



CMA E-BULLETIN

The Institute of Cost Accountants of India
(Statutory Body under an Act of Parliament)

APRIL 2013 ● Vol. I ● No.1



www.icmai.in

Editorial Preface

Greetings!

We are glad to present this first issue of CMA E-Bulletin as one of our important research initiatives.

In this current issue we have incorporated five very important segments of our economy viz. Banking, Foreign Trade, Income Tax, Central Excise and Customs. We are committed to present the current updates on these important segments through this e-bulletin. We do hope that we will be able to include other important segments in this e-bulletin in the issues to come.

We look forward to your valuable and constructive suggestions for further development of this new initiative.

Hope this current issue will facilitate our valued readers to be remaining updated on the segments mentioned above.

Chairman's Message



Journal has played a major role in the creation and transmission of knowledge in the modern world. E-publishing has brought a revolution in journals publication, subscription, access and delivery mechanism. The ability to access journals online has led to a new and still evolving form of co-operation among readers and information centers.

This is my great privilege to introduce this "CMA E-Bulletin" before you for the first time in this shape. We have a plan to release this e-bulletin in every month. I would like to give my heartfelt thanks to our research team for taking this great initiative. I do hope our research wing will definitely come out with many more innovative research initiatives in future for the benefit of the profession and the society.

I wish every success of this initiative.

CMA Manas Kr. Thakur
Chairman
Research & Publications Committee

CONTENTS

| | |
|-----------------------|--------------|
| Banking | 3-5 |
| Foreign Trade | 6-7 |
| Income Tax | 7-12 |
| Central Excise | 12-13 |
| Customs | 13-14 |

President's Message



The Web along with electronic publishing has changed accessibility of serials and periodicals to a great extent. In the past, scholars and researchers wrote their articles and published them in journals. Traditionally, library patrons and researchers came to the library to read or to make copies of these articles.

It gives me immense pleasure to know that our Institute has introduced this new e-segment as "CMA E-Bulletin" to be viewed through our website. I must congratulate CMA Manas Kumar Thakur, Chairman, Research & Publications Committee and his research team members for this noble initiative.

Hope this e-bulletin will not only enrich the knowledge base of our valued members and students but also cross sectional readers who are really interested to enhance their knowledge in the domain of finance and cost & management accounting.

I wish the e-bulletin will prosper to a great extent in due course of time and will attract new readers as well.

CMA Rakesh Singh
President

BANKING



■ Priority Sector Lending-Treatment of Contingent Liabilities – Clarifications:

[RBI/2012-13/455 RPCD.CO.Plan. BC 70/04.09.01/2012-13]

Dated: March 22, 2013

It has come to notice that some banks have included contingent liabilities/off-balance sheet items as part of priority sector target achievement. In this connection, we clarify that this is not in conformity with priority sector lending guidelines. Therefore, banks are advised to declassify such accounts with retrospective effect, where a contingent liability/off-balance sheet item is treated as a part of priority sector target achievement. We also clarify that all types of loans, investments or any other item which are treated as eligible for classifications under priority sector target/sub-target achievement should also form part of Adjusted Net Bank Credit.

■ Guidelines on Implementation of Basel III Capital Regulations in India – Clarifications:

[RBI/2012-13/460 DBOD.No.BP.BC.88/21.06.201/2012-13]

Dated: March 28, 2013

In view of the shift in the start date of Basel III implementation, all instructions applicable as on January 1, 2013, except those relating to Credit Valuation Adjustment (CVA) risk capital charge for OTC derivatives, would become effective from April 1, 2013 with banks disclosing Basel III capital ratios from the quarter ending June 30, 2013. As the introduction of mandatory forex forward guaranteed settlement through a central counterparty has been deferred pending resolution of certain issues such as exposure norms, etc., the CVA risk capital charges would become effective as on January 1, 2014. The other transitional arrangements would remain unchanged and Basel III will be fully implemented as on March 31, 2018.

■ Public Provident Fund Scheme, 1968 (PPF, 1968) and Senior Citizens Savings Scheme, 2004 (SCSS, 2004) – Revision of interest rates:

[RBI/2012-13/458 DGBA.CDD. No. H-5603/15.02.001/2012-13]

Dated: March 28, 2013

The Government of India has now advised the rate of interest on various small savings schemes for the financial year 2013-14. Accordingly, the rates of interest on PPF, 1968 and SCSS, 2004 for the financial year 2013-14, effective from April 01, 2013, on the basis of the interest compounding/payment built in the schemes, will be as under:

| Scheme | Rate of Interest w.e.f. 01.04.2012 | Rate of Interest w.e.f. 01.04.2013 |
|-------------------|------------------------------------|------------------------------------|
| 5 year SCSS, 2004 | 9.3% p.a | 9.2% p.a |
| PPF, 1968 | 8.8% p.a | 8.7% p.a |

■ **Standardization and Enhancement of Security Features in Cheque Forms/ Migrating to CTS 2010 standards:**

[RBI/2012-13/444 DPSS.CO.CHD.No. 1622/04.07.05/2012-13]

Dated: March 18, 2013

All cheques issued by banks (including DDs/POs issued by banks) with effect from the date of this circular shall necessarily conform to CTS-2010 standard. Banks shall not charge their savings bank account customers for issuance of CTS-2010 standard cheques when they are issued for the first time. However, banks may continue to follow their existing policy regarding cheque book issuance for additional issuance of cheques, in adherence to their accepted Fair Practices Code. All residual non-CTS-2010 cheques with customers will continue to be valid and accepted in all clearing houses [including the Cheque Truncation System (CTS) centers] for another four months up to July 31, 2013, subject to a review in June 2013. Cheque issuing banks shall make all efforts to withdraw the non-CTS-2010 standard cheques in circulation before the extended timeline of July 31, 2013 by creating awareness among customers through SMS alerts, letters, display boards in branches/ATMs, log-on message in internet banking, notification on the website etc. A progress report in this regard to be submitted to this department in the format prescribed in the annex, enabling monitoring of the progress made by banks in respect of migration to CTS-2010 standard cheques. In addition, the bank wise volume of inward clearing

instruments processed in the Cheque Processing Centers will be monitored with respect to the CTS-2010/non-CTS-2010 standard cheques presented on them. No fresh Post Dated Cheques (PDC)/Equated Monthly Installment (EMI) cheques (either in old format or new CTS-2010 format) shall be accepted by lending banks in locations where the facility of ECS/RECS (Debit) is available. Lending banks shall make all efforts to convert existing PDCs in such locations into ECS/RECS (Debit) by obtaining fresh mandates from the borrowers.

■ **Maintenance of Collateral by Foreign Institutional Investors (FIIs) for transactions in the cash and F & O segments:**

[RBI/2012-13/439A.P. (DIR Series) Circular No. 90]

Dated: March 14, 2013

FIIs may offer such securities as permitted by the Reserve Bank from time to time as collateral to the recognized Stock Exchanges in India for their transactions in exchange traded derivative contracts as specified in sub-Regulation 6 of Regulation 5 of the said Notification and A.P. (DIR Series) Circular No. 4 dated July 28, 2006 and A.P. (DIR Series) Circular No. 47 dated April 12, 2010. On a review, it has been decided in consultation with the Government of India and the Securities and Exchange Board of India (SEBI), to permit FIIs to use, in addition to already permitted collaterals, their investments in corporate bonds as collateral in the cash segment and government securities and corporate bonds as collaterals in the F & O segment. The operational guidelines in this regard

will be issued separately by SEBI. With the proposed changes coming into effect, henceforth, FIIs will be eligible to offer government securities/corporate bonds (acquired by FIIs in accordance with provisions of Schedule 5 to Notification No. FEMA 20 dated May 3, 2000), cash and foreign sovereign securities with AAA ratings in both cash and F & O segments.

■ **Frauds-Classification and Reporting:**

[RBI/2012-13/433 UBD COBPD (PCB) Cir.No.41/12.05.001/2012-13]

Dated: March 08, 2013

Cases of attempted fraud, where likely loss would have been Rs. 25 lakhs or more had the fraud taken place, should be reported by the bank to the Fraud Monitoring Cell, Department of Banking Supervision, Reserve Bank of India, Central Office, Mumbai within two weeks of the bank coming to know that the attempt to defraud the bank failed or was foiled. Accordingly, the practice of reporting attempted fraud, where likely loss would have been Rs. 25 lakhs or more to Fraud Monitoring Cell, Department of Banking Supervision, and Reserve Bank of India, Central Office, and Mumbai may be discontinued from the date of the circular.

■ **Reporting Platform for OTC Foreign Exchange and Interest Rate Derivative:**
[RBI/201 2-13/438 FMD.MSRG.No.75 /02.05.002/2012-13]

Dated: March 13, 2013

All/selective trades in OTC foreign exchange and interest rate derivatives between the Category-I Authorized Dealer Banks/market makers (banks/PD) and their clients shall be reported on the CCIL platform subject to a mutually agreed upon confidentiality protocol. The CCIL has since completed development of the platform for reporting of client transactions and also put in place a confidentiality protocol in consultation with the market representative bodies as mentioned in the circular referred to above.

■ **Money Transfer Service Scheme – Revised Guidelines:**

[RBI/2012-13/436 A.P. (DIR Series) CircularNo.89]

Dated: March 12, 2013

Attention of all Authorized Persons (APs), who are Indian Agents under the Money Transfer Service Scheme (MTSS) is invited to the Notification dated June 4, 2003 on MTSS, as amended from time to time and the specific permission accorded to them under FEMA, 1999 by the Reserve Bank to undertake inward cross-border money transfer activities in India, through tie-up arrangements with Overseas Principals.



FOREIGN TRADE



■ Clarification regarding TED Refund where TED exemption is available:

Policy Circular No. 16 (RE-2012/2009-14)

Dated: March 15, 2013

(Issued from File No.01/92/180/41/AM-09/PC-VI)

As per the circular published by the Government of India Ministry of Commerce and Industry Directorate General of Foreign Trade Udyog Bhawan, New Delhi, it has come to notice that some RAs of DGFT and the Offices of Development Commissioners of SEZ are providing refund of TED even in those cases where supplies of goods, under deemed exports, is ab-initio exempted. There are three categories of supplies where supply of goods, under deemed exports, are ab-initio exempted from payment of excise duties. These are as follows:

(i) Supply of goods under Invalidation

letter issued against Advance Authorization [Para 8.3 © of FTP];

- (ii) Supply of goods under ICB
- (iii) Supply of goods to EOUs

Prudent financial management and adherence to discipline of budget would be compromised if refund is provided, in cases, where exemption is mandated. In fact, in such cases the relevant taxes should not have been collected to begin with. And if, there has been an error/oversight committed, then the agency collecting the tax would refund it, rather than seeking reimbursement from another agency. Accordingly, it is clarified that in respect of supplies, as stated at Para 2 above, no refund of TED should be provided by RAs of DGFT/Office of Development Commissioners, because such supplies are ab-initio exempted from payment of excise duty.

■ Amendment in Notification No 32 (RE - 2012) / 2009 - 14 dated 5th February, 2013 relating to export of edible oils:

Government of India Ministry of Commerce & Industry Department of Commerce Udyog Bhawan - (Notification No 39(RE - 2012)/2009-2014 New Delhi)

Dated: March 25, 2013

(Issued from F.No.01/91/180/774/AM10/Export Cell)

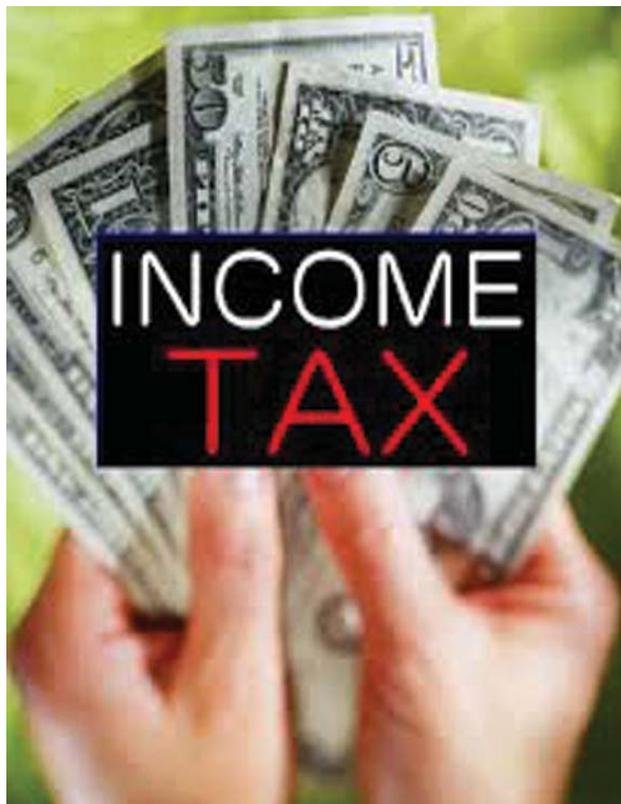
Export of edible oils was initially prohibited for a period of one year with effect from 17.03.2008 vide Notification No. 85 dated 17.03.2008 which was extended from time to time. Vide Notification No. 24 (RE-2012)/2009-14 dated 19th October 2012, prohibition on export of edible oil has been extended till further order. Following exemptions are permitted from the prohibition on export of edible oils:

- (a) Castor oil
- (b) Coconut oil from all EDI Ports and through Land Custom Stations (LCS) [LCS to be notified separately]
- (c) Deemed export of edible oils (as input raw material) from DTA to 100% EOUs for production of non-edible goods to be exported
- (d) Edible oils from Domestic Tariff Area (DTA) to Special Economic Zones (SEZs) to be consumed by SEZ units for manufacture of processed food products, subject to applicable value addition norms
- (e) Edible oils produced out of minor forest produce, ITC (HS) Code 15159010, 15159020, 15159030, 15159040, 15179010 and 15219020.
- (f) 10,000 MTs of Organic edible oils per annum. The conditions notified in Notification No. 50 dated 03.06.2011 for export of organic edible oils will continue to apply.

Export of edible oils in branded consumer packs of upto 5 Kgs is permitted with a Minimum Export Price of USD 1500 per MT. The prohibition will not apply to export of Peanut Butter, ITC (HS) Code 15179020.



INCOME TAX



■ FINANCE MINISTRY'S CLARIFICATION ON TAX RESIDENCY CERTIFICATE (TRC):

Dated: March 01, 2013

Concern has been expressed regarding the clause in the Finance Bill that amends Section 90 of the Income Tax Act that deals with Double Taxation Avoidance Agreements. Sub-section (4) of section 90 was introduced last year by Finance Act, 2012. That subsection requires an assessee to produce a Tax Residency Certificate (TRC) in order to claim the benefit under DTAA. DTAAs recognize different kinds of income. The DTAAs stipulate that a resident of a contracting state will be entitled to the benefits of the DTAA. In the explanatory memorandum to the Finance Act, 2012, it was stated that the Tax Residency



Certificate containing prescribed particulars is a necessary but not sufficient condition for availing benefits of the DTAA. The same words are proposed to be introduced in the Income Tax Act as sub-section (5) of section 90. Hence, it will be clear that nothing new has been done this year which was not there already last year. However, it has been pointed out that the language of the proposed sub-section (5) of section 90 could mean that the Tax Residency Certificate produced by a resident of a contracting state could be questioned by the Income Tax Authorities in India. The government wishes to make it clear that that is not the intention of the proposed subsection (5) of section 90. The Tax Residency Certificate produced by a resident of a contracting state will be accepted as evidence that he is a resident of that contracting state and the Income Tax Authorities in India will not go behind the TRC and question his resident status.

■ **CBDT's circular on Transfer pricing issues – Identification of development centre and application of Profit Split Method (PSM):**

When TPO may prefer TNMM or CUP over PSM where intangibles are involved.

CIRCULAR NO. 2/2013 (F. NO. 500/139/2012)
Dated: March 26, 2013

Since there is no correlation between cost incurred on R&D activities and return on an intangible developed through R&D activities, the use of transfer pricing methods like Transactional Net Margin Method (TNMM) that seek to estimate the value of intangible based on cost of intangible development (R&D cost) plus a return, is generally discouraged.

Rule 10B(1)(d) of Income Tax Rules, 1962 (the Rules) provides that PSM may be applicable mainly in international transactions involving transfer of unique intangibles or in multiple international transactions which are so interrelated that they cannot be evaluated separately for the purpose of determining the arm's length price of any one transaction.

The PSM determines appropriate return on intangibles on the basis of relative contributions made by each associated enterprise.

Selection and application of PSM will depend upon following factors as prescribed under rule 10C (2) of the Rules:

- The nature and class of the international transaction,
- The class or classes of associated enterprises entering into the transaction and the functions performed by them taking into account assets employed or to be employed and risks assumed by such enterprise,
- The availability, coverage and reliability of data necessary for application of the method,
- The degree of comparability existing between the international transaction and the uncontrolled transaction and between the enterprises entering into such transactions,
- The extent to which reliable and accurate adjustments can be made to account for differences, if any, between the international transaction and the comparable uncontrolled transaction or between the enterprises entering into such transactions,

- The nature, extent and reliability of assumptions required to be made in application of a method.
- If the Transfer Pricing Officer (TPO) is of view that PSM cannot be applied to determine the arm's length price of international transactions involving intangibles due to non-availability of information and reliable data required for application of the method, he must record reasons for non-applicability of PSM before considering TNMM or Comparable Uncontrolled Price method (CUP) as most appropriate method depending upon facts and circumstances of the case.

■ **How to identify development centres engaged in contract R&D services with insignificant risk:**

CIRCULAR NO. 3/2013 (F NO. 500/139/2012)
Dated: March 26, 2013

A development centre in India may be treated as a contract R&D service provider with insignificant risk if following conditions are satisfied:

1. Foreign principal performs most of the economically significant functions involved in research and development cycle whereas Indian development centre (IDC) would largely be involved in economically insignificant functions;
2. Economically significant assets including intangibles for R&D activities are provided by principal and IDC would not use any other economically significant assets;
3. IDC works under direct control and supervision of foreign principal;
4. IDC doesn't assume or has no economically

significant realized risks; and

5. IDC has no ownership right (legal or economic) on outcome of research which vests with foreign principal.

■ **An industrial undertaking recognized as an SSI and situated in an 'industrially backward State' will be eligible for deduction under section 80-IB, even if it manufactures items specified in Eleventh Schedule:**

CIT (A) – DY.CIT v. EYE PHOTONICS INDIA (P.) LTD [2013] 31 taxmann.com 387 (Chennai – Trib.)

The section 80-IB deductions in the case of an undertaking situated in industrially backward area (as specified in VII Schedule) is governed by the provisions of Sec. 80-IB(4). The only requirement in such case is that the industrial undertaking should be located in an industrially backward State;

All SSI units can also take exception to clause (iii) of sub-section (2) of section 80-IB. Once the requirements of SSI are fulfilled, the assessee falls under the first limb of exceptions of proviso to clause (iii). In such a case, the assessee is eligible for deduction even if they manufacture items specified in 11th schedule notwithstanding the location of the undertaking i.e. whether located in an industrially backward State or other states;

The exceptions specified in the proviso to clause (iii) i.e. being "Small Scale Industries" or "located in an industrially backward State" are independent of each other. The assessee is not required to fulfill both of these two conditions. If anyone requirements is fulfilled the assessee is eligible for deduction, irrespective of the fulfillment of the other condition.



■ Sec 54F exemption on investment before extended due date of return:

CIT vs. Shri Jagtar Singh Chawlaik

Sec 54F exemption [for capital gain on sale of asset other than house property] available, where investment in new residential house property made before due date of filing belated tax return; Substantial investment in new house made before end of next financial year in which asset was sold; Investment within original due date of filing return not imperative; Sec 139 used in Sec 54F(4) includes Sec 139(4) (i.e. extended deadline) and not restricted to Sec 139(1) (i.e. original deadline).

Note: If the assessee invests the sale proceeds in a residential house within the extended period of limitation, the capital gain tax is not payable.

■ Home loan charges qualify as 'long term finance' income, Eligible for Sec 36(1) (viii) deduction:

CIT & Anr vs. Weizmann Homes Ltd.

Dated: March 27, 2013

Income earned by financial institution from home loan processing fees, late payment interest, loan pre-closure charges, amounts to income from business of "long term finance"; Eligible for special deduction u/s 36(1) (viii);

Rejects Revenue's claim that income derived from normal business activity, independent of loan's terms & conditions; Loan processing necessary to find out debtor's eligibility for loan; Income had direct nexus with business of providing long term finance.

■ CBDT Directive Regarding Adjustment of Refunds Against Demand:

Dated: March 21, 2013

The Directorate of Income Tax (Systems) has issued a letter dated 21.03.2013 drawing

attention to the judgment of the Delhi High Court in **Court on Its Own Motion vs. CIT** where directions were issued that the department has to follow the procedure prescribed in Sec 245 before making any adjustment of refund payable by the CPC. As the Court has held that the assessee must be given an opportunity to file a response before any adjustment of refund is made, the Assessing Officers have been directed to comply with the High Court's order and communicate their findings on adjustable demand to the CPC which will then process the refund and adjust the demand.

■ Government proposes New ITR Filing Procedure:

The Government proposes to introduce new procedures/forms for filling Income Tax returns. Every year government notifies forms for filing of income-tax returns after incorporating the changes brought out by the Finance Act of the previous year and the suggestions received from stakeholders. The new forms for filing of income tax returns for the assessment year 2013-14 are proposed to be notified by the end of March, 2013.

■ Mandatory e-filing returns for income above Rs 5 lakh:

Dated: March 06, 2013

All the tax payers having taxable income of more than Rs 5 lakh will now have to file their income tax returns electronically dated 6th March, 2013. This is a move towards using technology so that the interface between the assessing officer and the assessee is minimized. Besides, the finance ministry is also making provisions for e-filing of wealth tax returns. Section 14 of the Wealth Tax Act provides for furnishing of return of net wealth as on the valuation date in the prescribed form.

■ **Cremation services are covered in negative list:**

FINANZAMT EISLEBEN VS. FEUER BEST ATTUNGSVEREIN HALLE EV [2013] 30 TAXMANN. COM 226 (ECJ)

Dated: April 06, 2013

Cremation services provided by a crematorium operated by any assessee, including a local authority, are covered under negative list under section 66D(q).

■ **ITAT : Tax audit applicable on partner's income from CA firm; Failure attracts penalty u/s 271B:**

Usha. A. Narayanan vs. DCIT

Dated: April 09, 2013

● An individual assessee received an amount from a CA firm, in which she was partner. The said amount was taxable u/s 28(v) under the head "Profits & Gains from Business or Profession". The assessee did not get her accounts audited as per the requirement of Sec 44 AB for the income received from the firm. The assessee believed that Sec 44 AB was not applicable since she did not carry out an independent profession. Assessee contended that taxability of the said income as profits and gains from business and profession was merely due to a technical requirement u/s 28(v). Sec 28(v) provides that any income of a partner from a firm shall be taxed as profits and gains from business or profession.

● The AO, however, was of the view that obtaining an audit report was required u/s 44AB, and the failure to do so attracted penalty u/s 271B. The AO relied on co-ordinate bench ruling in Amal Ganguly (ITA No. 2135/Kol./2008, AY 2003-04). CIT(A) confirmed the

AO's order. Aggrieved, the assessee was in appeal before ITAT.

● Ruling in favour of the Revenue, Kolkata bench of ITAT upheld the levy of penalty u/s 271B. ITAT also relied on coordinate bench ruling in Amal Ganguly.

■ **ITAT : Interest u/s 244A statutory entitlement, available on refund of Sec 201 interest:**

Satellite Television Asian Region Limited (STAR)

Dated: April 09, 2013

Interest u/s 244A available on refund of interest levied u/s 201(1A) for TDS failure; Sec 244A provides for interest on "refund of any amount due to the assessee"; Rejects Revenue's contention that interest recovered u/s 201(1A) was not "tax"; AO duty bound to compute refund due along with interest u/s 244A, on giving effect to ITAT order, even though not Claimed separately.

■ **Payments for modeling services made to a film actor are not connected with production of cinematograph film. Therefore, sec. 194J not attracted on payments made to film actor for modeling services:**

KODAK INDIA (P.) LTD. v. DY.CIT [2013] 32 taxmann.com 88 (Mumbai - Trib.)

Dated: April 05, 2013

Professional services include profession notified under section 44AA, which defines film artist, to mean, inter alia, any person engaged in his professional capacity in the production of cinematograph film as an actor. Acting means to act in play or film i.e. to portray a role authored by a story writer with different purposes and objects and not to display merchandise to boost sales of a manufacturer/trader of products or services. Therefore, as modeling payments have nothing to do with acting in a cinematograph film, no TDS liability attracts

under section 194J on payments made to a film actor for modeling services.

■ **ITAT : Interest income from Indian partnership taxable applying treaty rate without surcharge:**

Sunil V. Motiani

UAE resident's interest income from Indian partnership firm not taxable as business income; Article 11 of treaty deals with interest income specifically includes interest from partnership firm; Interest income taxable at maximum rate of 12.5% specified in DTAA since recipient assessee-partner also the "beneficial owner"; Treaty rate not to be further enhanced by surcharge and education cess; "Tax" as mentioned in Article 2 of DTAA includes surcharge: **Mumbai ITAT.**

■ **Employee not liable to penalty for employer's mistake in salary TDS:**

Khushboo. P. Shah & Ors vs. DCIT,
Dated: April 09, 2013

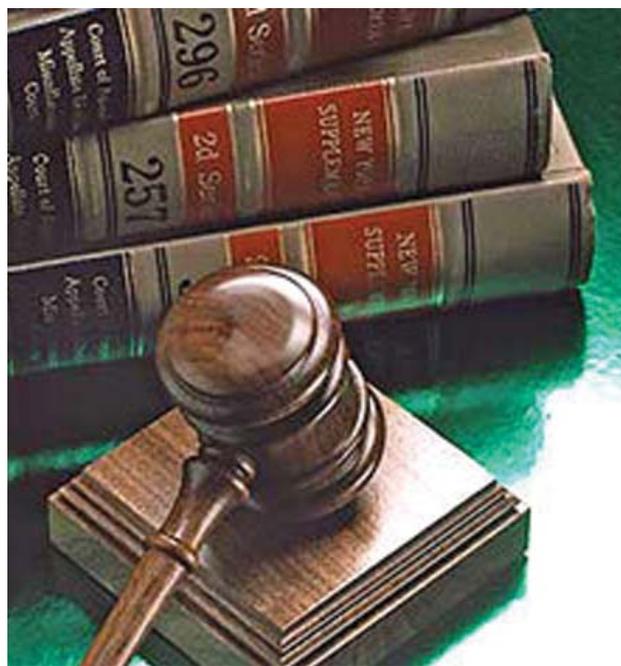
No penalty u/s 271(1) (c) leviable on employee, where personal tax return filed as per salary TDS certificate issued by employer; Employer's mistake in calculating taxable salary income by incorrectly applying provisions of IT Act cannot lead to penalty on employees; AO had denied Sec 10(14) exemption on allowances received from employer as employee did not incur actual expenditure.

■ **HC : No addition warranted for sale to sister concerns at lower profit rates:**

ITAT & CIT (A) followed SC ruling in Azadi Bachao Andolan over AO's reliance on McDowell: Punjab & Haryana HC.
CIT vs Sh Rajnish Ahuja

ITAT held that a tax payer can manage his affairs to reduce tax liability within the frame work of law and that the assessee can sale goods at a lesser price to the sister concerns than to the non-sister concerns, does not violate any provision of law.

CENTRAL EXCISE



■ **NOTIFICATION No.3/2013 Central Excise (N.T.):**

[F.No.334/3/2013-TRU]

Dated: March 01, 2013

G.S.R. (E). – In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944) and section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rule to amend the CENVAT Credit Rules, 2004, namely:

(1) These rules may be called the CENVAT Credit (Amendment) Rules, 2013.

(2) They shall come into force on the date of their publication in the Official Gazette.

In the CENVAT Credit Rules, 2004 (hereinafter referred to as the said rules), in rule 3, after the proviso to sub-rule 5B, the following shall be inserted, namely:-

"Explanation - If the manufacturer of goods or the provider of output service

fails to pay the amount payable under sub-rules (5), (5A), and (5B), it shall be recovered, in the manner as provided in rule 14 for recovery of CENVAT credit wrongly taken".

■ **NOTIFICATION No. 13/2013 Central Excise:**

[F.No.354/14/2006 -TRU (Pt- II)]

Dated: March 25, 2013

G.S.R. 189 (E). – In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), the Central Government has made the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 64/95-Central Excise, dated the 16th March, 1995, published in the Gazette of India, Extraordinary, vide number G.S.R.256 (E), dated 16th March, 1995.

In the said notification, after serial number 33 the following serial number and entries shall be inserted, namely:-

SL. No. -34 Equipment and stores:

If,-(i) used for the systems and sub-systems of Project ASTRA of the Government of India in the Ministry of Defense,

(ii) before clearance of the said goods, a certificate from the Project Director, ASTRA, Defense Research and Development Laboratory, Hyderabad, in the Ministry of Defense to the effect that the goods are intended for the aforesaid use is produced to the proper officer,

(iii) the aforesaid use is elsewhere than in the factory of production of the said goods, the manufacturer produces within five months from the date of clearance or within such extended period as the Deputy Commissioner of Central Excise or the

Assistant Commissioner of Central Excise, as the case may be, may allow in this regard, a certificate from the said Project Director, ASTRA, indicating the date of receipt of the said goods by that organization and certifying that they have been actually put to the aforesaid use.

CUSTOMS



■ **Amendment of Baggage Rules:**

NOTIFICATION - No. 25/2013-Customs (N.T.)

[F.No.334/3/2013-TRU]

Dated: March 01, 2013

G.S.R. (E). – In exercise of the powers conferred by section 79 of the Customs Act, 1962 (52 of 1962)

the Central Government hereby makes the following rules further to amend the Baggage Rules, 1998, namely:-

These rules may be called the Baggage (Amendment) Rules, 2013.

They shall come in to force on the date of their publication in the Official Gazette.

In the Baggage Rules, 1998:

- In rule 10, for the words "rupees six



hundred" at both the places where they occur, the words, "rupees one thousand five hundred" shall be substituted;

- In Appendix D, in column (2), for items, (i) and (ii), the following items shall be substituted, namely:-

Jewellery upto an aggregate value of 50, 000 by a gentleman passenger, or "Upto an aggregate value of 1,00,000 by a lady passenger."

- In Appendix F, in the column relating to 'Articles allowed free of duty', in item (a), for the words "jewellery upto ten thousand rupees by a gentleman passenger or rupees twenty thousand by a lady passenger" the words "jewellery upto fifty thousand rupees by a gentleman passenger or one lakh rupees by a lady passenger" shall be substituted.

■ **Setting up of Public/Private Bonded Warehouses for Gems & Jewellery Sector:**

Circular No. 11/2013-Cus
[F.No. DGEP/G&J/07/2013]
Dated: March 06, 2013

Director General of Foreign Trade vide notification no. 30 (RE-2012)/2009-2014 dated 31.01.2013 amended FTP 2009-2014 and introduced a new para 4A.16A for setting up of Public/Private Bonded Warehouses in SEZ/DTA for import and re-export of cut and Polished diamonds, cut and polished coloured gemstones, uncut & unset precious & semi-precious stones, subject to achievement of minimum Value Addition (VA) of 5%.

To operationalise the above scheme the following procedures may be followed:

- The scheme shall be applicable to jurisdiction of Commissioners of Customs (a) CSI Airport, Mumbai, (b) Jodhpur (HQ. at Jaipur), (c) Air Cargo Export, Delhi and (d) Airport & Air Cargo, Chennai.

- A Private/Public Bonded Warehouse may be set up in SEZ/DTA subject to observance of Board's existing instructions on setting up such warehouses wherein imported goods would be kept by the warehouse license holder.
- Physical control over the warehouse in the form of Double Lock System and posting of Cost Recovery Officer is waived.
- Clearance from the bonded warehouse may be taken by EOU under authorization from the Deputy/Assistant Commissioner and on filing ex-bond Bill of Entry.
- Clearance from the bonded warehouse may be taken by units in SEZ in accordance with the SEZ Act, 2005 and the rules made there under.
- The holders of GEM REP Authorizations can take the goods by following the procedures given under Para 4A.4, 4A.4.1 and 4A.4.2 of Handbook of Procedures Volume I.
- Details in this regard are to be given to the Deputy/Assistant Commissioner by warehouse license holder instead of licensing authority.
- The warehouse license holder is responsible for the safe keeping of the goods for making physical delivery thereof to the users against duty assessed Bills of Entry on which ex-bond clearance has been allowed by the proper officer, and for rendering to Customs a complete account of goods received and kept by them in bond.
- Separate Bond/Stock Account Register in the form, Annexure-I and Stock Card in the form, Annexure-II is to be maintained by the each Licensee. The details are to be filled on the date of transaction and the signatures of the Licensee/authorized representative be appended after every transaction.

This publication does not constitute professional advice. The information in this publication has been obtained or derived from sources believed by The Institute of Cost Accountants of India (ICAI) to be reliable. Readers of this publication are advised to seek their own professional advice before taking any course of action or decision, for which they are entirely responsible, based on the contents of this publication. ICAI neither accepts nor assumes any responsibility or liability to any reader of this publication in respect of the information contained within it or for any decisions readers may take or decide not to or fail to take.

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

HEADQUARTERS

CMA BHAWAN, 12, SUDDER STREET, KOLKATA-700 016, INDIA

PHONES: +91-33-2252 1031/1034/1035, 2252-1602/1492.

Fax: 91-33-2252-7993/1026

DELHI OFFICE

CMA BHAWAN, 3, INSTITUTIONAL AREA, LODHI ROAD,
NEW DELHI-110003, INDIA

PHONES: 91-11-24622156/57/58, 24618645

Fax: 91-11-43583642

DIRECTORATE OF RESEARCH & JOURNAL

CMA BHAWAN, 4TH FLOOR, 84, HARISH MUKHERJEE ROAD,
KOLKATA - 700 025, INDIA

DIRECT: +91-33-2454 0094, Fax: +91-33-2454 0063

E-mail ID: rnj.dpnandy@icmai.in. Website: www.icmai.in

Behind Every Successful Business Decision, there is always a CMA