



**The Malad  
Chamber of  
Tax  
Consultants**

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# MCTC Bulletin

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## President's Communiqué

Dear Members,

कक्षादत्योवधं गृह्यते

In English it translates to "Medicines can be obtained, even from a dried forest."

In other words "Wise men don't just wait for opportunities to arrive, they turn available resources into an opportunity".

" .... The world is in turmoil...." RBI Governor. "Keep vigil on Global Crisis."

Please ensure that your hard earned money is parked or invested in such a way that you can liquidate and utilise when required. In days of turmoil, gold is one of the best bet.

There is an urgent need to address some of the issues. One of the important issues is sexual harassment in offices. Request all members to take utmost care to address this issue while discharging their professional duties. Do ensure safety of all our daughters, sisters and colleagues in our offices. Do ensure that nobody is troubling them.

After doing hectic compliance work, we must also give our attention to Tax Planning or Business Planning or defining a business structure. While planning we need to be extremely careful about applicability of all taxes, duties locational tax breaks, etc. I call upon experts who are already into this field to take up a session on the subject.

**Happy Ganesh Chaturthi & Micchami Dukkadam**

Thank you.

**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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## RECENT JUDGMENTS UNDER SERVICE TAX

Compiled by CA Sunny Kachalia

### 1. Whether GTA services used for export of goods is available as refund if LR did not contain details of export invoices

**Facts in brief:** Appellant is an exporter of iron ore fines and had filed refund claim of Service Tax of ₹ 6,19,395/- on account of input services used for export of goods as per Notification No. 41/2007-ST as amended. The adjudicating authority had allowed ₹ 1,89,961/- from the said claim but rejected the claim of ₹ 4,18,421/- on GTA services.

On filing appeal to Commissioner (Appeals), refund on GTA services was not sanctioned since the export invoices numbers were not mentioned in the lorry receipts and the shipping bills as required under Notification 14/07-ST as amended. Being dissatisfied, appellant filed an appeal to CESTAT.

**Held:** CESTAT held that there is no dispute that the goods have been exported. The only objection Revenue has taken is that the invoices did not contain the necessary details and same have been given subsequently. No doubt the requirements, the receipt issued by the courier agency should contain are specified. However, there is no bar to provide these details separately in case the original receipt did not contain these details. In such a case Revenue would be free to insist on verification and refund can be granted only after verification. As regards the evidence to link the use of courier service, it is not essential that the invoice should contain the linkage. The exporter can produce such evidence later.

Therefore, the rejection of refund claim on these grounds is not correct. Accordingly, the matter is remanded to the Original Adjudicating Authority who will be free to verify the correctness of the details submitted by the appellants and also verify whether there is a proper linkage or not and consider the refund claim afresh. Accordingly, the matter is remanded back to the Original Adjudicating Authority for verification of the claim of the appellant on the use of GTA service in the export of goods by establishing a link between the lorry receipt and the export invoices and also the export invoices and shipping bills.

*(M/s. Tulip Mines Pvt. Ltd. Versus CCE, C&ST, BBSR-II 2015 (9) TMI 475 – CESTAT KOLKATA)*

## DIRECT TAXES – LAW UPDATE

Compiled by CA. Haresh P. Kenia

### SECTION 14 OF THE WEALTH-TAX ACT, 1957 – RETURN OF WEALTH – CLARIFICATION ON EXTENSION OF DUE DATE OF FILING RETURN OF WEALTH FOR AY 2015-16

LETTER [F. NO. 328/08/2015-WT], DATED 27-7-2015

In terms of Explanation to sub-section (1) of section 14 of the Wealth-tax Act, 1957, 'due date' of filing Return of wealth in relation to an assessee under the Wealth-tax Act shall be the same date as that applicable to an assessee under the Income-tax Act under the Explanation to sub-section (1) of section 139 of the Income-tax Act. Central Board of Direct Taxes *vide* order under section 119 of the Income-tax Act F. No. 225/154/ 2015/ITA-II dated 10-6-2015 has extended the 'due date' for filing Return of Income for assessment year 2015-16 in respect of assessee falling under clause (c) of Explanation 2 to sub-section (1) of section 139 of the Income-tax Act from 31-7-2015 to 31-8-2015. In view of the same, the 'due date' for filing Return of wealth by such assessee for assessment year 2015-16 also stands extended from 31st July, 2015 to 31st August, 2015.

### INCOME-TAX (TENTH AMENDMENT) RULES, 2015 – SUBSTITUTION OF FORMS ITR-3, ITR-4, ITR-5, ITR-6 AND ITR-7

NOTIFICATION NO. 61/2015 [F. NO. 142/1/2015-TPL]/SO 2070(E), DATED 29-7-2015

In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. These rules may be called the Income-tax (Tenth Amendment) Rules, 2015.
2. They shall be deemed to have come into force with effect from the 1st day of April, 2015.

3. In the Income-tax Rules, 1962, in Appendix-II, New FORM ITR-3, FORM ITR-4, FORM ITR-5, FORM ITR-6 and FORM ITR-7 shall be substituted for old forms.

• **INCOME-TAX (ELEVENTH AMENDMENT) RULES, 2015 – INSERTION OF RULES 114F, 114G, 114H AND FORM 61B**

**NOTIFICATION NO. 62/2015 [142/21/2015-TPL]/2155(E), DATED 7-8-2015**

The Central Government with respect to registration of persons, due diligence and maintenance of information, and the Board for matters relating to statement of reportable accounts has made the above amendment. Details of the amendment can be obtained from above citation.

• **SECTION 90 OF THE INCOME-TAX ACT, 1961 – DOUBLE TAXATION AGREEMENT – AGREEMENT FOR EXCHANGE OF INFORMATION WITH REGARD TO TAXES WITH FOREIGN COUNTRIES – SAN MARINO**

**NOTIFICATION NO. 63/2015 [F.No. 500/02/2003-FTD-I], DATED 12-8-2015**

An agreement (hereinafter referred to as the said agreement) between the Government of the Republic of India and the Government of the Republic of San Marino for the exchange of information with respect to taxes was signed at Rome, on the 19th day of December, 2013. The date of entry into force of the said agreement is the 29th day of August, 2014, being the date of the later of the notifications of completion of the procedures as required by the respective laws for entry into force of the said agreement in accordance with paragraph 1 of Article 11 of the said agreement. Paragraph 2 of Article 11 of the said agreement provides that the agreement shall enter into force on the date of later of the notifications and shall thereupon have effect forthwith. Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby directs that all provisions of the said agreement between the Government of the Republic of India and the Government of the Republic of San Marino on the exchange of information with respect to taxes, as set out in the said agreement annexed hereto, shall have effect in the Union of India from the 29th day of August, 2014.

• **INCOME-TAX (TWELFTH AMENDMENT) RULES, 2015 – INSERTION OF RULE 126**

**NOTIFICATION NO 70/2015 [F.NO. 142/12/2015-TPL]/SO 2240(E), DATED 17-8-2015**

In exercise of the powers conferred by Explanation 2 to clause (1) of section 6 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. (1) These rules may be called the Income-tax (Twelfth Amendment) Rules, 2015.
- (2) They shall come into force with retrospective effect from the 1st day of April, 2015.
2. In the Income-tax Rules, 1962, in Part XV, after rule 125, the following rule shall be inserted, namely:—

'126. *Computation of period of stay in India in certain cases.*—(1) For the purposes of clause (1) of section 6, in case of an individual, being a citizen of India and a member of the crew of a ship, the period or periods of stay in India shall, in respect of an eligible voyage, not include the period computed in accordance with sub-rule (2).

(2) The period referred to in sub-rule (1) shall be the period beginning on the date entered into the Continuous Discharge Certificate in respect of joining the ship by the said individual for the eligible voyage and ending on the date entered into the Continuous Discharge Certificate in respect of signing off by that individual from the ship in respect of such voyage.

*Explanation:* For the purposes of this rule,—

- (a) "Continuous Discharge Certificate" shall have the meaning assigned to it in the Merchant Shipping (Continuous Discharge Certificate-cum-Seafarer's Identity Document) Rules, 2001 made under the Merchant Shipping Act, 1958 (44 of 1958);
- (b) "Eligible voyage shall mean a voyage undertaken by a ship engaged in the carriage of passengers or freight in international traffic where –
  - (i) For the voyage having originated from any port in India, has as its destination any port outside India; and
  - (ii) For the voyage having originated from any port outside India, has as its destination any port in India.'

**2ND STUDY CIRCLE MEETING HELD ON 5-9-2015**



Felicitation of Learned Speaker CA Himanshu Kisanadwala



Learned Speaker CA Himanshu Kisanadwala addressing the audience



Introduction of Learned Speaker CA Vinod Jain



Learned Speaker CA Vinod Jain addressing the audience



Participants of Study Circle



Participants of Study Circle

**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.

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