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The Institute of Chartered Accountants of India
(Setup by an Act of Parliament)
Baroda Branch of Western India Regional Council of
The Institute of Chartered Accountants of India

NEWSLETTER

VOLUME - VIII | OCTOBER 2015

Message

The month of September is the busiest month for auditing and accounting professionals in India more specifically under the challenging era of implementation of new Act and various major amendments in many other Acts.

The festive season has started! Members, who have just come out of a very hectic audit season, will now find time to unwind and relax with their family members. The next 3 months will find us enjoying a host of festival including Navratri, Diwali & Christmas. I wish all members a happy festive season.

After the break of one and half month, we have lined up a number of CPE programmes to ensure that members fulfil their mandatory CPE hours. However, I request members to kindly look at CPE requirements as an opportunity for self-improvement and knowledge enhancement rather than compulsory requirement imposes by the Institute. In coming months we are planning to organise more work shop base intensive study programme which will help the members to deliberate more on the technical side of the subjects.

Friends, as you are all aware that on 4th and 5th December is an election day of CA fraternity where we have to elect new WIRC and Central council members in the council. I am sure all the members have blocked dates in their diaries to visit the polling booths to choose able representative on the WIRC and Central Council Platform.

A. Yash N. Bhatt

Chairman

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Forthcoming Events

Half day seminar on Forensic Auditing & Cyber Security — CPE 4

Day & Date : Saturday, Oct 17, 2015

Time : 01.30 pm to 02.00 pm - Registration
02.00 pm to 06.00 pm

Fees : Rs.250/- upto 15th October, 2015
afterwards Rs.400/- (including High- Tea)

Venue : ICAI Bhawan, Kalali- Tandalja Road, Atladara, Vadodara

TOPICS	SPEAKERS
Key note address on " Opportunities in Information Technology"	**CA. Rajkumar Adukia,** CCM & Chairman of Committee on IT, ICAI
Forensic Auditing	**CA. Durgesh Pandey,** Ahmedabad
Cyber Security	**Shri Vishal Pawade,** Mumbai

STUDY CIRCLE EVENT — CPE 2

Day & Date: Tuesday, October 13, 2015

Time : 6:00 PM to 8:00 PM

Topic : Annual compliance with ROC by companies andCAs

Faculty : CS DeveshPathak

Venue : Conference Room, ICAI Bhawan

Fees : Rs. 200/- (for Non-Members)

Day & Date: Tuesday, October 30, 2015

Time : 6:00 PM to 8:00 PM

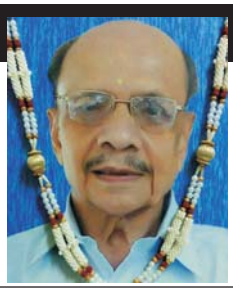
Topic : Compliance with Labour and allied laws

Faculty : Advocate AvdhootSumant

Venue : Conference Room, ICAI Bhawan

Fees : Rs. 200/- (for Non-Members)

OBITUARY



CA. Mahendrabhai Gandhi
Death on
Date: 07.09.2015

Direct Tax Updates

Written by CA. Narendra Hindocha

1. Form 15G and 15H for receipt of interest without deduction of tax

Form 15G and Form 15H are now ***revised with effect from 1st October, 2015*** and made ***smaller by eliminating various Annexures as also details of each amount of deposits including dates, rate of interest etc. You just need to give estimated amount of income.*** Also these ***can be now filed electronically*** (in manner to be prescribed) and ***not filed in the office of Commissioners*** but the relative data including a ***unique ID to be stated in quarterly returns. Also the quarterly returns to be filed even if no tax deductible.***

2. Cost of Employees Stock Option Plan

When shares are issued to employees at a discount, the element of discount is required to be debited to the profit and loss account. However, it is difficult to explain to tax authorities that the debit on this account is allowable in computing total income as in their view, there is no expenditure or loss arising therefrom. Fortunately, the ***Ahmedabad Bench of ITAT in case of Cera Sanitaryware Ltd. v. Deputy CIT (OSD) reported at 42 ITR (Trib) 334 held the same to be allowable revenue expenditure.*** It observed that the object of the scheme for discount under employees stock option scheme is not to raise share capital but to earn profit by securing consistent and concentrated efforts of dedicated employees and the discount part of package of remuneration is substitute for cash incentive for services of employees.

3. Avoiding penalty under section 271(1)C

In case of Principal CIT V. Control And Switchgear Contractors Ltd., ITA No. 290/2015 before the Delhi High Court, the Assessee had claimed the receipt of compensation to be of capital nature but the same was held to be in the nature of business income. However, disclosures of the necessary facts were made and the matter appeared to be debatable. In these facts, the penalty was deleted. Reading of the decision made me think of the following propositions:

- That ***claiming taxable income as exempt income does not amount to furnishing of inaccurate particulars.***
- That ***explanation*** to section 271(1)C to the effect that the assessee is to be deemed to have concealed the income ***does not apply in such a case.***
- There is ***great merit in making relevant disclosures*** to avoid penalty. Regarding the method of disclosures, specially considering that efiling does not permit adding of notes, we can ***consider making disclosures in Exempt income, in Tax audit Report and also in the Audited accounts,*** all of which are now uploaded on website.

4. Deemed dividend

If an individual holds 10%(or more) shares in one company and 20% shares in another, loan by the first company to the second company is deemed to be dividend according to section 2(22)(e). The issue is asto the ***person in whose income such dividend is to be included***-the individual who holds shares in both companies or the company which has received the amount. Unfortunately, the provision, which is existing since decades and is subject to litigation in respect of this very issue, throws little light in the dark alleys of law, in this regard. Logically it is in case of the company which has received and benefited from the amount but the Courts have ruled against it. Now one ***Commissioner(Appeals)***, dedicated to protect the interests of the Revenue, ***while deleting the addition in case of the company, gave direction to include the same in the income of the individual.*** The ***Ahmedabad Bench*** of ITAT, in I.T.A. No. 443/Ahd/11 and CO No. 71/Ahd/11 for Assessment year: 2006-07 in case of Biotech Ophthalmic Pvt Ltd, who was respondent, held that ***such direction could not be given,*** for the

reason that it was not necessary for disposal of the matter before him, as also that no opportunity was given to the shareholding individual.

5. TDS on landing and parking charges paid by Airlines

Two Airlines deducted Income-tax at source from payments to Airport Authority of India on account of landing and parking charges ***under section 194C.*** The ***Income-tax Authorities*** possibly saw loss of revenue and demanded additional amount holding that the tax was ***deductible*** at the higher rate as applicable to payment of rent ***under section 194I.*** The cases went to two High Courts, one holding that section 194C was applicable and the other holding that Section 194I was applicable. In view of such complexity, the matter went to ***Supreme Court*** and there it was held that the payment ***not being per se for use of land, but for various services also, deduction under section 194C cannot be found fault with.*** Apart from learning about the interpretation, what strikes me is who benefits from such litigation. Assuming that the deduction was at a rate lower than applicable rate, did the Income-tax Department think that the Airport Authority of India would not pay tax directly ? The decision was in Civil Appeal No. 9875 Of 2013 in case of M/S Japan Airlines Co. Ltd. Versus Commissioner Of Income Tax,

6. Consistency

Interpretation of Income-tax law is generally based on the plain reading of the provisions of law. However, there are also aspects like fairness, consistency, humanity, convenience, which govern the Courts while deciding the matters before them. If the Revenue accepts a certain position in some years but not in others, or accepts position in one case but not in another, or takes unreasonably long period to act, Courts tend to favour the taxpayer. In the case reported at 2015-TIOL-2012-HC-AP-IT in case of CIT Vs State Bank of India Andhra Pradesh ***High Court dismissed Revenue's appeal observing that reopening may not be resorted to for the issues which were settled long back*** as it would lead to upsetting the entire financial planning of the individuals who would have accepted orders/judgments as final and arranged their affairs based on the orders/situations prevailing at the relevant point of time.

Judicial Decisions on Excise and Service Tax

Reviewed By CA. Anirudh Sonpal

I. VALUATION

1.1 Central Excise Duty is payable at place, price and time of clearance of goods; hence, price-escalation, which was not contemplated at or before time of removal, cannot form part of transaction value especially when there is no allegation of understatement of value

[CCE, Delhi-III vs. Hitkari Fibres Ltd. – SC]

1.2 Value of bought-out assemblies / components / accessories supplied along with the main product cannot be included in the value of the main product if said accessories were optional and not part of the main product.

[CCE, Trichy vs Neycer India Ltd-SC]

1.3 Where it was found that woofers were not part of Colour TV and were mere accessories, they were to be valued separately from Colour-TV; further, MRP-based assessment applicable to Colour-TV would not apply to 'woofers'.

[CCE, Vadodara vs Viacom Electronics Pvt Ltd.- SC]

1.4 Royalty paid by seller to buyer for use of buyer's brand does not amount to 'additional consideration', as it does not flow from buyer to seller; hence, same is not includible in transaction value.

[Lakhanpal Ltd vs CCEC, Vadodara – SC]

1.5 Cash discounts are deductible while determining Transaction Value of excisable goods. The Honourable Supreme Court observed:

1. Section 4 of the Excise Act as amended introduces the concept of 'transaction value' so that on each removal of excisable goods, the 'transaction value' of such goods becomes determinable. Whereas previously, the value of such excisable goods was the price at which such goods were ordinarily sold in the course of wholesale trade, post amendment each transaction is looked at by itself;
2. 'Transaction value' as defined in Section 4 of the Excise Act has to be read along with the expression "for delivery at the time and place of removal";
3. It is therefore clear that what is paramount is that the value of the excisable goods even on the basis of 'transaction value' has only to be at the time of removal, that is, the time of clearance of the goods from the Appellant's factory or depot as the case may be;
4. The basis of 'transaction value' is therefore the agreed contractual price;
5. Cash discount is something which is 'known' at or prior to the clearance of the goods, being contained in the agreement of sale between the assessee and its buyers, and must therefore be deducted from the sale price in order to arrive at the value of excisable goods "at the time of removal".

[Purolator India Ltd vs CCE, Delhi III – SC]

II. CENVAT CREDIT

2.1 Where the job-worker appellant was engaged in painting of body shells received from Fiat Automobiles Pvt Ltd on job work basis under Rule 4(5)(a) of CCR,2004 and returned the same to principal manufacturer under job work challans and the principal removed the final product under payment of excise duty, the job worker appellant was eligible to take cenvat credit of excise duty on inputs used in the job-work.

[Tata Motors Ltd vs CCE – Mumbai Cestat]

2.2 CENVAT credit denied on the ground that name of appellant appears as

consignee but in the column of buyer, name of dealers are mentioned; for taking Cenvat Credit on input, it is not mandatory that payment towards purchase of the input has to be made by the consignee itself; so long as input is duty paid, received in the factory and used in the manufacture, credit is not deniable.

[Aplab Ltd Vs CCE – Mumbai Cestat]

2.3 Nitrogen Cylinders, used for filling and storage of nitrogen gas used in laboratory as well as in process plant, are 'capital goods' under the category of storage tanks and eligible for cenvat credit.

[Ultra Tech cement Ltd vs CCE&ST – Ahmedabad Cestat]

III. REFUND

Once credit is not objected at availment stage, it is not permissible for Revenue to challenge the same at the stage of processing refund under Rule 5 of CCR, 2004; in previous adjudication, when a favourable order has been passed wherein refund in respect of export of Embroidery software has been granted without disputing that input services were used in Embroidery software development and such order had been accepted by the revenue authorities.

[Affinity Express India Pvt Ltd vs CCE – Mumbai Cestat]

IV. MANUFACTURE

While accepting the WP filed by the appellant, the Honourable Madras High Court held that fly ash generated during production is no excisable. The Honourable High court observed that 'to be subjected to levy of excise duty "excisable goods" must be produced or manufactured in India. For being produced and manufactured in India, the raw material should have gone through the process of transformation into a new product by skillful manipulation. Excise duty is an incidence of manufacture and, therefore, it is essential that the product sought to be subjected to excise duty should have gone through the process of manufacture'.

However, the Honourable High Court held that Fly Ash Bricks are liable to excise duty since the same are leviable to excise duty and it was observed that 'Fly ash does not itself get shaped as bricks unless some manufacturing activity is involved. Since the raw material fly ash undergoes a change since an operation performed on it, resulting into fly ash brick, such operation would certainly amount to processing of the commodity and such commodity is recognized as a new and distinct article, i.e. 'fly ash brick'. Therefore, the good 'fly ash brick', having satisfied the test of being manufactured in India, is leviable to excise duty'.

[Mettur Thermal Power Station Vs CBEC – Madras HC]

3-D

Written by CA. Abhay Desai

Cure v/s Care – What's the pre-dominant use ?

Lao Tzu said "The key to growth is the introduction of higher dimensions of consciousness into our awareness". Thinking about an issue only from one-dimension may result in faulty action. This is also true for indirect taxes. One has to think from all points of view to get the best answer. This column attempts to discuss various issues pertaining to indirect taxes from all the three dimensions i.e. Central Excise, Service Tax & VAT.

1) INTRODUCTION:

1.1) Whether a particular commodity is a medicament or a toilet/cosmetic preparation has been a matter of litigation since long. Very recently Hon. Supreme Court in the case of ***Commissioner of Central Excise v. M/s Sarvotham Care Limited (2015 (322) E.L.T. 575 (S.C.))*** had an occasion to decide whether 'Nizral Shampoo' cleared by M/s Sarvotham Care Limited is a medicine covered under CSH 3003.10 of the Central Excise Tariff Act, 1985 or a cosmetic/toilet preparation for use on hair covered under CSH 3305.99. This is so because during the relevant time if the product is to be treated as pharmaceutical product covered by Entry 3003.10, excise duty prescribed was 16% and if it is treated as toilet/cosmetic preparation covered by Entry 3305.99 the excise duty on goods was 24%.

2) LEGAL PROVISIONS:

2.1) For understanding the classification of the referred shampoo, it is important to read the relevant tariff entries. Same is reproduced for ready reference:

Chapter 30 under which CSH 3003.10 falls deals with Pharmaceuticals products and the aforesaid entry thereof reads as under:

"Patent or proprietary medicaments, other than those medicaments which are exclusively Ayurvedic, Unani, Siddha, Homoeopathic or Bio-chemic."

Chapter 33 deals with the products which fall under the nomenclature 'Essential Oils and Resinoids; Perfumery, Cosmetic or Toilet Preparation'. The entry CSH 3305.99 thereof is as under:

"Preparations for use on the hair

- ***Perfumed hair oils***
- Other
- ***Hair fixer***
- Other

3) AGRUMENTS OF THE DEPARTMENT:

3.1) It was argued by the department that product 'Nizral' was basically a shampoo preparation. Even if it was coupled with therapeutic or prophylactic properties imparted to it with the presence of an anti-fungal agent known as 'Ketoconazole', this would not change the basic character of the product viz. shampoo, which is meant for the use of cleaning hair.

3.2) It was also argued that said classification was in conformity with Chapter Note (6) to Chapter 33 which specified 'shampoos' whether or not containing soap or organic surface active agent.

3.3) It was also argued that as per packings, labels, leaflet literature, it was apparent that the product in question was held out commercially as having subsidiary curative or prophylactic value with main purpose and the main purpose of the produce was cleaning of scalp and

hair. Therefore, Chapter Note (2) of Chapter 33 also got attracted as per which how the product is explained and marketed by the manufacturer itself becomes the determining factor.

3.4) It was also submitted that HSC of Chapter 33 also includes not only shampoos containing soap and OSAC, but 'other shampoos' as well which would imply that those products which are essentially shampoos would still be treated as shampoos even if the subsidiary benefits of using such a shampoo would be curative in nature. It was stated that presence of 'Ketoconazole' which was hardly 2% W/V in the said shampoo making it anti-fungal agent, would not change the pre-dominant character of the product as shampoo and turn it into a patent or proprietary medicament classifiable under Chapter sub-heading 3003.10.

3.5) It was also argued that Chapter Note 1(d) to Chapter 30 lays down that 'Preparation of Chapter 33 even if they have therapeutic or prophylactic properties' is not covered in that Chapter. Hence the referred shampoo is not covered is not covered under Chapter 30.

3.6) Reliance was placed on the decision of (i) Amit Ayurvedic & Cosmetic Products v. Commissioner (2004 (168) E.L.T. 354) and (ii) CCE Vapi v. Beta Cosmetics (2004 (173) E.L.T. 255) wherein it was held that shampoos with 2% anti-fungal agents were still treated as shampoos and not a medicinal product.

4) DECISION OF THE COURT AND THE REASONING

4.1) Hon. Supreme Court did not accept the above arguments of the department and held that the said product will be classified as a medicament covered under Chapter 30. Reasoning of the Court is as under:

4.2) Pre-dominant use of the product in question is to be taken into consideration while deciding the classification issue. To determine the predominant use reference was made to the contents, warnings & precautions printed on the label as well as the directions of use. It was held that ketoconazole is a synthetic imidazole dioxolane derivative having a potent anti-fungal activity against dermatophytes, such as Trichophyton sp. Epidermophyton sp. Microsporum sp. and yeasts, such as candida sp. and Malassezia furfur (Pityrosporum ovale). Ketoconazole shampoo rapidly relieves scaling and pruritus, which is usually associated with pityriasis versicolor seborrhoeic dermatitis and pityriasis capitis (dandruff). It was also noted from warning & precautions printed on the labels that it is for the treatment. It was also mentioned as to how the treatment should be given to a person suffering from various kinds of dandruffs. Even the adverse reactions of the treatment are mentioned by the manufacturers with specific advice that overdoses of this shampoo are not expected. It was also observed from the literature that the term "patient" was used everywhere to describe the user of shampoo. The use is suggested only on the advice of a Doctor and there is a suggestion that Doctor should be consulted for any further information. It was also shown that dandruff is a disorder which affects the hairy scalp. It is generally triggered by a single celled organism which is kind of fungus, with scientific name 'Pityrosporum Ovale'. For treatment of this disease, Nizral Shampoo 2% (i.e. shampoo containing 2% 'Ketoconazole') is shown as 'a new medicine' use whereof cures a dandruff. It is suggested that it should be used once a week and on other days, normal shampoos may be used which clearly shows that 'Nizral Shampoo' is to be used like a medicine, unlike other normal Shampoos. From all these it was concluded that the predominant use of the product is to use the same as a medicament and not as a toilet/cosmetic preparation.

4.3) Court also placed reliance on the decision of Supreme Court in the case ***B.P.L. Pharmaceuticals Ltd. v. CCE (1995 Supp. (3) SCC 1).*** In this case it was held that essential characteristics of the product and its dominant use will determine the classification. In this case it was held that the product Selenium Sulfide Lotion will be classified as a Pharmaceutical Product under Chapter 30 because the dominant use of the product was medicinal and was sold only on medical prescription as a medicine for treatment of disease known as Seborrhoeic Dermatitis.

4.4) The Apex court, in the case of ***Muller & Phipps (India) Ltd. v. CCE, 2004 (167) ELT 347 (SC)*** has clearly held that once the item has been manufactured under a Drug licence and the Department has treated the item as a Drug, it would not cease to be one notwithstanding the fact that new Tariff Act has come into force. The Apex Court again held in the case of ***CCE v. Pandit D.P. Sharma, 2003 (154) ELT 324 (SC)*** that once in the common parlance the item is treated as a medicament and manufactured under drug licence and the evidence is produced by the party with regard to the item being a medicament, then it should be treated as such and should not treat 'Himtaj Oil' as 'perfumed hair oil'.

4.5) Thus one can conclude from the above that whether a product is a medicine or a toilet/cosmetic preparation depends on the predominant use of the product. If the pre-dominant use is to cure a disease, it is a medicine and if the pre-dominant use is to just take care, it is a toilet/cosmetic preparation.

5) APPLICABILITY TO GVAT ACT

5.1) Entry 28A to Schedule – II to the GVAT Act (Gujarat Value Added Tax Act, 2003) covers drugs and medicines. Said entry is reproduced for ready reference:

(i) Drugs, medicines and vaccines including bulk drug but excluding-

(a) food and dietary supplements including food for special dietary uses,

(b) Cosmetics and toilet preparations including tooth paste, tooth powder, hair oil, face and body lotions and cream, soaps.

(ii) Medical equipments, devices and implants as may be specified by the

State Government by notification in the Official Gazette.

(iii) Bandages, dressings, syringes, medicated ointments manufactured or imported into India, stocked, distributed or sold under the licence granted under the Drugs and Cosmetics Act, 1940."

All the products falling under above entry carry VAT rate of 5%. As the above entry excludes cosmetics and toilet preparations, it becomes very important to correctly classify the products. Classification of a product as cosmetics or toilet preparations will attract higher rate of 15%.

5.2) As discussed above, Hon Supreme Court has laid down a very clear principle for classification in context of central excise. The same principle can be applied for classification under GVAT as well. Hence it is the pre-dominant use of the product which will decide whether the same is a medicine or a cosmetic.

5.3) Hon. GVAT Tribunal in the case of ***M/s Shree Swami Atmanand Sarswati co-op Pharmacy v. The State of Gujarat (2012-GSTB-I-451)*** has held that Bhrungraj Hari Oil, Brahmi Hair Oil, Bhallatak Duntmanjan & Aryuvedic Dantmanjan are covered by entry 28A(i) of Schedule II of VAT Act as drugs and medicines. It was held that as all the referred products have a pre-dominant property to cure a disease, these are rightly classified as medicine and are not covered under the exclusion clause.

5.4) Hon. Tribunal also in the case of ***Warner Lambert (India) Pvt. Ltd. v. The State of Gujarat (Second Appeal NO. 488 OF 2005)*** has held that "Halls" tablets are an Ayurvedic medicine and sales thereof would be covered under entry 94 in Schedule IIA to the Act i.e. Drugs and medicines.

6) CONCLUSION

6.1) Applying the ratio of decision of Hon. Supreme Court (supra), one can conclude that if a product has a pre-dominant property of curing a disease, it will be classified as a medicine under entry 28A of Schedule – II of the GVAT Act.

Cross-border Transaction
between related parties

Compiled by Mitesh Jain

Cross-border transaction between related parties – Customs vs. Transfer Pricing: A dichotomy

While our Hon'ble Prime Minister is pitching for Make in India, many multinationals setting up their shops are facing a situation of dichotomy. A cross-border transaction between the Indian subsidiary and its foreign parent needs to pass dual test of Customs valuation and Transfer pricing principles.

Customs authorities intend that the price of transactions related to imported goods should not to be influenced by the relationship between the buyer and seller (based on the methodology for customs valuation contained in the WTO Valuation Agreement). On the other hand, income tax authorities examine the same transactions to determine that the transaction is consistent with the arm's length principle (generally following the OECD Transfer Pricing Guidelines). To put it in simple words let's take an example: Parent company A has an Indian subsidiary B. B is procuring goods from A at a value say 100. The value of 100 is examined by customs authorities as well as income tax authorities. The natural preconception of customs would be that B is under-valuing the goods in order to avoid customs duty. Whereas the natural preconception of income tax authorities would be that B is importing goods by over-pricing them, as the income tax authorities would be interested in limiting what would be regarded as a tax deductible expenses.

Let me tell you, this is not a homegrown problem where related parties are trying to meet their ends by convincing two different bodies, rather this is a global problem. If we go with the real intent of the provisions, both sets of rules require that 'a fair' or 'an arm's length' value be set for cross-border transactions between related parties. This implies that the prime objectives of custom valuations and transfer pricing are essentially similar – i.e. transfer price must be set in the same way as if the parties were not related and it must not be influenced by the relationship between the related parties.

Further, use of near similar valuation methods deployed under rules of both these bodies lends support to commonality of their cause.

This has been supported by the recent guide published by World Customs Organisation ('WCO') in June 2015– WCO Guide to Customs Valuation and Transfer Pricing ('WCO Guide'). The guide states that there are marked similarities between the WTO and OECD methods for Customs valuation and transfer pricing respectively. For example, the WTO deductive method (Article 5) is based on the resale price of the goods as is the OECD resale price method; the WTO computed value method (Article 6) is based on a value built up from materials and manufacturing costs etc., plus profit, similar to the OECD cost plus method.

A comprehensive approach on the nexus between transfer pricing and customs value is becoming of increasing importance for cross-border trade. There have been discussion between income tax and customs authorities for coordination of information through a common portal and this discussions are going on since last decade. Lately, Indian customs authorities have started asking the transfer pricing documentation, however no reliance is placed on the transfer pricing documentation for finalizing the order under special valuation branch process. The limited purpose with which the documents are asked is to ascertain, if at all, the transaction value is lower than the prevailing market prices. Hence customs authority asking for transfer pricing documents is of no reprieve.

Though the intent of both the bodies is similar there are a few differences as well. The definition of "related party" under transfer pricing is much broader than the one in customs law. There are transfer pricing adjustments (upward / downward) on the basis of the study conducted at the end of each year and these adjustments are well recognized by OECD and income tax law. Whereas, if the retroactive transfer pricing adjustment increases the reported customs value then the importer is obliged to make disclosure and pay additional customs duty. On the other hand, if the retroactive transfer pricing adjustment

decreases the reported customs value, there is no prescribed procedure for claiming refund of duty once the assessment is finalized.

In light of the above, WCO Guide proposes following work areas which shall help align the gap between two bodies and reduce hardships of the diligent taxpayers

- Recognition by the customs administration that businesses which establish prices between related parties in accordance with the arm's length principle (as per Article 9 OECD Model Tax Convention) have generally demonstrated that the relationship of the parties has not influenced the price paid or payable under the transaction value basis of appraisement, and consequently that the prices establish the basis for customs value.
- Recognition by the customs administration of post-transaction transfer pricing adjustments (upward or downward). This recognition should be applicable for adjustments made either as a result of a voluntary compensating adjustment – as agreed upon by the two related parties – or as a result of a tax audit.
- It is recommended that in the event of post-transaction transfer pricing adjustments (upward or downward), customs administrations accede to review the customs value according to methods prescribed in the WCO Guide. First, applying weighted average customs duty rate and second is allocation of adjustment against all commodity nomenclature code.
- It is recommended that in the case of post-transaction transfer pricing adjustments (upward or downward), companies be relieved from multiple declarations for each initial customs declaration and there should a single recapitulative return referring to all initial customs declaration.
- It is recommended that OECD transfer pricing methods are recognised as an acceptable framework for evaluation of the circumstances of sale by customs administrations.
- Recognition of the acceptability of transfer pricing documentation by the customs administration as evidence that the price paid for imported goods was not influenced by the relationship of the parties.

Though it is a herculean task to implement all of these recommendations, it is high time to have a broader horizon. In wake of promoting ease of doing business, government necessarily needs to smoothen/align these processes so as to attract international businesses.

25th Residential Refresher Course (RRC)

Baroda Branch of WIRC of ICAI Announces

25th Residential Refresher Course (RRC)
at The Gateway Hotel, Jodhpur

January 8, 2016, Friday to January 10, 2016, Sunday

About Jodhpur

Jodhpur was founded by Rao Jodha. It was previously known as Marwar. It is a city in the Thar Desert of the northwest Indian state of Rajasthan. The city is known as the "Sun City" because of its bright and sunny weather throughout the year.

Overview of the Venue of RRC

A tribute to the architectural heritage of Jodhpur, the Gateway Hotel Jodhpur stretches across 28 acres and is great for business travellers and holidaymakers. With 88 aesthetically designed rooms and suites, along with its palace-style courtyard and beautiful landscaped lawns, the hotel offers tradition with a contemporary twist.

ITINERARY

Date and Day: January 7, 2016, Thursday

Time	Schedule
09.30 p.m.	Departure for Jodhpur by Ranakpur Express (14708) from Baroda Rly. Station.

Date and Day: January 8, 2016, Friday

09.45 a.m.	Arrival at Jodhpur
11.00 a.m.	Arrival at The Gate Way Hotel
02.30 to 04.00 p.m.	Inauguration Session & Key Note Address
04.00 to 04.30 p.m.	Tea
04.30 to 06.30 p.m.	Over Views of GST - Impact and Analyses
07.00 to 10.00 p.m.	Evening Get to Gather

Date and Day: January 9, 2016, Saturday

08.00 to 09.00 a.m.	Breakfast
09.00 to 09.45 a.m.	Group Discussion on Income Tax – 5 Issues
09.45 to 10.30 a.m.	Group Discussion on Accounts & Audit – 5 Issues
10.30 to 10.45 a.m.	Comfort Break
10.45 to 12.00 a.m.	Advance Professional legal drafting and representation Skill before various authorities
12.00 to 01.30 p.m.	Analyses of Group Discussion
01.30 to 02.30 p.m.	Lunch
07.00 to 10.00 p.m.	Evening Get to Gather

Date and Day: January 10, 2016, Sunday

07.00 to 08.00 a.m.	Break Fast
09.00 to 10.30 a.m.	Brain Trust Session - On ICDS
10.30 to 12.00 a.m.	Technical Session
12.00 to 12.30 p.m.	Check out

I wish I could show you, when you are lonely or in darkness, the astonishing light of your own being.

12.30 to 01.00	Lunch
01.30 to 06.00	Sight Seeing
06.00 p.m.	Assemble at Jodhpur Rly. Station for Departure Baroda by Surya Nagri Express(12479)

Arrival: January 11, 2016, Monday at 05.35 hrs

FEES (Per Member)

Rs. 12900 (Triple Sharing) | Rs. 15900 (Double Sharing)

Rs. 20900 (Single Occupancy)

Study Circle Meeting on "Removal of goods under excise & import of input under FTP on 08.09.2015

CA. Jigar Parikh

Mr. Sreeram Kaza

Important Due Dates for October, 2015

Compiled by CA. Abhijit J. Kotecha

DATES	COMPLIANCE	PERIOD
06-Oct-15	E-Payment of: Service Tax (other than firm or individual/firm or individual & Excise Duty (for NON SSI/for SSI)	Sept.'15 / Q2 (F. Y.: 15-16)
07-Oct-15	TDS / TCS payment and submission of form 15G / H	Sept.'15
09-Oct-15	VAT / CST E-Return - Monthly (For VAT or CST > Rs. 5,000/-)	July'15
10-Oct-15	Excise Returns - (Monthly for Non - SSI / Return by EOU / Monthly return of receipt & consumption of each of Principal Inputs, assessees required to submit ER-5 return) / (Quarterly for SSI)	Sept.'15 / Q2 (F. Y.: 2015-16)
15-Oct-15	TDS / TCS Return	Q2 (F. Y.: 2015-16)
	Payment of Provident Fund	Sept.' 15
	Professional Tax Payment & Return	Sept.' 15
21-Oct-15	ESIC Payment	Sept. '15
22-Oct-15	VAT / CST payment - Monthly & Quarterly Cases	Sept.'15 / Q2 (F. Y.: 15-16)
25-Oct-15	Service Tax E-Return / PF Return (Monthly)	April' 15 - Sept.' 15 / Sept.' 15
30-Oct-15	VAT / CST E-Return - Monthly (For VAT or CST <= Rs. 5,000/-) /	August' 15
	VAT - Quarterly Return for Regular / Lumpsum tax payers (For Manual Return) with April '15 to Sept. '15 Stock details	Q2 (F. Y.: 2015-16)
	TDS / TCS Certificate issuance - Form 16A / 27D	Q2 (F. Y.: 2015-16)
31-Oct-15	E-filing of Income Tax Return / Tax Audit Report for Corporates or Non-Corporates whose books are required to be audited and the Working Partner(s) [of the Partnership Firm / LLP whose accounts are required to be audited] - extended date.	Fin. Yr.: 2014-15
	E-filing of Wealth Tax Return for Companies, HUF & Individual to whom provisions of Tax Audit are applicable and the Working Partner(s) [of the Partnership Firm / LLP whose accounts are required to be audited] - extended date.	Fin. Yr.: 2014-15
	Filing Balance Sheet and Profit & Loss A/c. of Companies with ROC in New Form AOC - 4	Fin. Yr.: 2014-15

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