



**The Malad  
Chamber of  
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# MCTC Bulletin

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

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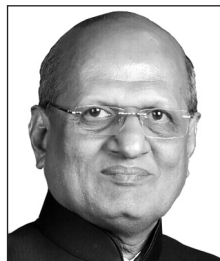
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May, 2015



## President's Communiqué

Dear Members,

As you know that Finance Bill 2015 has proposed lot of changes in existing Provisions, now Finance Bill, 2015 receives President assent on 14th May, 2015 and has become Finance Act, 2015. Now with the enactment of Finance Bill, 2015, changes will be applicable with effect from various dates. The Finance Act, 2015 as published in the Gazette notification is available on our website.

On 18th April, 2015, Joint Workshop "On MVAT Act, Service Tax & Allied Laws" for the year 2014-15 jointly organised by BCA, CTC, STPAM, WIRC of ICAI & MCTC has been inaugurated at STPAM renovated Library Hall. National President of AIFTP Shri J. D. Nankani lighted the lamp and inaugurated the joint workshop in the presence of President/representative of various Associations and participants.

I convey my thanks to all the concerns for their efforts for organising such a workshop to get knowledge to cope up with rapid development in our professional field, having eminent speakers and creating right atmosphere for those who wants to achieve knowledge. This workshop will be followed by numbers of session till 11th July, 2015. full details of subjects, Speakers & schedule have been given in this Bulletin. All the members are requested to take maximum benefits of said workshop.

Let me inform you that - Team STPAM has launched an app "STPAM". Through which you can get regular updates and alerts regarding sales tax and other announcements, one can also check new circulars, notifications etc.. Please down load "STPAM" app from play store, it shall help you to avail update faster. On behalf of MCTC, I congratulate President Shri Sachin Gandhi & Team of STPAM for keeping pace with time of "e" era.

With warm regards,

**Kishor Hapani**  
President

*Never underestimate the power of words  
to heal & reconcile relationships.*

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.

## DIRECT TAXES – LAW UPDATE

*Compiled by CA. Haresh P. Kenia*

□ **SECTION 261 OF THE INCOME-TAX ACT, 1961 – APPEAL TO SUPREME COURT – CONSTITUTION OF BENCH OF SUPREME COURT TO DEAL EXCLUSIVELY WITH TAX MATTERS**

**LETTER [F.NO. 279/MISC./45/2015-SO (ITJ)], DATED 10-3-2015**

A bench has been constituted by the Hon'ble Supreme Court to deal exclusively with Tax matters on all working days which will be functional w.e.f. 9th March, 2015. Shri K.K. Mishra, Addl. DIT (L&R), New Delhi, Phone No. 011-2337 8627 Mobile No. 9212721578 has been designated as Nodal Officer in the Directorate of Legal & Research to deal with all such cases and may be contacted for any clarifications or information.

□ **INCOME-TAX (THIRD AMENDMENT) RULES, 2015 – AMENDMENT IN RULES 10F, 10H, 10-I, 10K, 10M, FORMS 3CEC & 3CED AND INSERTION OF RULES 10MA, 10RA & FORM 3 CEDA**

**NOTIFICATION 23/2015 [F.NO. 142/14/2014-TPL]/SO 758(E), Dated 14-3-2015**

By above amendment the mechanism for rollback of advance pricing agreement has been put in place. Form No. 3CEDA has been inserted as application for rollback of advance pricing agreement.

□ **SECTION 90 OF THE INCOME-TAX ACT, 1961 – DOUBLE TAXATION AGREEMENT – AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION AND PREVENTION OF FISCAL EVASION WITH FOREIGN COUNTRIES – CROATIA**

**NOTIFICATION NO. 24/2015 [F.NO. 501/09/1995-FTD-I], DATED 17-3-2015**

An Agreement and Protocol was entered into between the Government of the Republic of India and the Government of the Republic of Croatia for the avoidance of double taxation and for the prevention of fiscal evasion with respect to taxes on income that was signed on the 12th February, 2014. The date of entry into force of the said Agreement and Protocol is 6th February, 2015. The Central Government hereby directs that all the provisions of the said Agreement and Protocol, shall be given effect to in the Union of India with effect from the first day of April, 2016.

□ **INTRODUCTION OF UNDISCLOSED FOREIGN INCOME AND ASSETS (IMPOSITION OF TAX) BILL, 2015  
CBDT PRESS RELEASE, DATED 20-3-2015**

The Undisclosed Foreign Income and Assets (Imposition of Tax) Bill, 2015 has been introduced in the Parliament on 20.3.2015. The Bill provides for separate taxation of any undisclosed income in relation to foreign income and assets. Such income will henceforth not be taxed under the Income-tax Act but under the stringent provisions of the proposed new legislation. The salient features of the Undisclosed Foreign Income and Assets (Imposition of Tax) Bill, 2015 are as under:-

*Scope* - The Act will apply to all persons resident in India. Provisions of the Act will apply to both undisclosed foreign income and assets (including financial interest in any entity).

*Rate of tax* - Undisclosed foreign income or assets shall be taxed at the flat rate of 30 per cent. No exemption or deduction or set off of any carried forward losses which may be admissible under the existing Income-tax Act, 1961, shall be allowed.

*Penalties* - Violation of the provisions of the proposed new legislation will entail stringent penalties like:

- The penalty for non-disclosure of income or an asset located outside India will be equal to three times the amount of tax payable thereon, i.e., 90 per cent of the undisclosed income or the value of the undisclosed asset. This is in addition to tax payable at 30%.
- Failure to furnish return in respect of foreign income or assets shall attract a penalty of ₹ 10 lakh. The same amount of penalty is prescribed for cases where although the assessee has filed a return of income, but he has not disclosed the foreign income and asset or has furnished inaccurate particulars of the same.

*Prosecutions* - The Bill proposes enhanced punishment for various types of violations like:

- The punishment for wilful attempt to evade tax in relation to a foreign income or an asset located outside India will be rigorous imprisonment from three years to ten years. In addition, it will also entail a fine.
- Failure to furnish a return in respect of foreign assets and bank accounts or income will be punishable with rigorous imprisonment for a term of six months to seven years. The same term of punishment is prescribed for cases where although the assessee has filed a return of income, but has not disclosed the foreign asset or has furnished inaccurate particulars of the same.

The above provisions will also apply to beneficial owners or beneficiaries of such illegal foreign assets.

*One time compliance opportunity* - The Bill also provides a one-time compliance opportunity for a limited period to persons who have any undisclosed foreign assets which have hitherto not been disclosed for the purposes of Income-tax. Such persons may file a declaration before the specified tax authority within a specified period, followed by payment of tax at the rate of 30 per cent and an equal amount by way of penalty. Such persons will not be prosecuted under the stringent provisions of the new Act. It is to be noted that this is not an amnesty scheme as no immunity from penalty is being offered. It is merely an opportunity for persons to come clean and become compliant before the stringent provisions of the new Act come into force.

*Amendment of PMLA* - The Bill also proposes to amend Prevention of Money Laundering Act (PMLA), 2002 to include offence of tax evasion under the proposed legislation as a scheduled offence under PMLA.

❑ **SECTION 9 OF THE INCOME-TAX ACT, 1961 – INCOME DEEMED TO ACCRUE OR ARISE IN INDIA - CLARIFICATION ON EXPLANATION 5 TO CLAUSE (i) OF SUB-SECTION (1) OF SECTION 9**

**CIRCULAR NO. 4/2015 [F.NO. 500/17/2015-FT&TR-IV], DATED 26-3-2015**

It is clarified that the dividends declared and paid by a foreign company outside India in respect of shares which derive their value substantially from assets situated in India would not be deemed to be income accruing or arising in India by virtue of the provisions of Explanation 5 to section 9(1)(i) of the Act.

❑ **AMENDMENT IN RULE 2BB**

**NOTIFICATION 39/2015 [F.NO. 142/02/2015-TPL]/SO 1002(E), Dated 13-4-2015**

Transport allowance exemption limit for employees has been increased from ₹ 800 to ₹ 1,600 per month. In case the employee is blind or orthopedically handicapped with disability of lower extremities the limit is increased from ₹ 1,600 to ₹ 3,200/- per month. The revised exemption limit shall be applicable from Assessment Year 2016-17.



## RECENT JUDGMENTS UNDER SERVICE TAX

*Compiled by CA Sunny Kachalia*

**1. CENVAT credit admissible even if invoice does not contain name of the assessee on the invoice**

**Facts in brief**

Assessee – M/s. Shivraj Cable Network availed CENVAT credit on the invoices which were in the name of M/s. Hemraj Cable Network. The adjudicating authority *vide* order-in-original No. Raigad/DC(S.Tax)29/10-11 dated 29-12-2010 disallowed CENVAT credit amounting to ₹ 68,026/- and also imposed penalties. The appellant preferred an appeal before the Commissioner (Appeals) who upheld the order of the adjudicating authority.

Assessee contended that name on the input invoices were mentioned wrongly by the service provider and it was a typographical error on the part of service provider. Assessee submitted that the services were received by them, payment was made by them to the service providers, and the same was also accounted in the books. With regard to the error, assessee sent letter to the service provider to rectify the name on the invoices which was accepted and certified by the service provider as the error was on their part.

Reference was made to the proviso to Rule 9(2) of CENVAT Credit Rules, 2004 which states that even if duty paying documents does not contain all the particulars, if AC/DC is satisfied that the goods or services covered by the said documents having received and accounted for in the books of account of the receiver, he may allow CENVAT credit.

Held: The incorrect name on the input invoices is due to clerical error on part of the service provider and based on the documents submitted it is evident that the services are availed by the assessee and as per provisions of Rule 9(2) of CENVAT Credit Rules, 2004, credit should be admissible. Accordingly impugned order of Commissioner (Appeals) was set aside and appeal filed by the assessee was allowed.

*(Shivraj Cable Network vs. Commissioner of Central Excise, Raigad 2015 (5) TMI 210 CESTAT Mumbai)*

## JUDICIAL JUDGMENTS

Compiled by CA. Dharmen Shah

**M/s. Chennai Properties & Investments Ltd. vs. The Commissioner of Income Tax Central III, Tamil Nadu  
Supreme Court – Civil Appeal No. 4494 of 2004 dated 09-04-2015**

**Factors determining income from letting of properties is assessable as “Profits and gains from business” or “Income from house property”**

### ▪ Facts

The appellant-assessee, a company incorporated under Companies Act having its main objective stated in Memorandum of Association to acquire the properties in the city of Madras and to let out those properties. The above company had earned rental income and declared the same under business income.

According to A.O., since the income being in nature of rental income the same should be treated as Income from house property instead of business income. Aggrieved by the said order, the assessee filed appeal before CIT (Appeals) who allowed the same holding it to be income from business and thereby directed to be treated such and taxed accordingly. Aggrieved by the said order, the department filed appeal before ITAT which declined to interfere and dismissed the appeal. The department then approached the high court which allowed the appeal and held that such rental income in the present case will be income from house property only relying on judgment *East India Housing and Land Development Trust Ltd. vs. Commissioner of Income Tax, West Bengal* [(1961) 42 ITR 49] as well as the Constitution Bench judgment of this Court in *Sultan Brothers (P) Ltd. vs. Commissioner of Income Tax* [1964 (5) SCR 807].

### ▪ Held

Hon. Supreme Court while holding that the rental income is rightly disclosed under business income referred to following judgments :

1. In case of judgment of 'East India Housing and Land Development Trust Ltd' relied on by High Court, the main object of the company was buying and developing properties and promoting, developing markets. It had so happened some shops developed were rented out and hence such income was treated as income from house property resting its decision in the context of main objective of the company and took note of the fact that letting out of the property was not the object of the company at all.
2. The Court referred to judgment of *'Karanpura Development Co. Ltd. vs. Commissioner of Income Tax, West Bengal'* [44 ITR 362 (SC)] wherein department had taken a contrary view with respect to rental income and an identical case has arisen in the present case.

Hon'ble Supreme Court further held that,

1. A mere entry in the object clause showing a particular object would not be the determinative factor to arrive at an conclusion whether the income is to be treated as income from business and such a question would depend upon the circumstances of each case, viz., whether a particular business is of letting or not.
2. Each case has to be looked at from a businessman's point of view to find out whether the letting was the doing of a business or the exploitation of his property by an owner. We do not further think that a thing can by its very nature be a commercial asset. A commercial asset is only an asset used in a business and nothing else, and business may be carried on with practically all things. Therefore, it is not possible to say that a particular activity is business because it is concerned with an asset with which trade is commonly carried on. There is nothing to support the proposition that certain assets are commercial assets in their very nature;
3. Where there is a letting out of premises and collection of rents the assessment on property basis may be correct but not so, where the letting or sub-letting is part of a trading operation. The dividing line is difficult to find; but in the case of a company with its professed objects and the manner of its activities and the nature of its dealings with its property, it is possible to say on which side the operations fall and to what head the income is to be assigned.



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

*Organised by*

**THE SALES TAX PRACTITIONERS' ASSOCIATION OF MAHARASHTRA,  
Jointly with AIFTP, BCAS, CTC, WIRC OF ICAI & MCTC**

<b>Timing</b>	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.	
<b>Venue</b>	STPAM Library Hall, 1st Floor, R.No. 104, Vikrikar Bhavan, Mazgaon, Mumbai- 400 010.	
<b>Delegates Fees</b>	Member ₹ 2,248/- (Incl. of Service Tax), Non-Member ₹ 2,809/- (Incl. of Service Tax)	
<b>Date &amp; Day</b>	<b>Subject</b>	<b>Speaker</b> (Subject to Confirmation/availability)
18-4-2015 Saturday	Issues in Input Tax Credit w.r.t. Rules 53 and 54 under MVAT Act.	CA. Kiran Garkar
23-4-2015 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
25-4-2015 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 Thakkar
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

## ARE YOU EATING RIGHT ?

Dr. Vinod Birajdar & Dr. Chanda Birajdar

***“Mom, I just don’t get time to eat”  
“Doctor, Nashta...? usually I skip it”  
“I have my breakfast at 12 Noon”***

***“I eat only at 12.30 pm... then the whole day I don’t feel to eat”***

This and that... Many complaints and comments on food every day I get to hear in my clinic. Food, Cloth and Shelter... these are our basic needs,

And we learn it at school level. Food comes first. To survive we need food and for healthy life we have to eat healthy and timely. But people

Are so busy in earning or in household work (specially ladies), they feel Feeding themselves is secondary. And this mentality leads to diseases.

Ayurveda says in Sanskrit “Roga Sarvepi Mandegnau” means majority of the diseases generate in abdomen.

Any machine to run, needs some kind of energy, similarly human body needs energy which is derived from food. Listen to your Body and mind – and eat whenever and whatever they demand. Don’t listen to your tongue demands.

People usually ask me, what they should eat. Well, friends –

- Eat freshly cooked food
- Eat homemade food
- Always have breakfast till 9 am. Lunch between 1 and 2 pm, snacks at 5 pm and dinner before 9 pm. Half an hour here and there will do.
- Don’t start your day with dry breakfast. Eat something like Poha, Upma, Thepla, Shira, Daliya, Roti, Rice etc.
- Lunch should content proteins like Dal, Grains, Besan or Non-veg. Followed by buttermilk.
- Evening Snacks will include laddu, chikki, khakara, homemade chivda, Gudpapadi etc.
- Dinner should be light including khichadi, Pulav, Dal-rice, or Jowar-Bajra, Rice bhakri. Starter may include Veg or Non-veg soup.

- Don't drink plenty of water, especially with meals. Don't start and end your day with large quantity of water. That disturbs digestion and causes cough, cold and breathlessness.
- Don't have milk with food and fruits.
- Don't drink tea or coffee with meals. It disturbs iron absorption.
- Never have aerated drinks. They contain acids and about 16 teaspoon sugar per 200 ml. It causes dehydration.
- Minimise salt intake. Salt is hygroscopic. It retains water in body leading to weight gain, Hypertension and kidney troubles.
- Roadside food (specially Chinese (?)) is harmful leading to bowel disturbances, Bone Softening and even to fatal diseases like cancer.
- Eat fresh seasonal fruits and dry fruits timely between three large meals.
- Exercise regularly. Walking without cellphone is best, listen to nature while Walking.
- Entertain Yourself with reading or with some social activities. Don't addict Yourself with T.V. or social Medias. (like facebook and Whatsapp)
- And recollect the phrase we learn from childhood

"Early to bed and early to rise, is the way to be right combination of food Healthy Wealthy and Wise." So eating at right time, with good emotions is the key to live healthier life.

#### **Guidelines for Healthy eating**

- 1) Maintain a peaceful attitude during meals.
- 2) If you are upset or angry, wait and let the mind to calm down before you eat.
- 3) Do not eat food that is too hot, nor too cold, because this will upset the stomach.
- 4) Foods are best when cooked lightly; overcooking robs them of their nutritional value.
- 5) The secret of being healthy and happy is always to be a little hungry. Do not overload your stomach.
- 6) Refrain from eating in between meals.

Compiled by  
**Ashwin Tanna**



**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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