The Malad Chamber of Tax Consultants

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37th Year

MCTC Bulletin

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

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President's Communiqué

Dear Members,

आपदां कथित पन्थाः इन्दिरयाणाम् असंयमः ।
तद्जयः संपदां मार्गः येनेष्टं तेन गम्यताम् ।।
चाणक्यनीति

"Being under the command of our senses/mind is nothing but invitation to many problems and winning over them is a pathway to the glory/success! Choose any path that you like!! Animals get satisfied by Taste, Touch, Smell etc. Getting too much happiness from such things is like being under their command. If human beings are "different" than animals then these things will not give the ultimate joy to any human being."

Sudden announcement of levy of 0.50% Cess to fund Swachh Bharat initiative will increase cost of services in view of the fact that CENVAT credit is not available. Hence the Government shall expedite adoption of GST.

There is steep increase in interest rates in MVAT which is not inconsonance with the default. Proper representation need to be made in due course. There are other inconsistencies in procedural matters too which need proper representation. I request members to send suggestions for various matters related to tax practice or business strategies. The same will be vetted and forwarded to Authorities.

Though the real service can be provided through in-depth knowledge, it is a fact that Better the Infrastructure, Better the Ultimate Realisation. In order to reach wider base of clients, there is urgent need to improve our infrastructure.

Moreover, there is equally urgent need of networking and sharing of available infrastructure. Request everyone to give proper shape to this thought. In order to address this issue, we are planning a separate Study Circle on Networking.

As announced earlier, we will be conducting WORKSHOP ON DIRECT TAXES jointly with The Chamber of Tax Consultants. Members shall take maximum advantage of the same.

As discussed in last Annual General Meeting, we will be publishing articles of interest in our Bulletin. Members are requested to send their article of one page. The same will be vetted by the Committee and published in the Bulletin.

Best Wishes for TULSI-VIVAH

Regards,
Jayprakash M Tiwari
President

With Regards

≈ TEAM MCTC ≈

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

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DIRECT TAXES – LAW UPDATE

Compiled by CA. Haresh P. Kenia

INCOME-TAX (FOURTEENTH AMENDMENT) RULES, 2015 - SUBSTITUTION OF RULE 29C AND FORM NO. 15G AND FORM NO. 15H

NOTIFICATION 76/2015 [F.NO.133/50/2015-TPL]/SO 1663(E), DT 29-9-2015

Taxpayers seeking non deduction of tax from certain incomes are required to file a self-declaration in Form No. 15G or Form No.15H as per the provisions of Section 197A of the Income-tax Act, 1961 ('the Act'). In order to reduce the cost of compliance and ease the compliance burden for both, the taxpayer and the tax deductor, the Central Board of Direct taxes has simplified the format and procedure for self-declaration of Form No.15G or 15H. The procedure for submission of the Forms by the deductor has also been simplified.

Under the simplified procedure, a payee can submit the self-declaration either in paper form or electronically. The deductor will not deduct tax and will allot a Unique Identification Number (UIN) to all self-declarations in accordance with a well laid down procedure specified separately. The particulars of self-declarations will have to be furnished by the deductor along with UIN in the quarterly TDS statements. The requirement of submitting physical copy of Form 15G and 15H by the deductor to the income-tax authorities has been dispensed with. The deductor will, however be required to retain Form No.15G and 15H for seven years.

The revised procedure shall be effective from the 1st day of October, 2015.

SECTION 90 OF THE INCOME-TAX ACT, 1961 – DOUBLE TAXATION AGREEMENT – INTER-GOVERNMENTAL AGREEMENT AND MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN GOVERNMENT OF INDIA AND GOVERNMENT OF USA TO IMPROVE INTERNATIONAL TAX COMPLIANCE AND TO IMPLEMENT FOREIGN ACCOUNT TAX COMPLIANCE ACT OF USA

NOTIFICATION 77/2015 [F.NO.500/137/2011-FTD-I]/SO. 2676(E), DT 30-9-2015

An Inter-Governmental Agreement and Memorandum of Understanding (MoU) between the Government of the Republic of India and the Government of the United States of America to improve International Tax Compliance and to implement Foreign Account Tax Compliance Act of the United States of America was signed at New Delhi on the 9th day of July, 2015.The date of entry into force of the said Agreement is the 31st day of August, 2015, being the date of notifications of completion of necessary internal procedures as required for entry into force of the said Agreement in accordance with Paragraph 1 of Article 10 of the said Agreement. Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that all the provisions of the said Agreement between the Government of the Republic of India and the Government of the United States of America for the exchange of information with respect to taxes, as set out in the said Agreement, shall be given effect to in the Union of India with effect from the 31st August, 2015, that is, the date of entry into force of the said Agreement.

SECTION 119 OF THE INCOME-TAX ACT, 1961 - INCOME-TAX AUTHORITIES - INSTRUCTIONS TO SUBORDINATE AUTHORITIES - EXTENSION OF DUE DATE FOR FILING OF RETURNS OF INCOME AND AUDIT REPORTS UNDER SECTION 44AB - SUPERSESSION OF ORDERS DATED 30-9-2015

ORDER [F.NO.225/207/2015/ITA-II], DATED 1-10-2015

In supersession of orders under Section 119 of the Income-tax Act, 1961 ('Act') dated 30th September, 2015 *vide* file of even number, the Central Board of Direct Taxes, in exercise of powers conferred under Section 119 of the Act, hereby orders that the returns of income and audit reports u/s. 44AB due for e-filing by 30th September, 2015 may be filed, across the country, by 31st October, 2015.

SECTION 37(1) OF THE INCOME-TAX ACT, 1961- BUSINESS EXPENDITURE – ALLOWABILITY OF – NON-APPLICABILITY OF RULE 9A OF THE INCOME-TAX RULES, 1962 IN CASE OF ABANDONED FEATURE FILMS

CIRCULAR NO.16/2015 [F.NO.279/MISC./140/2015-ITJ], DATED 6-10-2015

The deduction in respect of the cost of production of a feature film certified for release by the Board of Film Censors in a previous year is provided in Rule 9A of Income Tax Rules, 1962. In the case of abandoned films, however, since certificate of Board of Film Censors is not received, in some cases no deduction was allowed by applying Rule 9A of the Rules or by treating the expenditure as capital expenditure. The matter has been examined in light of judicial decisions on this subject. The order of the Hon'ble Bombay High Court dated 28-1-2015 in ITA 310 of 2013 in the case of Venus Records and Tapes Pvt. Ltd. on this issue has been accepted and the aforesaid disputed issue has not been further contested. Consequently, it is clarified that Rule 9A does not apply to abandoned feature films and that the expenditure incurred on such abandoned feature films is not to be treated as a capital expenditure. The cost of production of an abandoned feature film is to be treated as revenue expenditure and allowed, as per the provisions of section 37 of the Income-tax Act. Being a settled issue, no appeals may henceforth be filed on this ground by the officers of the Department and appeals already filed, if any, already filed on this issue before various Courts/ Tribunals may be withdrawn/ not pressed upon. This may be brought to the notice of all Officers concerned.

- **SECTION 2(1A), READ WITH SECTION 2(14)(iii), OF THE INCOME-TAX ACT, 1961 - AGRICULTURAL LAND - MEASUREMENT OF DISTANCE FOR PURPOSE OF SECTION 2(14)(iii)(b) FOR PERIOD PRIOR TO ASSESSMENT YEAR 2014-15**

  CIRCULAR NO.17/2015 [F.NO.279/MISC./140/2015-ITJ], DATED 6-10-2015

  "Agricultural Land" is excluded from the definition of capital asset as per section 2(14)(iii) of the Income-tax Act based, inter alia on its proximity to a municipality or cantonment board. The method of measuring the distance of the said land from the municipality, has given rise to considerable litigation. Although, the amendment by the Finance Act, 2013 w.e.f. 1-4-2014 prescribes the measurement of the distance to be taken aerially, ambiguity persists in respect of earlier periods. The matter has been examined in light of judicial decisions on the subject. The Nagpur Bench of the Hon'ble Bombay High Court vide order dated 30-3-2015 in ITA 151 of 2013 in the case of Smt. Maltibai R. Kadu has held that the amendment prescribing distance to be measured aerially, applies prospectively i.e. in relation to assessment year 2014-15 and subsequent assessment years. For the period prior to assessment year 2014-15, the High Court held that the distance between the municipal limit and the agricultural land is to be measured having regard to the shortest road distance. The said decision of the High Court has been accepted and the aforesaid disputed issue has not been further contested. Being a settled issue, no appeals may henceforth be filed on this ground by the officers of the Department and appeals already filed, if any, on this issue before various Courts/ Tribunals may be withdrawn/not pressed upon. This may be brought to the notice of all concerned.

- **INCOME-TAX (FIFTEENTH AMENDMENT) RULES, 2015 - AMENDMENT IN RULE 11DD AND OMISSION OF FORM 10-I**

  NOTIFICATION 78/2015 [F.NO.142/20/2015-TPL]/SO 2791(E), DT. 12-10-2015

  One of the pillars of the of the taxation proposals included in the Finance Minister's Budget Speech for 2015-16 was extension of benefits to the middle class. In this process, the Finance Minister announced extension of certain benefits in respect of medical treatment under section 80DDB. This section allows a deduction for expenditure incurred on treatment of specified ailments.

  Taking the process forward, Central Board of Direct Taxes (CBDT) has issued a Notification *vide* S.O. No.2791(E) on 12th October 2015 amending Rule 11DD. The amended Rule relaxes the condition of obtaining the certificate for claiming expenditure under section 80DDB in respect of specified ailments from a specialist working in a Government hospital. As per amended Rule 11DD, the prescription can be issued by any specialist mentioned in the amended Rule. Henceforth, it will not be mandatory to obtain a certificate from a specialist working in a Government hospital.

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JUDICIAL JUDGMENTS

Compiled by CA Dharmen Shah

M/s. Kothari Metals vs. ITO (Karnataka High Court), 4th November, 2015

Ss. 147/ 148: Non-furnishing of reasons for reopening to assessee renders reassessment void

Facts of the case:

For A.Y. 2006-07, the appellant had filed the return of income which was accepted and a notice u/s. 143(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') on 14 June 2007. Subsequently a notice was issued u/s. 148 of the Act for re-opening the assessment.

In response to the same the assessee requested the respondent to treat the earlier return filed as the return filed in response to the notice issued u/s. 148 of the Act. The appellant also prayed for furnishing the reason for issuance of notice u/s. 148 of the Act.

Even when no reason for issuance of the notice was furnished, the Assessing Officer commenced proceedings of re-assessment of income of the assessee / appellant for the said assessment year and issued questionnaire u/s. 142(1) of the Act.

From the questionnaire issued it appeared that the re-opening of the assessment was on the basis of statement recorded by the Income tax authorities of some other person, which was not furnished to the assessee.

The Court held in the favour of the assessee observing that:

On request of the assessee requesting that the return of income initially filed be treated as a return of income filed in response to notice u/s. 148 of the Act, the assessee is entitled to be furnished the reasons for such re-opening. Since such reasons had not been furnished to the appellant, even though a request for the same had been made, the re-assessment could not have been taken further.

Besides this, the assessee was not furnished the statement of some other person which he was asked to explain. Therefore, there was also gross violation of principles of natural justice and in view of the above the court set aside the re-assessment order passed by the Assessing Officer.

The Court also observed that the Assessing Officer shall be at liberty to proceed in the matter, in accordance with law, after furnishing reasons for issuance of notice under Section 148 of the Act, if law so permits.

DCIT vs. Sunita Khemka (ITAT Kolkata), 28 October 2015

Treatment of transaction of purchase and sale of shares as bogus by Assessing Officer

Facts of the case:

The assessee sold the shares of various companies listed in Kolkata Stock Exchange and declared capital gains totaling to ₹ 83,04,538 between A.Y. 2001-02 to 2005-06.

The assessee had submitted the details of purchase and sale of the shares in aforesaid companies before the learned AO and stated that the payment has been made to the stock brokers through account payee cheque from the disclosed bank accounts. During the course of assessment proceedings, the details of contract notes for purchase and sale of shares were duly filed by the assessee. The entire sale consideration for sale of these shares was received by the assessee from the stock brokers through account payee cheques. The assessee had also duly paid the Securities Transaction Tax (STT) during Asst Year 2005-06 at the time of sale of shares.

The learned AO doubted that the shares of said companies could not have been sold at the prevailing market rates as per the Calcutta Stock Exchange and treated the long term capital gains as bogus and held that it is only assessee's own unaccounted money that had surfaced in the form of long term capital gains with the connivance of the brokers and accordingly brought to tax under the normal provisions of the Act instead of concessional rate of tax applicable to long term capital gains.

It was held in the favour of the assessee observing that:

Taking cognizance of order of the Tribunal wherein addition made towards similar grounds of share transactions in the hands of the assessee's husband Shri Anil Khemka were deleted in ITA Nos. 901 to 905 / Kol / 2009 dated 28-1-2010 for the Asst Years 2001-02 to 2005-06, the authorities observed that that assessment cannot be made on the basis of suspicion or surmise. The AO has not brought any material on record to support his finding that there has been collusion/connivance between the broker and the appellant for the introduction of its unaccounted money. In the result, the appeals of the revenue are dismissed.

GIST OF RECENT JUDGMENTS WITH RESPECT TO SERVICE TAX AND CENTRAL EXCISE

Compiled by CA Bhavin Mehta

1. Flipkart Internet (P.) Ltd. vs. State of Kerala - [2015] 62 taxmann.com 387 (Kerala)

Facts

Flipkart (Assessee), being online service provider facilitating sales or purchases, was registered under Service Tax Laws. Notice was issued to Flipkart under Section 67 of the Kerala VAT Act (KVAT) for breach of the provisions of Sections 20 & 40 of the KVAT Act for neither registering as a dealer nor filing returns and maintaining true and correct accounts. Accordingly, penalty was levied on it for such default. The Department contended that online portal could be seen as intangible shop.

Writ Petition

The contention of the petitioner in the writ petition is that it is a service provider who is not engaged in the business of sale or purchase of goods. The seller of the particular product raises invoice on the customer and makes arrangement for delivery of the product. Further depending on the nature of sale transaction, the seller of the product pays tax either under the local VAT Act or the CST Act, and the fact of payment of tax is indicated in the invoice issued to the customer. The findings in the order that the petitioner had effected sales within the state of Kerala, was factually incorrect as the sales were effected by WS Retail and other sellers who were registered sellers on its website.

It was held that

The authority concerned does not enter a specific finding, supported by reasons, as to whether there was any sale affected by the petitioner at all.

The situs of the virtual shop can be traced to Kerala, was legally flawed on the ground that the situs of sale is wholly irrelevant in determining whether a sale is an inter-State sale or not.

WS Retail the seller responsible for affecting sales through the online portal of the petitioner, is registered as a dealer under the KVAT Act and in the returns submitted by the said dealer for the relevant period, they had conceded NIL taxable turnover under the KVAT Act on the contention that the entire sales turnover pertained to interstate sales. In the absence of material to suggest that the returns were rejected by the revenue authorities, one fails to understand that how the revenue authorities could proceed to levy tax and penalty on the petitioner in respect of the same turnover.

Therefore, the orders, demand notices and show cause notices were quashed and the writ petition filed by the petitioner was allowed.

2. Commissioner of Central Excise, Mumbai–IV v/s Fitrite Packers - [2015] 62 taxmann.com 93 (SC)

Facts

Assessee purchased GI paper and carried out customised printing according to the specifications of customers. After printing, end use of paper was confined to only specific product of particular customer, therefore new product had emerged i.e, paper with distinct character and use of its own which it did not bear earlier. Hence such process of printing amounted to manufacture

The Hon'ble Supreme Court decided the issue in favour of the revenue authority.

The Court came out with a twofold test for deciding whether a process is manufacture or not:

1. By a process, if a different commercial commodity comes into existence as a result of which the identity of the original commodity ceases to exist, then the process would amount to manufacture.

2. By a process, if a different and/or finished product comes into existence which makes the said product commercially usable, then the process would amount to manufacture.

These tests were satisfied in the present case.

The Court also held that a blank paper could have been used to wrap the product but after printing of the logo and name of the specific product thereupon the end use was now confined to only that particular and specific product of the said particular company or customer. The printing has transformed the wrapping paper from a general wrapper to a special wrapper.

Therefore in the present case, this process would be treated as manufacture and, thus, the respondent / assessee would be liable to pay excise duty thereon.

3. Andaman Timbers Industries vs. CCE, Kolkata, – [2015] 62 taxmann.com 3 (SC)

Facts: Assessee was selling plywood mainly from depots and in some cases, on ex-factory basis. Assessee paid duty on depot sales based on ex-factory price. Department found that ex-factory price remained static while depot price-list showed increasing prices; hence, based on statements of two buyers, department demanded duty taking depot price-list as basis. Assessee sought cross-examination of witnesses, which was not allowed. Tribunal confirmed demand observing that cross-examination was not necessary, as same would not bring new material and it was for assessees to explain prices.

Held: Supreme Court observed that "... not allowing the assessee to cross-examine the witnesses by the Adjudicating Authority though the statements of those witnesses were made the basis of the impugned order is a serious flaw which makes the order nullity inasmuch as it amounted to violation of principles of natural justice because of which the assessee was adversely affected. It is to be borne in mind that the order of the Commissioner was based upon the statements given by the aforesaid two witnesses. Even when the assessee disputed the correctness of the statements and wanted to cross-examine, the Adjudicating Authority did not grant this opportunity to the assessee. It would be pertinent to note that in the impugned order passed by the Adjudicating Authority he has specifically mentioned that such an opportunity was sought by the assessee. However, no such opportunity was granted and the aforesaid plea is not even dealt with by the Adjudicating Authority". The Tribunal Order Confirming the demand was set aside by the Hon'ble Apex Court.

For relevancy of statement under Service Tax refer section 83 of the Finance Act, 1994.

4. Clariant Chemicals (I) Ltd. v. CCE, [2015] 62 taxmann.com 379 (Mumbai - CESTAT)

Facts: The appellant is a manufacturing unit. The appellant company, in addition to manufacturing of the various chemicals etc., also engages in the trading of similar goods. Manufactured goods are subject to excise duty. The trading activities are not taxable either to service tax or excise duty. The input services are in relation to the manufacturing activity as also trading activities. As far as input services which are exclusively used in the manufacturing activity at Roha plant, appellants are taking credit and there is no dispute. However, there are services which are used both in trading and manufacturing, and it is not possible to segregate the invoices/usewise. The case of the Revenue is that the appellant-company is not entitled to take entire credit of input services in such cases but would be eligible to take credit based upon the turnover of manufacturing and trading. Appellant submitted that rule 6(3D) of CCR, 2004 should given retrospective effect. Cenvat credit on common input services should be computed on the basis of trading turnover after deducting cost of goods sold and turnover of manufactured goods, though period involved is prior to 01.04.2011.

Held: For period prior to 1-4-2011, trading is not a service and hence services used in trading cannot be considered as input services and therefore, credit taken on common input services has to be disallowed/reversed based upon trading turnover and manufacturing turnover. The Hon'ble Tribunal relying on the judgment in the case of Mercedes Benz reported in 2014-TIOL-476 held that trading was not a service and therefore, cannot be considered as an exempted service during the period prior to 1.4.2011 and the amended provision with effect from 1.4.2011 will not have retrospective effect. The Hon'ble Tribunal also held that benefit of Rule 6(5) of CCR, 2004 for common input service used for both manufacturing and trading activity would not be available.

5. Future Gaming & Hotel Services (P.) Ltd. v. Union of India - [2015] 62 taxmann.com 238 (SIKKIM)

Facts: The Petitioners are aggrieved by the enforcement of the provision of Finance Act, 1994, as amended by the Finance Act, 2015, upon them with effect from 01-06-2015. Service providers in respect of services provided by lottery distributors and selling agents were amenable to service tax as prescribed under Sub-Rule (7C) of Rule 6 of the Service Tax Rules, 1994. It is the case of the Petitioners that the amended provisions of the Finance Act, 1994, as a consequence of the Finance Act, 2015, do not cover the activities of the Petitioners which involve purchase and sale of lotteries. The Petitioners involve purchase of lottery tickets in bulk from the State Government and selling them to stockists, resellers, etc., by adding a profit margin. The stockists, resellers, etc., in turn sell these tickets to retailers which in turn sell them to the ultimate participants of the draw. It has been stated that the transaction by which tickets are sold to the Petitioner-Companies by the Government of Sikkim is one of sale and purchase of lottery tickets and not one of rendering services.

Held: The Hon'ble Sikkim High Court analysing its judgment of 2015 and 2014 in petitioners own case, held " Thus, as we find no change in the circumstance by introduction of the new provisions by the Amendment Act of 2015 from that which existed earlier in Future Gaming case 2015 (supra) and Future Gaming case 2014 (supra), we have no hesitation to hold that the findings of this Court in Future Gaming case 2014 (supra) still continue to hold good. The activity carried out by the Petitioners in relation to promotion of marketing, organising, selling of lottery or facilitating in organising lottery of any kind in any other manner, would clearly not fall within the meaning of 'service' as provided under Clause (44) of Section 65B as the two essential elements (a) that the activity should be carried out by a person for another and (b) that such activity should be for a consideration, are unmistakably lacking. With respect to Sub-Rule (7C) of Rule 6 of the Service Tax Rules, 1994 which requires the Petitioners to pay service tax, the Hon'ble Court held " In Future Gaming case 2014 (supra) we have held that Sub-Rule (7C) of Rule 6 only provides on optional composition scheme for payment of service tax which by itself does not create a charge of service tax and that this Rule is only a piece of Subordinate Legislation framed under the rule making power provided in the Finance Act, 1994 and, therefore, in view of the position of law that Subordinate Legislation cannot be override the statutory provisions, Sub-Rule (7C) of Rule 6 cannot go beyond the provision of the Finance Act, 1994". The Hon'ble Court further observed that an explanation cannot enlarge the scope of provision and thus the main object of Section 66D is to exclude actionable claim which includes lottery is set to naught by Explanations.

UPDATES ON SERVICE TAX

Compiled by CA Bhavin Mehta

1) **CBEC** *vide* **its Circular No. 1009/16/2015CX New Delhi, dated the 23rd October, 2015** superseding earlier circulars has issued fresh guidelines for launching of prosecution under the Central Excise Act, 1944 and Service Tax governed by the Finance Act, 1994. Prosecution can now be launched where evasion of Central Excise duty or Service Tax or the misuse of Cenvat Credit is equal to or more than rupees one crore. In other words, monetary limit for prosecution is increased from rupees fifty Lakh to One crore.

   Offences related to Service Tax are given below:

   (i) Knowing evades the payment of service tax;

   (ii) Avail and utilises credit of taxes or duty without actual receipt;

   (iii) Maintains false books of account, fails to supply information or supplies false information;

   (iv) Collects any amount as service tax but fails to pay the amount so collected.

   Criminal Complaint can be filed only after obtaining sanction from Principal Chief/Chief Commissioner of Central Excise or Service Tax, as the case may be. Prosecution should not be launched regarding interpretation of law.

   In addition to revising the monetary limits for launching of prosecution CBEC issued **Circular No. 1010/17/2015CX New Delhi, dated the 23rd October, 2015** where in it has been decided to revise monetary limits for arrests in Central Excise and Service Tax. Central Excise Circular No. 974/08/2013CX and Service Tax circular no. 171/6 /2013ST both dated 17/09/2013 stands amended accordingly.

2) **Notification No. 19/2015 Service Tax, dated 14th October, 2015:** Circular No. 180/06/2014–ST dated 14th October, 2014 provides services provided by Indian Bank or any other entity acting as an agent to the MTSO in relation to remittance of foreign currency from outside India to India would be taxable from 01.07.2012. Now, the Central Government has given an exemption from paying service tax on the services provided by an Indian Bank or other entity acting as an agent to the Money Transfer Service Operators from the 1st day of July, 2012 and ending with the 13th day of October, 2014.

3) **Notification No. 20/2015 Service Tax, dated 21st October, 2015 amends entry 29 (g) and inserted 'Yoga' as charitable activity in mega exemption Notification No.25/2012-ST:** Grants exemption from levy of service tax with respect to Jan Dhan Accounts opened in rural areas. Thus services of business facilitator (BF) or a business correspondent (BC) to a banking company or services of any person as intermediary to a BF or BC, with respect to a Basic Savings Bank Deposit Account covered by Pradhan Mantri Jan Dhan Yojana in the banking company's rural area branch, by way of account opening, cash deposits, cash withdrawals, obtaining e-life certificate, Aadhar seeding would be exempted from service tax levy.

   However, services of business facilitator or a business correspondent to banking company for other than above services in rural area, namely intermediary services as prescribed in RBI circular No.RBI/2010-11/217 dated 28.09.2010 other than above, would now be taxable w.e.f. 21.10.2015.

   Here Basic Savings Bank Deposit Account means a Basic Savings Bank Deposit Account opened under the guidelines issued by Reserve Bank of India;

   Now "charitable activities" includes 'Yoga' in addition to 'Religion' and 'Spirituality'. Therefore services by an entity registered under section 12AA of the Income Tax Act, 1961 by way of religion, spirituality and yoga would be exempted from levy of service tax.

4) CBEC *vide* notification 22/2015 Central Excise N.T. dated 29 October 2015: Inserts proviso to Rule 3 (7) of the CENVAT Credit Rules, 2004, so as to allow credit of Education Cess and Secondary Higher Education Cess (S.H.E. cess) of inputs, capital goods, input service to be utilised against output service tax liability w.e.f. 29.10.2015 in following situations:

   1. Education Cess and S. H. E. Cess paid on inputs and capital goods received in the premises of service provider on or after 01.06.2015.

   2. Cenvat credit of balance 50% of Education Cess and S.H.E. Cess paid on capital goods received in the premises of service provider in F.Y. 2014-15

   3. Cenvat credit of education cess and S.H.E. cess paid in respect of Input service of which invoice or other eligible documents specified in rule 9 of CCR, 2004 is received by the service provider on and after 01.06.2015.

      - As regards CENVAT credit balance of Education Cess and S.H.E. Cess lying unutilized as on 31.05.2015 no clarification is issued.
      - If CENVAT credit of education cess and S.H.E. cess on capital goods received in F.Y.2014-15, whether same would get lapsed? No clarification!
      - What about fifty per cent unclaimed CENVAT credit of education cess and S.H.E. cess on capital goods received prior to F.Y. 2014-15? No clarification!

FORTHCOMING EVENTS

1. WORKSHOP ON DIRECT TAXES

VENUE : Conference Hall, N. L.College, S. V. Road, Malad West, Mumbai

DATE, DAY & TIME			TOPIC	SPEAKER
05.12.15 Saturday 5pm to 8pm	a	5.00 pm to 6.25 pm	Section 40(a), AIR additions of mismatch of income, Section 14A	CA Ashok Mehta
	b	6.35 pm to 8.00 pm	Presumptive Taxation 44AD & 44AE	CA. Paresh Vakharia
06.12.15 Sunday 10am to 1pm	a	10.00 am to 11.25 am	Appeals proceedings before CIT Appeals	Ajay Singh, Adv.
	b	11.35 am to 1.00 pm	Tax Planning for through HUF & Family Settlement	Vipul Joshi, Adv.
12.12.15 Saturday 5pm to 8pm	a	5.00 pm to 6.25 pm	Reassessment	CA. Mahendra Sanghvi
	b	6.35 pm to 8.00 pm	Issues under Section 195	CA. Naresh Ajwani
13.12.15 Sunday 10am to 1pm	a	10.00 am to 11.25 am	Issues under Sections 56 to 58, Issues relating to 68 to 69B and Deemed income u/s. 2(22)(e)	CA. Reepal Tralshawala
	b	11.35 am to 1.00 pm	Issues relating to Builders Income including income on unsold stock	CA. Jagdish Punjabi
19.12.15 Saturday 5pm to 8pm	a	5.00 pm to 6.25 pm	Issues under TDS/TCS including TDS on Real Estate Transactions	CA. Atul Suraiya
	b	6.35 pm to 8.00 pm	Capital Gains vs. Business income relating to Shares & Securities etc.	Mandar Vaidya, Adv.
20.12.15 Sunday 10am to 1pm	a	10.00 am to 11.25 am	Capital Gain Related to Real Estate Transactions/Impact u/s. 50C including exemptions u/s. 54, 54F & 54EC	Rahul Hakani, Adv.
	b	11.35 am to 1.00 pm	Recent Important decisions on Direct Taxes	CA. Rajesh Kothari
Fees for members : ₹ 2,250/-, For Non-Members ₹ 3,250/-				

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2. 3rd Study Circle Meeting

SUBJECT	IMPORTANT ASPECT OF VAT APPLICABLE TO VAT AUDIT
SPEAKER	CA Vikram Mehta
DAY & DATE	Sunday, 27th December, 2015
TIME	10.00 a.m. to 1.00 p.m.
VENUE	SNDT College, Liberty Garden, Malad-(W), Mumbai-400 064.

With Regards

≈ TEAM MCTC ≈

TEAM MCTC

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