stadium to Chennai Super Kings and had received Rs.50,00,000/- per match, for which they have discharged Service Tax. It was therefore held that transaction in dispute cannot be subject to Service Tax.

Tamil Nadu Cricket Association Vs Commissioner of Service Tax, Chennai - 2023 (2) TMI 830 - Cestat Chennai



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. Allowability of TCS Credit in the hands of a firm where TCS has been filed in the name of the partner - merely because there is no Rule identical to Rule 37BA(2)(i) of the Rules with reference to TCS provisions, it cannot be the basis for the Revenue to deny the legitimate claim for credit of TCS made by an assessee.**

Facts:

The assessee is a partnership firm. It is engaged in the business of liquor bar and restaurant. The liquor license stands in the name of one of the partners of the firm. The firm utilized the said license in the business of selling liquor. KSBCL collected tax at source at the time of purchase in respect of purchases made. The TCS certificate was in the name of the partner as he was the licensee. The assessee filed return of income and claimed credit for TCS made by KSBCL. In an intimation issued under section 143(1) of the Act, the claim for credit of TCS was not

granted because the TCS certificate was in the name of the partner. The assessee filed application under section 154 of the Act claiming that credit for TCS should be given to the Assessee firm and pointing out the facts that the assessee is entitled to credit for TCS along with the application under section 154 of the Act. The request for rectification was however rejected by the AO. The Assessee filed appeal against orders under section 154 of the Act claiming that the assessee should be given credit for TCS. The First Appellate Authority (FAA) was of the view that a decision on a debatable point of law cannot be said to be a mistake apparent on record. According to the FAA, the question whether TCS deducted in the name of some party can be given credit in the assessment of some other party cannot be subject matter of an application under section 154 of the Act. Alternatively, the FAA referred to the provisions of section 206C (4) and (5) of the Act and came to the conclusion that credits can be given only to such persons on whose

behalf tax has been collected at source and whose name is mentioned in the TCS certificate. The claim of the assessee was accordingly rejected by the FAA.

Held:

Hon'ble ITAT followed the decision of the ITAT, Jaipur Bench, in the case of Jai Ambey Wines Vs. ACIT order dated 11.01.2017. on identical issue wherein all the relevant statutory provisions viz., sections 190, 199, 206C of the Act and Rule 37BA(2)(i) of the Income Tax Rules, 1962 were referred to and it was held that the assessee firm should be given benefit of credit for TCS made in the hands of the partner.

The essence of the above stated provisions and corresponding rules is that the tax deducted at source (TDS) is nothing but tax, and credit for TDS should go to the person in whose hands the income is rightfully and finally assessed to tax in accordance with law irrespective of the person in whose hands the TDS has been deducted and TDS certificate has been issued at first place. If we look at the provisions of section 206C read with section 190 of the Act, the nature of tax collection at source (TCS) is exactly identical to TDS and it is in the nature of tax on income which has been collected at source in respect of specified business and the nature of goods as specified in section 206C of the Act. In light of above, the credit for TCS should be given to the assessee which is finally and lawfully assessed to tax in respect of the corresponding income on which TCS has been collected. The fact that there are no specific rules which have been provided in the Income tax Rules in respect of credit of TCS in such situations on the lines of Rule 37BA, doesn't disentitle the assessee to claim credit of TCS in whose hands the income is finally assessed to tax. The reason for the same is that the nature of TCS is nothing but tax which has been statutorily recognized in the Income tax Act, and the Rules are enabling and procedural in nature and absence thereof cannot result in denial of credit of TCS.

M/s. Hotel Ashok Garden vs. ITO Ward-1(1), Hubli
[ITA No.12 to 15/Bang/2023, dated 6/2/2023] [AY 2016-17 to 2019-20]

2. Search and seizure-Assessment under section 153A-Addition of gross amount of on-money receipt

Facts:

Assessee was engaged in real estate development during the course of survey at the Head Office of assessee at Narayan Chambers, various incriminating documents were found and impounded proving that the firm was involved in the practice of receiving a part of the sales consideration of such apartments and shops in cash, which was not recorded in the books of account. AO did not find the explanation rendered by assessee as acceptable and ultimately AO made addition of ₹ 3,67,95,791 as undisclosed income from Narayan Shrushti Project for the year under consideration. The addition of gross amount of on-money receipt was challenged before CIT(A) who ultimately estimated profit @ 30% of the gross amount of on-money receipt. AO challenged this.

Held:

It is a practice of the real estate market that cash over and above the consideration in cheques are collected from the customers but the developers have to incur various unaccounted expenses in regard to the procurement of land and approval of the projects by various authorities too and therefore, the estimated profit of on-money/premium amount collected from customers is to be brought to tax, instead of adding the gross amount of on-money/premium to the total income. CIT(A) carefully took into consideration this particular aspect of the matter and profit at 30% of the gross amount of on-money receipt was treated as unaccounted income by him and the same was rightly added in the computation of total income of assessee which just and proper. The appeal filed by revenue was, therefore, dismissed.

JCIT v. Narayan Land Estate

[ITA No. 1836/Ahd/2019 ; dated 10/6/2022] [A.Y.: 2009-10, 2011-12, 2012-2013, 2014-15]

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Non-receipt of the CTC News must be notified within one month from the date of publication, which is 1st of Every Month.

Printed by Shri Kishor Dwarkadas Vanjara and published by him on behalf of **The Chamber of Tax Consultants (owners)**, 3, Rewa Chambers, Ground Floor, 31, New Marine Lines, Mumbai-400 020 and Printed at **The Great Art Printers**, 25, S. A. Brelvi Road, Unique House Opp, Apurva Restaurant, Next to Poddar Chambers, Ground Floor, Fort, Mumbai-400 001. and published at **The Chamber of Tax Consultants (owners)**, 3, Rewa Chambers, 31, New Marine Lines, Mumbai 400 020.

Editor : Shri Kishor Dwarkadas Vanjara

Posted at Mumbai Patrika Channel Sorting
Office-Mumbai 400 001.

Date of Publishing 1st of Every Month
Date of Posting : 1st or 2nd March, 2023

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