



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

Nagpur Branch of WIRC of ICAI

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## NEWSLETTER

Vol.-02/ 2014-15

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SUCCESS IS THE SUCCESS OF BELIEFS AND THOUGHTS;  
SUCCESS IS FOR WHICH BATTLES ARE FOUGHT,  
SUCCESS IS BEING BETTER AND BETTER;  
SUCCESS IS NOTHING BUT - WORK TOGETHER AND GROW TOGETHER.

Respected Professional Colleague,

I am very happy to inform you that Nagpur Branch of WIRC of ICAI has bagged Highly Commendable Performance Certificate Award of ICAI at National Level and Best Branch of WIRC at Regional Level for the year 2013. At the same time Student Wing of Nagpur Branch i.e. Nagpur Branch of WICASA got the All India Best Branch of Student Association and Best Branch of Student Association of WIRC for the year 2013. All these are dedicated to the unity of Members and Students of Nagpur, who have supported their Branch in coming upto the expectations of the WIRC and ICAI and winning accolades for its Branch. However the best award given to us is the appreciation we received from our members round the year, which boosted our performance and motivated us to do well. I would like to place on record the support and guidance received from our Regional Council Member **CA Julfesh Shah** and my esteemed colleagues in the Managing Committee of Nagpur Branch for their untiring and unstinted support throughout the year in bringing laurels to Nagpur Branch.

**Past Events** – During February, we had GMCS Course which was inaugurated by **CARM Shah Sir**, Campus Placement Program for newly qualified CAs which was inaugurated by **CA Sandip Dhodapkar**, Workshop on Digital Smartness by **CA Pankaj Deshpande**, Felicitation Program of Newly Qualified CAs at the hands of **Shri Banwarilalji Purohit**, etc.

Immediate Reaction on Union Interim Budget coordinated by **CA Samir Bakre** and **CA Milind Patel** with host of eminent panelists - **CA Anil Parakh**, **CA Kailash Jogani**, **CA Kapil Bahri**, & **CA Atul Sarda**, was also appreciated by the members.

**Forthcoming Programs** – By the time this bulletin reaches you, New Office Bearers of Nagpur Branch for the term 2014-15 would have taken charge. Year full of activities will again be planned and we all will execute the same with your support. Events like Bank Audit Seminar, Workshops, Lecture Meets, Holi Milan, and other many such events are lined up for the members and the students during this month.

The term of office bearers of 2013-14 of your managing committee is coming to an end. We have tried our level best to bring best of the programs, events, occasions, meetings, conferences, conclaves, representations, sports, cultural fellowship meets and other many activities during the year for our members, students and for society at large. Meticulous plannings were done to organize the program in the best and most effective manner.

Lot of efforts was taken to give best of the best to our members and we hope our members have also found the same as expected. In case we have missed any of the aspect unintentionally, please bring the same to our knowledge, I assure we will take more care in coming future to serve better to our members. We have tried our best not to annoy or dissatisfy anyone with our working, but to err is human. And let me confirm that any such circumstance ever occurred would have been purely unintentional. Your constructive criticism has helped us to update our performance from time to time. As perfection is a race without any finish line, we all have to Work Together and Grow Together.

During the year as Chairman, I have also realized the importance of having a strong representation of ICAI Nagpur Branch before various organizations, including to our Central Council and Regional Council. At my this concluding message I wish to appeal all the members of





## TORCH BEARERS 2014-15



**CA. K Raghu**  
President - ICAI



**CA. Manoj Fadnis**  
Vice President - ICAI

### Team - WIRC



**CA. Anil Bhandari**  
Chairman



**CA. Julfesh Shah**  
Vice Chairman



**CA. Shruti Shah**  
Secretary



**CA. Girish Kulkarni**  
Treasurer

**Nagpur Branch of WIRC of ICAI Won  
following awards for the year 2013-14.**



#### **Students (Large Branch Category)**

- All India Best Branch of Student Association.
- Best Branch of Student Association of WIRC.

#### **Members (Large Branch Category)**

- Highly Commendable Performance Certificate at All India Level.
- Best Branch of WIRC of ICAI.





## FROM THE JOINT EDITOR

Nagpur to unite once again and make all possible effort to regain our lost seats, which will help us only to get better representation.

As a matter of thanks giving, I would like to place on record the guidance received from Past Presidents of ICAI from Nagpur, Past Chairpersons of the Branch, Seniors in the Profession, the support received from professional colleagues, both the editors of the bulletin for timely publishing all the editions, the contributors of the matters in the bulletin, the advertisers, members of Press and Media for their wide coverage of the events of the Nagpur Branch throughout the year, the Staff Members of the Nagpur Branch, all the agencies of Nagpur Branch and all those who helped us directly or indirectly and supported us in running the Nagpur Branch of WIRC of ICAI for the year 2013-14.

Looking forward for your continuous support and motivation.

Thanks & Regards  
Yours in Profession

**CA Swapnil Agrawal**  
Chairman



Dear Professional Colleague,  
Our journey began a year back, with the new team of ICAI coming into action with lot of anxiety and aspirations. Our branch of ICAI, which has been raising its bar year after year, is setting an example for the other branches in the region. I congratulate our entire team

for winning four awards in national and regional level.

Our Nagpur Branch of ICAI has always endeavored to ensure the continuity of professional education to its members by way of seminars, conferences and publications. Through this newsletter, we had made efforts to bring forth on your desk, all the relevant developments that affect our professional working. During the last one year, our bulletin committee has tried its level best, to bring to you the maximum updates and professional topics in a concise manner. With this newsletter, the term of our bulletin committee is coming to an end. I take this opportunity to thank all our readers, committee members, sponsors, printers and the contributors to the bulletin.

However, your journey on professional enrichment continues as we pass the baton to the new team which holds the promise to deliver the best to its readers. Last but not the least I extend my sincere thanks to my co editor CA Saket Bagadia and our Chairman CA Swapnil Agrawal for their 24x7 support round the year.

Thanks and Regards,

Yours in profession  
**Sushant Mukherjee**



### Respected Seniors and Dear Professional Colleagues,

It has been a time of celebration for we Nagpurians as our commitment, sincere efforts, team work and the most important our bonding between all of us where we stand together as CA's of Nagpur at all times has borne rich fruits for us. February has been a month of significant achievement for Nagpur Branch:

- ❖ Nagpur Branch of WIRC of ICAI being adjudged as **HIGHLY COMMENDABLE BRANCH** by ICAI for year 2013 & as **BEST BRANCH** of WIRC for year 2013.
- ❖ Nagpur Branch of WICASA being adjudged as **BEST BRANCH** both by ICAI as well as WIRC for 2013

We heartily congratulate TEAM NAGPUR BRANCH 2013 under Chairmanship of CA Swapnil Agrawal and TEAM WICASA NAGPUR 2013 under Chairmanship of CA Sandeep Jotwani for the great achievement.

As we enter the month of March targeting completion of March returns with an eye on conducting Bank Branch Audit in CBS environment, we professionals witnessed a Vote on account Union Budget for 2014-15 presented by Hon. Finance Minister. **"When life changes to be harder, Change yourself to be stronger"**

It has been a great year for our Bulletin Committee from March'13 to February'14, as we have been able to publish 12 issues successfully in all the 12 months of our tenure. On this last issue I, as a Joint Editor and on behalf of our beloved Chairman cum Editor CA Swapnil Agrawal would extend hearty thanks and congratulate all our team members including CA Sushant Mukherjee, CA Julfesh Shah, CA Suren Duragkar, CA Umang Agrawal, CA Kapil Bahri, CA Dilip Lohiya, CA Amit Agrawal, CA Raju Sharma, CA Jitendra Bothra & CA Pawan Jain for their continuous and arduous efforts to make this possible. A special thank to Shri Vinod Karale, Manager of Nagpur Branch and Shri Milind Khot of BPS Marketing for the excellent printing work done.

**"Always remember that your present situation is not your final destination. The BEST is yet to come"**

A full-fledged Power Point presentation on Appeals and Revisions by Hon. CCIT Nagpur Shri Ramkrishna Gupta has been the jewel of this issue. I convey my respectful thanks to our learned CCIT Sir for this all important power point presentation.

I extend hearty thanks for CA Vyom Shah for his valuation contribution. I congratulate CA Raju Sharma for his win in Stable Fore Category in Baidyanath Golf Cup.

As we wind up, I as Joint Editor would like to extend sincere thanks to CA Swapnil Agrawal, CA Julfesh Shah, CA P C Sarda, CA Naresh Jakhota & CA Hemant Rajandekar for their guidance all throughout this journey of this prestigious Nagpur Branch Bulletin. I congratulate and thank all members who have been part of this journal in all forms be it articles, comments, achievements, contributions as well as advertisement support.

**I would sum up with lines of Abraham Lincoln:**

"If you love someone 'show it', its better than 'telling it',  
If you hate someone 'tell it', its better than 'showing it',  
No one has a perfect life which begins with 'Once upon a time' and ends with 'Happily ever after',  
Life begins with 'Welcome to the struggle' and ends with 'You are lucky to have survived the journey',  
If you wait for happy moments, you will wait forever, but if you start believing that you are happy, **YOU WILL BE HAPPY FOREVER**"

Yours in profession,  
**CA SAKET BAGDIA**







Ram Krishna Gupta  
CCIT NAGPUR

## APPEALS AND REVISIONS



### REMEDIES

- How remedial provisions are :
- sections 246 to 262 for appeals
- sections 263 and 264 for revisions
- sections 154 and 155 read with section 254(2) of the Income-tax Act, 1961 for rectification .

### General

- The CIT (A) and ITAT are quasi judicial authority- has to perform dual role i.e collection of relevant facts by due process of law and accepted judicial practices and thereafter pass judicial order after affording reasonable opportunities to the A.O and the appellant.
- The CIT(A) is the first appellate authority and so he has more powers than the ITAT as before him entire assessment is open whereas before the ITAT only issues which have been raised either by the assessee and revenue within the specified time frame can be raised

### Options:

- Any assessee aggrieved from the order passed by the AO has two options
- either file an appeal before the first appellate authority or to prefer a revision.
- and aggrieved from the order of the first appellate authority prefer a second appeal to the Tribunal and than to the High Court on a "question of law" and than to Supreme Court,
- while if the assessee has preferred a revision and aggrieved with the revisional order, the course open to him is to file a civil writ petition in the High Court or the Supreme Court.

### GENERAL RELATING TO APPEALS

- Appeal is complaint to higher forum or authority against the decision of subordinate officer or authority.
- Right to appeal a statutory right.
- No inherent right of appeal
- Doctrine of merger: only that part of the order in respect of which CIT(A) exercises jurisdiction-relevant in deciding the jurisdiction u/s 263/264.
- Article 265 –no tax can be levied without sanction of law.
- Article 141 provides that law declared by the Supreme Court will be binding on all courts within the territory of India.

### General

- Proviso (b) to section 119 (1) prohibits the Board to issue any order, instruction, directions which interfere with the discretion of CIT(A) in the exercise of his appellate functions
- Instructions and circular issued by the Board are not binding on the appellate authority . Hindustan Aeronautics Ltd Vs CIT 243 ITR 808(SC).Only Benevolent circular is binding on the CIT(A).CIT Vs Hero Cycles 238 ITR 463(SC)
- The appellate authority is totally independent, however, they are bound by judicial precedent . The CIT (A) being the lowest appellate authority has to follow the decision of the jurisdictional Tribunal, jurisdictional High Court and of course Apex Court order and similarly others as per judicial hierarchy.



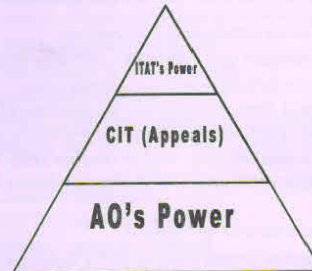




### General- Written submission...

- CIT(A) is not Court of appeal, therefore, written submission should be filed.
- Written submission in brief may include name of the concerns, nature of the business, sources of income.
- With regard to ground of appeal, ITO's finding in one para and in the next para submission should be given .
- Argument for the sake of argument may not be taken.
- Indiscriminate citation of cases should be avoided only relevant and direct case law should be given

Powers of different Authorities in the process of determination of Income



### AO 's Power

On issue of notice u/s 143(2), the process of assessment starts and the AO can make relevant enquiries in respect of the items disclosed in the return of income and also not disclosed in the return from the assessee directly and also from external sources.

### CIT (APPEALS) 'S POWER

Power of enhancement are confined to Those issues which have been Considered by the AO from the Point of taxability

### ITAT 's POWER

The ITAT does not have power of Enhancement , his power Is issue based. He has no power to take back the benefit conferred by the AO. M. Corpn. Global Pvt Ltd Vs CIT 309 ITR 434(SC)

### POWERS AND FUNCTION OF CIT (APPEALS)







### Arrangement of sections and Rule- CIT(A)

- Chapter XX deals with appeals and revisions.
- Relevant Provisions- Sec.- 246 to 251; and Rule- 45 to 46A
- Sec 246- ; lists types of orders appealable before DCIT(Appeals)). Post of CIT(A) came to exist since 10-7-1978. For about ten years both DCIT(Appeals) and CIT(A) co-existed.
- Sec 246A- Powers of CIT(A)- w.e.f 1<sup>st</sup> October 1998; lists types of orders appealable before CIT(A). Total 24 clauses from (a) to (r).
- sec 247-appeal by partner –deleted
- Sec 248-appeal by person denying liability to deduct tax under u/s 195

### Arrangement of sections and Rule

- See 249-Form of appeal-Form No-35
- Fees payable- Total Income/loss assessed-
  - upto Rs 1 lakh- Rs 250
  - Rs 1 lakh to Rs 2 lakh- Rs 500
  - More than 2lakh - Rs 1,000
  - In other cases - Rs 250.
- To be filed within 30 days of receipt of the Demand Notice or the Order of assessment or Penalty, or any other order, or date of Payment of tax u/s 195.
- U/S 249(3) -BELATED APPEAL-

### Arrangement of sections and Rule

- U/S 249(4): ADMISSIBILITY of APPEAL condition
- Tax as per return has been paid by the assessee.
- In no return case, the assessee should have paid tax as much as advance tax payable by him. However the CIT(A) may exempt the assessee from paying the tax in No-return case for good and sufficient reasons to be recorded in writing by him.

### Arrangement of sections and Rule

- See 250- Procedure in appeal :CIT(A) to decide the appeal by hearing the assessee. The assessee may appear himself or through an A R. The AO may appear personally or through a representative (a right enjoyed by a Jt/ Addl CIT only!). He can adjourn the case.
- Sub sec(4)-ENQUIRY/ REMAND REPORTThe CIT(A) may call for any document, conduct any inquiry- either by himself or through the AO vide Remand Order as he thinks fit in course of discharge of his function. The order of Remand should contain the nature of inquiry and the manner in which to be carried out, and to be reported to the CIT(A).

### Arrangement of sections and Rule

- Sub sec 5- ADDITIONAL GROUNDadmission of additional ground of appeal if omission not wilful or unreasonable.
- Sub sec (6) - hear the appeal and pass the order in writing deciding all the grounds of appeal and giving reasons thereof.
- Sub sec (6A)- wef 01-6-1999- CIT(A) to pass the order, as far as possible, within one year from the end of the year of filing. An administrative requirement.
- Sub sec (7)- Copy of the appeal order to be sent to the appellant and the CCIT / CIT.

### Arrangement of sections and Rule

- s. 246A- gives a right of appeal to any aggrieved assessee on any of the orders expressly specified in Section 246A.
- In respect of other orders, unless it falls within the ambit of the phrase 'denial of liability to be assessed to tax'. Such denial may be whole or partial; however, a plea that denial of liability would include a contention that the Act does not apply to him, would not be valid
- s. 249-Form of appeal-Form No-35
- Fees payable- Total Income/loss assessed-
  - Up to Rs 1 lakh- Rs 250 ;Rs 1 lakh to Rs 2 lakh- Rs 500 ;More than 2lakh - Rs 1,000 ;In other cases - Rs 250.
- To be filed within 30 days of receipt of the Demand Notice or the Order of assessment or Penalty, or any other order, or date of Payment of tax u/s 195.
- U/S 249(3) -BELATED APPEAL-







## Enhancement of Income

- The CIT(A) is empowered to consider and decide any matter arising out of the proceedings in which order appealed against was passed notwithstanding that such matter was not raised by the assessee. CIT Vs Kashimath Chandwala 280 ITR 318 (All) – cases referred to Nribheram Daluram 224 ITR 610 (SC) and Jute Corporation of India 187 ITR 688 (SC).

## Power of stay

- Act silent on CIT(A)'s power to grant stay
- CIT(A) has inherent power to stay. Such powers can be exercised for effective adjudication of appeal (Bongaigaon Refinery and Petro Chemical Ltd. Vs. CIT 239 ITR 871 (Gau.) and Prem Prakash Tripathi Vs. CIT 208 ITR 461 (All.)
- Recently Rajasthan High court in case of Maheshwari Agro 246CTR113 held that high pitched assessment means the assessment wherein returned income is doubled relying on inst. no.95-Shri Morarji desai-FM)

## • POWERS AND FUNCTIONS OF INCOME TAX APPELLEATE TRIBUNAL



## INCOME TAX APPELLATE TRIBUNAL (ITAT)

- The ITAT functions under the Law Ministry. They are totally independent and not bound by the instructions and circulars issued by the Board.
- Section 253 enumerates the orders against which the appeal can be filed.
- Sec.254 lays down the power of the appellant tribunal and make the orders to be final on finding of facts.
- Sec. 255 lays down the procedure of the Appellate Tribunal. In addition to that, appellate rules 1963 are there to regulate the procedure of the appellate tribunal.

## Cross objection

- The respondent U/S 253(4) can file, a memorandum of cross objection in form no.36A within 30 days from the date of receipt of notice of appeal, Rule 22 provides that a memorandum of cross objection filed under section 253(4) shall be registered and numbered as an appeal.

### Appeal to High Court

- The appeal u/s 260A can be filed to High Court if substantial question of law is involved.
- **Substantial Question of Law-**  
Supreme Court in the case of *Sir Chunnilal V Mehta Vs. Century Spinning & Mfg. Co. Ltd.* AIR 1962 SC 1314 has laid down following tests to determine whether a substantial question of law is involved.
  - Whether it directly or indirectly affects the substantial rights of the parties?
  - Whether it is of general public importance?
  - Whether the issue has not yet been settled by the Supreme Court?
  - Whether it is not free from difficulty?
  - Whether it causes for a discussion on alternative views.?
- If the High Court is satisfied that a substantial question of law is involved it will formulate the grounds and Thereafter on merit judgment is delivered giving reasons.
- The High Court can also award costs, as it deems fit.







## Substantial Question of Law U/S 260A

- does not refer to the stakes involved in the case,
- substantial question of law arises when a question of law, which is not finally settled by this Court or by the High Court concerned so far as the State is concerned.
- Where there is a clear enunciation of law and the lower court has followed or rightly applied such clear enunciation of law, obviously the case will not be considered as giving rise to a substantial question of law, even if the question of law may be one of general importance.

### Time Limits

- Appeal to the CIT(A)
  - Within 30 days from the service of the demand notice.
- Appeal to the ITAT
  - Within 60 days from the receipt of the CIT(A) order in the CIT office.
- Appeal to the High Court
  - Within 120 days from the receipt of the ITAT order.
- Appeal to the Supreme Court
  - SLP Within 90 days from the date of pronouncement of the judgment u/s 261. If certificate of fitness is refused than SLP has to be filed within 60 days of from the date of refusal.

### Grounds of Appeal-Requirement...

- Desirable and convenient to follow same chronology as they are in the order appealed against.
- In quantum appeal no ground relating to initiation of penalty proceeding .
- Grounds relating to the interest if it not consequential , specify the area of dispute.
- Avoid unsubstantiated grounds of appeal

## Supreme Court

- Section 261 provides an appeal to the Supreme Court from any judgment of the High Court on any reference made u/s 256 (before 1.10.98) or an appeal made u/s 260A.
- On behalf of the Department it is the board that can file the appeal to the Supreme Court. This appeal would lie only when the High Court certifies that case is fit one for appeal u/s 261 or under article 136 of the constitution.
- The monetary tax limit prescribed by the Board for filing an appeal to the Supreme Court is more than Rs. 25 lakh.

### Grounds of Appeal-Requirement

- Concise and precise without any argument or narration
- Contents be specific, indicating the issue on which relief is sought
- Common or basic ground such as violation of principal of natural justice etc. that is material to the validity of the order to be taken first.
- In respect of any issue if grounds more than one to be taken up sequentially one after the another.

### Revisional Power Of Commissioner of Income-tax

- The Commissioner of Income-tax commands a unique position.
- He, apart from being administrative head of Assessing Officers within his charge, has to perform judicial act as revising authority.
- He has to safeguard interests of the Revenue as also to provide necessary relief to a harassed taxpayer.
- He has to keep a balance between the tax collector and the taxpayer. He has an equal obligation to the taxpayer.







### Revision of orders prejudicial to revenue (Section 263)

- Section 263 empowers the CIT to revise such orders passed by subordinate authority which are erroneous and prejudicial to the interest of revenue.
- The erroneous order could be as a result of misapplication of law, wrong inference on the set of facts, or failure to enquire into a material issue.
- This power can be exercised either suo-moto or on a proposal made by the A.O.
- The erroneous order may come to light during the course of other proceeding namely:
  - i) as a result of an audit objection;
  - ii) through inspection report by higher authority.

### Revision of orders prejudicial to revenue (Section 263)...

- On receipt of the proposal from the AO, the Commissioner after making necessary enquiry may issue a notice to the assessee clearly indicating the reasons for proposed modification of the order.
- The time limit for passing the order u/s 263 is 2 years from the end of the FY in which the order sought to be revised.

### "Erroneous"

- "Erroneous" means suffering from errors or mistakes.
- If the Assessing Officer fails to make an enquiry into the truth of the facts stated in the return his order can be said to be erroneous, if, facts are found to the contrary.
- Section 263 is not meant to set aside merely unfavourable orders and bring to tax some more money to the Treasury ; Venkata Krishna Rice Co. vs. CIT (1987) 163 ITR 129 (Mad)

### "Erroneous"

- *In Venkata Krishna Rice Co. vs. CIT (1987) 163 ITR 129 (Mad), it was held*
  - i. section 263 is not to be invoked as a jurisdictional corrective exercise or as a review of a subordinate's order in exercise of the supervisory power.
  - ii. but it is to be invoked and employed only for the purpose of setting right distortions and prejudices to the Revenue. Venkata Krishna Rice Co. vs. CIT (1987) 163 ITR 129 (Mad)

### "Erroneous"

- Where two views are possible and the Income-tax Officer has taken one view with which the Commissioner does not agree, it cannot be treated as an erroneous order prejudicial to the interests of the Revenue unless the view taken by the Income-tax Officer is unsustainable in law.. Malabar Industrial Co. Ltd. vs. CIT (2000) 243 ITR 83 (SC)
- The error envisaged by section 263 was not one which depended on possibility or guesswork, but it should be actually an error either of facts or of law. CIT vs. Trustees Anupam Charitable Trust 167 ITR 129 (Raj)

### "Erroneous"

- No presumption can be drawn that the Assessing Officer had not applied his mind to various aspects of the matter and once enquiry in fact has been conducted and the Assessing Officer has reached a particular conclusion though reference to such enquiries has not been made in the order of the assessment, the invocation of jurisdiction is not sustainable. CIT vs. Ganpat Ram Bishnoi (2005) 198 CTR (Raj) 546,







## Show Cause Notice and service :

- The show-cause notice containing all the information on the basis whereof the Commissioner forms his opinion as to the order of the Assessing Officer is erroneous and prejudicial to the interests of the Revenue must be sent and served on the assessee in the manner required under section 282 of the Act.
- The Commissioner should give adequate, sufficient and reasonable opportunity to represent. The Supreme Court in CIT vs. Ramendra Nath Ghosh 1974 CTR (SC) 131 : (1971) 82 ITR 888 (SC) did not approve of the action on finding that the service made was not a proper service. The Rajasthan High Court in CIT vs. Girdharilal (1984) 38 CTR (Raj) 348 : (1984) 147 ITR 379 (Raj) observed that it is well settled that the power of attorney given to an agent should be construed strictly and from that power of attorney only such authority which has been conferred expressly or by implication, should be taken into consideration.

## Order sought to be revised

- There must exist an written order, which is sought to be revised by the Commissioner.
- The concept of the words "any order" is very wide.
- An assessment order which does not contain any satisfaction for initiation of penalty proceedings, such an order cannot be revised because the proceedings for levy of penalty are independent proceedings and separate from the assessment proceedings, Delhi High Court in Addl. CIT vs. J.K. D'Costa (1982) 133 ITR 7 (Del). Same view has been expressed in CIT vs. Keshrimal Parasmal (1986) 157 ITR 484 (Raj) and in CIT vs. Linotype & Machinery Ltd. (1991) 192 ITR 337 (Cal).

## Revision of order by CIT (Section 264)...

- When the Commissioner exercise his powers u/s 264 suomoto he should pass a revision order within an year of the date of the order sought to be revised.
- If the powers are being exercised on the petition being made by the assessee then the order u/s 264 should be passed within 1 year from the end of the FY in which such petition is made by the assessee.
- Incases where the assessee has already filed an appeal, the revision petition can be entertained only if the assessee withdraws his appeal.

## Order u/s 263 :

- The order should be a reasoned and speaking order.
- If he sets aside the assessment and directs a fresh assessment, he should give guidelines on the basis whereof fresh order is to be made.
- If the assessment is set aside, it should not be set aside as a whole but should be set aside only in part, to the extent the order is erroneous and on the points, which have made the order erroneous and prejudicial to the interests of the Revenue.
- It is necessary for the Commissioner to point out the exact error in the order which he proposes to revise./fn final order the Commissioner cannot travel beyond the issues raised in the show-cause notice. CIT vs. G.K. Kabra (1995) 211 ITR 336 (AP)

## Revision of order by CIT (Section 264)

- The provisions of Sec.264 provides for revision of an order passed by the Assessing Officer which is prejudicial to the assessee.
- These powers can be exercised by the Commissioner suomoto or on a petition filed by the assessee.
- The assessee can make an application u/s 264 within 1 year from the date on which the order in question is communicated to the assessee or the date on which he otherwise comes to know of it which ever is earlier.
- The assessee's petition should be in duplicate and it should be accompanied by the copy of the order sought to be revised . The fees for filing the revision petition is Rs. 500/-
- Belated application can also be admitted if the Commissioner is satisfied that there is reasonable cause for delay. The revision petition filed by assessee should be accompanied by an application seeking condonation of delay.

## Revision of order by CIT (Section 264)...

- If the CIT(A) does not decide the appeal on merit but dismiss the appeal as being belated then the Assessing Officer's order does not merge with the order of the CIT(A) and the CIT have the jurisdiction to entertain the revision petition.
- After receiving the revision petition the Commissioner can call for report from the Assessing Officer.
- The report of the AO should inter-alia discuss the issues involved and comment on each and every contention raised by the assessee, giving reasons as to whether the relief claimed is allowable or not.
- The report should state whether similar issue was involved in any other earlier year and how the same was dealt with.







## Revision of order by CIT (Section 264)...

- The co-operation of the assessee in the asstt. proceeding as well as in the payment of taxes for the 3 earlier asstt. year should be commented upon so as to enable the Commissioner to decide whether assessee is a habitual defaulter or not.
- On receipt of the AO's report and after giving an opportunity to the assessee, the CIT has to pass the speaking order dealing with all the contention of the assessee and record his own reasons for allowing the relief or rejecting the assessee's petition.
- Under this provision the CIT can not pass an order enhancing the tax liability of the assessee.
- Board vide instruction No.1096 dated 14.9.1997 barred belated claims of refund u/s 264.

### Limitation

- The assessee cannot avail of an appeal before the Commissioner of Income-tax (Appeals) as well as a revision under section 264 on the same subject or issues.
- If the remedy to file an appeal is available or appeal is pending, right of revision petition would not be available.
- If the appeal is withdrawn or is dismissed on the ground that the same was incompetent or beyond limitation, the revision would lie before the Commissioner as held by the Supreme<sup>A</sup> Court in Dwarka Nath vs. ITO (supra) and by the Delhi High Court in Marudhar Investments Ltd. vs. CIT (2006) 203 CTR (Del) 545..
- No appeal lies to the Tribunal against an order made by the Commissioner under section 264 of the Act.
- The only remedy is by way of a writ before the jurisdictional High Court.
- Revisional authority can look into the deductions which might be claimed by the assessee for the first time before him. Ramdev Exports vs. CIT (2001) 251 ITR 873 (Guj)

## Affidavit

- Unless the Court wants to prove the particular fact by filing an affidavit, than only affidavit can be filed. However the appellate tribunal rules requires that any fact/statement can be proved/disproved by filing an affidavit. Therefore in I.T. proceeding particular fact if contrary to the record need so can be proved by filing an affidavit .rule 10 of the ITAT rule /76 ITR 1(journal section)
- Contents:-
  - Disclosure of his full identity
  - Contents be corroborated with the help of other relevant evidences
  - Contents stated therein be relevant to issue involved

## Scope Of Power

- **Powers in revision are wider**
- *The revisional jurisdiction although not a part of original jurisdiction, the limitations inherent in appellate jurisdiction donot apply to revisional jurisdiction.*
- *In revisional jurisdiction itself the scope of powers exercisable by the Commissioner under section 264 of the Income-tax Act, are wider than that exercisable under section 263.*
- *For exercising the powers under section 263 of the Income-tax Act, the order has not only to be erroneous but it should also be prejudicial to the interest of the Revenue, while these requirements are not at all necessary for the exercise of powers under section 264 of the Act*

## Review

- Right of review is a creature of statute as is right of appeal.
- The Income-tax Act does not confer any power on the appellate authority to review its own order. A review is not a substitute for an appeal. Jaipur Finance & Dairy Product (P) Ltd. vs. CIT (1980) 125 ITR 404 (Raj). CIT vs. GlobeTransport Corporation (1991) (1992) 195 ITR 311 (Raj)
- The tax authority including appellate authority have a power under section 154 and the Tribunal has the power under section 254(2) of the Act to rectify any mistake apparent from the record. The revisional authority has also the same power

## Passing of order



- Section 250 (6) mandates the CIT (A) to dispose off the appeal by passing an order in writing, state the point for determination, the decision thereon and the reasons for the decision
- In case of enhancement- show cause notice is necessary.







### Paper Book & submission

- Paper should be arranged ground wise
- It should be serially numbered
- It should be ensured that the papers filed are legible.
- Proper indexing should be done pointing out with which grounds of appeal it relates to.
- A certificate may be filed with regard to that all the papers contend in the paper book were filed before the AO

### Paper Book & submission

- Oral arguments and submission should be supplemented by written submission covering all grounds.
- CIT(A) is not Court of appeal, therefore, written submission should be filed.
- If additional evidences are there, it should be specifically spelt out two set of these papers should be made with application for admission thereof as per rule 46 A of the I.T. Rules 1962

### Paper Book & submission

- Written submission in brief may include name of the concerns, nature of the business, sources of income.
- With regard to ground of appeal, ITO's finding in one para and in the next para submission should be given
- Argument for the sake of argument may not be taken
- Indiscriminate citation of cases should be avoided only relevant and direct case law should be given

There are two kinds of people, those who do the work and those who take the credit, try to be in the first group, there is less competition.



Thank You



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## The world of Consulting: Career opportunities for CA

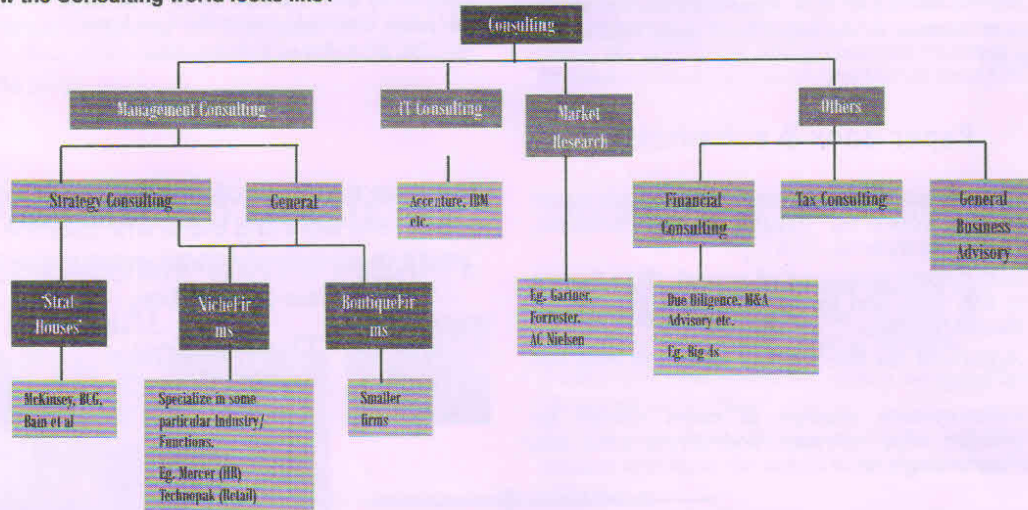
By CA. Vyom Shah



Traditionally, CAs have been mostly engaged in Practice, be it in the field of Assurance, Taxation or in the Financial analysis space. Past decade has witnessed growth in a trend whereby many newly minted CAs have shunned traditional practice for jobs in the industry. The CA curriculum has also undergone a paradigm shift - enabling students to attain more capabilities and holistic skills. This has opened doors for CAs to the most sought after career in B-school campuses globally - Consulting.

Though there has been an increased, but gradual, acceptance among the Consulting firms (who earlier looked only at Engineer + MBA profiles) towards CAs as consultants, there still lies a lack of precise understanding about Consulting in the CA community. This can understandably be attributed to the hype and hoopla built around the Consulting profession, with lot of misconceptions present.

### How the Consulting world looks like?



Above representation roughly depicts the structure of Consulting world, but is not sacrosanct and further categorization can be done. Besides, there are many firms who have interdisciplinary approach. For example, Big 4s now have their in-house IT teams who advise and support clients on their IT systems. Cognizant is another example, which has created a separate arm - Cognizant Business Consulting, which focuses primarily on the Management Consulting discipline, unlike its other divisions that cater chiefly to IT needs.

### What Management Consultants do?

Management Consulting firms help clients to solve their real business issues, whether it is deciding which markets to enter, which customer segments to target, how to tackle competition, how to build the right product/ service portfolio, how to devise dynamic pricing models, how to optimize supply chain, how to manage risks and myriad range of topics.

The essence of any such work, however, is to add value to client's business by delivering an executable action plan that results in favorable outcome either in Topline, Bottomline or Intangibles, or solves a specific problem. **Consultants are 'Doctors' to their client's business.**

### What is a typical Consultant day?

To set the context, a Consultant day averages around 12-14 hours work. Ideally, a Consultant would be working on one big project with several smaller tasks running in parallel. Frequent travel is a given. Since any project lasts for at least a couple of months, a Consultant, as a core member of Firm's project team, needs to work very closely with Client team and manage relationships.







A day in the life of a Consultant..

- 08:00 AM** - Reviews and makes corrections to presentation 'deck' that Associate had mailed late last night.
- 09:30 AM** - Reaches client office and gets on a con-call with Partner and Manager, answers some queries from Partner and is informed about increased scope of work.
- 10:15 AM** - Identifies right stakeholder - Marketing manager, in the client co. and sets up an interview.
- 10:45 AM** - Gathers necessary data & info from the Marketing manager and heads back to analyze data.
- 12:30 AM** - Validates newly formed hypothesis and draft roadmap with manager and modifies the deck.
- 02:00 PM** - Client meeting begins with Firm's manager running the presentation. Consultant pitches in to address Client's queries and issues. Client seems satisfied with the progress so far and asks to validate the strategy formulated with more data coverage.
- 03:30 PM** - Briefs the project team to conduct thorough research and gather detailed data sets.
- 04:30 PM** - Works on a Whitepaper on marketing strategies in Retail, for Firm's Thought Leadership.
- 05:30 PM** - Is interrupted by the project team to get his Point of View on several issues brainstormed.
- 07:00 PM** - Team packs up and share a ride back to their hotel. On way back, two Associates are calling their better halves and one Business Analyst is listening to new tracks on her iPod.
- 09:30 PM** - Reads a new Insight article on how Social Media is changing the dynamics of marketing and notes some interesting trends, to be incorporated later in his whitepaper.
- 10:30 PM** - Dozes off after a long day, with still thoughts in his mind of how to make client solutions better.

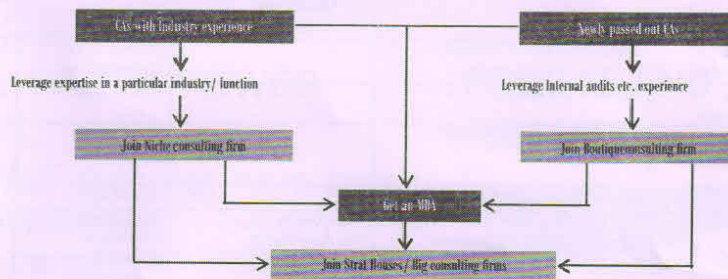
#### Why should CAs explore Consulting as a career?

Consulting is a highly rewarding profession. Remuneration of seasoned consultants is in the range of INR 500 - 5,000 per Hour. Besides, there are huge incentive opportunities in terms of performance-linked Bonuses. In that context, a CA having completed her MBA and 2-3 years of consulting experience can easily earn INR 18 - 20 lakhs p.a.

Consulting in developed economies like US is a matured profession. However, in India it's still in nascent stage with trend of engaging consultants growing, as more businesses understand and realize the value consultants can deliver. In that sense, Consulting in India is a 'Sunrise Industry' and has humongous potential.

Moreover, working in Consulting gives immense job satisfaction with variety of exposure and new learning in several industries, personal and intellectual development, chance to meet and work with highly-motivated and sharp people, huge networking opportunities, respect gained from clients and business community at large and above all - the joy of doing meaningful and value-adding contribution for client's benefits.

#### How can CAs enter the Consulting world?



Besides, apart from prerequisites of analytical abilities, good academic records, extracurricular achievements etc., Consulting firms look for excellent communication skills, great interpersonal skills and holistic knowledge and awareness about broader economic and business landscape rather than only a specific technical skill. It will be a good idea to polish these requirements before venturing out to exploring Consulting opportunities.





### Past Events February 2014

S. No	Date	Programme Type	Topics	Speakers	Venue	No. of Part.	CPE Hrs.
1.	01/02/2014	Training Programme	Information Technology Course (157th Batch)		ICAI Bhavan	34	—
2.	01/02/2014	Training Programme	Information Technology Course (158th Batch)		ICAI Bhavan	36	—
3.	01/02/2014	Training Programme	Information Technology Course (159th Batch)		ICAI Bhavan	32	—
4.	04/02/2014 To 17/02/2014	Training Programme	GMCS (44 <sup>th</sup> Batch)	Chief Guest : CA. R.M. Shah Nagpur	ICAI Bhavan	31	—
5.	04/02/2014	Orientation Prog	Campus Placement Prog		ICAI Bhavan	45	—
6.	06/02/2014	CPE Teleconference	CPE Teleconference on Overview of Search , Seizure & Survey Provisions & Directors, Meeting , Independent Directors from the Companies		ICAI Bhavan	14	2Hrs
7.	08/02/2014	CPE Teleconference	CPE Teleconference on Appeals before CIT (Appeals) & ITAT		ICAI Bhavan	6	2Hrs
8.	08/02/2014	Workshop	Workshop on Digital Smartness For CA s	CA. Pankaj Deshpande Nagpur	ICAI Bhavan	77	3Hrs
9.	15/02/2014	Felicitation	NEW CA Felicitation Nov-2013 Exam. Prizes distribution of Indoor Sports Festival	Shri Banwarilalji Purohit, Former Member of Parliament Managing Editor of The Hitavada Nagpur	ICAI Bhavan	120	—
10	17/02/2014		Live Screening of Interim Budget- 2014		ICAI Bhavan	25	—
11	17/02/2014		Immediate Reaction on Union Budget Direct Tax Proposals Indirect Tax Proposals Impact on Capital Market Impact on Trade & Industry	Panel Leaders : CA.Kapil Bahri CA.Atul Sarda CA. Kailash Jogani Past Chairman, CA. Anil Parakh Past Chairman, Co-ordinators : CA. Samir Bakre Past Chairman CA. Milind Patel, Past Chairman	ICAI Bhavan	85	—
12	17/02/2014 To 21/02/2014	Training Programme	IPCC Orientation (71 <sup>st</sup> Batch)		Vidarbha Hindi Sammelan	50	—
13	18/02/2014 To 04/03/2014	Training Programme	GMCS-1 (16 <sup>th</sup> Batch)		ICAI Bhavan	50	—
14	20/02/2014 To 24/02/2014	Training Programme	IPCC Orientation (72 <sup>nd</sup> Batch)		ICAI Bhavan	50	—
15	27/02/2014		Managing Committee meeting		ICAI Bhavan		
16	28/02/2014	Seminar	Full Day Seminar on SME Listing-an Opportunity for Professionals  1.Listing on SME Exchange & ITP (Institutional Trading Platform) 2) Listing on ITP without IPO 3)SME Funding	Chief Guest: Shri Ajay Thakur Head BSE-SME  Speakers: 1) CA. Mahavir Lunawat Pantomath Advisory Services(SEBI registered Category -1,Merchant Banker), Mumbai 2)Shri Ajay Thakur Head BSE-SME,Mumbai	Naivedhyam Celebration Hall North Ambazari Road,Nagpur		—







## Forthcoming Events March 2014

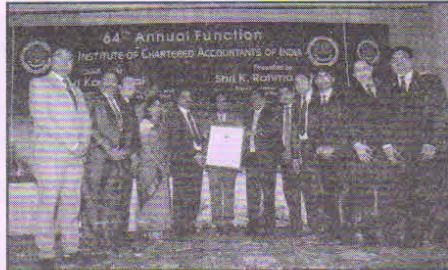
Date	Time	Topic	Speaker	CPE	Venue
	5.30pm	Joint programme with Vidarbha Economic Development ( VED) on " Nagpur Vision 2020"	Shri Nitin Gadkari Former President, BJP Shri Shivajirao Moghe Shri Anil Deshmukh, Minister Maharashtra	--	Vasant Rao Deshpande Hall, Civil Lines
06/03/2014	11.00am	CPE Teleconference on "Practical issues in Foreign Contribution Regulation Act"	CA. K.Kanagaraj Antony Samy	2 Hrs	ICAI Bhavan
07/03/2014	5.00 pm	Joint Programme with VIA On Making March Meaningful	<b>Speakers :</b> CA. Kailash Jogani CA. Mahendra Jain CA. Anand Dhoka	--	VIA Hall, Nagpur
08/03/2014	9.015 am	Seminar on Internal Audit-SME Perspective Topic-1 Internal Audit of Specific Operations Topic-2 Effective Reporting Techniques Topic-3 Value Addition through Internal/ Management Audit	<b>Speaker:</b> CA.Shankar Sanketh Bengaluru CA. Sabareesan S.V Bengaluru CA.Nitin Alshi Nagpur	6 Hrs	ICAI Bhavan
08/03/2014	4.30 pm	WICASA Seminar on Internal Audit Topic: 1.Internal Audit of Specific Operations 2.Effective Reporting Techniques	<b>Speaker:</b> CA. Shankar Sanketh Bengaluru CA. Sabareesan S.V. Bengaluru	--	ICAI Bhavan
09/03/2014	9.30 am	WICASA Snooker & Pool Competition		--	Magic Pool, Bajaj Nagar Nagpur
14/03/2014	6.00 pm	Lecture Meet on Importance of Indian Calendar System	Shri Ramdasji Poojari	--	ICAI Bhavan
15/03/2014	9.30 am	Seminar on Bank Branch Audit	Eminent Speakers	6 hrs	---
13-14-15/03/2014	8 to 10 am	Workshop on Bank Audit for staff & articles of CA Firms	Eminent Speakers	--	ICAI Bhavan
16/03/2014	6.30 pm	Holi Milan		--	ICAI Bhavan
23-24/3/2014		Branch Orientation Programme		--	WIRC
29/03/2014	4.30 pm	Half day Seminar	Eminent speakers	3 hrs	ICAI Bhavan



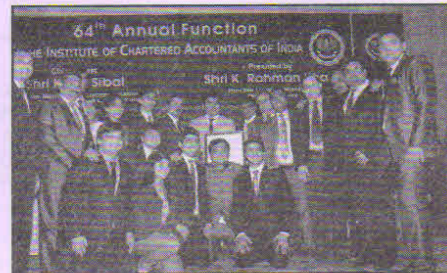




## VISUAL RIDES OF PAST EVENTS



CA. Swapnil Agrawal, Chairman receiving Highly Commendable Certificate at the hands of President & Vice President, ICAI



CA. Sandeep Jotwani, Chairman WICASA Nagpur receiving All India Best Branch Award For WICASA



CA. R.M. Shah, Senior Chartered Accountant inaugurating GMCS Course by Lighting the traditional Lamp (03.02.14)



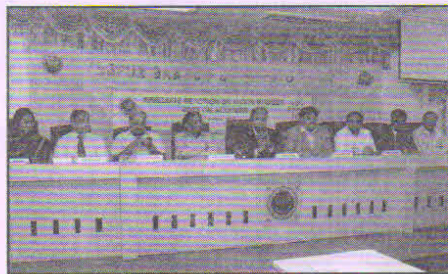
CA. Sandeep Dhodapkar inaugurating Campus Orientation Programme by lighting the traditional lamp (04.02.14)



Workshop on Digital Smartness for CAs - CA. Pankaj Deshpande, Guest Speaker (08.02.14)



Felicitation programme of Newly Qualified CAs, Shri Banwarilalji Purohit- Chief Guest (15.02.14)



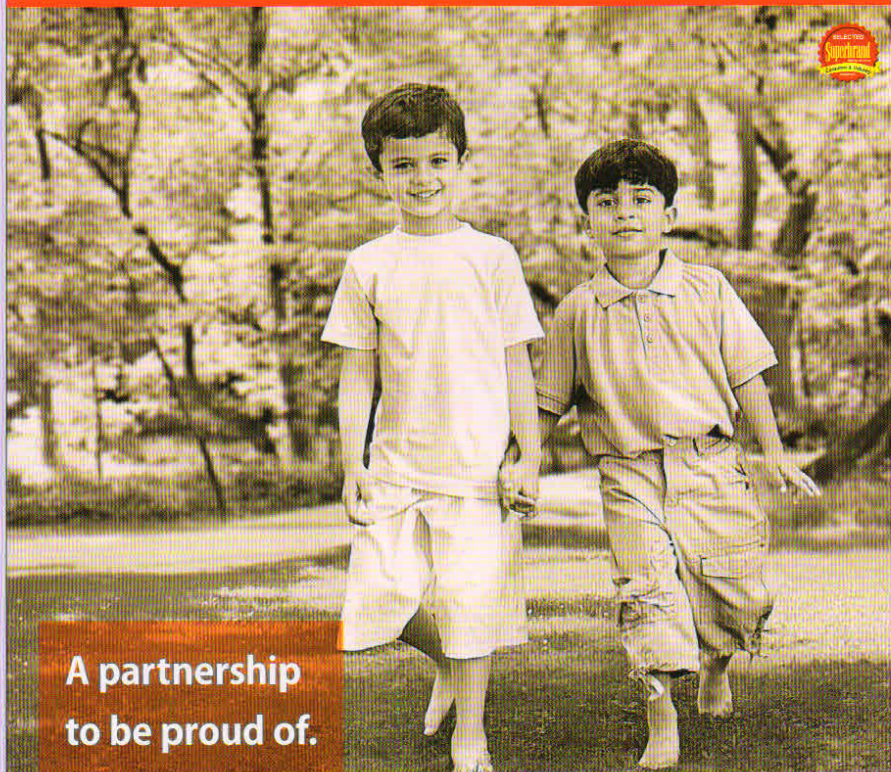
Immediate Reaction on Interim Union Budget-2014 (17.02.2014)



CA. Raju Sharma Winner in Baidyanath Golf Cup Stable Fore Category







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**Contact: Gaurav Agarwala : 98231 11700**



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