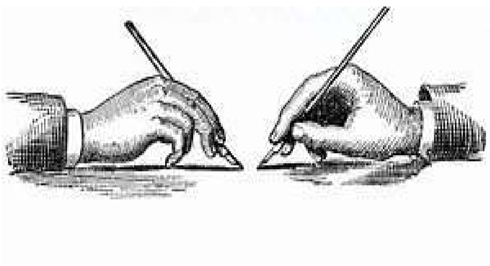
SURAT BRANCH OF WIRC OF ICAI

E – NEWSLETTER

JUNE 2020



CHAIRMAN's MESSAGE

Dear Professional Colleagues,

In this warm season of summer hope you all are enjoying 'King of Fruits' – Mangoes and adhering to stipulated safety measures. Lockdown 4.0 has come out with relaxed directives and new measures for strengthening our developing economy. The government have come out with wide range of financial reforms intending to support our significant economic contributor 'MSME sector' both on financial and non – financial grounds. We as law abiding professionals owe our unquestioned duty towards Government as well as Citizens of India. We must act as an active intermediary in guiding people at large in taking benefits of such financial reforms and to put them in optimum utilisation.

PM Shri Narendra Modi have emphasised two base points – 'Aatmanirbhar' and 'Vocal for Local' and urged every citizen to incorporate it into their lives to the maximum extent. In furtherance to it, I would like to appeal our esteemed fraternity to educate others for the same and adopt such practice in their lives too. Further Government of India in its Economic relief package has brought certain measures to improve the liquidity in this financial year and one of which is through reduction of TDS and TCS rates by 25% along with it many other financial reforms have been called for.

Considering the recent development and updates on economic and financial matters our e-Newsletter committee have tried to cover maximum data by summarising it in this June 2020 issue to update our professional colleagues and for their ready reference. On the departing note to this issue I would like to convey my gratitude on behalf of the Managing Committee and professional members to the Government of India and the entire essential service providers who stood strong in such appealing times. Further, I would like to encourage our members to take maximum benefits of our Institutes Online resources to brush up our knowledge and be more resilient for many more challenges to come.
#BeVocalforLocal
CA. Ishwar Jivani

EDITORIAL MESSAGE:-

Dear Professional Colleague,

Hope you are safe and maintaining good health. Since we have now entered in to Unlock period, offices and place of businesses being opened, phase wise its time for us observe proper guidelines and maintain immunity levels to stay healthy and protect our professional as well as personal life. We are grateful to the overwhelming response given by professional brethren for their valuable contribution and expect to receive the same in Unlock period also. For the coming month, we would lay more emphasis on articles covering the topics such as, how to unlock the new opportunities and recent changes in the economic policies and its after effects, various amendments in Direct as well as Indirect taxes, etc. You may write to us surat@icai.org.

Stay healthy, wealthy and safe….
CA IP Pradeep Kabra

The impact of COVID-19:

CHALLENGES AND OPPURTUNITIES FOR INDIAN ECONOMY

*With the Lockdown entering 3rd phase for further 14 days, the largest lockdown in the history of our Planet, the biggest dilemma with the Government is "**Saving Lives or Saving Livelihood**"*

'Indian Economy is passing through turbulent times. It is going to witness one of the lowest growths in modern history'

'Lockdowns are showing a disastrous impact on the economy and could lead to a permanent loss of GDP, unemployment and poverty, despite relief packages'

These are just some of the quotes coming out of various top leaders and economists as they induce a sense of worry amongst businesses.

The dent on Indian economy due to COVID-19 is projected at US $142 Billion. Indian Analytical & Rating Agency *CRISIL* has downgraded India growth forecast by half to 1.8 %. *CRISIL* has also warned of cascading effect of COVID-19 on Indian economy and despite stimulus and bailout packages this will lead to poverty & unemployment. The economic impact of pandemic is likely to be substantial as economic activity in all major economies has halted. With the news that more than 200 US companies are planning to withdraw from China & Japanese government planning to shift their companies from China, whatever little trust the world has is also gone, resulting in loss of business to China approximate US $2.2 Billion, all this may be a blessing in disguise for India to become an economic super power.

However, given the present government policies we need to come out with an industry friendly policy subject to tax terrorism, red tape, Licensing, easy and seamless land acquisition, reforms in labour laws, low interest rates and reduced litigation. It is high time that the Central Government and all the State Governments come forward above party levels and get real about the imminent danger of the looming economic crisis. There are limited options left with foreign investors, they want to exit from China, situation in Europe is already deteriorating. Once India becomes a super power house, no country will raise downplay India. The government needs to have a proactive approach so that the present opportunity does not get seized by other countries like Vietnam, Sri Lanka & Bangladesh.

MSMEs are contributing immensely to the country's GDP, they have become the back bone of Indian economy but unfortunately they are the worst hit in this crisis. Many MSMEs were already struggling for survival even before the pandemic reached India. The act of sending back migrant workers to their home states by most of the state government is also going to be very fatal for trade & industry especially for MSME sectors since migrating them back for work will be a daunting task for all. Export by MSME will be adversely impacted. According to an estimate by **WTO**, trade in goods is likely to decline steeply between 13% to 32% this fiscal.

As per the analysis, following industries are likely to be worst effected: (The aforesaid list is only illustrative and not conclusive.

1. Auto Industry: This industry was already passing through a bad phase. The industry is in no way essential, moreover because of international procurement of raw materials, assembly line could not be concluded
2. Furniture & Fixtures: Furniture, fixtures, tapestry, upholstery all these would face a downturn in revenues
3. Life Style Clothing: The spread of the pandemic has hurt fashion and lifestyle retailers after states introduced lockdowns and containment policies including closure of malls. Brands said sales have fallen by as much as 70% since fears over the virus intensified starting earlier this year
4. Travel & Tourism: With the COVID -19 crisis every part of the travel/hospitality industry have been deeply impacted
5. Jewellery: This too will be worst hit, since in absence of social get together, marriages and other rituals demand for jewellery will be lack lustre for coming 2-3 years
6. Real Estate: First Demonetization, followed by GST, and now COVID-19 seems to be last nail in the coffin for the real estate industry
7. Construction: The impact is that more than 50 % workers not reporting at the sites and many of them being migrant have returned to their villages. This will lead to stalling or cancellation of projects and eventually resulting into losses for the company. Getting projects from paperwork onto the ground sites is another challenge in many spheres
8. Catering /Events Management & Mandap Decoration: The industry will be badly hit because of Marriages & other social, religious, corporate get-togethers being postponed/differed. It will take minimum 1 year to revive this industry. Around one lakh caterers are providing services in the country and providing employment to more than 50 Lakh people. The industry contributes more than Rs. 10000 crore by way of Tax to exchequers
9. Aviation: It is among the worst-affected sectors as airlines globally can lose in passenger revenues of up to US $113 Billion. There is a nearly 30% drop in bookings resulting in reduction of airfares by 20-30%
10. Consumer Electronic: Consumer electronics companies plan to increase prices of refrigerators, air-conditioners, microwave ovens and washing machines from March due to higher component prices amid short supplies from coronavirus-hit China. All large manufacturers including LG, Voltas, Samsung, Haier and Panasonic have decided on a 3-5% price increase across models. This means a price hike of Rs 3,000-4,000 for premium and large capacity models.

<u>Opportunities & Optimism</u>

No doubt the Indian Economy is going through the biggest challenge in our life time, but "Every dark cloud has a silver lining." Manufacturing can very well be shifted to India; there is a great opportunity for revival of economy given availability of skilled labour, land in abundance, power & will. It may be a game changer for India; our economy has a very good chance to revive provided our main thrust should be formalization of economy. India can become a top manufacturing country in the world and can change the world economic order. Three Ds which are required for this transition in manufacturing: "Democracy, Demography and Demand", and all the required Ds are available within India and all these provides one more step for India to advance and strengthen the trust of the world who have already started looking up to us.

Post COVID- 19 following areas are expected to revive/ flourish:

1. Hygiene & Health Care services: COVID-19 cannot be eliminated; we have to live with it. Masks are going to be a part of our lifestyle for the coming two years. Sanitizers will be a part of our daily life to prevent the infection
2. Pharma: Once vaccines is developed billions of vaccines has to be produced. India has the largest pharmaceutical company in the world, "**The Serum Institute of India**" which can produce 1.5 Bn vaccines every year, much more than any production company even in US or China. This gives us a hope for huge business in Pharma sector in India post COVID-19
3. Agriculture: Agriculture in India happens to be biggest employment provider . Rural Economy is especially depends on agriculture. A bumper crop is expected due to good monsoon this season, as predicted by IMD. Presently agriculture is not treated as a commercial activity. Private sector wants agriculture activity to be treated as an Industry

4. Oil Prices: Prices of Crude Oil are at a historical all-time low. Import burden of Oil & Crude is going to be reduced significantly
5. Inflow of capital in the country: With very limited options available in the world economy and stricter FDI norms, there are chances of inflow of foreign capital in the country. A concept of Joint Venture for overseas investors in India can be developed
6. Liquidity: Liquidity is a key driver and is going to be a major challenge for MSME. Liquidity plays the same role in the economy as blood is to the human body
7. An opportunity to craft new economic model to bridge the rural urban divide
8. Inflation: Lower inflation will play a major role in getting the economy on track post COVID-19
9. MNREGA: This government program is bound to flourish as many labourers are bound to be jobless post-lockdown
10. Logistic cost: Presently is 13-14% which should be brought down to 8-9%
11. Finance Cost: This also needs to be reduced
12. Fintech consultant: With the economic cycle being hanged for more than 50 days most of the MSME/SME/Traders enjoying various credit facilities will find it difficult to serve interest & Instalment despite moratorium. They would either try to restructure or reschedule their loans. Also those not having any credit facility will look for some loans be it Personal, Cash Credit OD or mortgage loans. This is how Fintech consultants are going to gain new business & benefitted from COVID-19

Thus, COVID-19, although proving disastrous, can be seen as a good opportunity for the Indian Economy. The Pandemic has come in our way. We have to deal with it & siege it with both hands. This will be the only way out to bring the economy out from Economic quarantine.

My sincere thanks to everyone and awaiting your honest, constructive & candid feedback.

*Contributed by:- **CA SHYAMANAND S. CHAUDHARY***

Wealth creation & life

Dear Chartered Accountant Fellows,
I hope you and your family are safe and maintaining Social Distancing to avoid Corona Virus Effect. COVID19 is not just a word now, it's nightmare for Everyone, Let it be People, Businesses, Economics or World Stock Markets. Everyone is bitten by this Disguised Enemy.

Indian Markets also hit hard by COVID19 in last 2 Months. Benchmark Indices Sensex corrected about 37% in a month time. What should you do now??? Should You stay invested??? Should you clear your portfolio??? Should you increase your investment??? I will try to list some thoughts which will help you in Wealth Creation.

1. **Find Your Spaces**

Are you regretting about Missed Past Investment Opportunity (PAST) or You are scared what will be next (FUTURE) or You decide something Today that will shape your Future (PRESENT) ???
This is time to check your Wealth Creation process and Decide your future based on present efforts. You are advised not to driven by Markets but by your financial goals.

2. Biggest Mistake in Life – Making Return The Hero of Financial Life

Investors those are looking at return only are those who start feel panic, Whenever Market falls. Instead of that, Focus on Discipline. Wealth Creation is Game of Discipline. If you are discipline enough, Wealth is bound to create. Nowadays Movies become successfully Not only based on Actors but on story & other things as well.

3. Leaving a Legacy

Dow the line after 25-30 Years, If you are sitting with kids or grandkids, How will you advise them to stay invest in any situation, keep investing some money, don't try to time market etc, When you stop your investment in this turmoil and stopping your SIPs. Investment today in Equity will not reap fruits instantly, But you will find very tasty then and you will have good story to tell them, which you lived with Discipline Key.

4. Sachin… Sachin…. Jersey No. 10

What makes Sachin a Legend??? His Talent, His Practice, His Passion??? I will add some flavor into this. Sachin played 37,558 balls in his entire career. You can achieve this kind of Success with Talent or Passion, Only if you stay on Pitch for such a long Time. You will face every kind of Balls, but be there, stand still. So, No Matter what you are doing Financial Planning, Designing Portfolio etc but Stay Invested is a Key.

5. Risk and Return – Two Side of Coin

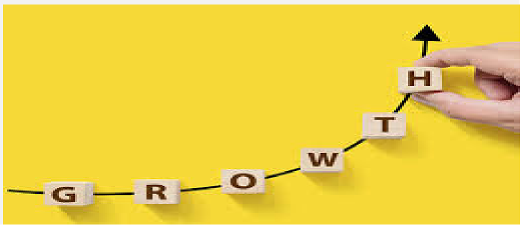
When u flipped coin, you can't get only Head all the time or Tail all the time. You will have to take Risk of Tail to get Reward of Head every time. Same way, one will have to go along with Risk and Return all the time. No one can't get just Return all the time.

6. Don't go for Straight Lines

Markets are bound to fluctuate by Nature. They can't just be in linear. Fixed Deposit is linear by nature but Our Goals are not linear. We just want our lifestyle and our financial goal goes up only. So, cop up with this, enjoy ridding Market's exponential growth rather than linear one.

7. Growth is Only Option

Stock Markets Indices are barometer of Economy. If anyone thinks India is having potential for Future Growth, He should be invested all the time. Market will go Up only in longer run, Ups and Downs are part of Game.



8. Equity Train – What is important View or Destiny?

When we enter into Train, someone take seat on Left, someone take seat on Right based on their perception regarding View they are getting from windows. But eventually all are going to arrived at same station. Same in Equity, some thinks One should wait and some thinks One should just go ahead. But Eventually, We should look at our Goal – Wealth Creation. As Investor, if you are clear where train is heading, you will start to enjoy both side of train.

9. No Pain No Gain

Without the first few years' pain, you won't able to create massive wealth. Pick any successful investor's story and you will find pain story over there also. No Pain (Stay invested in tough time) - No Gain (Wealth Creation).

Lets Conclude by Remembering one name, **Jim Thorpe.** His shoes got stolen just before the race was about to begin. He wore two different shoes found out from his garages and run a Race. He won **2 Gold Medals**. That was his commitment towards race, Nothing could become obstacle in it. Just ignore this Turmoil in Market due to COVID19.

STAY INVESTED & Keep Increasing Investment is my theme !!!

contributed by:-

CA Marshall Sarkhedi

Ind AS 101 – First Time Adoption of Indian Accounting Standards

'The beginning of a new era'

'Change is only constant' – This phrase has been heard by all and witnessed too. Every social and economic aspect shift shapes with time, new economic developments requires solutions like never before and to bring nation's economy at par with global economy and to make it globally competitive the first and foremost need is to prepare globally accepted financial statements and the same can be achieved by streamlining the Accounting Standards and to adopt in our accounting system in a manner suitable to our internal economy as well as it does not defeat the purpose of globalisation. In these modern times no country can survive on its own and resource sharing and exchange is at its centre. To achieve economic goals financial statements needs to be prepared in a manner that it can communicate the information to its intended users within country boundaries as well as across the border. Economic development is a bilateral process which requires simultaneous efforts from Government as well as business houses. Government shall develop international diplomatic and trade relations and according make policies to ease the international as well as national trade on the other side business houses should optimize their process to obtain maximum benefit of these government policies and shall remain true to their financial presentation.

In regards to economic development and to achieve desired foreign investments, Government of India through Companies Act, 2013 notified Indian Accounting Standards (Ind AS) as enabled by Section 133 of the said act. This Ind ASs are in convergence with the International Financial Reporting Standard (IFRS), to enable those standards adaptive to Indian economic behaviour and to uphold the purpose of IFRS. Government of India in consultation with our esteemed Instituted listed out series of Accounting Standards that would enable the Financial reporting more transparent and communicable on International Economic grounds. With every new policy adaption guidelines are require which would help in smooth implementation of it. In line with that to smoothen the process of adoption of Ind AS Government of India notified Ind AS 101 – First Time Adoption of Indian Accounting Standards.

Objective of the Ind AS 101

The objective of this Ind AS is to ensure that an entity's first Ind AS Financial Statements and interim financial reports for part of the period covered by those financial statements contains high quality information that:

(a) Is transparent for users and comparable over all periods presented;
(b) Provides a suitable starting point for accounting in accordance with Indian Accounting Standards; and
(c) Can be generated at cost that does not exceed the benefits.

Scope of the Ind AS 101

An entity shall apply this Ind AS in:

(a) Its first Ind AS financial statements; and
(b) Each interim financial report, if any, that it presents in accordance with Ind AS 34, Interim Financial Reporting, for part of the period covered by its first Ind AS Financial Statements.

An entity's first Ind AS financial Statements are the first financial statements in which the entity adopts Ind ASs, in accordance with Ind AS notified under the Companies Act, 2013 and makes and explicit and unreserved statement in those financial statements of compliance with Ind ASs.

Ind AS 101 lays down the foundation for adoption of Indian Accounting Standard. Ind AS 101 can be termed as support system in transition from previous Accounting Standards. It defines the adoption of Ind AS in opening Balance Sheet of an entity, which is prepared on first day of adoption and this may differ from the accounting policies that it used for the same date using its previous GAAP. The resulting adjustments shall recognised directly in the retained earnings at the date of transition to Ind ASs.

Further, an entity's first Ind AS Financial Statements shall include at least three Balance Sheets, two Statement of Profit & Loss, two Statements of Cash Flows and two Statements of changes in Equity and related notes, including comparative information for all statements presented.

Contributed By:
CA. Gaurav Jain

PERSONAL GUARANTOR INSOLVENCY

PART III of the Insolvency and Bankruptcy code deals with fresh start, insolvency and bankruptcy of individuals and partnership firms.

Initiation of the Insolvency Resolution Process:

The Insolvency Resolution Process for individuals and partnership firms, can be initiated by a creditor or debtor himself.

Table showing summary of application by Debtor/ Creditor

Debtor (S.94)	Creditor (S.95)
➢ In Form A ➢ Committed default (qualifying debt) ➢ Personally or through a Resolution Professional	➢ In Form C ➢ Guarantee is invoked ➢ Individually or jointly with other creditors ➢ Directly or through a Resolution Professional ➢ Only if debtors fail to pay within 14 days of service of demand notice (in Form B).

Application by debtor (Section 94):

A debtor who commits a default may apply, either personally or through a resolution professional, to the Adjudicating Authority for initiating the insolvency resolution process, by submitting an application in such form and manner and accompanied with such fee as may be prescribed. An application shall be submitted only in respect of debts which are not excluded debts. A debtor shall not be entitled to make an application if he is

a) an undischarged bankrupt;
b) undergoing a fresh start process;
c) undergoing an insolvency resolution process; or
d) Undergoing a bankruptcy process. Or
e) if an application under this Chapter has been admitted in respect of the debtor during the period of twelve months preceding the date of submission of the application under this section.

Where the debtor is a partner of a firm, such debtor shall not apply under this Chapter to the Adjudicating Authority in respect of the firm unless all or a majority of the partners of the firm file the application jointly.

Application by creditor (Section 95):

A creditor may apply either by himself, or jointly with other creditors, or through a resolution professional to the Adjudicating Authority for initiating an insolvency resolution process under this section by submitting an application in such form and manner and accompanied by such fee as may be prescribed.

A creditor may apply under sub-section (1) in relation to any partnership debt owed to him for initiating an insolvency resolution process against-

(a) any one or more partners of the firm; or

(b) the firm.

Where an application has been made against one partner in a firm, any other application against another partner in the same firm shall be presented in or transferred to the Adjudicating Authority in which the first mentioned application is pending for adjudication and such Adjudicating Authority may give such directions for consolidating the proceedings under the applications as it thinks just.

An application under sub-section (1) shall be accompanied with details and documents relating to-

a) the debts owed by the debtor to the creditor or creditors submitting the application for insolvency resolution process as on the date of application;

b) the failure by the debtor to pay the debt within a period of fourteen days of the service of the notice of demand; and

c) relevant evidence of such default or non-repayment of debt.

The creditor shall also provide a copy of the application made to the debtor.

Table showing Ineligibility of Debtor

Ineligibility of a Debtor
Debtor shall not be entitled to make an application if he is – (a) an undischarged bankrupt; (b) undergoing a – ➢ fresh start process; ➢ insolvency resolution process; ➢ bankruptcy process.

Contributed By :-
CA IP VINEETA MAHESHWARI

Direct Tax Updates

1. Due Dates under Income Tax

PARTICULARS	OLD DUE DATE	NEW DUE DATE
Individuals/Huf not covered under Audit s per section 44AD	31st July 2020	30th November 2020
Individuals/Huf covered under Audit as per section 44AD	30th September 2020	31st October 2020
Company who is covered under companies act 2013	30th September 2020	30th October 2020
Assessee covered under Vivad se Vishwas Scheme	30th June 2020	31st December 2020

2. Reduction in rate of Tax Deduction at Source (TDS) & Tax Collection at Source (TCS)

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rates of Tax Deduction at Source (TDS) for the following non-salaried specified payments made to residents has been reduced by 25% for the period from 14th May, 2020 to 31st March, 2021:

S. No	Section of the Income-tax Act	Nature of Payment	Existing Rate of TDS	Reduced rate from 14/05/2020 to 31/03/2021
1	193	Interest on Securities	10%	7.5%

2	194	Dividend	10%	7.5%
3	194A	Interest other than interest on securities	10%	7.5%
4	194C	Payment of Contractors and sub-contractors	1% (individual/HUF) 2% (others)	0.75% (individual/HUF) 1.5% (others)
5	194D	Insurance Commission	5%	3.75%
6	194DA	Payment in respect of life insurance policy	5%	3.75%
7	194EE	Payments in respect of deposits under National Savings Scheme	10%	7.5%
8	194F	Payments on account of re-purchase of Units by Mutual Funds or UTI	20%	15%
9	194G	Commission, prize etc., on sale of lottery tickets	5%	3.75%
10	194H	Commission or brokerage	5%	3.75%
11	194-I(a)	Rent for plant and machinery	2%	1.5%
12	194-I(b)	Rent for immovable property	10%	7.5%
13	194-IA	Payment for acquisition of immovable property	1%	0.75%
14	194-IB	Payment of rent by individual or HUF	5%	3.75%
15	194-IC	Payment for Joint Development Agreements	10%	7.5%
16	194J	Fee for Professional or Technical Services (FTS), Royalty, etc.	2% (FTS, certain royalties, call centre) 10% (others)	1.5% (FTS, certain royalties, call centre) 7.5% (others)
17	194K	Payment of dividend by Mutual Funds	10%	7.5%
18	194LA	Payment of Compensation on acquisition of immovable property	10%	7.5%
19	194LBA(1)	Payment of income by Business trust	10%	7.5%
20	194LBB(i)	Payment of income by Investment fund	10%	7.5%
21	194LBC(1)	Income by securitisation trust	25% (Individual/HUF) 30% (Others)	18.75% (Individual/HUF) 22.5% (Others)
22	194M	Payment to commission, brokerage etc. by Individual and HUF	5%	3.75%
23	194-O	TDS on e-commerce participants	1% (w.e.f. 1.10.2020)	0.75%

Further, the rate of Tax Collection at Source (TCS) for the following specified receipts has also been reduced by 25% for the period from 14th May, 2020 to 31st March, 2021:-

S. No	Section of the Income-tax Act	Nature of Receipts	Existing Rate of TCS	Reduced rate from 14/05/2020 to 31/03/2021
1	206c(1)	Sale of		
		(a) Tendu Leaves	5%	3.75%
		(b)Timber obtained under a forest lease	2.5%	1.875%
		(c) timber obtained by any other mode	2.5%	1.875%
		(d) Any other forest produce not being timber/tendu leaves	2.5%	1.875%
		(e) scrap	1%	0.75%
		(f) Minerals, being coal or lignite or iron ore	1%	0.75%
2	206C(1C)	Grant of license, lease, etc. of (a) Parking lot	2%	1.5%
		(b) Toll Plaza	2%	1.5%
		(c) Mining and quarrying	2%	1.5%
3	206C(1F)	Sale of motor vehicle above 10 lakhs	1%	0.75%

4	206C(1H)	Sale of any other goods	0.1% (w.e.f 01.10.2020)	0.075% (w.e.f 01.10.2020)

3. Therefore, TDS on the amount paid or credited during the period from 14th May, 2020 to 31st March, 2021 shall be deducted at the reduced rates specified in the table in para 1 above. Similarly, the tax on the amount received or debited during the period from 14th May, 2020 to 31st March, 2021 shall be collected at the reduced rates specified in the table in para 2 above.

4. It is further stated that there shall be no reduction in rates of TDS or TCS, where the tax is required to be deducted or collected at higher rate due to non-furnishing of PAN/Aadhaar. For example, if the tax is required to be deducted at 20% under section 206AA of the Income-tax Act due to non-furnishing of PAN/Aadhaar, it shall be deducted at the rate of 20% and not at the rate of 15%.

DIRECT TAX RECENT JUDGMENTS

(1) Case law reference: **ARIHANT TECHNOLOGY PVT. LTD. VERSUS PR. CIT NEW DELHI, ITAT-DELHI, Dtd.: 03/03/2020.**

Issue involved: AO has not made proper inquiry of accommodation entry for which 147/148 initiate therefore 263 invoked. Section under discussion: 263 Fact brief: Assessee company filed its return of income for AY 2009-10 on 29.09.2009 declaring loss. Case has reopened u/s 147 on the basis of the information received from the Investigation Wing that assessee has received accommodation entry from Sri Amarnath Finance Pvt. Ltd., a company controlled by entry operators Surineder Kumar Jain and Sh. Virender Jain who admit that they were engaged in providing accommodation entries in lieu of cash through paper/ dummy companies floated by them.

AO had issued notice u/s. 142 (1)/143 (2) calling for details necessary for finalization of the assessment and the assessee had provided all the requisite details. The AO after considering the copy of income tax return, confirmation, balance sheet and bank statement of M/s. Sri Amarnath Finance Pvt. Ltd. and after considering the reply by the said company in response to notice u/s. 133 (6) completed the assessment u/s. 148 / 143 (3) by accepting the returned loss.

Subsequently, the Ld. Pr.CIT examined the assessment record and noted that the AO has not verified the information received from the DIT (Inv.)-II and did not summon to the directors of M/s. Sri Amarnath Finance Pvt. Ltd. u/s. 131 of the IT Act in order to verify the genuineness of the transactions and their creditworthiness. He, therefore, issued notice u/s.263 asking the assessee to explain as to why the assessment order dated 29.09.2016 should not be revised u/s. 263 of the IT Act since the order passed by the AO is erroneous as well as prejudicial to the interest of the revenue. Assessee made detailed reply to the show cause but PrCIT not satisfy and 263 invoke.

Held: AO has examined the documents / confirmation in detail and adopted a possible view that the assessee has established the identity and credit worthiness of the lender and the genuineness of the transaction. Therefore, merely because the Ld. Pr. CIT does not agree with the manner of enquiry conducted by the AO he cannot substitute his own reasons and held the order to be erroneous and prejudicial to the interest of the revenue. Resulting 263 are quashed following own case of Dwarkadhish Buildwell Private Limited Vs. CIT 09.

Conclusion: As per my analysis and understanding, in present case there is matter of inquiry and verification of information available on record. There are 2 methods in Income tax Act to call for information and or to verify documents. One is notice u/s.133(6) and two is summon u/s.131. Further when satisfactory compliance of notice u/s.133(6) is made, then there is no matter to issue summon u/s.131. Further to invoke 263, order passed by AO is to be erroneous and prejudicial to the interest of the revenue. It is established in various decisions that where two views are

possible and the AO has taken one possible view, then order cannot be held to be erroneous. Therefore, merely because the Ld. Pr. CIT does not agree with the findings of the AO, he cannot hold that the order is erroneous and prejudicial to the interest of the revenue.
Hon'ble Delhi High Court in the case of CIT Vs. Software Consultants 341 ITR 240 held that where Assessing Officer did not make any addition on issue in respect of which reasons were recorded at the time of issuing notice under section 148, sequitur is that Assessing Officer could not have made an addition on account of said issue and, thus, Commissioner could not have exercised revisional jurisdiction. Hon'ble apex Court in the case of Sunbeam Auto Limited held that provisions of section 263 cannot be invoked for inadequate enquiry. It can be undertaken only if there is a complete lack of enquiry. As the fact of the case are similar to the case of Dwarkadhish Buildwell Private Limited Vs. CIT 09 taxman.com 5 follow by tribunal, therefore not discuss here.

(2) **PANCHSHIL EXIM PVT. LTD. vs. DCIT, ITAT-RAJKOT, Dtd.: 17/03/2020.**

Issue involved: Rejection of books of account and GP addition on ground of lower G.P. ratio. Section under discussion: 145 r.w.144

Fact brief: Company engaged in import/export of petroleum, chemical, steam coal, etc. G.P. % is 1.47, 2.42 and 5.94 in AY 2011-12, 2010-11 and 2009-10 respectively and turnover was considerably increased during the relevant period. Books of accounts were subject to audit under companies Act and under section 44AB of the IT Act. AO found decline in GP profit ratio. Also found that certain products sold at a price lesser than cost. Also found certain parties with whom certain products sold at a price lesser than cost. Assessee explain that the goods were of poor/inferior quality, therefore the same were sold at a lower price. AO rejected the books of accounts u/s 145(3) and worked out under invoiced sale amount at 1,22,03,041/- and made addition. On appeal, Ld CIT-A restricted it at 10,00,000/-.

Held: Books of accounts were subject to audit under companies Act and u/s 44AB. Assessee argue with evidence that the goods were of poor/inferior quality, therefore the same were sold at a lower price. Sale party details already on record, but AO, does not conducted any enquiry to ascertain the fact. AO also not brought any comparable cases showing market price. Therefore merely lower GP as compared to earlier year cannot be the ground to reject the books of accounts. Supporting case 1) Malani Ramjivan Jagannath Vs ACIT 316 ITR 120 (Raj.HC), 2) Awadhesh Pratap Singh Adbul Rehman & Bros v/s. CIT 201 ITR 404 (All.), and 3) Haridas Parikh Vs. ITO 113 TTJ 274(ITAT).

Analysis & Conclusion: As per section 145 of the Act, the AO is empowered to reject the books of accounts of the assessee and make best judgment assessment in the manner as specified under section 144 of the Act if he is not inter-alia satisfied with the completeness or correctness of the books of accounts of the assessee. Generally, the instances for the rejection of books of account include when entries in respect of certain transactions are altogether omitted or incorrect or where the accounts show an abnormally low rate of profit or where there is an inherent lacuna in the system of accounting. However, the AO cannot use this power as a tool to reject the books of accounts merely due to variation in gross profit. Before rejecting the books of accounts, the AO must record the specific reason for rejecting the books of accounts. Such satisfaction has to be established and substantiated based on facts and figures, which further depends on the circumstances of each case. Mere minor mistakes/typological errors/absence of stock registers/lower GP may not peso facto amount to incorrectness/incompleteness of accounts in terms of section 145(3) of the Act. But the case would be different where the above-mentioned mistakes are coupled with other findings.

When there is proper explanation to reduction in GP is already given that it had reduced the sale price due inferior quality, and there is no adverse finding on record by the AO regarding suppression of sale, than the decline in the GP rate and NP rate in comparison to the immediately preceding assessment year cannot be criteria to reject the books. Further it is established by various decision that there must be couple of situation and AO has to make finding and record specific reason. Just like, improper record of purchase, no maintenance of stock records, non availability of evidence of exps., improper maintenance of consumption production records, cash memos, difference in transection between confirmation from supplier and book results etc. and to be established on records with couple situation. In the instant case AO made addition on account of suppression of sale, but he didn't inquire to relevant party, also not establish any other couple situation. So rejection of books of account merely on criteria of reduction in G.P./N.P. ratio is not sustain. Hon'ble Rajasthan High Court in case of Malani Ramjivan Jagannath Vs Asstt. CIT reported 316 ITR 120 held that where account books were maintained as they were ordinarily maintained year after years and which were found to yield a fair result, mere deviation in gross profit rate cannot be a ground for rejecting books of account and entering realm of estimate and guesswork. When all the data and entries made in the trading account were not found to be incorrect in any manner, there could not have been any other result except, what had been shown by the assessee in the books of account. Hon'ble Allahabad High Court in case of Awadhesh Pratap Singh Adbul Rehman & Bros v/s. CIT 201 ITR 404(All) similarly held that "It is difficult to catalogue the various types of defects in the account books of an assessee which may render rejection of account books on the ground that the accounts are not complete or correct from which the correct profit cannot be deduced. Whether presence or absence of stock register is material or not, would depend upon the type of the business. It is true that absence of stock register or cash memos in a given situation may not per se lead to an inference that accounts are false or incomplete. However, where a stock register, cash memos, etc., coupled with other factors like vouchers in support of the expenses and purchases made are not forthcoming and the profits are low, it may give rise to a legitimate inference that all is not well with the books and the same cannot be relied upon to assess the income, profits or gains of an assessee. In such a situation the authorities would be justified to reject the account books under section 145(3) and to make the assessment in the manner contemplated in these provisions". Same fact were discussed by tribunal in in the case of Haridas Parikh Vs. ITO reported in 113 TTJ 274 wherein it was held that "Unless the Assessing Officer is able to point out certain transactions which have been left to be entered in the books of account or that the assessee has sold some of the items at a price higher than what is disclosed in the books of account or if proper particulars, bills, vouchers are not forthcoming, etc., the books of account cannot be rejected without assigning specific reasons. In the instant case merely because different range and nature of items were being dealt with by the assessee and the maintenance of quantitative stock of each and every item was not practically possible, the books of account maintained by the assessee which were free from any defect could not be rejected merely because the average GP rate was slightly lower than the average GP rate of the earlier year".

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