



ERNAKULAM BRANCH

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Shri S.Suhas, Hon'ble Ernakulam District Collector inaugurating the CA Students' Conference at Fine Arts Hall, Ernakulam organized by Board of Studies of The Institute of Chartered Accountants of India and hosted by Ernakulam Branch of SIRC of ICAI & Ernakulam Branch of SICASA (CA Students Association).

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Chairman's Message



Dear Professional Colleagues,

The month of September is the one with the most important festival in Kerala – Onam. While we would be extremely busy with the various audits in hand, we would also be celebrating this festival with much vigour. There were no festivities during Onam last year as water gushed in unexpectedly and many lost their dear ones. Though flash floods and landslips caused concerns in the state this year too, it had caused less destruction compared to the August floods as in the previous year. Over hundreds of people had lost their lives and a large number of houses were damaged, but we Keralites have decided to go ahead with our Onam celebrations this year as it would help people overcome the traumatic experience and focus on putting their lives back following the two consecutive floods.

The 73rd Independence day was celebrated at the branch by hoisting the National flag in the presence of members and students. Sweets were distributed along with the Eco friendly paper seed flags on the occasion.

Mock interview was organized in connection with the Campus Placement Programme Sept – Oct 2019 at ICAI Bhawan, Ernakulam on 4th September, 2019. CA. Venugopal C Govind, CA. K.P.

Paulson, CA. Balagopal R, CA. Pius Mathew, CA. Rajiv Warriar and CA. Alex Abraham were the panellists at the mock interview.

A Workshop on Accounting Standards was organized jointly with Mahatma Gandhi University on 4th September, 2019 at Nirmala College, Muvattupuzha for the commerce faculties of the various college coming under Mahatma Gandhi University, Kottayam

On 6th September, 2019, the branch staff along with SICASA & on 7th September 2019, the branch celebrated Onam with great fervour and enthusiasm. Floral carpet was laid at the entrance of the branch on the 6th. Various games were organized on the occasion. Traditional Lunch (onasadhya) was served. SICASA members, branch faculty members, managing committee members and branch staff participated in the celebrations.

We have organized Teacher's Day Programme with the theme "My Teacher – Torch Bearer of My Life". Special motivational session was taken by CA. Deepa Varghese, Chairperson, Ernakulam Branch of SICASA of ICAI. Essay and slogan competition was organized for CA Students based on Teachers Day Theme " My teacher-torch bearer of my life".



As a part of the Corporate Social Responsibility, the branch distributed 'Onakkodi' to the Cancer Patients at the General Hospital, Ernakulam on 6th September, 2019. Onakkodi was handed over to Dr. Anitha, Superintendent, General Hospital, Ernakulam for distributing to Cancer patients at the hospital. Dhoti for Men and Kerala Sari for women were distributed along with fruits.

One day seminar on Tax Audit on 6th September, 2019 was organized at the branch for students. The technical sessions on "Tax Audit Report – Analysis of Key clauses", "TDS provisions with reference to the audit under section 44AB" were taken by CA. Baby Paul, Director, BSR & Associates, LLP and CA. K. Parvathy Ammal.

We have organized CPE Seminar on Income Tax Audit & Professional Ethics on 7th September, 2019. CA. Rajendra Kumar P, Central Council Member of ICAI inaugurated the CPE Seminar. The technical sessions were taken by CA.T.G. Suresh, Chennai, CA. Rajendra Kumar P, Central Council Member of ICAI and CA. Sachin Kumar P B, Bengaluru. The session were on the topics "audit under Section 44 AB of Income Tax and Issues in Form 3CD, Ethical standards and disciplinary proceedings, Income Computation & Disclosure Standards – an audit perspective. The seminar was a grand success and it was attended by more than 300 members.

Certificate Course on GST concluded on 8th September 2019 at Hotel Park Central, Kaloor, Kochi. 41 members successfully completed the course. Onasadhya was arranged for the participants of the Certificate Course on GST on that day.

SICASA, Ernakulam conducted its 2 major events for the year – the Annual Indoor Sports and "Encore" the cultural fest in this month. The Indoor games was inaugurated by Arjuna Award winner Mr. George Thomas and Encore was inaugurated by the very eminent Music Director Mr. Gopi Sunder. My hearty congratulations to team SICASA Ernakulam for putting up a grand show and for making all of us so proud. A Lecture meeting is planned on the topic "Strategic approach for facing financial management and costing exams – A discussion" on 19th September, 2019 at the branch. CA. Santhi Ganapathy will be taking the session. I request all the students to make use of this opportunity.

We wish each one of you and your beloved ones a very happy and prosperous Onam!. We the managing committee members also take this opportunity to wish a very successful auditing season.

Jai Hind! Jain ICAI!

CA.Sreenivasan P.R

Chairman



Reported Judicial Decisions

CA.P.M Veeramani FCA

Statute: **Income Tax Act – Sec.10AA – AO cannot forcibly charge interest and remuneration**

Decision in favour of : Assessee

Title : ACIT vs Muktha Enterprise

Citation: 175 ITR Trib 350

Bench: ITAT Surat

In the absence of any clause in the partnership deed of the assessee firm providing for interest on capital and remuneration to partners, AS cannot compel to charge such interest and remuneration on the ground that the assessee is claiming deduction on inflated profits

Statute: **Income Tax Act – Sec.12AA – Non-citizen trustees**

Decision in favour of : Assessee

Title : Global Academy of Emergency Medicine vs CIT

Citation: 175 ITD 96

Bench: ITAT Delhi

Commissioner rejected application under section 12AA on ground that all trustees had taken citizenship in foreign country and thus there was violation of section 73 of Indian Trust Act; In view of fact that violation of provisions of Indian Trust Act per se cannot invalidate a trust but rather

provides bar for appointment of non-resident as trustee, order passed by CIT was to be set aside

Statute: **Income Tax Act – Sec.13(1) – Advance out of current year surplus**

Decision in favour of : Assessee

Title : ITO vs Shrine Vailankanni Senior Secondary School

Citation: 70 ITR Trib 345

Bench: ITAT Chennai

What is prohibited under the Act is advancing of money from the accumulated funds of the earlier year. It was not the case of the department that the assessee has transferred the accumulated funds contrary to the purpose for which it was accumulated. Where advance was made to similar societies who were carrying on similar objects, there was no violation of section 13(1)

Statute: **Income Tax Act – Sec.28(1) – Capital advance written off**

Decision in favour of : Revenue

Title : ICS Systems Private Ltd vs CIT

Citation: 175 DTR 235

Bench: Delhi HC

Loss of money caused by forfeiture of advance towards proposed purchase of plot is a capital



loss and not allowable as business expenditure

Statute: **Income Tax Act – Sec.40A(7)(b), 43B – Provision for gratuity**

Decision in favour of : Assessee

Title : Thiruvalla East Co-operative Bank Ltd vs ITO

Citation: 70 ITR Trib 486

Bench: ITAT Cochin

Section 43B does not control the provisions of section 40A(7)(b). Provision for gratuity to retiring employees in respect of the previous year, it was not necessary that actual payment had to be made. If such amount was earmarked for payment of gratuity i.e. provision was made for payment of gratuity, the amount had to be allowed as deduction

Statute: **Income Tax Act – Sec.54F – Deposit in SB account**

Decision in favour of : Assessee

Title : Goverdhan Singh Shekhawat vs ITO

Citation: 175 DTR Trib 353

Bench: ITAT Jaipur

Although the savings bank account opened by the assessee in the bank is technically speaking, not a capital gains account, in substance, assessee has complied with the requirements of section 54F(4) once he has deposited the entire compensation received in the SB account and withdrawal therefrom strictly for the purpose of

purchase of plot of land and construction thereof and hence relief should be granted

Statute: **Income Tax Act – Sec.56(2)(v) – Gift from Maternal Aunt**

Decision in favour of : Assessee

Title : Pendurthi Chandrasekhar vs DCIT

Citation: 175 DTR AP 73

Bench: Andhra Pradesh HC

Maternal aunt, i.e. sister of assessee's mother being a relative as defined under explanation to sec.56(2)(v), genuineness of gift from her could not be rejected by AO for the reason that there was no occasion for the gift.

Statute: **Income Tax Act – Sec.80IA – Production of feature film**

Decision in favour of : Assessee

Title : DCIT vs K.T.Kunjumon

Citation: 70 ITR Trib 445

Bench: ITAT Chennai

Production of feature film would amount to manufacturing or processing of goods as per CBDT circular 24 dated 23.7.1969. There were more than ten persons working for the film project. Just because such persons were not regular employees of the assessee, would not mean that they were not employed by the assessee for the purpose of the new production project. The assessee was entitled to deduction under section 80IA

**JUDICIAL DECISIONS ON INDIRECT TAXES**

CA.P.J.Johney FCA

GOODS and SERVICE TAX**Statute:** Goods and Service Tax**Decision in favour of:** Assessee**Title:** **Neuvera Wellness Ventures Pvt. Ltd.****v State of Gujarat**

Ms. Harsha Devani and Bhargav D. Karia JJ

Citation: [2019] 65 GSTR 157 (Guj)

Bench/Court: In The Gujarat High Court

Goods and Services Tax—Detention of Goods—Seizure of Goods—Perishable Goods— Detention for Failure to Produce Part B of E-Way Bill— Assessee Generating Part B and Explaining that Goods Perishable and Had to be Transported Urgently, that Goods Imported Goods taken from Customs Bonded Warehouse to Its own Godown and there was No Supply and that Integrated Goods and Services Tax Paid before movement of Goods — Failure by officer to Consider Explanation and to Record Reasons — Detention of Goods and Levy of Tax and Penalty not sustainable —Central Goods and Services Tax Act (12 of 2017), ss. 129, 130.

Statute: Goods and Service Tax**Decision in favour of:** Assessee**Title:** **Patran Steel Rolling Mill v Assistant Commissioner of State Tax**

Ms. Harsha Devani and Dr. A. P. Thaker JJ

Citation:[2019] 65 GSTR 177 (Guj)

Bench/Court: In The Gujarat High Court

Goods and Services Tax—Recovery of Tax—Provisional Attachment—Search and Seizure— Investigation carried out pursuant to finding of stock variation at factory premises of Petitioner— goods found in excess seized and bank accounts Attached—On facts inflated amount

of Rs.55,37,237 computed towards tax Liability—Certain sum deposited by Petitioner During Search Proceedings which covered more than Tax liability that might be assessed— Nothing to show that respondents would not be in position to recover amount that petitioner might ultimately be held liable to Pay—attachment of bank accounts and Seizure of Goods resulting in bringing business to halt—Not Justified— orders for attachment of bank accounts and Seizure of goods set aside – Gujarat Goods and Services Tax Act (25 of 2017), s.83— Gujarat Goods and Services Tax Rules, 2017, r. 139(2).

Statute: Goods and Service Tax**Decision in favour of:** Assessee**Title:** **Sonka Publication (India) Pvt. Ltd****v Union of India and Others**

Dr. S. MURALIDHAR and REKHA PALLI JJ.

Citation:[2019] 65 GSTR 391 (Delhi)

Bench/Court: In The Delhi High Court

Goods and Services Tax—Classification of goods— Exemption— Educational Text—“Work Book”—Not Mere Exercise Book — Attempt to help Child think on his own and to enable teacher to evaluate child’s output — Classifiable under HSN 49.01 and not HSN 48.02 — Exempt — Central Goods and Services Tax Act (12 of 2017) — Notification No. 2/2017-Central Tax (Rate) Dated June 28, 2017.

ADVANCE RULING**Statute:** Goods and Services Tax**Decision in favour of:** Department**Title:** **MRF LIMITED, In re**



MS Manasa Gangotri Kata and S. Vijayakumar
(Members)

Citation: [2019] 65 GSTR 11 (AAR)

Bench/Court: The Authority For Advance Rulings

Goods and Services Tax — Post purchase discount — Input Tax Credit— Agreement by applicant with C2FO for Setting Up Inter- Active automated data exchange installed for data interaction relating to sale and purchase of goods and services between applicant and its supplier — Supplier and recipient registered on platform provided by C2FO—Approved open invoices and supplier data picked for offering same for discounting by supplier — Invoices uploaded by supplier in software after raised and software optimized dates of early payment for each invoice and determined final discounted transaction value based on various parameters — If agreed by supplier, discounted invoices placed for early payment — Invoices raised before payment dates , time of supply being date of raising invoices — Discounts offered not mentioned in supply contract between applicant and his suppliers when invoice raised or before , though discounts specifically linking relevant invoices — Supplier on raising Invoices (Undiscounted Price), Pays applicable Goods and Service Tax, applicant on Receipt of Goods/Services and Invoices avails of tax Paid by Supplier as Credit and only Discounted amount paid by applicant to his Supplier—Section 15(3)(a) OR (b) Not Applicable-Value of Supply

Full Undiscounted Value Mentioned on Invoice — Applicant Makes Payment only to extent of invoice Value Less Discount Thrown up by C2FO Software and Entitled to Input Tax Credit Only to that Extent — If Input Tax Credit Availled on Full Amount, Difference Amount Equal To Discount, to be Reversed to Avoid being added to his output Liability —Central Goods and Services Tax Act (12 of 2017), ss. 15(3)(a), (b), 16, proviso —

Tamil Nadu Goods and Services Tax Act (19 of 2017), ss.15(3)(a),(b),16,proviso.

OTHER JUDICIAL DECISIONS

Statute: Central Sales Tax Act

Decision in favour of: Assessee

Title: State of Jharkhand and Others v Akash Coke Industries Pvt. Ltd.

Ranjan Gocoi C. J., Sanjay Kishan Kaul and K. M. Joseph JJ.

Citation: [2019] 65 GSTR 1 (SC)

Bench/Court: In The Supreme Court of India
Central Sales tax—Declared goods— Refund— Inter-state sale of Coke Manufactured Out of coal purchased Intra-State — Direction by Writ Court to grant dealer refund of tax paid on Intra-State Purchase—Appeal—Contention by Department for First Time that Dealer not entitled to Refund on Ground Coal and Coke not same Goods— Cannot be entertained — Central Sales Tax Act (74 of 1956), s. 15(B).

Statute: Central Sales Tax Act

Decision in favour of: Assessee

Title: Tata Steel Limited v State of Jharkhand and Others

D. N. Patel and Amitav K. Gurta JJ.

Citation: [2019] 65 GSTR 62 Jharkhand)

Bench/Court: In The Jharkhand High Court

Central Sales Tax—Registered Dealer—Concessional rate of tax—Declaration in Form C— Duty of officers to Issue Form C— Nature of Transaction, Whether Interstate or Local and whether intention of abuse Present—Not factors to be considered at time of issue of Form C—When Form C can be Denied—E- Portal programmed to Decline Form C Wrongly—Purchase of goods through agent by endorsement while Goods in transit— Mismatch in price not ground to Deny Form C—That name of consignee mentioned in invoice does not mean prior contract of sale



existed—Central Sales Tax Act (74 of 1956), ss. 3(B), 6(2)— Central Sales Tax (Registration and Turnover) Rules, 1957, R. 12(1) ; Form cc

Statute: Sales Tax

Decision in favour of: Department

Title: Hindustan Unilever Limited v. State of andhra Pradesh

P.V Sanjay Kumar and D.V.S.S. Somayajulu JJ
Citation:[2019] 65 GSTR 312 (T&AP)

Bench/Court: In The Telangana and andhra Pradesh High Court

Sales Tax—Suppression of Turnover— Payment By Dealer Under Agreement “For Sale of Catch” —Agreement Stating Payment Was For “Catch”—Debit Notes Raised by Other Party On Dealer For “Catch” —Dealer not objecting to nomenclature— despite opportunity dealer failing to bring evidence to show payments were for hire of trawler—Dealer taxable on purchase of shrimps— andhra Pradesh General Sales Tax Act (6 of 1957).

Sales Tax—Penalty—Notice—Remand by appellate deputy commissioner to assessing authority to go into additions and decide question of penalty also—dealer aware of parameters of remand—Not entitled to contend that penalty proceedings illegal for want of notice— andhra Pradesh general Sales Tax Act.

Sales Tax— Penalty —Purchases made by dealer coming to light only upon inspection of third party’s premises— Deliberate Suppression of Sales—penalty levied at maximum permissible—Justified andhra Pradesh General Sales Tax Act (6 of 1957), S. 14.

Assessment— Burden of Proof—despite opportunity dealer failing to bring evidence to show payments were for hire of trawler and not purchase of shrimps— Assessing authority entitled to raise adverse inference— andhra Pradesh General Sales Tax Act (6 of 1957).

Statute: Value Added Tax

Decision in favour of: Assessee
Title: Ramky Infrastructure Limited v State of U. P. and Others

Pankaj Mithal and Ashok Kumar JJ.

Citation: [2019] 65 GSTR 99 (All)

Bench/Court: In The Allahabad High Court
Value Added Tax — Assessment— Escaped Turnover — Limitation—Assessment Years 2009-10 To 2011-12—Original assessment orders set aside and matter remanded to assessing authority for passing fresh orders—subsequent assessment orders passed on march 31, 2016 in three cases and on January 31, 2017 in fourth case by assessing authority (all orders passed on last date of limitation) and served upon petitioner on July 21, 2018— Long Delay (of 28 and 18 Months, Respectively) on Part of Department in Serving Copies of Assessment Orders Upon Petitioner not Explained— Legitimate Presumption that Orders Actually Passed After Expiry of Limitation— Assessment Orders without Jurisdiction — Quashed— Uttar Pradesh Value Added Tax Act (5 of 2008), S. 29(5), (6).
Writs Under Constitution— Alternative Remedy— Assessment— Limitation—Assessment Passed On March 31, 2016 In three Cases and On January 31, 2017 In Fourth Case (All Orders Passed On Last Date of Limitation) — Copies of Orders Served Upon Petitioner On July 21, 2018, i.e., With Delay of 28 and 18 Months, Respectively, and Delay Not Explained—Presumption on admitted facts without going into any factual controversy that orders not actually passed on dates mentioned therein but after expiry of limitation— That officer passing orders made no efforts to serve them and could be served only after he was transferred necessitated exercise of discretionary jurisdiction— Writ petition challenging assessment orders—Maintainable—Constitution of India, art. 226—Uttar Pradesh Value Added Tax Act (5 of 2008), ss. 29(5), (6), 55.

CA Week Celebrations



CA Day Family Get-together

Blood Donation Camp



Saplings

ICAI 5Km / 10Km MiniMATHON



in connection with CA Week Celebrations 2019

Sunday, 7th July 2019 at 06:30 am



Winner 10K

Winner 5K