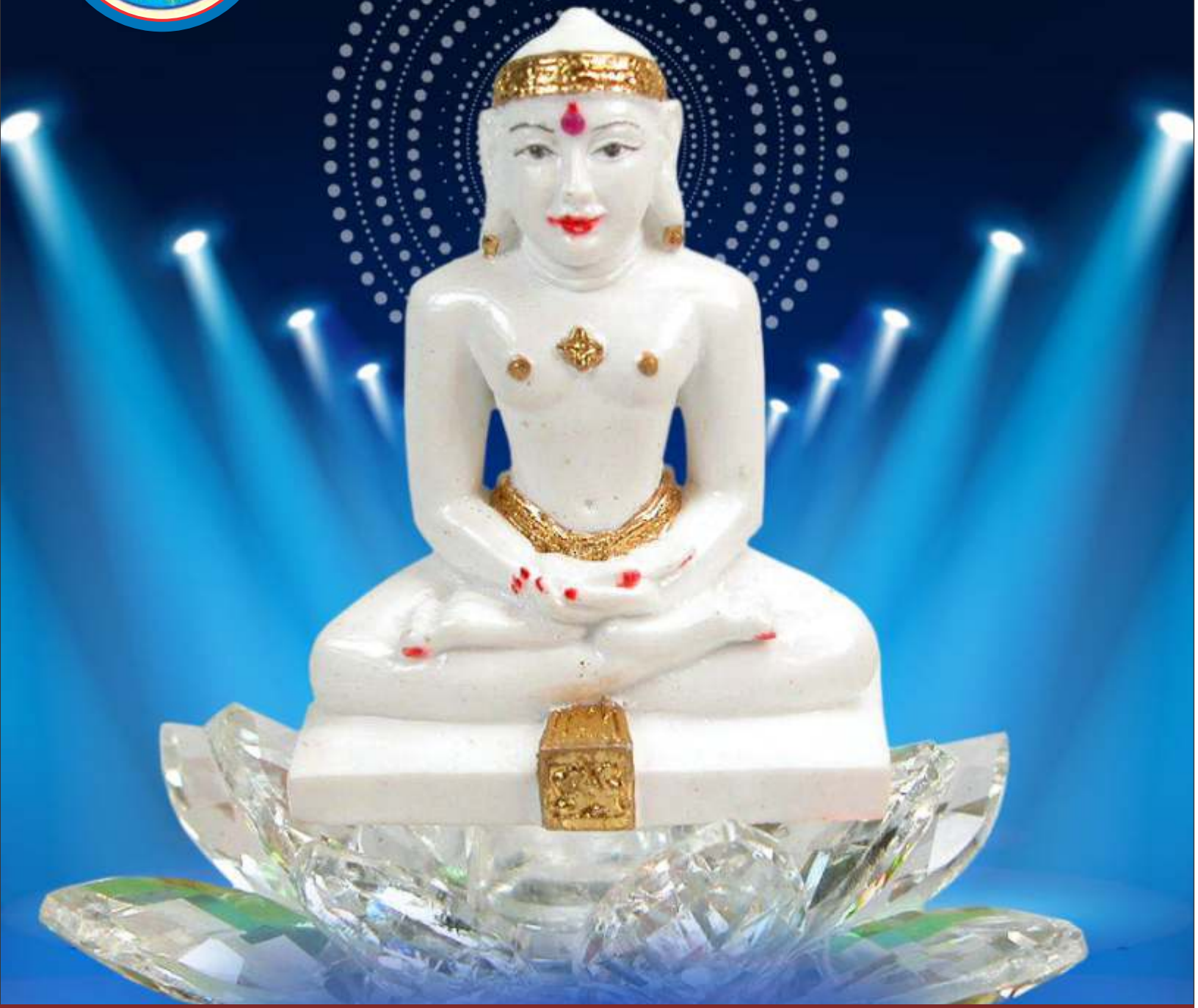
"Lets pray for peace of Harmony for all mankind."

Happy Mahavir Jayanti



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INCOME TAX BAR ASSOCIATION, RAIPUR (CG)

Newsletter

April Edition - 2017

INCOME TAX BAR ASSOCIATION, RAIPUR (CG)

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President Message

Dear Members,

Greetings to all...

So the Hectic Month of March ends and a New Financial year 2017-18 has started with new hopes, new enthusiasm with new amendments as applicable. Although April Month is for relaxation in our profession, but additional workload will also be applicable due to reduction in time limit for filling of income tax returns... so all the best all members for the new work era.

– A.P.J. Abdul Kalam

With Best Wishes,
CA. Chetan Tarwani
President

Message from the Editor

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Respected Members ,

Hindu Navvarsh evam Mahaveer Janmakalyanak Ki Hardik Badhaiya..

All the new amendments of the Finance Bill 2017, will now applicable from this financial year onwards.we have already covered those amendments in our previous edition.Also the amemded GST Law will be applicable from 1 july 2017 onwards.
Let's all incorporate this changes in our working style and leads towards a healthy Indian economy.

Bharat Mata Ki Jai

19 FAQs on AADHAAR Number Linking in ITD e-Filing website

1. What information do I need, to register Aadhaar in the ITD e-Filing website?

Answer: The information that is required is a valid 12 digits Aadhaar number and your adhar registered mobile number.

2. How to register Aadhaar in the ITD e-Filing website?

Answer: Login to e-Filing website: https://incometaxindiaefiling.gov.in with your login credentials and follow the procedure mentioned below If you had not attempted previously to link Aadhaar, then on login, a popup will appear to provide the Aadhaar number. Provide the Aadhaar in the given field, input the captcha image in the required field and click "Link Now" or If you had attempted linking Aadhaar previously and the linking had failed, you may attempt to link once again by following these steps: Post login > Profile Settings > 'Link Aadhaar> Enter your 12 Digit 'Aadhaar' Number > Enter the Captcha > Click on 'Link Aadhaar' to link with your PAN.

3. Unable to link Aadhaar as the error states "Please enter a valid Aadhaar Number"

Answer: This could be on account of an invalid Aadhaar number. You may please contact UIDAI Helpdesk 1800-300-1947 for updating AADHAAR CARD database related queries. Note: You can even login to https://ssup.uidai.gov.in/web/guest/update.

4. Unable to link Aadhaar as the error states "Identity data Mismatch"

Answer: Details like your Name, Date of Birth, and Gender as per PAN Database will be validated against the Aadhaar database. If any of these parameters do not match, the message "Identity data Mismatch" will appear and the Aadhaar Number will NOT be linked to your PAN.

For updating the PAN details, you are requested to contact NSDL at 020-27218080 or visit https://www.onlineservices.nsdl.com/paam/endUserRegisterContact.html and to update Aadhaar details, please contact 1800-300-1947 or visit UIDAI at https://ssup.uidai.gov.in/web/guest/update

5. What are the benefits of linking Aadhaar in ITD e-Filing website?

Answer: Once Aadhaar-PAN linking is completed, you would be able to…

- e-Verify your return using Aadhaar, provided your mobile number is registered with Aadhaar.
- Enable e-Filing Vault – You can secure your e-filing account as well as 'Reset password' functionality from any unauthorized activity.

6. Whose Aadhaar number has to be linked in the HUF/Corporate login?

Answer: Aadhaar number of Principal person / karta is required to be linked of Corporate/HUF login as they are the persons competent to verify the returns/statements under the Income Tax Act. .

7. How to reset password through Aadhaar option in e-Filing website for an Individual

user?

Answer: If Aadhaar number is linked in e-Filing website user can select reset password through Aadhaar. An OTP will be sent to the Aadhaar registered mobile number and the user need to enter this OTP to reset password for e-Filing log-in.

8. What is Validity of OTP sent from Aadhaar database?

Answer: Aadhaar OTP will be having 15 minutes validity period from the time of its generation.

9. How to check Aadhaar number is linked for HUF/non-Corporate (Other than Company) user in e-Filing website?

Answer: Login to e-Filing website: https://incometaxindiaefiling.gov.in with HUF/Non-corporate login credentials and follow the procedure mentioned below Post login > Profile Settings > Click on 'Link Aadhaar' to view Aadhaar linking status of Karta/Principal contact Person

10. Is it mandatory to link Aadhaar number in e-Filing profile?

Answer: Linking of Aadhaar is not mandatory in e-Filing website.

11. What if user is not getting Aadhaar OTP to his registered mobile number?

Answer: You may contact UIDAI Helpdesk 1800-300-1947.

12. Unable to link Aadhaar number in e-filing website post updation of pan/aadhaar data base

Answer: You may try linking the Aadhaar after few days.

13. De – Linking of AADHAAR Number in e-Filing Website

Answer: There is no option available to De-link the Aadhaar number which is already linked in e-Filing website.

14. How to change mobile number registered in Aadhaar database?

Answer: You will be required to contact UIDAI Helpdesk 1800-300-1947 for updating AADHAAR database

15. How to change Wrong Aadhaar number updated in e-Filing profile?

Answer: You may contact UIDAI to update your personal particulars with the correct Aadhaar number.

16. How to e-verify the Income tax return through Aadhaar OTP?

Answer: GO TO Login to e-Filing website: https://incometaxindiaefiling.gov.in with your login credentials and follow the procedure mentioned below. Post uploading your Return- Go to My Account > e-Verify Return > Click on 'e-Verify' link select option 'I would like to generate Aadhaar OTP to e-Verify my return' > Enter the 6 digit alphanumeric OTP received on the mobile Number communicated by Aadhaar to e-Verify your return.

Note: Before opting for this option, confirm that your Aadhaar Number is linked with your PAN.

17. Unable to e-verify the return with the Aadhaar for HUF/non-Corporate user?

Answer: First, the Principle contact details of the HUF/Non-Corporate will have to be updated with the correct signatory PAN by following the steps given below: Login with HUF/Non-Corporate login credentials. Click on 'Profile Settings' > My Profile> Update Principle Contact> enter the new Principle Contact PAN and contact details.

To e-verify the HUF/Non-corporate returns, the PAN of the Kartha/Principle contact has to be linked to their Aadhaar in the individual capacity.

18. Is it mandatory to enter Aadhaar number to fill in ITR forms, if it's linked in e-Filing profile?

Answer: No it's not mandatory.

19. Procedure for e-verification through Aadhaar (Non Corporate)

Answer: EVC has to be pre-generated by the principal contact through their person's e-Filing login. The steps are, My Account >e-verify > "I would like to generate Aadhaar OTP to e-Verify the Form", provided the principal contact has linked PAN with Aadhaar.

GST Special : Mojor differences Between Service Tax and GST

Arjuna (Fictional Character): Krishna, The Government is trying its best to bring into effect the GST Law on 1st July 2017. Seeing at the close encounters during the current IPL, tell me what will happen if a match is to be played between GST and Service tax?

Krishna (Fictional Character): Arjuna, currently service tax is levied on Services only, while GST will be levied on both goods and services. The owner of Service Tax team is Central Government while the owner of GST team is both Central and State Government. In GST, CGST and SGST will be levied on intrastate transactions, UTGST in Union territories and IGST will be levied on interstate transactions. In some cases, Compensation cess may be levied up and above GST.

GST VS CBEC

Arjuna: Krishna, when is Service Tax and GST levied?

Krishna: Arjuna, the Service Tax is levied on all services except services specified in negative list, mega exemptions and exempt services, whereas according to the GST law anything other than goods will be treated as services. Services that will not be taxed in GST have not been specified yet. Service tax was levied on "provision of services" while GST will be levied on supply of services.

Arjuna: Krishna, what is the difference in the registration procedure of GST and Service Tax?

Krishna: Arjuna, In Service tax if the services provided by a Supplier cross Rs 9 Lakhs then registration of service tax is mandatory and if the services provided cross Rs.10 Lakhs then he must collect and pay service tax, whereas in GST the turnover limit is Rs.20 Lakhs and in case the business is in Mizoram, Manipur, Meghalaya, Arunachal Pradesh, Nagaland, Sikkim, Tripura, Himachal Pradesh, Uttarakhand the turnover limit is Rs.10 Lakhs for obtaining registration. In case of IGST transaction there is no limit of registration. Further to pay liability under Reverse Charge Mechanism GST registration is must.

Arjuna: Krishna, what are the differences between the rate in Service Tax and GST?

Krishna: Arjuna, in Service tax the rate is 15%, while in GST the rate of tax on services might be 12% or 18%. The rate of tax on Services will be defined according to the Service Accounting Code.

Arjuna: Krishna, what will be the difference between Service Tax and GST when it comes to filling return?

Krishna: Arjuna, in service tax the return is filed every six months i.e. for the period of April to September and October to March, while in GST returns have to be filed every month (except for the dealers who have registered under Composition Scheme; they have to file return quarterly) and at the end of every Financial Year annual return is required to be filed. As per the provisions of service tax, service tax return can be revised within 90 days but a return cannot be revised in GST and if GST returns are not filed for a period of 6 months then the GST registration will be cancelled. In service tax, company taxpayer has to pay service tax monthly while proprietors, partnership firm, LLP, HUF, one person company have to pay service tax quarterly. In GST, each and every person has to pay tax monthly. The provisions for return filling in GST are very strict. Each person has to give invoice-wise details of Outward supplies of services/goods before 10th of every month and for the inward supplies of services/goods the same has to be confirmed before 15th of the month. The payments have to be made before 20th of the same month and persons will not be allowed to avail credit if the payment is not made.

Arjuna: Krishna, what will be the difference in availing Input tax credit in Service Tax and GST?

Krishna: Arjuna, in service tax, credit can be taken on the tax charged on input services. In GST credit can be taken on tax charged on both goods and services. But the CGST credit cannot be adjusted against SGST credit and vice versa. IGST credit can be availed by the tax payer. In service tax the details furnished for input tax is accepted by the department. In GST if the invoice of the supplier does not match with the details of invoice of the recipient, the credit shall not be allowed to that person. For Ex: Mr. A takes services from Mr. B of Rs.2 Lakhs and GST is levied on of Rs.20,000. If the details provided by B states that services provided are of the value Rs.6 Lakhs and GST on it is Rs.16,000, then A will get credit worth only Rs.16,000.

Arjuna: Krishna, what will happen in GST for cases of goods where both VAT and Service tax is charged?

Krishna: Arjuna, VAT is levied on goods and collected by the state government while service tax is levied on services and is collected by the central government. But in case of certain transactions both VAT and service tax is charged for ex.: Construction, restaurant, etc. There are various litigations on levying VAT or Service Tax. However, in GST a clear definition of goods and services has been given. Such transactions like restaurant, construction, etc. will be considered as services and accordingly GST will be levied on it.

Arjuna: Krishna, What is the difference between the Reverse charge mechanism in GST and service tax?

Krishna: Arjuna, In Service tax reverse charge mechanism is applied on body corporates and there is also provisions for reverse charge and partial reverse charge. But in GST reverse charge mechanism is applicable for all. Inward of goods/services is made from Unregistered Dealers, even then GST will have to be paid on it by every registered dealer. This is one of the most important features of GST which will have a heavy impact.

Arjuna: Krishna, what is the difference in the composition schemes of GST and service tax?

Krishna: Arjuna, there is no composition scheme in Service tax, instead abatement was there. Now, in GST composition is applicable for services by a Restaurant or hotelier if their turnover is below Rs. 50 Lakhs and they will have to pay tax at the rate of 2.5% under both CGST and SGST that is total 5%. Under GST pure service provider will not be covered in Compensation Scheme.

Arjuna: Krishna, what is compliance rating in GST?

Krishna: Arjuna, there is no concept of compliance rating in Service Tax but in GST compliance rating will be taken of every taxpayer. Compliance rating will be based on timely filling of return and payment of taxes and will be shown on GSTN network. So, doing business might become difficult if the compliance rating goes down.

Arjuna: Krishna, what should one learn from the existing service tax and the coming GST law?

Krishna: Arjuna, In India every person avails some or the other service but there are many persons who don't follow the law and the government fails to recognize such persons. But this escape will not be possible in GST. Each and every person will have to follow the rules or else it might be a very difficult task to do business in the GST era. The scope of services has increased in GST. In the next week, the differences between Excise and GST will be discussed.

NOTIFICATIONS

1. Procedure of PAN application through Simplified Proforma for Incorporating Company electronically (SPICe) (Form No. INC-32) of Ministry of Corporate Affairs-Notification No. 2/2017, dated 09-03-2017 Proviso to Rule 114(1) of the Income-tax Rules, 1962 notified vide Notification G.S.R. No. 117(E) dated 09.02.2017 states that: -

"an applicant may apply for allotment of permanent account number through a common application form notified by the Central Government in the Official Gazette, and the Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems) shall specify the classes of persons, forms and formats along with procedure for safe and secure transmission of such forms and formats in relation to furnishing of permanent account number".

A common application form in the form of Simplified Proforma for Incorporating Company electronically (SPICe) (Form No. INC-32) has been notified by the Ministry of Corporate Affairs vide Notification G.S.R. No. 70(e) dated 25.01.2017.

In exercise of the powers delegated by the CBDT vide Notification G.S.R. No. 117(E) dated 09.02.2017, the Principal Director General of Income-tax (Systems) has laid down the classes of persons, forms, format and procedure for PAN as under:-

S. No.	Particulars	
1	Classes of persons to which SPICe form will apply	Newly incorporated company
2	Applicable form	Simplified Proforma for Incorporating Company electronically (SPICe) (Form No. INC-32) of Ministry of Corporate Affairs notified vide Notification G.S.R. No. 70(e) dated 25.01.2017
3	Procedure	Application for allotment of PAN will be filed in SPICe (INC-32) form using Digital Signature of the applicant as specified by the Ministry of Corporate Affairs. After generation of Corporate Identity Number (CIN), MCA will forward data in Form 49A to prescribe Income Tax Authority through digital signature, Class 2/Class 3, of MCA.
4	Format	XML.

3. Amendments regarding Educational Institutions under Mega Exemption Notification No. 25/2012-Service Tax Clause 9(b) of Mega Exemption Notification No. 25/2012–Service Tax dated 20.06.2012 provides exemption from service tax to services provided to an educational institution, by way of,-

i. Transportation of students, faculty and staff;

ii. Catering, including any mid-day meals scheme sponsored by the Government;

iii. Security or cleaning or house-keeping services performed in such educational institution;

iv. Services relating to admission or conduct of examination by such institution.

Educational Institutions have been defined in Mega Exemption Notification as follows: "educational institution" means an institution providing services by way of:

(i) pre-school education and education up to higher secondary school or equivalent;

(ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;

(iii) education as a part of an approved vocational education course. In this regard, Central Government vide Notification No. 10/2017-Service Tax, dated: March 08, 2017 has amended clause 9(b) of Mega Exemption Notification No. 25/2012–Service Tax to provide that, w.e.f 1st April 2017, exemptions provided therein are applicable only to the institutions providing services by way of pre-school education and education up to higher secondary school or equivalent. Thus, institutions other than above will not be entitled to exemption.

[Notification No. 10/2017-Service Tax, Dated: March 08, 2017]

3.11. Revised guidelines for launching of prosecution in Customs cases Presently, prosecution guidelines in relation to offences punishable under Customs Act, 1962 have been provided vide Circular No. 27/2015-Customs dated 23.10.2015 (further amended vide Circular No. 46/2016-Customs dated 04.10.2016). However, it has been observed that despite the guidelines launching of prosecution/completion of prosecution proceedings gets delayed in several cases which has also been pointed out by the Comptroller & Auditor General of India in its report recently.

One of the factor leading to delays in launching of prosecution is lack of clarity regarding the role of Directorate General of Revenue Intelligence (DGRI) vis-à-vis Customs field formations as to who should submit the investigation report and who should launch prosecution. Accordingly, for the sake of clearly defining the role of DGRI vis-à-vis Customs field formations so that any delay on this account may be prevented, Central Government vide Circular No. 07/2017-Customs, Dated: March 6, 2017 has revised the existing prosecution guidelines by substituting certain paragraphs of the existing guidelines.

The details of substituted paragraphs is available at www.cbec.gov.in [Circular No. 07/2017-Customs, Dated: March 6, 2017]

CORPORATE LAWS

MCA notification GSR 178 (E) dated 28th February 2017 - Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Amendment Rules, 2017 MCA has notified the aforesaid rules w.e.f from 28th February 2017. These Rules deal with the manner of transferring the shares and other unclaimed effect of other corporate actions to the Investor Education and Protection Fund (IEPF). Interalia, these Rules prescribe the procedure for transfers of shares in demat form, physical form, procedure for claims from the IEPF etc. For complete text of the notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/IEPF_Refund_Amendment_ Rules_03032017.pdf

PRESS RELEASE

1. Standard Operating Procedure (SOP) to be followed by the Assessing Officers in verification of cash transactions relating to demonetisation–Instruction No. 3/2017, dated 21-02-2017 Post demonetisation of Rs 500 and Rs 1000 notes on 08.11.2016, several malpractices have been noticed.

The Income Tax Department is enquiring/seeking information and analysing instances of deposits to identify cases involving risk of tax evasion. Based upon vast amount of information of cash deposits collected and analysed by CBDT, a number of persons have been identified in whose case the cash transactions did not appear to be in line with their profile available with the Income-tax Department ('ITD'). In such cases, it has been decided by the CBDT to undertake on-line verification of selected transactions through jurisdictional Assessing Officers ('AOs').

The online verification has been enabled on e-filing portal (for persons under verification) which will be synchronised with the internal verification portal (AIMS module of ITBA) of Income-tax Department. This SOP provides the salient features of online verification mechanism and the various related matters and is applicable to the Assessing Officers involved in the said task of online verification of cash deposits. For further details regarding the same, the said SOP as available in the Income-tax Department website may be referred

3. Issue of notice under Section 133(6) for verification of cash deposits under operation clean money–Instruction No. 4/2017, dated 03-03-2017 Vide Instruction No. 3/2017 dated 21.02.2017, in file of even number, the CBDT has issued a SOP to be followed by the Assessing Officer(s) for Online Verification of Cash Transactions pertaining to the demonetisation period. In continuation thereof, the CBDT has prescribed a Template, to be used for issue of notices under Section 133(6) of the Income-tax Act, 1961 in appropriate cases, for Online Verification of Cash Deposits.

The format is enclosed as Annexure in the said Instruction. Following issues need to be kept into consideration while issuing notices under Section 133(6), in applicable cases:

i. Notice under Section 133(6) is required to be issued, after obtaining prior approval of Pr. CIT/CIT/Pr. DIT/DIT as provided in the Act, in cases where the 'person under verification' fails to file Online response in a timely manner in spite of issue of reminder by the Assessing Officer. The approval would be taken Online once the facility in ITBA module gets operationalised;

ii. Notice shall be generated through the Income-tax Department System only. Hence, no hand written/typed notice is required to be issued by the Assessing Officer in an individual case;

iii. Response to notice under Section 133(6) has to be furnished within the stipulated period by the 'person under verification' only through the Online mode;

iv. Verification under 'Operation Clean Money' is to be made through the Online Verification Portal only in accordance with SOP dated 21.02.2017;

v. In case no response is furnished within the specified timeframe, Assessing Officer may form a view that 'person under verification' has no plausible explanation to offer regarding the cash deposits in his/her bank account(s) and consequentially, the case may be escalated as 'Not-Acceptable' for further action in accordance with the procedure prescribed in the SOP of CBDT vide Instruction No. 3/2017 dated 21.02.2017

LEGAL DECISIONS - CASE LAWS

INCOME TAX

1. **LD/65/119 Dy. Commissioner of Income Tax vs. McNally Bharat Engineering Co. Ltd. 1st March 2017 Retention money to be excluded from book profits for the purposes of MAT calculation u/s 115JB; Retention money cannot be regarded as income either under normal provisions of the Act or under MAT provisions u/s 115JB though credited to P&L account.**

The assessee executes turnkey contracts, under the terms of contract, a certain percentage of the value of the contract is retained by the persons for whom the assessee executes the contract, referred to as retention money and given to the assessee only on successful trial run of the final acceptance by the customer. For AY 2006-07, the assessee filed a 'Nil' income return as per the normal provisions, but with a book profit u/s 115JB of Rs 5 crore. As per the assessee, the assessee had no rights over retention money and therefore it could not be considered as income either under the normal provisions or even while computing the book profit u/s 115JB. The AO rejected the assessee's argument, however the CIT(A) ruled in favour of the assessee. Aggrieved Revenue filed an appeal before Kolkata ITAT.

ITAT noted that every assessee, being a company, shall, for the purposes of this section, prepare its profit and loss account for the relevant previous year in accordance with the provisions of Parts II and III of Schedule VI to the Companies Act, 1956 (1 of 1956). Further, ITAT relied on Calcutta HC ruling in the case of Simplex Concrete (Piles) India Pvt. Ltd.

wherein it was held that retention money in respect of the jobs completed by the assessee during the relevant previous year should not be taken into account in computing the profits of the assessee for the assessment year in question. ITAT relied on coordinate bench ruling in the case of Binani Industries Ltd.

wherein the court observed that the object of Minimum Alternate Tax (MAT) provisions incorporated in Sec.115JB of the Act was to bring out real profit of companies and the thrust was to find out real working results of the company.

Further, inclusion of receipt which is not in the nature of income in computation of book profits for MAT would defeat fundamental principles by levying tax on a receipt which was not in nature of income at all, thus it would not result in arriving at real working results of company. Real working result could be arrived at only after excluding this receipt which had been credited to P&L account and not otherwise.

ITAT thus held that retention money is not in the nature of income till such time the contractual obligations are fully performed to the satisfaction of the customer by the Assessee. Therefore, retention money cannot be regarded as income even for the purpose of book profits u/s 115JB though it is credited in the profit and loss account.

2. **LD/65/120 Prin. Commissioner of Income Tax vs. Smt. Anita Rani 27th February 2017 Additions u/s 153A made on the basis of re-valuing assessee's property which was sold, deleted; Valuation by the banker for purpose of providing credit could be different from the valuation report for the transaction, since assessee purchased the property long ago in 1974.**

The assessee had filed her return for AY 2008-09 declaring an income of Rs 7.54 lakh and also disclosed a sale of its capital asset which was acquired in 1974. Although the assessment was completed, further appeals were pending on behalf of both the parties before the ITAT. In the meanwhile,

on 06.11.2008, a search and seizure operation was initiated under Section 132 on assessee's premises pursuant to which the assessee received notice under Section 153A.

The AO referred the matter of valuation of property to DVO u/s 142A; which was valued by DVO at Rs 83.59 lakh. However, based on the replies to the queries received from the assessee's banker, the AO determined the market value of the property at Rs 5 crore. The assessee rejected the DVO's valuation and further the CIT(A) held that the AO was not justified in calculating the considerations on a notional basis. ITAT also confirmed CIT(A)'s order. Aggrieved, Revenue filed an appeal before Delhi HC.

HC observed that it was evident from the above discussion that the sale and the consideration received were reported by the assessee in the return filed. The transaction took place on 29.06.2007.

The dispute vis-a-vis the transaction value was a matter which was yet undetermined. The orders of the adjudicating authorities–most importantly that of the AO, nowhere disclosed what was the fresh document or material seized which made the AO to suspect the valuation of the property which ultimately led him to send queries to the assessee's banker and also refer the matter to the DVO.

HC held that the valuation by the banker, who provided credit could well be different from the valuation report for the transaction given that the assessee had purchased the property long ago. Further as per HC, absence of any material seized during the search proceeding could not have justified a fresh examination of the valuation issue.

LD/65/125 Balakrishnan vs. Union of India & Ors 11th January 2017 Section 10(37): Capital gains from transfer of agricultural land by way of compulsory acquisition, not to be included in total income. Mere agreement between parties regarding quantum of compensation, would not alter the character of acquisition from that of 'compulsory acquisition' to 'voluntary sale'.

The assessee was the owner of an agricultural land. The Government of Kerala sought to acquire the aforesaid property of the appellant for the public purpose namely, '3rd phase of development of Techno Park'. For this purpose, Notification under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as the 'LA Act') was issued on 01.10.2005. An opportunity was given to the appellant to file his objections, if any, under Section 5A of the LA Act. Subsequently, the land acquisition Collector passed an award on 15.02.2007 fixing the compensation at R 14.36 lakh. The assessee entered into negotiations, the amount was agreed at R 38.42 lakh and subsequently a sale deed was also executed.

The assessee filed his return for AY 09-10 declaring the said transaction to be exempt from taxation as per Section 10(37) and thus claimed refund of TDS done by the purchaser of land. However, reassessment proceedings were initiated u/s. 148. The Revenue urged that the amount of compensation/consideration received by the appellant against the aforesaid land was not the result of compulsory acquisition and on the contrary it was the voluntary sale made by the appellant, and therefore, the provisions of Section 10(37) of Act were inapplicable. The Writ petition of assessee was dismissed by Kerala HC, aggrieved by which the assessee preferred a petition before the SC.

SC observed that acquisition process was initiated by invoking the provisions of LA Act by the State Government. Not only Notification under Section 4 was issued, it was followed by declaration under Section 6 and even Award under Section 9 of the LA Act. SC observed that the matter thereafter is only for quantum of compensation which had nothing to do with the acquisition. SC observed that the assessee could have either taken the adjudicatory route of seeking reference under Section 18 of the LA Act for re-determining the compensation however the assessee chose directly to negotiate the price and arrive at an amicable settlement. As per SC, merely because the compensation amount is agreed upon would not

change the character of acquisition from that of compulsory acquisition to the voluntary sale.

SC remarked that it had doubts regarding ruling in case of Info Park Kerala vs. Assistant Commissioner of Income Tax (2008) 4 KLT 782 which was relied upon by the Revenue, wherein it was held that since the title in the property was passed by the land owners on the strength of sale deeds executed by them, it was not a compulsory acquisition. SC concluded that the assessee entering into negotiations confined to the quantum of compensation, cannot change or alter the nature of acquisition which was in the nature of being compulsory. SC thus ruled in favour of assessee.

LD/65/127 Magneti Marelli Powertrain India P. Ltd. vs. Dy. Commissioner of Income Tax 06th February 2017
Reopening of assessment u/s. 148 held valid; AO, in the 'reasons to believe', indicated the possibility of escapement on the ground that an identical transaction relating to payment to AE for technical knowhow had resulted in TP addition for AY 2009-10.

A notice u/s. 148 was issued to the assessee for AY 10-11. In the "reasons to believe" cited in support of the notice, the AO indicated the possibility of escapement on the ground that an identical international transaction relating to payment made by assessee to its AE on account of purchase of technical knowhow, had resulted in additions for the preceding year. AO also indicated that the assessment for AY 2009-10 had been completed after framing the assessment u/s. 143(1) for the subject AY 2010-11. AO also pointed out that no reference was made to TPO for determination of ALP for AY 2010-11 even though the value of international transactions exceeded R 15 crore. The assessee filed writ petition before the Delhi HC challenging the reopening of assessment.

Assessee submitted that the rationale for reopening were no longer good because Revenue's contentions for AY 09-10 were dismissed by the Delhi HC, which remitted the issue of determination of ALP to TPO for fresh consideration. Against such contention, the HC held that this per se cannot be a ground for quashing Section 147 notice since the notice is based upon the situation prevailing in the facts on the record on the date it is issued. HC stated that "Having regard to the nature of the power under Section 147/148 which is of the widest amplitude, it would be hazardous for the Court to set aside or quash the notice which cites one reason.....The amplitude of the power under Section 147 itself is a check which should caution the Court from precluding the Revenue's enquiry into a reassessment proceeding which might otherwise be valid".

As per the HC, the AO issued notice and in the "reasons to believe" he indicated the possibility of escapement on the ground that an identical transaction had resulted in additions for the previous AY 2009-10, and more crucially that assessment was completed after framing of the assessment u/s. 143 (1) for subject AY, whereas this was not the position in both cases relied upon by the assessee.

Thus, dismissing the Writ petition, HC held that there was no infirmity in the notice u/s. 147/148. HC however directed AO to take into consideration the assessee's submissions with respect to the matters covered by HC judgment in Magnetti Marelli

LD/65/129 M/s Sumitomo Corporation India Pvt. Ltd. vs. Commissioner of Service Tax 10th February 2017 It is the person who requested for the said service and is liable to make payment for the same, who has to be treated as recipient of service and not the person affected by the performance of the service.

The assessee was engaged in trading of goods in India and was also providing various services to M/s Sumitomo entities worldwide. The assessee provided various services to overseas entities for facilitation of importation of goods into India. These activities are mainly relating to transmitting proposals, delivering contract sheets, delivering transportation documents, providing information to foreign entity regarding schedule of vessels, cargo readiness, loading/unloading and also dealing with communications receipt to these transactions. The assessee received commission for these services from overseas entities. Apart from these activities they also provided information on business potential of various sectors and industries in India, provided assistance while submitting bids for the projects in India and facilitated communication with customers with regard to schemes of foreign entity. The assessee submitted that these services qualify for export in terms of Export of Service Rules, 2005 and as per Board Circular dated 24/02/2009 which clarified that services falling under Category III shall be considered to have been used outside India, if the benefit of service accrues to a recipient outside India. There was another issue relating to reversal of credit to be made by the assessee on credit of input services used in relation or attributable to trading activities. The assessee contended that, prior to 31.03.2011, there was no specific provision regarding quantification of amounts liable to be reversed in terms of Rule 6 (3A) of CENVAT Credit Rules. However, assessee did not dispute to quantification made by Adjudicating Authorities adopting the method as per newly introduced provision in Rule 6 w.e.f. 01.04.2011. The

Revenue however, disputed the said basis of quantification in cross appeal and contended that, it should be done as per clarification issued by Board vide letter dated 29/04/2011 which restricts the utilisation of common CENVAT credit to 20% of the total duty liability. For the purpose of deciding applicability of Export of Service Rules, the Tribunal held that, the recipient of service are foreign entities and they are the consumers of these services provided by the assessee from India. The various persons in India to whom the goods were sold by the foreign entities or from whom various details and information were collected were not to be considered as recipient of service provided by the assessee. It therefore held that, it is the person who requested for the said service and is liable to make payment for the same, who has to be treated as recipient of service and not the person affected by the performance of the service. The destination has to be decided based on place of consumption not the place of performance of service in case of Category III, Business Auxiliary Service. The assessee were engaged in promoting market for foreign entities in India that will amount to export of service.

As regards reversal of CENVAT credit, the Tribunal held that, the proposal submitted by the Revenue that, the assessee should not be allowed to utilise more than 20% of the total duty liability or the proposal in show cause notice that, the reversal of credit should be on the basis of proportion between value of traded goods and service income earned by the appellant/assessee are not supported by any legal provisions. Admittedly, the formula adopted by the Original Authority was not part of the provisions under CENVAT Credit Rules, 2004 during the material time.

However, the Tribunal observed that, trading to be considered as “exempted service” is inserted by an explanation under Rule 2 (e) of CENVAT Credit Rules and the said insertion clearly states that it is for removal of doubts. Therefore, the Tribunal held that, in the absence of any other statutory formula to arrive at the quantum of CENVAT credit to be reversed on common input services, the methodology

adopted by the Original Authority is fair and justified.

Excise LD/65/132 Godrej and Boyce Manufacturing Co. Ltd. vs. Union of India & Ors. 23rd January 2017 Board clarification is binding on the Revenue Once there are clarifications given for a circular to operate prospectively, then, how the authorities are answerable to the Board and bound by its instructions could have held otherwise has not been explained at all; Date on which earlier circular was in force, show cause notice could not have been issued nor demand raised

The assessee, Godrej & Boyce Manufacturing Co. Ltd., which is engaged in manufacture of hermetic motors, classified the parts of the hermetic motors under subheading 8501.00 after the introduction of Central Excise Tariff Act, 1985 from March 1968 to March 1989 as per the Circular No.6/1986-CX4 dated 25th September, 1986 and trade notice issued by the Collector of Bombay-I, Vadodara and New Delhi. However, the Revenue disputed that said parts of the hermetic motors are classifiable under subheading 8414.91 and demanded the duty short levied in this regard. Thereafter, the Revenue confirmed the demand through order. However, the Revenue issued Circular No.29/1989 on 13th December, 1989, directing to withdraw all earlier instructions and stating that, stators and rotors are classifiable under heading 84.14. Aggrieved, the assessee filed a writ petition challenging the order of the Revenue.

The High Court observed that the show cause issued by the Revenue ignored the clear instructions given in Circular dated 25th September, 1986. It was further observed that the Revenue through Circular dated 13th December, 1989 proceeded to clear the doubt and clarified that although the classification is loaded in favour of heading No.85.03, after obtaining the opinion of the DGTD, the stators and rotors of hermetically sealed compressors are parts of compressors for use solely or principally with the compressors, are appropriately classifiable under heading 84.14.

The High Court accepted assessee's reliance on the Supreme Court ruling in 'Jayant Dalal Private Limited [1996 (88) ELT 638]and contended that impugned order was based on Circular dated 13th December, 1989 which was clearly prospective in nature and when the show cause notice was issued by Revenue, Circular dated 13th December, 1989 was not issued.

The High Court opined that the date on which earlier circular was in force, show cause notice could not have been issued nor could have the demand been raised. It was further opined that once there are clarifications given and to operate prospectively, then, how the authorities are answerable to the Board and bound by its instructions could have held otherwise has not been explained at all. Thus, the High Court quashed the show cause notice so issued.

PAST AND FUTURE EVENTS

13-14-2017

Half Day Seminar

Topic – i. Assessment of Trust

Speaker – CA Girish Ahuja, Delhi

ii. Important Provisions of GST

Speaker – CA Bhavna Doshi, Mumbai

At Civil Lines

10.04.2017

Seminar on – Income Tax Laws – Changes Applicable from 01.April.2017

Speaker – CA Rajesh Mehta – Indore

&

Felicitation of Shri G.D. Agrawal, President ITAT

At Vrindavan Hall, Civil Lines.

EVENT PHOTOS

EVENT PHOTOS

IT BAR IN NEWS

अब धार्मिक स्थलों व धर्मार्थ संस्थाओं को भी देना होगा आयकर

रायपुर, 17 अप्रैल (असं)।

आयकर प्रावधानो में महत्वपूर्ण परिवर्तनो में अब मंदिर, मस्जिद, चर्च, गुरूद्वारे एवं अन्य धार्मिक एवं धमार्थ संस्थाओं को भी आयकर देना होगा।

वृन्दावन हाल में आयकर बार एसोसिएशन एवं ईस्टि्ट ऑफ चार्टेड एकाउन्टेन्ट ऑफ इंडिया रायपुर शाखा के संयुक्त तावधान में अयोजित सेमिनार में दिल्ली से आए डॉ. गिरिश आहूजा ने बताया कि आयकर अधिनियम की धार 56(2)(ग) में बताया गया है कि किसी भी व्यक्ति से किसी भी व्यक्ति या संस्था या कम्पनी या फर्म या धार्मिक एवं धमार्थ संस्था को एक वर्ष में 50000 से अधिक दान या उपहार प्राप्त होता है तो संम्पूर्ण राशि करयोग्य मानी जायेगी जिस पर नियमानुसार आयकर भुगतान करना होगा। 1 अप्रैल 17 से पूर्व सिर्फ व्यक्ति या एच.यू.एफ. को ही उपहार मिलने पर कर लगता था लेकिन 1 अप्रैल 17 से किसी को भी दान या उपहार प्राप्त होगा तो करयोग्य होगा। यदि धार्मिक एवं धमार्थ संस्था आयकर अधिनियम की धारा 12 ए में पंजीकृत हो जाती है तो प्राप्त उपहार या दान पर कर नही लगेगा, यदि इन्हे उद्देश्यो अनुरूप खर्च किया जाता है। गिरिश आहूजा ने आगे बताया कि अब धार्मिक संस्था एवं धमार्थ संस्था जो पहले से पंजीकृत है उन्हे भी नियत तिथि तक आयकर विवरणी दाखिल करना अनिवार्य है अन्यथा उन्हे भी प्राप्त छूट से हाथ धोना होगा। नये प्रावधानो के अनुसार अब आयकर विभाग धार्मिक एवं धर्मार्थ संस्थाओं में भी सर्वे कर सकते है तथा नये प्रावधानो के अनुसार अब एक धार्मिक या धमार्थ संस्था दूसरी धार्मिक या धमार्थ संस्था को कारपस डोनेशन नही दे सकती।

आयकर बार एसोसिएशन के अध्यक्ष सी.ए. चेतन तारवानी ने बताया कि सेमिनार के दूसरे सत्र में मुंबई से पहुंची सी.ए. भावना दोशी ने जी.एस.टी. पर महत्वपूर्ण दी। कार्यक्रम का संचालन रशिक चौहान ने किया एवं स्वागत भाषण सी.ए. चेतन तारवानी एवं सी.ए. अमित चिमनानी ने दिया तथा धन्यवाद ज्ञापन प्रथम सत्र किशोर बरड़िया एवं द्वितीय सत्र सुरेश अग्रवाल ने दिया।

मंदिर, मस्जिद, गुरुद्वारे और धर्मार्थ संस्थाओं को भी देना होगा आयकर

रायपुर। नईदुनिया रिपोर्टर

आयकर के नए प्रावधानों के अनुसार अब मंदिर, मस्जिद, गुरुद्वारे और धर्मार्थ संस्थाओं को भी आयकर देना होगा। आयकर विभाग अब इन पर शिकंजा कसेगा।

धार्मिक संस्थाओं के साथ ही धर्मार्थ संस्थाओं पर भी नियमानुसार आयकर की नजर रहेगी। किसी भी व्यक्ति द्वारा किसी संस्था को 50 हजार से अधिक दान या उपहार प्राप्त होता है तो वह कर के दायरे में होगा। इस पर आयकर के नियमानुसार कर भुगतान करना होगा। यह जानकारी आयकर बार एसोसिएशन के अध्यक्ष चेतन तारवानी और दिल्ली से आए सीए डॉ. गिरिश आहूजा ने पिछले दिनों वृंदावन हाल में आयकर पर आयोजित कार्यक्रम में दी। आहूजा ने कहा कि धार्मिक संस्थाएं व धर्मार्थ संस्था, जो पहले से पंजीकृत हैं, उन्हें भी नियत तिथि तक आयकर विवरणी दाखिल करनी है।

उन्होंने बताया कि नए प्रावधानों के अनुसार अब एक धार्मिक या धर्मार्थ संस्था दूसरी धार्मिक या धर्मार्थ संस्था को कारपस डोनेशन नहीं दे सकती। कार्यक्रम में सीए भावना जोशी ने जीएसटी के नियमों के बारे में बताया। उन्होंने बताया कि पहले तीन माह में एक विवरणी फाइल होती थी, लेकिन अब तीन विवरणी फाइल करनी होंगी, जिससे काफी हद तक पारदर्शिता होगी।

धार्मिक- धर्मार्थ संस्थानों को भी कराना होगा आयकर पंजीयन

■ नवभारत रिपोर्टर। रायपुर.

मंदिर, मस्जिद, चर्च, गुरुद्वारा, धार्मिक एवं धर्मार्थ संस्थाओं को भी अब 1 अप्रैल 17 से लागू नियमों के तहत आयकर अधिनियम में पंजीयन कराना होगा. आयकर बार एसोसिएशन के अध्यक्ष सी.ए. चेतन तारवानी ने बताया कि- आयकर अधिनियम की धारा 56 (2) (एक्स) में बताया गया है कि किसी भी व्यक्ति से किसी भी व्यक्ति या संस्था या कंपनी या फर्म या धार्मिक एवं धमार्थ संस्था को एक वर्ष में 50000 से अधिक दान व उपहार प्राप्त होता है तो संपूर्ण राशि कर योग्य मानी जाएगी जिस पर नियमानुसार आयकर भुगतान करना होगा. 1 अप्रैल 17 से पूर्व सिर्फ व्यक्ति या एचयूएफ को ही उपहार मिलने पर ही कर लगता था लेकिन अब किसी को भी दान या उपहार प्राप्त होगा तो कर योग्य होगा.

यदि धार्मिक एवं धमार्थ संस्था आयकर अधिनियम की धारा 12 ए में पंजीकृत हो जाती है तो प्राप्त उपहार या दान पर कर नहीं लगेगा यदि इन्हें उद्देश्यों के अनुरूप खर्च किया जाता है. आयकर अधिनियम के अंतर्गत यदि धार्मिक या धमार्थ संस्था पंजीकृत हो जाती है तो प्राप्त सामान्य दान को उसी वर्ष में 85 प्रतिशत संस्था के उद्देश्य के अनुरूप खर्च होना होता है तथा शेष आय का 15 प्रतिशत भविष्य के खर्चों के लिए रख सकते हैं.

पंजीकृत संस्था को यदि कोई कारपस डोनेशन प्राप्त होता अर्थात कोई विशेष उद्देश्य के लिए डोनेशन प्राप्त होता है जैसे भवन बनाने के लिए डोनेशन, फर्नीचर के लिए डोनेशन, वाहन के लिए डोनेशन अर्थात कोई संपत्ति के लिए विशेष डोनेशन प्राप्त होता है तो ऐसे डोनेशन उसी उद्देश्य के लिए खर्च करने होंगे चाहे उसी वर्ष में या आने वाले वर्षों में उस पर आयकर नहीं लगेगा.

धार्मिक संस्थाओं को भी अब देना होगा आयकर

रायपुर। एक मई से अब मंदिर, मस्जिद, चर्च, गुरुद्वारे सहित अन्य धार्मिक एवं धमार्थ संस्थाओं को भी आयकर देना होगा। ये बातें वृंदावन हाल, सिविल लाइन में आयकर बार एसोसिएशन एवं इंस्टीट्यूट ऑफ चार्टेड एकाउंटेंट ऑफ इंडिया रायपुर शाखा के संयुक्त तत्वावधान में अयोजित सेमिनार में दिल्ली से आए डॉ. गिरिश आहूजा ने कहीं। उन्होंने बताया कि आयकर अधिनियम की धारा 56(2)(ग) में बताया गया है कि किसी भी व्यक्ति से किसी भी व्यक्ति या संस्था या कंपनी, फर्म या धार्मिक एवं धमार्थ संस्था को एक वर्ष में 50,000 से अधिक दान या उपहार प्राप्त होता है, तो संपूर्ण राशि कर योग्य मानी जाएगी। इस पर नियमानुसार आयकर भुगतान करना होगा। एक मई 2017 से पूर्व सिर्फ व्यक्ति या एचयूएफ को ही उपहार मिलने पर कर लगता था। कार्यक्रम का संचालन रशिक चौहान ने किया। स्वागत भाषण सीए चेतन तारवानी एवं अमित चिमनानी ने दिया।

धार्मिक-धमार्थ संस्थाओं को भी देना होगा आयकर

रायपुर, 18 अप्रैल (देशबन्धु)। आयकर प्रावधानों में महत्वपूर्ण परिवर्तनों में अब मंदिर, मस्जिदों, चर्च, गुरुद्वारों एवं अन्य धार्मिक एवं धर्मार्थ संस्थाओं को भी आयकर देना होगा। आयकर बार एसोसिएशन के अध्यक्ष सीए चेतन तारवानी ने बताया कि वृन्दावन हाल में आयकर बार एसोसिएशन एवं ईस्टिट्ट ऑफ चार्टेड एकाउन्टेंट ऑफ इंडिया रायपुर शाखा के संयुक्त तत्वावधान में आयोजित सेमिनार में दिल्ली से आए डॉ. गिरिश आहूजा ने बताया कि आयकर अधिनियम की धारा 56(2)(एक्स) में बताया है कि किसी भी व्यक्ति से किसी भी व्यक्ति या संस्था या कम्पनी या फर्म या धार्मिक एवं धर्मार्थ संस्था को एक वर्ष में 50000 से अधिक दान या उपहार प्राप्त होता है तो सम्पूर्ण राशि कर योग्य मानी जाएगी। जिस पर नियमानुसार आयकर भुगतान करना होगा। 1 अप्रैल से पूर्व सिर्फ व्यक्ति या एचयूएफ को ही उपहार मिलने पर कर लगता था। लेकिन 1 अप्रैल से किसी को भी दान या उपहार प्राप्त होगा तो करयोग्य होगा।

यदि धार्मिक एवं धर्मार्थ संस्था आयकर अधिनियम की धारा 12 ए में पंजीकृत हो जाती है तो प्राप्त उपहार या दान पर कर नहीं लगेगा यदि इन्हें उद्देश्यों के अनुरूप से खर्च किया जाता है तो दिल्ली से आए गिरीश आहूजा ने आगे बताया है कि अब धार्मिक संस्था एवं धर्मार्थ संस्था जो पहले से पंजीकृत हैं। उन्हें भी नियत तिथि तक आयकर विवरणी दाखिल करना होगा। नए प्रावधानों के अनुसार अब एक धार्मिक एवं धर्मार्थ संस्था दूसरी धार्मिक या धर्मार्थ संस्था को कारपस डोनेशन नहीं दे सकती। सेमिनार के दूसरे सत्र में मुम्बई से सीए भावना दोशी ने जी एस टी पर महत्वपूर्ण जानकारी देते हुए बताया कि पहले तीन माह में एक विवरणी फाइल करनी होगी। जिससे काफी हद तक पारदर्शिता रहेगी।

धर्मार्थ संस्थाओं को अब देना होगा आयकर

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रायपुर. आयकर प्रावधानों में हुए महत्वपूर्ण परिवर्तनों में अब मंदिर, मस्जिद, चर्च, गुरुद्वारे, धार्मिक और धर्मार्थ संस्थाओं को भी आयकर देना होगा। यह बात आयकर बार एसोसिएशन के अध्यक्ष सीए चेतन तारवानी ने कही। वे सोमवार को वृंदावन हाल में आयकर बार एसोसिएशन और इंस्टीट्यूट ऑफ चार्टेड अकाउंटेंट ऑफ इंडिया रायपुर शाखा के संयुक्त तत्वावधान में आयोजित सेमिनार को संबोधित कर रहे थे। सेमिनार में दिल्ली से आए डॉ. गिरीश आहूजा ने बताया कि आयकर अधिनियम की धारा 56 (2)(एक्स) में बताया गया है कि किसी भी व्यक्ति से किसी भी व्यक्ति या संस्था या कंपनी, फर्म या धार्मिक एवं धमार्थ संस्था को एक वर्ष में 50000 से अधिक दान या उपहार प्राप्त होता है, तो संपूर्ण राशि कर योग्य मानी जाएगी।

अनरजिस्टर्ड धार्मिक संस्थाओं को देना ही होगा 100 प्रश टैक्स

आयकर बार एसोसिएशन की ओर से धार्मिक संस्थाओं पर करों के प्रावधानों पर चर्चा की गई

[illegible] रिपोर्टर • रायपुर

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ये संस्थाएं आएंगी टैक्स के दायरे में

[illegible]

और नियमानुसार इन्हें मिलेगी छूट

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शुभ रामनवमी

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ता सम भक्त और नहिं होई.

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