



**The Malad
Chamber of
Tax
Consultants**

MNW/175/2015-17

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MCTC Bulletin

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

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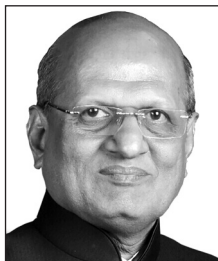
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June, 2015



President's Communiqué

Dear Members,

As I pen down my last communiqué as President, it's time to handover and say good-bye.

Friends on 3rd August, 2014 in the last AGM, I took over the charge as President of this esteem Chamber to serve collectively with my entire Team over the year.

Since then I have learned and grown a lot. The interaction with members at various Study Circle Meetings, seminars, forums has enhanced my knowledge and experience. I have enjoyed communicating through this page for last one year. I thank each one of you for your whole hearted support in discharging my duties.

I would like to thank all the co-opted members, Special Invitees and all the Past Presidents for their valuable suggestions and guidance throughout the year. My special thanks to the Editor Shri Kishorbhai Vanjara for correcting and editing the News Bulletin in very short time. I am also thankful to all the speakers of the Study Circle Meetings, seminars, column writers of the news bulletins and all the concerned for their valuable contribution and time.

To run the activities of the Chamber, it is not a single person's job. It's a team work. Without the support of whole Managing Committee, it would not be possible for me to achieve the goal of our Chamber. I am very much thankful to all Managing Committee members and office bearers who helped me through the year untiringly.

On 28th June, 2015, we have organised a Study Circle meeting on the topics - Recent 'E' Registration procedure under MVAT Act, Recent Amendments under MVAT Act, PT Act & Entry Tax Act & Other allied subjects. For details please refer Forth Coming Events in this bulletin.

Further, I request you all to kindly attend 36th Annual General Meeting scheduled to be held on Sunday, 19th July, 2015.

Lastly, my Best Wishes to the new Team and I promise to extend my whole hearted support to the new Team and give the best possible what I can give for the Chamber in future.

Thank you for this amazing journey, for opportunities to meet, work, speak and share with so many of you. I will be forever yours.

With warm memories that I will always cherish,

Kishor Hapani

President

Spent your life with people who bring out the Best in you.

Team MCTC

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

Name	Designation	Contact No.		E-mail
Kishor J. Hapani	<i>President</i>	28881568/28890845	9820438125	kishor_hapani@rediffmail.com
Jayprakash M. Tiwari	<i>Vice President</i>	28835364	9820496297	jmt@jmtco.in
Utpal V. Patel	<i>Hon. Treasurer</i>	28071408	9892099551	utpal_pats@hotmail.com
Vipul M. Somaiya	<i>Hon. Secretary</i>	28828855/28828844	9223418790	vipul@somaiyaco.com
Adarsh S. Parekh	<i>Hon. Secretary</i>	28094049	9869105103	asparkhca@yahoo.co.in

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

DIRECT TAXES – LAW UPDATE

Compiled by CA. Haresh P. Kenia

❑ **Definition of Income – LPG subsidy and other welfare subsidies – Provision in Finance Bill – 2015. [231 Taxman (st) 14]**

The CBDT notified ICDS on 31/3/2015 *vide* Notification No. S.O. 892(E) and the draft was placed in the public domain. The ICDS is applicable to person having income chargeable under the head “Profit and gains of business or profession” or “Income from other sources” and following mercantile system of accounting this is not applicable to Individuals not having any income chargeable under the head “Profit and gains of business or profession” and receiving LPG subsidy or any other subsidy which is for the welfare of the Individual.

The Finance Bill, 2015 proposes to align the definition of income with that provided in ICDS for this purpose. The certain doubts have been raised about the applicability of the official amendment moved in the Finance Bill, 2015 in the Lok Sabha on 30/04/2015 with respect to definition of “Income”.

The CBDT *Vide* press note dated 5/5/2015 restates the position that the provisions in the Finance Bill, 2015, will not affect the LPG subsidy and other welfare subsidies received by the individuals.

❑ **Deduction of tax at source – Section 193 read with Section 10(26BBB) of the Income Tax Act. [230 Taxman (st) 123]**

CBDT *vide* Circular No. 7/2015 dated 23/4/2015 clarified that the Corporation covered u/s. 10(26BBB) satisfying the two conditions of earlier CBDT Circular No. 4/2002 dated 16/7/2002 i.e. unconditional exemption of Income u/s. 10 of the Income tax Act and no statutory liability to file return of income u/s. 139 of the Act, and whose income is exempt u/s. 10(26BBB) of the Act will also be entitled to benefit of said circular. The CBDT, therefore, clarified that there would be no requirement of tax deduction at source (TDS) from the payment made to such corporation since their income is anyway exempt under the Act.

Section 10(26BBB) was inserted in the Finance Act, 2003 (w.e.f. 1/4/2004) unconditionally exempting any income of a corporation established by a Central, State or Provincial Act for the welfare and the economic upliftment of ex-serviceman being the citizen of India. The corporation covered u/s. 10(26BBB) are also statutorily not required to file return of income u/s. 139 of the Act.

The CBDT had earlier issued Circular No. 4/2002 dated 16/7/2002 which has laid down that in case of the entities whose income is unconditionally exempt u/s. 10 and who are statutorily not required to file return of income as per section 139. There would be no requirement of TDS from the payment made to them since their income is exempt under the Act.

In view of the above, the CBDT *vide* circular no. 7/2015 clarified that the Corporations covered u/s. 10(26BBB) are entitled to the benefit of CBDT Circular No. 4/2002 and there would be no requirement for TDS from the payment made to such corporations since their income is exempt under the Act.

❑ **DTA – Claim of treaty benefits by FIIs under provisions of double taxation avoidance agreements. [230 Taxman (st) 125]**

The CBDT issued instruction [F.NO.500/36/2015-FTD.] dated 24/4/2015 directing that in all cases of Foreign Institutional Investors seeking treaty benefit under the provisions of respective DTAA's, decision may be taken on such claims within one month from the date such claim is filed. This has been decided on the reasoning that the issue involved in such cases is limited and such claim should be decided expeditiously. It was noticed by the board that several FII's receiving income from transaction in securities claim such income as exempt from tax under the Income tax Act by availing benefits provided in DTAA signed between India and their respective countries of residence.

❑ **Substitution of Forms Sahaj (ITR-1), ITR-2, Sugam (ITR-4S) and ITR-V – amendment in Rule 12 [230 Taxman (st) 85]**

The CBDT *vide* Notification No. 41/2015 dated 15/04/2015 gives Income Tax (Seventh Amendment) Rules, 2015. It came into force from 1/4/2015. It amends Rule 12 and substitutes Sahaj (ITR-1), ITR-2, Sugam (ITR-4S) and ITR-V. Among other changes it substitutes sub-rule 3 giving tabulated information with regard to the form in which return of income to be furnished by various category of persons and specifying the manner of furnishing such return of income.

- **Transfer Pricing – Advance Pricing Agreement (APA) – clarification on applications and agreements filed or entered into prior to 1/1/2015. [230 Taxman (st) 38]**

A press release dated 31/03/2015 intimates the decision to amend rule 10MA(5) of the Income tax Act rules to provide that in case where an application has been filed prior to 31/3/2015, application to roll back in Form No. 3CEDA along with the proof of payment of additional fees may be filed at any time on or before 30/6/2015 or the date of entering into agreement whichever is earlier. Similarly in a case where agreement has been entered into before in a date of 31/3/2015, application of rollback in Form No. 3CEDA along with the proof of payment of additional fees may be filed at any time on or before 30/6/2015.

The rule relating to roll back of an Advance Pricing Agreement (APA) have been notified through Notification No. SO 758 (E) dated 14/3/2014. As per the newly prescribed Rule 10MA(5), where an application for entering into advance pricing agreement has been filed prior to 1/1/2015, the request for rollback in the newly prescribed Form No. 3CEDA was required to be filed at any time on or before 31/3/2015. Similarly, where an advance pricing agreement entered into before 1/1/2015 the said form was required to be filed before 31/3/2015.

These relevant rules were notified only on 14/3/2015. The window provided for rollback applicable upto 31/3/2015 was represented to be very short time. It was also represented that a reasonable period also needs to be provided in respect of the applications or the agreements filed or entered into up to 31/3/2015. In view of this press release dated 31/3/2015 was issued.

- **Advance Rulings – Authority for Advance Rulings – Creation of two additional benches of authority for Advance Rulings (Income Tax) at specified places. [230 Taxman (st) 35]**

The Central Government *vide* Notification No. 1/2015 dated 20/3/2015 notifies the creation of two additional benches of the Authority for Advance Rulings (Income Tax) including one at National Capital Region (NCR) and one new bench at Mumbai with effect from the date of publication of this notification in the Gazette of India

RECENT JUDGMENTS UNDER SERVICE TAX

Compiled by CA Sunny Kachalia

1. **Whether credit of security services availed for residential colony/club house available.**

Facts in brief:

Appellant was having a housing colony and club room attached to their manufacturing unit. They had availed credit of service tax on security services provided at the residential colony and club room, repair of mixer used in the canteen, civil work done at the colony, furniture/wooden partition done for VIP rooms and telephone lines installed at residence of the officer/club rooms during the period November 2005 to September 2010. A demand amounting to ₹ 7,31,472/- was issued to them which was confirmed along with interest and penalty by the original adjudicating authority.

Appellant filed appeal before the Commissioner (appeals) who dismissed the appeal except allowing credit of ₹ 5,611/- and corresponding interest and penalty in respect of service tax on furniture/wooden partition on VIP room and repairing of mixer used in the canteen. Further, another show-cause notice was issued for the similar services for the period October 2010 to March 2011 for recovery of ₹ 4,27,335/- which was also confirmed along with interest and penalty by the original adjudicating authority. Appellant filed an appeal against the said order, which was rejected by the Commissioner (Appeals).

Being aggrieved, appeal filed appellant with CESTAT. The main contention of the appellant was that in view of the Hon'ble High Court judgment in Ultra Tech Cement Ltd. 2010 (20) STR 577 (BOM), they are entitled to the credit keeping in view the fact that residential colony and the club room are absolutely essential for the functioning of the factory at the relevant place. Revenue argued that the case is squarely covered by the decision of Hon'ble High Court of Bombay in Manikgarh Cement 2010 (20) STR 456 (BOM.) And appellants are therefore not entitled to take any credit.

Held:

Court held that on combined reading of the judgments of Ultra Tech Cement and Manikgarh Cement it is clear that what is permitted is the input services which are integrally connected with the manufacturing of the final product, and residential colony for the employees and the clubs are welfare activity for the staff undertaken by the appellant while carrying the business but has no nexus with the business of the manufacturing the final product. Under these circumstances, the appeals filed by the appellant are devoid of any merits. However penalty cannot be imposed as there were different views given by the Courts on the subject matter.

(Mahindra & Mahindra Ltd. v/s. Commissioner of Central Excise 2015 (6) tmi 407 CESTAT Mumbai)

JUDICIAL JUDGMENTS

Compiled by CA. Dharmen Shah

Suresh Nanda vs. The Commissioner of Income Tax (C)-I High Court – IT Appeal Nos. 715, 722 & 723 of 2014 dated 27/5/2015

Assessee will not lose residential status due to forced stay in India due to invalid impounding of Passport.

▪ **Facts**

The assessee's passport was impounded by CBI due to various reasons. Assessee had made an application against illegal impounding of passport to Ld. Special Judge, CBI Court who ordered release of passport subject to stringent conditions. However, CBI challenged the order before Hon'ble High Court which reversed the order. Hon'ble Supreme Court, on approach by assessee ordered release of Passport. Before the passport could be physically released, the same was again impounded under some other provisions by passport Authorities. Hon'ble High Court in this case ordered for release of passport with a condition. In course of all above proceedings, the assessee fervently raised the issue of NRI status and prayed for release of passport.

Due to above reasons, the assessee's stay in India amounted to more than 182 days in India and hence Assessing Officer and CIT (Appeals) treated the assessee as a resident Indian in terms of Sec. 6(1)(a) of the Act and thus added to his income commission received by him from foreign entities outside India.

ITAT reversed the conclusion reached by the said authorities i.e. Assessing Officer and CIT (Appeals) and agreed with the assessee that his presence in India for the said period was under compulsion of legal process and unintentional. Thus, he continued to enjoy the status of non-resident and thus not accountable under the Income tax Act for income not earned here.

▪ **Held**

Hon'ble High Court upheld the decision of ITAT and held as below:-

It was a conscious decision of the assessee to be a non-resident consistently in the past years before passport was impounded. Thus he consciously did not intend treatment as resident Indian for purpose of Income tax Law.

Given the narrative of events, the assessee had made repeated pleas not only for removal of all restraints against his movement, but more importantly for release of his passport so he could go abroad and retain NRI status. Further, ITAT the final fact finding authority also concluded action of various Governmental authorities as unjustified, illegal, and untenable. Further, Revenue does not remotely challenge the correctness of the said conclusions.

The Simple test prescribes minimum period of presence in India to qualify as Resident Indian. However, whether to be in India or not in India should be a matter of one's discretion. If one is compelled by external circumstances beyond the individual's control then one cannot be treated as a Resident Indian.

Due dates under some Direct and Indirect Taxes falling in the months of July, August & Sept., 2015

**COMPILED BY
CA MANILAL G. SIMARIA**

DUE DATE IN			Contents/ Nature of Compliances
July	August	Sept	
05	05	05	Service Tax monthly payment (other than sole prop. and partnership firm) for the months ending on June, July & August, 2015 respectively.
05	05	05	All Central Excise Monthly payment for June, July & August, 2015 respectively.
05	-	-	Service Tax Quarterly payment for Sole prop. & Partnership Firm for quarter ending on June, 2015
05	-	-	Central Excise Quarterly payment for Small Scale Industries for quarter ending June, 2015
7	7	7	Payment of TDS/TCS submission of Form No. 15H, Form No. 15G with Income Tax Department for the months of June, July & August, 2015 respectively.
10	10	10	Central Excise Monthly Return Uploading for the month of June, July & August, 2015 respectively.
10	-	-	Central Excise quarterly return for Small Scale Industries and items covered by Notification No. 1/2011 C.E. dated 1/3/2011) for April to June, 2015.
-	14	-	Latest date to hold AGM of Co-operative Societies (year end 31/3/2015 who has not adopted new "Bye Laws" and continued with old "Bye Laws".
15	15	15	E.P.F. payment for June, July & August, 2015 respectively.
-	-	15	Advance Tax for A.Y. 2016-17 for Companies Second installment. Advance Tax for A.Y. 2016-17 for other assesses First installment.
15	-	-	Central Excise quarterly return for 1 st stage and 2nd stage dealers) only for April to June, 2015.
15	-	-	TDS/TCS statement in form 24Q, 26Q, 27EQ, 27Q for quarter ending on 30 th June, 2015.
20	20	20	Payment of LBT for the month of June, July & August, 2015 respectively.
21	21	21	ESIC payment for June, July & August, 2015 respectively.
21	21	21	VAT, CST & TDS monthly E-payment for the month ending on June, July & August, 2015 respectively. (If paid in time, then 10 days allow for uploading.)
21	-	-	MVAT/CST quarterly payment for April to June, 2015 including dealer newly registered during April to June, 2015 quarter.
-	-	30	Filing of various CST declarations in Form C/H/E-I/E-II for the quarter ending June, 2015
31	-	-	VAT&CST uploading of quarterly return for quarter ending on June, 2015 along with Regular Return Annexure and those who are covered under composition scheme other than works contract composition scheme.
31	-	-	Uploading of First Quarterly return along with Regular Return Annexure for dealers newly registered during April to June, 2015 quarter.
31	-	-	Issue of TDS Certificate (Non Salary) TCS Certificate for the quarter ending on 30 th June, 2015.
31	31	1 st Oct	E-Filing/uploading of MVAT & CST monthly return (along with regular Annexures) for the months ending on June, July & August-2015.
31	31	30	Profession Tax Employees monthly payment for June, July & August, 2015 respectively is to be made. Trade circular provides for a grace period of 10 days for uploading of return provided that the payment of tax dues has been made within the due date.
31	31	30	Filing of Luxury Tax monthly Returns for period ending on June, July & August, 2015 respectively.
31	31	30	Submission of CST declarations in form F for the month of April, May & June, 2015.
-	31	-	Income Tax/Wealth Tax return for non corporate assesseees not liable for audit for F.Y. 2014-15. (extended due date).
-	-	30	Latest date to hold AGM of Co-operative Societies (year end 31/3/2015) who has adopted new "Bye Laws"
-	-	30	Income Tax/Wealth Tax return of A.Y. 2015-16 for all corporate assesses & others required to get its account audited under any law (other than covered by Transfer Pricing regulations).
-	-	30	Obtained Tax Audit Report for all corporate assesses & other required to get its account Audited (other than covered by Transfer Pricing regulations).
-	-	30	Last date to hold AGM of companies (year ending on 31/3/15).

NOTICE OF ELECTION

To,

The Members,
The Malad Chamber of Tax Consultants

The Election of the President and Twelve Members of the Managing Committee for the ensuing year 2015-16 shall take place on **Sunday, 19TH July, 2015** at 10.00 am at SNTD Mahila College, Liberty Garden Road, Malad (West), Mumbai-400064.

Nominations in the prescribed form should be filed so as to reach not later than 6 p.m on Tuesday, 14th July, 2015.

FOR AND ON BEHALF OF THE MANAGING COMMITTEE

SD/-

VIPUL SOMAIYA/ADARSH PAREKH
(HON. SECRETARIES)

Place: - Mumbai

Dated: - 16th June, 2015

1. Members in arrears of membership subscription shall not be entitled to contest the election or to propose or second any candidate for the election or to vote at the election.
2. Withdrawal of nomination for the elections can be made by the candidate on or before **6.00 pm of 16th July, 2015**.
3. The Managing Committee has appointed Shri J. D. Rawal AND Shri Rameshbhai Gandhi as Election Committee members for the election of the President and 12 Managing Committee Members.
4. Nomination for the post of President and Managing Committee Members may please be collected and sent to the office of Shri Brijesh M. Cholera Shop No. 4, 2nd Floor, The Mall, Station Road, Malad (West), Mumbai-400064.
5. The voting, if required, will commence at 10.00 am and end at 10.30 am

Registered Office: B/6, Star Manor Apartment, 1st Floor, Anand Extn.Road, Malad (West), Mumbai-400064.

NOTICE OF ANNUAL GENERAL MEETING

To

The Members,

Notice is hereby given that 36th ANNUAL GENERAL MEETING of **The Malad Chamber of Tax Consultants will be held on Sunday, 19th July, 2015 at 10.45 a.m.** at SNTD Mahila College, Liberty Garden Road, Malad (West), Mumbai-400 064 to transact the following business:

AGENDA

1. To read and confirm minutes of the last Annual General Meeting held on 3rd, August, 2014.
2. To receive and adopt Audited Statement of Account of the Chamber for the year ended 31-3-2015 along with Auditors Report and Annual Report of the Managing Committee for the period from 3-8-14 to 19-7-2015.
3. To appoint auditors for the year 2015-16 and to fix their honorarium.
4. To declare results of the election of the President and Twelve Members of the Managing Committee for the year 2015-16.
5. To transact any other business with the permission of the Chair.

FOR THE MALAD CHAMBER OF TAX CONSULTANTS

Sd/-

VIPUL SOMAIYA / ADARSH PAREKH
(HON. SECRETARIES)

Place : Mumbai

Dated: 16th June,2015

Registered Office: B/6, Star Manor Apartment, 1st Floor, Anand Road Extn, Malad (West), Mumbai-400 064.

Notes

1. The report of the Managing Committee, Auditor's Report and Audited Statements of Accounts will be e-mailed to all separately and same will be available on our website in due course. However, on request in writing, the same would be send to the members.
2. If there is no quorum by 10.45 a.m., the meeting will be adjourned for half an hour and the adjourned meeting shall be held at the same place with the same agenda and the members present will form the quorum.
3. The queries, if any, on Accounts and Annual Report should be sent at least 3 days before the day of A.G.M. at the Administrative office of Shri Brijesh Cholera, Shop No.4, 2nd Floor, The Mall, Station Road, Malad (W), Mumbai-400064
4. Any member desiring to move any resolution at the Annual General Meeting should send the proposed resolution at the above administration office on or before 11th July, 2015.

Health Tip

Exercise Therapy

Hippocrates, the father of modern medicine, said, "if we could guide an individual with the right amount of exercise & proper nutrition, which is not too little & not too much, we would have found the safest way to health."

"Buy one, take one free" is the mantra today and this is true for physical activity also. Besides being good for the body, it helps at the psychological level as well. It reduces feelings of depression and anxiety, improves the state of mind and promotes a sense of well-being.

Recent statistics show that a sedentary life, often begun in childhood, leads to obesity, weakened heart muscles, lack of energy, a sluggish metabolism & some forms of cancer.

What does exercise do to your body?

Regular exercise increases the number of capillaries (small blood vessels) thereby improving the blood supply. Thus a fit person can efficiently transfer oxygen to different parts of the body and also release energy efficiently.

Regular exercise makes a person more efficient at work and enables the person to work longer hours without getting tired. Body fat gets redistributed through regular exercise. During exercise sessions that are longer than 30 to 35 minutes, body fat is used more than carbohydrates for deriving energy. As muscles mass increase, central obesity decreases, insulin resistance is lowered, HDL Cholesterol increase, blood pressure goes down, diabetes gets controlled; chances of formation of blood clots minimised.

Exercise therapy in Heart problems

Heart problem (coronary artery disease CAD) is the result of fatty deposits of plaque in the arteries that supply blood to the heart muscles.

Recent studies have shown that regular physical activity significantly increases HDL cholesterol levels, reduces LDL level & thereby reduces the risk of CAD. Exercise also enhances respiratory functions, which in turn helps cardiac well-being. The hormones like adrenaline & noradrenaline which are detrimental for health are reduced with exercise. Exercise reduces the risk of high blood pressure, osteoporosis, breast & colon cancer.

According to studies, the mortality & morbidity rates of people with high level exercise were not significantly different from those with moderate level of exercise. Vigorous exercise programmes should never be implemented in a hurry. In people who are not accustomed to exercise, the sudden fluctuation in blood pressure or heart rate can create problems. The emphasis is more on slow introduction and gradual building up of exercise. Hence, light exercise of longer duration is better than the small bouts of heavy exercise. Walking is good as a whole body exercise for patients with heart disease. Heart patients can swim & cycle only after consulting a physician.

Yoga scores over other forms of exercise as it also exercises the internal organs & establishes the homeostatic balance by its beneficial effect on stress & emotions.

Dr. Chanda Birajdar

Dr. Vinod Birajdar

Compiled by : Ashwin Tanna

FORTHCOMING EVENT

	3rd Study Circle Meeting	
DAY & DATE	Sunday, 28th June, 2015.	
TIME	10.00 a. m. to 12.30 p.m.	
TOPIC	1	Recent 'E' Registration procedure under MVAT Act
	2	Recent Amendments Under MVAT Act, PT Act & Entry Tax Act.
	3	Calculation of Tax liability for Builders & Developers.
	4	Reply to queries received from members in advance.
SPEAKER	SHRI DILIP V. PAREKH	
MONITOR	CA JANAK VAGHANI	
VENUE	SNDDT COLLEGE, LIBERTY GARDEN, MALAD (WEST), MUMBAI-400064.	
<p>Members are requested to submit their query in writing on or before 25th June, 2015 to reach at Adm. Office or e-mail it at - maladchamber@gmail.com</p>		
<p>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 ≈</p>		

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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