



ERNAKULAM BRANCH

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Break the Chain

കൈവിടാതിരിക്കാം... കൈ കഴുകൂ...



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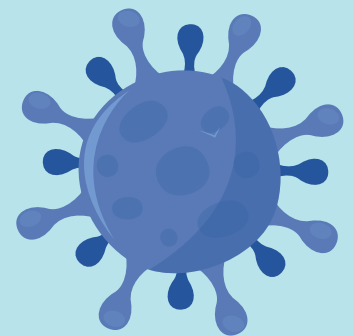
sanitizing our hands

M

mask wearing and

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social distancing



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Chairman's Message



Respected Seniors, Colleagues and Friends in Profession,

"Tough times never last, but tough people do." – Robert Schuller

We all are facing an unprecedented situation now, which hitherto many of us never faced in our life. As of now, we have no permanent solution for it and we also don't know when there will be a solution. Everyday, we get reports of more fatalities and threat of situation getting out of control. Entire economy is in shambles. Trade, business and service sectors are facing heavy losses. Many people face job/income loss. We too are feeling the heat of it. It is a real tough time for all.

Problems, difficulties and hardships are a part of everyone's life. Yet, some people handle them better than others. They have developed a mental toughness that allows them to push through hard situations and successfully face challenging times. Tough times visit all of us but they do not last- tough people do. Optimism allows us to approach even the most formidable challenge with a belief that we will not only survive but thrive. As long as we think that our destiny is in the hands of other people, the situation is hopeless. We need to remain optimistic in the face of challenges and adversity and confront our problems with courage, boldness and action.

Within every adversity in life, there is always a seed of an equivalent or greater benefit. We have to look for it - find it - and act on it. The tougher it is, the tougher we have a chance to become – if we choose to fight back. Tough times never last – but tough people do.

After the initial three months of lock down and limited operations, though the lock down was extended, June was a month of various activities at the branch level. We could conduct virtual CPE Programmes for the members

on "Standards on Auditing, Technology updates for CA Firms, New Code of Ethics, Compliances and Deadlines in GST and IT and Other laws, GST in Construction Industry and New IT Returns and Compliances etc., during the month and there was good response from the members. More details of the CPE Programme are given in this newsletter separately. In the wake of continuing uncertainty on physical meetings, we expect to chart more Virtual CPE Programme in the coming months also for the members. Further, a new batch of online class for the students of Intermediate (Foundation Route) and Intermediate Direct Entry Route were also announced and commenced during the month of June. As part of International yoga day, ICAI organized a virtual yoga session and we participated in that session and celebrated the day. For the First time, ICAI organized an International SMP (Small and Medium Practitioners) Day on 27th June and we could participate in the celebrations by organizing a CPE programme commemorating the day.

It was our intention to celebrate the CA Day on July 1st in a colorful way. However, the lock down forced us to think differently. ICAI celebrated CA Day with a three day virtual CA Day Celebrations from 29th to 1st July and we participated in the celebrations on all three days. As part of CA Day and CA week celebrations, we at Branch have planned for a week of celebrations starting from 1st July to 7th July with different programme like blood donation camp, swatchatha programme, tree planting, CSR programme, virtual cpe programme etc. More details of the CA Week Celebrations are given elsewhere in this news letter. As a special event, we are organising a virtual talent hunt programme-singing and dancing, for our members and family starting from 25th June. The initial response for the talent hunt programme from members and their families is very encouraging and is continuing now. A mega family virtual meet is scheduled on Sunday, 5th July and the winners of the talent hunt

programme will be announced on that day in the presence of invited guests.

It was a lovely moment when we could unveil our customized CA Logo lapel pin for our members on 19th June 2020, by handing over a pin to our Immediate Past Chairman and Regional Council Member CA Jomon K George. The pin is free for our ARS members as part of our ARS Scheme for the year.

Friends, all of us had to pass through tough times when we were pursuing our profession earlier. We were tough and focused on our goal during that time and successfully surpassed all the challenges and achieved our goal. I believe

the pandemic is challenging us to be tougher again and fight back. No doubt, we will prove that tough times never last-but tough people like us do.

I take this opportunity to wish you all a very happy CA Day Stay safe and healthy.

With warm regards and love

CA Roy Varghese
Chairman,
ICAI Ernakulam Branch

BRANCH ACTIVITIES – July 2020

VIRTUAL CPE MEETINGS

The branch has organized 7 Virtual CPE Meetings in the month of June, 2020. Meeting on “Standards on Auditing – An update for 2019-2020 audits” was organised on 11th June, 2020. CA. Jomon K George, Immediate Past Chairman, SIRC of ICAI was the speaker. On 16th June, 2020 a meeting on “Technology updates for small and medium CA Firms” was organised in which CA. Vinodh Kothari, Chennai was the speaker. Meeting on the topic “ New Code of Ethics” was organised on 19th June, 2020 . CA. A. P. Singh from Kolkatta was the speaker. Virtual CPE Meeting on “Compliances and deadlines in Income Tax, GST and other business laws” was organised on 20th June, 2020. CA. Gururaj Acharya, Bengaluru was the speaker. CA. Ganesh Prabhu took the session on “GST – latest developments & recent changes in construction industry” on 22nd June, 2020. Virtual CPE Meeting on “New Income Tax Returns and other compliance for AY 2020-2021” was conducted on 25th June, 2020. CA. P.T. Joy was the speaker. CA. Sachin Kumar B P, Bengaluru took the session on “Growth strategies for small and medium CA firms” on 27th June, 2020.



CA. Jomon K.George



CA. Vinodh Kothari



CA. Arvinder Pal Singh



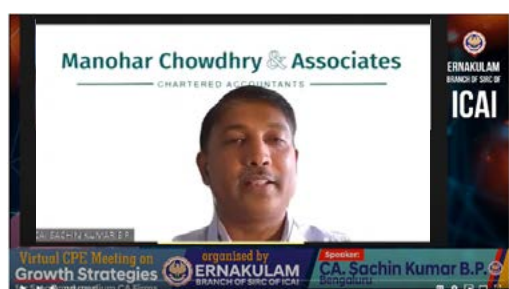
CA. Gururaj Acharya K



CA. Ganesh Prabhu B



CA. P.T.Joy



CA. Sachin Kumar B.P

OTHER ACTIVITIES – MEMBERS

Yoga Session

International Yoga Day was celebrated on 21st June, 2020. The yoga session was organized by the CSR Committee of ICAI on virtual mode due to the restrictions on organising mass gatherings. The session was participated by the Ernakulam Branch members by virtual mode.

Celebrated Virtual International SMP day

As directed from the Committee for Members in Practice (CMP) to observe



Virtual International SMP day on 27th June, 2020 we have organized a CPE Meeting on “Growth strategies for small and medium CA firms”. CA. Sachin Kumar B P from Bengaluru took the session.

CA Day celebrations – 3 day virtual CA summit

3 Day Virtual CA Summit on “Transforming the Future: Enabling Excellence, Augmenting Trust” organized by ICAI HO in connection with the CA day celebrations from 29th June 2020 to 1st July 2020 were attended by the Ernakulam Branch members.

CSR ACTIVITY

CSR project - Distribution of TV for students

With the contributions received from the members we were able to distribute TV sets for two students at Vypin to view the online classes organized by the District Education Department, Government of Kerala.

Exposure Draft

Comments on the Exposure Draft of ‘Guidance Note on Applicability of AS 25 and Measurement of Income Tax Expense for Interim Financial Results’ was submitted on 1st June, 2020 to the Research Committee of ICAI. Comments on the Exposure Draft of ‘Guidance Note on Accounting by E-commerce and Cloud Computing Companies’ was submitted on 1st June, 2020 to the Research Committee of ICAI. Comments on the Exposure Draft of ‘Guidance Note on Accounting for Share-based payments’ was submitted on 5th June, 2020 to the Research Committee of ICAI.

We are planning to organize various social activities in connection with the forthcoming CA Week celebrations in the month of July, 2020. The details of which shall be intimated to you soon.

STUDENTS ACTIVITIES

Environment Day: Students of SICASA Ernakulam Branch planted saplings at their residence premises on 5th June 2020 in connection with the Environment Day.

Seminar on “SQC 1 and Audit Documentation” was organized by SICASA on 12th June 2020. CA. Deepa Varghese, Ernakulam was the speaker. 127 students attended the seminar. Webinar on managing stress and depression was organized by SICASA Ernakulam on Managing Stress and Depression on 20th June 2020. The speaker of the Seminar was Ms. Rebecca Chandy, MSc in child and adolescent health, Kings College, London.

A web series of leadership summit for students organised by Nagpur & Amaravati Branch of WICASA jointly with Nanded, Ernakulam, Kohlapur, Ahmednagar, Surat, Aurangabad and Akola Branches of WICASA & SICASA was held on 26th June to 30th June, 2020. In the leadership summit Mr. Sebin Jose from Ernakulam presented a paper on “Cryptocurrency – Boon or Bane”. CA. Allen Joseph, Chairman, SICASA Ernakulam Branch, Mr. Hari Krishnan K, Vice Chairman, SICASA Ernakulam branch and Ms. Phoebae, Secretary, SICASA Ernakulam branch also spoke at the summit.

Online classes were arranged for students due to the outbreak of Coronavirus – Covid – 19 : In view of the outbreak of Coronavirus – Covid – 19 throughout the country ICAI the branch, we have arranged online classes for the students of Intermediate (Foundation Route), Intermediate Direct Entry students and Foundation for November, 2020 through google meet app.

FORTHCOMING VIRTUAL CPE MEETING IN THE MONTH OF JULY, 2020

Date and Time	Topic	Speaker
03-07-2020, 3 pm to 5 pm	Virtual CPE Meeting on “Income Tax settlement commission (Procedure & Practice) & benefits under Vivad Se Vishwas Scheme”	Dr. H.C. Jain, Ex – Chief Commissioner Income Tax, Mumbai & Ex – Vice Chairman, IT Settlement Commission, Mumbai
04-07-2020, 11 am to 1 pm	Virtual CPE Meeting on “Audit under Covid Environment & Compliances for Peer Review”	CA. Ganesh Balakrishnan, Hyderabad
06-07-2020, 3 pm to 5 pm	Virtual CPE Meeting on “Recent issues and developments in GST ”	Adv. V. Raghuraman, Bengaluru
07-07-2020, 3 pm to 5 pm	Virtual CPE Meeting on “Accounting Standards in Audit of Corporate & Non-Corporate Entities for FY 2019-2020	CA. M P Vijay Kumar, Chennai

CA Day Celebrations

Date	
01-07-2020 at 9 am	CA day Flag hoisting
02-07-2020 at 9.30 am	Blood Donation Camp at ICAI Bhawan, Ernakulam in association with IMA Blood bank, Ernakulam
02-07-2020	CSR project – Distribution of TV to the school students in and around Ernakulam. Inauguration by Shri T J Vinod, MLA
03-07-2020	Planting and distribution of saplings
03-07-2020	Swachh Bharat Ahiyan – the cleanliness drive will be carried out at the branch premises.
04-07-2020	Honouring members who have completed 50 years in service in the CA profession
05-07-2020	Virtual Family meeting of the members in connection with the CA day celebrations

Reported Judicial Decisions

Direct Tax

CA. P.M. Veeramani FCA

Statute: Income Tax Act
[Sec.2\(15\) - wider definition for education](#)
Decision in favour of : Assessee

Title : Gujarat Safety Council vs ITO

Citation: 180 ITD 711
Bench: ITAT Ahmedbad

In view of changing time and widening horizon of knowledge and rapid change in method of teaching, multifaceted activities in form of handbook/literature published together with activities like holding conferences on industrial safety programs, public talks, seminars, workshops on an ongoing basis to inculcate industrial safety measures would also be bracketed in league of educational activities

Statute: Income Tax Act
[Sec.2\(47\) – Permitting construction is not transfer](#)
Decision in favour of : Revenue

Title : Seshasayee Steels Private Ltd vs ACIT

Citation: 421 ITR 46
Bench: Supreme Court of India

(i) Under the agreement to sell dated May 15, 1998, both parties were entitled to specific performance. The expression used in clause 16 was that the party of the first part gave “permission” to the party of the second part to start construction on the land. Clause 16 would, therefore, lead to the position that a licence

was given to another upon the land for the purpose of developing the land into flats and selling them. Such licence could not be said to be “possession” within the meaning of section 53A of the Transfer of Property Act, 1882, which is a legal concept, and denotes control over the land and not actual physical occupation of the land. This being the case, section 53A of the 1882 Act could not possibly be attracted to the facts for this reason alone.

(ii) It was clear that as on the date of the agreement to sell, the owner’s rights were completely intact both as to ownership and to possession even de facto, so that section 2(47)(vi) of the 1961 Act equally, could not be said to be attracted.

(iii) The finding of the Tribunal was that all the cheques mentioned in the compromise deed had, in fact, been encashed. This being the case, the assessee’s rights in the immovable property were extinguished on the receipt of the last cheque and the compromise deed could be stated to be a transaction which had the effect of transferring the immovable property in question.

(iv) The appellant’s claim that capital gains was taxable in the 1999-2000 is not correct and the same is taxable in the year 2003-05 when the last cheque was encashed and transfer was complete



Statute: Income Tax Act
[Sec.11 – Trust to be taxed as individual](#)
Decision in favour of : Assessee

Title : Saraswat Hitwardhak vs ITO

Citation: 77 ITR Trib SN 89
Bench: ITAT Mumbai

The trust was treated as an individual. Therefore, the Assessing Officer was to tax the assessee treating it as an individual instead of an association of persons. The fact that the beneficiaries were a group of individuals did not mean that the liability of the assessee was of the association of persons. The term “individual” does not mean a single living human being. It can include a body of individuals constituting a unit for the purposes of the Act. Even though the assessment of income was in the hands of the trust, it had to be made in the same manner and to the same extent as it would have been made in the hands of the beneficiaries.

Statute: Income Tax Act
[Sec.11\(2\) – Purpose of accumulation](#)
Decision in favour of : Assessee

Title : National Stock exchange investor protection fund trust vs DCIT

Citation: 78 ITR Trib SN 12
Bench: ITAT Mumbai

The Assessing Officer noted that in form 10, the assessee had claimed accumulation without specifying the purpose of accumulation but merely reproducing its objects. The trust had only one object and thus there was no question of ambiguity. The assessee was entitled to exemption under section 11(2) .

Statute: Income Tax Act
[Sec.40A\(3\) – Deposit in payee account](#)
Decision in favour of : Revenue

Title : Ajai Kumar Singh Khaldelial

Citation: 421 ITR 6
Bench: Allahabad HC

The deposit of cash directly in the bank account of the beneficiary supplier was not routed through any clearing house nor was the money sent through electronic mode and therefore such a transaction would not be covered by rule 6DD(c)(v) and the benefit of the provision could not be given to the assessee.

The term “use of electronic clearing system through bank account” in section 40A(3) would necessarily include transfer of funds by electronic mode through clearing system. Any transfer of funds through the use of electronic clearing system through a bank account would mean a transfer of funds through electronic mode of transfer, i.e., RTGS, IMPS, NEFT etc., where the funds are transferred through the bank

account of one individual into the bank account of a beneficiary through electronic means. When the funds are transferred through the electronic clearing system at least two banks or two branches of the same bank have to be involved. Only then is the money transferred through the electronic clearing system between them.

Statute: Income Tax Act
[Sec.54 F – Perpetual lease eligible](#)
Decision in favour of : Assessee

Title : N.Ramaswamy vs ITO

Citation: 180 ITD 702
Bench: ITAT Chennai

In view of definition as mentioned in section 2(47)(vi), transaction of perpetual lease agreement by which assessee took possession of property for unlimited period, has to be construed as purchase of property within the meaning of section 54F

Statute: Income Tax Act
[Sec.69A – Not applicable on presumptive cases](#)
Decision in favour of : Assessee

Title : Thomas Eapen vs ITO

Citation: 180 ITD 741
Bench: ITAT Cochin

Where assessee a small trader in medicine falling under section 44AD, offered income on presumptive basis , provisions of section 69A could not be applied to make addition in respect of cash credits found in his bank account.

Statute: Income Tax Act
[Sec.80P – Circulars not binding on courts](#)
Decision in favour of : Revenue

Title: Kuthannur Service Co-operative Bank Ltd vs ITO

Citation: 420 ITR 358
Bench: Kerala HC

Clarificatory circulars are issued by Government Departments for guidance of the officers. Such circulars or instructions do bind the Department and its officers. But they do not bind the court in the interpretation of statutory provisions. Circulars issued by a Government Department cannot have any primacy over the decision of the jurisdictional High Court. Circulars or instructions given by the Department are no doubt binding on the authorities under the Act, but when the Supreme Court or the High Court has declared the law on the question arising for consideration, it will not be open to a party to contend that the circular should be given effect to and not the view expressed in the decision of the Supreme Court or the High Court.



Statute: Income Tax Act
[Sec.139\(5\); 119\(2\)\(b\) – Delayed return](#)
 Decision in favour of : Assessee

Title : Dalmia Power Ltd vs ACIT

Citation: 420 ITR 339 SC
 Bench: Supreme Court of India

Department was bound to accept the revised return filed beyond time based on order scheme of amalgamation approved by NCLT which order was issued beyond the time under 139(5). Department was given adequate notice regarding the scheme and not having raised any objection cannot turn around and ask assessee to approach CBDT for condoning the delay .

Statute: Income Tax Act
[Sec.194 C – Sale of advertisement space](#)
 Decision in favour of : Assessee

Title : TimesVPL Ltd vs CIT

Citation: 421 ITR 170
 Bench: Karnataka HC

The assessee had entered into an agreement for bulk sale of advertising space on a principal to principal basis by transfer of rights therein. The assessee under the agreement made purchase of advertisement space and exercised control over such space with the right to either sell it to another or retain it for itself. Thus, it was a transfer of advertising space to the assessee who in turn sold it to others. Therefore, the transaction could not be termed a contract for work, and section 194C was not applicable.

Statute: Income Tax Act
[Sec.253 – No Revenue appeal in IBC cases](#)
 Decision in favour of : Assessee

Title : Shamken Multifab Ltd vs DCIT

Citation: 180 ITD 756
 Bench:ITAT Delhi

Where an application filed under section 7 of IBC , against company had been admitted and moratorium under section 14 has been declared, appeal filed by revenue against assessee could not be allowed to be continued during the course of moratorium period Appeals are dismissed with liberty to AO to file the appeals after the said period making the representative of committee of creditors, IRP

Statute: Income Tax Act
[Sec.264 – Cannot be rejected on time limit](#)
 Decision in favour of : Assessee

Title : Sharp Tools vs PCIT

Citation: 421 ITR 90
 Bench: Madras HC

A mere typographical error committed by the assessee could not cost it payment of excess tax as collected by the Revenue. The denial for repayment of such excess collection would amount to great injustice to the assessee. Even though the statute prescribes a time limit for getting the relief before the Assessing Officer by way of filing a revised return, there was no embargo on the Commissioner to exercise his power and grant the relief under section 264 . The order rejecting the application for revision was not valid.

Statute: Income Tax Act
[Sec.271A, 271B – No levy for contractor](#)
 Decision in favour of : Assessee

Title : Harshvardhan vs DCIT

Citation: 77 ITR Trib SN 81
 Bench: ITAT Bangalore

Since no format of books of accounts were prescribed under the Rules for Civil Contracts, Penalty u/s 271A is not justified. When no penalty u/s 271A is leviable, Penalty u/s 271B also cannot be levied for non-audit as prescribed u/s 44AB

Statute: Income Tax Act
[Sec.271AAA – Penalty not leviable](#)
 Decision in favour of : Assessee

Title : PCIT vs Patdi Commercial Investment Ltd
 Citation: 420 ITR 308
 Bench: Gujarat HC

The director of the assessee in his statement, had explained that the income was earned out of booking/selling shops and had specified the buildings. Thereafter the assessee could not be blamed for not substantiating the manner in which the disclosed income was derived. The cancellation of penalty by the Tribunal was justified.

Statute: Income Tax Act
[Sec.271\(1\)\(c \) – Anonymous donation](#)
 Decision in favour of : Assessee

Title : Meenakshi Ammal Trust vs ACIT
 Citation: 78 ITR Trib 138
 Bench: ITAT Chennai

The assessee had disclosed the entire receipt of donations. However the Assessing Officer found that it was not a voluntary donation but anonymous donation. When the assessee had disclosed the entire receipt and the expenditure and claimed the receipt was exempted under section 11 , merely because the assessee could not furnish the details of the persons from whom the donations were received, could not be a reason for concluding that the assessee had concealed any part of income or furnished inaccurate particulars. Making a statutory claim under section 11 could not be construed as furnishing inaccurate particulars.

RECENT ADVANCE RULINGS UNDER GOODS AND SERVICES TAX JUDICIAL DECISIONS ON INDIRECT TAXES

Indirect Tax

CA.P.J.Johney FCA

RECENT ADVANCE RULINGS UNDER GST

Statute: Goods and Service Tax
Decision in favour of: assessee

Title: M/S. Royal Care Speciality Hospital Ltd

M/s. Manasa Gangotri Kata, Thiru Kurinji Selvaan
V.S

Citation: Order No. 46/ARA/2019
Bench/Court: Authority for Advance Ruling, Tamil
Nadu

Applicant a multi-speciality hospital providing health-care services sought advance ruling on whether the medicines, implants and consumables etc used in the course of providing healthcare services to admitted patients in hospital would be considered as composite supply of healthcare services and exempt from GST.

'Composite supply' means supply of goods/services or both which are naturally bundled and are provided in conjunction which each other in the course of business. Since above stated goods are supplied to in-patients as prescribed by the doctor for which a single bill is raised and after usage of medicines etc, treatment gets completed.

Therefore held that supply of medicines etc used in providing healthcare services to patients are composite supply of healthcare services which are exempt from GST.

Statute: Goods and Service Tax
Decision in favour of: assessee

Title: Kwaliti Mobikes (P) Ltd
Harish Dharnia , Dr. Ravi Prasad

Citation: Advance Ruling No. KAR ADRG 76/2019
Bench/Court: Appellate Authority for Advance Ruling, Karnataka

Applicant engaged in business of supply of motor vehicles eligible for volume discount for sales and purchase of such vehicles on achieving target sought advance ruling to determine applicability of GST on such discount received.

Authorized dealer issued credit note for such volume discounts without adjusting price & GST amount of the goods already sold as it does not affect the price of the goods sold so no reduction of ITC already claimed is done.

AAR held that credit note issued by the dealer does not have any effect on value of supply & is only a financial document for account adjustment for incentive therefore volume discount received on purchase/sales in the form of credit notes without any adjustment of GST is not liable for GST.

Statute: Goods and Service Tax
Decision in favour of: Revenue

Title: M/s IMF Cognitive Technology Pvt Ltd
Sh.Rakesh Kumar Sharma, Dr.Preetam B Yashvant

Citation: Order No. RAJ./AAAR/01/2019-20
Bench/Court: Authority for Advance Ruling, Rajasthan

The applicant registered in the state of Rajasthan procured hotel services in Haryana state on which CGST and SGST of Haryana was paid.



On receipt of application to determine the availability of ITC of GST paid, AAR held, ITC of GST paid in Haryana shall not be available to the applicant registered in Rajasthan state. In response to further appeal filed before AAAR, it held that ITC of CGST/SGST is available to a person regd. in Rajasthan only if location of supplier and place of supply of services are in same state i.e. Rajasthan only, therefore ITC of CGST/SGST paid in Haryana shall not be available to recipient registered in Rajasthan.

B. JUDICIAL DECISIONS ON INDIRECT TAXES

Statute: Goods and Services Tax
Decision in favour of: assessee

Title: **Bai Mamubai Trust and Others vs. Suchithra**
S. J. KATHAWALLA J.

Citation: [2020] 73 GSTR 46 (Bom) q
Bench/Court: Bombay High Court

Goods and Services Tax—Charge of Tax— Taxable Event—of Services—“Supply” - “Business”- Definitions-Enforceable Reciprocal Obligations Essential For “Supply” —Royalty Paid By Defendant To Court Receiver Under Interim Order In Suit Possession On Prima Facie Finding of Illegal Occupations No Notional Contract Between Receiver and Litigant Arising Order of Court—Not A Case of Voluntarily Allowing Occupation Or Use of Property—Royalty Not “Consideration” Paid For “Supply” of Services—Services of Receiver Are “Services By Court Or Tribunal Established Under Any Law For The Time Being Force”—Not Liable To Goods and Services Tax—Code of Civil Procedure (5 of 1908), O. XI, Rr. 1, 2—Central Goods and Services Tax Act (12 of 2017), Ss. 2(17), (31), (84), (93), (98), (105), (107), (19, 22, 24, 92 ; Schs. II, II—Bombay High Court (Original Slide } Rules, 1980, Rr. 589 To 599—Constitution of India, Arts. 216a ,366(12a)—Constitution (One Hundred and First Amendment) Act, 2016—Income-Tax Act (43 of 1961), S. 161—Notification No. 12/2017-State Tax (Rate) Mumbai, Dated June 29, 2017.

Statute: Value Added Tax
Decision in favour of: assessee

Title: **S. Gurucharan Sing & Sons v Commissioner, Trade & Taxes and Others**
Dr. S. MURALIDHAR and TALWANT SINGH JJ.

Citation: [2020] 73 GSTR 109 (Delhi)
Bench/Court: In the Delhi High Court

Default assessments—Objections Filed Before Objection Hearing Authority—Failure By Authority To, Dispose of Objections Within 15 Days—Dealer Personally Serving On Authority Notices In Dvat-41—Value Added Tax officer Requesting Dealer To Submit Self Attested Copies of Objections and Dealer

Supplying Self-Attested Copies of Form Dvat-38—Dealer Again Serving Notices In Form Dvat-41—No Action By Department— Writ Petition—Court Will Not Accept Depart-Ment’s Plea That Dealer Should Be asked Once Again To Submit Self-Attested Copies of Objections and Further Time Should Be Onths Period Not Complied With and Commissioner: Fy-ing Dealer of Decision Within 15 Days of Service of Form Dvat-41—Objections Deemed To Have Been Allowed Value Added Tax Act, 2004 (3 of 2005), S. 74(7), (8), (9). Value Added Tax—Refund—Input-Tax Credit—Dental On Basis of Demand Created By Default assessment In Default assessment Order Invok-ing Section 9(2)(G) To Tax Credit For Period Ending On April 30, 2009 Inserted With Effect From April 1, 2010 and Could Not Be Invoked For Input-Tax Credit Claimed For Period Prior To 2010—Delhi Value Add-ed Tax Act, 2004 (3 of 2005), Ss. 9 (2)(G).

Statute: Goods and Services Tax
Decision In Favour of : Petitioner

Title: **Spencers Travel Services Ltd v COMMERCIAL TAX OFFICER ANNA SALAL III ASSESSMENT CIRCLE, CHENNAI**
SENTHILKUMAR RAMAMOORTHY J.

Citation: [2020] 73 GSTR 123 (Mad)
Bench/Court: IN THE MADRAS HIGH COURT

Petition Under Section 151 of Cpc Praying That In The Circumstances Stated In The Affidavit Filed In The W.P., The High Court May Be Pleased To Per-mit The Petitioner To Rectify Gstr-3b Statements For The Months of August and December 2017 and January and February 2018 Manually Subject To The Outcome of The Writ Petition, Pending Disposal of Wp.No. 8662/2019 On The File of The High Court. The Court While Directing Issue of Notice To The Re-spondents Herein To Show Cause Why This Petition Should Not Be Complied With, Made The Following Order. (The Receipt of This Order Will Be Deemed To Be The Receipt of Notice In The Case). Petitioner Is Permitted To Rectify Gstr-3b Statements For The Months of August and December, 2017 and January and February, 2018 Manually Subject To The Outcome of The Writ Petition. It Is Made Clear That If The Petitioner Submits A Rectified Statements For The Above Purpose, The Respondents Shall Pro-cess The Same In Accordance With The Procedure Established By Law.

Statute: Goods and services Tax
Decision in favour of: assessee

Title: **POLYCAB INDIA LIMITED v STATE OF KERALA AND OTHERS**
A. K. JAYASANKARAN NAMBIAR J

Citation: [2020] 73 GSTR 136 (Ker)
Bench/Court: IN THE KERALA HIGH COURT



Goods and Services Tax—Detention of “Goods” — Tax Invoice Clearly Indicating Sale From Vendor In Gujarat To Purchase Uttarakhand and Delivery To Be Effected At Trivandrum Bill Covering Transportation Also Indicating Sample Detention of Goods and Determination of Tax and Penal Liability On Ground of Possibility of Evasion of Payment of Integrated Goods and Services Tax In Kerala—Details of Registration Consignee Produced Immediately After Detention—No Ground For Detention of Goods—Direction To Release Goods & Ward File For Adjudication— Central Goods and Services (12 of 2017), S. 129.

Statute: Value Added Tax

Decision in favour of: Petitioner

Title: SUDIRMAN PAPER PRIVATE LTD. v STATE TAX OFFICER, GOBICHETTIPALAYAM M. SUNDAR J.

Citation: [2020] 73 GSTR 231 (Mad)

Bench/Court: IN THE MADRAS HIGH COURT

Value Added Tax—Central Sales Tax—Amalgamation of Companies—Fact of Amalgamation Intimated To Department—Notices For Revision of assessments of Transferor-Company Issued There-After and Revised assessments Passed Pursuant Thereto In Its Name—Not Sustainable—Orders To Be Treated as Notices and Transferee--Company To Be Given Opportunity To Show Cause Against Revision.

Statute: Value Added Tax

Decision in favour of: Petitioner

Title: NEWSCO INTERNATIONAL ENERGY SERVICES INC., CANADA v STATE OF TRIPURA AND OTHERS
SANJAY KAROL C. J. and ARINDAM LODH J.

Citation: [2020] 73 GSTR 225 (Tripura)

Bench/Court: IN THE TRIPURA HIGH COURT

Value Added Tax—Deduction of Tax At Source—Contract Between ONGC and Canadian Party—Tax Wrongly Deducted At Source By ONGC—Direction of Court To Refund Sum With Interest—Contractual Matter Between Parties—Payment To Be In Currency Stipulated In Agreement Between Parties.

Statute: Goods and Services Tax:

Decision in favour of: assessee

Title: ADFERT TECHNOLOGIES PVT. LTD. v UNION OF INDIA AND OTHERS (and other cases)
JASWANT SINGH and LALIT BATRA JJ.

Citation: [2020] 73 GSTR 267 (P&H)

Bench/Court: In the Punjab and Haryana High Court

Goods and Services Tax— Transition Provisions — Input Tax and Cenvat Credit—Carry Forward of— Failure To File Tran-1 Or Failure To Correct Tran-1st December 1, 2017—Unutilised Credit Is Vested Right Which Cannot Be Taken Away On Procedural Or Technical Grounds—Authorities Having Complete Record of Registered assesseees and Free To Verify Figures of Any assessee— Direction To Department To Permit assesseees To File Or, Where Already Filed, Revise Incorrect Tran-1 Either Electronically Or Manually On Or Before November 30, 2019—Central Goods and Services Tax Act (12 of 2017), Ss. 16, 140, 142—Central Goods and Services Tax Rules, 2017, Rr. 117, 120a—Punjab Goods and Services Tax Act (5 of 2017).

Statute: Service Tax

Decision in favour of: Petitioner

Title: QUICK HEAL TECHNOLOGIES LIMITED v COMMISSIONER OF SERVICE TAX, DELHI
DILIP GUPTA J. (President) and BIJAY KUMAR (Technical Member)

Citation: [2020] 73 GSTR 341 (CESTAT-New Delhi)
Bench/Court: [BEFORE THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL — NEW DELHI]

Service Tax—Charge of Tax— Taxable Service— Information Technology Software— Interactive Software— Meaning of—Anti- Virus Software—Once Computer System Booted Software Functions as Long as Computer System Remains Booted— No Interactivity Or Requirement of Giving Any Command To Software To Perform Its Function—No Interaction Or Manipulation — No Service—Not Liable To Tax— Finance Act (32 of 1994), Ss. 65(53a), 65b(28).

Service Tax—Charge of Tax—Sale Or Service— Deemed Transfer— Antivirus Software Developed In A Ready-To-Sell Condition Mentioning Unique Key Number and Sold To assessee On Payment of Value Added Tax—Master Compact Disc Replicated and Supplied To Sales offices of assessee, Where Compact Discs Packed In Boxes Bearing Maximum Retail Price and Personal Key Number and Sold— Transaction Results In Right To Use Software and Would Be Deemed Sale—Constitution of India, Art. 366(29a)(D).

Statute : Value added Tax

Decision in favour of: assessee

Title: PARISHUDH MACHINE PVT. LTD. v COMMISSIONER OF COMMERCIAL TAXES, LUCKNOW
SAUMITRA DAYAL SINGH J.

Citation: [2020] 73 GSTR 161 (AID)



Bench/Court: IN THE ALLAHABAD HIGH COURT

Value Added Tax—Entries In Schedule—Interpretation of Taxing Statutes— General Principles—Capital Goods—No Special Entry In Schedule Providing For Rate of Tax On Capital Goods—“Crankshafts” and “Camshafts” of Compressors Used In Refrigerators and Air-Conditioners— Whether Items Falling Within Description In Entry 26 of Part A of Schedule Ii To Be Seen— Tribunal Not Examining True Scope and Ambit of Entry In Correct Light—Definition of “Capital Goods” Not Relevant To Interpreting Taxing Entry— Matter Remitted To Tribunal—Uttar Pradesh Value Added Tax Act (5 of 2008), Ss. 2(F), 4(1)(A) ; Sch. I, Parr A, Entry 26.

Statute: Value Added Tax

Decision in favour of: assessee

Title: ANSHUL IMPEX PRIVATE LTD. v STATE OF MAHARASHTRA AND OTHERS

P. N. DESHMUKH and Mrs. SWAPNA JOSHI JJ.

Citation: [2020] 73 GSTR 187 (Bom)

Bench/Court : IN THE BOMBAY HIGH Court — NAGPUR BENCH

Value Added Tax—Appeal To Appellate Tribunal—Amendment Requiring Deposit of Ten Per Cent. of Disputed Tax as Condition precedent For Entertainment of Appeal—Review From assessment Order Sought Prior To Date of Amendment—Condition Does Not: Apply—Appeal To Be Entertained Without Pre-Deposit—Maharashtra Value Added Tax Act, 2002 (9 of 2005), S. 26(6b)(C). Recovery of Tax—Stay— Department Not To Take Coercive Stepstill Time Prescribed For Filing Appeal Expires.

Statute: Goods and services Tax

Decision in favour of: assessee

Title: KONGOVI PRIVATE LIMITED v UNION OF INDIA AND OTHERS

Mrs. S. SUJATHA J

Citation: [2020] 73 GSTR 300 (Karn)

Bench/Court: IN THE KARNATAKA HIGH COURT

Goods and Services Tax—Transitional Provisions— Input Tax Credit—Filing of Form Tran-1—assessee Discovering & Mistake In Report of Available Credit and Seeking To Rectify It—Direction To Approach Nodal officer.

Statute: Advertisement Tax

Decision in favour of: Petitioner

Title: DM ADVERTISERS AGENCY v STATE OF U. P. AND OTHERS

PANKAJ MITHAL and SAUMITRA DAYAL SINGH JJ.

Citation: [2020] 73 GSTR 245 (All)

Bench/Court: IN THE ALLAHABAD HIGH COURT

Advertisement Tax—Municipal Corporation— Legislative Competence—Mathura Vrindavan Nagar Nigam (Vigyapan Kar Kanirdharan and Wasuli Viniyaman) Upvidhi, 2017—Bye-Laws Notified In official Gazette and Enforced With Effect From January 6, 2018 When Corporation Lacked Necessary Legislative Competence To Make and Promulgate Said Bye-Laws—Mathura Vrindavan Nagar Nigam Vigyapan Kar Kanirdharan and Wasuli Viniyaman), Upvidhi 2017 Ultra Vires—Uttar Pradesh Municipal Corporation Act (1 of 1959) S. 172(2)(H)—Uttar Pradesh Goods and Services Tax Act (1 of 2017), S. 173— Constitution (One Hundred and First Amendment) Act, 2016, S. 17—Constitution of India, Sch. Vu, List II, Entry 55.

Fond Rememberance



CA. S.S. Ayyar (89 years)
Past Chairman,
Ernakulam Branch of SIRC of ICAI
Passed away on 8th June, 2020



CA. Pious J Panjikanan
Passed away on 3rd June, 2020

CA. Valsakumar V
Passed away on 30th June, 2020