

# The Chartered Accountant World



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ALL INDIA CHARTERED ACCOUNTANTS' SOCIETY

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## EDITORIAL

### FBT - CONFUSION, INJUSTICE MOUNTING

Shri P. Chidambaram, Union Finance Minister, Government of India proposed on 28th February, 2005 to levy a tax on benefits collectively enjoyed by employees or other fringe benefits to employees, in the hands of the employer. Even after the budget presentation the Government clarified that there is no intention to tax genuine business expenditure.

The real intention of the Government is deceptive, as is clear from the CBDT Circular No.8/2005, F.No.142/21/2005-TPL dated 29th August 2005 on Fringe Benefit Tax (FBT). Some of the issues are:

Expectations	Clarifications in the circular
Only employee related expenditure to be covered	No bifurcation of expenses between employees and non-employees
Genuine business expenditure - not to be covered	No segregation of expenses into official and personal permitted
Reimbursement/recoveries not to be liable to FBT	Reimbursement to employees/ Recoveries from clients - liable to FBT
Insurance industry - roll back FBT on pension contributions	No roll back of FBT on contribution to superannuation fund
MCG Industry - exemption for sales promotion expenses	Only selling expenses to be excluded
BPO Industry - exemption for conveyance and sales and after sales calls	Conveyance to and fro office and call centre charges for sales and after sales exempt from FBT

Contd...6

### POWER METERS IN DELHI - ALLEGATIONS OF EXCESS BILLING

The Society had raised serious concern on complaints received in respect of fast moving energy meters installed in Delhi. In response to the editorial of August, 2005, the Society has received the following comments from BSES through e-mail which is reproduced hereunder:

*"However, the observation made by the Task Force of All India Chartered Accountants Society that there is great merit in the complaints of a large section of the electricity consumers that the meter manufacturers are mandated to provide for 20% to 100% inflated metering is not supported by facts and is not in good taste.*

*I welcome your good self in my personal capacity to bring all such cases in my knowledge, where energy meter seems to have been manipulated to give inflated readings, so that all such cases can be resolved to their logical conclusion as I do not believe in hearsay tactics."*

The Society has decided to request all Chartered Accountants and member of the Society to bring the cases of faulty metering and excess metering to the notice of the Society. You are, therefore, requested to kindly test your own meters in the following alternative manner:

- Please procure a 1000 W bulb or 4 bulbs of 250 W and use it for a period of one hour while all other electricity points are switched off. Please note the meter reading before and after this experiment. Please repeat this exercise in your office / residence 2 or 3 times and send us the test results by a written communication or through e-mail. Academically, this exercise shall consume 1 unit of electricity.
- Procure a good quality ISI mark meter from the market and install it in your premises after the meter installed by the Electricity

Contd...7



All India Chartered Accountants' Society  
Announces an intensive

#### WORKSHOP ON SERVICE TAX

**DATES:** from 17th to 24th December 2005 (17th, 23rd & 24th)  
**TIMINGS:** 2.00 p.m. to 8.30 p.m.

#### 3rd ANNUAL WORKSHOP ON DIRECT TAXES

**DATES:** from 18th to 31st January 2006 (18th, 19th, 21st, 23rd, 24th & 31st)  
**TIMINGS:** 2.00 p.m. to 8.30 p.m.

**VENUE:**

India International Centre (IIC), Annexe Building, Lecture Hall, 40, Max Mueller Marg, New Delhi - 110003

for details please see page no. 2 & 3

for details please see page no. 4 & 5

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All India Chartered Accountants' Society

Announces an intensive

## WORKSHOP ON SERVICE TAX

from concepts to practice ....

### DATES:

from 17<sup>th</sup> December, 2005 to 24<sup>th</sup> December, 2005  
(17<sup>th</sup>, 23<sup>rd</sup> & 24<sup>th</sup> December 2005)

### VENUE:

India International Centre (IIC), Annexe Building,  
Lecture Hall, 40, Max Mueller Marg, New Delhi.

## THE COMPREHENSIVE REFRESHER COURSE ON SERVICE TAX

A Comprehensive Refresher Course/ Workshop on Service Tax is being conducted spread over 3 days with the active participation of eminent speakers and professionals. The MAIN THRUST is to carry out an indepth study of the basic concepts, critical issues and their practical applications including tax planning of the laws, rules and regulations and recent case laws relating to Service Tax.

### PROGRAMME SCHEDULE

#### Day 1 - 17/12/2005 (Saturday)

Registration & Lunch (1.00 p.m. to 2.00 p.m.)

Inauguration (2.00 p.m. to 2.15 p.m.)

#### SESSION I

2.15 p.m. to 3.15 p.m.

- Concept of Service Tax
- Evolution of Service Tax Levy
- Scheme of Levy
- Coverage of Jurisdiction - Services rendered in India and out of India
- Service Tax authorities
- Structure of Service Tax Departments
- Applicability including applicability to non-residents and MNC's for Service Tax
- Registration procedure - Centralised / Decentralised
- Pan based code (STC)
- Payment of Service Tax
- Filing of Returns

#### SESSION II

3.15 p.m. to 4.15 p.m.

- Exemption from Service Tax
- Assessments

#### SESSION III

4.15 p.m. to 5.15 p.m.

- Penalties
- Appeals
- Applicable provision of Central Excise Act, Rules & Notifications (related to Service Tax)

Tea with Snacks (5.15 p.m. to 5.45 p.m.)

#### SESSION IV

5.45 p.m. to 8.30 p.m.

- Concept of Tax Credit (CENVAT)
- Operational issues of CENVAT credit including relevant notifications, procedures, rules and case laws

#### Day 2 - 23/12/2005 (Friday)

Lunch (1.30 p.m. to 2.00 p.m.)

**SPECIFIC SERVICES** - This session will cover aspects related to Concept; Scope; Interpretation Issues; Clarifications; Circulars; Evolution of taxable component; Case Laws under Service Tax Act; Relevant Case Laws under Central, Excise & Other Laws; Advance Rulings and Service wise exemptions, for each of the specific service.

#### SESSION V

2.00 p.m. to 4.30 p.m.

- Business Auxiliary Services
- Management Consultancy Services
- Franchise Services

#### SESSION VI

4.30 p.m. to 5.15 p.m.

- Banking & other Financial Services
- Stockbroker's Services
- Foreign Exchange Broker's Services
- Forward Contract Services

Tea with Snacks (5.15 p.m. to 5.45 p.m.)

#### SESSION VII

5.45 p.m. to 6.30 p.m.

- Goods Transport Agency's Services
- Courier Agency's Services
- Packaging Services
- Transport of Goods by Air Services

#### SESSION VIII

6.30 p.m. to 7.30 p.m.

- Air Travel Agents Services
- Rent-a-Cab Scheme Operator's Services
- Tour Operator's Services
- Rail Travel Agents Services
- Clearing and Forwarding Agent's Services
- Customs House Agent Services
- Cargo Handling Services
- Storage and warehousing Services

#### SESSION IX

7.30 p.m. to 8.30 p.m.

- Commercial Training or Coaching Services
- Intellectual Property Services
- Maintenance or Repair Services
- Authorised Service Station Services
- Recruitment Services
- Manpower Recruitment or Supply Agency's Services
- Security Agency's Services
- Clubs or Association Services

#### Day 3 - 24/12/2005 (Saturday)

Lunch (1.30 p.m. to 2.00 p.m.)

**SPECIFIC SERVICES** - This session will cover aspects related to Concept; Scope; Interpretation Issues; Clarifications; Circulars; Evolution of taxable component; Case Laws under Service Tax Act; Relevant Case Laws under Central, Excise & Other Laws; Advance Rulings and Service wise exemptions, for each of the specific service.

#### SESSION X

2.00 p.m. to 2.45 p.m.

- Practicing Chartered Accountants / Company secretaries/Cost Accountants Services
- Taxability of Management Consultancy/other specific services rendered by CA Firms
- Consulting Engineer's Services
- Scientific and Technical Consultancy Services
- Technical Testing and Analysis Services

Contd ...



## PROGRAMME SCHEDULE (Contd...)

### SESSION XI

2.45 p.m. to 3.30 p.m.

- Commercial or Industrial Construction Services
- Construction of Complex Services
- Architect's Services
- Real Estate Agent/Consultant's Services
- Site formation & Clearance, excavation, earthmoving & demolition Services
- Interior Decorator's Services

### SESSION XII

3.30 p.m. to 4.15 p.m.

- Outdoor Caterer's Services
- Mandap Keeper Services
- Pandal or Shamiana Services
- Conventional Services
- Business Exhibition Services
- Event Management Services

### SESSION XIII

4.15 p.m. to 5.00 p.m.

- Cable Operator's Services
- Sound Recording Services
- Program Production Services
- Video Tape Production Services
- Photography Services
- Advertisement Services
- Broadcasting Services

### SESSION XIV

5.00 p.m. to 5.30 p.m.

- Beauty Parlour's Services
- Health and Fitness Services
- Fashion Designing Services
- Cleaning Activity Services

Tea with Snacks (5.30 p.m. to 5.45 p.m.)

### SESSION XV

5.45 p.m. to 7.15 p.m.

- Export of Services Rules, 2005

### SESSION XVI

7.15 p.m. to 8.00 p.m.

- Concept of import of services
- Issues of Cross Border Services

Valedictory Function (8.00 p.m. to 8.30 p.m.)

## SPEAKERS

Experts invited to address the participants at the workshop are:

- Sh. Atul Gupta
- Sh. Ashok Batra
- Sh. J.K. Mittal
- Sh. Nilambar Marawah
- Sh. P.K. Sahu
- Sh. R. Krishnan
- Sh. Rajesh Gosain
- Sh. Sanjiv Aggarwal
- Sh. S. Madhavan
- Sh. V. Lakshmi Kumaran

Note: Certain speakers are under confirmation.

## PARTICIPATION FEES

- **NON CAs/CORPORATE** Rs. 2750/- per person
- **CAs/CA FIRM** Rs. 2500/- per person
- **AICAS MEMBERS\*** Rs. 2250/- per person
- **CFO WORLD MEMBERS** Rs. 2250/- per person
- For All India Chartered Accountants' Society's (AICAS) Membership please contact, AICAS Secretariat.

PLEASE SEE AICAS SPECIAL COMBO OFFER AT PAGE NO. 3

For further details please contact: Kanika (9350503880) / Medha (9899600345)

### NOTE:

- Participation fees covers high tea, lunch and background material to the participants.
- Alternative nominee for specific session(s) or day(s) could be permitted.
- A Voluntary Appraisal Questionnaire to judge the understanding of the workshop is proposed.
- A Certificate of satisfactory completion of workshop will be issued.
- Participants are expected to share their own practical experiences and raised queries during interactive session.
- All participants should bring their copy of Income Tax Act and Income Tax Rules for ready reference.

RESTRICTED TO ONLY 100 PARTICIPANTS ON FIRST COME FIRST SERVE BASIS

**INMAGS**

..... Due Diligence, Takeover, Merger & Amalgamation

adv.



All India Chartered Accountants' Society

## WORKSHOP ON SERVICE TAX

### REGISTRATION FORM

#### REGISTRATION OPTIONS

- **By Fax** – Fax completed Registration Form to : 91-11-2622 3014
- **By email** – email completed Registration Form to: cfoworld@vsnl.net
- **By Mail** – Mail completed Registration Form to The Secretariat:  
All India Chartered Accountants' Society  
503-504, Chiranjiv Tower, 43, Nehru Place, New Delhi-19

#### PERSONAL DETAILS

- Name : Mr./Ms. ....
- CA Membership No. : ..... Designation : .....
- Company Name : .....
- Address : ..... Pin : .....
- Phone : (O)..... (R) .....
- Fax : ..... Mobile : .....
- E-mail : .....

#### REGISTRATION AMOUNT REMITTANCE

payable to "All India Chartered Accountants' Society"

Via DD/Cheque (Delhi only) No. : ..... Date : .....

Bank : .....

Amount : ..... Signature : .....

## SPECIAL COMBO OFFER COMBINED FEE STRUCTURE FOR SERVICE TAX & DIRECT TAXES WORKSHOP

Category of Participants	Direct Taxes Workshop Fee	Service Tax Workshop Fee	Total Fee	Fee under Special Combo Offer
Non CAs/ Corporate	Rs. 4750/-	Rs. 2750/-	Rs. 7500/-	Rs. 7000/-
CAs/CA Firm	Rs. 4250/-	Rs. 2500/-	Rs. 6750/-	Rs. 6250/-
AICAS Members	Rs. 3750/-	Rs. 2250/-	Rs. 6000/-	Rs. 5500/-
CFO World Members	Rs. 3750/-	Rs. 2250/-	Rs. 6000/-	Rs. 5500/-

## SITUATION VACANT



ALL INDIA CHARTERED ACCOUNTANTS' SOCIETY  
requires

### SECRETARY GENERAL / SECRETARY / DEPUTY SECRETARY

Applications are invited from Chartered Accountants or Company Secretaries or Cost Accountants or Management Graduates for leading the cause of professional development, organising programmes, Publish Journal, run forums like CFO World and to actualise vision of the All India Chartered Accountants' Society.

Salary/Retainership Fee/Commensurate to Qualification and Experience.

Email your resume to Pankaj Gupta at [pankajguptafcs@gmail.com](mailto:pankajguptafcs@gmail.com) or mail it to:

All India Chartered Accountants' Society  
ELCINA House, 422 Okhla Industrial Estate, Opp. Punjab National Bank,  
Behind Modi Flour Mill, New Delhi





All India Chartered Accountants' Society

Announces an intensive

## 3rd ANNUAL WORKSHOP ON DIRECT TAXES

from concepts to practice ....

### DATES:

from 18<sup>th</sup> January, 2006 to 31<sup>st</sup> January, 2006  
(18<sup>th</sup>, 19<sup>th</sup>, 21<sup>st</sup>, 23<sup>rd</sup>, 24<sup>th</sup> & 31<sup>st</sup> January 2006)

### VENUE:

India International Centre (IIC), Annexe Building,  
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## THE COMPREHENSIVE REFRESHER COURSE ON DIRECT TAXES

A Comprehensive Refresher Course/ Workshop on Direct Taxes is being conducted spread over 6 days with the active participation of eminent speakers and professionals. The MAIN THRUST is to carry out an indepth study of the basic concepts, critical issues and their practical applications including tax planning of the laws, rules and regulations and recent case laws relating to Direct Taxes.

### PROGRAMME SCHEDULE

#### Day 1 - 18/01/2006 (Wednesday)

Registration & Lunch (1.00 p.m. to 2.00 p.m.)

Opening Session (2.00 p.m. to 2.15 p.m.)

#### SESSION I

- 2.15 p.m. to 4.45 p.m. Basic framework / Overview of Income Tax Law including Chapters & Schedules
- Basis of charge
  - Interpretation of Statutes (Practical aspects)
  - Scope of total income
  - Residential Status

Tea with Snacks (4.45 p.m. to 5.15 p.m.)

#### SESSION II

- 5.15 p.m. to 6.45 p.m. Income of Charitable Trusts, NGOs, Societies, Section 25 Companies, Mutual benefit Societies, Not for profit Organisations and Institutions covering:
- Selection of entity and its formation
  - Procedure of registration & exemption
  - Accounts & Audit
  - FCRA
  - Taxation of Charitable Entities

#### SESSION III

- 6.45 p.m. to 8.00 p.m. Exempted Incomes
- Disallowability of expenses u/s 14A

#### SESSION IV

- 8.00 p.m. to 8.30 p.m. Income from House Property
- Income from other sources

#### Day 2 - 19/01/2006 (Thursday)

Lunch (1.30 p.m. to 2.15 p.m.)

#### SESSION V

- 2.15 p.m. to 3.45 p.m. Salaries of residents, their allowances & perquisites
- Salary of Expatriates & Postings outside India
  - Tax Planning for Salaried Persons
  - Filing of Returns for Salaried Persons

#### SESSION VI

- 3.45 p.m. to 4.30 p.m. Corporate Taxation including:
- Minimum Alternative Tax
  - Section 35D
  - Deemed Dividend

Tea with Snacks (4.30 p.m. to 5.00 p.m.)

#### SESSION VII

- 5.00 p.m. to 7.00 p.m. Tax Deducted at Source (TDS)
- Tax Collection at Service (TCS)

#### SESSION VIII

- 7.00 p.m. to 8.00 p.m. Clubbing of incomes
- Certain Deemed incomes
  - Aggregate of income
  - Set off and Carry forward of losses

#### SESSION IX

- 8.00 p.m. to 8.30 p.m. Taxation issues related to conversion of proprietorship/partnership into Company

#### Day 3 - 21/01/2006 (Saturday)

Lunch (1.30 p.m. to 2.15 p.m.)

#### SESSION X

- 2.15 p.m. to 4.15 p.m. Profits and gains of business or profession (Indian Business)
- Presumptive Incomes u/s 44AD, 44AE & 44AF
  - Section 28, 30, 32, 35D, 40, 40A & 43B
  - Section 37 & precaution to be taken for disallowances by Assessing Officer

#### SESSION XI

- 4.15 p.m. to 5.00 p.m. Special deductions for computing profits of foreign companies and non-residents regarding:
- Turn key projects
  - Head office expenses
  - Royalties

Tea with Snacks (5.00 p.m. to 5.30 p.m.)

#### SESSION XII

- 5.30 p.m. to 7.15 p.m. Special deductions for certain priority sectors locationwise / industrywise regarding Infrastructure facilities; Telecommunication services; Industrial park or SEZ; Generation/ distribution of Power; Cold storage Plants; SSIs; Ships; Hotel Business; Multiplex Theatres; Business convention centres; Scientific and industrial R & D; Production/refining of mineral oil; Developing and building housing projects; Handling, storage and transportation of foodgrains & Agricultural Produce; Operating & maintaining hospitals in rural area; States of HP, Uttranchal, Sikkim and North-Eastern States

#### SESSION XIII

- 7.15 p.m. to 7.45 p.m. Other deductions available under Chapter VI-A (including 80C, 80G, 80P etc.)

#### SESSION XIV

- 7.45 p.m. to 8.30 p.m. Deductions under Sections 10A, 10B

Contd....



## PROGRAMME SCHEDULE (Contd...)

### Day 4 - 23/01/2006 (Monday)

Lunch (1.30 p.m. to 2.15 p.m.)

**SESSION XV**  
2.15 p.m. to 3.45 p.m.

- Relevancy of other laws in tax assessments - practical aspects of handling assessments

**SESSION XVI**  
3.45 p.m. to 4.30 p.m.

- Taxation issues related to mergers, demergers, amalgamation and restructuring

Tea with Snacks (4.30 p.m. to 5.00 p.m.)

**SESSION XVII**  
5.00 p.m. to 6.45 p.m.

- Fringe Benefit Tax

**SESSION XVIII**  
6.45 p.m. to 7.30 p.m.

- Implication of Accounting Standards on Taxable income - allowances and disallowances

**SESSION XIX**  
7.30 p.m. to 8.30 p.m.

- Taxation of agriculture assets and agriculture incomes

### Day 5 - 24/01/2006 (Tuesday)

Lunch (1.30 p.m. to 2.15 p.m.)

**SESSION XX**  
2.15 p.m. to 4.15 p.m.

- Concept of 'Transfer' under General and Tax Laws
- Capital Gains related to house property including collaborations
- Capital gain related to securities
- Capital gain on depreciable assets and other assets
- Capital gain on compulsory acquisition of assets
- Investment options to plan capital gain tax
- Taxation of Mutual Fund Incomes and Venture Capital Funds

**SESSION XXI**  
4.15 p.m. to 5.00 p.m.

Tea with Snacks (5.00 p.m. to 5.30 p.m.)

**SESSION XXII**  
5.30 p.m. to 7.00 p.m.

- Fundamental issues relating to "Transfer Pricing"
- Determination of appropriate method
- Practical issues related to "Transfer Pricing"
- Preparation of TP study including documentation
- Case Laws on Transfer Pricing - Indian & International
- Approach of the Department
- Approach of the Assessee
- Special provisions relating to certain income of Non-residents
- Double Taxation Avoidance Agreement & Implications of variations in treaties
- Withholding Tax on international payments
- Advance Rulings so far
- Taxation of family/private Trusts

**SESSION XXIII**  
7.00 p.m. to 8.00 p.m.

**SESSION XXIV**  
8.00 p.m. to 8.30 p.m.

### Day 6 - 31/01/2006 (Tuesday)

Lunch (1.30 p.m. to 2.15 p.m.)

**SESSION XXV**  
2.15 p.m. to 4.00 p.m.

- Survey, search and seizure covering
- Relevant Law
- Practical aspects during search & survey
- Investigations/inquiries arising out of Annual Information Report (AIR), complaints & data mining by government

Tea with Snacks (4.00 p.m. to 4.30 p.m.)

**SESSION XXVI**  
4.30 p.m. to 6.15 p.m.

- Assessments and Reassessments
- Practical aspects of presentation before A.O.
- How to respond to notices u/s 131, 133, etc.
- Penalties including penalty u/s 269SS & 269T
- Offences and Prosecutions
- CBDT - Powers and Authority - waiver of interest etc. (Sections 119 and 230)
- Powers of waiver of penalty by Commissioner of Income tax (Section 273A (4))
- Power of tax recovery officers

## PROGRAMME SCHEDULE DAY 6 (Contd...)

**SESSION XXVII**  
6.15 p.m. to 7.15 p.m.

- Appeal to the Commissioner of Appeals
- Appeal to the Income Tax Appellate Tribunal
- Revision by the Commissioner of Income Tax
- Judicial Precedents

**SESSION XXVIII**  
7.15 p.m. to 8.00 p.m.

- Wealth Tax

**Valedictory Function (8.00 p.m. to 8.30 p.m.)**

## SPEAKERS

Experts invited to address the participants at the workshop are:

- |                             |                              |
|-----------------------------|------------------------------|
| • Sh. Ajay Bahl, FCA        | • Sh. Pradeep Dinodia, FCA   |
| • Sh. Ajay Vohra, FCA       | • Sh. Rakesh Gupta, FCA      |
| • Sh. Ajay Wadhwa           | • Sh. Ravi Gupta             |
| • Sh. C.L. Jhavar           | • Sh. Rajesh Jain, FCA       |
| • Sh. Dinesh Kanabar, FCA   | • Sh. R.N. Lakhotia          |
| • Sh. Girish Ahuja, FCA     | • Sh. Sanjeev Choudhary, FCA |
| • Sh. Krishan Malhotra, FCA | • Sh. Ved Jain, FCA          |
| • Sh. K. Sampath, FCA       | • Sh. Vinod Jain, FCA        |
| • Sh. Pramod Jain, FCA      |                              |

Note: Certain speakers are under confirmation.

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All India Chartered Accountants' Society  
503-504, Chiranjiv Tower, 43, Nehru Place, New Delhi-19

### PERSONAL DETAILS

- Name : Mr./Ms. ....
- CA Membership No. : ..... Designation : .....
- Company Name : .....
- Address : ..... Pin : .....
- Phone : (O)..... (R) .....
- Fax : ..... Mobile : .....
- E-mail : .....

### REGISTRATION AMOUNT REMITTANCE

payable to "All India Chartered Accountants' Society"

Via DD/Cheque (Delhi only) No. : ..... Date : .....

Bank : .....

Amount : ..... Signature : .....

## PARTICIPATION FEES

- |                            |                              |
|----------------------------|------------------------------|
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| • <b>CAs/CA FIRM</b>       | <b>Rs. 4250/-</b> per person |
| • <b>AICAS MEMBERS*</b>    | <b>Rs. 3750/-</b> per person |
| • <b>CFO WORLD MEMBERS</b> | <b>Rs. 3750/-</b> per person |
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- A Certificate of satisfactory completion of workshop will be issued.
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**RESTRICTED TO ONLY 100 PARTICIPANTS ON FIRST COME FIRST SERVE BASIS**



Contd. from page no. 1

## FBT - Confusion .....

Though 107 FAQ's have been answered in the CBDT Circular, the doubts on the real intention of the Government are becoming clearer. Fringe Benefit Tax is also proposed to be levied on all travel, conveyance, hotel lodging and boarding expenses, in the hands of the service provider and not in the hands of the assessee who will actually claim such expenses in their income tax return. **This would mean that all expenses incurred by Chartered Accountants on bank branch statutory audits, concurrent audit and even for all other professional assignments on behalf of the clients, even if reimbursed by the client, are proposed to be taxed in the hands of the Chartered Accountants firms. This clarification of CBDT is completely illegal and unjustified.**

### OPINION SOLICITED

**The Society is also considering whether it would be appropriate to approach appropriate court against the levy of fringe benefit tax on behalf of all Chartered Accountants and more particularly the circular issued by the CBDT. The Society is seriously concerned on the attitude and stand of the Government and more particularly the discriminatory and unjustified levy of FBT on Chartered Accountant Firms.**

**We seek the advise of the Chartered Accountants fraternity and members of the Society on this aspect and invite their views on [vinodjain@inmacsindia.com](mailto:vinodjain@inmacsindia.com) or [pramodjain@inmacsindia.com](mailto:pramodjain@inmacsindia.com); Mobile 9811040004 (Vinod Jain, FCA) OR Mobile 9811073867 (Pramod Jain, FCA)**

In terms of the clarificatory circular even genuine business expenses will be subjected to fringe benefit tax, whether or not they have any relation with the employees of the

company. This clarification is proposed to convert the levy of fringe benefit tax on perquisites of the employees to the presumptive expenditure tax. This is completely unjustified and against specific provision of law and declaration and statements given by the Finance Minister before the Parliament. **Is this not a breach of trust and call for impeachment / privilege motion against the Finance Minister?**

The Government has also reduced the valuation of fringe benefit tax from 20% to 5% on conveyance, tour, travel, hotel boarding and lodging expenses being incurred by computer software manufacturers, pharmaceutical companies and construction companies. There is no justification, constitutionally to give unequal or special treatment to certain categories of assesseees. Similar to computer software companies the Chartered Accountant Firms also provide services on the client premises and has to comprehensively travel. There is no justification to tax Chartered Accountant Firms at 20% and software firms at 5%. The Hon'ble Andhra Pradesh High Court has recently directed the Government not to collect tax at higher discriminatory rates from the petitioner Newspaper Company. Also, the Chennai High Court, in response to the petition filed by certain Chartered Accountant Firms has issued a stay order on application of fringe benefit tax on the petitioner CA Firms.

A large number of our members have approached and urged that The All India Chartered Accountants' Society should strongly oppose levy of fringe benefit tax and to strongly impress before the Central Council of the Institute of Chartered Accountants of India to take up the issue with the Government besides Central Board of Direct Taxes.

We as a Society is committed to fight against any unjustified action against the CA fraternity. The Direct Taxes Committee of AICAS, headed by Mr. Pramod Jain, FCA has been requested to initiate a forceful action in the matter. The levy of FBT is not only unconstitutional but will also result in heavy litigation, for whose benefit? We wish to contribute to National Growth, then why our leaders are creating impediments.

## SERVICE TAX

### 1.0 COMPUTER SOFTWARE TO ATTRACT SERVICE TAX

It has been directed by the Finance Ministry that maintenance, repair or servicing of all computer software would be subjected to service tax.

### 2.0 AVAILMENT OF CREDIT UNDER CENVAT - CLARIFICATION

It has been clarified that CENVAT Credit Rules are applicable only to the manufacturer of excisable goods or the provider of taxable services. It is evidently clear from the provisions of Section 68(2) that the person discharging the service tax liability is neither the provider of output service nor the manufacturer of final product as required under the CENVAT Credit Rules, 2004.

(Source: F.No. 345/4/2005-TRU dt.3.10.2005)

## CORPORATE LAWS

### 1.0 DIRECTORS NOT TO BE PROSECUTED FOR WAGES

As per the Hon'ble Supreme Court, Directors of the company cannot be personally prosecuted for non-payment of wages; the Supreme Court overruled the Madhya Pradesh High Court's judgment in the Jiyajirao Cotton Mills Ltd. case.

The High Court had held that the directors of the cotton mills would be personally liable for payment of wages to the workers of the company under the Payment of Wages Act.

### 2.0 SMALL COMPANIES GET 1-YEAR BREATH FROM SOX

SEC, in March agreed to a one-year delay for small businesses, plans to grant another year-long reprieve later this month. The relief would give companies with a market capitalisation of up to \$75 million until July 2007 to comply with the Sarbanes Oxley (SOX) rule.

### 3.0 EMPLOYER CAN DISMISS ERRANT WORKER

Upholding a verdict of Calcutta High Court, the Supreme Court has ruled that an employer could dismiss an errant employee in exceptional cases even if the worker was acquitted by a criminal court.





## TAXATION

### 1.0 WRIT PETITION CHALLENGING LEVY

The legal battle over the controversial fringe benefit tax (FBT) has begun, with the Andhra Pradesh High Court granting interim relief to a taxpayer who filed a writ petition challenging the validity of the levy.

As per the interim order, the revenue department shall receive an advance tax of 5% (against 20%) from the petitioner and further action should be subject to the outcome of the writ petition. The petitioner is a private sector company in the publication business. The High Court has, however, made it clear that the interim relief is only to the petitioner and shall not extend to other tax payers.

### 2.0 SINGAPORE TAX BENEFITS

Under the Comprehensive Economic Co-operation Agreement with Singapore, India has extended to Singapore capital gains tax exemption on investments in India. Safety clauses in the agreement have excluded shell or conduit companies from the benefit. Singapore is the second country after Mauritius to get this benefit.

### 3.0 KPMG MAY FACE MORE TAX CHARGES IN USA

An investigation into fraudulent tax shelters sold by accounting firm KPMG to wealthy US clients can be expected to result in more people getting charged with offences. KPMG's US business admitted that it helped wealthy individuals to evade tax on billions of dollars of income and capital gains by selling them 'fraudulent' tax shelters. KPMG's US business will pay \$456 million in penalties and be monitored by an outside consultant under a deferred prosecution agreement.

### 4.0 INCOME TAX DECISIONS

#### 4.1 Treatment of business income held in Trust.

Hon'ble Madras High Court in the matter of CIT Vs. Janakiammal Ayyangar Trust found that the income from business held in Trust would be treated as one, which is incidental to the objects of the trust purportedly following the decision of the Supreme Court in ACIT Vs. Thanthi Trust 247 ITR 785. In the facts of the case the business related to manufacture of paper cups run by a charitable institution, so that the profits there from could be applied for charitable and on educational purposes. [277 ITR 234].

#### 4.2 Investments or Stock-in-Trade

The issue whether any particular asset is an investment, so as to require the surplus to be treated under the head capital gains or as stock-in-trade, so as to be treated as income from business or otherwise is one of the perennial questions which arise, because of the concessional rate of tax for capital gains. Where the assessee is admittedly in business, as in the case of a share dealer, the further question that arises is whether he could hold some of the shares as investment. It was found in CIT Vs. N.S.S. Investments P. Ltd. [2005] 277 ITR 149 (Mad) that the inference whether the shares were held as stock-in-trade or investment is essentially a question of fact and that there is no rule that a dealer in shares cannot have any shares as investment. Since it is essentially a question of fact, the High Court decided to agree with the Tribunal dismissing the departmental appeal.

#### 4.3 Penalty u/s 271C not leviable if tax is not deducted in time under bonafide belief.

Hon'ble Income Tax Appellate Tribunal Delhi Bench-B in the matter of Addl. Commissioner of Income Tax, Ghaziabad Vs. Ajpa Parishad Sehkari Avas Samiti Ltd. held that if the assessee under bonafide belief failed to deduct tax at source and as soon as noticed, deposited the tax along with interest with the Government immediately. Hence there is no loss to the revenue; as such levy of penalty under section 271C is unjustified. [ITA 2376 (DEL) 05].

Contd. from page no. 1

### Power Meters in Delhi .....

Supply Company. Please note the meter reading in your own meter vis-à-vis the meter reading in the meter installed by the Electricity Supply Company. Please send us your written observation on most urgent basis.

The Society is in the process of identifying a reputed meter calibration agency to formally test the meters so that reality of the allegations against the Electricity Company can be examined and established. We also believe in truth, transparency, independence and integrity.

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## CAPITAL MARKET

### 1.0 SEBI NOTIFIES IPO NORMS

SEBI recently issued a circular amending the guidelines relating to the allotment process in the book-build IPOs. The changes include doing away with discretionary allotment for qualified institutional bidders (QIBs) in a book-build issue and introducing 5% reservation for domestic mutual funds in such issues. Now, the allotment in the QIB portion of a book-build issue will be on proportionate basis like in the case of HNIs and retail investors. Sebi has made it mandatory for QIBs to pay 10% margins while applying during IPOs. The new norms will be applicable to all draft offer documents filed with Sebi on or after September 19.

### 2.0 NO STAMP DUTY ON TRADES OUTSIDE STATE

Equity investors outside Maharashtra will not have to pay higher transaction charges. The intervention of the finance ministry has prompted the Maharashtra Government to reverse its proposal to impose stamp duty on stock market trades routed through terminals located outside the state.

### 3.0 FMC RAISES PENALTY FOR DELIVERY DEFAULTERS

The commodity futures market regulator Forward Markets Commission (FMC) has enhanced the penalty for default in delivery at the end of the contract from 0.5% to a hefty 5%. It has also been decided to remove all trading limits for the positions taken purely for hedging purposes on any of the commodity exchange.

## AUDIT

### 1.0 ICAI PLANS RIDER ON ACCOUNTING OF ADJUSTMENT OF LOSSES AGAINST RESERVES

The Institute of Chartered Accountants of India (ICAI) plans to stipulate that expenses charged to securities premium account or losses adjusted against general reserves of a company should be net of tax benefits from such transactions.

### 2.0 BANKS TOLD TO TAKE STEPS TO AVOID DELAY IN REPORTING FRAUDS

The Reserve Bank of India has asked banks to fix staff accountability for delays in reporting fraud cases to the banking regulator. The bank has warned of penal action for failure to convey the information within a time frame.



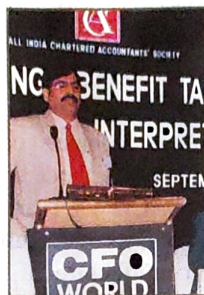
### All India Chartered Accountants' Society SOCIETY MEMBERSHIP

All India Chartered Accountants' Society (AICAS), announces the opening of membership of the Society for Chartered Accountants & Chartered Accountant's Firm.

For further details, related to membership fees and membership form, please contact; Kanika (9350503880) / Medha (9899600345)

## CFO WORLD MEETING ON FRINGE BENEFIT TAX (FBT)

AT THE OBEROI, NEW DELHI ON SEPTEMBER 17, 2005



Mr. D.C. Mathur, Jt. Managing Director  
Hotline CPT Ltd.



Mr. Vinod Jain, Chairman  
INMACS



Mr. Shiv Mittal, Director  
ANM & Associates



Mr. N.K. Poddar, Advocate



Mr. Dinesh Kanabar, Partner  
RSM & Co.



Mr. Sunil Wadhwa, CFO & CS  
North Delhi Power Ltd



(L-R): Mr. Dinesh Kanabar, Partner, RSM & Co.,  
Mumbai; Mr. D.C. Mathur, Chairman, CFO World;  
Mr. N.K. Poddar, Advocate, Kolkata; Mr. Vinod Jain,  
President, AICAS



Members Cross Section

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