



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Setup by an Act of Parliament)

Aurangabad Branch of WIRC of ICAI

CHAIRMAN'S MESSAGE

Dear Members,

As the vibrant colours of autumn paint our surroundings, I extend my warmest greetings to each and every member of our esteemed institute. It is with great enthusiasm that I share my thoughts with you in this October edition of our newsletter.



The past month has been a testament to our collective strength and determination. I am heartened by the achievements and contributions of our members, which continue to shape the narrative of our branch. Your commitment is the driving force behind our shared success.

Autumn brings with it a sense of transformation—a shedding of the old to make way for the new. Similarly, let us embrace this season as an opportunity for personal and professional growth. As we navigate change, I am confident that our community will emerge even more resilient and united.

October promises to be an exciting month with several key events and initiatives on the horizon. Whether it's our Free Blood Donation & Health Checkup Camp or the launch of collaborative projects, I encourage each member to actively participate and contribute. Your involvement is crucial to the vitality of our branch.

I want to take a moment to express my gratitude to each member of our community. Your dedication and passion are the cornerstones of our success, and I am honoured to lead such a dynamic and accomplished group.

As we step further into the final quarter of the year, let us remain focused on our goals and objectives. Your ideas, feedback, and collaborative spirit will continue to drive the momentum of our organization. Together, we can achieve greatness.

In closing, I extend my best wishes for a fruitful and inspiring October. May this season of change bring new opportunities, growth, and success to each member.

Thank you for your continued dedication.

Best regards,
CA Ganesh Bhalerao
Branch Chairman
Aurangabad



SOME RECENT CASE LAWS...

1) ITAT quashes Revision Order u/s 263 against TATA Teleservices on ground of Lack of Jurisdiction

Tata Teleservices (Maharashtra) Limited vs Principal Commissioner of Income Tax

CITATION: 2023 TAXSCAN (ITAT) 1845

The Mumbai bench of the Income Tax Appellate Tribunal (ITAT) held that is trite law that in order to invoke Section 263, the assessment order must be erroneous and also prejudicial to revenue, also impugned revisionary proceedings invoked under section 263 of the Act cannot be upheld.

The two-member bench consisting of G.S Pannu (President) and Sandeep Singh Karhail (Judicial member) held that the revisionary proceedings have been found to be without jurisdiction and thus the impugned order passed by the learned PCIT under Section 263 of the Income Tax Act has already been set aside, the tribunal expressed no findings and the same is left open. Thus the appeal was allowed.

2) Relief to UT Starcom: Profit Income from sale of Software not in nature of Royalty Income and cannot be Attributed to Permanent Establishment in India: ITAT UT Starcom Inc vs ACIT

CITATION: 2023 TAXSCAN (ITAT) 1829

The Delhi bench of the Income Tax Appellate Tribunal held that no interest under section 234B of the Act can be charged as the assessee, being a non-resident company was not liable to pay advance tax, since, the payer is under an obligation to withhold tax under section 195 of the Act while making payment to the assessee. Also the receipts from sale of software licenses are not in the nature of royalty income. Thus, though such income may be in the nature of business profit, however, no part of which can be attributed to the PE in India The two-member bench consisting of G.S pannu (President) and Saktijit Dey (Vice President) came to the conclusion that the receipts from sale of software licenses are not in the nature of royalty income. Thus, though such income may be in the nature of business profit, however, no part of which can be attributed to the PE in India. Thus, the tribunal's decision in the said appeal will apply mutatis mutandis to the appeal. Thus, the appeal of the assessee was allowed.

3) Separate PAN and Return not Needed when Receipts of Institution Included in Financial Statement of Controlling Entity: ITAT deletes Penalty u/s 68 of Income Tax Act B N Public School vs ACIT

CITATION: 2023 TAXSCAN (ITAT) 1847

The Delhi Bench of Income Tax Appellate Tribunal (ITAT) has deleted the penalty under Section 68 of the Income Tax Act 1961 holding that a separate Permanent Account Number (PAN) and filing of return would

not be needed when receipts of institutions had been included in the financial statement of the controlling entity. The two-member Bench of Chandra Mohan Garg, (Judicial Member) and Pradip Kumar Kedia, (Accountant Member) allowed the appeal filed by the assessee holding that if an institution was owned and run by some society or trust then every institution need not to take separate PAN number and thus not required to file separate return of income particularly in a situation when the receipts of such institution are taken care and included in the income and expenditure account of controlling entity or society or trust.

- 4) ITAT deletes Addition Made by AO u/s 68 in the Absence of Incriminating Material Allied Computers International (Asia) Ltd vs Dy. Commissioner of Income Tax CITATION: 2023 TAXSCAN (ITAT) 1846

The Mumbai Bench of Income Tax Appellate Tribunal (ITAT) has deleted additions made by the Assessing Officer (AO) under Section 68 of the Income Tax Act 1961 which deals with unexplained cash deposits in the absence of any incriminating material. From the perusal of the order passed under Section 143(3) read with Section 153C of the Act, the two-member Bench comprising of Amarjit Singh, (Accountant Member) and Sandeep Singh Karhail, (Judicial Member) found that the AO made the addition under Section 68 of the Income Tax Act only on the basis of AIR information. Therefore, it was discernible that the aforesaid addition was not based on the material found during the course of the aforesaid search, pursuant to which proceedings under Section 153C of the Income Tax Act were initiated in the case of the assessee.

The Bench further referred to the decision in DCIT v/s U. K. Paints (Overseas) Ltd and allowed the appeal and deleted the penalty holding that the assessment year under consideration was an unabated/concluded year.

- 5) Weight of Diamond shall be Excluded to Determine Gross Weight of Jewellery Seized by Income Tax Dept: ITAT Bhaveshkumar Amulakhbhai Sonani vs Deputy Commissioner of Income-tax CITATION: 2023 TAXSCAN (ITAT) 1849

The Surat Bench of Income Tax Appellate Tribunal (ITAT) has held that the weight of diamonds should be excluded to determine the gross weight of jewellery seized by the Income Tax Department. A Single Bench of Pawan Singh, (Judicial Member) allowed the appeal filed by the assessee holding that merely because jewellery consisted diamond could not be added in the hands of assessee particularly when the jewellery had forming part of gross weight jewellery found from the residence as well as locker was within permissible limit prescribed by CBDT in Circular No.1916 dated 11.05.1994.

- 6) Services Rendered by Indian Company to Non-Resident Assessee on Principal to Principal basis based on Canvasser Agent Agreement not taxable in India: ITAT Assistant Commissioner of Income Tax (IT)-4(2)(2) vs M/s Star Cruise Management Ltd CITATION: 2023 TAXSCAN (ITAT) 1848

The Mumbai Bench of Income Tax Appellate Tribunal (ITAT) has held that the services rendered by Indian Company to non-resident assessee on principal-to-principal basis based on Canvasser Agent Agreement not taxable in India. The two-member Bench of S. Rifaur Rahman, (Accountant Member) and Rahul Chaudhary, (Judicial Member) dismissed the appeal filed by the revenue holding that, "when the Agreement was in operation, concluded that the Indian Company was acting in ordinary course of business rendering services to the Assessee on principal-to-principal basis; the Assessee did not have a business connection in India; no operations were carried out by the Assessee in India; and therefore, no income was liable to tax in India in terms of Section 5(2) and Section 9(1)(i) of the Act."

- 7) Penalty Against Agriculturist for Accepting Loan Through Banking Channel u/s 269SS of IT Act, 1961: ITAT Vijayaben G. Zalavadia vs JCIT CITATION: 2023 TAXSCAN (ITAT) 1850
- The Ahmedabad bench of the Income Tax Appellate Tribunal (ITAT) has held that no penalty can be levied against an agriculturist for accepting a loan of more than Rs. 20,000/- in cash if the loan is received through a banking channel. The Tribunal observed that the assessee submitted a bank statement and a certificate from the society confirming the loan was received through a banking channel. The revenue authorities did not doubt the bank statement or other documentary evidence. The Single Bench Member Suchitra Kamble (Judicial Member) held that the revenue authorities had not discharged their burden of proof to show that the loan was not received through the banking channel and held that the penalty levied under Section 271D of the ITA was not sustainable in the absence of any reasonable doubt about the genuineness of the loan transaction.

END

Invitation to Contribute Articles:

Articles are invited from members and students for being published in the Newsletter. Articles can be sent to aurangabad@icai.org. Word limit for articles is 2000 to 5000 words. Send the article alongwith Passport size scanned photo.

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PHOTO GALLERY...



Dated 30 Sept & 1 Oct 2023, Free Blood Donation & Health Chekup Camp Jointly with Care CIIGMA Hospital & Terapanth Yuvk Parishad.



Dated 2 Oct 2023, One day Marathon on Corporate Laws by CA Shubham Singhal



Dated 3 to 11 Oct 2023, Mock Test Series II

Dated 7 Oct 2023, Industrial Visit at LUMAX, All Students & WICASA Team



Dated 7 Oct 23, Industrial Visit at Bajaj Auto Pvt Ltd.



Dated 8 Oct 2023, Half Day Seminar on Latest updates in Income Tax and GST, Presentation of Memento to Speaker CA Rupesh Gandhi by Branch Secretary CA Mahesh Indani and Other members.

Dated 22 Oct 2023, Career Counseling Program at Eureka Infosys School By CA Sapna Lunawat.



Dated 13 Oct 2023, One Day Seminar on Trust Forms - 10B, 10BB Under Income Tax & ITR 7 and GST Rule 37, Presentation of Memento to Speaker CA Aseem Abhyankar by Branch Chairman CA Ganesh Bhalerao.



Dated 14 Oct 23, Live Streaming Match of India Vs Pakistan



Dated 14 Oct 2023, One Day Marathon on FM And Economics by CA Prashant Sarda.



Dated 14 Oct 2023, One day Marathon on Foundation Maths by CA Vinod Reddy.



Dated 15 Oct 2023, One day Marathon on Foundation Eco by CA Prashant Sarda



Dated 15 Oct 2023, One Day Marathon on Inter Cost by CA Vinod Reddy

Dated 16 Oct 2023, Badminton League



Dated 17 Oct 2023, Dandiya Celebration & Food Mela





Dated 20 Oct 2023, Live Webinar on Women Empowerment by Adv. Reena Mandhani.

Dated 21 Oct 2023, Half Day Seminar on Code of Ethics, Floral Welcome of Speaker CA Sharad Vaze by Branch Secretary CA Mahesh Indani.



Dated 23 Oct 2023, Career Counseling Program at New High School, Kingaon, Phulambri By CA Nagarjun Akula.



Dated 23 Oct 2023,
Career Counseling program
at AMC Primary & High
School, Naregaon,
Aurangabad by CA Sapna
Lunawat.

Dated 28 Oct 2023, One Seminar on
ITC Issues in Reversal and Reclaim
under GST - Discussion on rule 37A &
Accounting Standards By CA Anand
Nahar & CA Gautam Nandawat.

