



**The Malad  
Chamber of  
Tax  
Consultants**

MNW/175/2015-17

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# MCTC Bulletin

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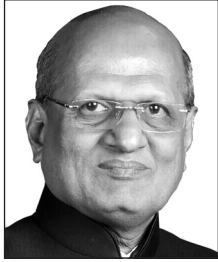
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**Vol. 1, No. 9**

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**April, 2015**



## President's Communiqué

Dear Members,

I wish you all a very Happy, prosperous and prospective financial year 2015-16.

New financial year 2015-16 had arrived with new challenges for us and I hope that all members are ready and equipped to cope with the changes.

Let me inform you that workshop on "MVAT Act, Service Tax & Allied Laws" for the year 2014-15 jointly organised by AIFIP (WZ), BCAS, CTC, STPAM and WIRC of ICAI which was postponed will now be inaugurated on 18th April, 2015 at STPAM renovated Library Hall, R. No. 104, Vikrikar Bhavan, Mazgaon and will be followed by numbers of session till 11th July, 2015. Each session will be conducted by the prominent speakers. The full details of Subjects, Speakers & schedule along with Enrolment Form have been given in this Bulletin. All the members are requested to take maximum benefit of said workshop.

Now that the hectic schedule for month of March has passed, for all members, April is a breather month to enjoy their vacation but as tax practitioners, there is not going to be any such vacation.

Month of April is again going to be a hectic and tremendous pressure month as TDS & Form 15H-G compliances are required to be done as well MVAT payments of all periodicity are required to be done before 21st April and 30th for dealers as applicable. After making necessary payments, we have to sort dealers' list that those under audit their returns are to be uploaded before 1st May for monthly and quarterly dealers and before 10th May for six monthly dealers.

Now after the completion of hectic month of April, we are planning to hold Study Circle Meeting in the month of May. The details of the same will be communicated at the earliest possible.

With warm regards,

**Kishor Hapani**

*President*

*Wish you all very Happy "AKSHAYA TRITIYA"*

**Team MCTC**

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

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<b>Adarsh S. Parekh</b>	<i>Hon. Secretary</i>	28094049 9869105103	<a href="mailto:asparkhca@yahoo.co.in">asparkhca@yahoo.co.in</a>

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

## DIRECT TAXES – LAW UPDATE

*Compiled by CA. Haresh P. Kenia*

- **Sukanya Samriddhi Account–notified for the purpose of under section 80C. [229 Taxman (st) 1]**  
 The Central Government *vide* Notification No. 9/2015 dated 21/1/2015 in exercise of the power u/s. 80C(2)(viii) of the Income-tax Act specifies the “Sukanya Samriddhi Account” for the purpose of said clause.
- **Good Governance Day – Instructions on observance of Wednesdays as a Public Hearing Day for Hearing Public Grievances [229 Taxman (st) 1]**  
 Office Memorandum dated 6/1/2015 – The Principal Chief Commissioners/Director Generals of Income-tax has been requested to instruct all officers and staff under their cadre control to observe ‘Public Meeting Day’ during 10.00 AM to 1.00 PM every Wednesday w.e.f. 7/1/2015 to listen to and to try and resolve the grievances of the members of the public.  
 A suitable feedback mechanism shall also be put in place by each cadre controlling Principal Chief Commissioner/ Director General of Income-tax for offices under his control to record the number of grievances attended to and solved on every ‘public meeting day’, and to identify the deficiencies with a view to suggesting systemic changes required to avoid recurrence of delays in redressal of grievances.
- **Section 80GGB – Deductions – Contribution by companies to Political Parties [229 Taxman (st) 21]**  
 Press Release dated 11/2/2015 – Income Tax Department had initiated investigation into issuance of cheques by companies which are acting as entry operators to convert illegal cash into legitimate money. Recently in Kolkata, this investigation led to detection of substantial unaccounted income. In these cases, the unaccounted income was sought to be converted into legitimate money with the help of non-genuine companies which were acting as entry operators.  
 Similarly and based on media reports, enquiry was initiated in Delhi into issuance of cheques by companies which were alleged to be non-genuine and entry operators. The companies and their Directors could not be traced at the addresses given to Banks and Ministry of Corporate Affairs. Examination of the accounts of these companies revealed that they have issued accommodation entries to several persons and entities for substantial amounts. It was also found that resources for such entries were *prima facie* not genuine. To carry forward the investigation process, notices were issued to about 50 persons and entities including two political parties on 9th February, 2015. These notices seek information about the identity of the contributors and other relevant details which are necessary to complete the process of investigation.
- **Commodities Transaction Tax – Agriculture Commodities [229 Taxman (st) 23]**  
 The Central Government *vide* Notification No. 13/2015 dated 10/2/2015 gives Commodity Transaction Tax (First Amendment) Rule, 2015. It amends Commodity Transaction Tax Rules, 2013. It substitutes Rules 3 with regard to agriculture commodities. The newly substituted Rule 3 specifies the various commodities being agriculture commodities for the purpose of clause (7) of section 116 of the Act.  
 The readers are requested to also go through the corrections made by Notification No. 18/2015 dated 18/2/2015.
- **Section 279 – Offences and Prosecution – Guidelines for Compounding of Offences under Direct Tax Laws, 2014. [229 Taxman (st) 25]**  
 The existing guidelines on compounding of offences under Income-tax Act, 1961 have been reviewed and in supersession of the same, including the guidelines issued *vide* F. No. 285/90/2008-IT(Inv.)/12 dated 16/5/2008, the following guidelines are issued for compliance by all concerned. These guidelines shall come into effect from 1/1/2015 and shall be applicable to all applications for compounding received on or after the aforesaid date.  
 Section 279(2) of the Act provides that any offence under Chapter XXII of the Act may, either before or after the institution of proceedings, be compounded by the CCIT/DGIT. As per section 2(15A) and 2(21) of the Act, Chief Commissioner of Income-tax includes Principal CCIT and Director General of Income-tax includes Principal DGIT.  
 The brief features of the guidelines are as under:-

  - Applicability of these guidelines to prosecutions under IPC
  - Compounding is not matter of right
  - Classification of Offences
  - Eligibility Conditions for compounding
  - Offences generally not to be compounded

- Finance Minister may relax the restrictions for compounding of an offence in deserving case, on a consideration of a report from the board on the petition of the applicant.
  - Authority component to compound an offence.
  - Compounding procedure
  - Fees for compounding
  - Compounding charges
  - Applicability of guidelines to offence under other Direct Tax Laws
- **Finance (No. 2) Act, 2014 [ 229 Taxman (st) 45]**  
The CBDT Circular No. 1/2015 dated 21/1/2015 gives the amendment of a glance and explanatory notes to the provision of Finance (No. 2) Act, 2014. The Finance (No. 2) Act, 2014 as passed by the Parliament, received the assent of the President on the 6th day of August 2014 and has been enacted as Act No. 25 of 2014. This circular explains the substance of the provisions of the Act relating to direct taxes.

## RECENT JUDGMENTS UNDER SERVICE TAX

*Compiled by CA Sunny Kachalia*

### 1. Outdoor catering services—circumstances wherein credit can be claimed

#### Facts in brief

The Company is a service provider under the category of 'Banking and Other Financial Services' and 'Business Auxiliary Services'. The Company availed CENVAT Credit towards the outdoor catering services. Revenue contended that the Credit pertaining to the said services should be ineligible and hence, issued a show cause notice to demand the same along with interest from the Company.

With respect to the said allegation, the Company contended that the CENVAT Credit cannot be denied for the said services since outdoor catering services is an essential service without which output service cannot be provided by employees by relying on the following judgments which stated that employees of the assessee are its precious input in providing its output services and without the availability of employees, there cannot be any manufacturer or output service:

- *Ultratech Cement Ltd 2010 – TIOL-745-HC*
- *Heartlan Bangalore Transcription Ser. (P) Ltd. vs. CST, Banguluru 2011(201)STR 430 (Tri-Bang.)*
- *CCE vs. GTC Industries Ltd. 2008-TIOL-1634-CESTAT-MUM-LB*
- *M/s. Hindustan Coca Cola Beverages Ltd. vs. CCE, Nashik*

The revenue contended that the reliance placed on the case of Ultratech Cement Ltd is misplaced since in the said case the High Court had taken into consideration that there are more than 250 workers and that it was mandatorily required under the provisions of the Factories Act, 1948 to provide canteen facilities to the said workers. Further, a Tribunal judgment of IFB Factories Ltd. was cited by the Revenue (distinguishing the ruling in case of Bombay High Court in the case of Ultratech Cement Ltd.) which stated that the credit cannot be claimed for the outdoor catering services, since there are less than 250 workers.

#### Held

It has not been held by the Hon'ble Bombay High Court in the case of Ultra Tech Cement Ltd. that outdoor catering service is allowable only in the case of more than 250 workers, as it was mandatorily required under the provisions of the Factories Act, 1948 for providing canteen services. Even the employees of a smaller organisation having less than 250 workers will also be hungry and required to be provided with canteen facility for the employees. Therefore, Cenvat Credit in respect of outdoor catering services shall be allowed and that the ruling in the case of IFB Factories Ltd. have been wrongly interpreted with respect to the provisions of input service.

*(Commissioner of Service Tax, Mumbai – I vs. M/s. Reliance Capital Asset Management Limited 2015-VIL-140-CESTAT-MUM-ST)*

## JUDICIAL JUDGMENTS

Compiled by CA. Dharmen Shah

**Smt. S Uma Devi vs. Commissioner of Income Tax-IV**

**ITAT Hyderabad 'A' Bench - ITA No. 886/Hyd/2010 dated 30.1.2015 – A.Y. 2006-07**

**If investment is made for availing deduction u/s. 54F, the same is held as admissible even if construction/purchase of new house is not completed within stipulated period.**

- Facts**

The assessee had sold land on which capital gains had accrued to her. Thereafter, the assessee had invested the said amount in a house property.

CIT observed that assessee owns more than one residential house on the date of transfer of original asset; deduction u/s. 54F is not allowable. As against, the assessee submitted property owned was a commercial property let out for commercial purposes. The assessee had relied on *P. N. Shukla vs. CIT* (2005) 276 ITR 642, the Allahabad High Court which had held that the nature of the user of the building let out determines the grant or denial of relief envisaged by clause (b) of the second proviso to section 23(1) of the Act.

He also observed that possession of new asset is beyond three years while further denying deduction u/s. 54F.

ITAT observed that ITAT Hyderabad "B" Bench in ITA No. 234/Hyd/2012 (35 taxmann.com 90) has held as follows "Provision contained under section 54F being a beneficial provision has to be construed liberally. In various judicial precedents it has been held that the condition precedent for claiming benefit under section 54F is only that the capital gain realised from the sale of capital asset should be parted by the assessee and invested either in purchasing a residential house or in constructing a residential house. If the assessee has invested the money in construction of residential house, merely because the construction was not complete in all respects and it was not in a fit condition to be occupied within the period stipulated that would not disentitle the assessee from claiming the benefit under section 54F. Once the assessee demonstrates that the consideration received on transfer has been invested either in purchasing a residential house or in constructing a residential house, even though the transactions are not complete in all respects and as required under the law, that would not disentitle the assessee from availing benefit under section 54F. Even investment made in purchasing a plot of land for the purpose of construction of a residential house has been held to be an investment satisfying the conditions of section 54F. Though there cannot be any dispute with regard to the abovesaid proposition of law, the assessee is required to prove the actual date of investment and the amount invested towards purchase/construction of the residential house with supporting evidence".

- Held**

On appeal ITAT held that the assessee was holding one residential house on date of transfer, and while setting aside the issue with respect to possession beyond 3 years directed AO to follow the decision of ITAT in the case of Shri Narasimha Raju (Supra).

## FORTHCOMING EVENTS

Happy to announce Workshop on "MVAT Act, Service Tax & Allied Laws" jointly with AIFTP (WZ), BCAS, CTC, WIRC of ICAI and STPAM to be held from **18th April, 2015 to 11th July, 2015.**

The fees for the Workshop are ₹ 2,248/- (inclusive of Service tax) for members of the above Associations and ₹ 2,809/- (inclusive of Service Tax) for non-members.

Kindly use photocopy of the Enrolment form attached herewith or download from our website [www.mctc.in](http://www.mctc.in)

**Detailed Programme is mailed to members and is available on our website.**

We request all members to take active part in various activities of our Chamber and help us to make every event very successful.

≈ TEAM MCTC ≈

# *Workshop on* **MVAT Act, Service Tax & Allied Laws**

*Organised by*

**THE MALAD CHAMBER OF TAX CONSULTANTS  
Jointly with AIFTP (WZ), BCAS, CTC and WIRC OF ICAI**

**Timing : For Single Lecture Time – 2.30 P.M. TO 5.30 P.M. &  
For Two Lectures Time – 2.00 P.M. TO 5.30 P.M.**

**VENUE : STPAM Library Hall, 1st Floor, R. No. 104, Vikrikar Bhavan, Mazgaon, Mumbai-400 010.**

**Delegates Fees : Member ₹ 2,248/- (incl. of Service Tax)  
Non-Member ₹ 2,809/- (incl. of Service Tax)**

Date & Day	Subject	Speaker (Subject to Confirmation/availability)
18.04.2015 Saturday	Issues in Input Tax Credit w.r.t. Rules 53 and 54 under MVAT Act.	CA. Kiran Garkar
23.04.2015 Thursday	Issues in Taxation of Builders and Developers under MVAT Act.	Adv. Deepak Bapat
	Issues in Taxation of Builders and Developers under Service Tax.	CA. Manish Gadia
25.04.2015 Saturday	Issues in Works Contract Transactions under MVAT & CST Acts.	CA. Mayur Parekh
	Issues in Works Contract Services, Erection & Commissioning Services, etc. under Service Tax.	CA. Vikram Mehta
02.05.2015 Saturday	Issues in Taxation of Intangible Goods & Leasing/ Franchisee Transactions under MVAT and CST Acts.	CA. Sujata Rangnekar
	Issues in Taxation of Intangible Goods & Leasing/ Franchisee Transactions under Service Tax.	CA. Bharat Shemlani
09.05.2015 Saturday	Issues in Branch Transfers, Sales in Transit and High Seas Sales under CST Act.	CA. Rajat Talati
06.06.2015 Saturday	Issues in Interest, Penalties and Show Cause Notices under MVAT and CST Acts.	Adv. Ashvin Acharya
	Issues in Interest, Penalties and Show Cause Notices under Service Tax.	CA. Jayesh Gogri
13.06.2015 Saturday	Issues in Definition of Services, Exempt & Declared Services.	CA. Sunil Gabhawalla
	Issues in Valuation of Services, Abatement & Reverse Charge Mechanism.	CA. Ashit Shah
20.06.2015 Saturday	Issues in Refunds, Audits, Assessments under MVAT and CST Acts.	Adv. C. B. Thakar
27.06.2015 Saturday	Issues in CENVAT Credit Rules under Service Tax.	CA. Naresh Sheth
04.07.2015 Saturday	Constitutional amendments & Overview of GST Act.	Eminent Speaker
	Interstate Transactions under GST	Eminent Speaker
11.07.2015 Saturday	Issues in Place of Provision of Service Rules, 2012.	CA. Girish Raman
	Issues in Point of Taxation Rules, 2011.	CA. Rajiv Luthia

**ENROLMENT FORM***Workshop on* **MVAT Act, Service Tax & Allied Laws**

JOINTLY ORGANISED WITH AIFTP (WZ), BCAS, CTC, STPAM &amp; WIRC OF ICAI

<b>SUBJECTS</b>	<b>VARIOUS SUBJECTS – PLEASE REFER CIRCULAR</b>	
<b>SPEAKERS</b>	<b>EMINENT SPEAKERS – PLEASE REFER CIRCULAR</b>	
<b>Day &amp; Date</b>	<b>FROM 18-4-2015 TO 11-7-2015 – REF. CIRCULAR</b>	
<b>Time</b>	For Single Lecture Time - 2.30 P.M. TO 5.30 P.M. & Jugalbandi lecture Time – 2.00 P.M. TO 5.30 P.M.	
<b>Venue</b>	STPAM Library Hall, 1st Floor, R.No. 104, Vikrikar Bhavan, Mazgaon, Mumbai-400 010.	
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