

**JAN &
FEB
2013**

VAPI BRANCH OF WIRC OF ICAI

The Institute Of Chartered Accountant of India

(A Statutory Body Established Under an Act of Parliament)

Volume III Issue I

Jan -Feb 2013

Chairman's Message

Dear Members,

I m very happy to announce to announce that Vapi branch has once again awarded with Most Commendable Branch in small category of WIRC.



Vapi branch has been a winner at a cricket match with the income tax department on 1st Feb 2013 at Valsad. Branch had also organized cricket tournament for members and students as well as indoor sport activity in month of Jan and Feb 2013.

We has been successful in organizing a seminar on detailed analysis of Companies Bill-2012 & CARO by Company Secretary Ms. Shilpi Thapar. I convey my sincere thanks for her contribution to the benefir of members and students.

We also had the live screening of Union Budget -2013 at branch premises followed with detailed analysis of impact on direct and indirect taxes. I appreciate the participation of our media partner divya bhaksar for giving wide coverage on the review to Union Budget -2013 for the benefit of public at large.

This being the last communication as a chairman of vapi branch, it's a time to reflect back on the initial glorious year. For this we are presenting "Gallery of Achievement" on the completion of 3 years. This is a souvenir which represents the journey of the Vapi branch from its inception to the stage of rising to professional excellence.

All this was possible only because of sheer support of Hon'ble President, Vice President, Council Members, Seniors, our members and students. I, on behalf of committee members greatly value their support and express heartfelt gratitude to all of them.

Thank you

CA Giriraj B Laddha

Chairman, Vapi branch of WIRC of ICAI

Office Bearers:

CA. Giriraj Laddha

(Chairman)

CA. Hitesh Patel

(Vice Chairman)

CA. Prakash Chordia

(Treasurer)

CA. Deepak Desai

(Secretary)

**CA. Jaiprakash
Shethiya**

(Founder Chairman)

CA Jignesh Vasani

(Imm Past Chairman)

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Direct Tax Updates

SECTION 255 OF INCOME TAX ACT, 1961 – PROCEDURE OF APPELLATE TRIBUNAL – PRACTICE NOTE FOR HEARING APPEALS & APPLICATIONS FIXED BEFORE ITAT NAGPUR E-BENCH {211 TAXMANN 16 (ST.)}

Circular No. F.1-AD (E-Bench)/AT/2012 dated 9/11/2012

The appeals and applications fixed before the ITAT, Nagpur Bench will be heard through Video Conferencing by the members of the ITAT sitting at ITAT, Mumbai. The President, ITAT will nominate from time to time the Members hearing the cases through Video Conferencing system. This system of hearing through Video Conferencing will be referred to as 'e-Bench'. For the purposes of e-Bench, detailed regulations alongwith Do's, Don'ts and Forms for use under these regulations are framed and is available at above citation.

DTAA OF INDIA WITH MACAO SPECIAL ADMINISTRATIVE REGION OF PEOPLE'S REPUBLIC OF CHINA {211 TAXMANN 22 (ST.)}

Notification No. 43/2012 [F.No. 503/04/2009-FT&TR -II]/SO 2427(E) dated 10/10/2012 The Central Government has notified that all the provisions of Agreement between the Government of Republic of India and the Government of the Macao Special Administrative Region of the People's Republic of China for the exchange of information with respect to taxes shall be given effect to in Union of India w.e.f. 16th day of April, 2012.

RAJIV GANDHI EQUITY SAVINGS SCHEME (RGESS) –{211 TAXMANN 34(ST.)}

Notification No. 51/2012 [F. No. 142/35/2012-SO(TPL)]/SO 2777[E] dated 23/11/2012 The Central Government has framed the details of “Rajiv Gandhi Equity Savings Scheme” (RGESS). The complete details are available at above citation.

Indirect Tax– Service Tax

CBEC vide Circular No. 165/16/2012-ST dated 20/11/2012

Restoration of the service specific accounting codes for the purposes of obtaining registration & payment of service tax. A specific sub-head has been created for payment of “penalty” under various descriptions of services. It is clarified that the sub-head “other receipts” is meant only for payment of “interest” on delayed payment of service tax.

CBEC further clarified that registrations obtained under the positive list approach continue to be valid. New taxpayers can obtain registrations by selecting the relevant description/s from among the list of 120 descriptions of services given in the Annexure to the said Circular. Where registrations have been obtained under the description “All Taxable Services”, the taxpayer should file amendment application online in ACES and opt for relevant description/s from the list of 120 descriptions of services given in the Annexure. If any applications for amendment of ST-1 are pending with field formations seeking the description “all taxable services”, such amendment may not be necessary and the officers in the field formations may provide necessary guidance to the taxpayers in this regard.

CBEC vide Notification No. 48/2012-ST dated 30/11/2012 has accordingly amended Form ST-1 to provide for description of various taxable services & accounting codes for payment of service tax.

Income tax Case law Updates:



S. 4 Interest deposits vis-à-vis principal of mutuality

The amount of interest earned by the assessee from the four banks will not fall within the ambit of the mutuality principle and will therefore, be exigible to Income-Tax. Bangalore Club vs. CIT [2013] 29 taxmann.com 29 (SC)

Ss.10(23C)(vi), 12AA Denial of Registration 10(23C)(vi) vis-à-vis registration u/s 12AA

Exemption under Section 10(23C)(vi) of the Act can be claimed by an assessee without applying for registration under Section 12A of the Act as it is not required to fulfil the conditions mentioned under Section 11 of the Act while claiming exemption under Section 10(23C) (vi) of the Act. The denial of approval u/s 10(23C) (vi) of the Act does not automatically cancel registration granted u/s 12-AA. CIT vs. Jeevan Deep Charitable Trust [2012] 28 taxmann.com 242 (Allahabad)

S. 12AA Registration of trust

Non-filing of the returns for the last several years cannot be a ground for declining to grant registration u/s 12AA. CIT vs. Shri Advait Ashram Society [2012] 28 taxmann.com 18 (Allahabad)

S. 12AA Registration of trust

Registration u/s 12AA cannot be rejected merely on the ground that the activities of the Trust had not commenced. CIT vs. Kutchi Dasa Oswal Moto Pariwar Ambama Trust [2013] 29 taxmann.com 228 (Gujarat)

S. 40A(3) Cash payments

Cash payments made to purchase of diesel cannot be disallowed where assessee has produced confirmatory letter given by petrol pump that diesel was supplied. CIT vs. G.K. Patel & Co. [2013] 29 taxmann.com 248 (Gujarat).

S. 54EC Investment prior to date of transfer

Amount invested in 54EC bonds out of earnest money or advance money, before date of transfer of asset is entitled for deduction u/s 54EC. Mrs. Parveen P. Bharucha vs. DCIT [2012] 28 taxmann.com 274 (Bombay).

S. 68 Inform from sale of shares

The broker, confirmed the sale of the shares and on an independent inquiry, ICICI Bank informed that payment of the sale price of the shares was made through bank drafts. From these documentary evidence actual sale and purchase transactions of the shares had been proved. Payment to the assessee was made through bank draft and not in cash. The documentary evidence could not be disbelieved for the reasons that the assessee could not give the identity of the purchasers. CIT vs. Sudeep Goenka [2013] 29 taxmann.com 402 (Allahabad)

S. 80-I Continuity of availability deduction upon Amalgamation

The amalgamation does not come within the scope of 'transfer' as defined in Section 2(47) of the Act. Hence amalgamation does not disentitle the benefit of Section 80-I of the Act. CIT v. Bhuwalka Steel Industries Ltd. [2013] 29 taxmann.com 384 (Karnataka)

S. 80-IB(10) Deduction in case of projects having residential & commercial constructions

Deduction under Section 80-IB(10) is allowable on a pro rata basis, where both commercial and residential houses have been built, when there is no such provision under the statute to grant the same. CIT vs. Arun Excello Foundations (P.) Ltd. [2013] 29 taxmann.com 149 (Madras)

S. 199 Claim of TDS by co-venture partner

Where a new procedure is prescribed by law, it governs all pending cases. The amendment to Rule 37 BA mentioned above which has been introduced by the Income Tax (8th amendment) Rules, 2011 notified vide Notification No. 57/2011 dated 24/10/2011, being procedural in nature, would have retrospective effect and has to be given effect to. If joint venture has not filed a return of income, credit of tax deducted at source can be allowed to the co-venture partner. CIT vs. Bhooratnam & Co. [2013] 29 taxmann.com 275 (Andhra Pradesh)

Indirect Tax– Central Excise

Notification No.1 /2013-Central Excise

New Delhi, the 21st January, 2013

G.S.R. (E). - In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), the Central Government, on 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. 12/2012-Central Excise, dated the 17th March, 2012 which was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 163(E) dated the 17th March, 2012, namely: -

In the said notification, in the Table,-

(i) for S. No. 189 and the entries relating thereto, the following shall be substituted-

"189	71	<p>Gold bars, other than tola bars, bearing manufacturer's engraved serial number and weight expressed in metric units manufactured in a factory starting from the stage of-</p> <p>(i) (a) Gold ore or concentrate; (b) Gold dore bar; or (ii) Silver dore bar</p> <p>Explanation.-For the purposes of this entry, 'gold dore bar' shall mean dore bars having gold content not exceeding 95% and 'silver dore bar' shall mean dore bars having silver content not exceeding 95% accompanied by an assay certificate issued by the mining company, giving details of composition</p>	<p>5%</p> <p>3%</p>	<p>-</p> <p>-"</p>
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Gujarat VAT

Unjust Enrichment – Forfeiture of refund

In case of Essar Oil Limited SA No.1062 to 1068 of 2005, GVAT Tribunal, vide its order dt. 23/10/2012, while following 20th Century Finance Corporation Limited vs. State of Maharashtra (2000) 119 STC 182 (SC), upheld no liability for tax in State of Gujarat for lease agreement with sister concern executed in Chennai, invoked Supreme Court's Decision in case of Mafatlal Industries Ltd. vs. Union of India 111 STC 467 & rejected claim of refund of tax paid as no tax has been paid in state of Tamilnadu.

ITC – Retail Invoice

The Hon'ble Gujarat High Court has in case of Bhataria Petroleum vs. State of Gujarat SCA No. 9812 of 2012, vide its order dt. 28/09/2012, quashed the assessment order, disallowing ITC on the Ground of Retail Invoice, instead of Tax Invoice issued by Indian Oil Corporation, ignoring subsequent amendment in invoices carried out by IOC & Certificate Issued by IOC in this regards. The matter has been remanded for decision afresh on merits, taking into consideration all the evidences on records.

Highlights from Finance Bill 2013 -Direct and Indirect Taxes.

1. No revision in Tax slabs of Income Tax for individuals. A minor Tax credit of Rs.2,000 for whose income is up to Rs.5 lakh has been given (Rebate under Sec 87A).
2. Additional surcharge will be levied at 10% (other than Companies) whose income exceeds Rs 1 crore. Additional surcharges to be in force for only one year.
3. Rajiv Gandhi equity saving scheme is extended to mutual funds also. Income limit for the tax-saving Rajiv Gandhi Equity Savings Scheme is raised to Rs 12 lakh from Rs 10 lakh.
4. Housing loan up to Rs 25 lakhs in 2013/14 will be entitled to a deduction of interest up to Rs One lakh.
5. Donations made to National Children's Fund will now be 100% deductible.
6. Increase in surcharge from 5 to 10 percent on domestic companies whose taxable income exceed Rs.10 crore.
7. Tax on royalty and fees for technical services to NRIs increased from 10% to 25%.
8. In case of foreign companies who pay a higher rate of corporate tax, surcharge to increase from 2 to 5 percent, if the taxable income exceeds Rs.10 crore.
9. TDS of one percent on sale of immovable property over Rs 50 lakh, not applicable to agricultural land.
10. Dividend distribution tax or tax on distributed income, current surcharge increased from 5 to 10 percent.
11. Concessional rate of tax of 15 percent on dividend received by an Indian company from its foreign subsidiary proposed to continue for one more year.
12. A company investing Rs 100 crore or more in plant and machinery from April 1, 2013 to March 31, 2015 will be allowed 15 percent investment deduction allowance apart from depreciation.
13. Contributions made to schemes of Central and State Governments similar to Central Government Health Scheme, eligible for section 80D of the Income tax Act.
14. Permissible premium rate increased from 10 percent to 15 percent of the sum assured by relaxing eligibility conditions of life insurance policies for persons suffering from disability and certain ailments under section 80C
15. Eligible date' for projects in the power sector to avail benefit under Section 80-IA extended from 31.3.2013 to 31.3.2014.
16. No change in the basic rates of service tax. Service tax to now apply on all A/C restaurants.
17. Scope of negative list expanded. Vocational courses offered by institutes affiliated to the State Council of Vocational Training and testing activities in relation to agricultural produce also included in the negative list for service tax.
18. Service Tax Abatement Rate For Construction Sector Rationalized. For homes and flats with a carpet area of 2,000 sq.ft. or more or of a value of Rs.1 crore or more, which are high-end constructions, where the component of services is greater, rate of abatement reduced from 75 to 70 percent.

ICAI UPDATES

Revised Scheme of Revalidation of Registration for various levels of CA Course (CPT, Intermediate (Integrated Professional Competence) Course and Final Course)

Common Proficiency Course (CPC) students:

Initial registration for Common Proficiency Course (CPC) is valid for 3 years.

Each Revalidation shall be valid for 3 years.

Fee for revalidation is Rs. 300/- for each revalidation.

Students are required to ensure that they have valid registration before filling examination form for Common Proficiency Test (CPT).

With a view to create awareness, it has been decided that no revalidation fees shall be charged till 31st December, 2013. Accordingly, CPT students who have registered on or before 31st December, 2010 are advised to apply for revalidation without paying any revalidation fee, till 31st December, 2013, so as to be eligible to appear in June, 2014 examinations onwards for 3 years from the date of revalidation.

In case any student fails to apply for revalidation by 31st December, 2013, he/ she then shall have to pay the prescribed revalidation fee, as stated above, on or after 1st January, 2014 for revalidating the registration.

Intermediate (Integrated Professional Competence) Course students:

Initial registration for then IPCC, now Intermediate (IPC) Course is valid for 4 years. Further, students who switched over to then IPCC, now Intermediate (IPC) Course from erstwhile Intermediate/ Professional Education (Course-II)/ Professional Competence Course stream have valid registration period of 4 years and will be counted from the date of switch over to then IPCC, now Intermediate (IPC) Course

Students, who have registered for the course on or before 31st December, 2009 and completing 4 years validity period till 31st December, 2013 are advised to apply for revalidation before 31st December, 2013 without paying revalidation fee. In case any student fails to apply for revalidation by 31st December, 2013 he/she then shall have to pay the prescribed revalidation fee, as stated above, on or after 1st January, 2014 for revalidating the registration.

Each Revalidation shall be valid for 4 years.

Fee for revalidation is Rs. 400/- for each revalidation.

Students are required to ensure before applying for admission to Intermediate (IPC) Examination that they have valid registration.

Students who have registered in Intermediate/ Professional Education (Course-II)/ Professional Competence Course are required to switchover to Intermediate (IPC) Course in order to continue their studies in chartered accountancy course.

Final students:

Initial registration for Final Course is valid for 5 years.

Students, who have registered for the Final Course on or before 31st December, 2008 (including shifted students of Final (Old) Course to Final (New) Course) are required to revalidate their Final Course registration. Such students are advised to apply for revalidation before 31st December, 2013 without paying revalidation fee. In case any student fails to apply for revalidation by 31st December, 2013 he/ she then shall have to pay the prescribed revalidation fee, as stated above, after 1st January, 2014 for revalidating the registration.

Fee for revalidation is Rs. 500/- for each revalidation.

Each Revalidation shall be valid for 5 years.

Students are required to ensure before applying for admission to Final examination that they have valid registration.

CA Examination results –Nov 2012:

IPCC CLEARED STUDENTS

1. Mohammad Abbas
2. Krunal Vora
3. Sana Nathani
4. Alpesh Dinani
5. Jinang Shah
6. Gaurav Purohit
7. Arpan rathi
8. Rushabh Shah
9. Anjali Jain
10. Vishwa Matalia
11. Naman Shah
12. Sheoran Singh

NEWLY QUALIFIED CHARTERED ACCOUNTANT

1. Aasif U Isani
2. Pankaj K Dama
3. Beenal Koradia
4. Fenil Patel
5. Rikab jain
6. Narendra Patel
7. Shoebh Bhanwadia
8. Nayana J Bhanushali
9. Shailesh Patel
10. Harshil Raichura
11. Saroj Karolker
12. Ritika garg
13. Paras Parmar
14. Amit Goyal

**Congrats to All
Newly
Qualified
Chartered
Accountants!!!!**

Results of Indoor Sports organized by Vapi WICASA

Games	I	II	III
Chess	Pradeep	Harsh Pandya	Pankaj Dama
Carom	Bino & Mehul	Harsh & Sawan	-
TT (Boys)	Chinar Madia	Pratik Patel	Taher
TT (Girls)	Neha Sarawagi	Mayuri Joisar	Aakansha
Badminton (Boys)	Shravan	Salman	Chintan
Badminton (Girls)	Mayuri Joisar	Aakansha	Priya Singh



Congratulations

GLIMPSE OF PAST EVENTS



CS Shilpi Thapar—Speaker at Seminar on Companies Bill –2012 & CARO on 23rd Feb 2013 at Vapi Branch and Member and students participating at seminar



At Cricket match of Members and Income tax department officers on 1st Feb 2013 at Valsad



Members at Indoor sport games at Vapi Branch organized on 24th Feb 2013

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To,