



ERNAKULAM BRANCH

OF SIRC OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

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Shri. N.D Gupta Hon'ble Member of Parliament and Past President, ICAI Inaugurating the One Day CPE Seminar on GST at Ernakulam organised by Ernakulam Branch of SIRC of ICAI.

L to R: CA. Allen Joseph Thomas, CA Salm A, CA Jose K.V, CA. Jomon K.George, CA. Sreenivasan P.R, CA. Mohan R.Lavi, CA. Babu Abraham Kallivayalil, CA.Renjith R.Warrier and CA. Roy Varghese are also seen.

Two Day National Conference on Direct Taxes

2nd & 3rd August 2019
(Friday & Saturday)

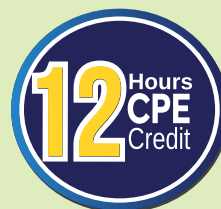
at Gokulam Convention Centre
Kaloor, Ernakulam

Organised by

Direct Taxes Committee of ICAI

Hosted by

Ernakulam Branch of SIRC of ICAI



Fees

Ernakulam ARS 2019-20 : Nil
Other CA's: Rs. 2000/-
Non Members : Rs. 3000/-

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Chairman's Message



Dear members,

Indeed, it was the best time of the year. We just had the most exciting time while we celebrated the Platinum Jubilee Year of ICAI this month. The CA Day on July 1st was celebrated with pomp and show and the following week was observed as CA week with a host of activities.

Celebrations began at Ernakulam Branch with the CA flag hoisting at ICAI Bhawan on July 1st at 9.30 AM. After the flag hoisting a talk on importance of organ donation was organised followed by a blood donation camp. Planting and distribution of saplings were also undertaken. In the evening, we had a very exciting family get-together at Holiday Inn, Kochi, which was attended by more than 700 people including our members and their family. We honoured senior members who completed 50 years in service in 2019. It was indeed moments of pride and privilege for us.

The CA week continued with educational sessions (CPE seminars & workshop), CSR events, Career Counselling sessions at schools & colleges and ended with an energy packed mini-marathon on Sunday the 7th of July, 2019. It was the first time that our Branch conducted such an event in which our members, their family members, students and members of the public participated.

The compliance and audit season has started and I am sure all our professional colleagues are working hard to meet the deadlines. This year, it's like never before, with so many new requirements like SA 700, 705 & 706, the GST Annual Return Filing and Audit, the new forms for filing of Income Tax Returns and related various other new circulars and notifications.

The writing is on the wall that we are moving forward to a cashless and digital economy. These paradigm changes makes the role of a Chartered Accountant more important, irreplaceable and inevitable. It's in our hands to accept and adapt to the new changes and advice our organisations and clients accordingly.

The two day Students Conference hosted by SICASA, Ernakulam under the aegis of the Board of Studies, ICAI concluded on July 20, 2019. It was inaugurated by the new District Collector Sri. Suhas.S. The programme was attended by more than 700 students from all over the country and was a huge success. The conference was graced by the presence of our four Central Council Members from the South,

CA. Babu Abraham Kallivayalil, CA. G. Sekhar, CA. M.P.Vijaykumar and CA. Rajendra Kumar. CA. Jomon K George, Chairman, SIRC was also present. My hearty congratulations to team SICASA Ernakulam for putting up a grand show and for making all of us so proud.

The next batch for certificate course on GST will commence on Saturday, July 27, 2019. I thank the Central Committee for Indirect Taxes and GST and its Vice Chairman and Coordinator CA. Rajendra Kumar for all the arrangements provided for hosting the programme at Ernakulam.

On 2nd & 3rd of August, we will have the Two Day National Conference on Direct Taxes. Well known speakers from various parts of the country will be presenting papers during the conference. I request all the members to make use of this opportunity and participate in this event.

ICAI Ernakulam Branch is launching a new Members Directory for the term 2019-22. We will soon be freezing the updation process and will be moving ahead to design and print this. I request all members to kindly update your data in the branch website at the earliest.

Before I sign off, I request all members to kindly register yourself in the Self Service Portal (SSP) of ICAI and get a feel of the new platform developed for ICAI. As you are aware, UDIN is mandatory for all types of audit and certification cases from 1st of July. It would be advisable to maintain a register of the UDIN generated by each member, so that one can track the use in future.

Let us strive to achieve excellence par comparison in our services as partners in nation building.

Jai Hind! Jai ICAI!

CA.Sreenivasan P.R

Chairman



BRANCH ACTIVITIES – July 2019

FOR MEMBERS

CPE SEMINARS / MEETINGS / CONFERENCES / WORKSHOPS / LIVE WEBCAST

CPE lecture meeting on “Kerala flood cess and discussion on new forms under GST (Normal, Sahaj, Sugam)” was organized by the branch on 3rd June, 2019. CA. P.J. Johny was the speaker.

CPE Workshop on “Recent judicial pronouncements under Income Tax Act & Representation before Appellate / Higher authorities was organized on 8th June, 2019 at ICAI Bhawan. The technical sessions on “Controversial issues and recent judicial pronouncements under Income Tax Act” and “Representation before higher authorities under Income Tax” were taken by CA. R. Krishnan, Alleppey and CA. Kapil Goel, New Delhi.

CPE Seminar on “New code of ethics and other issues” organized by the Ethical Standards Board of ICAI and hosted by the branch on 13th June, 2019. CA. Ankit R Momaya was the speaker.

One day seminar on GST was organized by the branch on 15th June, 2019 at Radisson Blu, S A Road, Ernakulam. CA. N.D. Gupta, Hon’ble Member of Parliament and Past President of ICAI was the chief guest. The technical sessions were on the topics “GST input credit with special emphasis on reconciliation with various returns” and “Issues and controversies relating to filing of GST Annual Return and GST audit”. CA. Sunil Gabhawalla, Mumbai and CA. Mohan R Lavi, Bengaluru took the session.

One day CPE workshop on “Goods and Services Tax” was organized by the branch on 19th June, 2019 at Rajagiri Hospital Complex, Chunangaveli, Aluva. Smt. Mumtaz, President, Vazhakkulam Block Panchayath was the chief guest. The technical session on “Filing of annual return under GST and clause by clause analysis of Form No.9” and “Audit under GST – filing of reconciliation statement Form 9C” were the topics deliberated at the workshop. CA. Shankara Narayanan and CA.K. Ramaswamy were the speakers.

CPE seminar on “Corporate Law” was organized by the branch on 22nd June, 2019. CMA. Dr. P.V.S. Jagan Mohan Rao, President SAFA, Past President ICSI and CCM of CMA Institute was the chief guest and took the technical session on the topic “Accounts of companies – Chapter IX of the Companies Act, 2013”, “Climate change and sustainability”.

This month we have conducted three study circle meetings. The details are as follows :

Date	Topic	Speaker
12-06-2019	Audit procedures – private limited companies	CA. Prashant Mohan
20-06-2019	Audit under Companies Act and relevant reporting standards	CA. Govind P

OTHER BRANCH ACTIVITIES FOR MEMBERS

5th International Yoga Day was celebrated on 21st June, 2019 at ICAI Bhawan, Ernakulam. The yoga session was inaugurated by CA. Rengarajan G and Mrs. Kavitha.V.T , Volunteers, Isha Foundation. Mrs. Kavitha.V.T. took the session on “Work Life Balance”. Live yoga session of Hon’ble Prime Minister of India and Video bytes of President & Vice President, ICAI was played on the occasion . 31 participants were there for the yoga session.

Chairman, Research Committee has approved our proposal on 22nd June, 2019 for setting up a study group on the ‘Research project on Internal Audit’ at the branch.

Members Sports meet were organized on 27th June, 2019 at Rajiv Gandhi Indoor Stadium, Kadavanthara, Ernakulam. Table Tennis (singles and doubles), Shuttle Badminton (singles and doubles), Carroms (singles and doubles), Carroms (singles and doubles), Chess and running race 800 mtr were conducted. Around 100 participants -Members and official from various government departments participated the sports meet.

CSR ACTIVITIES

As a part of the CSR initiative of the branch, school bags were distributed to the students of Class I to III standards of Christ King Convent EMLP School, Ponnuruni on 6th June 2019. CA. Jomon K George, Chairman, SIRC of ICAI ,CA. Sreenivasan. P.R., Chairman of the branch, CA. K.V. Jose, Treasurer and CA. Deepa Varghese, Chairperson, SICASA were present. 50 bags were distributed.

SUGGESTIONS TO COMMITTEE - submitted

As per the directions from the Direct Taxes Committee of ICAI and the Income Tax Department, Kochi we have identified topics / areas relating to Direct Taxes for creation of new Tax Payer Information (TPI) Series brochures. We have submitted the suggestive topics to the Direct tax committee in the link provided by the Committee on 25th June, 2019. We have submitted the same to the Income Tax Department, Kochi through email and hardcopy.

ALL KERALA CHAIRMEN, SECRETARIES AND CHAIRMEN SICASA

All Kerala Chairmen, Secretaries and Chairmen, SICASA meeting was held on 9th June, 2019 at the branch. CA. Babu Abraham Kallivayalil, Central Council Member of ICAI welcomed the gathering. Various matters relating to Infrastructure requirement, Capital / Revenue Grant

New exam centres , National / Regional Level programmes , SIRC conference, Issues relating to Members and Students, Board of Studies etc. and SICASA Programmes were discussed at the meeting. CA. Jomon K George, Chairman, SIRC of ICAI were also present at the meeting.

A programme was arranged by the Kottayam Branch along with all the eight other Kerala Branches of SIRC of ICAI to felicitate CA.



Thomas Chazhikadan on 14th June 2019 at Hotel Aida, Kottayam. CA. N D Gupta, Member of Parliament and the Past President of ICAI was the Chief Guest on the occasion.

OTHER BRANCH ACTIVITIES – STUDENTS

Mock tests for CPT Course 1st and 2nd Series were held on 2nd and 9th June, 2019 respectively. 12 students attended the mock tests.

Lecture meeting was organized by the Ernakulam Branch of SICASA of ICAI at the branch on 22nd June, 2019. CMA. Dr. Jagannathan Mohan Rao, President SAFA, Past President ICSI and CCM of CMA Institute was the chief guest. He addressed on the topic “professional accountancy – emerging opportunities and challenges” for the CA Students. CA. Sreenivasan. P.R welcomed the gathering. CA. Babu Abraham Kallivayalil, Central Council Member of ICAI gave the special address. CA. Deepa Varghese, Chairperson, SICASA Ernakulam Branch proposed vote of thanks. Around 65 students attended the meeting.

Indoor games was organized by the Ernakulam Branch of SICASA of ICAI on 23rd June, 2019 at ICAI Bhawan, Ernakulam. Intra Branch Chess and Carrom were conducted. 51 students from various firms from Ernakulam district participated at the games. CA. Deepa Varghese, Chairperson, Ernakulam Branch of SICASA inaugurated the games.

One day seminar on GST – Annual Return & Audit was organized by the Ernakulam Branch of SICASA of ICAI on 25th June, 2019 at YMCA, Ernakulam. CA. Deepa Varghese, Chairperson, SICASA Ernakulam Branch inaugurated the seminar. CA. Sreenivasan.P.R Chairman delivered the special address. CA. Rohin Koppuravuri, Assistant Director (Cost), Central Taxes & Central Excise, Audit Commissionerate, Kochi inaugurated the seminar. Mr. Jinu Baby, Secretary, SICASA, Ernakulam Branch proposed vote of thanks. The technical sessions on “understanding GST Audit documentation and verification”, “GSTR9 with practical examples – (Session I)” and “GSTR 9 C with practical examples – (Session II)” were taken by CA. G. Rengarajan, CA. Razeed Moideen and CA. Ravinath R Pai respectively.

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Friday, 2nd August 2019

PROGRAMME

Saturday, 3rd August 2019

Registration 08.15 am
Technical Session I 08.45 am - 10.45 am
 Budget proposals, latest amendments, notifications, circulars and judicial pronouncements
 Session Chairman: **CA. Mathew Joseph**, Past Chairman, Ernakulam Branch
 Speaker: **CA. Banusekar.T**, Chennai
 Inaugural Session 10.45 am - 11.15 am
 Tea break 11.15 am - 11.30 am
Technical Session II 11.30 am - 01.30 pm
 Important implications of FEMA and taxation of NRIs
 Session Chairman: **CA. George Korah**, Independent Director, The South Indian Bank Ltd.,
 Speaker: **CA. Nandakishore Chidamber Hegde**, Mumbai
 Lunch Break 01.30 pm - 02.15 pm
Technical Session III 02.15 pm – 04.15 pm
 Recent amendments in taxation of immovable property transactions and other contemporary issues
 Session Chairman: **CA. K.P. Paulson**, Past Chairman, Ernakulam Branch
 Speaker: **CA. Naveen Khariwal**, Bengaluru

Technical Session IV 09.00 am - 11.00 am
 Audit under Sec. 44 AB of Income Tax Act and issues relating to Form 3CD
 Session Chairman: **CA. Venugopal C Govind**, Founder Secretary and Past Chairman, Ernakulam Branch
 Speaker: **CA. Pramod Jain**, New Delhi
 Tea break 11.00 am - 11.30 am
Technical Session V 11.30 am – 01.30 pm
 Taxation of gifts u/s. 56(2)(10)
 Session Chairman: **CA. V.C. James**, Past Central Council Member, ICAI
 Speaker: **Adv. K.K. Chaithanya**, Bengaluru
 Lunch Break 01.30 pm – 2.30 pm
Technical Session VI 2.30 pm - 04.30 pm
 Eradication of black money with reference to Sections 269SS, 269T, 269ST and other provisions of Income Tax Act
 Session Chairman: **CA. P.N. Ramachandra Kamath**, Past Chairman, Ernakulam Branch
 Speaker: **CA. V. Ramnath**, Coimbatore.



Reported Judicial Decisions

CA.P.M Veeramani FCA

Statute: Income Tax Act – Sec.4 – Income as per From 26A

Decision in favour of : Assessee

Title : Seal for Life India Private Ltd vs DCIT

Citation: 174 DTR Trib 281

Bench: ITAT Ahmedabad

Once the assessee produces reasonable evidence establishing a particular quantum of interest income and such evidence is not disputed, he could not be taxed on the figure of interest shown in Form 26AS over which he has no control

Statute: Income Tax Act – Sec.9(1)(vi) – Internet charges & Training fee

Decision in favour of : Assessee

Title : John Deere India Private Ltd vs DDIT

Citation: 70 ITR Trib 73

Bench: ITAT Pune

Assessee paid its foreign holding company internet charges, lease line charges, VPN charges, on line meeting charges. The payments were not for making available any technical services and not in the nature of royalty. The training fee for web based services availed by its employees did not result in imparting any technical knowledge and department failed to demonstrate that the services involved transfer of technology. No failure by assessee to deduct TDS on such payments

Statute: Income Tax Act – Sec.10(34) – Buy back of shares

Decision in favour of : Assessee

Title : Principal CIT vs Kayan Jamshid Pandole

Citation: 174 DTR 141

Bench: Mumbai HC

In view of the explanation to section 115Q which existed till 31.3.2018, deemed dividend under sec-

tion 2(22)(d) on buy back is covered for the purpose of dividend distribution tax under Chapter XII D and therefore such dividend would also be exempt from tax in the hands of the receiver in terms of section 10(34); exemption cannot be denied to the assessee share holder for the reason that the company has not paid dividend distribution tax

Statute: Income Tax Act – Sec. 32 – Personal use of assets by directors

Decision in favour of : Assessee

Title : DCIT vs Deversons Industries Private Ltd

Citation: 69 ITR Trib SN 70

Bench: ITAT Ahmedabad

The assessee was a limited company and hence it could act only through its directors. If cars which are assets of the company are used by directors for their personal use, that could be added to the income of the directors as perquisite but in so far as the company is concerned the entire expenditure is for the purpose of business as directors were appointed to look after the business of the company and hence no disallowance could be made in the company's hand towards personal use of directors

Statute: Income Tax Act – Sec.37 – Rural Development Expenditure

Decision in favour of : Assessee

Title : Rajasthan State Mines and Minerals Ltd vs ACIT

Citation: 174 DTR Trib 383

Bench: ITAT Jaipur

Rural development expenditure such as repair of roads, payment to school for educational facilities, construction of public bus shelter, payment to Gram Panchayat for tubewell and supply of drinking water incurred by the assessee in vicinity of its mining areas and its workers and employees are also benefited by



such expenditure, there exists nexus of such expenditure with the smooth running of business and therefore, allowable as deduction

Statute: Income Tax Act – Sec.37 – Encashment of bank guarantee

Decision in favour of : Assessee

Title : Green Delhi BQS Ltd vs ACIT

Citation: 174 DTR Trib 202

Bench: ITAT Delhi

Loss incurred on account of encashment of bank guarantee for non-fulfilment of the work awarded is allowable as business expenditure/loss; same cannot be said to be capital expenditure for the reason that the failed to execute the work

Statute: Income Tax Act – Sec.44AD – Partner of firm not eligible

Decision in favour of : Revenue

Title : A.Anandkumar vs ACIT

Citation: 69 ITR Trib SN 82

Bench: ITAT Chennai

Remuneration and interest of working partner of a firm could not be construed as business income and the assessee was not entitled to be under section 44AD . Legislature in its wisdom chose remuneration and interest to a part of the profits from business or profession. That by itself would not translate such remuneration and interest to gross receipt or turnover of a business independently carried on by the partner. The intention of section was to help small business comply with tax provisions and not to construe partners remuneration and interest as business income

Statute: Income Tax Act – Sec.45 – Conversion of company into LLP

Decision in favour of : Assessee (partly)

Title : ACIT vs Celebrity Power LLP

Citation: 174 DTR Trib 68

Bench: ITAT Mumbai

Transaction involving conversion of a private limited company or unlisted public company into a LLP is a transfer , it is not chargeable to tax under section 45 if the conditions laid down in clause (a) to (f) of section

47(xiiib) are satisfied.

The transfer would be chargeable to tax in the hands of the successor LLP in view of section 47A(4)

Expression 'full value of consideration' used in section 48 cannot be construed as marked value on the date of transfer. Since the assets and liabilities of the erstwhile private limited company vested in the assessee LLP at their 'book value' , such 'book value' could only be regarded as full value of consideration for the purpose of capital gains. As difference between transfer value and cost of acquisition is NIL, the machinery provision of computing capital gains was not worked and hence section 45 is not applicable. Since the conditions laid down in section 47(xiiib) was not satisfied , the LLP is not entitled to carry forward the losses of the erstwhile company.

Statute: Income Tax Act – Sec.139AA – Linking PAN with AADHAAR

Decision in favour of : Revenue

Title : UOI vs Shreya Sen

Citation: 174 DTR 265

Bench: Supreme Court of India

Since the supreme court has upheld the vires of section 139AA, linkage of PAN with Aadhar is mandatory and therefore the return for the assessment year 2019-20 is to be filed after the linking only.

Statute: Income Tax Act – Sec.147 – Police complaint is tangible evidence

Decision in favour of : Revenue

Title : Himmathbhai vs ITO

Citation: 174 DTR 251

Bench: Mumbai HC

Statement to the police in connection with criminal complaint that assessee had paid cash for purchase of immovable property and the same not reflected in the return of income filed, AO had tangible material to form a reasonable belief that income chargeable to tax has escaped assessment

Statute: Income Tax Act - Sec.153(2A) – Date of dispatch of order

Decision in favour of : Assessee

Title : Globe Transport Corporation vs ACIT



Citation: 69 ITR Trib SN 69
Bench: ITAT Bangalore

Date of dispatch of order of assessment was to be construed as the date of order of assessment. Order of assessment passed within the time but despatched after expiry of time limit has to be held as barred by time and the order of assessment were therefore liable to be annulled

Statute: Income Tax Act – Sec.194 H – Bank Guarantee Commission

Decision in favour of : Assessee

Title : CIT vs Larsen & Toubro Ltd

Citation: 174 DTR 246
Bench: Mumbai HC

Bank guarantee commission is not in the nature of commission paid to an agent but it is in the nature of bank charges for providing one of the banking services and therefore, there is no requirement of TDS under section 194 H from the payment of bank guarantee commission

Statute: Income Tax Act – Sec.194 IA – Joint purchasers of property

Decision in favour of : Assessee Vinod

Title : Vinod Soni vs ITO

Citation: 174 ITD 598
Bench: ITAT Delhi

As per section 194IA (2), the sub-section (1) is not applicable where the consideration for transfer of immovable property is less than Rs.50 lakhs. Since 194IA(1) is applicable to any person who is a transferee, Sec.194IA(2) obviously be applicable only to the amount to each transferee and not with reference to the amount as per the sale deed. There being four transferees in this case and share of each is less than Rs.50 lakhs, TDS was not attracted though value as per sale deed exceeds Rs.50 lakhs.

Statute: Income Tax Act – Sec.22 2 – Attachment by IT department

Decision in favour of : Assessee

Title : Leo Edibles & Fats Ltd vs TRO

Citation: 174 DTR 288

Bench: Andhra Pradesh HC

In case of income tax recovery from company in liquidation, the income tax department is not a secured creditor and cannot claim priority merely because the property of the company was attached by it long before the initiation of liquidation proceedings under IBC 2016

Statute: Income Tax Act – Sec.271B – Tax audit report delayed

Decision in favour of : Assessee

Title : T.T.Kuruville vs ACIT

Citation: 70 ITR Trib SN 10
Bench: ITAT Cochin Bench

Assessee got his books audited and made available the same to the AO before completion of assessment and thus no prejudice had been caused to the Revenue. The assessee had only committed technical breach which created no loss to the exchequer as the audit report was available at the time of assessment. Penalty under section 271B deleted.

Statute: Income Tax Act – Sec.271C (1)(b) – No penalty for delayed TDS payment

Decision in favour of : Assessee

Title : Lakshadweep Development Corporation Ltd vs Addl CIT (TDS)

Citation: 411 ITR 213 FB
Bench: Kerala HC

Under section 271C(1)(b) penalty can be levied for failure to pay tax as required under section 115O or second proviso of section 194B. This cannot be extended to delayed payment of TDS under section 194 C. Clause 1(a) of the said section deals with failure to deduct tax at source and this section also does not have an application where TDS payment is delayed. On deduction of tax, if there is a delay in payment interest is payable u/s 201(1A), besides liability to face prosecution proceedings. Hence, the levy of penalty for delayed payment of TDS is set aside. All contrary decision of High Court in this regard are also overruled.

**JUDICIAL DECISIONS ON INDIRECT TAXES****CA.P.J.Johney FCA****Statute: Sales Tax****Decision in favour of: Department****Title: Achal Industries v. State of Karnataka***A.M. Khanwilkar and Ajay Rastogi JJ.***Citation : [2019] 64 GSTR 1 (SC)****Bench/Court: In The Supreme Court of India**

Sales Tax – Turnover Tax – “TOTAL TURNOVER” Used In Provision for Identification of Dealer’s for Prescribing Different Rates of Tax – No Deduction Other Than Specified Deductions for Levy of Tax – “Total Turnover” Not to be Read As “Taxable Turnover”-

Rate of Tax not to be Ascertained on Taxable Turnover – Karnataka Sales Tax Act (25 Of 1957), ss. 2(1) (u2), (v), 6B.

Statute: Value Added Tax**Decision in favour of: Assessee****Title: Karman’s Food Private Limited v. State of J & K and Others***Dhiraj Singh Thakur and Mrs. Sindhu Sharma JJ.***Citation: [2019] 64 GSTR 270 J & K****Bench/Court: In The Jammu and Kashmir High Court**

Value Added Tax—Zero Rated Sale—Exporter—Refund of Tax Paid In State—Interest—Sales Made for Period 2006-07 and Amount Refunded on March 22, 2016—Pursuant To Direction by Court To Refund With Interest At 24 Per Cent. Order Passed by Commissioner Holding Petitioner Entitled To Interest only From Date of Order of Approval for Grant of Refund Issued on October 30, 2014— Writ Petition—Order by Commissioner Erroneous—Set Aside—Interest To Be Calculated W.E.F. Date of Sales At 24 Per Cent.—Jammu and Kashmir Value Added Tax Act (3 of 2005), S. 55(2), (3), (4).

Statute: Goods and Services Tax**Decision in favour of: Assessee****Title: Mountain Valley Springs India Pvt. Ltd. v. Assistant Commissioner of Goods and Services Tax, Commercial Taxes, Karnataka and Others***M. Govindaraj J***Citation: [2019] 64 GSTR 268 (Karn)****Bench/Court: In The Karnataka High Court**

Goods and Services Tax — Transition Period — Declaration forms — Failure To Submit Declaration Electronically In form GST Tran-1 by Due Date Due To Technical Difficul-

ties on Common Portal — Writ Petition Praying for Relief —Relief Granted by Department Extending Period for Submitting Declaration Up To March 31, 2019 — Goops and Services Tax Act, 2017 — Notification No. 48/2018-Central Tax, New Delhi, Dated September 10, 2018.

Statute: Sales Tax**Decision in favour of: Department****Title: Idea Cellular Ltd. v. Assistant Commissioner, Commercial Tax and Others***P. K. Jaiswal and Vivek Rusia JJ***Citation: [2019] 64 GSTR 45 (MP)****Bench/Court: In The Madhya Pradesh High Court**

Entry Tax - Charge of Tax – Entry of Goods Into Local Area for Consumption ,Use Or Sale- Not Necessary That Person Effecting E Entry Should Be A Dealer— Business-Dealer Engaged In Telecommunication Service — Bringing Goods for Use In Such Service

Within Local Area—Is Bringing Goods for Purpose of Business— Liable To Entry Tax—Madhya Pradesh Sthan-tya Kshetra Me Mal Ke Pravesh Par Kar Adhivinyam (52 of 1976), Ss. 2(1)(Aa), (B), (Gg), (1), (2), 3(1)—Madhya Pradesh Commercial Tax Act, 1994 (5 of 1995)— Madhya Pradesh Value Added Tax Act (20 of 2002), S. 2(D), (I).

Statute: Service Tax**Decision In Favour of: Assessee****Title: OWS Warehouse Services LLP v.****Union of India***Akil Kureshi and B. N. Karia JJ.***Citation: [2019] 64 Gstr 67 (Guj)****Bench/Court: In The Gujarat High Court**

Service Tax – Audit – Direction by Comptroller and Auditor General To Assessee To Submit To Audit—Rule Under Which Power Exercised Struck Down by High Courts and Matter Pending Before Supreme Court—No Saving of Rule After Introduction of Goods and Services Tax Regime—Stay of Direction Till Disposal of Writ Petition— Service Tax Rules, 1994, R. 54 — Central Goods and Services Tax Act (12 of 2017), Ss. 173, 174.

Statute: Goods and Service Tax**Decision in favour of: Assessee****Title: Jeyyam Global Foods (P) Ltd v. Union of India and Others***G. R. Swami Nathan J.*



Citation: [2019] 64 GSTR 129 (Mad)

Bench/Court: In The Supreme Court of India

Goods and Services Tax – Detention of “Goods” – Penalty – Squad officer Entitled To Detain Goods for Purpose of Preparing Papers for Effective Transmission To Jurisdictional Assessing officer – No Power To Determine Classification of Goods – Assessing officer Alone Has Jurisdiction To Rule on Classification – Tamil Nadu Goods and Services Tax Act (19 of 2017) , SS 68,129 .

Statute: Goods and Service Tax

Decision in favour of: Assessee

Title: Pioneer Polyleathers Limited v. Assistant State Tax officer, Squad No. Viii, Palakkad and Another

Dama Seshadri Naidu J.

Citation: [2019] 64 GSTR 149 (Ker)

Bench/Court: In The Kerala High Court

Goods and Services Tax—Detention of Goods—Payment of IGST—Notice Issued To Petitioner Demanding Payment of IGST— Amount Paid by Petitioner Through Portal of GST and Payment Receipt Obtained—Refusal To Release Goods by Assistant State Tax officer Insisting That Amount Should Be Paid Either In Cash Or Through Demand Draft—Not Sustainable— Authority To Release Goods After Receiving Payment Receipt— Tax Payer Cannot Be Made To Suffer, Simply Because There Might Be Delays and Difficulties In Apportionment of Amount Between Centre and State— Integrated Goods and Services Tax Act (13 of 2017), S. 129(3).

Statute: Value Added Tax

Decision In Favour of: Assessee

Title: Comfort Systems v. Commissioner, Commercial Tax, U. P.

Saumitra Dayal Singh J.

Citation: [2019] 64 GSTR 151

Bench/Court: In The Allahabad High Court

Value Added Tax—Works Contract—Turnover—Deductions— Value of Goods In Which Property Has Been Transferred In Execution of Works Contract As Result of Sale In Course of Inter-State Trade Or Commerce—Findings Recorded by Tribunal That Works Contract Executed , That Dealer Caused Movement of Goods From Outside State for The Purpose of Execution of Works Contract, and That Dealer Applied Those Goods To Works Contract —Make of Goods, Numbers and Other Specifications Specified In Works Contract— Movement of Goods From Outside State Caused by Pre-Existing Works Contract and Goods Imported Applied Solely for Execution of Works Contracts— That There Was No Privity of Contract Between Contractee and Actual Seller of Goods Not Material—Deemed Sale of Goods by Way of Inter-State Sale— Dealer Entitled To Deduction—Uttar Pradesh Value Added Tax Act (5 of 2008) — Uttar Pradesh Value Added Tax Ruts, 2008, R. 9(1) (E).

Statute: Sales Tax

Decision in favour of: Assessee

Title: Wipro Infrastructure Engineering v. State of Karnataka and Another

Mrs. S. Sujatha J.

Citation: [2019] 64 GSTR 162 (Karn)

Bench/Court: In The Karnataka High Court

Writs Under Constitution—Alternative Remedy—Central Sales Tax—Declaration forms—Reassessment— Natural Justice— Physical forms Submitted Before Assessing Authority Along With Reply To Notice Proposing Reassessment Not Accepted — Statutory forms C and F Uploaded on Electronic Portal on January 1, 2019 But Reassessment Order Passed on December 29, 2018—No Adequate Opportunity Afforded To Assessee To Upload Statutory forms on Electronic Portal— Writ Petition Challenging Reassessment Order and Consequential Demand Notice — Maintainable— Karnataka Value Added Tax Act, 2003 (32. of 2004), S. 36—Central Sales Tax Act (74 of 1956), S. 9(2)—Constitution of India, Art. 226.

Central Sales Tax—Declaration forms—Reassessment— Natural Justice— Physical forms Submitted Before Assessing Authority Along With Reply To Notices Proposing Reassessment Not Accepted —Statutory forms C and F Uploaded on Electronic Portal on January 1, 2019 But Reassessment Order Passed on December 29, 2018 Creating Huge Demand— Writ Petition—No Adequate Opportunity Afforded To Assessee To Upload Statutory forms on Electronic Portal—Direction To Assessing Authority To Consider Rectification Applications Dated January 4, 2019 and January 18, 2019 Filed by Assessee and Pass Order After Hearing Assessee— Karnataka Value Added Tax Act, 2003 (32 of 2004), Ss. 36, 69(1)—Central Sales Tax Act (74 of 1956), S. 9(2).

Statute: Value Added Tax

Decision in favour of: Assessee

Title: Shree Laxmi Jewellery Ltd v. State of Tamil Nadu

T. S. Sivagnanam and N. Sathish Kumar JJ.

Citation: [2019] 64 GSTR 167 (Mad)

Bench/Court: In The Madras High Court

Value Added Tax—Penalty—Dealer Voluntarily Filing Revised Return Claiming Input-Tax Credit—Claim Rejected As Barred by Time — No Finding That Claim Wrongful Or Dealer Produced False Bills, Vouchers, Declaration Certificate, Or Any Other Document To Support Claim—Penalty Not Attracted—Tamil Nadu Value Added Tax Act (32 of 2006), Ss. 19(11), 16(2), 27.

Statute: Sales Tax

Decision in favour of: Assessee

Title: Sankar Decor Ceramics v. Commercial Tax officer, Commercial Taxes, Irinjalakkuda and Others

Dama Seshadri Naidu J.

Citation: [2019] 64 GSTR 188 (Ker)

Bench/Court : In The Kerala High Court



Sales Tax—Appeal To Commissioner (Appeals)—Delay In Filing— Dealer Failing To Seek Condonation of Delay With Proper Application Setting Out Reasons—Counsel Pleading Ill Health as Ground for Failure To Appear on Appointed Date—Writ—High Court—Order Set Aside and Dealer Allowed one Last Opportunity To Set Out In Detail Grounds for Delay and Invite Speaking Order From Appellate Authority—Constitution of India, Art. 226.

Statute: Value Added Tax

Decision in favour of: Department

Title: State of Chhattisgarh v. Shobha Enterprises and Others (and Other Cases)

Ajay Kumar Tripathi C. J. and Parth Prateem Sahu J.

Citation:[2019] 64 GSTR 199 (Chhattisgarh)

Bench/Court: In The Chhattisgarh High Court

Value Added Tax—Rate of Tax—Interpretation of Taxing Statutes — Entries In Schedule—Principles—Schedule of Goods Taxable At Highest Rate of 25 Per Cent. Tax Containing Entry for Tendu Leaves—General Notification Prescribing Reduced Rate of Five Per Cent. Tax for Minor forest Produce—Minor forest Produce Cannot Be Held To Include Tendu Leaves for Taxation At Lower Rate—Chhattisgarh Value Added Tax Act (2 of 2005), S. 15b ; Sch. II, Part III, Entry 5.

Statute: Value Added Tax

Decision In Favour of: Department

Title: AMCO INDUSTRIAL ENTERPRISES PVT. LTD. v. STATE OF PUNJAB AND OTHERS

Ajay Kumar Mittal and Mrs. Manjari Nehru Kaul JJ

Citation: [2019] 64 GSTR 244 (P&H)

Bench/Court: In The Punjab and Haryana High Court

Value Added Tax—Appeal—Pre-Deposit— Assessment Framed Raising Demand Including Penalty and Interest— First Appellate Authority Reducing Pre-Condition of Deposit From 25 Per Cent. To 10 Per Cent.— Appeal Dismissed for Non-Deposit Thereof — Tribunal Dismissing Appeal by Holding That Appellant Did Not Plead That It Had Gone Insolvent Or Was Not In Possession of Any Funds— Also No Affidavit Filed Pointing Losses Thereby Unable To Pay Even 10 Per Cent. of Tax Demand—No Illegality Or Perversity In Findings by Lower Authorities— Appeal Dismissed—Punjab Value Added Tax Act (8 of 2005), Ss. 32, 53, 62(5).

Statute: Sales Tax

Decision in favour of: Assessee

Title: Shree Jaganath Packers v. Sales Tax officer, Cuttak – I , Cuttack

Vineet Saran C.J and B.R Sarangi

Citation: [2019] 64 GSTR 188 (Ker)

Bench/Court : In The Kerala High Court

Sales Tax – Reassessment – Limitation – Change of Law –Amendment With Effect From July 21, 2001 Enlarging Time -Limit of one Year To Two Years Where Proceedings Initiated After Date of Amendment – Notice Signed by Assessing officer on July 18, 2001 and Dispatched on July 20, 2001 – Governed by Pre- Amendment Law – Order Passed Beyond one Year Invalid – Orissa Sales Tax Act (14 of 1947), S.12 (8) – Orissa Sales Tax Rules, 1947, R.28 (3).

Statute: Goods and Service Tax

Decision in favour of: Assessee

Title: Timexo Fasteners India Private Ltd. and Another v. State of U. P. and Others

Dama Seshadri Narpu J

Citation:[2019] 63 GSTR 314 (All)

Bench/Court: In The Allahabad High Court

Goods and Services Tax — Seizure of Goods — Despatch of Goods From Delhi To Kanpur Along With E-Way Bill Valid Up To 12 P.M. of November 10, 2018 — Vehicle and Goods Intercepted At Kanpur During Intervening Night of November 10/11, 2018 and Seizure Order Passed on November 11, 2018 Solely on Ground That E-Way Bill Accompanying Goods Expired — Order Passed for Deposit of Applicable Tax and Penalty for Interim Release of Goods — Instructions Received From Assistant Commissioner, Commercial Tax In-Charge MS-IX, Kanpur Not Countering Averments by Petitioner That Goods Entered Kanpur At 8 P.M. on November 10—Not Matching With Documents Produced by Assistant Commissioner Stating That Vehicle Intercepted At 8:23 A.M. on November 11, 2018 At Jarib Chowki Kanpur— Seizure of Goods Not Valid As E-Way Bill Allowed To Expire After Detention of Goods by Incorrectly Recording Time of Interception — Direction To Release Goods Along With Vehicle forthwith— Uttar Pradesh Goods and Services Tax Act (1 of 2017), S. 129(1), (3).

Statute: Sales Tax

Decision in favour of: Assessee/ Department

Title: National Project Construction Corporation v. Commissioner of Trade Tax

Dama Seshadri Naidu J.

Citation: [2019] 64 GSTR 188 (Ker)

Bench/Court : In The Kerala High Court

Trade Tax – Assessment –Works Contract – Books of Account – Specific Acceptance of Books of Account – Not Open To Assessing officer Thereafter To Disallow Labour Expenditure – Uttar Pradesh Trade Tax Act (15 of 1948) , s.3F(3).

Central Sales Tax – Concessional Rate of Tax – Declared Goods – Revision – High Court – Nothing on Record To Establish Items Were of Description of Section 14(iv)(v) – Tribunal and Lower Authorities Taxing Steel Structural's as Unclassified – High Court - No Interference In Revision – Central Sales Tax Act (74 of 1956) , s. 14(iv)(v).

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