



**The Malad
Chamber of
Tax
Consultants**



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MCTC Bulletin

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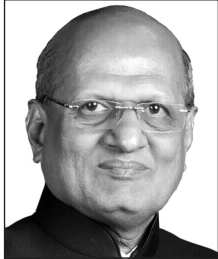
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August, 2014



President's Communiqué

Dear Members,

At the outset, let me express my sincere gratitude and thank all of you for reposing your trust and confidence in me and electing unanimously as the president of our esteem Chamber. It gives me utmost pleasure, pride and honour.

During my journey from today till next AGM, I seek your support, guidance and encouragement to maintain the prestige and integrity achieved by Chamber due to the hard work of all Past Presidents and I promise that myself with present committee members of MCTC, will also try to achieve greater

heights to our Chamber.

During the year, all the current activities of the Chamber will continue with full force. We will try our best to Expand Membership base. To start the tenure of 2014-15 we have inaugural Study Circle Meeting under the auspices of Dr. BHARAT D. VASANI on 31st August, 2014 and we have planned our 12th RRC on 4th to 6th of October, 2014 at "Lord Resort - Silvassa."

I would like to congratulate and thank whole heartedly to Mr. Vishal Shah, our immediate past president on successfully completing his tenure and his assurance to continue support to Chamber in future too.

We have this year our past president Mr. Sachin Gandhi as president of STPAM, we congratulate him and we are looking forward for various joint seminars with STPAM.

Friends, I look forward for your blessings, love and support to make MCTC COMMITTEE'S commitments achievable.

I hope, with your full support, we will achieve greater heights.

Thank you & with heartwarming regards,

Kishor Hapani
President

Wish you all & your Family

"Happy Independence Day" "Happy Ganesh Festival" "Michhami Dukddam"

Never Underestimate The Power of Forgiveness

With Regards
≈ TEAM MCTC ≈

For Query & submission of forms for Membership / Seminar please contact any of the following office bearers:

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Life Membership Fees ₹ 2,500 • Ordinary Membership Fees ₹ 1,000 p.a.

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Sachin R. Gandhi	23432306	28820640	23432306	9821482020	sachin23gandhi@yahoo.co.in





THE MALAD CHAMBER OF TAX CONSULTANTS

List of Past Chairmen / Presidents

Sr. No.	YEAR	Name	Telephone No.				E-Mail Address
			Office	Fax	Residence	Mobile	
1	1978-1980	Shri Rasik D. Shah (Late)	—	—	—	—	—
2	1980-1981	Shri R. J. Chokshi (Late)	—	—	—	—	—
3	1981-1982	Shri Vadilal C. Shah	—	—	28835224	9324892028	—
4	1982-1983	Shri S. S. Kelwadi	22871479 22833002	—	28821193	—	ssklaw@vsnl.com
5	1983-1984	Shri V. B. Goyal	66989870 66989871	28720924	28823190 28821819	9821029010	nv_goyal@vsnl.net
6	1984-1985	Shri J. D. Rawal	—	—	28631014 28010270	9324339014	janakdrawal@gmail.com
7	1985-1986	Shri P. M. Rangwala (Late)	—	—	—	—	—
8	1986-1987	Shri D. M. Jaithwar	—	—	—	9301051240	—
9	1987-1988	Shri Ramesh J. Gandhi	23432306	23432306	28820640	9892527212	sachin23gandhi@yahoo.co.in
10	1988-1989	Shri R. B. Patel	—	—	—	—	—
11	1989-1990	Shri R. S. Majethia (Late)	—	—	—	—	—
12	1990-1991	Shri Narendra J. Mehta	26840857	26840857	26840226 26840228	9869037228	narendramehta@hotmail.com
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14	1992-1993	Shri Jitendra A. Salot (Late)	—	—	—	—	—
15	1993-1994	Shri R. C. Reshamwala	28835624	—	28770370	9323997396	ramesh_reshamwala@rediffmail.com
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26	2005-2006	Shri Kishor Vanjara	22023370	22041858	28621883	9820186480	kvanjara51@gmail.com
27	2006-2007	Shri Janak Vaghani	22044170 22821978	—	28680306	9869081906 9324680306	janakvaghani2004@yahoo.com
28	2007-2008	Shri Hiten Shah	28803123 28806362	28803123	28822517	9867759489	hitenca@gmail.com
29	2008-2009	Dilip V. Parekh	28281485 28280352 28960018	—	40142329	9324640352	dilipvparekh@yahoo.co.in
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32	2011-2012	Brijesh Cholera	28895161	28897849	28895161	9821405200	brijeshcholera@gmail.com
33	2012-2013	Sachin Gandhi	23432306	23432306	28820640	9821482020	sachin23gandhi@yahoo.co.in
34	2013-2014	Vishal J. Shah	28982763 28993264	28991288	28995554	9869147065	vishalshahassociates@yahoo.com

THE MALAD CHAMBER OF TAX CONSULTANTS

Sub-Committees for the year 2014-15

Committee	Publications & Public Meeting	Law & Representation	RRC & Picnic	Seminar/ Workshop & Intensive Study Circle Meetings	Membership & Public Relation	Website Committee	Office Redevelopment
Chairman	Yatin Rangwala	Kishor Vanjara (Direct Tax)	Janak Rawal	Pravin Shah	Dilip Parekh	Manish Chokshi	V. B. Goyal
Co- Chairman	Hiten Shah	Ashwin Tanna (Indirect Tax)	Sachin Gandhi	Haresh Kenia	Vishal Shah	Brijesh Cholera	R. C. Reshamwala
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Convenor	Swapnil Modi	Dharmen Shah	Ketan Soneji	Kalpna Soni	Vilas Vichare	Tejas Shah	
Ex-Officio	Bakul Bhatia	Ankit Kapadia					
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	Manish Chokshi	Ashwin Acharya	Ramesh Gandhi	Yatin Rangwala	Pravin Shah	Yatin Rangwala	Kishor Vanjara
	Kishor Vanjara	Janak Waghani	Dhanesh Parikh	Ashwin Acharya	Kishor Vanjara	Atul Ruparelia	Manish Chokshi
	Janak Waghani	Dilip Parekh	Atul Ruparelia	Dilip Parekh	Manilal Simaria	Ashwin Tanna	Janak Waghani
	Dilip Parekh	Manilal Simaria	Pravin Shah	Manilal Simaria	Ashwin Tanna	Sachin Gandhi	Manibhai Simaria
	Brijesh Cholera	Sachin Gandhi	Manish Chokshi	Vishal Shah	Brijesh Cholera	Vishal Shah	Ashwin Tanna
Office Bearer	Utpal Patel	Vipul Somaiya	Adarsh Parekh	Jayprakash Tiwari	Adarsh Parekh	Jayprakash Tiwari	All Off. Bearers
Members	Hiren Raja	Haresh Kenia	Bakul Bhatia	Bakul Bhatia	Kalpna Soni	Dharmen Shah	
	Ketan Jatania	Hiren Raja	Dharmen Shah	Hasmukh Kamdar	Keyur Hapani	Keyur Hapani	
	Ketan Soneji	Ketan Soneji	Raj Shah	Kalpna Soni	Raj Shah	Ketan Soneji	
	Tejas Shah	Sanjay Mehta	Swapnil Modi	Swapnil Modi	Tejas Shah	Nimish Dedhia	
	Sanjay Mehta	Rajkamal Shah	Tejas Shah	Tejas Shah	Viresh Shah	Raj Shah	



JUDICIAL JUDGMENTS

Compiled by CA Dharmen Shah

Gulshan Malik vs. CIT (2014) 223 Taxman 243/102 DTR 354 (Delhi)(HC)

Period of Holding of Capital Asset is to be counted from the date of buyer's agreement and not from the date of booking or date of allotment

Since, allotment or confirmation letter does not provide any provisional right and final allotment accrues only when the agreement is signed between the buyer and the builder

Sanjeev Lal Etc. vs. CIT (2014)105 DTR 305(SC)

Benefit u/s. 54 can be claimed on entering into Agreement to sell even though Final Sale Agreement is not executed.

Once the Agreement to sell is executed it means that seller cannot sell the property to anyone else. Though, in practical situations there are events when a person, even after executing an agreement to sell an immovable property in favour of one person, tries to sell the property to another. However, such an act would not be in accordance with law because once an agreement to sell is executed in favour of one person, the said person gets a right to get the property transferred in his favour by filing a suit for specific performance.

Thus, on execution of Agreement to sell, some rights in respect of the property belonging to the transferor gets extinguished and the same gets created in favour of transferee. In the present case, the sale deed could not be executed for the reason that the appellants/transferor had been prevented from dealing with the residential house by an order of a competent court, which they could not have violated.

As held in *oxford University Press vs. CIT [(2001) 3 SCC 359]* a purposive interpretation of the provisions of the Act should be given while considering a claim for exemption from tax. Thus, as per provisions of Section 54 read with Section 2(47) of the Act, i.e. definition of "transfer", appellants will be able to get the benefit under Section 54 of the Act. (A.Y. 2005-06).

Jai Surgical Ltd. vs. ACIT (Delhi)(Trib.), www.itatonline.org (ITA No. 844/Del/2013, A.Y. 2009-10, dt. 26-6-2014)

If the purpose of the business expenditure is not an offence / prohibited by law, dis-allowance cannot merely be decided on the fact that prior approval of the Govt. was not obtained

The Explanation to s. 37(1) is a deeming provision and disallows expenditure incurred by an assessee for any purpose which is either an offence or prohibited by law. The inquiry to determine the applicability or otherwise of the Explanation is restricted to ascertaining the purpose of the expenditure separated from fulfilment or other procedural formalities attached with and necessary for incurring expenditure.

In the present case, for incurring job work charges approval from Central Government u/s. 297 of Companies Act was required. Such procedural provisions attached were not complied with. However, such irregularity did not make expenditure unlawful.

Ricoh India Ltd. vs. Dy. CIT(2014)146 ITD 798 / (2013) 38 taxmann.com 264 (Mum.)(Trib.) (A.Y. 2007-08)

Unrecovered TDS amount could not be allowed as business loss.

In this case, assessee made a claim that certain parties made payments to the assessee after deduction of TDS, but failed to issue TDS certificates. Such irrecoverable amount was claimed as deduction under business loss.

Tribunal held that the amount represents TDS deducted by the parties on behalf of the assessee, the same is in the nature of TDS receivable. It is settled position that tax payment is not a charge against but application of income. Further, S. 40(a) (ii) clearly provides that any sum paid on account of taxes on the profits or gains of any business or profession, is not deductible.

Thus unrecovered TDS amount could not be allowed as business loss.

ITO vs. Bhoomi Construction (2014) 146 ITD 639 / (2013) 30 taxmann.com 335 (Rajkot)(Trib.)(A.Y. 2006-07)

Debiting the running account of a payee at the year end cannot be said to be deduction of tax at source as contemplated in Sec. 40(a)(ia) and would attract disallowance of expenditure

In the present case, the assessee paid certain amounts to contractor on different dates, without deduction of tax at source. Further, assessee claimed that tax was deducted at source on last date of relevant accounting period by debiting the running account and the same was deposited with the Government before due date as specified in sub-section 139(1). However, AO disallowed the claim and CIT(A) allowed the claim.

On appeal by Revenue, the Tribunal held that by debiting running account of payee on last date of accounting period cannot be said to be deduction of tax at source as contemplated by section 194C. If tax is deducted at any other point of time than at the time when the amount exigible to deduction of tax at source is paid or is deducted out of any other sum than the sum out of which it is mandated to be deducted, such deduction of tax *per se* cannot be said to be at source.





Deduction of tax at source, i.e., out of the amount payable in terms of Sec. 194C read with Sec. 40(a)(ia) is different from debiting the running account of the payee on the last date of the accounting period. This cannot be said to be deduction of tax at source as contemplated under aforementioned provisions. Appeal of Revenue was allowed.

CIT vs. Mathura Commercial Co. (2014) 361 ITR 380 (All.)(HC) (A.Y. 1991-91)

Non-furnishing of confirmations from traders does not attract Penalty u/s. 271(1)(c)

In the present case, assessee could not obtain confirmation letters from 5 out of 15 traders as those traders left the town during communal riots or otherwise refused to give confirmation letters. The case of the assessee was not a case of mentioning of inaccurate particulars or concealment. Appeal of Revenue was dismissed.

DIRECT TAXES – Law Update

Compiled by CA Haresh P. Kenia

- **WEALTH-TAX (FIRST AMENDMENT) RULES, 2014 - SUBSTITUTION OF RULE 3 AND INSERTION OF FORM BB {224 TAXMANN (St.) 1}**

NOTIFICATION 32/2014 [F.NO.143/1/2014-TPL]/SO 1576(E), Dt. 23-6-2014

In exercise of the powers conferred by clause (ba) and clause (bb) of sub-section (2) of section 46 read with section 14A and section 14B of the Wealth-tax Act, 1957 (27 of 1957), the Central Board of Direct Taxes hereby makes the following rules further to amend the Wealth-tax Rules, 1957, namely:—

1. (1) These rules may be called the Wealth-tax (First Amendment) Rules, 2014.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Wealth-tax Rules, 1957 (hereinafter referred to as the "said rules"),—
 - (i) for rule 3, the following rule shall be substituted, namely:—

"3. Form of return of net wealth.—(1) The return of net wealth referred to in section 14 shall—

 - (a) in respect of assessment year 2013-14 and earlier assessment years in the case of individuals, Hindu undivided families and companies, be in Form BA and shall be verified in the manner specified therein.
 - (b) in respect of the assessment year 2014-15 and any other subsequent assessment year in the case of individuals, Hindu undivided families and companies be in Form BB and shall be verified in the manner specified therein.
- (2) Subject to the provisions of sub-rule (3), for the assessment year 2014-15 and any other subsequent assessment year, the return of net wealth referred to in sub-rule (1) shall be furnished electronically under digital signature.
- (3) In case of individual or Hindu undivided family to whom the provisions of section 44AB of the Income-tax Act, 1961 (43 of 1961) are not applicable, the return of net wealth referred to in sub-rule (1) may be furnished for assessment year 2014-15 in a paper form.
- (4) The return of net wealth required to be furnished in Form BB shall not be accompanied by a statement showing the computation of the tax payable on the basis of the return, or proof of the tax and interest paid, or any document or copy of any account or form of report of valuation by registered valuer required to be attached with the return of net wealth under any provisions of the Act.
- (5) The Director General of Income-tax (Systems) shall specify the procedures, formats and standards for ensuring secure capture and transmission of data and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to furnishing the returns in the manners specified in sub-rule (2)."

- **SECTION 139 OF THE INCOME-TAX ACT, 1961 - RETURN OF INCOME - UPDATION AND VALIDATION OF TAXPAYER EMAIL ID AND MOBILE NUMBER FOR THEIR E-FILING ACCOUNT**

- **PRESS RELEASE, DATED 4-7-2014**

A valid Email ID and Mobile Number has to be registered/updated on the e-filing website of the Income-tax Department so that direct communication with taxpayer can be possible. For details, taxpayers can logon to: https://incometaxindiaefiling.gov.in/eFiling/Portal/StaticPDF/Update_Contact_Details.pdf.

- **SECTION 268A OF THE INCOME-TAX ACT, 1961 – APPEALS AND REVISION - FILING OF APPEAL OR APPLICATION FOR REFERENCE BY INCOME-TAX AUTHORITY - REVISION OF MONETARY LIMITS FOR FILING OF APPEALS BY THE DEPARTMENT BEFORE INCOME TAX APPELLATE TRIBUNAL, HIGH COURTS AND SUPREME COURT – MEASURES FOR REDUCING LITIGATION**

INSTRUCTION 5/2014 [F. NO. 279/MISC142/2007-ITJ (PT.)], DT 10-7-2014





Reference is invited to Board's Instruction No. 3/2011 dated 09/02/2011, wherein monetary limits and other conditions for filing departmental appeals (in Income-tax matters) before Appellate Tribunal, High Courts and Supreme Court were specified. In supersession of the above instruction, it has been decided by the Board that departmental appeals may be filed on merits before Appellate Tribunal, High Courts and Supreme Court keeping in view the monetary limits and conditions specified below.

Henceforth appeals shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder:—

S. No.	Appeals in Income-tax matters	Monetary Limit (in ₹)
1.	Before Appellate Tribunal	4,00,000/-
2.	U/s. 260A before High Court	10,00,000/-
3.	Before Supreme Court	25,00,000/-

It is clarified that an appeal should not be filed merely because the tax effect in a case exceeds the monetary limits prescribed above. Filing of appeal in such cases is to be decided on merits of the case.

This instruction will apply to appeals filed on or after 10th July, 2014. However, the cases where appeals have been filed before 10th July, 2014 will be governed by the instructions on this subject, operative at the time when such appeal was filed.

• **FINANCE (NO. 2) BILL, 2014 {224 TAXMANN (St.) 9}**

Minister of Finance, Shri Arun Jaitley presented Budget on 10th July, 2014 together with Finance (No.2) Bill, 2014. The above citation may be referred for complete details.

Recent Judgments under Service Tax

Compiled by CA Sunny Kachalia

1. **Whether call services can be regarded as Information Technology (IT) Service or Business Auxiliary Service (BAS)**

Facts: The issue is pertaining to refund claim filed by the respondents on account of unutilised CENVAT credit on the ground that output service is classifiable under BAS and the same is exported outside India. Revenue took the view that back office and IT services rendered by respondents is classifiable under IT services and not BAS.

Held: Court held that on going through the agreement entered by the respondents, the services are rendered by them on behalf of the foreign principal and accordingly the same can be classified under BAS. As BAS service was taxable during the period of dispute, i.e. October 2006-June 2007, and as the service was exported outside India, respondent is eligible for refund claim.

(Commissioner of Customs, Central Excise and Service Tax, Hyderabad-IV vs. Knoah Solution Pvt. Ltd. 2014 (8) TMI CESTAT Bengaluru)

FORTHCOMING EVENTS

1. **Dr. BHARAT D. VASANI Inaugural Study Circle meeting:**

CHIEF GUEST	: Dr. Dilip Raichura
DAY & DATE	: Sunday, 31st August, 2014
TIME	: 10.00 a.m.
TOPIC	: "Amendment in I-Tax Audit Form 3CD with practical aspect and overview of e-filing Wealth Tax Return".
SPEAKER	: CA Jagdish T. Punjabi
VENUE	: SNTD College, Liberty Garden, Malad (W), Mumbai-400 064

2. **12th RRC on 4th-6th Oct, 2014 at "Lord Resort – Silvassa"**

DETAIL CIRCULAR WILL BE MAILED TO MEMBERS/WILL BE AVAILABLE ON MCTC WEBSITE IN DUE COURSE

Kindly mark the above dates and we request all members to keep taking active part in all activities of the Chamber, to attend in large numbers and make it grand success.

With Regards
≈ TEAM MCTC ≈



MANAGING COMMITTEE 2014-15



Seated L to R : Office Bearers – Adarsh Parekh, Utpal Patel, Kishor Hapani, Jaiprakash Tiwari, Vipul Somaiya

Standing L to R : S/Shri Kishor Vanjara, Janak Rawal, Dilip Parekh, Yatin Rangwala, (Past Presidents), Bakul Bhatia (Managing Committee Member), Manish Chokshi (Past President), Kalpana Soni, Tejas Shah, Dharmen Shah, Ketan Soneji, Swapnil Modi, Vilas Vichare (Managing Committee Members), Vishal Shah (Imm. Past President), Brijesh Cholera, Sachin Gandhi, Pravinbhai Shah (Past Presidents).

5th Study Circle Meeting



On Dais-L to R : President Shri Vishal Shah with Speakers Shri Atul Ruparelia, Shri Yatin Rangwala and Treasurer Shri Kishor Hapani



Felicitation of out-going President
Shri Vishal Shah

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• Editor : Shri Kishor Vanjara

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