



K S C A A NEWS BULLETIN



*Upholding the Moral &
Professional Excellence*

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Happy Independence Day



BASAVANAGUDI CPE STUDY CIRCLE

CPE workshop on
**"Practical Problems
& Solutions in
Filing VAT 100 &
ST 3 Returns"**
on Tuesday, 26.08.2014
4.00 PM to 8.00 PM

CPE
4
Hrs

CPE workshop on
**"e-TDS Returns,
Practical
Challenges and Changes
in Tax Audit Reports"**
on Monday, 08.09.2014
4.00 PM to 8.00 PM

CPE
4
Hrs

at Sri Bhagwan Mahaveer Jain College
Bangalore – 560027.

Details at Back Inner Cover

From the President

ವೃತ್ತಿಬಾಂಧವರೆಲ್ಲರಿಗೂ ಸ್ವಾತಂತ್ರ್ಯೋತ್ಸವ ಹಾಗೂ
ಗೌರಿ ಗಣೇಶ ಹಬ್ಬದ ಶುಭಾಶಯಗಳು



Dear Professional Friends,

August is a special month. The month in which we celebrate our Independence day... And the start of festive season and as usual our busy schedule of tax audits.

Co-operative Audits: Karnataka State Govt. has made an amendment to Sec.63 of Karnataka Cooperative Society Act, including the Non Chartered Accountants within the meaning

of the term 'Auditor' which will be serious erosion on the rights of our profession. The Amendment is pending before the Honorable Governor of Karnataka for ascent. We have requested our institute (ICAI) for help and guidance to safeguard our members' interest. We from KSCAA are planning to take up the appropriate legal remedies to safe guard our professional interest.

We request all the members to generously contribute to our legal fund to meet the legal expenses.

Tax Audit and Representations:

One of our professional responsibilities during the months of August and September is 'Tax Audit'. Now with the increase in limit for number of audits to 60 per CA and revision in reporting formats, our responsibility has also enhanced and we need to be more cautious. I am confident that members would rise up to the occasion and fulfill the professional obligations with acumen.

We have submitted a request to The Chairman, Central Board of Direct Taxes through Principal Chief Commissioner of Income Tax, Bangalore, for deferment of applicability of changes in Form 3CA, 3CB & 3CD u/s 44AB of the Income Tax Act, 1961, to next year. We had an opportunity to meet & discuss the matter with Shri Vimal Anand, JT/Addl. Commissioner of Income Tax(HO)(Admn), Bangalore, who heard our submission and agreed to forward our representation to Chairman, CBDT and further advised to mobilize representation from other professional bodies also.

The Companies Act:

The Ministry of Corporate Affairs has granted the extension of filing of Form DPT4 up to 31.08.2014 without any additional fee under the provisions of The Companies Act, 2013.

The Ministry of Corporate Affairs has announced Company Law Settlement Scheme (CLSS), 2014 vide General Circular No.34/2014 dated 12th August, 2014 wherein one time opportunity has been granted for defaulting companies and its directors. Companies who have not filed their Annual Reports, Financial Statements and related documents due for filing on or before 30/06/2014 can file these documents before 15/10/2014 and avail the benefits such as a) Pay only 25% of payable additional fee b) Enjoy immunity from prosecution & c) Directors

will also not be disqualified under section 164(2) of the Companies Act, 2013.

I request the members to make use of this opportunity & advise the clients accordingly.

Representations:

Further, we are planning to take up various issues faced by professionals, with respective government and other departments in the coming months. Request the members to send your professional issues so that we can collectively take up the matter and work forward to protect our professional interests.

Co-option to EC: Executive committee has extended their arms by co-opting CA N S Ayyanagoudar, Past Chairman, Hubli Branch of SIRC of ICAI for the term 2014-15 for strengthening the Moffusil representation. He is also serving as the co-opted member of Internal Audit Standards Board, ICAI, New Delhi for the term 2014-15. We welcome him for to the KSCAA EC team.

Building Committee Meeting: Building committee meeting of our association was held on 2nd August, 2014. We are grateful to the Past Presidents Sri Anant Mutalik, Sri Allama Prabhu M S, Sri M V Lakshmikantha, Sri A S Vishnu Bharat & Sri Maddanaswamy B V for participating actively & advising the committee to take decisions regarding the rented premises.

Bye Law Amendment Advisory Committee: EC has taken decision to revamp the existing bye-laws of the Association with a new bye-law which meets our current aspirations. Accordingly, the EC is in the process of forming a Bye Law Amendment Advisory Committee.

Welcome to our Professional Fraternity

The results of the CA Final Examination have been declared on 8th August 2014. KSCAA congratulates all the students, who have successfully passed the Examination and welcomes them to our professional fraternity. We wish them all the best in their professional career. We also welcome new members to be part of our esteemed association.

Programs for the month

KSCAA is extending its facilities to Basavangudi CPE study circle for its Workshop on VAT & Service Tax being conducted on 26th August 2014 and Workshop on TDS & Tax Audit issues on 8th September 2014, the details are given elsewhere in this bulletin. Request every member to attend the program to enrich the knowledge and also avail the CPE credit of 4 hours each. Number of delegates is restricted and so request you to register at the earliest.

Festivities:

The festive season starts with Naga Panchami, Raksha bandhan and Vinayaka Chaturthi in the month of August. During the next couple of months we will be celebrating and enjoying many festivals. We convey our good wishes and greetings for happy days ahead.

Let us extend our enthusiasm and festive spirit to the Independence Day celebrations as well.

Happy Independence Day to all of you!

Thanking you,

In service of the Profession,

CA. Raveendra S. Kore
President

KSCAA

News Bulletin

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Disclaimer

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KSCAA welcomes articles & views from members for publication in the news bulletin / website.

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ಸದ್ಗುಣಗಳ ಸಾಕಾರ (Embodiment of virtues)

– ಸಿ.ಎ. ರಾಘವೇಂದ್ರ ಪುರಾಣಿಕ

ಬುದ್ಧನು ತಾನು ಹೇಳಿದಂತೆ ನಡೆಯುವುದರಲ್ಲಿ ಪರಿಪೂರ್ಣನಾಗಿದ್ದನು. ಅದಕ್ಕೆ ಅವನಿಗೆ ಸದ್ಗುಣಗಳ ಸಾಕಾರಮೂರ್ತಿ ಎನ್ನುವರು. ಅವನ ಜೀವಿತ ಅವಧಿಯಲ್ಲಿ ಅವನ ಪ್ರತಿಯೊಂದು ಮಾತು ಅರ್ಥಪೂರ್ಣವಾಗಿರುತ್ತಿದ್ದವು ಹಾಗೂ ಅದರಂತೆಯೇ ಅವನು ನಡೆಯುತ್ತಿದ್ದನು. ಅವನಲ್ಲಿ ಮಾನವ ಸಹಜ ದೌರ್ಬಲ್ಯ ಹಾಗೂ ಪಾಂಚ್ಛಗಳಿಗೆ ಅವಕಾಶವಿರಲಿಲ್ಲ. ಆದ್ದರಿಂದ ಬುದ್ಧನ ನೈತಿಕತೆಯ ಮಾದರಿ ಪರಿಪೂರ್ಣವೆನಿಸಿದೆ.

ನಮ್ಮ ಈಗಿನ ಪರಿಸ್ಥಿತಿಯು ಬುದ್ಧನ ನೈತಿಕತೆಯ ಮಾದರಿಗೆ ವ್ಯತಿರಿಕ್ತವಾಗಿದೆ. ಇಂತಹ ಪರಿಸ್ಥಿತಿಯಲ್ಲಿ ಸದ್ಗುಣಗಳನ್ನು ನಮ್ಮ ಜೀವನದಲ್ಲಿ ಅಳವಡಿಸಿಕೊಳ್ಳುವುದು ಅತ್ಯಾವಶ್ಯಕವಾಗಿದೆ. ಪ್ರಚಲಿತ ವಿದ್ಯಮಾನಗಳನ್ನು ಅವಲೋಕಿಸಿದಾಗ ಜೀವನದ ಮೌಲ್ಯಗಳು ಕುಸಿಯುತ್ತಿರುವುದು ಕಂಡುಬರುತ್ತದೆ. ವೈಯಕ್ತಿಕ ಹಿತಾಸಕ್ತಿ, ಸ್ವಜನ ಪಕ್ಷಪಾತ, ಜಾತಿಯತೆ ನಮ್ಮ ದೈನಂದಿನ ಜೀವನದಲ್ಲಿ ಹಾಸುಹೊಕ್ಕಾಗಿದೆ. ಬದುಕಲು ಇವುಗಳ ಅಗತ್ಯ ಅಷ್ಟೇನೂ ಇಲ್ಲದಿರುವುದರ ಮಾಹಿತಿ ನಮಗಿದ್ದರೂ, ಇವುಗಳಿಲ್ಲದೆ ಬದುಕಲು ಅಸಾಧ್ಯ ಎನ್ನುವ ರೀತಿಯಲ್ಲಿ ನಮ್ಮ ಜೀವನದಲ್ಲಿ ಅಳವಡಿಸಿಕೊಂಡಿದ್ದೇವೆ. ಇದರಿಂದ ನಾವು ಏನನ್ನು ಸಾಧಿಸಲು ಸಾಧ್ಯ ಎಂದು ಆತ್ಮಾವಲೋಕನ ಮಾಡಿಕೊಂಡರೆ ಬರುವ ಉತ್ತರ ಶೂನ್ಯ.

ಸದ್ಗುಣಗಳು ಸಾಮಾನ್ಯವಾಗಿ ಒಂದು ವ್ಯವಸ್ಥೆಯ ಭಾಗವಾಗಿರುತ್ತದೆ. ವೈಯಕ್ತಿಕ ಗುಣಗಳು ಒಳ್ಳೆಯತನದಿಂದ ಕೂಡಿದ್ದರೆ ಅದನ್ನು ಒಳ್ಳೆಯ ಗುಣ, ನೈತಿಕ ಅಥವಾ ಸದ್ಗುಣ ಎನ್ನಲಾಗುತ್ತದೆ. ವ್ಯವಸ್ಥೆಯು ಸುಲಲಿತವಾಗಿ ಕಾರ್ಯ ನಿರ್ವಹಿಸಲು ಅಂತಹ ಗುಣಗಳನ್ನು ಜೀವನದ ಪ್ರತಿ ಹೆಜ್ಜೆಯಲ್ಲೂ ಅಳವಡಿಸಿಕೊಳ್ಳುವುದು ಅತ್ಯಗತ್ಯ. ಈ ಕಾರಣಕ್ಕಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಸನ್ನದು ಲೆಕ್ಕ ಪರಿಶೋಧಕರ ಸಂಘವು ಈ ವರ್ಷದ ಧೈಯವಾಗಿ "ಸದ್ಗುಣಗಳ ಸಾಕಾರ" ಎಂಬ ವಿಷಯವನ್ನು ಆಯ್ಕೆ ಮಾಡಿಕೊಂಡಿದೆ.

ನಮ್ಮ ಲೆಕ್ಕ ಪರಿಶೋಧನಾ ವೃತ್ತಿಯು ಜನರನ್ನು ಪ್ರತಿನಿಧಿಸಿ ಅವರಿಗೆ ಪಾರದರ್ಶಕ ರೀತಿಯಲ್ಲಿ ಲೆಕ್ಕಾಚಾರಗಳನ್ನು ಇಟ್ಟುಕೊಂಡು ದೇಶದ ಆರ್ಥಿಕ ಅಭ್ಯುದಯದಲ್ಲಿ ಪಾತ್ರ ನಿರ್ವಹಿಸಲು ಮಾರ್ಗದರ್ಶನ ಮಾಡುವುದಾಗಿದೆ. ನೈತಿಕತೆ ಹಾಗೂ ಕಾನೂನಿನ ಪರಿಧಿಯೊಳಗೆ ಆರ್ಥಿಕ ವ್ಯವಸ್ಥೆಯು ಸರಿಯಾದ ರೀತಿಯಲ್ಲಿ ಕಾರ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದೆಯೋ ಇಲ್ಲವೋ ಎಂಬುದನ್ನು ನಮ್ಮ ವೃತ್ತಿ ಕೌಶಲ್ಯಗಳ ಮೂಲಕ ಪರೀಶೀಲಿಸಿ ಅದಕ್ಕೆ ಸರಿಯಾದ ಮಾರ್ಗದರ್ಶನ ನೀಡುವುದು ಸನ್ನದು ಲೆಕ್ಕ ಪರಿಶೋಧಕರ ಆದ್ಯ ಕರ್ತವ್ಯವಾಗಿದೆ. ಈ ರೀತಿ ಇರುವ ನಮ್ಮ ವೃತ್ತಿಯಲ್ಲಿ, ಒಳ್ಳೆಯ ಗುಣಗಳ ಅಳವಡಿಕೆ ಅತ್ಯವಶ್ಯ. ಇದರ ಅನುಪ್ರಾಪ್ತಿಯು ವ್ಯವಸ್ಥೆಯ ಮೂಲವನ್ನೇ ಅಲುಗಾಡಿಸಬಲ್ಲದು. ಆದ್ದರಿಂದ ನಾವು ಸಂಘದ ಕಾರ್ಯಕ್ರಮ ಹಾಗೂ ನಮ್ಮ ನಡವಳಿಕೆಗಳ ಮೂಲಕ ಸಮಾಜದಲ್ಲಿ ನೈತಿಕತೆ ಮತ್ತು ಒಳ್ಳೆಯ ಗುಣಗಳ ಅರಿವು ಮೂಡಿಸುವುದನ್ನು ಈ ವರ್ಷದ ಧೈಯವಾಗಿಸಿಕೊಂಡಿದ್ದೇವೆ. ಈ ಗುರಿಯನ್ನು ತಲುಪಲು ಸಂಘದ ಕಾರ್ಯಚಟುವಟಿಕೆಗಳಲ್ಲಿ ತಮ್ಮೆಲ್ಲರ ಕ್ರಿಯಾಶೀಲ ಪಾಲ್ಗೊಳ್ಳುವಿಕೆ ಮತ್ತು ಸಹಕಾರ ಅತ್ಯಗತ್ಯ.

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Co-OPERATIVE SOCIETY – JUDICIAL CONTROVERSIES

CA. S. Krishnaswamy

**Interpretation of S.80P(4)
Expenses in respect of Exempt income S.14A
Interest on surplus fund
Each section and sub section independent**

Co-Operative Societies

Certain judicial controversies have arisen in respect of taxation of co-operative societies.

1. Insertion of Sec 80P(4) w.e.f April 2007 : Exclusion from exemption

The issue of exemption U/s. 80P(1) to credit co-operative societies has come up for adjudication in a number of cases. This is in the context of Sec 80P(4) which bars relief to any co-operative bank.

Finance Act 2006, w.e.f 01-04-2007 inserted a new section replacing the earlier section. The section states that the exception provisions of the section shall not apply in relation to any co-operative bank (other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank). Co-operative Bank and primary agricultural society shall -

- a) “co-operative bank” and “primary agricultural credit society” shall have the meanings respectively assigned to them in Part V of the Banking Regulation Act, 1949 (10 of 1949)
- b) “primary co-operative agricultural and rural development bank” means a society having its area of operation confined to a taluk and the principal object of which is to provide for long-term credit for agricultural and rural development activities.

1.1. The issue is if a society is lending to its members can it have the color of banking transaction and come under the purview of sec 80P sub-section 4 of the IT Act as inserted by Finance Act 2006.

1.2. In ITO ward 9(3) Bangalore V Yeswanthpur Credit Co-operative Society Ltd., the ITAT, following its decision in Bangalore Commercial Transport Credit Co-operative Society Ltd., in ITA No. 1069/Bang/2010 dt. 08-04-2011, held –

- I. “The above sub-section 4 of section 80P provides that deduction under the said section shall not be available to any cooperative bank other than a primary agricultural credit society or rural

development bank. For the purpose of the said sub-section, cooperative bank shall have the meaning assigned to it in part V of the Banking Regulation Act, 1949. In Part V of the Banking Regulation Act, “cooperative bank” means a State Cooperative Bank, a Central Cooperative Bank and a Primate Cooperative Bank.

II. From the above section, it is clear that the provisions of section 80P(4) has got its application only to cooperative banks. Section 80P(4) does not define the word “cooperative society”. The existing sub-section 80P(2)(a)(i) shall be applicable to a cooperative society carrying on credit facility to its members. This view is clarified by Central Board of Direct Tax vide its clarification No. 133/06/2007-TPL dated 9th May, 2007. The difference between a cooperative bank and a cooperative society are as follows:-

Nature Cooperative society registered under Cooperative society registered Banking Regulation Act, 1949 under Karnataka Cooperative Society Act, 1959

Registration Under the Banking Regulation Act, 1949 Cooperative Societies Act, 1959. and Cooperative Societies Act, 1959.

Nature of 1. As defined in section 6 of Banking 1. As per the bye laws of the Business Regulation Act. Cooperative society.

2. Can open savings bank account, 2. Society cannot open savings current bank account, current account, account, overdraft account, cash credit issue letter of credit, discounting account, issue letter of credit, bills of exchange, issue cheques, discounting bills of exchange, issue demand drafts, pay orders, gift cheques, demand drafts (DD), Pay cheques, lockers, bank Orders, Gift cheques, lockers, bank guarantees etc.
3. Cooperative Banks can act as clearing agent, for cheques, DDs, pay agent for cheques, DDs, pay agent for cheques, DDs, pay orders and other forms.
4. Banks are bound to follow the rules, regulations as specified by in the regulations and directions issued by cooperative societies act, Reserve Bank of India (RBI).

Filing of returns Cooperative banks have to submit Society has to submit the annual return to RBI every year, return to Registrar of Societies. Inspection RBI has the power to inspect accounts Registrar has the power to and overall functioning of the bank.

Part V of the Banking Regulation Act is Part V of the Banking Regulation applicable Act is not to cooperative banks. Use of words 'bank', 'banker', 'banking' can be used by 'banking' cannot be a cooperative bank. used by a cooperative society.

5. If the intention of the legislature was not to grant deduction under section 80P(2)(a)(i) to cooperative societies carrying on the business of providing credit facilities to its members, then this section would have been deleted. The new proviso to section 80P(4) which is brought into statute is applicable only to cooperative banks and not to credit cooperative societies. The intention of the legislature of bringing in cooperative banks into the taxation structure was mainly to bring in par with commercial banks. Since the assessee is a cooperative society and not a cooperative bank, the provisions of section 80P(4) will not have application in the assessee's case and therefore, it is entitled to deduction under section 80P(2)(a)(i) of the Act."

1.3. In Vardhman Nagari Sahakari path Sanstha case ITAT "B" Bench, Pune held that Co-operative society is not regarded as Co-operative Bank. The same has also been laid down in section 56(ccii) in part-5 of Banking Regulations Act, that Co-operative society means "the primary objective of which is to provide financial accommodation to its members and include a co-operative land mortgage bank." It is clear that the meaning of co-operative credit society is separately given and it does not include co-operative Bank.

1.4 A clarification was made by CBDT Circular No. 133 of 2007 dated May 9, 2007 that credit societies are not affected. The matter came up in CIT V. Jafari Momin Vikas Co- Op. Credit Society Ltd. (2014) 362 ITR 331 (Guj), and the court held – The Assessing Officer held that by virtue of section 80P(4), the respondent-assessee would not be entitled to the benefits of deduction under section 80P.

Had this been the plain statutory provisions under consideration in isolation, in our opinion, the question of law could be stated to have arisen. When, question of law could be stated to have arisen. When, as contended by the assessee, by virtue of sub-section(4) only co-operative banks other than those mentioned therein were meant to be excluded for the purpose

of deduction under section 80P, a question would arise why then Legislature specified primary agricultural credit societies along with primary co-operative agricultural and rural development banks for exclusion from such exclusion and in other words, continued to hold such entity as eligible for deduction. However, the issue has been considerably simplified by virtue of CBDT circular No.133 of 2007 dated 9.5.2007. Circular provides as under:-

"Subject: Clarification regarding admissibility of deduction under section 80P of the Income-Tax Act, 1961.

1. Please refer to your letter no.DCUS/30688/2007, dated 28.03.2007 addressed to Chairman, Central Board of Direct Taxes, on the above given subject.
2. In this regard, I have been directed to state that sub-section(4) of section 80P provides that deduction under the said section shall not be allowable to any co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank. For the purpose of the said sub-section, co-operative bank shall have the meaning assigned to it in part V of the Banking Regulation Act, 1949.
3. In part V of the Banking Regulation Act,"Co-operative Bank" means a State Co-operative bank, a Central Co-operative Bank and a primary Co-operative bank.
4. Thus, if the Delhi Co op Urban T & C Society Ltd. does not fall within the meaning of "Co-operative Bank" as defined in part V of the banking regulation Act,1949,sub section (4) of section 80P will not apply in this case.
5. The issues with the approval of Chairman, Central Board of Direct Taxes." In view of such clarification, we cannot entertain the Revenue's contention that section 80P(4) would exclude not only the co-operative banks other than those fulfilling the description contained therein but also credit societies, which are not co-operative banks. In the present case, the respondent-assessee is admittedly not a credit co-operative bank but a credit co-operative society. The exclusion clause of sub-section (4) of section 80P, therefore, would not apply. In the result, the tax appeals are dismissed.

2. Income Exempt Expenses advisable - S.14A

In CIT v. Kribhco (2012) 75 DTR 265/209 Taxman 252/252 CTR 374 (Delhi) (High Court). The court held that deductions which are permissible and allowed under chapter VI-A, do not result in exclusion of the

income from the charging section. Chapter VI-A is different from the exclusions/exemptions granted/stated in Chapter III. The court held that no disallowance under section 14A could therefore be made against the income which was entitled to deduction under section 80P(2)(d). (AY 2006-07)

3. Interest on Surplus Funds:

Controversy on the taxability of interest on surplus funds invested in financial institution has now been laid to rest by the Supreme Court in Totgar's Co-operative Sale Society Ltd. V. Income-Tax Officer [2010] 322 ITR 283 (SC). The societies have been contending that holding surplus funds in banks was a mode of holding cash and incidental income there from must be treated as co-operative income. This has been negative by the Supreme Court.

"The words "the whole of the amount of profits and gains of business" in section 80P(2) of the Income-tax Act, 1961, emphasise that the income in respect of which deduction is sought by a co-operative society must constitute the operational income and not the other income which accrues to the society.

The interest income arising to a co-operative society carrying on the business of providing credit facilities to its members or marketing of agricultural produce of its members, on the surplus, which is not required immediately for business purposes, from investment in short-term deposits and securities, has to be taxed as income from other sources under section 56 of the Income-Tax Act, 1961. Such interest cannot be said to be attributable to the activities of the society, viz., carrying on the business of providing credit facilities to its members or marketing of agricultural produce of its members. Interest income of such society from amounts retained by it cannot be said to be attributable either to the activity mentioned in section 80P(2)(a)(i) or section 80P(2)(a)(iii) of the Act".

However, as against such income the cost of funds and proportionate expenses are admissible deductions.

4. Each Clause or sub clause of Sec 80P(2) is to be treated as a separate and distinct head of exemption: Member need not be an agriculturist.

In Kerala State Co-operative marketing Federation Ltd. V. CIT (1988) 231 ITR 814 S19 (SC) the apex court held – For the purposes of section 80P(2)(a)(iii) of the Income-tax Act, 1961, so long as agricultural produce handled by the assessee belonged to its members it is entitled to exemption in respect of the profits derived from the marketing of the same. Whether the members came by the produce because of their own agricultural activities or whether they

acquired it by purchasing it from cultivators is of no consequence for the purpose of determining whether the assessee is entitled to the exemption. The only condition required for qualifying the assessee's income for exemption is that the assessee's business must be that of marketing, the marketing must be of agricultural produce and that agricultural produce must have belonged to the members of the assessee-society before they came up for marketing by it, whether on its own account or on account of the members themselves. Section 80P does not in effect limit the scope of the exemption to agricultural produce raised by members alone but includes agricultural produce raised by others but belonging to co-operative societies. The contrast in the said provision is with reference to the marketing of agricultural produce of the members of the society against that purchased from non-members.

Section 80P of the Income-tax Act, 1961, is introduced with a view to encouraging and promoting the growth of the co-operative sector in the economic life of the country and in pursuance of the declared policy of the Government. The correct way of reading the different heads of exemption enumerated in the section would be to treat each as a separate and distinct head of exemption. Whenever a question arises as to whether any particular category of an income of a co-operative society is exempt from tax what has to be seen is whether the income fell within any of the several heads of exemption. If it fell within any one head of exemption, it would be free from tax notwithstanding that the conditions of another head of exemption are not satisfied and such income is not free from tax under that head of exemption.

An analysis with reference to the lexicographical meaning of the expression "of" occurring in section 80P(2)(a)(iii), the use of the expression in the context, the setting of the different categories of societies in the legislation in comparison with other provisions thereof would indicate that the expression "of" acquires the meaning "belonging to".

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KSCAA WELCOMES NEW MEMBERS

AUGUST 2014

Name	Place
1 Shyama Sagar C.H.	Bangalore
2 Rakesh Prasad H.R.	Bangalore
3 Ravi Kumar B.	Bangalore



RECONCILIATION OF MONTHLY RETURNS WITH BOOKS OF ACCOUNTS UNDER KVAT LAW



CA. G.B. Srikanth Acharaya and CA. Annapurna Kabra

Most of the VAT dealers under the KVAT law are receiving Notices to produce the Books of Accounts. Therefore while preparing the books of Accounts to be filed before the KVAT Authority, the basic documents like Tax invoice / Bill of sale/URD purchases /Delivery challans /Credit / Debit Notes/ Purchase register /Sales register / Inventory register /Production register / Input credit register /Stock transfer register /Contract register /Sub contract register should be compiled to be produced before the Authority. The information furnished to the Authority should contain comprehensive information about the dealer, Comparison statement between the returns filed and actual books of Accounts and assess the liability of tax payable along with interest and penalty or refund claimed by the dealer as per books of Accounts.

Generally the values declared in the financial statements may not match with the values declared in the returns. The reconciliation may have to be made considering various factors leading to differences. Some of the aspects, which need to be considered therein, are.

- Accounting done in the financials based on accrual basis but sales are not affected yet;
- Effects given in the financial statements for the events occurring after the balance sheet date.
- Accounting effects given in terms of accounting standards but those are neither sale nor purchase as per VAT laws.
- Sales Returns shown in the accounts may be even for the period beyond 6 months whereas the amount that can get credit is pertaining only to sales returns for the period within 6 months

Therefore while drafting the information and submitting the information to the VAT Authority the following areas should be considered.

I) The Common errors expected while reconciliation of returns with Books of Accounts are like

- ☐ manual, arithmetical and consolidation errors
- ☐ omitted or duplicated invoices
- ☐ sales invoices posted gross without extracting output tax
- ☐ Output tax incorrectly calculated on VAT-inclusive amounts or on supplies subject to a discount
- ☐ Sales credit notes incorrectly posted

- ☐ Output tax due on sale of fixed assets
- ☐ Omitting zero rates and exempted supplies

II) Certain Occasional or miscellaneous supplies to ensure that output tax has been declared

- ☐ Cash sales
- ☐ Sales of scrap
- ☐ Incentive payments received from suppliers for meeting purchase or sales targets
- ☐ Commission for agency sales
- ☐ Supplies to staff
- ☐ Disposal of assets used in the business
- ☐ Barter transactions
- ☐ Miscellaneous Income

III) Certain details of Reconciliation of Sales from Trading and P& L Accounts with Monthly returns

- ☐ Sales and purchases inclusive or exclusive of excise duty
- ☐ Sales return (including for WC)
- ☐ Discount
- ☐ Service Income
- ☐ Free gifts/
- ☐ Insurance claim for loss of goods
- ☐ Sale of fixed assets
- ☐ Classification of goods with rate of taxes
- ☐ Classification of sales and stock transfer (Interchange ability)
- ☐ Recognition of revenue (Accounting standard)
- ☐ Multiple business by dealer
- ☐ Reasons for Reconciliation between Returns and Financial Reports

IV) Certain details of Reconciliation of Purchases from Trading and P& L Accounts with Monthly returns

- ☐ Unregistered purchase part of turnover
- ☐ Purchase return
- ☐ Consumables
- ☐ Freight charges
- ☐ Classification of purchases and stock inward

(Contd. on page 9)



INDIRECT TAXES UPDATE – JULY 2014

CA. C.R. Raghavendra, *B.Com, FCA, LLB, Advocate*
and CA. Bhanu Murthy *J.S. B.Com, ACA, LLB*



FOR THE MONTH OF JULY 2014:

1) **CST Vs. Ashu Exports Pvt. Ltd., 2014(202) ECR 0375(HC- Delhi):**

Issue before the High Court was whether the activity of imparting skills in the areas of export and import management would get qualify as vocational training in terms of Notification 24/2004-ST. Contention of the department was the said course was not a course recognized as vocational training by the Government.

In this connection, the High Court held that prior to 27.02.2010, the definition of vocational training was defined to mean any training which imparts skills to enable the trainee to seek employment or undertake self employment. The condition of registration or accreditation of such institutes was brought into notification only w.e.f. 27.02.2010. Therefore, it was held that the courses conducted by the assessee would qualify for exemption.

2) **BHEL vs. CCE., 2014(202) ECR 0384(Tri- Delhi):**

Assessee exported few transformers to Netherlands for the purpose of testing. Four of the transformers were received back in damaged conditions and assessee took credit of CVD paid on such damaged transformers. The credit availment was objected on the ground that some of the parts of the transformers were damaged and are not used in the transformers cleared after being repaired.

Tribunal allowing the credit of duties held that what was imported and duty paid, by the appellant was full transformers and not the parts. These transformers after importation were repaired by replacing the damaged parts and are cleared on payment of duty. Therefore, the transformers were used in manufacture and clearance of duty paid goods and hence credit cannot be denied.

3) **M/s Rajasthan State Industrial Development And Investment Corp Ltd Vs CCE 2014-TIOL-1227-CESTAT-DEL**

The appellant, an instrumentality of the State raises loans from the public in its own name by issuing Bonds and the amounts so received are kept in a Public Deposit (PD) account of the appellant. The department initiated proceedings to demand service tax under the heading 'Banking services' on the

ground that the appellant is managing funds on behalf of Government.

Tribunal allowing the appeal observed that the bonds are issued by and in the name of the appellant and the amounts are kept in its own account and do not flow into the Consolidated Fund of the State, as required under Article 266 of the Constitution. Therefore, the activities of the appellant are clearly and truly a service to itself and not to any other person/ entity.

4) **M/s Intellicon Pvt Ltd Vs CCE & ST 2014-TIOL-1231-CESTAT-AHM**

The Appellant is engaged in manufacturer of EPABX systems. Dispute in the present case is whether the value of bought-out LCC (Line Circuit Card) supplied separately as traded goods, along with the EPABX systems, is includible in the assessable value of the EPABX systems for the purpose of computation and payment of duty.

Tribunal allowing the appeal observed that in the present case most of the EPABX systems were sold without LCCs thereby proving the fact that the EPABX without LCCs was fully manufactured goods and that the supply of LCCs (bought out item) was optional depending upon the requirement of the customers. Further, the LCC is not fitted into the EPABX system at the time of clearance from the appellant's factory, but the same is supplied from their trading unit situated in separately demarcated premises. Therefore, there is no requirement to inclusion of the value of LCC with the value of EPABX for payment of duty.

5) **Asia Overseas Vs CC, 2014-TIOL-1256-CESTAT-DEL**

The appellant imported Philips Tube Lights and assessed duty on transaction value. Said transaction value was disputed based on the value of similar goods imported by others and the value was enhanced.

Held: Tribunal allowing the appeal and rejecting the enhancement of value observed that to reject the transaction value, Revenue is duty bound to first ascertain the fact that goods imported by the appellants are similar to the goods imported by other parties by way of drawing samples and testing the goods. Tribunal observed that the department has failed to do such tests and examination in the present case.

It was held that the tube lights imported by the appellants are 20 Wt. x 2 ft. of blue colour whereas the catalogue relied upon by the revenue (belonging to other importer) are related to goods having description as TL-20W/05 SLV which is not clear as to whether the goods are similar or not. The difference in nature of goods and other facts cannot be ascertained without examination of the goods through Test Lab. Therefore, the goods in the present case cannot be termed to be similar goods to adopt higher value. Hence the transaction value shall be accepted.

6) M/s Gammon India Ltd Vs CCE, C & ST, 2014-TIOL-1344-CESTAT-MUM

The appellant was awarded two contracts by two separate tenders, one for supply of the transmission towers and another for erection and installation of such towers. The appellant paid VAT on the first contract and on second contract claimed composition scheme under works contract services. Composition scheme was denied on the ground that the said contract is a pure service contract and goods such as cement, steel and jally was consumed in the course of providing erection and installation.

The Tribunal allowing the composition scheme observed that in order to qualify as works contract, there shall be transfer of property of goods used in works contract and such transfer of property shall be leviable to VAT / sales tax. In the instant case, the goods such as steel, cement are used in the works contract of erection and installation of towers and the appellant has paid VAT on such goods under state VAT act.

Further, the conditions as required under composition scheme was also fulfilled and hence composition scheme cannot be denied.

7) M/s Godrej Consumer Products Ltd Vs CCE, 2014-TIOL-1262-CESTAT-DEL

The appellant is engaged in the manufacture of toilet soap and soap noodles. The appellant engaged vendors for removing water from the drainage system of the plant inside the factory and for cleaning the factory which essentially required for continuous process of plant operation and availed credit of service tax paid on such activities. Further, the appellant also availed credit of service tax on the gardening activity. The input service credits were disputed by the department. Tribunal allowing the credit observed that appellant being a ISO certified company, they are required to follow environment laws which include the maintenance of garden inside the factory and also are required regular maintenance to eliminate pollution and having pollution free surroundings of the plant and machinery as well as work force engaged in the manufacture of goods. Hence cleaning, housekeeping, toilet and water are basic requirements to run a factory and not providing such facilities effect pollution. Therefore, it was held that the appellant is eligible to avail Cenvat credit on the above referred input services.

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RECONCILIATION OF MONTHLY RETURNS WITH BOOKS OF ACCOUNTS UNDER KVAT LAW

(Contd. from page 7)

- ☐ Labour and like charges
- ☐ Purchases as part of expenses
- ☐ Fuel purchases
- ☐ Ineligible input tax credit
- ☐ Entry tax impact

The exercise of verification of records is very wide in scope and it cannot be standardized for all the dealers. It would be essential for the revenue authorities or the dealer to consider the above aspects either in the course of audit or as a part of assessment/re-assessment with reference to the Books of Accounts produced before the Authority.

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OBITUARY

*We deeply regret to inform
the sad demise of our beloved*



Sri. M R Gopinath
M.Com., LL.B (Spl), FCS
Company Secretary

May his soul rest in peace.



CHANGES IN TAX AUDIT REPORT AND INDIRECT TAX IMPLICATIONS

CA. Madhukar N. Hiregange and CA. Roopa Nayak



*The recent changes proposed in the Tax Audit report and statement has increased the responsibilities of the statutory auditor who now has to report on true and correct view according to examination of books of account and other relevant documents and explanations given. Further observations/Qualifications should be provided as well. In this article the paper writer has sought to examine the **indirect tax disclosures** in audit report under Section 44AB.*

Background

At the time of Income tax scrutiny assessment, at times the Excise, Service Tax and VAT returns are also examined. Wherever there are differences in the turnovers in the financial statements for income tax purposes and the turnovers as disclosed in the indirect taxes returns, the assesses could be asked to reconcile the same.

Similarly at the time of department audit under excise and service tax, the audited financials as well as the Tax audit report are referred and common questions raised include seeking information on the revenues disclosed therein, break up of misc incomes, payments made outside India. {TDS}

There were already clauses in said form 3CD referring to indirect taxes. Such clause required to mention tax/duty/cess/fee paid or not paid during previous year. Further whether sales tax, customs duty, excise duty or other indirect tax passed through P&L. Also details of Modvat Credits availed or utilized during previous year and its treatment of outstanding Modvat Credit in the accounts.

In this backdrop, it would be very relevant to go through the changes made by the CBDT via Notification No. 33 dated 25th July 2014, in Form 3CA, 3CB and 3CD. The amended forms shall come into force on 25.07.2014. It is applicable to Tax Audit Report for Assessment Year 2014-15. Further it could also be applicable if the report is issued after such date. We have compiled all the amendments related to indirect taxes below.

Major Changes which are proposed to be made and impact:

- 3CA: Point 3.** In the opinion part, now apart from mentioning that particulars in Form 3CD are true and correct, auditors have to mention observations/qualifications if any.

Comments:

Insertion of words "According to examination of books of account including other relevant documents" –this increases the verification Scope of the Auditor.

The scope of term examination of other relevant documents could cover the records under excise/Service tax/VAT and its impact on true and correct view?

Observations/Qualifications provided could cover the non-compliances under indirect taxation such as taxes collected but not paid.

FORM 3CB

- Changes made are on similar lines as that in Form 3CA as mentioned above to extent observations/qualifications, if any to be listed out.

FORM 3CD

The Form 3CD now has 41 clauses as against 32 clauses prior to this notification. The key changes made in Form 3CD are addition of some new clauses thereby requiring more disclosures. Listed below are the modifications/ additions made relevant from indirect taxes perspective.

PART A

- Point 4:** Now have to mention whether the assessee is liable to pay Indirect tax like excise duty, service tax, sales tax, custom duty etc and furnish the registration number for the same.

Comments: Find out whether assessee liable to excise duty/service tax/VAT. If yes whether he is registered under central excise as a manufacturer/ dealer or under service tax as a service provider? Whether dealer liable under VAT and TIN No. details?

- Point 6: Date of commencement of previous year for newly started business:**

Comments: Date of commencement of new business: Can find out new business activities and excise/service tax and excise/service tax/VAT registration details where liable to pay such taxes to be disclosed at 4.

PART B

- Point 11(b) and (c):** Earlier only required to mention a list of books of account maintained; now also to mention the address at which the books of accounts are kept. Further if books of accounts are not kept at one location, now need to furnish the addresses of locations.

Apart from mentioning the list of books examined, also have to mention the nature of relevant documents examined.

Comments:

Need to give address of locations where books maintained. Where there are more than 1 premise, then give addresses of all locations. This could be cross linked with premises registered under excise/service tax/VAT.

This can help determine any premises where manufacture done/services provided from are omitted to be registered and compliance can be done by assessee.

- **Point 37.** Disclosures on cost Audit to include disqualification or disagreement on any matter/ item/ value/ quantity as may be reported/ identified by the Cost Auditor. Earlier the requirement was to only state whether Cost Audit was carried out or not & to enclose copy of report.

Comments:

Cost audit report issues:

- a. Where he finds items in cost statement are misstated. This could lead to –
- i. Undervaluation of manufactured excisable goods removed for captive consumption.
- **Point 38:** Similar disclosure as above point 37, to be made with respect to audit under Central excise Act as mentioned above. Disqualifications and disagreements to be reported.

Comments–

Following qualifications could be there in the report issued by the auditor under CE act

- *Where value has not been correctly declared or determined by a manufacturer.*
- *Credits availed or utilised fraudulently without receiving materials*
- *Availing or utilised credits on goods used for manufacturing of goods cleared without payment of duty.*
- **Point 39:** Disclosure as above point 37, to be made with respect to audit under section 72A of Finance Act as mentioned above.

Comments:

To be reported whether any audit was conducted under Sec 72A of the Finance Act, 1994 in relation to valuation of taxable services, if yes further disclosures to be made details if any disqualification or disagreement on any matter/ item/ value/ quantity as may be reported/ identified by the auditor.

Audit under service tax is covered by section 14AA of Central Excise Act, 1944 as applicable to service tax

and section 72A inserted by the Finance Act, 2012 w.e.f. 28-5-2012.

Service tax audit remarks also to be enclosed.

Following qualifications could be there in the report issued by the auditor u/s 72A:

- *Whether any part of the service charge has been shifted in the expense account thereby suppressing the value of taxable service?*
- *Credits availed by fraud/collusion/willful misstatement or suppression*
- **Point 41:** Details of demand raised or refund issued during the previous year under any tax laws other than Income Tax Act, 1961 and Wealth tax Act, 1957 along with details of proceedings:

Comments:

- *Get list of all the pending litigations/ demands raised in previous year in other tax laws[indirect taxes too]*
- *Also details of refunds issued along with details of relevant proceedings.*
- *This point could impact going concern especially where a demand under excise or service tax is huge.*

Other impact;

- **Point 18(d)(i):** Disclosure of Central Value Added Tax credits claimed and allowed under the Central Excise Rules, 1944, in respect of assets acquired on or after 1st March, 1994-earlier referred to Modified Value Added Tax Credits.

Comments: *The terminology made contemporary. There is no substantive impact of this change.*

Similarly in point 27(a) where sets out now: (a) Amount of Central Value Added Tax credits availed of or utilised during the previous year and its treatment in the profit and loss account and treatment of outstanding Central Value Added Tax credits in the accounts.-earlier referred to Modified Value Added Tax Credits.

Comments: *The terminology made contemporary. There is no substantive impact of this change.*

Conclusion

The new format contains more details to be given and leads to more reporting requirements on statutory auditor. **They may also need to get acquainted with indirect taxation laws to realize impact of the reported items and guide their clients accordingly.**

In this article the paper writer has sought to cover the changes and impacts in the prescribed forms.

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CHANGES IN FORM 3CD – AN ANALYSIS

CA. Krishna Upadhya S

Introduction and Historical Background

The requirements for certain tax payers to get their accounts audited and furnish audit report under the Income Tax Act, 1961 was introduced by way of section 44AB through Finance Act, 1984. The said provision came into effect from 1st April 1985. The Central Board of Direct Taxes (CBDT) explained the scope and effect of this section by way of a circular¹. The CBDT explained the need for audit as “A proper audit for tax purposes would ensure that the books of accounts and other records are properly maintained, that they faithfully reflect the income of the taxpayer and claims for deductions are correctly made by him.” Consequentially, Rule 6G was inserted into the Income Tax Rules, 1962 w.e.f 1.04.1985 prescribing the forms for furnishing the audit report. This is how the ‘tax audit’ became a reality in the Indian Income tax legislation. Further the onus to carry out such an audit was given to Chartered Accountants.

The forms that are prescribed by Rule 6G are

- (a) **Form 3CA** – Audit report in case where the accounts of the business or profession have been audited under any other law.
 - (b) **Form 3CB** – Audit report in cases other than the above.
 - (c) **Form 3CD** – Statement of Particulars required to be furnished u/s 44AB, which is common to both the above.
- A major revamp of the entire set of the above forms

was done in 1999 before which the form introduced in 1985 continued with minor amendments on a periodic basis. Post which, the Forms, particularly, form 3CD kept changing with the introduction of new provisions in the Act and a need for reporting under such a provision kept arising. The latest substantive change in Form 3CD happened in the year 2006 by way of IT (Ninth Amendment) Rules, 2006. In order to enhance the scope of the areas covered in the audit to help the tax administration to gather more information and also to keep up the reporting under audit in line with the current provisions of the Act, CBDT has come up with a notification dated 25th July 2014. This notification has made numerous significant changes to Form 3CD. Also the new forms shall be applicable for the current reporting period and for audits of earlier reporting period for which audit is carried out currently. However, there is no clarity on the status of report that has already been filed for AY 2014-15 before the notification has come into effect. It should be technically sound to interpret that such forms should be valid till the new forms were notified.

With the tax audit season just around the corner it is imperative that we as professionals understand, inculcate and bring into action the new reporting regime, which has far reaching implications. In this regard, an attempt has been made to capture the changes carried out to the audit reports and their implications on scope of work and audit risk for a Chartered Accountant certifying such forms in the ensuing paragraphs:

Changes in Form 3CD and its impact

Sl. No.	Description of the Clauses	Was the Clause present in Old Form 3CD (Yes/No)	Analysis
1.	Identification Number for payment of various Indirect Taxes [Clause 4 of Part A]	No	In order to facilitate better exchange of information, tax administration might have introduced this clause.
2.	Indicate the relevant Clause of Sec. 44AB under which audit has been conducted. [Clause 8 of Part A]	No	The requirement of conducting tax audit comes out of reasons of turnover threshold or inadequacy of profit margins as specified in 44AD/44AE/44BB/44BBB. There was no specific clause/para to indicate this and hence this clause has been introduced.

¹ Circular No.387 dated 6th July 1984

3.	<p>List of books of account maintained and the address at which the books of accounts are kept.</p> <p>(In case books of account are maintained in a computer system, mention the books of account generated by such computer system. If the books of accounts are not kept at one location, please furnish the addresses of locations along with the details of books of accounts maintained at each location.)</p> <p>[Clause 11(b) of Part B]</p>	Yes	<p>1. Requirement to mention Address at which books of accounts are kept is a new addition.</p> <p>2. With increase in cloud accounting/outsourced accounting practices, determination of the place of maintenance of books and reporting the same should be adequately studied by a CA while reporting under this clause.</p>
4.	<p>List of books of account and nature of relevant documents examined.</p> <p>[Clause 11(c) of Part B]</p>	Yes	<p>The clause now requires the auditor to state the 'nature of relevant document examined'. While it is not clear what could this mean, however, it could be fair to interpret to mean that this refers to whether a particular document is computerised/non-computerised.</p>
5.	<p>Whether the profit and loss account includes any profits and gains assessable on presumptive basis, if yes, indicate the amount and the relevant section (44AD, 44AE, 44AF, 44B, 44BB, 44BBA, 44BBB, Chapter XII-G, First Schedule or any other relevant section.)</p> <p>[Clause 12 of Part B]</p>	Yes	<p>Newly Inserted :</p> <p>1) Section 44BB</p> <p>2) Chapter XII-G, First Schedule or any other relevant section</p> <p>Amendment is aimed at reporting all the sections where presumptive basis of taxation is prescribed.</p>
6.	<p>Where any land or building or both is transferred during the previous year for a consideration less than value adopted or assessed or assessable by any authority of a State Government referred to in section 43CA or 50C, please furnish the details of property, consideration received or accrued and value adopted or assessed or assessable.</p> <p>[Clause 17 of Part B]</p>	No	<p>This is a new and a surprise addition in the Form 3CD. Going forward, auditor is required to report on situations where the provisions of section 43CA and 50C shall apply.</p> <p>These provisions have been litigious since its inception. Requiring auditors to report under this clause will substantially enhance the scope of reporting. It could be challenging for an auditor to report on difference in valuation. A sufficient guidance by ICAI on reporting under this clause should clear some air. It should also be analysed if a mere representation from the auditee would suffice while reporting under this clause or a substantive test to verify the same should be carried out.</p>
7.	<p>Amounts admissible under section 33AB, 33ABA, 33AC (wherever applicable), 35, 35ABB, 35AC, 35CCA, 35CCB, 35D, 35DD, 35DDA, 35E, 32AC, 35(2)(AB), 35AD, 35CCC, 35CCD</p> <p>[Clause 19 of Part B]</p>	Yes	<p>No change in the clause except of additions to new sections 32AC, 35(2)(AB), 35AD, 35CCC, 35CCD.</p>
8.	<p>Amounts inadmissible under section 40(a)</p> <p>[Clause 21(b) of Part B]</p>	Yes	<p>This clause in the earlier form did not have any specific reporting format. The new form provides for the different details to be furnished and also provides for different categories of non-compliance that could result in section 40(a) inadmissibility.</p>

9.	Disallowance/deemed income under section 40A(3)/40A(3A) [Clause 21(b) of Part B]	Yes/No	The requirement to report deemed income u/s 40A(3A) is a new addition. In the 40A(3) reporting, the requirement to specify whether a certificate has been obtained in connection with this clause has been removed and a new requirement to furnish the details of person receiving the remittance in cash above the threshold has been inserted.
10.	Amounts deemed to be profits and gains under section 32AC or 33AB or 33ABA or 33AC. [Clause 24 of Part B]	Yes	No change in the clause except of additions to new sections 32AC, which is a new addition to the Act.
11.	Whether during the previous year the assessee has received any property, being shares of a company not being a company in which the public are substantially interested, without consideration or for inadequate consideration as referred to in section 56(2)(viiia), if yes, please furnish the details of the same. [Clause 28 of Part B]	No	The new clause requires reporting all unlisted shares which are received either for inadequate consideration or without consideration by the auditee. This throws up a question whether the tax audit is aimed at audit of Incomes taxable under 'Profits and Gains of Business or Profession' or incomes under any other head is also to be covered in the scope of tax audit. While the earlier Form 3CD had no clause deeming such a requirement, the introduction of this clause brings into the scope of the auditor the reporting of income chargeable under Other Sources also. This virtually means tax auditor commenting on the adequacy of consideration for any shares received. This reporting manifolds the audit risk and sufficient guidance on reporting from ICAI should be expected.
12.	Whether during the previous year the assessee received any consideration for issue of shares which exceeds the fair market value of the shares as referred to in section 56(2)(viib), if yes, please furnish the details of the same. [Clause 29 of Part B]	No	This, as mentioned in the earlier clause is a matter concerning Income from Other Sources. Further, the auditor should insist on documentation by way of valuation report as specified under Rule 11U/11UA in order to report under clause.
13.	Whether the assessee has incurred any speculation loss referred to in section 73 during the previous year, If yes, please furnish the details of the same. [Clause 32 (c) of Part B]	No	The determination of a loss as speculative or otherwise was a tax payer's prerogative while filing his income tax returns. This clause tries to shift the burden also on the auditor to test if a loss incurred is speculative in nature. Auditors should consider obtaining sufficient representation from the auditees while reporting under this clause as the determination of a loss to be speculative or not is a continuously litigated matter.
14.	Whether the assessee has incurred any loss referred to in section 73A in respect of any specified business during the previous year, if yes, please furnish details of the same. [Clause 32 (d) of Part B]	No	This clause requires the auditor to report on losses from specified business u/s 35AD which is to be carried forward for future years.
15.	Section-wise details of deductions, if any, admissible under Chapter VIA or Chapter III (Section 10A, Section 10AA) [Clause 33 of Part B]	Yes	The earlier clause covered deduction only under Chapter VIA. This has been enhanced to cover deduction in Chapter III as well, which includes section 10, 10A, 10AA, 11 etc. This extension of scope might be for ease of information availability for tax authorities.

16.	Whether the assessee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB. [Clause 34(a) of Part B]	Yes	The old Form 3CD required reporting on compliance with TDS provisions only. The new Form 3CD requires reporting on compliance on TCS provisions also. Though the provisions of TCS existed in the Act since 1988, the reporting in Form 3CD was not required. This might have been a drafting error which remained for over 2 decades, which has been regularised by this notification. The requirement to report tax deducted late has been removed probably in view of insertion of clause 34(c), which has been discussed later in the table.
17.	Whether the assessee has furnished the statement of tax deducted or tax collected within the prescribed time. [Clause 34(b) of Part B]	No	By this new insertion, the auditor is required to report on the TDS/TCS return compliances status of the auditee as well. While it has been a regular audit practice to verify the compliances, there was no reporting requirement.
18.	Whether the assessee is liable to pay interest under section 201(1A) or section 206C(7) [Clause 34(c) of Part B]	No	If assessee is deemed as an assessee-in-default and he is liable to pay interest u/s 201(1A) or 206C(7), the tax auditor shall furnish the TAN of assessee, interest payable and interest actually paid. This way, the reporting requirement on default of TDS/TCS compliances adds to the scope of the auditors reporting requirements.
19.	In the case of a domestic company, details of tax on distributed profits under section 115-O. [Clause 36 of Part B]	Yes	While the earlier form did not cater to the reduction of dividend received as envisaged in the amended section 115-O, this has been introduced in the new Form 3CD in wake of the new provision in the law.
20.	Whether any cost audit was carried out, if yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the cost auditor. [Clause 37 of Part B]	Yes	The earlier form had reporting to the extent of whether a Cost audit was conducted or not. Currently the reporting is enhanced to cover a gist of the report as well. Going by the concept of annexure free electronic filing, the requirement to attach the Cost audit report has been done away with.
21.	Whether any audit was conducted under the Central Excise Act, 1944, if yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported / identified by the auditor. [Clause 38 of Part B]	Yes	The earlier form had reporting to the extent of whether an Excise audit was conducted or not. Currently the reporting is enhanced to cover a gist of the report as well. Going by the concept of annexure free electronic filing, the requirement to attach the Excise audit report has been done away with.
22.	Whether any audit was conducted under section 72A of the Finance Act, 1994 in relation to valuation of taxable services, Finance Act, 1994 in relation to valuation of taxable services, if yes; give the details, if any, of disqualification or disagreement on any matter / item / value / quantity as may be reported / identified by the auditor. [Clause 39 of Part B]	No	The Form 3CD earlier had only reporting towards Excise audit. To catch up with time and ever increasing Service sector in India, the requirement to furnish the details of any audit under Service tax legislation has also been introduced.

23.	Details regarding turnover, gross profit, etc., for the previous year and preceding previous year: [Clause 40 of Part B]	Yes	A comparative analysis of current and previous year was not a requirement earlier, but it has been done so in the new form.
24.	Please furnish the details of demand raised or refund issued during the previous year under any tax laws other than Income Tax Act, 1961 and Wealth tax Act, 1957 along with details of relevant proceedings. [Clause 41 of Part B]	No	The outstanding demand status of other tax laws has been introduced as a reporting requirement. This could be aimed at obtaining information of such demand and their implications under the Income tax law for the Income tax administration.
25.	Form 3CD – Annexure – I(Comparative analysis of various parameters) and Annexure –II (FBT reporting)	Yes	This has been removed in the new Form 3CD.

Other Changes

1. The notification apart from modifying/enhancing the scope of some of the reporting clause itself, has in some place rationalized the reporting format. This could have been done to ensure consistency in reporting and to convey to the auditor the intention of such reporting. The new forms provides for tables in some of the clauses like 13(c), 14(b), 21(a) clearly defining what is to be reported under these clause.
2. In the earlier Form 3CD, there was a requirement to state whether a certificate as regards acceptance or repayment of loan (as specified u/s 269SS and 269T) in modes other than cheque and bank draft has been obtained from the auditee was present. This has been removed.

Conclusion

While it is generally a welcome move to amend the tax audit report to reflect the current legislative requirement and to align with the expectations of the tax administration. However, there are causes of concern:

- (a) The timing of this notification just at the end of July 2014 leaves very little time for tax professionals for preparing for such a change.
- (b) Where the field work for tax audit for large audits and multi location audits like that of Government entities

are already completed and the tax auditors are in the process of preparation of reports, the new reporting requirements would require them to visit and redo such audits again.

- (c) When the audit reports are being amended to involve far reaching implications, it is generally better to release draft versions of the same for public comments and then implement the same.
- (d) Since there are multiple revisions in the Form 3CD, sufficient time for ICAI to come up with a Revised Guidance note on the same is also not available, this leaves the professionals with very little guidance and the reporting structures between each professional might change leading to a more complex scenario for the tax administration.

While it is understood that a representation has been made to CBDT for considering application of the amended forms to AY 2015-16, it looks unlikely that any such request will be considered by CBDT as they are already in the process of preparing the online schema for the new forms. We, as professionals should gear up to the new challenge as we have always been doing to ensure a successful and reliable completion of our tax audit duties.

*Author can be reached on
krishna@upadhyasassociates.com*

Congratulations



CA. I.S. Prasad
Past President of KSCAA,
Nominated as Chairman of Central
Taxes, Corporate Affairs and CSR
Committee of FKCCI for the year
2014-15.



CA. Ramananda Prabhu
Life member of KSCAA,
Appointed as Chairman
- Membership and Sohar & Salalah
Sub-Group' Sub-Committee,
of Muscat Chapter of ICAI.



WHY DIABETES TODAY

Dr. Raveendra K.R

*Associate Professor of Medicine, Bangalore Medical College and
Consultant Physician & Diabetologist, Bangalore*

We are living in a world of changing times-lot of new things are being added to our daily routine life. The comfort of common man is fast increasing so much so, hardly people remember their past. But the luxury we are enjoying has to be checked by the nature! Well, I think, I am taking you to the deadly Journey of Diabetes which has come as “Luxury tax” by the nature or a “Nature curse” to the present day human’s life. Diabetes is a costly disease for the health care sector, at societal and at personal levels and the cost increases by many folds with the development of Diabetic complications. This imposes considerable economic burden on the patients and their families and also leads to neglected health care predisposing for increased morbidity and mortality.

What is Diabetes?

Diabetes is a non-communicable disease caused by decreased insulin secretion or ineffective insulin. Insulin is a chemical substance (hormone) secreted by the special cells (Beta) of the pancreatic islets- an organ situated in the mid abdomen to the left. Insulin helps in the glucose metabolism in the body and helps to maintain normal blood sugar/glucose levels. Diabetes results due to a genetic – environmental interactions. Indians have a high ethnic and genetic susceptibility for the disease.

Why diabetes today?

Diabetes has spread across the globe in pandemic proportions, threatening human existence. Type 2 Diabetes constitutes more than 90% of the population with Diabetes, has been increasing worldwide, and the present data shows that there are more than 285million adults with Diabetes and the figure is said to rise to 438 million by 2030. The effects of urbanization, industrialization and modernization in the developing countries has changed the life style of an ordinary individual, making him more prone for the Diabetes today than ever before. The country is likely to face an explosion in the prevalence of Diabetes because of its rising prevalence in the rural parts of the country which are undergoing socio-economic transition. By 2030 urbanization is expected to reach nearly 50% in the country and hence the prevalence of Diabetes will also rise by many folds.

The gap between the rural India and urban India is getting narrowed. For education, employment and better life people are migrating from rural to the urban areas and the people living in the rural are blindly following the urban life style thinking that it’s the model for their life. The products of the industrialization-machines have entered the modern life style. It may be a TV, Kinetic Honda, cooker, washing machine, mobile or a computer. We are seeing the

long term effects. “Hardly man works now a days”- an elderly man’s slogan. Machine has overtaken the man’s job! The sedentary lifestyle has increased the obesity across the country/globe. But the stress factor has increased. Everyone wants to be first and to be fast and hence an atmosphere of unhealthy competition with commercialization is being created.

Knowingly or unknowingly, slowly we are all becoming a prey to the western civilization, reaching to the fast life and fast food. The main worry is that younger population is developing a habit to these unhealthy lifestyle. The TV advertisements around the clock is adding fuel to the fire, entering every one’s house with a bad taste. The science and technology has made us slaves to the machine.

The over ambition leading to greed and a dispute in one’s mind is fast increasing stress levels at alarming levels. The stress has become a part of our modern day life threatening with long term consequences. Most of the time stress is manmade catastrophe which has entered in all phases of human life.

When we analyze the phrase -”Why Diabetes today”? I strongly think that instead of adjusting to the environment, the man is making environment to change for his benefit and easy life. These environmental factors have adversely interacted with already existing genetic predisposition for diabetes among Indians. The prevalence of prediabetes (a stage before Diabetes) is also high making Diabetes status worse for the coming days.

It’s high time to wakeup for this nature disaster and act in a scientific way to save human sufferings. We should re-discover our ‘old magic’ of yester years. There was some discipline in our forefather’s lifestyle. We should re-read the great Indian culture and adapt the same to the present day lifestyle. Primary prevention of Type 2 Diabetes by lifestyle modification is a feasible solution to arrest the rising epidemic of the disease. Efforts by Governmental and Non-Governmental agencies are need to create awareness about the disease among the public and also to make them aware that good control is mandatory to prevent that dreaded complications. We can solve most of our today’s problems by going back to yesteryear’s life style and philosophy. Lastly let us put some discipline by applying brakes to the present day’s so called ‘madness in modernization’. Let us build a healthy society and healthy human in the coming days!. An all-round developmental approach – Social, Political, Economic, Cultural and Administrative is required to control or to contain Diabetes in India.



KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R)

7/8, 2nd Floor, Shoukath Building, SJP Road, Bangalore 560 002

Ph 080-2222 2155, 2213 0724 Telefax 080-2227 4679 email: info@kscaa.co.in, kscaabl@gmail.com Website: www.kscaa.co.in

New Membership Invited

KSCAA offers new memberships. Membership is now open at the same old fees, which was fixed in 1998. Cost of service to members has gone up since then. Despite strong reasons and suggestions to increase the fees, Association has hitherto consciously kept the membership fees at low, with a view to broad-base the representation and encourage new membership. Application form is appended for you to take a leap and join the Association bandwagon, without further delay.

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- Publications • Fellowship • Catalyst functioning • Activities for members & families • Situated in central location with meeting hall facilities
- Guided by the seniors and experts • Having half-a-century of experience • Plans to set up campus for Centre of Excellence.

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Name (Mr. Mrs. Miss) _____

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Status (Prop. / Partner / Employee) _____

Communication Address (Please tick) Office ☐ Residence ☐

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Phone: _____ Fax: _____ Mobile: _____ Email: _____

Residential Address _____

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I am enclosing herewith Cash/Cheque/DD bearing No. _____ Dated _____ for Rs. _____

Date _____ Place _____ Signature _____

Proposed by Name _____ KSCAA Membership No. _____ Signature _____

Seconded by Name _____ KSCAA Membership No. _____ Signature _____

Membership Fee Details

Fee Payable	Ordinary Member	Life Member		Institutional Member
		Enrolment with ICAI		
		Less than 5 Years	5 years & above	
a. Entrance Fee	100	100	200	200
b. Yearly subscription	500	-	-	-
c. Life-Membership	-	1,000	2,000	5,000
Total	600	1,100	2,200	5,200

1. Cheque/Draft/Bank Transfer may be drawn in favour of 'KSCAA'. Outstation payment by Demand Draft only.

2. The Subscription for the financial year becomes payable before 31st March every year.

3. Every member shall intimate, from time to time, all changes in their address and other particulars to be entered in the Register relating to them.

4. Enclose photocopy of ICAI Membership Certificate.

Mail to

Chairman, Membership Development Committee

KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION, # 7/8, 2nd Floor, Shoukath Building, SJP Road, Bangalore 560 002

FOR OFFICE USE ONLY

Admitted at the Meeting of the Executive Committee held on _____

Membership No. Allotted _____

President _____ Secretary _____

BASAVANAGUDI CPE STUDY CIRCLE

has arranged a CPE Workshop on

“PRACTICAL PROBLEMS & SOLUTIONS IN FILING VAT 100 & ST 3 RETURNS”

Venue : **Sri Bhagwan Mahaveer Jain College**
34, 1 Cross, J C Road, Near Poornima Theater
Bangalore – 560027.

Date : **Tuesday, 26.08.2014**

Time : **4.00 PM to 8.00 PM**

Speaker : **CA. Annapurna Kabra**

Subject : **PRACTICAL PROBLEMS &
SOLUTIONS IN FILING VAT 100**

Speaker : **CA. Lakshmi G K**

Subject : **PRACTICAL PROBLEMS &
SOLUTIONS IN FILING ST 3 RETURNS**

Followed by Interactive session.

**Note: Registration is restricted to 200 members
on first come first serve basis.**

For Registration : send confirmation mail to
basavanagudicpe@gmail.com

Reg. Fee : Rs.200/-
payable by cash/cheque drawn on KSCAA.

CONTACT PERSONS:

CA DILEEP KUMAR - 98453 30800

CA MADDANASWAMY - 93412 14962

CA RAVEENDRA KORE - 99020 46884

Note: you can send the payment in advance to
Karnataka State Chartered Accountants Association (KSCAA)
No.7/8, II Floor, Shoukat Building, SJP Road, Bangalore 560002

Ms. Gayathri - Ph: 22222155, 22274679.

Delegates can send their Queries
to the above address or by e-mail.



BASAVANAGUDI CPE STUDY CIRCLE

has arranged a CPE Workshop on

“e-TDS RETURNS, PRACTICAL CHALLENGES AND CHANGES IN TAX AUDIT REPORTS”

Venue : **Sri Bhagwan Mahaveer Jain College**
34, 1 Cross, J C Road, Near Poornima Theater
Bangalore – 560027.

Date : **Monday, 08.09.2014**

Time : **4.00 PM to 8.00 PM**

Speaker : **CA. Vinay T**

Subject : **e-TDS RETURNS,
PRACTICAL CHALLENGES & SOLUTIONS**

Speaker : **CA. Suresh P.R.**

Subject : **CHANGES IN TAX AUDIT REPORTS
– FORM 3CA, 3CB & 3CD.**

Followed by Interactive session.

**Note: Registration is restricted to 200 members
on first come first serve basis.**

For Registration : send confirmation mail to
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Reg. Fee : Rs.200/-
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Representation to CBDT on New Tax Audit Reporting Formats



KSCAA team in discussion with Sri. Vimal Anand, JT/Addl. Commissioner of Income Tax (HO) (Admn), Bangalore on 5th August 2014

Co-opted EC Member for the year 2014-15



CA. N.S. Ayyanagoudar
Hubli



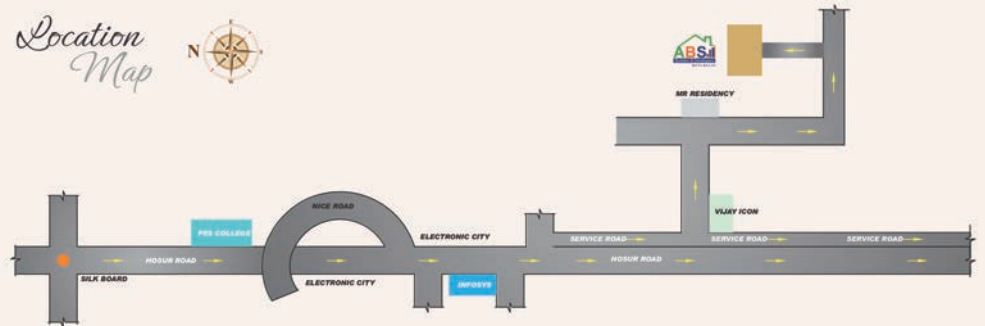
Good Life...rejuvenate, relive and refresh yourself!



AREA STAMINATE

Flat Type No.	Facing	BHK	Super Built - up area in Sq.ft
1	EAST	3 BHK	1240 Sq.ft
2	EAST	2 BHK	1070 Sq.ft
3	EAST	2 BHK	1071 Sq.ft
4	EAST	2 BHK	1207 Sq.ft
5	EAST	3 BHK	1196 Sq.ft
6	NORTH	2 BHK	1030 Sq.ft
7	NORTH	2 BHK	1010 Sq.ft
8	NORTH	2 BHK	1212 Sq.ft
9	NORTH	2 BHK	1226 Sq.ft
10	NORTH	2 BHK	1226 Sq.ft
11	WEST	3 BHK	1358 Sq.ft
12	EAST	2 BHK	1151 Sq.ft

Location Map



A PROJECT BY



Flat No. F-2, 1st Floor
Prabhavathi Orchard, Ananth Nagar,
Bangalore - 560 0100
Ph : 8123456082
Email : praveen.rowthu@gmail.com

Adv.