



**The Malad
Chamber of Tax
Consultants**

MNW/175/2021-23

**43rd
YEAR**

MCTC Bulletin

"Every Passing Minute is Another Chance to Turn it Around"

E-mail: maladchamber@gmail.com

Website: www.mctc.in

Total Pages 16

Price ₹ 5/-

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Vol. 1, No. 1

For members & private circulation only

July, 2022

President's Communique



My Dear Professional Colleagues,

I extend my deep gratitude to members of this august body for electing me as the 43rd President and entrusting huge responsibility. I thank one and all and commit to do my best to provide the required leadership that the association needs, to listen and respond to your needs as members. I shall count on your support and suggestions to make the Chamber more dynamic and visible.

I congratulate CA Jignesh Savla, my predecessor and his team on successfully completing his eventful tenure. I request his continuous support and guidance. I am also thankful to the past presidents who have steered the Chamber to its present status where it boasts of 1200+ members and is ready to take a big leap forward. The very young and dynamic Managing Committee on its part is eager to take the Chamber to the next level. We shall try our best to add maximum life members, digitally rebranding the Chamber, become more active on social media, revamp website and digitalize most of activities to extend our reach, promote our activities and events.

Our current activities like Study Circle meetings, Seminars, Budget meeting, etc. will continue with full force subject to Covid-19 like restrictions, if any. We also intend to have a tree plantation and a blood donation drive during the year as part of our social responsibility and encourage fellow members to contribute to such events. We shall have study cum networking events like RRC and sports activities.

As Gautama Buddha says "All that we are is the result of what we have thought." Let's plan the year and act accordingly.

Before I conclude I Wish you all Happy Rakshabandhan, Happy Independence day & Happy Janmashtmi

CA Ujwal Thakrar

President

Request: Members please send your Mobile No. & Email ID to update list of life members
Please send message on 7039006655 or email to maladchamber@gmail.com

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

Name	Designation	Contact Nos.	E-mail
CA Ujwal Thakrar	President	9819946379	ujwalthakrar@gmail.com
CA Khyati Vasani	Vice President	9833288584	khyativasani@yahoo.com
Adv. Jaideep Sonpal	Hon. Treasurer	9892005352	sonpalconsultants@gmail.com
Shri Jitendra Fulia	Hon. Secretary	9820997205	jitendradfulia@rediffmail.com
Shri Rajen Vora	Hon. Secretary	9819807824	vora.rajen@gmail.com

Life Membership Fees ₹ 2,500

BRIEF REPORT OF 43RD ANNUAL GENERAL MEETING

At the 43rd Annual General Meeting held on 03rd July 2022, Sunday, the following business was transacted:

1. The Annual Report for the year 2021-22 was approved and adopted.
2. The Audited Accounts for the year ended 31st March 2022 were adopted.
3. P B Agrawal & Co., Chartered Accountants, were reappointed as the auditors for the year 2022-23 and they will hold office till the next AGM.
4. The results of the election for the year 2022-23 were declared by the election officers, Past President Shri Janak Rawal and Past President Shri Ramesh Gandhi. The results were as follows:

CA Ujwal Thakrar was elected as President for the year.

The following members were elected to the managing committee

CA Khyati Vasani	Shri Bhavin Mehta	CA Khushbu Shah
Adv. Jaideep Sonpal	Adv. Haseet Bathiya	CA Pratik Satyuga
Shri Jitendra Fulia	Shri Jignesh Shah	Adv. Rinav Khakhar
Shri Rajen Vora	CA Kavita Gadhia	CA Rupal Shah

THE NEW TEAM FOR 2022-23

In the 1st Managing Committee Meeting held virtually on 17th July 2022 at 10 a.m., the following members were elected as office bearers for the year 2022-23

1. CA Khyati Vasani – *Vice President*
2. Adv. Jaideep Sonpal – *Treasurer*
3. Shri Jitendra Fulia – *Jt. Secretary*
4. Shri Rajen Vora – *Jt. Secretary*

The following Past Presidents were co-opted to the managing committee for the year 2022-23:-

1. Shri Janak D. Rawal
2. Shri Kishor D. Vanjara
3. Shri Manish R. Chokshi
4. CA Viresh B. Shah
5. CA Yatin P. Rangwala

Various Sub-committees were formed as per details printed on Page No. 5

MCTC congratulates **CA Parag Ved, CA Mihir Sheth and Shri Sunil Khushlani** for being elected as Presidents of The Chamber of Tax Consultants, Bombay Chartered Accountants Society and GSTPAM respectively for the year 2022-23.


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Website

:  www.mctc.in

THE MALAD CHAMBER OF TAX CONSULTANTS

MANAGING COMMITTEE : 2022-2023

Name	Telephone No. Office	Mobile No.	E-mail
PRESIDENT			
CA Ujwal Thakrar	28366378	9819946379	ujwalthakrar@gmail.com
VICE PRESIDENT			
CA Khyati Vasani	28998888	9833288584	khyativasani@yahoo.com
HON. TREASURER			
Adv. Jaideep Sonpal	8369936754	9892005352	sonpalconsultants@gmail.com
HON. SECRETARIES			
Shri Jitendra Fulia	8369470117	9820997205	jitendrafulia@rediffmail.com
Shri Rajen Vora	9820647824	9819807824	vora.rajen@gmail.com
IMM. PAST PRESIDENT			
CA Jignesh Savla	20891192	9820260070	cajigneshsavla@gmail.com
COMMITTEE MEMBERS			
Shri Bhavin Mehta	28010367	9224208781	bhavinjmehta@yahoo.com
Adv. Haseet Bathiya	61338050	9820635387	haseet.bathiya@bathiyalegal.com
Shri Jignesh Shah	40134277	9821456206	shajignesh@gmail.com
CA Kavita Gadhia	—	9967404304	cakavitgadhia@gmail.com
CA Khushbu Shah	—	9920936558	ca.shahrk@gmail.com
CA Pratik Satyuga	—	9819512962	pratiksatyuga@gmail.com
Adv. Rinav Khakhar	—	9920022323	rinavkhakhar@gmail.com
CA Rupal Shah	26827601	9833920148	ca.rupaldshah@gmail.com
CO-OPTED MEMBERS			
Shri Janak D. Rawal	6631 1268	93243 39014	janakdrawal@gmail.com
Shri Kishor D. Vanjara	2202 3370	98201 86480	kvanjara51@gmail.com
Shri Manish R. Chokshi	2875 9997	98202 68122	manishchokshi@hotmail.com
CA Viresh B Shah	28018520	9820780070	vireshbshah9@gmail.com
CA Yatin P. Rangwala	2888 3608	98201 50280	yprco@vsnl.com
SPECIAL INVITEES			
Dr. Bharat Vasani	—	2228998888	bd_vasani@yahoo.com
CA Janak Vaghani	22044170	9869081906	janakvaghani2004@yahoo.com
CA Jayprakash Tiwari	28835364	9820496297	jmt@jmtco.in
CA Kishor Thakrar	—	9324620343	KJT987 @yahoo.Co.in
CA M. D. Prajapati	28654935	8850285716	prajapati.ca@gmail.com
Shri Sachin R. Gandhi	7900161234	9821482020	sachin23gandhi@yahoo.co.in

THE MALAD CHAMBER OF TAX CONSULTANTS

List of Past Chairmen / Presidents

Sr. No.	Year	Name	Telephone No.				E-Mail Address
			Office	Fax	Residence	Mobile	
1	1978-1980	Shri Rasik D. Shah (Late)	—	—	—	—	—
2	1980-1981	Shri R. J. Chokshi (Late)	—	—	—	—	—
3	1981-1982	Shri Vadilal C. Shah	—	—	28835224	9324892028	—
4	1982-1983	Shri S. S. Kelwadi	22871479 22833002	—	28821193	—	ssklaw@vsnl.com
5	1983-1984	Shri V. B. Goyal	66989870 66989871	28720924	28823190 28821819	9821029010	nv_goyal@vsnl.net
6	1984-1985	Shri J. D. Rawal	—	—	28631014 28010270	9324339014	janakdrawal@gmail.com
7	1985-1986	Shri P. M. Rangwala (Late)	—	—	—	—	—
8	1986-1987	Shri D. M. Jaithwar	—	—	—	9301051240	—
9	1987-1988	Shri Ramesh J. Gandhi	28831110	—	28820640	9892527212	sachin23gandhi@yahoo.co.in
10	1988-1989	Shri R. B. Patel	—	—	—	—	—
11	1989-1990	Shri R. S. Majethia (Late)	—	—	—	—	—
12	1990-1991	Shri Narendra J. Mehta	26840857	26840857	26840226 26840228	9869037228	narendramehta@hotmail.com
13	1991-1992	Shri Mahipat G. Shah	66310705 66310706	—	66919056	9820030806	mgshahca@hotmail.com
14	1992-1993	Shri Jitendra A. Salot (Late)	—	—	—	—	—
15	1993-1994	Shri R. C. Reshamwala	28835624	—	28770370	9323997396	ramesh_reshamwala@rediffmail.com
16	1994-1996	Shri Govind G. Goyal	22038413	22091673	28786518 28725698	9869000228	goyalgovind@rediffmail.com
17	1996-1997	Shri Dhanesh N. Parikh	28984268	28989020	28984268	9819728609	dnparikh@rediffmail.com
18	1997-1998	Shri Yatin P. Rangwala	28883608	28883608	28813036	9820150280	yprco@vsnl.com
19	1998-1999	Shri Atul Ruparelia	66990015 65789332	28060169	28060169	9820132016	apruparelia@gmail.com
20	1999-2000	Shri Chetan Y. Jatania (Canada)	—	—	001-416438476	—	jatanias@rediffmail.com
21	2000-2001	Shri G. R. Modi	28834273 28829304	28829304	28021121	9833884272	modiswapnil@mtnl.netin
22	2001-2002	Shri Pravin R. Shah	26174845 26153729	26153729	26161440	9821476817	shahraj87@yahoo.com
23	2002-2003	Shri Manish Chokshi	28759997	—	28661130	9820268122	manishchokshi@hotmail.com
24	2003-2004	Shri Ashvin A. Acharya	26368800	—	26334646	7208005055	ashvin_acharya@yahoo.com
25	2004-2005	Shri Rajesh J. Pathak	28899869	28814618	—	9892128521 9987283402	pathaksmita@hotmail.com
26	2005-2006	Shri Kishor Vanjara	22023370	22041858	28621883	9820186480	kvanjara51@gmail.com
27	2006-2007	Shri Janak Vaghani	22044170 22821978	—	28680306	9869081906 9324680306	janakvaghani2004@yahoo.com
28	2007-2008	Shri Hiten Shah	61277474	—	28822517	9867759489	hitenca@gmail.com
29	2008-2009	Shri Dilip V. Parekh	28281485 28280352 28960018	—	40142329	9324640352	info@ddpl.com
30	2009-2010	Shri Manilal Simaria	23868856	23866141	28981330	9833392155	mgsimariaco@gmail.com
31	2010-2011	Shri Ashwin R. Tanna	28070258 28070259	28074902	—	9821123418	ashwintanna@yahoo.com
32	2011-2012	Shri Brijesh Cholera	28895161	28897849	28895161	9821405200	brijeshcholera@gmail.com
33	2012-2013	Shri Sachin Gandhi	28831110	—	28820640	9821482020	sachin23gandhi@yahoo.co.in
34	2013-2014	Shri Vishal J. Shah	28982763 28993264	28991288	28995554	9869147065	vishalshahassociates @yahoo.com
35	2014-2015	Shri Kishor J. Hapani	28881568 28890845	—	28886336	9820438125	kishor_hapani@rediffmail.com
36	2015-2016	Shri Jayprakash Tiwari	28835364	—	—	9820496297	jmt@jmtco
37	2016-2017	Shri Adarsh S. Parekh	28094049	—	—	9869105103	asparekhca@yahoo.co.in
38	2017-2018	Shri Vipul M. Somaiya	28828844 28828855	—	28792646	9223418790	vipul@somaiyaco.com
39	2018-19	Shri Vaibhav Seth	—	—	—	9619721743	sethvaibhav@hotmail.com
40	2019-20	Shri Viresh B. Shah	—	—	—	9820780070	vireshbshah9@gmail.com
41	2020-21	Shri M. D. Prajapati	28654935 28610817	—	—	8850285716	prajapati.ca@gmail.com
42	2021-22	Shri Jignesh Savla	20891192	—	—	9820260070	cajigneshsavla@gmail.com

THE MALAD CHAMBER OF TAX CONSULTANTS Sub-Committees for the year 2022-23

Committee	Publications & Public Meeting	Law & Representation	RRC & Picnic	Seminar/Workshop and Study Circle Meetings		Students Committee	Membership & Public Relation	Information Technology Committee
				Direct Tax	Indirect Tax			
Chairman	Yatin Rangwala	Atul Ruparelia (Direct Tax)	Sachin Gandhi	Atul Ruparelia	Janak Vaghani	Jayprakash Tiwari	M D Prajapati	Manish Chokshi
Co-Chairman	Brijesh Cholera	Ashwin Tanna (Indirect Tax)	Adarsh Parekh	Yatin Rangwala	Sachin Gandhi	Vibhav Seth	Viresh Shah	Diip Parekh
Ex-Officio	Ujwal Thakrar	Ujwal Thakrar	Ujwal Thakrar	Ujwal Thakrar	Ujwal Thakrar	Ujwal Thakrar	Ujwal Thakrar	Ujwal Thakrar
Editor	Atul Ruparelia Haresh Kenia Reepal Traishawala Ajay Singh Ketan Vajani							
Office Bearers	Rajen Vora	Khyati Vasani	Jaideep Sompal	Khyati Vasani	Jitendra Fulia	Rajen Vora	Khyati Vasani	Jaideep Sompal
Convenors	Bhavin Mehta	Rupal Shah	Bhavin Mehta	Rupal Shah	Bhavin Mehta	Pratik Satyuga	Rinav Khakhar	Rinav Khakhar
	Khushbu Shah	Hasset Bathiya	Rinav Khakhar	Kavit Gadhia	Hasset Bathiya	Jignesh Shah	Pratik Satyuga	Khushbu Shah
Past Presidents	Manish Chokshi	Kishor Vanjara	Janak Rawal	M D Prajapati	Ashwin Tanna	M D Prajapati	Kishor Vanjara	Yatin Rangwala
	Kishor Vanjara	Ashwin Acharya	Manish Choksi	Viresh Shah	Hiten Shah	Viresh Shah	Pravin Shah	Viresh Shah
	Janak Vaghani	Dilip Parekh	Brijesh Cholera	Khushbu Shah	Dilip Parekh	Janak Vaghani	Mamil Simaria	Ashwin Tanna
	Sachin Gandhi	Sachin Gandhi	Sachin Gandhi	Vipul Somiya	Vishal Shah		Ashwin Tanna	Vishal Shah
Members	Jayprakash Tiwari	Adarsh Parekh	Jayprakash Tiwari				Brijesh Cholera	Jayprakash Tiwari
	Utpal Patel	Haresh Kenia	Tejas Shah	Jaimin Trivedi	Jaimin Trivedi	Khyati Vasani	Kailash Agarwal	Sanjay Shah
	Rajan vora	Avinash Ravani	Jignesh Shah	Pratik Satyuga	Pratik Satyuga	Pratik Satyuga	Jaideep Sompal	Pratik Satyuga
	Jaimin Trivedi	Bharat Vasani	Bharat Vasani	Sanjay Shah	Rajen Vora	Kishor Thakrar	Haseet Bathiya	Riddhi Shah
	Kishor Thakrar	Jignesh Kansara	Pratik Satyuga	Rima Shah	Nidhi Khakhar	Riddhi Shah	Virag Shah	Kavit Gadhia
	Ketan Jatania	Rima Shah	Kishor Thakrar	Jignesh Shah	Jignesh Shah	Nidhi Khakhar	Riddhi Shah	Rajen Vora
	Viral Shah					Kailash Agarwal	Vandana Doodhia	
	Vipul Somaiya							



The Malad Chamber of Tax Consultants

Regd. Office: B/6, Star Manor Apartment, 1st Floor, Anand Road Extn.,
Malad (West), Mumbai- 400064. E-mail: maladchamber@gmail.com. Mobile: 7039006655.

Admin Office: C/o. Brijesh Cholera : Shop No. 4, 2nd Floor, The Mall, Station Road, Malad (W), Mumbai-400 064

FOR OFFICE USE ONLY FOR MEMBERSHIP APPLICATION

Issued Acknowledgement Slip No..... Dated..... /
..... /

Accepted by the Managing Committee in the Meeting held on...../ /

Cheque No. Dated..... / / for ₹ 2,500/-
Bank

NOTES

1. Please attach educational qualification certificate for eligibility to practice taxlaws.
2. Please write / type in CAPITALLETTERS.
3. Cheques should be drawn in favour of "The Malad Chamber of TaxConsultants".
4. Outstation remittance should be by Demand Draft payable at Mumbaionly.
5. Please tick (✓) whereverapplicable.
6. The form should be completed in allaspects.
7. The membership application is subject to acceptance by the ManagingCouncil.

For Query and Submission of forms for Membership please contact any of the following office bearers.

Name	Designation	Contact No.	E-Mail
CA Ujwal Thakrar	President	9819946379	Ujwalthakrar@Gmail.com
CA Khyati Vasani	Vice President	9833288584	Khyativasani@Yahoo.com
Adv. Jaideep Sonpal	Hon. Treasurer	9892005352	Sonpalconsultants@Gmail.com
Shrijitendra Fulia	Hon. Secretary	9820997205	Jitendradfulia@Rediffmail.com
Shri Rajen Vora	Hon. Secretary	9819807824	Vora.rajen@Gmail.com

Please send the completed application form to the following address:

The Malad Chamber of Tax Consultants

C/o. Brijesh Cholera & Co.

Chartered Accountants

Shop No. 4, 2nd Floor, The Mall, Station Road,
Malad (West), Mumbai 400097



The Malad Chamber of Tax Consultants

Regd. Office: B/6, Star Manor Apartment, 1st Floor, Anand Road Extn.,
Malad (West), Mumbai- 400064. E-mail: maladchamber@gmail.com. Mobile: 7039006655.

Admin Office: C/o. Brijesh Cholera : Shop No. 4, 2nd Floor, The Mall, Station Road, Malad (W), Mumbai-400 064

GIFT A MEMBERSHIP FORM

Date:..... /..... /.....

To,

The Hon. Joint Secretaries,
The Malad Chamber of Tax Consultants, Mumbai.

Dear Sirs,

Being eligible to practice under the Direct and/or Indirect Taxes Laws, I hereby apply for admission as a member of *The Malad Chamber of Tax Consultants* with the following particulars:

1. NAME OF DONOR MEMBER MR/MRS/MISS:
2. NAME OF INTRODUCED MEMBER MR /MRS /MISS:
3. FATHER'S/HUSBAND'S NAME:
4. QUALIFICATIONS:
5. MEMBERSHIP NO., if any (with name of the association):
6. PERSONAL DATA:
DATE OF BIRTH: / / BLOOD GROUP:
- SPOUSE'S NAME: SPOUSE'S DATE OF BIRTH / /
- MARRIAGE ANNIVERSARY: / /
- PROFESSION: ADVOCATE CA ITP ICWAI ICSI GSTP/STP
7. OFFICE NAME:
- OFFICE ADDRESS:
- PIN CODE: STATE:..... TEL. NO: FAX NO:
- MOBILE NO: EMAIL ID:
8. RESIDENTIAL ADDRESS:
- PIN CODE: STATE:
- TEL. NO: FAX NO: MOBILE NO:
9. COMMUNICATION TO BE SENT TO: OFFICE RESIDENCE
- The amount of ₹ 2,500/- by Cheque/Draft No. dated / /
drawn on
10. Bank Detail for Online Payment
Beneficiary Name: The Malad Chamber of Tax Consultants.
Bank Name: HDFC Bank Ltd – Marve Road, Malad West Branch, Account No. 00471000136285;
IFS Code: HDFC0000047.

UNDERTAKING

I, do hereby declare that whatever stated herein above is true to the best of my knowledge and belief. I also undertake to abide by the Rules, Regulation and Constitution of the Association, as amended from time to time.

.....
(Signature)

Forthcoming Events

Dr. Bharat D. Vasani Inaugural Study Circle	
Day & Date	21st August 2022, Sunday
Time	10:00 a.m. to 12:30 p.m.
Topic	Workshop on practical and legal issues in Tax Audit
Venue	N. L. High School
Chief Guest	Eminent faculty
Speaker	CA Rupal Shah
Chairman	CA Ketan Vajani

DIRECT TAX CASE LAWS

Compiled by CA Rupal Shah

(Partner at RHDB & Co LLP)



Oswal Bandhu Samaj vs. ITO (E)

Citation: [2022] 138 taxmann.com 561, ITAT Pune, 7 March 2022

Rent from letting out of halls and buildings and used for objects of the trust – eligible for exemption u/s 11

Facts:

Assessee is registered as a Public Charitable Trust under the BPT Act, 1950. During AY 2010-11, the trust had excess income of ₹ 1.5 crore. The assessee had two halls which were let out by it from time to time on which rental income was earned.

Since the trust, generated income from letting out of building and cultural hall etc., which was in the nature of business activity, was hit by the proviso to Section 2(15) and hence ceased to have any 'Charitable purpose'. AO thus denied the exemption from the income.

On first appeal CIT(A) also upheld the view of the AO and denied exemption to the income to the Trust.

On further appeal before the Tribunal,

Held

The term 'charitable purpose' covers, to the extent it is relevant for present purpose, (a) relief to the poor, (b) education, (c) medical relief and (d) advancement of any other object of general public utility.

The proviso to S 2(15), attaching a condition of not carrying on any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, applies only to advancement of any other object of general public utility, that is (d) and not to (a) to (c) above.

In the present case, the Assessee had provided very elaborate paper book to demonstrate that it was genuinely pursuing activities of medical help to the patients, Education expenses of the deserving students and Relief to the poor.

The costs in the P&L were identifiable with the receipts and included in the income side of Income and Expenditure Account. Total of such costs, which have no connection with the activities for advancement of any other object of general public utility, comes to ₹ 52.82 lakh. If this amount is added to expenditure incurred on Medical help; Education; and Food/relief to the poor, the total comes to ₹ 169.03 lakh, as against total expenses booked on the Expenditure side at ₹ 192 lakh. Remaining expenses are of usual running of the trust, such as, Depreciation amounting to ₹ 7.78 lakh; Salaries of ₹ 4.19 lakh; and other Administrative expenses, such as, Printing and stationery; Audit fee; Professional charges, Postage etc., leaving hardly any amount for pursuing 'advancement of any other object of general public utility'

The above discussion makes it graphically clear that the assessee actually pursued only the objects as classified in categories (a) to (c). viz., Medical Relief to the poor patients, Education to the deserving students and Relief to the needy sections of the society and hence shied away from taking up any of the objects in category (d), viz., advancement of any other object of general public utility. Once this is the position, it becomes explicitly clear that

the proviso to section 2(15), which gets attracted only when objects of the category (d) above are pursued, did not trigger in the instant case.

Consequently, Assessee is entitled to the exemption and appeal is allowed.

Perizad Zorabian Irani vs. Pr CIT

Citation: [2022] 139 taxmann.com 164, ITAT Mumbai, 9 March 2022

Whether Partner's remuneration forms part of gross receipt for audit u/s 44AB.

Facts:

Assessee was an actor by profession - She was also a partner in two partnership firms. She filed her return of income - Same was treated as invalid by revenue on ground that assessee failed to get her accounts audited though her gross receipts/turnover after including remuneration received from partnership firm was more than threshold limit under section 44AB.

Assessee submitted that partners' remuneration could not be construed as gross receipts in profession or business, thus, she was not required to get her accounts audited under section 44AB.

Assessee's contention were following, (a) the business is carried on by the partnership firm and not the assessee, (b) becoming the partner of partnership cannot be construed as carrying on business, (c) partners' remuneration cannot be construed as total sales turn over or gross receipts in business, (d) partners' remuneration does not arise out of carrying on profession, (e) partners' remuneration cannot be construed as gross receipts from profession and (f) section 44AB is not applicable where assessee is carrying on a profession as well as business simultaneously in different field.

Assessee filed a revision application u/s 264 of the Income tax Act, which was also rejected. Thus, the assessee filed an appeal before the Tribunal, where it was held that:

Held:

The provision applicable to Assessee is clause (b) of section 44AB which provides, every person carrying on profession shall, if his gross receipts in profession exceed fifty lakh rupees in any previous year, get his accounts of such previous year audited by an accountant. Profession is defined under section 2(36) of the Act as under: "Profession includes vocation".

The provisions of section 44AB(a) which says "every person carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceed or exceeds one crore rupees in any previous year" and clause (b) of section 44AB which says "every person carrying on profession shall, if his gross receipts in profession exceed fifty lakh rupees in any previous year", are mutually exclusive.

Admittedly, the assessee who was an individual in that case was not carrying on any business and the remuneration and interest received by the assessee from the partnership firm cannot be termed to be a turn-over of the assessee.

The appeal of the assessee is allowed.

Cases referred to:

Anandkumar v. Asstt. CIT [2020] 122 taxmann.com 252, Madras HC.



DIRECT TAXES - Law Update

Haresh P. Kenia

- **Applicability of Safe Harbour Rules 10TD Extended till AY 2022-23**

The Central Board of Direct Taxes Vide Notification no 66/2022 dated 17.06.2022, in exercise of the powers conferred by section 295 read with section 92CB (2) of the Income-tax Act, gives Income-tax (18th Amendment) Rules, 2022.

These rules deemed to be came into force with effect from 01.04.2022. It amends Rule 10 (3B) of Income Tax Rules. It has extended the validity of safe harbour provisions for transfer pricing issues of Rule 10TD till Assessment Year 2022-23.



Rule 10TD prescribes a list of eligible international transactions where the transfer price declared by the assessee shall be required to be accepted by the Income-tax Authorities.

Rule 10TD(1) and Rule 10TD(2A) prescribe a list of eligible international transactions where income-tax authorities shall accept the transfer price declared by the taxpayer at arm's length. Rule 10 (3A) provides for time limit for applicability of above both rules. It provided that provision shall apply for three AYs 2017-18 to 2019-20. Subsequently, CBDT inserted a new sub-rule (3B) to the Rule 10TD to extend the applicability to AY 2020-21 and Assessment Year 2021-22.

CBDT now further amends and extends the applicability to AY 2022-23.

- **CBDT Notifies Compliance Check Functionality for Section 206AB & 206CCA**

Section 206AB and 206CCA of the Income-tax Act, which is effective from 01.07.2021 and amended by finance act 2022, imposed higher TDS/TCS rate on the "Specified Person".

The act defines the "Specified Person" for the purpose of this section means a person who has not furnished the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted, for which the time limit for furnishing the return of income under sub-section (1) of section 139 has expired, and whose total tax deducted at source and tax collected at source is rupees fifty thousand or more in his case.

In order to facilitate Tax Deductors and Collectors in identification of Specified Persons, the CBDT has issued Order via F.No. 225/67/2021/ITAT dated 21.06.2021, directing specified authority for furnishing information to the Tax Deductor/Tax Collector, having registered in the reporting portal of the Project Insight through valid TAN, to identify the 'Specified Persons' for the purposes of section 206AB and 206CCA of the Act through the functionality "Compliance Check for Section 206AB & 206CCA".

This functionality is made available through (<https://report.insight.gov.in>) of Income-tax Department. May refer to CBDT Circular No. 11 of 2021 dated 21.06.2021 and CBDT Circular No. 10 of 2022 dated 17.05.2022 regarding use of functionality under section 206AB and 206CCA of the Income-tax Act

The features of procedure laid down for sharing of information with tax deductors /collectors are as under :-

- ✓ Registration:
- ✓ Accessing the Compliance Check functionality
- ✓ Using "PAN Search" mode
- ✓ Using "Bulk Search" mode

Tax Deductors & Collectors can refer to Quick Reference Guide on Compliance Check for Section 206AB & 206CCA and Frequently Asked Questions (FAQ) available under a Resources" section of Reporting Portal. They can also navigate to the "Help" section of Reporting Portal for submitting query or to get a call back from Customer Care Team of Income-tax Department. Customer Care Team of Income-tax Department can also be reached by calling on its Toll Free number 1800 103 4215 for any assistance.

Notification No. 01 of 2021 dated 22rd June 2021 is modified to the extent of what is contained in this notification Readers may refer to complete text of Notification.

- **Amends Rule for claiming Exemption by a Specified Fund under section 10(4D)**

The CBDT, vide notification no -64 dated 16.06.2022, in exercise of power conferred under section 10(4D) proviso to Item III of sub-clause (i) of clause C of explanation, gives Income Tax (17th Amendment) Rules, 2022.

It amends Rule 21AI, Rule 21AJ, Rule 21AJA, Rule 21AJAA and inserted Rule 21AIA in the Income-tax Rules, 1962 in order to claim exemption by a 'specified fund' under section 10(4D) of the Income-tax Act, 1961.

It also amended and substituted the existing Form No. 10-IG for reporting the exempt income under section 10(4D) by a 'specified fund'.

Readers may refer to complete text of Notification.

- **TDS on Lease Rentals to aircraft-leasing units located in IFSC under section 194-I**

The Central Government, vide notification no 65 dated 16.06.2022, in exercise of the powers conferred by section 197 (1F) read with section 80LA (2) (c) of the Act, specifies that no deduction of tax shall be made under

section 194-I of the Income-tax Act on payment in the nature of lease rent or supplemental lease rent, as the case may be, made by a person ('lessee') to a person being a Unit located in International Financial Services Center ('lessor') for lease of an aircraft .

It provides for relaxation from TDS under section 194-I of the Income Tax Act, in respect of lease rentals paid to aircraft-leasing units located in IFSC claiming exemption under section 80LA of the Act. It will come into force with effect from 1st July, 2022.

This relaxation from TDS under section 194-I is subject to the following condition

- ✓ The lessor shall furnish a statement-cum-declaration in Form No. 1 for each previous year to the lessee giving details of previous years relevant to the 10 consecutive assessment years for which the lessor opts for claiming deduction section 80LA(1A).
- ✓ The lessee shall not deduct tax on payment made or credited after the date of receipt of statement-cum-declaration in Form No. 1 from the lessor and furnish the particulars of all the payments made to the lessor on which tax has not been deducted in view of furnishing of Form no. 1 in the statement of deduction of tax so furnished under section 200(3) of the Act.

It provides definition of 'aircraft', 'International Financial Services Centre' and 'Unit'. It prescribes Form No. 1 to be furnished by a unit engaged in the business of leasing of aircraft located in International Financial Services Centre to the Lessee

This relaxation in TDS shall be available during the said previous years relevant to the ten consecutive assessment years as declared by the lessor in Form No. 1 for which deduction under section 80LA is being opted. The lessee shall be liable to deduct tax on payment of lease rent for any other year not covered in Form No. 1.

Readers may refer to complete text of Notification

- **Notified Cost Inflation Index Under Section 48, Explanation (v) – Financial Year 2022-23**

CBDT notifies the Cost Inflation Index (CII) for the Financial Year 2022-23 vide Notification No. 62/2022 dated 14th June, 2022. The Cost Inflation Index for the FY 2022-23 relevant to AY 2023-24 is 331 for the purpose of computing capital gains.

- **Revises Guidelines for Complete Scrutiny of Returns for FY 2022-23 in Search and Seizure cases**

The CBDT vide notification F.No.225/81/2022/ITA-II dated 03.06.2022 gives Guidelines for compulsory selection of returns for Complete Scrutiny during the Financial Year 2022-23

CBDT earlier issued its guideline dated 11.05.2022 on compulsory scrutiny of income-tax returns for complete scrutiny in the cases pertaining to search and seizure/requisition during the financial year 2022-23.

CBDT now vide notification dated 03.06.2022 revises its earlier guidelines dated 11.05.2022. It amends para 2 of the earlier guidelines as under

The Board has now substituted the procedure for selection of cases pertaining to search and seizure for complete scrutiny assessment. The substituted guidelines have segregated the search and seizure/requisition cases prior to 01.04.2021 and on or after 01.04.2021.

Sl. No.	Parameter	Procedure for compulsory selection
2	Cases pertaining to search and seizure/requisition	
2.1	Search & seizure/requisition prior to 01.04.2021: Assessments in search and seizure cases to be made under section(s) 153A, 153C read with section 143(3) of the Act and also for return filed for assessment year relevant to previous year in which the search was conducted under section 132 or requisition was made under section 132A of the Act.	The cases shall be selected for compulsory scrutiny with prior administrative approval of Pr. CIT/Pr.DIT/CIT/DIT concerned, who shall ensure that such cases are transferred to Central Charges u/s 127 of the Act within 15 days of service of notice u/s 143(2)/142(1) of the Act by the Assessing Officer concerned.

Sl. No.	Parameter	Procedure for compulsory selection
		<p>Where such cases are not centralized and Return of Income is filed in response to notice u/s 153C, the Assessing Officer concerned shall serve notice u/s 143(2) of the Act.</p> <p>Where such cases are not centralized and no Return of Income is filed in response to notice u/s 153C, the Assessing Officer concerned shall serve notice u/s 142(1) of the Act calling for information.</p>
2.2	<p>Search & seizure/requisition on or after 01.04.2021: Assessments in cases arising from search & seizure actions/requisitions u/s 132/132A conducted on or after 01.04.2021, for returns pertaining to A.Y. 2021-22.</p>	<p>The cases shall be selected for scrutiny with prior administrative approval of Pr. CIT/Pr.DIT/CIT/DIT concerned, who shall ensure that such cases are transferred to Central Charges u/s 127 of the Act within 15 days of service of notice u/s 143(2)/142(1) of the Act by the Assessing Officer concerned.</p>

- **Guidelines for TDS on Perquisites under section 194R**

The CBDT vide Circular no -12 dated 16.06.2022 gives detailed guidelines for removing difficulties for deduction of tax (TDS) as per the provision of section 194R of the Income-tax Act,. This Circular contains guidelines to remove difficulties with respect to Section 194R, which comes into effect from 1st July, 2022. Section 194R mandates deduction of tax or TDS @ 10% on benefit and/or perquisite provided to a resident.

CBDT, with the prior approval of the Central Government and in exercise of the Power conferred under section 194R (2) of the Act, hereby issues the following detailed guidelines in the form of FAQs.

- ✓ Is it necessary that the person providing benefit or perquisite needs to check if the amount is taxable under clause (iv) of section 28 of the Act, before deducting tax under section 194R of the Act?
- ✓ Is it necessary that the benefit or perquisite must be in kind for section 194R of the Act to operate?
- ✓ Is there any requirement to deduct tax under section 194R of the Act, when the benefit or perquisite is in the form of capital asset?
- ✓ Whether sales discount, cash discount and rebates are benefit or prerequisite?
- ✓ How is the valuation of benefit/perquisite required to be carried out?
- ✓ Many a times, a social media influencer is given a product of a manufacturing company so that he can use that product and make audio/video to speak about that product in social media. Is this product given to such influencer a benefit or prerequisite?
- ✓ Whether reimbursement of out of pocket expense incurred by service provider in the course of rendering service is benefit/perquisite?
- ✓ If there is a dealer conference to educate the dealers about the products of the company - Is it benefit/perquisite?
- ✓ Section 194R provides that if the benefit/perquisite is in kind or partly in kind (and cash is not sufficient to meet TDS) then the person responsible for providing such benefit or perquisite is required to ensure that tax required to be deducted has been paid in respect of the benefit or perquisite, before releasing the benefit or perquisite. How can such person be satisfied that tax has been deposited?
- ✓ Section 194R would come into effect from the 1st July 2022. Second proviso to sub-section (l) of section 194R of the Act provides that the provision of this section does not apply where the value or aggregate of value of the benefit or perquisite provided or likely to be provided to a resident during the financial year does not exceed twenty thousand rupees. It is not clear how this limit of twenty thousand is to be computed for the Financial Year 2022-23?

Readers may refer to complete text of Circular.



Any decision, order, summons, notice or other communication send by e-mail or uploaded on common portal – can it be considered as served to the noticee/registered taxpayer?



Compiled by CA Bhavin Mehta

In the present GST era, bulk show cause notices under section 73(5)/74(5) of GST Act, are uploaded on the GST portal and simultaneously is send to registered email address of the taxpayer. Similarly, adjudicated orders are uploaded on the GST portal and sent to the registered email address of taxpayers.

Section 73 and 74 stipulate the time limit within which the notice can be issued by the proper officer. If the notice is issued after the prescribed time limit the entire proceeding would be treated as bad in law. Similarly, time period is specified under section 73 and 74 for issue of the order. If the order is issued after the stipulated time period it would be treated as null and void. Further, the time period to file the reply to notice is counted from the date of receipt of the notice. Similarly, the time period for filing the appeal against order is computed from the date of receipt of order. Therefore, it is very important to determine the date of serving or receiving the notice or order.

ANALYSIS

Section 169: Service of notice in certain circumstances

- (1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely: -
 - (a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or
 - (b) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or
 - (c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or
 - (d) by making it available on the common portal; or
 - (e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or
 - (f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.
- (2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).
- (3) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.

[Emphasis supplied]

- A.1 Sub-section (1) of section 169 provides modes or methods of serving of decision, order, summons, notice, etc. under GST Act. Whereas, sub-section (2) and sub-section (3) of section 169 stipulates the date of serving of such decision, order, summons, notice, etc. The clause (c) and clause (d) of sub-section (1) provides method or mode of communication of decision, order, summons, notice, etc., to his email address and uploading on common portal, respectively. Sub-section (2) covers, date of serving of decision, order, summons, notice, etc., prescribed in clause (a), (e) and (f), whereas, sub-section (3) covers, date of serving of decision, order, summons, notice, etc., prescribed in clause (b). There is no provision which contains the date of serving of

decision, order, summons, notice, etc., prescribed in clause (c) and clause (d). In other words, neither sub-section (2) nor sub-section (3) of section 169 provides for date of service of decision, order, summons, notice, etc., send by email or uploaded on the GST portal.

A.2 In such scenario what will be the date of serving, where the decision, order, summons, notice, etc. is send by email or is uploaded on the common portal. In this regard attention is invited to section 4 of the Indian Contract Act, 1872, which is reproduced below:

4. Communication when complete:- The communication of a proposal is complete when it comes to the knowledge of the person to whom it is made.

The communication of an acceptance is complete, -

as against the proposer, when it is put in a course of transmission to him so as to be out of the power of the acceptor;

The communication of a revocation is complete, -

as against the person who makes it, when it is put into a course of transmission to the person to whom it is made, so as to be out of power of the person who make it;

as against the person to whom it is made, when it comes to his knowledge.

In nutshell, as per section 4 of the Indian Contract Act, the communication is complete when it comes to the knowledge of the receiver. Therefore, it can be derived that notice or order sent by email or uploaded on the GST portal would be deemed to be served on the date it came to the knowledge of noticee.

A.3 In the case of **M/s Flipkart India Pvt. Ltd. Vs. State of U. P. in Civil Misc. Writ Petition No.80 of 2016**, the Hon'ble Allahabad High Court observed "The limitation of 30 days will start from the date when there is proper service of the order upon the petitioner on which date the petitioner gets knowledge about the assessment orders which in the instant case was lacking". However, in the case of **K. U. Niyas vs. Assistant Commissioner, WP (C) No. 13647 of 2020 (E)** decided on 20.08.2020, the Hon'ble Kerala High Court on the basis of clause (c) and clause (d) of section 169 determined that the service of any communication by email address or making available on common portal is to be treated as an effective communication under the statute. With due respect, it appears the Hon'ble Court has considered methods of communication as date of serving of communication. It appears the Hon'ble Court has not taken the cognizance of sub-section (2) and (3) of section 169 of the GST Act. If date of service of any communication is based on methods prescribed in clause (a) to (f) of sub-section (1) of section 169, then the provision contained in sub-section (2) and (3) of section 169, which provides for date of service of communication, would become otiose.

A.4 In the case of **Bachittar Singh vs. State of Punjab & Anr., Air 1963 SC 395**, the Hon'ble Supreme Court has clearly enunciated the principle of law in this regard in the following words:

"Thus it is of the essence that the order has to be communicated to the person who would be affected by that order before the State and that person can be bound by that order. For, until the order is communicated to the person affected by it, it would be open to the Council of Ministers to consider the matter over and over again and, therefore, till its communication the order cannot be regarded as anything more than provisional in character.

A.5 In the case of **State of Punjab vs. Amar Singh Harika, AIR 1966 SC 1313**, the Hon'ble Supreme Court held as follows:

"The first question which has been raised before us by Mr. Bishan Narain is that though the respondent came to know about the order of his dismissal for the first time on the 28th May 1951, the said order must be deemed to have taken effect as from the 3rd June 1949 when it was actually passed. The High Court has rejected this contention; but Mr. Bishan Narain contends that the view taken by the High Court is erroneous in law. We are not impressed by Mr. Bishan Narain's argument. It is plain that the mere passing of an order of dismissal would not be effective unless it is published and communicated to the officer concerned. If the appointing authority passed an order of dismissal, but does not communicate it to the officer concerned, theoretically it is possible that unlike in the case of a judicial order pronounced in Court, the authority may change its mind and decide to modify its order."

From the aforesaid observations made by the Courts it becomes clear that an order passed by an authority cannot be said to take effect unless the same is communicated (delivered) to the party affected. In the case of **Greater Mohali Area Development Authority & Ors. Vs. Manju Jain & Ors. (2010) 9 SCC 157**, the Hon'ble Supreme Court observed "Thus, in view of the above, it can be held that if an order is passed but not communicated to the party concerned, it does not create any legal right which can be enforced through the court of law, as it does not become effective till it is communicated."



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Do you know?



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Your age + your year of birth, every person is = 2022.

Its so strange that even experts cant explain it! You figure it out and see if its 2022. Its a thousand-year wait!

Eg: • My age is 58 years old • I was born in 1964 • So $58+1964= 2022$

Use the age you are going to be during this year.

Example: I was born in 1949 and my age is 73. = $1949 +73=2022$

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Printed by Kishor Dwarkadas Vanjara published by Kishor Dwarkadas Vanjara, on behalf of The Malad Chamber of Tax Consultants, and Printed at Finesse Graphics & Prints Pvt. Ltd., 309, Parvati Industrial Premises, Sun Mill Compound, Lower Parel, Mumbai-400 013. Tel. Nos.: 2496 1685/2496 1605 Fax No.: 24962297 and published at The Malad Chamber of Tax Consultants B/6, Star Manor Apartment, 1st Floor, Anand Road Extn., Malad (W), Mumbai-400 064. Adm. Off. Tel. 022-2889 5161

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Associate Editor of MCTC Bulletin : Shri Brijesh M. Cholera

Posted at Malad ND (W) Post Office, Mumbai-400 064

Date of Publishing 3rd Week of Every Month
Date of Posting : 20th & 21st July, 2022

To

If undelivered, please return to :

The Malad Chamber of Tax Consultants,
B/6, Star Manor Apartment, 1st Floor,
Anand Road Extn., Malad (W),
Mumbai-400 064

