



**The Malad
Chamber of
Tax
Consultants**

MNW/175/2015-17

Total Pages 8

Price ₹ 5/-



MCTC Bulletin

Duty • Determination • Dedication.....leads to Success

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Vol. 1, No. 2

For members & private circulation only

August, 2015



President's Communiqué

Dear Members

“उद्यमेन हि सिध्यन्ति कार्याणि न मनोरथैः”

Planning is important, but implementation of plan by actual working leads to success.

We have very good team at the centre which needs support of economic growth. In order to have exponential growth in the economy, every part of it need to work hard. This commands discipline in the society. Many trade organisations have already started observing discipline and insisting their components to discharge their respective statutory obligations. We are responsible part of the society and need to

discharge our duty with care in order to contribute to national growth.

It is said that India has more execution challenges than other markets. This points finger to major difficulties in running a business. I call upon everyone to contribute their ideas for pre-budget memorandum or simplifying/streamlining procedures of law.

There are enormous benefits of Registration under MSME Act, 2006. Main objective of MSME platform as mentioned in virtual cluster part of the website is **“to connect all stakeholders at one common platform for their mutual benefits.”** One of the many benefits is **“Consultants and industry experts can find prospective clients who may get benefited from their expertise”**. Members may visit msme.gov.in wherein detailed procedure for Online Registration is available. Request all members to get registered and reap benefits. We can have separate session on this if members respond positively through mail to maladchamber@gmail.com.

When I am writing this communiqué, busiest season of festival and season of statutory compliance has already started. Many of us are in the practice of compliance filing. I wish you all successful tax filing.

Inaugural Study Circle was a great success with 75 participants, although many members could not attend. Active participation by members gives encouragement to organisers of various events that we are going to arrange in this year.

Residential Refresher Course is scheduled in October details of which has been given in 'Forthcoming Events' section of this bulletin.

Thank you.

Jayprakash M. Tiwari

President

Salute to our Rich Culture and Wish You All Very Happy

1. Raksha Bandhan. • 2. Janmashtami • 3. Samvatsari • 4. Ganesh Chaturthi

With Regards

≈ TEAM MCTC ≈

For Query & Sbmision of Forms for Membership/Seminar please contact any of the following Office Bearers:

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JUDICIAL JUDGMENTS

Compiled by CA. Dharmen Shah

ACIT vs. Tri-Star Jewellery Exports Pvt. Ltd. (ITAT Mumbai), 31st July 2015

Additions during reassessment in case of bogus sales and purchases

Facts of the case:

The A.O. reopened assessment claiming that purchases to the tune of ₹ 4 crores declared by Tri-Star from M/s. Zalak Impex were bogus purchases.

This was based on statement of proprietor of M/s. Zalak Impex, Mr. Hiten Rawal where he confessed to have provided accommodation entries to various parties during the year under discussion in form of sales and purchases. Based on this statement A.O. disallowed purchases of ₹ 4 crores stating that assessee had obtained bills from non-existent parties and these were not genuine purchases.

The assessee was not given an opportunity to cross examine Mr. Rawal though he specifically asked for it. On the other hand, the burden was sought to be shifted on the assessee by the A.O., by asking him to produce Mr. Rawal, even though it was the A.O. who had relied on the statement of Mr. Rawal.

Further, even otherwise, before the A.O., the assessee had contended that the assessee being in an export promotion zone, the movement of its goods is controlled and customs approved; that the purchases being approved purchases, there was no question of their being bogus purchases.

ITAT held in the favour of the assessee observing that

A statement recorded at the back of a party cannot be used against such party without confronting such statement to the party. Hence, the reassessment order is as a result of violation of the natural principle of **audi alteram partem** and unsustainable in the eye of law.

ITAT also observed that the assessee enclosed the custom approved invoices in respect of purchases from Zalak Impex. This shows that the goods had actually been purchased and received by the assessee. Moreover, the comparative chart of purchases made during the year and the selling price has not been refuted by the AO.

ITAT concluded that the order under appeal is a result of complete misreading and non-reading of cogent documentary evidence brought on record by the assessee.

As a consequence, the order of the CIT (A) is cancelled in toto.

RECENT JUDGMENTS UNDER SERVICE TAX

Compiled by CA Sunny Kachalia

1. **WHETHER SERVICE TAX APPLICABLE ON IMPORT OF SERVICE FOR THE PERIOD PRIOR TO 18 APRIL 2006**

Facts in brief: Respondent had imported services from outside India during the period 2002-03 and Service Tax was not paid on the same. Demand of Service Tax was raised by the lower adjudicating authority which was set-aside by Commissioner (Appeals). However, Revenue preferred an appeal against the order of Commissioner (Appeals) and contended that as per Rule 2(1)(d) of Service Tax Rules, 1994 the recipient of service was liable to pay Service Tax.

Held: Court held that the case is no longer res integra in the light of the judgement of the Supreme Court in the case of Indian National Shipowners Assn Vs. Union of India [2009 (13) STR 235 (Bomb) / 2010 (17) STR 557 (SC)], wherein it has been held that the reverse the mechanism became operative only from 18.04.2006 when Section 66A was introduced in the finance act 1994. As the period involved in this case is prior to 18.04.2006, Revenues appeal is not sustainable and is therefore dismissed.

(C.C.E., Meerut-II vs. M/s. SRF Ltd 2015 (8) TMI 401 - CESTAT DELHI)

DIRECT TAXES – LAW UPDATE

Compiled by CA. Haresh P. Kenia

- ❑ **Finance Act, 2015 [231 Taxman (st) 53]**
 An relevant extracts of Finance Act, 2015 to give effect to the financial proposal of the Central Government for the F.Y. 2015-16 which was accented by the President of India on 14-5-2015, are available at the above magazine. The Finance Act, 2015 came into force on the 1st day of April, 2015.
- ❑ **MAT – Section 115JA – Committee Constituted to examine Direct Tax matters including levy of MAT on FIs [231 Taxman (st) 124]**
 A office memorandum dated 26/05/2015 has invited suggestions and representations from all stake holder, including industry associations on matter relating to levy of MAT on FIs for the period prior to 1-4-2015. The committee on the Direct Tax matters headed by Justice A.P. Shah which was constituted on 20-5-2015 decided to examine the matter relating to levy of MAT on FIs for the period prior to 1-4-2015. A hard copy of representations may be sent on the following address :—

Mr. Raman Chopra
Director (TPL-II), Central Board of Direct Taxes,
Room No. 147-E,
North Block,
New Delhi – 110 001.

The suggestions may be sent by e-mail to raman.chopra@nic.in
- ❑ **Section 92CC of the Income Tax Act, 1961 – Transfer Pricing – Advance Pricing Agreement (APA) – Clarifications on rollback provisions of Advance Pricing Agreement Scheme. [231 Taxman (st) 136]**
 A CBDT vide Circular No. 10/2015 dated 10-6-2015 clarifies by adopting a question and answer format a rollback provisions in the APA Scheme which were introduced by the Finance (No. 2) Act, 2014 through Section 92CC(9A) of the Income-tax Act and the relevant rules, 10MA & 10RA were notified. Subsequent to the notification of the rules, requestes for the clarification regarding certain issues have been received to the CBDT.

The Advance Pricing Agreement provisions were introduced in 2012 through insertion of sections 92CC and 92CD in the Income-tax Act, 1961 by the Finance Act, 2012. Subsequently, the Advance Pricing Agreement Scheme was notified vide S.O. 2005(E), dated 30-8-2012, thereby inserting Rules 10F to 10T and Rule 44GA in the Income Tax Rules, 1962.

CONGRATULATION

Best wishes and congratulation to following dignitaries on being elected as the Office Bearer for 2015-16 of esteemed professional body :

The Sales Tax Practitioners' Association of Maharashtra.		The Chamber of Tax Consultants.	
Vijay Sachiv	President	Avinash Lalwani	President
Dr. Dhond Shashank	Vice President	Hitesh R. Shah	Vice President
Pranav Kapadia	Honorary Treasurer	Ajay Singh	Honorary Jt. Secretary
Pradip R. Kapadia	Honorary Secretary	Ashok Magnhnani	Honorary Jt. Secretary
D.V. Phad	Honorary Secretary	Hinesh Doshi	Honorary Treasurer

FORTHCOMING EVENT

1 2nd Study Circle meeting :

Date	5th September, 2015, Saturday
Venue	SNDT, M. D. Shah Mahila College, Malad West

	Time	Topic	Speaker
I	5.00 pm to 6.30 pm	Depre CA Abhay V Arolkar →	
	15 Minutes Tea Break		
II	6.45 pm to 8.15 pm	Issues in Tax Audit & E-Filing	CA. Vinod Jain

2 13th RRC on 2-3-4 Oct, 2015 at "Treat Resort, Silvassa"

Detailed Circular is available on our website www.mctc.in
VERY FEW SEATS ARE AVAILABLE. KINDLY BOOK YOUR SEATS

With Regards

≈ TEAM MCTC ≈

THE MALAD CHAMBER OF TAX CONSULTANTS

ENROLMENT FORM – 13th RRC at Treat Resort, Silvassa	
Friday 2-10-2015 to Sunday 4-10-2015	
Participation Cost	₹ 5,750/- Per head for Double sharing for members
	₹ 6,250/- Per head for Double sharing for Non-members
	₹ 3,300/- For children Age 5 to 11 years – Extra Bed only
	₹ 4,400/- For children Age more than 12 years – Extra Bed only

NAME : Mr./Mrs.

Membership of MCTC - YES / NO

ADDRESS:

TELEPHONE : (O):..... (R) :.....

E-MAIL :

MOBILE NO:

Total Number of Persons for whom payment is made..... (Pls Specify)

AMOUNT:/- (RUPEES.....)

CHEQUE /D.D No.: DATED

BANK / BRANCH :

Food Choice: Veg Jain

If joining with family, please fill in following details:

Name of Spouse : (Age:.....yrs)

Name of Child : 1) (Age:.....yrs)

2) (Age:.....yrs)

SIGNATURE

(Name)

N.B. 1. Members are requested to make the payment only by cheque in favour of “The Malad Chamber of Tax Consultants” payable at Mumbai.

2. Please tick/fill in the appropriate boxes.



WHO CAN USE NEW INCOME TAX RETURNS

ITR 1

Who can use this Return Form?

This Return Form is to be used by an individual whose total income for the assessment year 2015-16 includes:—

- (a) Income from salary/pension; or
- (b) Income from one house property (excluding cases where loss is brought forward from previous years); or
- (c) Income from other sources (excluding Winnings from Lottery and Income from Race Horses)

Who cannot use this Return Form?

This Return Form should not be used by an individual whose total income for the assessment year 2015-16 includes:-

- (a) Income from more than one house property; or
- (b) Income from winnings from lottery or income from race horses; or
- (c) Income under the head "Capital Gains" e.g., short-term capital gains or long-term capital gains from sale of house, plot, shares etc.; or
- (d) Agricultural income in excess of ₹ 5,000; or
- (e) Income from business or profession; or
- (f) Loss under the head 'Income from other sources'; or
- (g) Person claiming relief under section 90 and/or 91; or
- (h) Any resident having any asset (including financial interest in any entity) located outside India or signing authority in India or in any account located outside
- (i) Any resident having income from any source outside India

ITR 2A

Who can use this Return Form?

This Return Form is to be used by an individual or a Hindu Undivided Family whose total income for the assessment year 2015-16 includes:-

- (a) Income from salary/pension; or
- (b) Income from house property; or
- (c) Income from other sources (including Winning from lottery and income from race horses).

Further, in a case where the income of another person like spouse, minor child, etc. is to be clubbed with the income of the assessee, this Return Form can be used where such income falls in any of the above categories.

Who cannot use this Return Form?

This Return Form should not be used by an individual or a Hindu Undivided Family whose total income for the assessment year 2015-16 includes,-

- (a) Income from capital gains; or
- (b) Income from business or profession; or
- (c) Any claim of relief/deduction under sections 90, 90A or 91; or
- (d) Any resident having any asset (including financial interest in any entity) located outside India or signing authority in any account located outside India; or
- (e) Any resident having income from any source outside India.

ITR 2

Who can use this Return Form?

This Return Form is to be used by an individual or a Hindu Undivided Family whose total income for the assessment year 2015-16 includes:-

- (a) Income from salary/pension; or
- (b) Income from house property; or
- (c) Income from capital gains; or
- (d) Income from other sources (including winnings from lottery and income from race horses).

Further, in a case where the income of another person like spouse, minor child, etc. is to be clubbed with the income of the assessee, this Return Form can be used where such income falls in any of the above categories.

Who cannot use this Return Form?

This Return Form should not be used by an individual or a Hindu Undivided Family whose total income for the assessment year 2015-16 includes Income from business or profession

ITR 3

Who can use this Return Form?

This Return Form is to be used by an individual or an Hindu Undivided Family who is a partner in a firm and where income chargeable to income-tax under the head "Profits or gains of business or profession" does not include any income except the income by way of any interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by him from such firm. In case a partner in the firm does not have any income from the firm by way of interest, salary, etc. and has only exempt income by way of share in the profit of the firm, he shall use this form only and not Form ITR-2.

Who cannot use this Return Form?

This Return Form should not be used by an individual whose total income for the assessment year 2013-14 includes Income from business or profession under any proprietorship

ITR 4

Who can use this Return Form?

This Return Form is to be used by an individual or a Hindu Undivided Family who is carrying out a proprietary business or profession.

ITR 4S

Who can use this Return Form?

This Return Form is to be used by an individual/ HUF whose total income for the assessment year 2015 -16 includes:-

- (a) Business income where such income is computed in accordance with special provisions referred to in section 44AD and 44AE of the Act for computation of business income; or

- (b) Income from salary/pension; or
(c) Income from one house property (excluding cases where loss is brought forward from previous years); or
(d) Income from other sources (excluding winnings from lottery and income from race horses).

Note: The income computed shall be presumed to have been computed after giving full effect to every loss, allowance, depreciation or deduction under the Income-tax Act.

Note: Further, in a case where the income of another person like spouse, minor child, etc., is to be clubbed with the income of the assessee, this Return Form can be used only if the income being clubbed falls into the above income categories.

Who cannot use this Return Form?

SUGAM cannot be used to file the following incomes

- (a) Income from more than one house property; or
(b) Income from winnings from lottery or income from Race horses; or
(c) Income under the head "Capital Gains", e.g. short-term capital gains or long-term capital gains from sale of house 'plot shares etc; or
(d) Agricultural income in excess of ₹ 5,000;
(e) Income from Speculative Business and other special incomes; or
(f) Income from a profession as referred to in sub-section (1) of section 44AA or income from an agency business or income in the nature of commission for brokerage; or
(g) Person claiming relief of foreign tax paid under sections 90, 90A or 91; or
(h) Any resident having any asset (including financial interest in any entity) located outside India or signing authority in any account located outside India; or
(i) Any resident having income from any source outside India.

ITR 5

Who can use this Return Form?

This Form can be used a person being a firm, LLPs, AOP, BOI, artificial juridical person referred to in section 2(31)(vii), co-operative society and local authority. However, a person who is required to file the return of income under section 139(4A) or 139(4B) or 139(4C) or 139(4D) shall not use this form.

ITR 6

Who can use this Return Form?

This Form can be used by a company, other than a company claiming exemption under section 11.

ITR 7

Who can use this Return Form?

This Form can be used by persons including companies who are required to furnish return under section 139(4A) or section 139(4B) or section 139(4C) or section 139(4D).

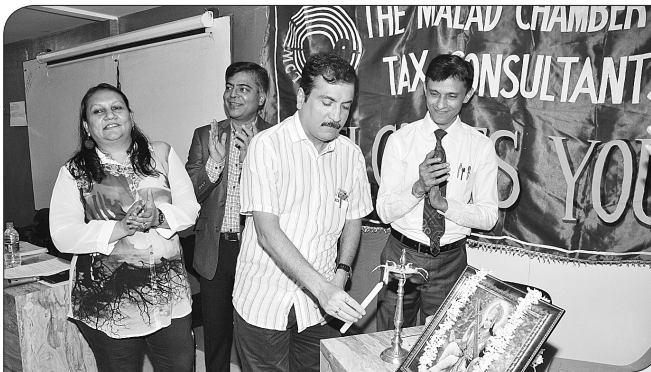
EFFECTIVE SERVICE TAX RATES AT GLANCE

Compiled by CA. Bhavin Mehta

	Upto 31.05.2015				w.e.f. 01.06.2015			
	Abatement	Taxable	Rate	Effective Rate on value of contract	Abatement	Taxable	Rate	Effective Rate on value of contract
WORKS CONTRACT								
OPTIONAL U/R 2A (ii) of Valuation Rules, 2006								
A) Original Work	60%	40%	12.36%	4.944%	60%	40%	14%	5.60%
B) Maintenance or repairs or reconditioning or restoration or service of any goods (upto 01.10.14)	30%	70%	12.36%	8.652%	deleted	deleted	deleted	deleted
C) Other than (A) & (B)above (upto 30.9.14)	40%	60%	12.36%	7.416%	deleted	deleted	deleted	deleted
D) Other than (A) above (w.e.f. 01.10.14)					30%	70%	14%	9.80%
Construction of Residential Complex (Not. 30/2012-ST)								
A) Carpet area of the unit is less than 200 sq feet and amt. charged for the unit is less than Rs. one crore	75%	25%	12.36%	3.090%	75%	25%	14%	3.50%
B) Others	70%	30%	12.36%	3.708%	70%	30%	14%	4.20%
Construction of Other than residential Complex (Not.30/2012-ST)	70%	30%	12.36%	3.708%	70%	30%	14%	4.20%
Goods Transport Agency (Not. 30/2012-ST) (w.e.f. 01.04.2015, abatement reduced from 75% to 70%)	70%	30%	12.36%	3.708%	70%	30%	14%	4.20%
Renting of Immovable Property (Not. 30/2012-ST)								
Hotels, inns, guest houses,clubs,campsites or other commercial places meant for residential or lodging purposes.	40%	60%	12.36%	7.416%	40%	60%	14%	8.40%
Renting of Motorcab (Not. 30/2012-ST)	60%	40%	12.36%	4.944%	60%	40%	14%	5.60%
Transport of passenger (Not. 30/2012-ST)								
A) by rail	70%	30%	12.36%	3.708%	70%	30%	14%	4.20%

B) by air	60%	40%	12.36%	4.94%	60%	40%	14%	5.60%
(i) economy class								
(ii) other than economy class								
C) by road	60%	40%	12.36%	4.94%	60%	40%	14%	5.60%
(i) in contract carriage other than motorcab								
(ii) radio taxi								
Restaurant / Outdoor catering (Rule 2C of valuation rules)								
A) Restaurant	60%	40%	12.36%	4.94%	60%	40%	14%	5.60%
B) Outdoor catering	40%	60%	12.36%	7.416%	40%	60%	14%	8.40%
Air Travel Agent (Rule 6(7) of STR)								
A) Domestic bookings	-	-	-	0.6%	-	-	-	0.7%
B) International bookings	-	-	-	1.2%	-	-	-	1.4%
Life Insurance Business (Rule 6(7A) of STR)								
A) First year premium	-	-	-	3%	-	-	-	3.5%
B) Subsequent year premium	-	-	-	1.5%	-	-	-	1.75%
Distributor or selling agent of lottery (Rule 6(7C) of STR)								
A) on every Rs.10 lakh (or part of Rs.10 lakh) of aggregate face value of lottery tickets printed by the organizing State for a draw, where guaranteed prize payout is more than 80%				Rs.7000				Rs.8200
B) on every Rs.10 lakh (or part of Rs.10 lakh) of aggregate face value of lottery tickets printed by the organizing State for a draw, where guaranteed prize payout is more than 80%				Rs.11,000				Rs.12,800
Bundled services by way of supply of food and drinks together with renting of premises (Not. 30/2012-ST)								
	30%	70%	12.36%	8.652%	30%	70%	14%	9.80%
Tour Operator (Not. 30/2012-ST)								
A) Package Tour	75%	25%	12.36%	3.090%	75%	25%	14%	3.50%
B) Soley for Booking of Accomodation	90%	10%	12.36%	1.236%	90%	10%	14%	1.40%
C) Others than (A) and (B)	60%	40%	12.36%	4.944%	60%	40%	14%	5.60%

PHOTOGRAPHS



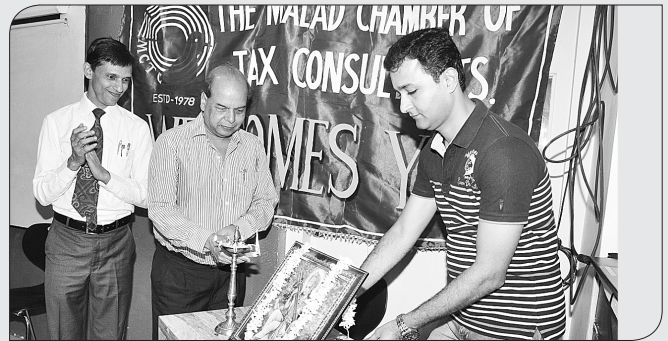
From L to R : Convener Ms.Vandana Dodhia, Speaker Shri Sanjeev Lalan, Chief Guest Shri Atul Bhatkalkar, President Shri Jayprakash Tiwari



From L to R : Ms. Vandana Dodhia, Shri Atul Bhatkalkar, Shri Sanjeev Lalan, Shri Jayprakash Tiwari, Shri Ketan Soneji



Shri V. B. Goyal, Past President



Shri Jayprakash Tiwari, Hon. Auditor Shri Praful Agrawal, Shri Ketan Soneji

PHOTOGRAPHS



Chief Guest Shri Atul Bhatkhalkar, MLA addressing the audience



Felicitation of Speaker Shri Sanjeev Lalan



Participant in the inaugural Study Circle Meeting



Participant in the inaugural Study Circle Meeting

Disclaimer : Though utmost care is taken about the accuracy of the matter contained herein, the Chamber and/or any of its functionaries are not liable for any inadvertent error. The views expressed herein are not necessarily of the Chamber. For full details the readers are advised to refer to the relevant act, rule and relevant statutes.

Printed by Kishor Dwarkadas Vanjara published by Kishor Dwarkadas Vanjara, on behalf of The Malad Chamber of Tax Consultants, and Printed at Finesse Graphics & Prints Pvt. Ltd., 309, Parvati Industrial Premises, Sun Mill Compound, Lower Parel, Mumbai-400 013. Tel. Nos.: 2496 1685/2496 1605 Fax No.: 24962297 and published at The Malad Chamber of Tax Consultants B/6, Star Manor Apartment, 1st Floor, Anand Road Extn., Malad (W), Mumbai-400 064. Adm. Off. Tel. 022-2889 5161
• Editor : Shri Kishor Vanjara

Posted at Malad ND (W) Post Office, Mumbai 400 064

**Date of Publishing 3rd Week of Every Month
Date of Posting : 20th & 21st August, 2015**

To

If undelivered, please return to :

The Malad Chamber of Tax Consultants,
B/6, Star Manor Apartment, 1st Floor,
Anand Road Extn., Malad (W),
Mumbai-400 064.

