ASC Times

All India Taxes Weekly Referencer

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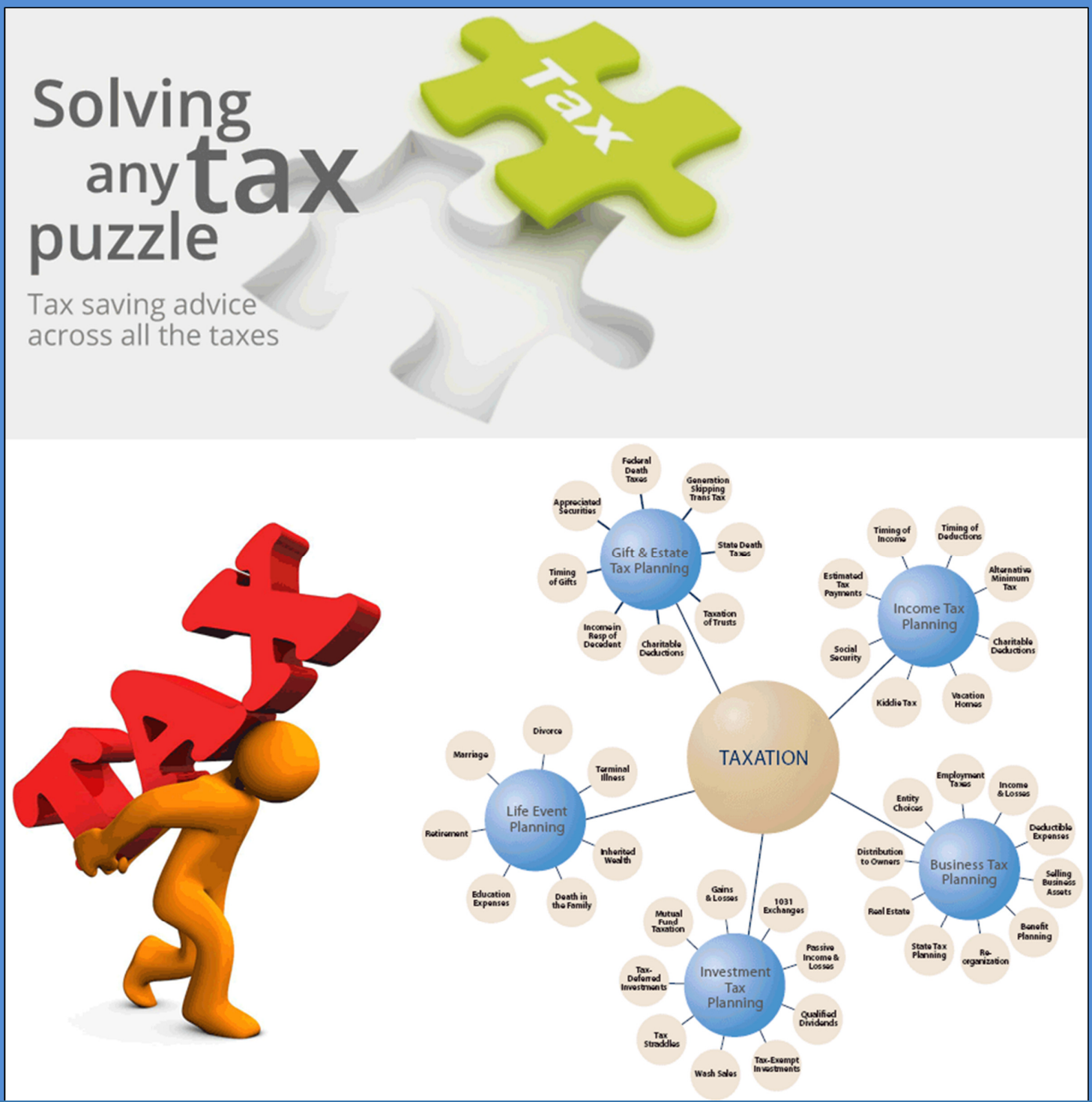

From the CEO's Desk

Dear Reader,

It seems a little paradox that though Indian Finance market is still not developed in comparison to its counterparts but our financial regulatory bodies ranked at the top in a survey by global bodies of banking and capital market regulators. RBI and SEBI have been rated better than their peers in China and US. In the latest "assessment study" globally the regulatory framework for financial market infrastructures across the world, only 6 countries, including India, have got the highest score of 4 for all the parameters on a scale of 1 to 4. The other five countries are Australia, Brazil, Hong Kong, Japan and Singapore.

Opening a bank account would be easier now. The RBI has notified easier documentation rules for opening a bank account as far as the proof of address is concerned. It has allowed for now on to accept any utility bill as address proof provided it is less than two months old, including electricity, telephone, postpaid mobile phones, piped gas and water bills. In a circular to all the banks RBI has notified the amendment in the Prevention of Money Laundering Rules, 2005. Further for those who have moved to a new location, the letter of allotment of accommodation issued by state or central government departments is an acceptable address proof.

An interesting survey sponsored by LG and executed by IMRB International, on the Happiness Index of people in major Indian cities reveals that people in Delhi are third most happy in India after Chandigarh and Lucknow. It is, however, the happiest metro in the country. Besides appearance, time to themselves and recognition of their work is what made Delhiites happy, the survey found.The sample size of the survey carried out across 16 cities was 2,424 and included men and women in the age group of 18 to 45 years.

Alok Kumar Agarwal
CEO
ASC Group

TAX CALENDAR

Due Date	Compliances from 15/06/2015 to 21/06/2015
15th June	Payment of first instalment of Advance Tax for a company
21st June	Monthly payments of VAT

Country Wide Holidays for the Week

Date	State	Occasion/Festival
15th June	Mizoram	YMA Day
15th June	Raja Sankranti	Orissa

Index Guide

CENTRAL TAXES

SERVICE TAX

COURT DECISIONS

GMR HYDERABAD INTERNATIONAL AIRPORT LTD VERSUS COMMISSIONER OF CUSTOMS, CENTRAL EXCISE AND SERVICE TAX, HYDERABAD-IV (CESTAT BANGALORE)

BRIEF: Whether charges which the appellant received from the tenants on account of the actual consumption of electricity and water and which are further deposited by them to the respective departments can be considered to be the value of the services being provided by them.

OUR TAKE: The hon'able **CESTAT BANGALORE** held that charges which the appellant received from the tenants, on account of the actual consumption of electricity and water and which are further deposited by them to the respective departments, **cannot be considered to be the value of the services** being provided by them. **At the most the commission which they received for doing the said service would be the value of the services**. Assessee can be held as not entitled to CENVAT credit.

MRS. MANDA JAGANNATH MHATRE VERSUS COMMISSIONER OF CENTRAL EXCISE, RAIGAD (CESTAT MUMBAI)

BRIEF: The case is with regard to classification of service. Whether activity of lining coating loading and unloading, etc. with the aid of team (i.e. other workers) is classifiable under manpower recruitment and supply agency service.

OUR TAKE: The hon'able **CESTAT MUMBAI** held that appellant have carried out various odd jobs during the period in dispute for Ispat Industries Ltd. like, lining, coating, loading and unloading etc. with the aid of her team (other workers). It is further evident from bill of the job done that the same is definitely not classifiable under manpower recruitment and supply agency service. The payment of Service Tax in such facts and circumstances, show that the appellant have got no concept or knowledge of Service Tax and have deposited the same out of fear with interest much prior to the issue of show-cause notice, i.e almost a year. Further, the Counsel for the appellant makes the concession by stating that in the facts and circumstances, the appellant will not be claiming any refund of amount (tax) and interest already deposited. In this view of the matter, the impugned order is set aside and the appeal stands allowed in favour of the appellant. Tribunal remands the issue limited to re-calculation of the tax, to the adjudicating authority. [**Decided in favour of assessee.]**

BELLARY CITY CABLE VERSUS COMMISSIONER OF CENTRAL EXCISE CUSTOMS & SERVICE TAX, BELGAUM (CESTAT BANGALORE)

BRIEF: If Penalty under Sections 76 77 and 78 can be waived when entire amount of tax was paid and before issue of adjudication order interest was also paid before issue of show-cause notice.

OUR TAKE: The hon'able **CESTAT BANGALORE** in the present case held that the appellant was not aware of the provisions of law and as a result, continued to operate as they were operating earlier. The fact is that both the revenue and the assessee are relying upon the balance sheet and the Profit & Loss Account for arriving at the quantum of service charges received and no other documents are admittedly available either with the assessee or with the Department. There is no dispute about the total liability or the total service amount received. The Accountant also promptly stated that they have made a mistake and they would pay the tax and interest. The intention behind introduction of provisions of Section 80 is precisely to ensure that assessee who did not pay the tax can make the payment with interest and lenient view can be taken as regards penalty in cases where there is lack of knowledge and reasonable cause. The very fact that the section continues to be in existence for a long time shows that the intention of the Government is to provide relief where there is a reasonable cause for failure to make payment and Hon'ble High Court of Allahabad in the case of CCE Vs. Muniruddin [2013 (10) TMI 95 - ALLAHABAD HIGH COURT] has taken a view that even ignorance of law can be one of the reasons, though cannot be sole ground for invoking Section 80, appellant has made out a case for waiver of penalty by invoking Section 80 of Finance Act. Accordingly, penalties imposed under various sections of Finance Act, 1994 are waived. [**Decided in favour of assessee**]

CENTRAL EXCISE

COURT DECISIONS

BHARAT HEAVY ELECTRICALS LTD. VERSUS COMMR. OF CUS. & C. EX., BHOPAL (MADHYA PRADESH HIGH COURT)

BRIEF: The Binding nature of circular is in question. Whether the officers of department can proceed to take action by saying that the circular is only advisory in nature or that it is not a circular issued under the statutory rule.

OUR TAKE: The hon'able **MADHYA PRADESH HIGH COURT** held that the officers of the department cannot in violation to the circular proceed to take action by saying that the circular is only advisory in nature or that it is not a circular issued under the statutory rule. When a departmental circular is issued by the Board, it would be in accordance to the power available to the Board under Section 37B and until and unless it is not shown that the circular is contrary to any law laid down by the Supreme Court or judgment of High Court, the same shall be binding on all the officers of the Excise Department and only on the ground that the circular is not issued under Rule 233 of the Rules, the officer cannot refuse to follow the circular by saying that it is only advisory in nature. All the circulars issued by the Board in its administrative and executive jurisdiction are binding on the officers of the Board until and unless it can be shown that they are contrary to any law laid down by Supreme Court or High Court with regard to the subject matter of the circular. [**Decided in favour of assessee**]

SHASUN PHARMA. LTD. VERSUS REVISION AUTHORITY, JT. SCY., G.O.I., NEW DELHI (MADRAS HIGH COURT)

BRIEF: The commencement of the period of limitation is in question. Whether it run from the date on which the petitioner received the certified copy of the order passed by the Tribunal along with papers.

OUR TAKE: The hon'able **MADRAS HIGH COURT** held that in terms of sub-section (2) of Section 35EE of the Central Excise Act, the application for revision of any order passed under Section 35A of the Act shall be filed within 3 months from the date of communication to the applicant of the order, against which, the application is being made in terms of proviso under sub-section (2) of Section 35EE, the Central Government, the Revisional Authority, may if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the aforesaid period of 3 months, allow it to be presented within a further period of 3 months. Therefore, the period of limitation as stipulated in the said provision is 3 months and the authority has got power to condone the delay for a further period of three months provided the applicant shows sufficient cause.

While computing limitation, the starting point of limitation should have been the date on which the order passed by the Tribunal was communicated to the petitioner i.e., 24-3-2011. The learned standing counsel appearing for the respondents would contend that should not be the date, but the date on which the order passed by the Tribunal, since the petitioner was represented by counsel before the Tribunal. It is to be noted that the Tribunal returned the papers to the petitioner for being presented before the proper forum. The appeal was dismissed as not maintainable and not on merits. Therefore, unless and until the petitioner is intimated with the order along with original papers, the petitioner cannot approach the revisional authority. Therefore, in the petitioner's case, the period of limitation should commence to run from the date on which the petitioner received the certified copy of the order passed by the Tribunal along with papers. [**Decided in favour of assessee**]

ALSTOM T&D INDIA LTD. VERSUS CESTAT, CHENNAI (MADRAS HIGH COURT)

BRIEF: Whether interest would levy on deferential duty when price increase retrospectively and the amount collected through supplementary invoices.

OUR TAKE: The hon'able **MADRAS HIGH COURT** held that the assessee has cleared goods and paid duty thereon and raised supplementary invoices, but however failed to pay interest payable under Section 11AB of the Act. In view of the decision of the Supreme Court in SKF India Ltd. case, referred supra, the first plea raised by the learned counsel for the appellant fails and in that regard, we find no infirmity in the order passed by the Tribunal.

Section 11AA of the Act, as amended by Section 64 of the Finance Act, 2011 (8 of 2011), does not in any way advance the case of the appellant, as we find that the liability to pay interest on delayed payment of duty is clearly envisaged in Section 11A(2B) read with Explanation 2 to the said provision. Such interest was leviable even during the period in question. In fact, the Supreme Court in SKF India Ltd. case, referred [2009 (7) TMI 6 - SUPREME COURT], observed that there is some ambiguity in the said provisions, which was a cause for amendment brought to Section 11AA of the Act. [**Decided against assessee.**]

TATA MARCOPOLO MOTORS LTD VERSUS COMMISSIONER OF CENTRAL EXCISE, CUSTOMS AND SERVICE TAX, BELGAUM (CESTAT BANGALORE)

BRIEF: If assessee has paid excess duty on all clearances during the relevant period whether such excesses have to be taken into account for confirming the demand of duty in terms of the provisions of Rule 10A of Central Excise Valuation Rules .

OUR TAKE: The hon'able **CESTAT BANGALORE** held that If assessee has paid excess duty on all clearances during the relevant period, such excesses have to be taken into account for confirming the demand of duty in terms of the provisions of Rule 10A of Central Excise Valuation Rules.

M/S CONTINENTAL CHEMICALS LTD VERSUS COMMISSIONER OF CENTRAL EXCISE, NOIDA (CESTAT NEW DELHI)

BRIEF: Assessee is entitled to take CENVAT Credit on inputs used for export goods. If the assessee has not taken CENVAT Credit of duty paid on the inputs whether consequently the she/he is entitled for refund of duty paid on the inputs.

OUR TAKE: The hon'able **CESTAT NEW DELHI** held that appellant has procured inputs on which duty has been paid and no CENVAT Credit has been taken by the appellant. The said inputs have been used in the manufacture of export goods which have been exported through merchant exporter and the said goods have been exported under Bond. As the input is used in the process of manufacture of final product, therefore, the appellant is entitled to take CENVAT Credit thereof and as the appellant has not taken CENVAT Credit of duty paid on the inputs consequently the appellant is entitled for refund of duty paid on the inputs. Therefore, assessee is entitled for refund claim. [**Decided in favour of assessee**]

NOTIFICATIONS & CIRCULARS

The **Govt. of India vide Notification No. 17/ 2015, dated 8th June, 2015** (published in gazette) is issued for granting Centralized registration facility to manufacturers of aluminium roofing panel subject to condition of consumption at the site of manufacture.

OUR TAKE: In exercise of the powers conferred by sub-rule (2) of rule 9 of the Central Excise Rules, 2002, the Central Board of Excise and Customs exempts from the operation of said rule, every manufacturing unit engaged in the manufacture of aluminium roofing panels falling under tariff item 7610 90 10 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), subject to the conditions that such roofing panels are consumed at the site of manufacture for execution of the project and the manufacturer of such goods has a centralised billing or accounting system in respect of such goods manufactured by different manufacturing units and opts for registering only the premises or office from where such centralised billing or accounting is done.

The **Govt. of India vide Notification No. 33/2015, dated 10th June, 2015** seeks to **exempt excise duty for goods required for the National AIDS Control Program** funded by Global Fund to fight AIDS, TB and Malaria (GFATM) till 31-03-2016.

OUR TAKE: The notification is self explanatory.

The Govt. of India vide **Notification No. 32/2015, dated 4th June, 2015** exempted Ethanol produced from molasses generated from cane crushed in the sugar season 2015-16 and supplied to specified public sector oil marketing companies from duty of central excise.

OUR TAKE: The notification is self explanatory.

CUSTOMS

NOTIFICATIONS & CIRCULARS

The **Govt. of India vide Notification No. 28/2015 , dated 05th June, 2015** seeks to levy definitive anti-dumping duty on imports of Hot Rolled Flat Products of Stainless Steel of ASTM Grade 304 with all its variants originating in, or exported from People s Republic of China, the Republic of Korea and Malaysia for a period of five years.

OUR TAKE: The notification is now published in the Gazette. Readers are hereby requested to go through the notification.

The **Govt. of India vide Notification No. 29/2015 , dated 10th June, 2015** seeks to levy of anti-dumping duty on imports of Vitamin E (in all forms except natural form), originating in or exported from the People s Republic of China for a period of five years.

OUR TAKE: Readers are hereby requested to go through the notification.

The **Govt. of India vide Notification No. 37/2015, dated 10th June, 2015 e**xempts from customs duty for goods required for the National AIDS Control Programme funded by Global Fund to fight AIDS, TB and Malaria (GFATM) till 31/03/2016

OUR TAKE: The notification is self explanatory.

The **Govt. of India vide Circular No. 19/2015, dated 9th June, 2015,** Change the limit of Domestic procurement and import of goods from Rs.15 crores and above to Rs.10 crores and above in the preceding year for Fast Track Clearance as per Handbook of Procedures (HBP) 2015-20.

INCOME TAX

COURT DECISIONS

TELANGANA STATE BEVERAGE CORPORATION LTD. VERSUS UNION OF INDIA AND OTHERS (ANDHRA PRADESH HIGH COURT)

BRIEF: Whether any recovery proceedings can be initiated against the writ petitioner for the alleged income tax dues as claimed by the Revenue while carrying on business on behalf of the State of Telangana in respect of sale of Indian Made Liquor and Foreign Liquor without issue of notice u/s 15.

OUR TAKE: The **ANDHRA PRADESH HIGH COURT** held that by virtue of Section 68 read with Section 53 of Act, 2014, successor States of Andhra Pradesh and Telangana have acquired the assets and took over the liability in respect of the Companies and Corporations specified in the ninth schedule of Act, 2014.

By virtue of sub-section (2) of Section 68 the assets, rights and liabilities of APBCL now stand apportioned between the State of Andhra Pradesh and State of Telangana in the manner as provided in Section 53 of Act, 2014. Section 53 provides subject to the agreement the aforesaid assets and liabilities of the Corporation, shall stand apportioned on the basis of population ratio. The petitioner has not acquired nor can acquire in view of above legal position any property from APBCL nor the liability thereof. The State of Telangana has acquired these assets and properties and liability of APBCL, being the recorded assessee proportionately.

Therefore, it is absurd to contend that the writ petitioner is the successor in interest of APBCL.

It does not appear from object clause of Memorandum of Association that it has acquired any rights, assets and properties of APBCL. Thus, the question of shouldering liability by the writ petitioner also does not arise. We are of the view that just because the petitioner paid tax dues on mistaken application of law, it cannot be precedent for recovery for the simple reason that illegal and wrongful action cannot be precedent, furthermore there cannot be estoppel as against provision of law. - actions taken by the Revenue against the writ petitioner are without jurisdiction and wholly illegal.

In the event, State of Telangana does not pay the proportionate liability of the tax dues for the assessment year 2012-13 or previous thereto, if any, it would be open for the respondents to recover the same from the State of Telangana, since It is to share the proportionate liability along with assets of the erstwhile APBCL which was again a separate legal entity and an assessee. We are of the view that the writ petitioner cannot be equated with the Government in order to get Constitutional immunity from payment of taxes. [**Decided in favour of appellant**]

COMMISSIONER OF INCOME TAX-14 VERSUS ANIL ARORA (DELHI HIGH COURT)

OUR TAKE: The hon'able **DELHI HIGH COURT** held that there is no nexus between the property in Baddi (Himachal Pradesh) and the property in Punjabi Bagh (West). There is undoubtedly no material available to even remotely reflect that consideration over and above what was shown to be paid in the registered sale deed of the West Punjabi Bagh property was made over to the seller. In these circumstances, it was not fair in the first place to refer the said property for estimation of its market value by DVO.

The assessment of the value by DVO cannot hold primacy over the consideration for which the property was actually acquired. If there is any difference in the shares in consideration borne by the four brothers, it is a matter of their inter se understanding. Doubts as to the real value cannot arise from such fact alone.

The shop in Bhagirath Place is the property of the assessee. It has been found, as a fact, by the CIT(Appeals) that the shop had remained vacant throughout the AY. No evidence was gathered by the AO to refute the claim of the assessee to such effect or to show that rent over and above what was declared was realized. The conclusion of the CIT(Appeals) to the contrary was affirmed by ITAT in the order dated 08.08.2014. Both the said authorities have also

found, on factual inquiry, that the assessee had explained the recovery during the search with the help of books of accounts of Wings Pharmaceuticals Pvt. Ltd. There is nothing brought by the Revenue to demonstrate that these pure findings of fact are perverse. [**Decided against revenue**]

THE COMMISSIONER OF INCOME TAX AND OTHERS VERSUS M/S. SRI MARIKAMBA TRANSPORT COMPANY, C/O. JAGANNATHA & CO. [KARNATAKA HIGH COURT]

BRIEF: When TDS is deducted u/s 194C, whether non-filing of Form No.15-I/J within the prescribed time when payment is made to sub-contractors towards freight charges leads to default of provisions of Section 40(a)(ia).

OUR TAKE: The hon'able **KARNATAKA HIGH COURT** held that once, the declaration forms are filed by the sub-contractor, the liability of the assessee to deduct tax on the payments made to the sub-contractor would not arise. As we have examined, the sub-contractors have filed Form No.15I before the assessee. Such being the case, the assessee is not required to deduct tax under Section 194C(3) of the Act and to file Form No.15J. It is only a technical defect as pointed out by the Tribunal in not filing Form No.15J by the assessee. See Valibhai Khandbai Mankad's case (2011 (4) TMI 887 - ITAT, AHMEDABAD) upheld by the High Court of Gujarat reported in (2012 (12) TMI 413 - GUJARAT HIGH COURT) wherein it is held that once the Conditions of Section 194C(3) were satisfied, the liability of the payee to deduct tax at source would cease and accordingly, application of Section 40(a)(ia) would also not arise. [**Decided in favour of assesse]**

TUPPERWARE INDIA PVT. LTD. VERSUS COMMISSIONER OF INCOME TAX (DELHI HIGH COURT)

BRIEF: Whether excise duty levied by the Custom & Central Excise Settlement Commission is allowable business expenditure.

OUR TAKE: The hon'able **DELHI HIGH COURT** held that the additional excise duty were to be borne by the contract manufacturers, the contract manufacturers would have accounted for that amount in the purchase price of the goods, resulting in a higher price to be paid by the assessee. Therefore, this situation is, as per the ITAT's own explanation, 'revenue neutral' as well. The AO's determination that the payment was made by the assessee on behalf of contract manufacturers as a part of a collusive attempt to evade tax, is thus, baseless.

This sum of additional excise duty, was the differential amount which became payable only upon the passing of the said order and thus, became crystallized in the subject assessment year. Therefore, even though the excise duty was for manufacturing activity that occurred earlier, the liability to pay such additional duty did not exist in the previous years and as a result, could not have been claimed by the assessee as expenditure in the concerned previous years. In arriving at this conclusion, this Court relies upon its ruling in Rattan Chand Kapoor (1984 (2) TMI 60 - DELHI High Court)affirmed by this Court in Shri Ram Pistons & Rings Ltd [2008 (5) TMI 631 - DELHI HIGH COURT]. Thus the sum of ₹ 4,94,09,120/- paid by the assessee towards additional excise duty on behalf of the contract manufacturers constitutes deductible expenditure under Section 37(1) of the Act. [**Decided in favour of the assessee]**

K. NAGESH VERSUS ASSISTANT COMMISSIONER OF INCOME-TAX, BANGALORE (KARNATAKA HIGH COURT)

BRIEF: Refund of the excess amount paid with interest when the assessment is annulled by the Authorities.

OUR TAKE: The hon'able **KARNATAKA HIGH COURT** held that the declaration of income furnished by the assessee under the revised return is declared to be invalid. In such circumstances, the provisions of self-assessment under Section 140-A of the Act, are not attracted. If the Assessing Officer is barred from framing a fresh assessment based on any invalid return, non-est in the eye of law, though is chargeable under Section 4 of the Act, Department, retaining that amount of tax paid on the basis of an invalid return without there being any self assessment/assessment made by the authorities under the Act, would violate Article 265 of the Constitution of India.

When the assessment is annulled by the Authorities, the Department is bound to refund the excess amount of tax paid by the assessee on the valid return. The interpretation of the Tribunal that the return contemplated under the proviso (b) to Section 240 of the Act, includes both valid and invalid is not sustainable and has to be set aside. Since we are of the view that the tax amount paid on the invalid return has to be refunded the same analogy applies to the interest portion also. [**Decided in favour of the assessee**]

M.N. NAVALE (BIGGER HUF) VERSUS SOMNATH M. WAJALE, DEPUTY COMMISSIONER OF INCOME-TAX, CENTRAL CIRCLE -2 (2) , PUNE (BOMBAY HIGH COURT)

BRIEF: Refusal to release jewellery seized.

OUR TAKE: The hon'able **BOMBAY HIGH COURT** held that Clause 3(d) of Circular/Instruction dated 21st January 2009 inter alia, provides for release of the seized jewellery in case the ownership of the seized jewellery is accepted and the assessee concerned provides an unconditional and irrevocable bank guarantee to the extent of the value of

seized jewellery. The revenue would not be prejudiced in any manner, if the jewellery is released on the bank guarantee furnished by the Individual, as according to the revenue he is the person who is owner of the seized jewellery and he undertakes through his counsel that the bank guarantee be encashed to meet the dues on the seized jewellery of any of the three petitioners.

We set aside the two orders of the Commissioner of Income Tax dated 17 October 2014 and direct him to release the seized jewellery to the Individual upon satisfaction of its valuation and on the Individual furnishing unconditional and irrevocable bank guarantee of a Nationalised Bank. Needless to state that the Commissioner of Income Tax would dispose of the petitioners' applications for release of the seized jewellery in terms of this order, as expeditiously as possible and preferably before 10 December 2014, keeping in view the marriage in family is scheduled on 15 December 2014.The aforesaid bank guarantee of Nationalised Bank would be valid for a period of four months from today. The petitioners undertake to return the seized jewellery to the revenue at the end of the period of three months.

NOTIFICATIONS & CIRCULARS

The **Govt. of India vide Notification No. 124/2015, dated 26th May, 2015** (published in gazette) notified eligible institutions, projects or schemes along with estimated cost and maximum amount of available deduction u/s 35AC of Income Tax Act, 1961.

OUR TAKE: Readers are requested to read the table in the said notification.

The **Govt. of India vide Circular No. 09/2015, dated 9th June, 2015** has issued comprehensive guidelines to be followed for Condonation of delay in filing refund claim and claim of carry forward of losses u/s 119(2)(b) of the Income Tax Act .

OUR TAKE: The circular is self explanatory.

The **Govt. of India vide Circular F.No. 500/7/2015-APA-II, dated 10th June, 2015** issued Clarifications on Rollback Provisions of Advance Pricing Agreement Scheme.

OUR TAKE: The Circular is in Question and Answer format and is self explanatory.

The **Govt. of India vide Order No F.No. 225/154/2015/ITA. II dated 10th June, 2015,** orders extension of due date of filing return of income for Assessment Year 2015-16 in case of Non-corporate & assessee not covered under tax audit provisions upto 31st August, 2015.

OUR TAKE: The order is self explanatory.

STATE TAXES

ALL INDIA VAT

NEW DELHI

The **Department Of Trade And Taxes Delhi Vide Circular No. Circular No.12 of 2015-16, dated 10th June 2015** introduced new certificates to be recorded by the concerned officers while processing refund**.**

OUR TAKE: The circular is an internal instruction and is self explanatory. The instruction on types of certificate to be provided at various levels is given.

COURT DECISIONS

TCI HI-WAYS PVT LTD, C/O. GATI LTD. VERSUS THE COMMERCIAL TAX OFFICER (MADRAS HIGH COURT)

BRIEF: Detention of goods when the transportation is without proper documents.

OUR TAKE: The hon'able **MADRAS HIGH COURT** held that the petitioner, being a transporter, carrying on business in the State, is hereby directed to pay tax for release of the goods. Insofar as the compounding fee is concerned, the authority will proceed in accordance with the provisions of section 72 of the Tamil Nadu Value Added Tax Act and the amount demanded under the compounding fee shall not be made a pre-condition for release of the goods and the authorities are to proceed in accordance with law for compounding fee following the procedure prescribed and the petitioner is entitled to file revision under section 54 of the Act, if so advised. - Decision in the case of MOHAN SHARMA v. THE DEPUTY COMMERCIAL TAX OFFICER [2013 (4) TMI 244 - MADRAS HIGH COURT] followed. [**Decided in favour of assessee**]

M/S SRI KRISHNA ELECTRICALS PLUMBING VERSUS THE COMMERCIAL TAX OFFICER (MADRAS HIGH COURT)

BRIEF: Levy of tax on purchase value. Sales had been done by the petitioner to the tune of Rs. 47,05,257/-. In view of Section 3(4)(a)(ii) extracted supra the whether the department has jurisdiction to assess the tax based on the purchase value.

OUR TAKE: The hon'able **MADRAS HIGH COURT** held that the sales had been done by the petitioner to the tune of ₹ 47,05,257/-. In view of Section 3(4)(a)(ii) extracted supra, the respondent has no jurisdiction to assess the tax based on the purchase value. According to the petitioner, the respondent had taken the purchase value as yardstick without considering the provisions of the Act. The statute speaks about the Sales Tax turnover alone for the purpose of liability under section 3(4) of the Tamil Nadu Value Added Tax Act, 2006. - In the light of the provisions under Section 3(4) of the Tamil Nadu Value Added Tax Act, 2006, as the sales of the petitioner are less than ₹ 50,00,000/-, the impugned order is liable to be set aside. [**Decided in favour of assessee**]

OTHER UPDATES

FEMA

NOTIFICATIONS & CIRCULARS

RBI/2014-15/636, A. P. (DIR Series) Circular No .107, June 11, 2015, Permission is granted to subscribe to chit funds by NRIs without limit on non-repatriation basis. However, this is subject to certain conditions as laid down in the circular.

OUR TAKE: The Circular is self explanatory.

RBI vide circular RBI/2014-15/637, A. P. (DIR Series) Circular No. 108, dated 11-6-2015, granted extension of scheme of raising External Commercial Borrowings (ECB) by eligible borrowers for low cost affordable housing projects.

OUR TAKE: The Circular is self explanatory.

RBI vide circular RBI/2014-15/638, A. P. (DIR Series) Circular No. 109, dated 11-6-2015, granted Extension of scheme of External Commercial Borrowings (ECB) for working capital for Civil Aviation Sector by airline companies.

OUR TAKE: The Circular is self explanatory.

We may be contacted at the following offices:

CORPORATE OFFICE
73, National Park
Lajpat Nagar IV,
New Delhi - 110024
INDIA
P: +91-11-41729056-57, 41729656/57

GURGAON
605, Suncity Business Tower
Golf Course Road, Sector-54,
Gurgaon,
Haryana - 122002
P: +91-124-4245110/116/117 +91-124-4245111

KOLKATA
1, Old Court House Corner
Tobacco House 1st floor,
Room No. 13 (North),
Kolkata - 700001
P: +91-33-2262 5203
M: +9198315 94980

MUMBAI
SitaiVihar,
Plot No 67A, Sector New 50
4th Floor, B- Wing
Navi Mumbai – 400706
Mumbai
M: +91- 9022131399

NOIDA
C-100,Sector-2,
Noida- 201301
Uttar Pradesh
M: +91- 9811481093

ASSAM
House No. 76,
Near Godrej Interio,
Forest Gate, P.O. Narangi,
Guwahati – 781026
P: +91-0361-2552302
M: +91-9864857565

INTERNATIONAL BRANCH
303,5th Avenue Suite 1007,
New York, NY 10016, U.S.A

For enquiries related to:

Service	Contact Person	Service	Contact Person
DVAT:	faiz@ascgroup.in	Service Tax:	nitin@ascgroup.in
HVAT:	deepak@ascgroup.in	WBVAT:	cavivekjalan@gmail.com
TDS:	mayank.singhal@ascgroup.in	Transfer Pricing & PE:	shailendra@ascgroup.in
Excise:	deepak@ascgroup.in	Legal Metrology:	legal@ascgroup.in
UPVAT:	jaswant@ascgroup.in	Company Law:	legal@ascgroup.in
Income Tax:	vikash@ascgroup.in	PR/Media	socialmedia@ascgroup.in
Maharashtra VAT:	niten@ascgroup.in		