



# VAPI BRANCH OF WIRC OF ICAI

The Institute Of Chartered Accountant of India

(A Statutory Body Established Under an Act of Parliament)



## NEWSLETTER

Volume II, Issue 4

JULY 2012

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All members are requested to check the details. In case of any update or correction please mail at [Vapi@icai.org](mailto:Vapi@icai.org).

# CHAIRMAN COMMUNICATION

Dear Members,

At the outset I m happy to announce about the Next Campus Placement to be organized in the month of Aug-Sep 2012. I request the members in industry to participate in making of the event.

Friends, we had a dream of conducting National Conference at Vapi Branch and we were successful in conducting it on 30<sup>th</sup> June and 1<sup>st</sup> July 2012 at Mirasol, it was a huge success and I would like to give my sincere thanks to all the participants and members in industry for their support.

We have published the Members Directory of the Branch on CA Day. Members who have not received their copy, can collect it from Branch.

We have also proposed for naming the road from Papillon Hotel to Balitha as “**ICAI Marg**” and to name our Branch as “**ICAI Bhawan.**”

I am proud to announce that our Examination Centre has achieved overall result of around 32% in Finals. We are regulary organizing various classes and seminars for our students at branch. The next batch of GMCS is going to be started tentatively from the 2<sup>nd</sup> Week of August, 2012. Members/Student can get the details from the branch.

We also had an interactive sessions on Workshop of Financial Reporting Practices. I would like to thank CCM Sanjeev Maheshwariji who accepted our invitation and organized function within a short span of time.

I m proud to announce that CA Prakash Chordia is regularly following the matter of acquisition of 2<sup>nd</sup> Floor of branch building at Gokul vihar at ICAI and our CCM Sanjeev Maheshwariji has promised to approach for the same.

With warm regards,

CA Giriraj B Laddha

Chairman of Vapi Branch

CA. Giriraj  
Laddha  
(Chairman)

CA. Hitesh  
Patel  
(Vice  
Chairman)

CA. Prakash  
Chordia  
(Treasurer)

CA. Deepak  
Desai  
(Secretary)

CA. Jignesh  
Vasani  
(Imm. Past  
Chairman)

CA.  
Jaiprakash  
Shethiya  
(Founder  
Chairman)

# FROM THE DESK OF SECRETARY

## ACTIVITIES HELD DURING THE MONTH OF JULY 2012

1. Quiz competition for the students was held at Vapi branch on 19<sup>th</sup> July 2012
2. Seminar on Tax Issues and Strategy in Capital Gains vs. Business Income, Gifts, HUF, Family Arrangement,, Sections 50C, 56(2), 14A by CA Tarun Ghia on 24<sup>th</sup> July 2012. 2 Cpe hrs
3. Seminar on Exemption Section of Capital Gain under Income Tax Act,1961 by CA Chhaya Kothari on 24th July 2012.
4. Workshop on financial reporting practices organized by Financial Reporting Review Board of ICAI on 28th July 2012. 6CPE Hrs
5. Overall % of Students passed CA Final at Vapi Center

| CA FINAL RESULT MAY - 2012 |                        |                      |
|----------------------------|------------------------|----------------------|
| PARTICULRS                 | NO OF STUDENT APPEARED | NO OF STUDENT PASSED |
| BOTH GROUP                 | 52                     | 8                    |
| GR. I                      | 29                     | 16                   |
| GR.II                      | 33                     | 13                   |
| <b>TOTAL</b>               | <b>114</b>             | <b>37</b>            |

## **Congratulation our newly CA from Vapi center**

1. Anjali Raveendran Nair
2. Ankit Dinesh Nandu
3. Dhara Nayankumar Mistry
4. Hetav Bipinbhai Vasani
5. Manojkumar M Soni
6. Neerja Kartik Joshi
7. Neha Sanjay Sarawagi
8. Nishant Vinod Bafna
9. Pritesh Dilipkumar Parikh
10. Rahulkumar Ashokkumar Panchal
11. Renisha Ramesh Agrawal
12. Rohit Dilip Gujrati
13. Ronak Vikrambhai Gandhi

## *Editorial Board*

CA. Giriraj  
B. Laddha

CA. Prakash  
Chordia

CA. Chhaya  
M Kothari

## Law Updates- Income tax

### **RATE OF INTEREST ON PUBLIC PROVIDENT FUND ACCOUNT {206 TAXMANN (ST.) 159}**

The Central Government vide Notification No. S.O.904(E) dated 25/04/2012 notifies that the subscription made to the fund on or after 1st April, 2012 & the balance at the credit of the Subscriber will bear the interest @ 8.8% p.a in pursuance of section 5 of the Public Provident Fund Act, 1968.

### **PROCESSING OF RETURNS OF ASSESSMENT YEAR 2011-12 – Section 143 OF THE INCOME TAX ACT, 1961 – ASSESSMENT – STEPS TO CLEAR BACKLOG {207 TAXMANN (ST.) 102}**

The CBDT vide Instruction No.04/2012 (F.No.225/34/2011-ITA. II) dated 25/05/2012 has decided to withdraw its earlier Instruction No.01/2012 issued on 2nd February, 2012 – with immediate effect.

The following decisions has been taken in this regard :-

1. In all returns (ITR-1 to ITR-6), where the difference between the TDS claim and matching TDS amount reported in AS-26 data does not exceed Rs. Five Thousands, the TDS claim may be accepted without verification.
2. Where there is Zero TDS matching, TDS credit shall be allowed only after due verification.
3. Where there are TDS claims with invalid TAN, the TDS credit for such claims is not to be allowed
4. In all other cases TDS credit shall be allowed after due verification

### **CLARIFICATION REGARDING REOPENING OF COMPLETED ASSESSMENT {207 TAXMANN (ST.) 129}**

The CBDT vide Letter (F.No.500/111/2009-FTD-1 (PT)) dated 29/05/2012 has issued certain

clarification in the view of the Finance Act 2012 introduced certain clarificatory amendments in section 2 clause (14), section 2 clause (47), section 9 and section 195 of the Income Tax Act, 1961 with retrospective effect from 01/04/1962 or 01/04/1976 whereby the meaning of various terms used in this sections have been clarified in order to remove any doubt regarding there interpretation.

The Board has clarified and directed that in case the assessment proceedings have been completed u/s 143(3) of the Act before 1st day of April, 2012 and no notice for reassessment has been issued prior to that date, then such cases shall not be reopened u/s 147/148 of the Act on account of the above mentioned clarificatory amendment introduced by the Finance Act, 2012.

It is also clarified that the assessment or any other order which stand validated due to the said clarificatory amendment in the Finance Act 2012 would of course be enforced.

### **DETERMINATION OF ARM'S LENGTH PRICE – INSERTION OF NEW RULE 10AB {207 TAXMANN (ST.) 102}**

The CBDT in accordance with power conferred by section 295 of the Income Tax Act, 1961 vide Notification No.18/2012 dated 23/05/2012 insert the rule 10AB and amends rule 10B of the Income Tax Rule, 1962.

It inserts rule 10AB being other method of determination of Arm's Length Price. It amends rule 10B which is in relation to determination of Arm's Length Price u/s 92C of the Income Tax Act, 1961. It amends rule 10B by inserting clause (f) in sub rule (1).

The clause (f) is as under “(f) any other method as provided in rule 10AB”.

# Case Law Updates – Income tax

## **S. 2(24)(xi), 17(3)(ii), 17(3)(iii) & 56(2)(iv) Assignment of Key-Man Insurance Policy**

On assignment of key-man insurance policy by company to its employee-director against receipt of surrender value from the director, difference between premia paid by company to LIC and surrender value paid by director to company cannot be taxed as “profits in lieu of salary” in the hands of director. [CIT vs. Rajan Nanda (2012) 249 CTR (Del) 141.]

## **S. 2(29BA) & 80-IA Production of pullovers amounts to manufacture.**

Assessee engaged in production of pullovers by purchasing Flats(pallas) from another concern and subjecting the same to various processes viz. labeling, tailoring, packing, pakki checking, buttons and button holes, linking etc. is carrying out manufacture of an article as a different marketable product comes into existence after the Flats are processed and, therefore, assessee is entitled to deduction u/s 80-I in respect of income derived from manufacture of pullovers. [CIT vs. Oswal Knit India Ltd. (2012) 250 CTR (P&H) 179]

## **S. 2(29BA), 80-IA & Sch. XI, Entry 10 Preparation of voter's I-cards amounts to manufacture.**

Assessee engaged in preparation of voter's photo identity cards is engaged in manufacture or production of an article or thing, hence an “industrial undertaking” eligible for deduction u/s 80-IA; manufacture of identity cards cannot be described as photography apparatus and goods within the meaning of Entry 10 of Sch. XI. [CIT vs. Haryana State Electronics Development Corporation Ltd. (2012) 250 CTR (P&H) 316]

## **S. 2(42A), 48 & 49 Computation of Indexed Cost in case of gift.**

While computing the capital gains arising on transfer of a capital asset acquired by the assessee under a gift, the indexed cost of acquisition has to be computed with reference to the year in which the previous owner first held the asset and not the year in which the assessee became the owner of the asset. [CIT vs. Manjula J. Shah (2012) 249 CTR (Bom) 270]

## **S. 10A Acquisition on slump basis does not amount to splitting or reconstruction.**

Assessee having acquired a software division of a company which was established in 1994, as a going concern on a slump sale basis, there was no splitting up or reconstruction of existing business and therefore assessee was entitled to exemption u/s 10A. [CIT vs. Sonata Software Ltd. (2012) 249 CTR (Bom) 441]

## **S.10B, 70 & 80IA(5) Claim for exemption vs. claim for deduction.**

Sec. 10B, as it stands after substitution by Finance Act, 2000 w.e.f 1st April, 2001 is not a provision for exemption, but a provision which enables an assessee to claim a deduction; loss which is sustained by an eligible unit can be set off against the income arising from other units under

profession. [CIT vs. Galaxy Surfactants Ltd (2012) 249 CTR (Bom) 38]

## **S. 10(10D) Amount received on maturity of key-man insurance policy which was assigned is exempt.**

Amount received by employee director on maturity of insurance policy, which insurance policy was in the first instance taken by his employer company as key-man insurance policy and thereafter assigned to him, is exempt u/s 10(10D) in the hands of director. [CIT vs. Rajan Nanda (2012) 249 CTR (Del) 141.]

## **S. 14A : Disallowance applies to partner's share of profit. Depreciation is not expenditure.**

As the share of profit in partnership firm is exempt u/s 10(2A), section 14A would apply and any expenditure incurred to earn the share income will have to be disallowed.

However S. 14A applies only to “expenditure” incurred by the assessee. Depreciation u/s 32 is an “allowance” and not “expenditure” and so cannot be disallowed u/s 14A. [Vishnu AnantMahajan vs. ACIT (ITAT – Ahmedabad Special Bench) ]

## **S. 14A : No disallowance if there is no tax free income**

The assessee, a partner in a firm, borrowed funds and advanced it to the firm on terms that firm would pay interest if it made a profit. In one year firm did not pay interest since it incurred loss. The assessee claimed interest paid on the borrowing as deduction u/s 36(1)(iii). Held that no exemption claimed u/s 10(2A) by the assessee and there was no tax free income, S. 14A would not apply. [CIT vs. M/s. Delite Enterprises (Bombay High Court)]

## **S. 28(va), 45 & 55(2)(a) No compete fees taxable as business income and not as other income.**

Only from 1st April, 2003 the consideration received under a non-competition agreement is chargeable to tax under S. 28(va) as profits and gains of business; same could not be charged under S. 55(2)(a). [Commissioner of IT & ANR. vs. K. ChandrakanthKini.(2012) 249 CTR (Kar) 217.]

## **S. 28(i) Allowability of advances as business loss.**

Advances given to the persons who had been employed by the assessee-company if became unrecoverable, it would clearly be treated as business loss; however, loss of security deposit given for taking the premises on rent cannot be allowed as deduction. [CIT vs. Triveni Engineering & Industries Ltd. (2012) 250 CTR (Del) 277]

## **S. 32(1)(ii) Depreciation on Intangible Assets.**

Intangible assets viz. business claims, business information, business records, contracts, employees and know-how acquired by the assessee under slump sale of running business are in the nature of “business or commercial rights of similar nature” specified in s. 32(1)(ii) and therefore, same are eligible for depreciation [Areva T&D India Ltd. vs. Deputy CIT (2012) 250 CTR (Del) 151]

## Case Law Updates – Income tax Continue...

### **S.36(1)(vii) & 36(2) Dues from clients allowable as bad debts even though not offered to tax in earlier years.**

Assessee share broker was entitled to deduction by way of bad debts u/s 36(1)(vii) r/w s. 36(2) in respect of the amount which could not be recovered from its clients in respect of transactions effected by him on behalf of his clients apart from the commission earned by him, as value of the shares transacted by the assessee as a stock broker on behalf of its client is as much a part of the debt as is the brokerage which is charged by the assessee on the transaction. [CIT vs. Shreyas S. Morakhia (2012) 249 CTR (Bom) 30]

### **S. 37(1) Capital vs. Revenue expenditure.**

Expenditure incurred for indigenisation of software is revenue expenditure. [CIT vs. Sonata Software Ltd. (2012) 249 CTR (Bom) 443]

### **S. 40(a)(ia) & 194C Liability for TDS in franchisee agreements.**

Agreement between the assessee and franchisees was an agreement for permitting the payee to utilize the name and copyright of the assessee in the study material and in running the coaching centres, and there were mutual rights, duties and obligation and it was not a works contract; provisions of s. 194C and consequently s. 40(a)(ia) were not applicable. [CIT vs. Career Launcher India Ltd. (2012) 250 CTR (Del) 241]

### **S. 73 Where income assessed as business income Explanation to S 73 not applicable.**

Assessee's income from service charges (Rs. 2.25 crores) and loss in share trading (Rs. 2.23 crores), had to be taken into account in computing the income under the head of business, both being sources under the same head, and the assessee having dividend income of Rs. 4.7 lakhs (income from other sources), the assessee's case fell within purview of exception carved out in the Explanation to S.73 and the assessee could not be deemed to be carrying on a speculative business. [CIT vs. Darshan Securities (P) LTD. (2012) 249 CTR (BOM) 199.]

### **S. 80I Where separate unit established deduction allowable even if new unit dependent on old unit.**

Assessee having acquired a separate license, invested huge sum of Rs. 7.5 crores for putting up plant and machinery and production capacity also increased almost double, was entitled to deduction u/s 80I; only because to a certain extent the new undertaking is dependent on the existing unit, will not deprive the new undertaking the status of a separate and distinct identity. [Gujarat Alkalies & Chemicals Ltd vs. CIT (2012) 249 CTR (Guj) 82]

### **S. 80-IB(10) & 80-IB(14)(a) Common area to be excluded in calculating prescribed area.**

If the area does not exclusively belong to the owner of the residential unit and if he has to share that common area with the owner of another residential unit, then that common area has to be excluded from the built-up area; it is not necessary for such exclusion whether that area is shared by all the owners of the building. [CIT & ANR. Vs. Raghavendra Constructions (2012) 250 CTR (Kar) 285]

### **S. 115E & 115H Concessional tax available to NOR.**

Status of the assessee was "not ordinarily resident" and various deposits in banks were specified

investments as per s. 115E and therefore assessee was entitled to the benefit of s. 115E and the question of filing of

declaration u/s 115H did not arise. [CIT vs. N. Sundarraman (2012) 250 CTR (Mad) 212]

### **S. 127 Recording of reasons for transfer of cases whether mandatory- Matter referred to larger Bench.**

Question whether the decision of three Judge Bench of the Supreme Court in the case of Ajantha Industries vs. CBDT 1976 CTR (SC) 79 : (1976) 102 ITR 281 (SC) so far as it lays down the law that the requirement of recording reasons u/s 127(1) is a mandatory direction under the law and non-communication thereof is not saved by showing that the reasons exist in the file although not communicated to the assessee is no longer a good law in view of the subsequent decisions of the Supreme Court in the cases of Managing Director, ECIL vs. B.Karunakar AIR 1994 (SC) 1074 and State Bank of Patiala vs. S.K Sharma AIR 1996(SC) 1669 as held in the case of Arti Ship Breaking vs. Director of IT(Inv.) & Ors. (2000) 161 CTR (Guj) 323 : (2000) 244 ITR 333 (Guj) is recommended to be referred to a larger Bench. [Millennium Houseware & Ors. Vs. CIT & ANR. (2012) 250 CTR (Guj) 123]

### **S. 143, 151 & 251 No power to CIT-A to change the status of the assessee.**

If the status of the assessee is required to be modified, the only option available to the ITO is to assess the income in the appropriate status, if permitted by law, by issuing a notice to the assessee in that particular status; CIT(A) was not justified in modifying the status from AOP to BOI. [Gutta Anjaneyulu & Co vs. CIT (2012) 249 CTR (AP) 106]

### **S. 194H Liability for TDS. Purchase and resale vs. commission.**

Sale of milk and milk products by assessee dairy to concessioners/agents who sold the same from the booths owned by the assessee was on principal to principal basis and therefore, assessee dairy was not liable to deduct tax at source u/s 194H from the payments made to concessioners. [CIT vs. Mother Dairy India Ltd. (2012) 249 CTR (Del) 559]

### **S.271(1)(c) Bona-fide mistake not liable for penalty.**

Amount surrendered by assessee was recorded in books but could not be sufficiently explained and partners of the assessee were uneducated not having knowledge of accounts and therefore their bona fide act could not be treated as concealment of income within the meaning of s. 271(1)(c). [Punjab Rice Mills vs. CIT & ANR. (2012) 250 CTR (All) 201]

### **S. 271(1)(c) : Penalty not levied for breach of S. 50C**

The fact that assessee agreed to additions because of deeming provisions of S. 50C does not mean that he filed inaccurate particulars of his income. The assessee's acceptance of addition on the basis of valuation made by the Stamp Valuation Authority is not conclusive proof that sale consideration as per the sale agreement was incorrect and wrong and so penalty u/s 271(1)(c) cannot be levied. [Chimanlal Manilal Patel vs. ACIT (ITAT – Ahmedabad)]

## **DIRECT ENTRY TO CHARTERED ACCOUNTANCY COURSE – AMENDMENTS TO THE CHARTERED ACCOUNTANTS REGULATIONS, 1988**

This is to inform all concerned that with the issuance of the Notification No. 1 CA(7)/145/2012 on August 1, 2012, the provisions relating to Direct Entry Scheme for Graduates/Post Graduates, etc., with prescribed percentage of marks, to the Chartered Accountancy Course have come into force from August 1, 2012.

Any graduate or post graduate referred to in sub-clause (ix) of regulation 2 shall be exempted from passing the Common Proficiency Test under this regulation if such person is a -

(i) graduate or post graduate in commerce having secured in aggregate a minimum of fifty-five per cent. of the total marks or its equivalent grade in the examination conducted by any recognised University (including Open University) by studying any three papers of 100 marks each out of Accounting, Auditing, Mercantile Laws, Corporate Laws, Economics, Management (including Financial Management), Taxation (including Direct Tax Laws and Indirect Tax Laws), Costing, Business Administration or Management Accounting;

Or (ii) graduate or post graduate other than those referred to in clause (i), having secured in aggregate a minimum of sixty per cent. of the total marks or its equivalent grade in the examination conducted by any recognised University (including Open University).

(1B) Any candidate who has passed the Intermediate examination conducted by the Institute of Cost Accountants of India set up under the Cost and Works Accountants Act, 1959 (23 of 1959) or by the Institute of Company Secretaries of India set up under the Company Secretaries Act, 1980 (56 of 1980) shall also be exempted from passing the Common Proficiency Test under this regulation.

## **CBDT's Press Release On Extension Of Due Date Of Filing Of ROI**

PRESS RELEASE [No. 402/92/2006-MC (20 of 2012)], dated 1-8-2012

A section of Media has reported that the Central Board of Direct Taxes has extended 'due date' of filing of returns to 31st August, 2012 in respect of only those returns which were to be e-filed by 31st July, 2012. It is clarified that the notification issued by the Board on 31st July, 2012 has extended the 'due date' of filing of all returns for the Assessment Year 2012-13 which were due to be filed by 31st July, 2012 to 31st August, 2012

## **Details of Percentage of candidates passed in CA Final Examination held in May, 2012**

| Examination | Group      | No. of candidates appeared | No. of candidates passed | % of pass |
|-------------|------------|----------------------------|--------------------------|-----------|
| FINAL       | Both Group | 30976                      | 5075                     | 16.38%    |
|             | Group-I    | 51002                      | 12912                    | 25.32%    |
|             | Group-II   | 55108                      | 16325                    | 29.62%    |

## **Details of Percentage of candidates passed in (CPT) held on June 17, 2012**

| Gender       | No. of candidates appeared | No. of candidates passed | Pass Percent age | Exam. Centres |
|--------------|----------------------------|--------------------------|------------------|---------------|
| Male         | 94872                      | 34277                    | 36.13            | 345           |
| Female       | 54476                      | 21814                    | 40.04            |               |
| <b>Total</b> | 149348                     | 56091                    | 37.56            |               |

## **Announcement for Campus Placement Programme for Newly Qualified Chartered Accountants August-September, 2012**

Committee for Members in Industry (CMII) provides opportunity to the employers to interact with newly qualified Chartered Accountants and makes all arrangements at its centres, thereby providing a cost effective mode of recruiting newly qualified Chartered Accountants qualified in (i) November 2011 (ii) May 2011

| Centre | Last Date of Registration for Companies | Last Date of Short listing | Consent sending by Candidates | Interview Dates         |
|--------|---|----------------------------|-------------------------------|-------------------------|
| Vapi   | 24th August, 2012                       | 29th August, 2012          | 30th August, 2012             | 4th-5th September, 2012 |

For further details, mail at [vapi@icai.org](mailto:vapi@icai.org) or visit placement portal <http://www.cmii.icai.org>.



# GLIMPSE OF PAST EVENTS



CA Tarun Ghia & Cross section of participants at Seminar on 24<sup>th</sup> July 2012

CA Sanjeev Maheshwari



CA Anand Banka

Various speakers at workshop on Financial Reporting Practices on 28<sup>th</sup> July 2012

CA Jayesh Shah



CA Mahendra Mehta

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To,