



VIJAYAWADA BRANCH OF SIRC OF ICAI NEWS LETTER



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Chairman Writes

Dear Professional Colleagues,

Times and circumstances constantly change for all of us. However, it is how we deal with this constant change that defines us. I believe that we all have specific missions in life and we have to move on once they are fulfilled. Life is like a relay race wherein we run our part to the best of our ability and then pass on the baton to the next runner. This is true for all of us at all stages in life, be it personal or professional. For me, the time for change has come with the annual change of guard at the Vijayawada Branch of SIRC of ICAI. This would be my last message as Chairman and I take this opportunity to share with you the passion and zeal that epitomized the Council Year 2013-14.



Despite political uncertainties, Bandhs, Cyclones all the programs of our branch in the last year have witnessed great participation by Members and Students. We are proud to have delegates from all nooks and corners of the state and making the programs grand success.

Besides conducting CPE seminars and conferences, this year we have hosted these programs:

CERTIFICATION COURSE ON CONCURRENT AUDIT OF BANKS:

As some banks have already made it mandatory for allotment of Concurrent Audit of Banks, The branch hosted the Certification course on Concurrent Audit of banks which is organized by IASB of ICAI and 49 members have successfully completed this course and got the certificates.

ENABLING SERVICE TAX PRACTICE:

This two day program was organized by IDT Committee and hosted by Vijayawada Branch. Service tax practice is the need of the hour. The delegates have evinced keen interest in the new avenue of profession.

STUDENTS ACTIVITIES:

All the initiatives of Board of Studies have been carried out at the branch level like, live webcasts of lectures for CPT/IPCC/Final students, Mock

EDITORIAL BOARD

Editor: CA. B. SHIVAJI PRASAD

Members : CA. K. SIVA RAMA KUMAR, CA. SREENIVASA RAO GODAVARTHI, CA. V. RAMA MOHAN REDDY

Tests, Quiz and Elocution etc., Workshops and One day seminars for enlightening the students have been conducted. Caroms and Chess league were organized. School level debate competition was held for Class XI and XII students.

NEWSLETTER:

Besides giving latest updates on circulars, notifications, case laws, a new concept has been introduced, ie: PUZZLE. I am impressed by the participation of members by sending the SMS which shows that they are connected to the Newsletter. Such personality's pictures have been given to identify in the image so that we get inspiration by knowing something about them.

BRANCH WEBSITE:

The Vijayawada branch website is revamped with new look and more details and the latest updates are made available there in the website.

We had the opportunity of listening to authors of Books on Taxation, Service tax and Companies Act viz., Dr. Vinod K Singhania (New Delhi), Dr Sanjiv Agarwal (Jaipur) and CS Dhanapal (Chennai). We are also fortunate to have interactive sessions with Sri AK Behera IRS, Sri KV Chowdary, IRS, Member of CBDT and Sri CP Rao, IRS, Commissioner of Customs, Central Excise and Service tax.

I thank all the Central Council members, Regional Council members and Ex officio of Vijayawada Branch for extending their helping hand in smooth functioning of the branch. I also express my gratitude to all the Managing Committee members of Vijayawada Branch for their continuous cooperation throughout this tenure. I thank all the past Chairmen of Vijayawada Branch for their guidance and unstinted support in all the events.

I thank all the speakers, resource persons and faculty for sharing their knowledge and devoting their valuable time for us. I appreciate the staff members of Vijayawada branch for their dedicated services.

I thank all the members without whom any program would not be a success.

With best regards,

CA. B. SHIVAJI PRASAD

Chairman

Answer to January Newsletter Puzzle

NAINA LAL KIDWAI

Naina Lal Kidwai, a chartered accountant by profession, is an Indian banker and business executive. She is currently the Group General Manager and Country Head of HSBC India. She is the Former President of the Federation of Indian Chambers of Commerce and Industry (FICCI). She also holds a Bachelors degree in Economics from University of Delhi and an MBA from Harvard Business School in 1982. Kidwai was the first Indian woman to graduate from Harvard Business School [10] and also the first woman to guide the functioning of a foreign bank in India. She has also completed her Bachelors of Arts in the year 1977. Naina Lal has secured the distinguished Padma Shri award for her contributions in the areas of trade and industry. She has also received ASSOCHAM Ladies League's Delhi Women of the Decade Achievers Award 2013 for Excellence in Banking. Naina, also supports the world's largest youth driven organization - AIESEC as a National Advisory Board Member to AIESEC India. Naina Lal is very fond of Indian classical and the western music. She also loves to go on trekking tours to the Himalayas. Mrs. Kidwai is also a nature lover and also has keen interest in observing the wildlife.



correct answer by

1. CA L NARASIMHA RAO (Mob No.9440872109)
2. CA GURAZADA SRIKANTH (Mob No.9849826496)

SERVICE-TAX MATTERS

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

NOTIFICATION NO

01/2014-Service Tax, Dated: January 10, 2014

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public Interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.25/2012-Service Tax, dated the 20th June, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide G.S.R. 467 (E), dated the 20th June, 2012, namely:-

In the said notification, in the opening paragraph, in entry 11, in item (a), for the words "district, State or zone", the words "**district, State, zone or Country**" shall be substituted.

[F.No. 354 /21/ 2013-TRU]

(Raj Kumar Digvijay)

Under Secretary to the Government of India

Note.- The principal notification was published in the Gazette of India, Extraordinary, vide notification No. 25/2012 - Service Tax, dated 20th June, 2012, vide G.S.R. 467 (E), dated the 20th June, 2012 and was last amended by notification No.14/2013- Service Tax, dated the 22 nd October, 2013 vide G.S.R. 699(E), dated the 22 nd October, 2013.

INCOME-TAX MATTERS

High Court grants interim stay on levy of fee for failure to file TDS statement

Narath Mapila LP School vs. UOI (Kerala High Court)

S. 234E: High Court grants interim stay on levy of fee for failure to file TDS statement S. 234E of the Income-tax Act, 1961 inserted by the Finance Act, 2012 provides for levy of a fee of Rs. 200/- for each day's delay in filing the statement of Tax Deducted at Source (TDS) or Tax Collected at Source (TCS). The constitutional validity of s. 234E has been challenged in the Kerala High Court. Vide an interim order dated 18.12.2013, the High Court has admitted the Petition and granted a stay of proceedings for a period of two months.

CBDT Directs Assessing Officers To Respect Citizens Charter In TDS matters

The CBDT has issued Instruction No. 1/2014 dated 15.01.2014 to the Chief Commissioners stating that though the Citizens Charter prescribes a time limit of one month for a decision u/s 197 on application for no deduction of tax or deduction of tax at lower rate, there is considerable delay in issuing the lower/non deduction certificate. The CBDT has directed that the commitment to tax payers as per the Citizens Charter must be scrupulously adhered to by the Assessing Officers and all applications for lower or no deduction of tax at source filed u/s 197 of the Income-tax Act, 1961 must be disposed of within the stipulated time frame.

No TDS on Service Tax if shown separately
CIRCULAR NO. 1/2014 [, DATED 13-1-2014

Subject: TDS under Chapter XVII-B of the Income-tax Act, 1961 on service tax component comprised in the payments made to residents - clarification regarding

1. The Board had issued a CircularNo.4/2008 dated 28-04-2008 wherein it was clarified that tax is to be deducted at source under section 194-I of the Income-tax Act, 1961 (hereafter referred to as 'the Act'), on the amount of rent paid/payable without including the service tax component. Representations/letters has been received seeking clarification whether such principle can be extended to other provisions of the Act also.

2. Attention of CBDT has also been drawn to the judgement of the Hon'ble Rajasthan High Court dated 1-7-2013, in the case of CIT (TDS) Jaipur v. Rajasthan Urban Infrastructure (Income-tax Appeal No.235, 222, 238 and 239/2011), holding that if as per the terms of the agreement between the payer and the payee, the amount of service tax is to be paid separately and was not included in the fees for professional services or technical services, no TDS is required to be made on the service tax component u/s 194J of the Act.
3. The matter has been examined afresh. In exercise of the powers conferred under section 119 of the Act, the Board has decided that wherever in terms of the agreement/contract between the payer and the payee, the service tax component comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source under Chapter XVII-B of the Act on the amount paid/payable without including such service tax component.
4. This circular may be brought to the notice of all officer for compliance

F.NO.275/59/2012-IT(B)]

SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.61 OF 2007

Sasi Enterprises

Versus

Assistant Commissioner of Income Tax

WITH

CRIMINAL APPEAL NOS.62, 63 & 64 OF 2007

Date of Pronouncement- January 30, 2014.

S. 276CC SC allows initiation of prosecution against Ms. Jayalalitha for non filing of I.T. Return

M/s Sasi Enterprises, the firm, did not file any returns for the assessment year 1991-92 and 1992-93, for which the firm and its partners are being prosecuted under Section 276CC of the Act. J. Jayalalitha and N. Sasikala did not file returns for the assessment year 1993-94 and hence they are being prosecuted for that breach (in their individual capacity) separately but not for the assessment years 1991-92 or 1992-93 and their returns have been filed as individual assessee by them for the assessment years 1991-92 and 1992-93, though belatedly on 20.11.1994 and 23.02.1994 respectively. In those returns it was mentioned that accounts of the firm had not been finalized and no returns of the firm had been filed.

Held

Section 276CC contemplates that an offence is committed on the non-filing of the return and it is totally unrelated to the pendency of assessment proceedings except for second part of the offence for determination of the sentence of the offence, the department may resort to best judgment assessment or otherwise to past years to determine the extent of the breach. The language of Section 276CC, in our view, is clear so also the legislative intention. It is trite law that as already held by this Court in B. Permanand v. Mohan Koikal (2011) 4 SCC 266 that "the language employed in a statute is the determinative factor of the legislative intent. It is well settled principle of law that a court cannot read anything into a statutory provision which is plain and unambiguous". If it was the intention of the legislature to hold up the prosecution proceedings till the assessment proceedings are completed by way of appeal or otherwise the same would have been provided in Section 276CC itself. Therefore, the contention of the learned senior counsel for the appellant that no prosecution could be initiated till the culmination of assessment proceedings, especially in a case where the appellant had not filed the return as per Section 139(1) of the Act or following the notices issued under Section 142 or Section 148 does not arise.

We are also of the view that the declaration or statement made in the individual returns by partners that the accounts of the firm are not finalized, hence no return has been filed by the firm, will not absolve the firm in filing the 'statutory return under section 139(1) of the Act. The firm is independently required to file the return and merely because there has been a best judgment assessment under Section 144 would not nullify the liability of the firm to file the return as per Section 139(1) of the Act. Appellants' contention that since they had in their individual returns indicated that the firm's accounts had not been finalized, hence no returns were filed, would mean that failure to file return was not willful, cannot be accepted.

Section 278E deals with the presumption as to culpable mental state, which was inserted by the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986. The question is on whom the burden lies, either on the prosecution or the

assessee, under Section 278E to prove whether the assessee has or has not committed willful default in filing the returns. Court in a prosecution of offence, like Section 276CC has to presume the existence of mens rea and it is for the accused to prove the contrary and that too beyond reasonable doubt. Resultantly, the appellants have to prove the circumstances which prevented them from filing the returns as per Section 139(1) or in response to notices under Sections 142 and 148 of the Act.

We, therefore, find no reason to interfere with the order passed by the High Court. The appeals, therefore, lack merits and the same are dismissed and the Criminal Court is directed to complete the trial within four months from the date of receipt of this Judgment.

Sc Further held that Pendency of appeal is no bar for prosecution.

F.No. CCA/DC(T)/2013-98
Government of India
Ministry of Communications & Information Technology
Department of Electronics & Information Technology
Office of Controller of Certifying Authorities
New Delhi
Date : 11th December 2013

OFFICE ORDER

Subject :- Verification of credentials prior to issuance of Digital Signature Certificate (DSC).

In continuation of the Office Order No. CCA/DC(T)/2013-98 dated 6th September 2013, for documents acceptable as proof of identity and proof of address and their attestation, the following directions are issued for strict compliance.

Proof of identity -

1. Passport
2. Copy of Driving Licence.
3. PA_ Card.
4. Post Office ID Card.
5. Copy of Bank Account Passbook containing the photograph and signed by the individual with attestation by the concerned Bank official.
6. Photo ID Card issued by the Ministry of Home Affairs of Centre/State Governments.
7. Any Government issued photo ID Card bearing the signature of the individual.

Proof of address -

1. Telephone Bill.
2. Electricity Bill.
3. Water Bill.
4. Gas connection.
5. Bank Statement signed by the bank.
6. Service Tax/VAT Tax/Sales Tax registration certificate.
7. Driving Licence/RC
8. Voter ID Card
9. Passport.
10. Property Tax/ Corporation/ Municipal Corporation Receipt.

With the above documents the following conditions apply.

- a) Validity of the Proof of Address : In case of any utility bills like electricity, water, gas, and telephone bill, the recent proof, but not earlier than 3 months from the date of application should be attached.
- b) Using single document copy for both Identity & Address proof: This may be considered. However, if the address in the Photo-id is different from the Address given in the application then a separate Address proof may be insisted upon & collected.
- c) Attestation of Copy : This will be done only by Gazetted officer, OR Bank Manager OR Post Master.

The above will come into force from **15th January 2014**

(T. A. Khan)

Controller of Certifying Authorities

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
Notification No. 01/2014-Central Excise (N.T.)

New Delhi, the 8th January, 2014, 18, Pausha, 1935 Saka

G.S.R. (E).- In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944) and section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the CENVAT Credit Rules, 2004, namely:-

1. (1) These rules may be called the CENVAT Credit (First Amendment) Rules, 2014.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In rule 3 of the CENVAT Credit Rules, 2004,
 - (i) the Explanation occurring after the proviso to sub-rule (5B) shall be omitted;
 - (ii) in sub-rule (5C), after the words "production of said goods", the words "and the CENVAT credit taken on input services used in or in relation to the manufacture or production of said goods" shall be inserted;
 - (iii) after sub-rule (5C), the following explanations shall be inserted, namely: -
"Explanation 1.- The amount payable under sub-rules (5), (5A), (5B) and (5C), unless specified otherwise, shall be paid by the manufacturer of goods or the provider of output service by debiting the CENVAT credit or otherwise on or before the 5th day of the following month except for the month of March, where such payment shall be made on or before the 31st day of the month of March.

Explanation 2.- If the manufacturer of goods or the provider of output service fails to pay the amount payable under sub-rules (5), (5A), (5B) and (5C), it shall be recovered, in the manner as provided in rule 14, for recovery of CENVAT credit wrongly taken and utilised."

F. No. 267/126/2011-CX.8

(Pankaj Jain)

Under Secretary to the Government of India

Note.- The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i), dated the 10th September, 2004, vide Notification No. 23/2004 - Central Excise (N.T.) dated the 10th September, 2004, vide number G.S.R. 600(E), dated the 10th September, 2004 and last amended vide Notification No. 18/2013-Central Excise (N.T.) dated the 31st December, 2013 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 808 (E), dated the 31.12.2013



Interaction with Vice President of ICAI CA. K. Raghu



“Heartful Smiles” - at an Informal meet of Vice President at Vijayawada Branch on 25th January, 2014



Republic Day Celebration on 26th January, 2014



Valedictory of GMCS - I Programmes



President, Vice President, SIRC Chairman and Galaxy of Central & Regional Council Members at Vijayawada on 29th January, 2014 on their way to inauguration of the Ongole Branch (on the same day Karimnagar & Warangal Branches are also Inaugurated)



BOOK - POST PRINTED MATTER

To

IF UNDELIVERED PLEASE RETURN TO :

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