



Tuticorin Branch of Southern India Regional Council
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an act of Parliament)
ICAI BHAWAN, 4/26G/2, Athiparasakthi Nagar,
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Volume No. 1

February' 07

Issue No. 1

NEWS LETTER

VOICE OF THE CHAIRMAN



Dear Colleagues,

I thank every one of you for entrusting the office of our Tuticorin Branch for the year 2007 - 08. I value this as a honour bestowed upon my team of Office bearers to serve you during this tenure.

We have the monument ICAI BHAWAN with all infrastructure brought to reality by the strenuous effort of all the members. It is proposed to exploit all the available sources to empower every member with the audit tools for efficient practice. We have arranged for various programs in IT and Audit.

All the members are requested to avail this opportunity by attending in large numbers along with your friends around this region. It will be a knowledge explosion to be duly acknowledged by members collectively for intellectual updating over the period to come.

We have CPT examination centre at Tuticorin and a batch of 24 aspiring candidates appeared for the examination on 04.02.07. We have new dedicated team of office bearers who are the torch bearers of our Branch.

I wish every one of you a bright professional year.

with warm regards,
CA A.C.G. Venantius
Chairman

NEW COMMITTEES

i. CPE COMMITTEE

CA G. Xavier Fernando - Chairman
CA S.R. Sivakumar
CA K. Selvaraj

iii. IT COMMITTEE

CA R. Ravi - Chairman
CA P. Samsudeen
CA P. Seshan
CA IMA. Manoharan

ii. STUDENTS COMMITTEE

CA H. Raman - Chairman
CA S.R. Sivakumar
CA G. Manoj Rodrigo
CA S. Krishnan

iv. EDITORIAL BOARD

CA B. Francis Amal George - Chairman
CA M.R. Antony Xavier
CA JIMA. Roy
CA N. Srikanth

One who struggles is better than one who never attempts. - Swamy Vivekananda

LIST OF OFFICE BEARERS

The managing committee of Tuticorin Branch of SIRC of ICAI for the year 2007 - 2008 is given below.

Name	Post Held	Address
CA ACG. VENANTIUS	Chairman	26B, Kamaraj Nagar 3rd Street, Medical College Road, 3rd Mile, Tuticorin-628 008. Ph: 0461-2390258 Cell: 94422-24424 Email: venant@sanchamet.in
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CA K. XAVIER RAJ	Secretary	85, South Raja Street, Tuticorin-628 001. Ph: 0461-2335050 Cell: 94433 45122 Email: johnjeff@dataone.in
CA H. RAMAN	Treasurer	26D, Telegraph Office Road, Suresh Building 2nd Floor, Tuticorin-628 002. Ph: 0461-2324057 Cell: 99943 94057 Email: aurokrish@sanchamet.in
CA B. FRANCIS AMAL GEORGE	Member	"GEEBEE" Old No. 406 New No. 355 V.E. Road, Tuticorin-628 002. Ph: 0461-2323083 Cell: 98421 14408 Email: francis1953@airtelbroadband.in
CA R. RAVI	Member	247/A/8, North Car Street, Tuticorin-628 002. Ph: 0461-2333586 Cell: 94431 33586 Email: ravisai1965@yahoo.co.in

CASE LAWS - Compiled by CA Sangeetha Pattukumar

INTEREST ON BORROWED CAPITAL

Elmer Havell Electrics and others Vs. C.I.T. And another 05/05/2005 (2005) 277 ITR 549 (Delhi)

Case Fact : Whether interest paid on the funds borrowed and given as interest free loan to its sister concern is allowable as deduction ?

Decision : Held by the Hon'ble Court that as no nexus could be found between the borrowing and the interest free advance to sister concern and with clear finding that there was no element of commercial expediency, the interest paid on borrowed fund is not deductible.

BUSINESS LOSS - Coated Fabrics P. Ltd., Vs. J.C.I.T. 01/06/2006 (2006) 285 ITR 148 (Pune)

Case Fact : Whether business loss suffered in a year is to first set off against income from other sources or against the head income from capital gains ?

Decision : Held by the Hon'ble Bench that section 71(2) allows an assessee to set off of business loss from income under any head including capital gains, further no sequence is prescribed for set off of losses, thus it is open to the assessee to set off the business loss against any head as is beneficial to him.

CAPITAL GAIN - C.I.T. Vs Mopen and Machine 08/30/2005 (2006) 281 ITR 52 (MP)

Case Fact : Whether upon the dissolution of the partnership firm in the event of death of one of the two partners the firm will be liable for capital gain on transfer of capital assets ?

Decision : Held by the Hon'ble Court that unless the gain has arisen from the transfer of capital asset within section 2(47) no capital gain arises, the firm has dissolved upon the the death of the one of the two partners however distribution of assets of a dissolved firm is not a sale, exchange, relinquishment of asset or the extinguishment of any right therein, thus no capital gain will arise in the hands of the firm.

RECTIFICATION OF MISTAKES

Golden Meadows Properties (p) Ltd. ITO 04/13/2005
M.A. No.218 (MUM) of 2003

Case Fact : Whether power of rectification u/s 254(2) can be used by tribunal on grounds of non-consideration of vital facts brought on records and arguments made and decision cited by the assessee ?

Decision : Held that failure to consider vital facts brought on record and omission to consider decisions of various courts will constitute a mistake apparent from record. Hence, Tribunal can rectify the mistakes u/s 254(2).

EXPENDITURE INCURRED BY SUBSIDIARY

- C.I.T. Vs. Sanco Trans Ltd. 01/02/2006
(2006) 284 ITR 51 (Mad)

Case Fact : Whether initial expenditure incurred by the subsidiary company in the group and allocated to the assessee can be claimed as business expenditure ?

Decision : Held by the Hon'ble Court that the initial expenditure incurred by the subsidiary company in the group on repair and renovation and charged to the assessee by debit note is to be treated as business expenditure of the assessee.

BUSINESS EXPENDITURE

- I.T.O. Vs. Sureshchand Jain 08/31/2005 (2006) 284 ITR (AT) 160

Case Fact : Whether turnover charges payable to SEBI are covered u/s 43B for claiming business deduction?

Decision : Held by the Hon'ble Bench that as turnover charges levied by the SEBI are not one time license fees, it is to be paid every year on the basis of percentage of turnover, thus it is in the nature of tax covered by the provision of section 43B.

DEDUCTION IN RESPECT OF GRATUITY

- C.I.T. Vs. Electra (Jaipur) (P) Ltd. 07/19/2005
(2005) 149 Taxman 334 (All.)

Case Fact : Whether A.O. was justified in disallowing deduction for amount paid to LIC under Gratuity Insurance Assurance Scheme on the grounds that funds were not paid to a recognised gratuity fund ?

Decision : Held by the Hon'ble Court that u/s 40A(7) no deduction can be allowed for any payment towards provisions for gratuity except where such payment has been made to a recognised fund, Hence, A.O. was justified in disallowing deduction claimed by the assessee.

NATURE JUSTICE

- C.I.T. Vs. Palwal Co-operative Sugar Mills Ltd. 01/13/2005
(2005) 149 Taxman 636 (Punj. & Har.)

Case Fact : Whether any decision made by appellate body without providing any reasons for the same was legally unsustainable ?

Decision : Held by the Hon'ble Court that any decision passed without recording reasons violates the important rule that "every order should be a speaking order" and is against the principles of Natural Justice. Thus the decision was liable to be set aside.

DEEMED PROFIT

- Narayanan Chettiar Industries Vs. I.T.O. 07/11/2005
(2006) 277 ITR 426 (Madras)

Case Fact : Whether diminution of trading liability is to be treated as deemed profit ?

Decision : Held by the Hon'ble Court that no addition can be on account of remission of trading liability unless any allowance or deduction in respect of such trading liability, loss or expenditure has been allowed in any assessment of the assessee for earlier year.

INCOME FROM OTHER SOURCES

- Consolidated Fibres and Chemicals Ltd. Vs.
C.I.T. 09/24/2004 (2005) 273 ITR 353 (Calcutta)

Case Fact : Whether the deduction under sec. 57 is allowed on a/c of interest paid on borrowed capital, from interest earned from surplus funds invested before commencing of business, even though this is permissible under object clause of memorandum ?

Decision : Held by the Court that the purpose of borrowing is the main consideration. Since the main purpose was of construction of project the interest on borrowed capital is allowed to be capitalised.. Hence, can not be claimed under Sec. 57.

DEDUCTION U/S 37(1)

- C.I.T. Vs. Rajasthan Spg. & Wvg. Mills Ltd. 09/17/2004
(2005) 147 Taxman 131 (Raj)

Case Fact : Whether amount spent on purchase of bus which was donated to a school in which children of employees were receiving education, be claimed as deduction u/s 37(1) ?

Decision : Held by Hon'ble Court that the company had incurred expenditure for the benefit of employees' and it could be said that such expenses were incurred wholly and exclusively for the purpose of business. Thus assessee was entitled to claim deduction u/s 37(1)

If you are a servant to your heart, Then you will be king for this world

- Alexander the Great

REWIND

➔ *Inauguration of Tuticorin Branch
on 25.03.1991
by Sri K.M. AGARWAL, President of ICAI*

REAL TIME

Tuticorin Branch has constructed a state-of-art building in a record time of six months with modern facilities including auditorium, library, computer centre and boardroom with teleconferencing infrastructure, CA. T.N. Manoharan, President, ICAI is seen inaugurating the building on 8th Dec. 2006.

TELE CONFERENCE

Date : February 23, 2007 Friday
Venue : CA S.V. Krishnamurthy Board Room,
ICAI BHAWAN
Time : 11.00 a.m..

ANALYSIS OF BUDGET

Date : February 28, 2007 Wednesday
Venue : CA S. KARUNAKARAN HALL,
ICAI BHAWAN
Time : 11.00 a.m.