



# VASAI BRANCH OF WIRC NEWSLETTER

www.vasai-icai.org

January-February 2019

## Mahashivratri



Happy  
Republic Day

Photo – Celebration of Republic Day ..... 2

Photo – Seminar on Increasing  
Awareness of Income Tax and Role of  
Income Tax in Nation Building ..... 2

CHAIRMAN'S COMMUNICATION ..... 3

Direct Taxes - Law Update ..... 4

Lions clubs not required to register  
under GST: AAR ..... 5

Photo – Vasai Branch has won Mira  
Bhayandar Mayor Chashak - Cricket  
Tournament ..... 6

Photo – Seminar on Recent Notifications  
and Circulars in GST ..... 7





**Celebration of Republic Day held on 26th January 2019 at Branch Premises, Bhayander (West)**



**Seminar on Increasing Awareness of Income Tax and Role of Income Tax in Nation Building held on 9th January 2019 at Vasai Road (East)**



**SPEAKER**





## CHAIRMAN'S COMMUNICATION



*"Take up one idea. Make that one idea your life - think of it, dream of it, and live on that idea. Let the brain, muscles, nerves, every part of your body, be full of that idea, and just leave every other idea alone. This is the way to success."*

Swami Vivekananda

With this belief in mind, As I pen down my last communication from the esteemed office of the Chairman of the most vibrant branch of ICAI, it is time to reflect back on the year, that passed by and I am glad to inform that all the Action Plans that were identified have been realised with the continuous Planning, Perseverance, which ultimately resulted in Progress, thus accomplishing the Mission Statement unveiled at the beginning of the year.

I am happy to note the successful completion and enthusiastic participation of our members in a free and fair polling for our 24th Central Council and 23rd Regional Councils on 7th & 8th December in major parts of the country and result also came out. On Behalf of Vasai Branch, I would like to congratulate the New Committees of both Central as well as Regional Councils. I am glad to inform you that in our Branch Region CA. Lalit Bajaj & CA. Vimal Agarwal have been elected as Regional Council Member for the tenure of 2019-22.

I welcome and congratulate to the newly elected Managing Committee Team of Vasai Branch for the tenure of 2019 – 2022. I am thankful to each member who cast their vote in the branch election held on 2nd February 2019 and makes the highest numbers of 1387 voting. I am thankful to CA. Pramod Damankar, Past Chairman of Vasai Branch who performed the returning officer duties extremely efficiently and smoothly.

Like every year this year also we have submitted Yearly Activity reports to ICAI & WIRC on time as per their criteria to become eligible for Best Branch.

We are happy and delighted to announce that Vasai Branch has won Mira Bhayandar Mayor Chashak. Congratulations to all the players and special thanks to CA. Nitesh Kotharji for leading this Cricket Tournament.

Branch had successfully completed 151st Batch of Certificate Course on Forensic Accounting and Fraud Detection at Bhayander. We are very much thankful to Committee of Digital Accounting & Assurance Board for giving us opportunity to conduct said course.

Every year on 26th January, we celebrate the Republic Day of our nation, observing the implementation of our Constitution, which provides us Freedom of speech and expression, and Freedom of conscience and free profession, and hands over a set of rights to each one of us. At the same time, 26th January also reminds us of our responsibilities towards our fellow citizens, our society and our country, which all of us should remember, come what may.

I am thankful to my Office Bearers, Managing Committee Team and the staff for their unstinted support and relentless efforts in pursuit of all the above initiatives and achievements. I am also grateful to ICAI President -CA. Naveen N D Gupta, ICAI Vice President - CA. Prafulla Chhajed, Central Council Members, WIRC Chairman - CA Sandeep Jain, Branch Nominee-CA. Lalit Bajaj & all Regional Council Members for their continuous guidance, co-operation and encouragement.

I would also like to thank Convenors and Deputy Convenors of Bhayander & Vasai –Virar CPE Study Circles, Past Chairman, Ex Officio Members, Faculties and various Contributors and above all to all of you for making the year memorable for me.

The New Team will soon take over in Vasai Branch and I wish that their tenure be more exciting and successful and they go from strength to strength.

**CA. Sumeet Doshi**  
Chairman – Vasai Branch

## MANAGING COMMITTEE

<b>CA. Sumeet Doshi</b> Chairman	9869525956
<b>CA. Xavier Rajan</b> Vice Chairman	9371720027
<b>CA. Hemant Shah</b> Secretary	9022405230
<b>CA. Ankit Rathi</b> Treasurer	9029059911
<b>CA. Bhanwar Borana</b> WICASA Chairman	8291454999
<b>CA. Nitesh Kothari</b> Imm. Past Chairman	9833860870
<b>CA. Vimal Agarwal</b> Past Chairman	9320617447
<b>CA. Mukesh Sharma</b> Committee Member	9321160020
<b>CA. Lalit Bajaj</b> RCM & Branch Nominee	9867692321

## EDITORIAL BOARD

<b>CA. Sumeet Doshi</b> Chairman	9869525956
<b>CA. Nitesh Kothari</b> Imm. Past Chairman	9833860870
<b>CA. Xavier Rajan</b> Vice Chairman	9371720027
<b>CA. Hemant Shah</b> Secretary	9022405230





## Direct Taxes - Law Update



**CA. Haresh P. Kenia**

Mobile No. : 9821351838

E-mail : hpkenia@mtnl.mct.in

### □ **INCOME-TAX (TWELFTH AMENDMENT) RULES, 2018 - AMENDMENT IN RULE 114, FORMS 49A & 49AA**

NOTIFICATION NO. GSR 1128(E)  
[NO.82/2018 (F.NO.370142/40/2016-TPL  
(PART-I)], DT 19-11-2018

Budget 2018 amended Sec 139A of the I-T Act making it mandatory for non-individuals who did not have PAN but conducted transactions of Rs 2.5 lakh or more in a single FY to apply for PAN. Non-individual entities who have do not have PAN but conduct a transaction of Rs 2.5 lakh or more in a single financial year will now mandatorily have to get a PAN before May 31 of the following financial year. This is as per the above notification. An amendment has been made in Rule 114 of the income tax rules. The amendment will come into effect from December 5, 2018.

### □ **SECTION 90 OF THE INCOME-TAX ACT, 1961 - DOUBLE TAXATION AGREEMENT - AMENDMENT IN DOUBLE TAXATION AVOIDANCE AGREEMENT BETWEEN INDIA & CHINA**

**PIB PRESS RELEASE, DATED 26-11-2018**

The Government of the Republic of India and the Government of the People's Republic of China have amended the Double Taxation Avoidance Agreement (DTAA) for the avoidance of double taxation and for the prevention of fiscal evasion with respect to taxes on income, by signing a Protocol on 26-11-2018.

Besides other changes, the Protocol updates the existing provisions for exchange of information to the latest international standards. Further, the Protocol incorporates

changes required to implement treaty related minimum standards under the Action reports of Base Erosion & Profit shifting (BEPS) Project, in which India had participated on an equal footing. Besides minimum standards, the Protocol brings in changes as per BEPS Action reports as agreed upon by the two sides.

### □ **SECTION 194A OF THE INCOME-TAX ACT, 1961, READ WITH RULE 31A OF THE INCOME-TAX RULES, 1962 - DEDUCTION OF TAX AT SOURCE - INTEREST OTHER THAN INTEREST ON SECURITIES - TDS IN CASE OF SENIOR CITIZENS**

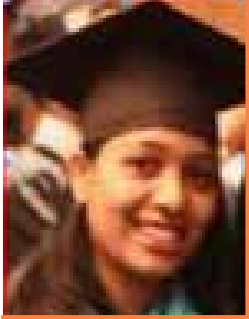
**NOTIFICATION NO. 06/2018 [F.NO.PR.DGIT(S)/CPC(TDS)/NOTIFICATION/2018-19], DT 6-12-2018**

It has been brought to the notice of CBDT that in case of Senior Citizens, some TDS deductors/Banks are making TDS deductions even when the amount of income does not exceed fifty thousand rupees. The same is not in accordance with the law as the Income-tax Act provides that no tax deduction at source under section 194A shall be made in the case of Senior Citizens where the amount of such income or, the aggregate of the amounts of such income credited or paid during the financial year does not exceed fifty thousand rupees. (Please refer to the third proviso to sub-section 3 of section 194A). Under sub-rule (5) of Rule 31A of the Income-tax Rules, 1962, the Director General of Income-tax (Systems) is authorized to specify the procedures, formats and standards for the purposes of furnishing and verification of the statements or claim for refund in Form 26B and shall be responsible for the day-to-day administration in relation to furnishing and verification of the statements or claim for refund in Form 26B in the manner so specified. In exercise of the powers delegated by the Central Board of Direct Taxes (Board) under sub-rule (5) of Rule 31A of the Income-tax Rules, 1962, the Principal Director General of Income-tax (Systems) hereby clarifies that no tax deduction at source under section 194A shall be made in the case of Senior Citizens where the amount of such income or, the aggregate of the amounts of such income credited or paid during the financial year does not exceed fifty thousand rupees.

□



## Lions clubs not required to register under GST: AAR



### CA Monu Verma

Mobile No. : 9892063171  
E-mail : camonuverma@gmail.com

The Maharashtra Authority of Advance Ruling in the case of *Lions Clubs of Poona, Kothrud, Order No. GST-ARA-33/2018-19/B-100* dated 28.8.2018 has held that the club is not formed to provide any supply of goods or services to its members qua the fees received from them.

There being no supply qua the fees received, there arises no occasion for us to visit the definition of 'Supply' under the GST Act. The AAR thus held that the applicant club does not render any 'Supply' for the purposes of the GST Act.

#### Facts of the case:

- Lions Clubs is an International organization having clubs in 210 countries engaged in humanitarian and charitable services.
- These services are executed through various districts comprising of many Clubs.
- In order to facilitate the meetings and administration fees are collected from members.
- These amounts are then used for administration and meetings.
- In some cases the amount so collected is likely to exceed Rs. 20 lacs, being the threshold for registration under GST Act, 2017.

#### There are three administrative layers:

1. Clubs in Lions
2. District of Lions:-Comprises of many clubs, normally 100 & above where district policies for the clubs are formulated.
3. Cabinet of District:- Comprises of various member from Lion fraternity, who are head of various committee that conduct social activities.

#### Receipts of Lions Club can be broadly divided into following categories:

1. Club receiving Fees from its members. These can be purely said to be collected to defray its expenditure on meetings and communication. No facilities/benefits are provided such as recreation, etc by Individual clubs.
2. District receiving its payment from Clubs to meet the expenses of Administration since one district comprises of more than 100 clubs.

These dues are towards:

- (a) Postage, printing communication, etc. and
- (b) Sending the fees to international institution at Chicago for service activities and International administration. District receiving fees from its members constituted as cabinet to draft policy, plans and give direction to Clubs in order to execute policies and social activities. No facilities/benefits are provided such as recreation, etc.

#### Advance Ruling sought by the Applicants:

**Since the amount collected by individual Lions clubs and Lions District is for convenience of Lion members and pooled together only for paying meeting expenses & communication expenses and the same is deposited in single bank account. As there is no furtherance of business in this activity and neither any services are rendered nor are any goods being traded. Whether registration is required?**

#### Applicant's interpretation of law:

- Lions Clubs and Lions Districts consist of association of persons, joined together to undertake social activities without any profit motive. Funds collected as fees are pooled together to be expended for meeting expenses & forwarding to international office for administrative expenses. Surplus if any is used for Charitable activities.
- In the context of GST, definition of persons is provided u/s 2(84) of the CGST Act, 2017. As per said definition, there is no deeming fiction to treat association and members as different persons. Hence the key condition to tax a transaction u/s 7(1) (a), that supplier and recipient must be different, is not satisfied. Hence the transaction of providing services by an association to its members should not be taxed u/s 7(1) (a).
- Earlier in service Tax regime Court in several cases held that in absence of deeming fiction, treating club/association & its members as distinct person, service tax shall not be payable. Thereafter to nullify the above decision w. e. f. 01.06.2012 clause (a) to Explanation 3 to Sec. 65B provided that an unincorporated association or body of persons, as the case may be and a member thereof shall be treated as distinct persons. Such deeming fiction is not provided under the current GST regime.
- Further, the said transaction between the club and its members also does not fits into the definition of "Supply" owing to the different limbs of the definition i.e. "business" & "consideration" as elaborated above.
- So, Subscription received from members or cabinet should not be subjected to GST as it is a contribution towards common expenditure to conduct the meeting etc. and because no facilities or benefits are being provided out of this subscription.

#### Contention by Department Officer:

- The definition of "business" under sub section (e) of Section 2(17) of CGST Act states that: '(17) "business" includes- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members'

Thus the definition is comprehensive to include a service by way of a subscription to its members by a "club" in the term "business".

Moreover, the "business", i.e. "furtherance of business" is duly incorporated in the definition of "scope of supply", as defined sub section (a) of Section 7 of the Central Goods and Services Tax Act, 2017 which is reproduced as under-



*“all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.”*

- The term “person” is defined in section 2(84) of the CGST Act, 2017 to include an association of persons or a body of individuals, whether incorporated or not, in India or outside India. This definition also is sufficient enough to cover the activity of the Applicant under the GST regime.
- The Applicants have nowhere expressly submitted and committed that they are not engaged in the activities which may amount to “facilities” or “benefits” to its members. On the contrary, the written submission states that the Seminars and Institutes for Leadership Development and other forums only for Lion members and non lions are not allowed to take part. Thus, funds received from members are utilized for mutual benefit of members.

#### Observations by the AAR:

- The club is not formed to provide any supply of goods or services to its members qua the fees received from them. There being no supply qua the fees received, there arises no occasion for us to visit the definition of ‘Supply’ under the GST Act. The applicant club as per the facts put up before us does not render any ‘Supply’ for the purposes of the GST Act”.
- Seminars for Leadership Development as organized for the members do not appear to be for transforming members into leaders generally but for the members to become leaders to perform towards the causes of the club. Thus, here too, the amounts spent are for building and empowering a human resource to help perform the activities of the Club in a better way. The members pay fees to act as volunteers in the social

causes. Besides, the club is not formed to build and empower or impart skills in leadership such that people would get themselves enrolled for acquiring the skills. By no means could it be said that the members pay fees to acquire services of training in leadership development.

#### AAR Ruling:

*“For reasons as discussed in the body of the order, the questions are answered thus –*

**Question :-** *Since the amount collected by individual Lions clubs and Lions District is for convenience of Lion members and pooled together only for paying Meeting expenses & communication expenses and the same is deposited in single bank account. As there is no furtherance of business in this activity and neither any services are rendered nor are any goods being traded. Whether registration is required?*

**Answer: –** *Answered is in Negative.”*

Before Parting...

Readers may note that the West Bengal AAR in the case of The Association of Inner Wheel Clubs in India, order No. 23/WBAAR/2018-19 dated 26/11/2018 has given a contrary view and observed that the activities of the applicant although related to wide range of work for charities and causes across the world with the aim of helping people live better lives do not conform entirely to the definition of “Charitable Activity” under GST as defined under clause 2(r) of Notification No. 12/2017-CT (Rate) dated 28.06.2017. The AAR has further stated that at best, the activities undertaken by the Applicant may be broadly defined as social welfare activities. The AAR proceeds to conclude that such activity by an entity is an “adventure” and maybe be treated as a business under Section 2(17) (a) of the GST Act, and a taxable supply of service if consideration is charged from the recipient.



## Vasai Branch has won Mira Bhayandar Mayor Chashak - Cricket Tournament held on 13th January 2019 at Netaji Subhash Chandra Bose Ground, Bhayander (West)







## Seminar on Recent Notifications and Circulars in GST held on 20th January 2019 at Branch Premises, Bhayander (West)



(L-R):- CA. Sumeet Doshi (Chairman - Vasai Branch), CA. Mudit Bhansali (Speaker) & CA. Nikunj Bhangaria (Dy. Convenor – Bhayander CPE Study Circle) a the dais



CA. Mudit Bhansali (Speaker)



Participant

Editor: CA. Sumeet Doshi Published by Vasai Branch of Western India Regional Council of The Institute of Chartered Accountants of India and printed at Finesse Graphics and Prints Pvt. Ltd., 309, Parvati Ind. Est., Sun Mill Compound, Lower Parel, Mumbai 400 013. Tel. : 4036 4600

The views and opinions expressed or implied are those of the authors or contribution and do not necessarily reflect those of Vasai Branch. Unsolicited articles and transparencies are sent in at the owner's risk and the publisher accepts no liability for loss or damage. Material in this publication may not be reproduced, whether in part or in whole, without the consent of Vasai Branch.

DISCLAIMER: The Vasai branch is not in any way responsible for the result of any action taken on the basis of the advertisement published in the Newsletter. The members, however, may bear in mind the provision of the Code of Ethics while responding to the advertisements.

To

Undelivered please return to :  
**The Institute of Chartered Accountants of India,  
Vasai Branch of WIRC**  
Address: Maxus Mall, B Wing, 7th Floor, Above Maxus Banquet Hall, Temba Road, Bhayandar (West) Thane-401 101.  
Contact: 9029868900/ 8655068901/ 8976068902.  
Email: [vasaibranch@gmail.com](mailto:vasaibranch@gmail.com)  
Website: [www.vasai-icai.org](http://www.vasai-icai.org)