



WIRC BULLETIN

EDITORIAL BOARD

Chief Editor:
CMA Shrenik S. Shah

Editorial Team:
CMA H. C. Shah

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For Members only

May 2015

From the Desk of Editor

WIRC wishes all the members Happy Maharashtra & Gujrat Day as well as Happy International Labour Day!!!

Lok Sabha have passed Finance Bill 2015-16 and now it will be placed before Rajya Sabha and thereafter Hon. President may give the assent to the Bill. Yesterday, the Finance Minister Shri Arun Jaitely announced to ease the Income Tax Returns and now simple format will be designed for filing the Income Tax return. 122nd Constitutional Amendment Bill for introduction of GST will be debated on coming Monday i.e. 5th May 2015 and the whole world is waiting for the event of approval of such bill. However, opposition benches have made walk out when it was tabled and also recommended to forward the bill to the Standing Committee of the Parliament. Such process will unnecessarily delay the implementation of GST. Meanwhile, Empowered Committee for GST have sent the draft GST Bill to CBEC and State Government Tax Department inviting their views. Preparation of implementation of GST on the front of NDA Govt. is really promising, however we need to watch the actions of political parties but let us hope, it will be implemented w.e.f. 1st April 2016. GST proposes and makes paradigm shift from earlier concept of manufacture and clearance for the purpose of excise duty and sale of goods for VAT / CST to supply of goods and services. Therefore consideration will not matter for imposition of GST. It means valuation will have utmost important to determine the taxable value / assessable value in case of supply of goods or services like stock transfer, transfer from one unit to another unit, job work, subcontracting, free samples, gifts etc. etc. This is the golden opportunity for the Cost Accountants for revisiting the transactions of each dealer / manufacturer / business persons and set up the system in the forthcoming GST era.

STATE OF MAHARASHTRA

Maharashtra Govt. have reduced the stamp duty on gifts of property including agricultural land when it is gifted to Son, Daughter, Wife, Grandson & Granddaughter. Now, any bond needs to be executed with the Govt. Authorities including Central Excise, value of the stamp paper will be of Rs. 500/- instead of Rs. 100/-. Maharashtra Govt. have taken number of steps for doing ease in the business and efforts towards "Make in Maharashtra" in line with "Make in India". The cabinet of Maharashtra Govt. needs to be appreciated, since they have accepted representation made by WIRC during their representation in the month of January 2015 and Cost Accountant will be one of the Committee Members on the body, which will take the fees for schools and colleges.

WIRC is committed to their objective to build the capacity of the Cost Accountant and make them equipped to accept the challenges and grab the opportunities in the GST Era. WIRC has arranged CEP programs at Pune on 26th April 2015 and Past President CMA B. M. Sharma have deliberated very nicely. WIRC will continue to hold such series of programs, wherever members required.

Our Institute and WIRC have conducted the seminar on "Decoding the Amended Companies (Cost Records & Audit) Rules, 2014" on 25th April 2015 at Hotel Grand, Mumbai. Since there was overwhelming response, the same program is repeated on 26th April 2015 at the same place. Past Presidents CMAs Kunal Banerjee and Chandra Wadhwa deliberated on the topic and clarified the queries of the members.

STUDENTS

Our Institute and WIRC have arranged the campus interview and 7 companies namely, Hindustan Unilever, ITC, Evosys Global, Meru Cabs, KPMG, WIPRO, Saint Gobain had participated in the Campus interview and expressed their satisfaction on the quality of the candidates. They selected 20 students from the Campus. Before the Campus Interview, WIRC arranged Soft Skill Development Program and helped our students for facing the interview.

Student's Felicitation Program was arranged for Successful Passed Students on 18th April 2015. CMA Virag Shah of Powergrid Corporation was the Chief Guest.

Considering the lower results of last two batches, WIRC had decided to equip students to appear for the examination and therefore, the program was arranged for the students on "How to prepare for the examinations?" Directorate of the Institute CMA Chiranjib Das explained expectations from the students and also guided them on marks allotted to individual subjects. CMA Nayana Savala also guided the students. WIRC expressed sincere thanks to CMA Chiranjib Das and CMA Nayana Savala.

CHAPTERS

There will be election in all the chapters and now number of members have increased in the chapter on account of change in the regulations. More transparencies and democratic working is expected henceforth.

Surat-South Gujarat Chapter of Cost Accountants of India needs to be acknowledged for implementing Good Governance of installation of Swaping System for in & out movement for the staff of the Chapters. It was really possible with untiring efforts of CMA Brajesh Mali and with the help of all the office bearers.

CONTINUOUS EDUCATION PROGRAMS (CEPs)

WIRC is committed for carrying out any activity of professional development and therefore WIRC has recommended the proposal of granting CEP points to North Mumbai CEP Study Circle. We acknowledge the efforts taken by CMA Poonam Shah, CMA Pradeep Damania for co-ordinating the Study Circle Meeting. The details of the CEP program are being also displayed on WIRC website. 1st Study Circle Program is scheduled on 9th May 2015 and we sincerely wish such Study Circle to grow and spread the knowledge which is nothing but capacity building exercise.

WIRC will also continue CEPs to be conducted on each Saturday for the benefits of members.

All the Cost Accountants whether in practice or service are occupied in year end closing and audit thereof and Cost Audit. I wish all of them the best in their performance and wish them success.

EARTHQUAKE AT NEPAL / NORTH INDIA

WIRC members convey their Heartfelt Condolences to the people of Nepal and North Indian states and express speedy recovery of the victims.

We also pray to almighty to give more strength & courage to the people who have survived. We also convey our highest gratitude to those who are working as volunteers day & night in those adverse circumstances.

Glimpses of Seminar on "Decoding The Amended Companies (Cost Records and Audit) Rules, 2014" held at Grand Hotel, Mumbai on 25th & 26th April 2015



Mr. Manguirsh Pai Raiker, Co-Chairman, National Council for SME, ASSOCHAM lighting the lamp



Dignitaries on dais



CMA J. K. Budhiraja, Director (Professional Development), ICAI



Felicitation of Mr. Manguirsh Pai Raiker



Felicitation of CMA Chandra Wadhwa, Past President, ICAI



Felicitation of CMA Kunal Banerjee, Past President, ICAI



Felicitation of Mr. U. K. Joshi, Director, ASSOCHAM



CMA Chandra Wadhwa



Mr. Manguirsh Pai Raiker



Mr. U. K. Joshi



CMA Kunal Banerjee



View of Participants – 25th April 2015



View of Participants – 26th April 2015

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

12, SUDDER STREET, KOLKATA - 700 016.

11th April 2015

ELECTION TO CENTRAL COUNCIL

FINAL LIST OF NOMINATIONS

WESTERN INDIA REGIONAL CONSTITUENCY

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. Shri Amit Anand Apte, M/16105
11/7 Laxminarayan Nagar,
S.No. 11 & 12, Erandawane, Pune - 411 004. 2. Shri Pramodkumar Vithaldasji Bhattad, M/6095
General Manager (Finance), Western Coalfields Ltd.,
Coal Estate, Civil Lines, Nagpur - 440 001 3. Shri Dinesh Kumar Birla, M/7907
A/3 Nirant Apartment, Opp. Town Hall,
Ellis-Bridge, Ahmedabad - 380 006. 4. Shri Ashwin Gordhanbhai Dalwadi, M/8996
403, Ashirvad Complex, B/H Sardar Patel Seva Samaj,
Nr. Mithakhali Six Road, Ahmedabad - 380 006 5. Shri Vijay Prabhakar Joshi, M/22286
302 Sham Tower, 164/2 RNT Marg,
Opp. Hotel President, Indore - 452 004. | <ol style="list-style-type: none"> 6. Shri Srinivasan G. Narasimhan, M/7464
JER Mansion, 70, August Kranti Marg,
Grant Road, Mumbai - 400 036 7. Shri Ashok Bhagwandas Nawal, M/5720
701, Supriya Classic, Survey No: 112/1/3,
Baner Road, Baner, Pune - 411 045 8. Shri Samir Kumar Rakshit, M/11022
"Shraddhanjali" Netaji Chowk, Pipe Factory Road,
New Shantinagar, Raipur (C.G.) - 492 007 9. Shri Ashish Prakash Thatte, M/27543
504 Juniper Everest World,
Kolshet Road, Thane (West) - 400 607 10. Shri Rohit Jammadas Vora, M/5740
1103, Raj Sunflower, Royal Complex, Eksar Road,
Borivali (West), Mumbai - 400 062 |
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THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

12, SUDDER STREET, KOLKATA - 700 016.

11th April 2015

ELECTION TO REGIONAL COUNCIL

FINAL LIST OF NOMINATIONS

WESTERN INDIA REGIONAL COUNCIL

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. Shri Pradip Harilal Desai, M/12092
121, Devpath Complex, B/H Lal Bunglow, Off C.G.Rd., Ahmedabad 380 006 2. Shri Harshad Shamkant Deshpande, M/25054
1254, Sadashiv Peth, Sadbhav Sadanika,
Near Nimbalkar Talim, Pune - 411 030 3. Shri Mohan Dwarkanath Deshpande, M/36786
VP Finance, Shimnit Utsch India Private Limited,
8th Floor, Regent Chambers, Nariman Point, Mumbai - 21. 4. Shri Kailash Ratanlal Gandhi, M/24407
C-414, Venkateshwara Housing Society,
Station Road, Bhayander (West), Thane - 401 101 5. Shri Rajendra Prabhakar Gore, M/6355
Bldg. E - 7, Flat No: 604, Laketown Co-op. Hsg. Society
Near Chaitrabhan, Bibwewadi, Pune - 411 037 6. Shri Neeraj Dhananjay Joshi, M/24118
'CMA Pride' - 1st Floor, Plot No. 6, S.No. 16/6,
Erandwana Housing Soc., Erandawana, Pune - 411 004 7. Shri Vaibhav Prabhakar Joshi, M/15797
Block A-5, Parijat Mrugendra CHS Ltd., Kokadia Cross Lane,
Pai Nagar, SVP Road, Borivali (W), Mumbai - 400 092 8. Ms. Varsha Shyamprasad Limaye, M/12358
32, Navketan Society, Kothrud, Pune - 411 038 9. Shri Shriram Narayan Mahankaliwar, M/22055
Shriram & Co., A/15, NIT Complex, Opp. Sudama Theatre,
Gokulpeth, Nagpur - 440 010. 10. Shri Mriganka Maiti, M/9941
Finance Manager (E5), South Eastern Coalfields Limited,
Seepat Road, Bilaspur - 495 006 11. Shri Sukrut Kirit Mehta, M/29348
3/423 Ramjharukha, 71 S.V. Road, Andheri (W), Mumbai - 58. | <ol style="list-style-type: none"> 12. Shri Debasish Mitra, M/15379
B/502, Mayuresh Srishty Park, Off Lake Road,
Bhandup (W), Mumbai - 400 078 13. Shri Satya Narayan Mundra, M/28778
Vice President (Finance & Accounts),
Kutch Chemical Industries Ltd.,
20-21 Sara Niwas Harinager Soc., Gotri Road, Baroda - 07. 14. Shri PeriAppala Narasimha Murty, M/10177
A4, Ramalife City, Opp. Jain Int. School, Bilaspur - 495 001 15. Shri Narhar Krishnaji Nimkar, M/6493
3, Audumbar, Bhusari Colony, Paud Road, Kothrud, Pune - 411 038 16. Shri Laxman Digambar Pawar, M/17598
Pawar and Associates, 16, First Floor, Bhakti Complex
Behind Dr. Ambedkar Statue,
Mumbai Pune Road, Pimpri, Pune - 411 018 17. Shri Padmanabhan Sathya Narayanan, M/9962
D-101, Sai Sthaan CHS Ltd., Plot No. 4, 5, 6, Sector 29,
Opp. CIDCO Office, Nerul (East), Navi Mumbai - 400 706 18. Shri Pundalik Atmaram Sawant, M/6405
E-501, Consort, Holi Cross Link Road,
I.C. Colony Extn., Borivali (W), Mumbai - 400 103 19. Dr. Niranjan Shastri, M/27833
108 Ramchandra Nagar (Main),
Airport Road, Indore - 452 005. 20. Shri Ritesh Naimesh Talati, M/26963
602, Mathru Prabha Building, Cama Lane,
Kirol Road, Ghatkopar (W), Mumbai - 400 086. 21. Shri Yashodhar Shashikant Thakar, M/9688
305, Ujval Complex, 3rd Floor, Near Akota Stadium,
Akota, Vadodara - 390 020. |
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POLLING BOOTHS OF WESTERN INDIA REGIONAL CONSTITUENCY

Booth No.	ADDRESS
B-1	Aroma College of Commerce, Aroma College Campus, B/H Hotel Fortune Landmark, Ashram Road, Usmanpura, Ahmedabad - 380 013
B-2	M. P. Law College, Behind Nirala Bazar, Samartha Nagar, Aurangabad - 431 001
B-3	Shree Jayendrapuri Arts and Science College, Old National Highway No. 8, Bharuch - 392 001
B-4	BSP Senior Secondary School, Sector - 10, Bhilai - 490 006
B-5	Govt. Hamidia Arts & Commerce College, Hathikhana, Budhwara, Bhopal - 462 001
B-6	DAV Public School, Vasant Vihar, PO. SECL, Seepat Road, Bilaspur - 495 006
B-7	Radhabhai Sathe Kanyashala High School, Rajaji Road, Ramnagar, Opp. Bank of India, Dombivili (E)
B-8	Siddharth Law College, Sector 16, G.I.D.C. Road, Gandhinagar - 382 016
B-9	Indian Technical Institute of Management, 4 th Floor, Velho Building, Dr.R.S.Rd., Altinho, Panjim-403 001
B-10	Daly College, Residency Area, Indore - 452 001
B-11	M. P. Shah Commerce College, Arvind Marg, Jamnagar - 361 001
B-12	R.K.Talreja College of Arts Science & Commerce, Kalyan Ambernath Rd., Shivaji Chowk, Ulhasnagar - 3
B-13	Deshbhakt Ratnappa Kumbhar College of Commerce, Azad Chowk, Kolhapur - 416 002
B-14	Kamla Nehru College, Rani Mahal, Rani Road, Korba - 495 677
B-15	Academic Heights Public School, Moitry Bungalow, No. 3, Near Abhishek Apartments, Tagore Road, Adipur-Kutch - 370 205
B-16	Vedant International High School & Junior College, Savilia Park, Mira Road, Thane - 401 107
B-17	The Institute of Cost Accountants of India, Western India Regional Council, Rohit Chambers, Janmabhoomi Marg, Fort, Mumbai - 400 001
B-18	D. G. Ruparel College of Arts, Science and Commerce, Opp. Matunga Road Station (W. Rly.), SenapatiBapat Marg, Mahim, Mumbai - 400 016
B-19	SIES College of Arts, Science & Commerce, Sion (West), Jain Society, Mumbai - 400 022
B-20	Karmaveer Bhaurao Patil College, Sector-15 A, Vashi, Navi Mumbai - 400 703
B-21	Ramniranjan Jhunjunwala College of Commerce & Economics, Ghatkopar (West), Mumbai - 400 086
B-22	M. M. K. College of Commerce & Economics, 32nd Road, TPS III, Bandra (West), Mumbai - 400 050
B-23	St. Rocks College of Commerce & Science, Talephakri, Eksar Village, Near Aquaria Club, D.N. Mhatre Road, Borivali (West), Mumbai - 400 092
B-24	Parle Tilak Vidyalaya Associations Institute of Management, Chitrakar Ketkar Marg, Behind M. L. Dahanukar College, Vile Parle (E), Mumbai - 400 057
B-25	V. G. Vaze College, Kelkar Education Trust's, Mithagar Road, Mulund (East), Mumbai - 400 081
B-26	R.S. Mundle Dharampeth, Arts & Commerce College, North Ambazari Road, Nagpur - 440 010
B-27	B Y K (Sinnar) College of Commerce, Prin. T. A. Kulkarni Vidyanagar, College Road, Nasik - 422 005
B-28	Poona College of Arts, Science & Commerce, Hidayatulla Road, Camp, Pune - 411 001
B-29	Mahatma Phule Krishi Vidyapeeth, College of Agriculture, Shivaji Nagar, Pune - 411 005
B-30	ATSS College, C2, MIDC, Opp. Niramaya Hospital, Chinchwad Station, Pune - 411 019
B-31	O.P. Jindal School, Kharsia Road, Raigarh - 496 001
B-32	Government College of Science, G.E. Road, Raipur - 492010
B-33	Jyoti School, JayantCollery, Near Jayant Dispensary, Singrauli - 486 890
B-34	Walchand College of Arts & Science, Walchand Hirachand Marg, Ashok Chowk, Solapur - 413 006
B-35	SASCMA English Medium Commerce College, Near Lalbhai Contractor Stadium, Opp. Govardhan Temple (Haveli), Dumas Road, Vesu, Surat - 395 007
B-36	Dnyanasadhana College of Arts, Science & Commerce, Opp: Eastern Express Highway, Dyana Sadhana Marg, Near Eternity Mall, Sathewade, Thane - 400 604
B-37	The M. S. University of Baroda, Lokmanya Tilak Road, Opp. Yash Kamal Building, Near Kala Ghuda, Sayajigunj, Vadodara - 390 002

Campus Placement 2015

Campus Placement Programme for recently qualified CMAs was held at Mumbai on 10th/11th April 2015, at Shah Institute of Management Studies, Ghatkopar.

Following companies participated and selected total 20 students.

Evosys Global

Hindustan Unilever Ltd.

Meru Cabs Company Pvt. Ltd.

Saint Gobain

ITC Ltd.

KPMG

WIPRO

WIRC has arranged a Pre Campus Training Programme to equip the students for Campus on 3rd and 9th April 2015 at WIRC Office, Mumbai. Mr. Gurumeet Singh was the speaker for the sessions. Around 100 students attended the programme and benefited from the same.

"How to Prepare for Examination"

First time WIRC has organized a Seminar on "How to Prepare for Examination" for the benefit of the students of Intermediate and Final appearing for June 2015 Examination at WIRC Office, Fort Mumbai on Saturday the 18th April 2015.

CMA Shrenik S. Shah, Chairman Students Members and Chapters Co-ordination Committee, (SMCC), welcome the students and guided them for preparation for CMA Examinations.

CMA Chiranjib Das, (Jt. Director, Head - Academics Dept. and Tax Research Dept.) In Charge Director of Studies, also guided the students and provided technical points, brief the students about the pattern of the syllabus & weights given for each topics under syllabus 2012. CMA (Ms) Nayana Savala, Practicing Cost Accountant & the coordinator of the programme & CMA DarshanVora, Practicing Cost Accountant shared their experience with the students. The feedback received from the students were encouraging. CMA Shrenik Shah informed WIRC to continue such activities for the benefit of the students.

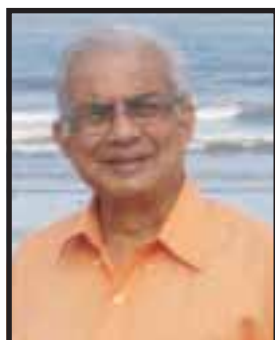
FELICITATION FUNCTION

WIRC has organised Felicitation Function for Foundation, Intermediate and Final Completed students of December 2014 Examination on Saturday the 18th April 2015 at Sydenham College of Commerce & Economics B Road, Churchgate Mumbai- 400 020.

CMA Virag Shah, Regional Head, Finance & Accounts, Power Grid Corporation of India Ltd, Vadodra, Gujarat was the Chief Guest, CMA Shrenik S. Shah, Chairman Students Members and Chapters Co-ordination Committee, WIRC - ICAI & CMA Chiranjib Das, Jt. Director-Studies, The Institute of Cost Accountants of India (ICAI) was also present. More than 100 students participated in the event and WIRC distributed sack to all Successful Students.

CMA Akshay Shah, young and enthusiastic CMA compared the entire Felicitation Function.

OBITUARY



Mr. G. R. Kulkarni (*Membership No. 780*), Mumbai, senior member of the profession, reached his heavenly abode on Friday, 3rd April 2015 at the age of 86. With his departure, we will be missing a veteran fellow member of our profession.

He was Chairman of WIRC, ICAI-CMA (1981-82).

His permanent contribution to the profession will be remembered in publication of numerous books, major being - Management Accounting System in Hotel & Management Accounting in Hospital. Two of his books were published by the Institute, viz. Managing the bottom line & Managerial Information Report for Operating Managers.

May his soul rest in peace.

Services Provided by A Government or A Local Authority And Implication of Service Tax

By Advocate Arun Sawant

As you are aware, with effect from 1st July 2012, the Service Tax Regime has undergone a complete overhaul and many of the activities (services) are now covered under the Service Tax ambit. Earlier, every activity (service), which attracts Service Tax, was clearly defined by way of specific nomenclature & definition of each service, however, since the definition of "service" is introduced, the onus is now shifted to the service provider and in some cases to service receiver under reverse charge mechanism to ascertain whether a particular activity is a service or not and failure to do so is either resulting into a duty liability or leading to a litigation.

For most of the services provided, where the liability of paying Service Tax is on the service provider, it is the responsibility of the service provider to understand whether any activity performed or refrained from performing by them is a service or not and if it is so, it becomes relatively easy to discharge the Service Tax liability considering the other aspects of the definition of service and chargeability section read with Place of Provision Rules. However, the same phenomenon becomes difficult for the Service Receiver in discharging their responsibility of payment of Service Tax under reverse charge mechanism. Our experience indicates that even the Service Provider is finding it a daunting task to define which activity (service) they carry out / perform or even do not carry out / refrain from performing falls under the Service Tax net after the sea-changes made in Service Tax Regime w.e.f. 1st July 2012. Many of us are amazed to understand now that even certain acts, viz. act not performed or failure to do it or refraining from doing it, are also now covered under the Service Tax ambit in view of a declared service and it has put all of us in a grave situation when it comes to discharging Service Tax Liability under reverse charge mechanism.

One of the significant amendment made to the Negative List of Services governed under Section 66D (a) (iv) of the Finance Act, 1994 as far as services by a Government or a Local Authority is very important to be understood. To understand the said amendment in its entirety, one needs to go through what was there earlier in the Section 66D (a) (iv) before the amendment is made, which is reproduced below for ready reference:

BEFORE THE AMENDMENTS

Quote:

"Section 66D:- Negative List of Service:- The negative list shall comprise of the following services, namely:-

- (a) services by Government or a local authority excluding the following services to the extent they are not covered elsewhere-
 - i) services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than Government;
 - ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
 - iii) transport of goods or passengers; or
 - iv) support services, other than services covered under clauses (i) to (iii) above, provided to business entities;"

Unquote:

The "Support Service" was defined under Section 65B (49) - "support services" means infrastructural, operational, administrative, logistic, marketing or any other support of any kind comprising functions that entities carry out in

ordinary course of operations themselves but may obtain as services by outsourcing from others for any reason whatsoever and shall include advertisement and promotion, construction or works contract, renting of immovable property, security, testing and analysis;

Also, if such support services are provided by the Government or a Local Authority, the liability of discharging Service Tax was shifted to the Service Receiver under reverse charge mechanism under Section 68(2) of the Finance Act, 1994 read with Notification No. 30/2012 ST dated 20/06/2012. For example, MOT charges paid for availing the Services of verification of export goods and sealing thereof by the Department of Excise, Government of India provided to a Business Entity is covered within Service Tax net under reverse charge mechanism since it fulfills all the condition of service taxability i.e. 1) the said service is provided by the Government, 2) the said service is provided to a Business Entity which they could have carried out themselves in ordinary course of operations since self-verification and self-sealing of export cargo is allowed and 3) the consideration by way of MOT charges are paid to the Government. There are many services of provided by a Government or a Local Body attract Service Tax under reverse charge before the said amendment.

AFTER THE AMENDMENT

Vide Clause No. 107 of Finance Bill, 2015, the Section 66D (a) (iv) of the Finance Act, 1994 has been amended, which will be made effective as the Central Government may by Notification in the Official Gazette appoints such date. The amended Section 66D (a) (iv) is reproduced below:

Quote:-

"Section 66D:- Negative List of Service:- The negative list shall comprise of the following services, namely:-

- (a) services by Government or a Local Authority excluding the following services to the extent they are not covered elsewhere-
 - i) services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than Government;
 - ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
 - iii) transport of goods or passengers; or
 - iv) any services, other than services covered under clauses (i) to (iii) above, provided to business entities;"

Unquote:

Also, vide Clause No. 105 (h) of Finance Bill, 2015, the definition of "support service" as defined under Section 65B (49) has been omitted and such omission will be made effective as the Central Government may by Notification in the Official Gazette appoints such date.

As soon as the Finance Bill, 2015 receives the assent of the Honourable President of India, the Government may make the above amendments effective by way of Notification in the Official Gazette.

Let us analyze the impact which these amendments, when made effective by the Government of India by a Notification, would make. First, almost all the services provided by the Government or a Local Authority to a Business Entity will get covered under the Service Tax net in as much as they meet the following "5 Point Test" code-named "SGBCE Test" (S-Service, G-Government, B-Business Entity, C-Consideration and E-Exempted & Negative List of Services):

1. Whether any activity carried out or done or refrained from doing it falls under the definition of a "Service" or not?
2. Whether such service is provided or agreed to be provided by the Government or a Local Authority?
3. Whether the recipient of such service is a Business Entity?
4. Whether there is a Consideration paid or payable for such activity / service?
5. Whether such activity carried out / service provided is covered under Exemption / Negative list of service or falls under exclusion portion of the definition of service?

If the answers to the above first four points of the SGBCE Test are "YES" and the answer to the last point of the said Test is "NO", then the Service Tax is payable by the recipient of the Service under reverse charge mechanism. If answers to any one of the first four points of the said Test is "NO", in that case Service Tax is not payable by the Service Recipient under Reverse Charge Mechanism. In view of the above, every Business Entity now needs to apply the above test while availing the services of a Government or a Local Authority and decide whether there is any service tax liability under reverse charge and if so, discharge such Service Tax liability by paying it by GAR-7 Challan and if such service availed is an input service, take a Cenvat Credit under the Cenvat Credit Rules, 2004.

As mentioned earlier, the major task still remains to be decided is whether a particular activity performed by one person for another is still a service or not. Also, in view of a declared service under Section 66E (e) "agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act", it is very difficult to arrive at a conclusion - which activity amounts to service and which does not. To ascertain whether any activity falls under the definition of a service or not, the following 8 Points "Service Test" needs to be applied:

1. Whether any activity constitutes merely - a transfer of title in goods or immovable property, by way of sale, gift or in any other manner?
2. Whether any activity constitutes - a transaction in money or actionable claim?
3. Whether any activity constitutes - a provision of service by an employee to the employer in the course of or in relation to his employment?
4. Whether any activity constitutes - fees taken in any Court or tribunal established under any law for the time being in force?
5. Whether any activity constitutes - the functions performed by the Members of Parliament, Members of State Legislative, Members of Panchayats, Members of Municipalities and Members of other local authorities who receive any consideration in performing the functions of that office as such member?
6. Whether any activity constitutes - the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity?
7. Whether any activity constitutes - the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or State Governments or local authority and who is not deemed as an employee before the commencement of this section?
8. Whether such activity is covered under Exemption List of Services / Negative List of Services?

If the answers to all the above 8 points (questions) are "YES", it is not a service under Finance Act, 1994 chargeable to service tax. If there is a service other than the service which does not meet above Service Test (which means answer to any one of the 8 points are "NO"), then such Service will squarely get covered under the Finance Act, 1994 and it is important to note that after arriving at a particular activity is a service will not per se attract Service Tax, which will predominantly depend on the following two conditions. Once the service is defined, which is covered under Finance Act, 1994, it is relatively

simple to decide whether such service attract service tax or not if it is subjected to the following two conditions - 2 Point Test - "Chargeability Test":

1. Whether such service is provided or agreed to be provided by a "Person" for "Another Person"?
2. Whether there is a consideration for such service?

If the answers to the above two conditions are positive "YES", then Service Tax become payable and if the answer to one of the above two conditions is negative "NO", then Service Tax is not payable on such service even though such service is covered under Finance Act, 1994. For example, a Manufacturing Unit of one Company is providing Technical Service to another Manufacturing Unit of the said Company for a consideration will not attract service tax since even though it is a service & there is a consideration for such service, such service is not provided by one person to another because it is provided to same person. Similarly, if such Technical Services are provided by one Company to Another Company without any consideration, still Service Tax is not applicable since there is no consideration paid. Which means if any one of the components i.e. 1) service or 2) by one person to another or 3) consideration is missing, Service Tax is not payable.

For interpretation of amended Section 66D (a) (iv) of the Finance Act, 1994, one needs to understand some of the following definitions:-

The "Business Entity" is defined under Section 65B (17) - "business entity" means any person ordinarily carrying out any activity relating to industries, commerce or any other business or profession.

The "Government" is defined under Section 65B (26A) - "Government" means the Departments of the Central Government, a State Government and its Departments and a Union Territory and its Departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with Article 150 of the Constitution or the rules made thereunder.

Needless to add, "Government" as well as "Business Entity" get covered under definition of a "person" as per Section 65B (37) of the Finance Act, 1994.

Now, once the above provisions and definition of the law are understood, to decide whether any Government or a Local Body Service will attract Service Tax under reverse charge or not, one need to apply the final test "SGBCE TEST":-

1. Whether there is an activity performed / service provided by the Government or a Local Authority which falls under the definition of Service as per "SERVICE TEST"?
2. Whether such activity is performed / service is provided by a Government or a Local Authority "Chargeability Test"?
3. Whether such activity is performed / service is provided to a Business Entity "CHARGEABILITY TEST"?
4. Whether there is a Consideration for such activity / service "CHARGEABILITY TEST"?
5. Whether such activity carried out / service provided is covered under Exemption / Negative list of service or falls under exclusion portion of the definition of a service under "SERVICE TEST"?

If the answers to all the above four points (questions) are "YES" and answer to the last point (question) is "NO", then the Service Tax under reverse charge is payable by the recipient of the service (Business Entity). However, if any one of the answers to the above first four points (questions) is "NO", in which case, the Service Tax is not payable under reverse charge by the recipient of the service (business entity) when the amendment to Section 66D (a) (iv) of the Finance Act, 1994 is made effective.

Whenever there is a new service / activity is covered under the Service Tax ambit, there are a lot of confusions or different interpretations made and one of the interpretation is - if a service provided by a Government or a Local Body

falls under a sovereign function of the Government or a Local Body or if such service is provided for non-profit motive, then it will not attract Service Tax under reverse charge mechanism. There are various case laws decided by the Honourable Supreme Court wherein nobody is allowed to add words in the basic provisions of the statute except the Parliament, which has the authority to make law, amend, change and add words therein. What is allowed is the interpretation of the statute by the Courts when there is more than one meanings possible or there is any question of law to be decided. The kind attention is invited to the decision of the Honourable Supreme Court in the case of Smt. Tarulata Shyam v. CIT [1971] 108 ITR 345 (SC) - wherein it is held that there is no scope for importing into the statute words which are not there. Such importation would be, not to construe, but to amend the statute. Even if there be a casus omissus, the defect can be remedied only by Legislation and not by judicial interpretation. Also, it was held by the Honourable Supreme Court in the case of CED v. R. Kanakasabai [1973] 89 ITR 251 (SC) that addition of certain words in the statute which cannot be allowed in interpreting the statute. It is impermissible for the court to read into a taxing

provision any words which are not there or exclude words which are there. The words found in the provision must be given their natural meaning. In view of this, the words "any service" appearing in Clause (iv) of Section 66D (a) includes all the functions and all the activities / services of the Government or a Local Authority irrespective of whether such functions / activities / service is of a sovereign, commerce, business, non-profit nature or not. Also, the rule of Strict & Literal Interpretation has to be applied in the cases where there is no other meaning than the one possible or there is no ambiguity in the tax statutes. In view of this, almost all the Government or a Local Authority Services are now covered under Service Tax net under reverse charge mechanism in as much as such service is provided to a 1) Business Entity and 2) there is Consideration paid and 3) is not a Service covered under 8 Point Test "SERVICE TEST".

Given below are some of the activities / services provided by Government which will get covered under the Service Tax net under reverse charge and some of them will not get covered under amended Section 66D (a) (iv) of the Finance Act, 1994 is made effective:

General Description of Service / Charges / Fees	Nature of Service	Consideration	Whether ST is payable under Sec 66D(a) (iv)	Why ST under Reverse Charge under Section 66D (a) (iv) is payable or not with remark and reasons thereof.
MOT Charges	Inspection of Export Cargo & Sealing thereof.	MOT Charges.	Yes	Since such service is provided by the Department of a Government to a Business Entity and the consideration is MOT charges, ST is payable under reverse charge.
Application Fees for obtaining Advance Authorization / EPCG / DFIA / SHIS etc.	Processing of Application for issue of the Authorization.	Application Fees.	Yes	Yes, since such service is provided by a Department of a Government to a Business Entity for a consideration (application fees). The application fees paid is not the cost of the Authorization itself, this is because the cost of the DFIA / DEPB Authorizations are the money one gets when such Authorizations are transferred or sold to another, which will be considered as goods, however, application fees, by any stretch of imagination is not a cost of goods, but the charges for processing of the application. Also, even though we consider the Advance Authorization / EPCG as the goods, the cost of such goods is equal to the exemption of duty being claimed and not the processing fees, which is a consideration paid to Government for processing the Authorisations.
Passport Fees / Driving Licence Fees.	Processing of Passport / Driving Licence	Passport Fees / Driving Licence Fees.	No.	Even though it is a service provided by the Department of a Government, it is provided to an individual and not to the Business Entity and hence not covered. Also such service is covered under Negative List of Service as per Section 66D (a) of the Finance Act, 1994 and hence not taxable. Failure to pass the SGBCE TEST.
Building Plan Approval Fees	Processing of Application for passing or approval of Building Plans.	Approval Fees	Yes / No	If such service is provided by a Local Authority to a Business Entity, it is taxable (Passing SGBCE TEST) and if such service is provided to an individual, it will not be taxable (Failing SGBCE TEST).
Water Charges	Providing waters to citizens	Water Charges	No	Irrespective of whether such water is provided to a Business Entity or to an Individual, the water charges are the cost of water, which is goods, which falls under the exclusive definition of service 8 Point SERVICE TEST.
Collection of Service Tax, Excise, VAT / CST, Municipal Taxes.	Collection of Taxes	No Amount charged for collection of Tax except the Taxes itself	No	Actually, there is no service of collection of Taxes provided by the Government since it is the liability and responsibility of the assessee to pay the taxes and the Government responsibility is to enforce Tax Laws, monitor & control payment of taxes by the assessee by way of inspection and audit etc., for which here is no consideration paid and hence not a service. Even though it is assumed that there is a service provided by a Department of a Government to a business entity or to an individual for collection of tax, it is just a collection of taxes (transaction in money) without a consideration, which is covered under exclusion definition of service 8 Point SERVICE TEST as well as CHARGEABILITY TEST and hence ST is not payable under reverse charge.
2G / 3G Licence Fees	Allocation of the frequency for internet / telephony service	Licence Fees	Yes	Allocation of right to use the frequency (internet / telephony) is provided by a Department of a Government to a Business Entity to enable them to further providing the services of internet / telephony to their customers is a service (Passing the SERVICE TEST) and ST under reverse charge is payable.

General Description of Service / Charges / Fees	Nature of Service	Consideration	Whether ST is payable under Sec 66D(a) (iv)	Why ST under Reverse Charge under Section 66D (a) (iv) is payable or not with remark and reasons thereof.
Allocation of Coal Blocks for mining and use of coal captively	Allocation / right to use the coal block (i m m o v a b l e property)	Licence Fees	Yes	There are two types of leases - Operating Lease & Long Term Lease of Immovable Property. Since in long term lease, the lessee gets the right of ownership of the asset, transfer of ownership to other by way of sub-lease or assign it by way of deed of assignment or mortgage such right for raising loans and there is no clause of returning back the one time premium paid for such right which are of capital nature, which are akin to sale & transfer of ownership and less to renting service, in which case Service Tax is not payable falling under the exclusion portion of service i.e. sale of immovable property (Failing the SGBCE TEST) as per the ratio laid down in the case of Krishak Bharati Cooperative Ltd. V/s. DCIT, Delhi HC & GNIDA case. However, if the Operating Lease does not permit the right to transfer, assign and mortgage it, but only allows the lessee to enjoy the assets i.e. operating permissions with sharing profit or not, it cannot be termed as transfer of immovable property and will get covered under the definition of service (Passing the SERVICE TEST) and Service Tax under reverse charge is payable under reverse charge.
Registration Fees for registering Title Documents.	Registration of Documents and preserving a records thereof.	Registration Fees.	Yes / No.	Since registration fees are collected for providing the service by a State Government Department for registration of the Title Documents and preservation thereof in their records to a Business Entity, ST under reverse charge is payable (Passing SGBCE TEST) and if the same is paid by an individual, ST is not payable since it is covered under Negative List of Service as per Section 66D (a) of the Finance Act, 1994 as well as it fails SGBCE TEST.
Filing Fees paid to Registrar of Companies.	Activity of noting the changes or accepting the Forms and maintaining records thereof.	Filing Fees.	Yes.	Service is provided by the Department of a Central Government for consideration (filing fees) to a Business Entity, ST is payable under Reverse Charge (Passing SGBCE TEST).
Fees paid under Right to Information Act.	Providing of information / documents.	RTI Fees.	No.	Since such service is provided by the Department of a Government to an individual, ST is not payable under reverse charge under S.66D (a) (iv) because it fails SGBCE TEST and covered under Negative List of Service as per Section 66D (a) of the Finance Act, 1994.
Deduction made by Government Departments from the Deposit of the Service Provider (construction contract) for poor quality of construction service.	Tolerating the act of providing poor quality of construction service.	Deduction amount from the Deposit.	Yes	Since tolerating act by the Government Department of poor quality of construction is a service covered under a Declared Service under Section 66E (e) of the Finance Act, 1994 and the consideration for such service is the amount so deducted from the Deposit, hence Service Tax under reverse charge is payable by the service provider in the present case, which is now acting as a service recipient (Passing SGBCE TEST).
Service Charges and Annual Rents collected by Gujarat Industrial Development Corporation.	Services provided to industries and rents charged to the industries on annual basis.	Service Charges and Annual Charges.	No.	Even though the element of service provided by one person to another for a consideration is present in the said activity, ST under reverse charge is not payable since GIDC is not a Government and it fails the SGBCE TEST and does not get covered under Section 66D (a) (iv). However, in such case, the GIDC is liable to pay Service Tax as service provider.
Application Fees for Appeals / Delay of Condonation Application paid to CESTAT.	Activity of hearing Appeal and Processing of Condonation of Delay Application by the Tribunal	Application Fees.	No.	Such service falls under the exclusion portion of the definition of Service under SERVICE TEST (Point No. 4) and hence not taxable under Service Tax nor under reverse charge under Section 66D (a) (iv).
Deposit paid to CESTAT for hearing the appeal.	Hearing the Appeal	Deposit Money	No.	Since the said service falls under the exclusion portion of the definition of Service under SERVICE TEST (Point No. 2 & 4) and hence not taxable under Service Tax nor under reverse charge under Section 66D (a) (iv).

Please note the above examples are given for an illustration purpose only and one needs to take due care and ensure wisdom in taking decisions in taking decisions whether a particular activity or a service provided by a Government or a Local Authority is taxable under reverse charge or not. Also, in the above examples, only the applicability of Service Tax after the amendment to Section 66D (a) (iv) when made effective is considered. Further, please note that any Government Service provided to an individual as well as any Government Services provided to a Business Entity without a consideration will not get covered under the Service Tax liability under reverse charge since it is covered under Negative List of Service as per Section 66D (a) of the Finance Act, 1994. Only services provided by Government or a Local Authority to a business entities are covered under reverse charge mechanism except the exclusions portion of service as explained herein-above in SERVICE TEST. Please also note that when any liability of Service Tax is discharged, the thresh-hold limit of exemption of Rs. 10.00 Lacs is not applicable and even a small consideration viz. Rs. 1/- paid for a service which is taxable under reverse charge, Service Tax liability is payable.

It is amply clear that one of the intentions of the Government for bringing this amendment seems to be preparing for a GST Regime, where a very few service activities will be given exemption or will get covered under negative list of services.

As you will notice here, there are various pre-tests to be performed, which may sound like medical tests. However, it is always recommended to go in for these tests before the actual disease (Duty Liability, Penalty, Fine) occurs, which would always be painful, difficult to be treated, involve treatment costs and repercussions thereof will always be harmful resulting into bereavement of financial resources & a peace of mind. "Prevention is always better than Cure!"

Even though an attempt has been made here to help understand a plethora of basic provisions of Law, Sections, Rules, Notifications and interpretation thereof by way of application of various simple sine qua non tests (SERVICE TEST & SGBCE TEST) and examples given here-in-above to decide whether Service Tax under reverse charge is payable or not when services are provided by a Government & a Local Authority to a Business Entity, it is imperative for the assesses concerned to go through the basic provisions of law once again in view of the complexities involved in understanding the provisions of the law and interpretation thereof, which may differ from case to case before reaching to a final conclusion, otherwise one has to go through a risk of litigation. Even though all attempts are made to make interpretation of the provisions of Service Tax applicability on Government & Local Authority Services as simple as possible, however, out of abundant precautions, one is advised to consult the expert or seek second opinion if he / she finds it difficult to apply the above tests in a particular case / situation under question before them to arrive at a final decision since the burden of paying Service Tax is casted on the Service Recipient under Section 66D (a) (iv) of the Finance Act, 1994 and failure to do so will attract litigation, tax liability with penalty and fines - making an assessee to be a funambulist.

Take up one idea. Make that one idea your life – think of it, dream of it, live on 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**

North Mumbai CEP Study Circle for the Members of the Institute of Cost Accountants of India

Announces

Inaugural Programme on Equipping Cost Accountants for Management Consultancy

Date : Saturday, 9th May, 2015
Time : 4.00 p.m. to 7.00 p.m.
Venue : Parle Tilak Vidyalaya Association's Institute of Management, Hanuman Road, Vile Parle (E), Mumbai - 400 057
Speaker: **Prof. Parimal Merchant** (Director, S P Jain School of Global Management)
Fees : **Rs. 100/-** (Inaugural Offer)

(2 CEP hours for the members of The Institute of Cost Accountants of India)

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I hereby declare that the particulars given above are true to the best of my knowledge and belief.

Sd/-

30th April 2015

Shrenik S. Shah



CMA Chiranjib Das addressing students on 'How to Prepare for Examination' organised by WIRC on 18-04-2015. Also seen CMAs Nayana Savala & Shrenik Shah

View of students during programme on "How to Prepare for Examination" organised by WIRC on 18th April 2015.

Glimpses of Students Felicitation Function organised by WIRC on 18th April 2015, at Sydenham College, Churchgate



CMA Shrenik Shah, Chairman - Students Members and Chapters Co-ordination Committee, WIRC-ICAI inaugurating the function by lighting the lamp.



Felicitation of CMA Virag Shah, Regional Head, Finance & Accounts, Power Grid Corporation of India Ltd.



Felicitation of CMA Chiranjib Das, Jt. Director, Studies - ICAI



CMA Shrenik Shah



CMA Chiranjib Das



CMA Virag Shah



CMA Akshay Shah compering the felicitation function



View of students



Final passed students along with dignitaries



Glimpses of Campus Placement held at Shah Institute, Ghatkopar, Mumbai on 10th and 11th April 2015



CMA Shrenik Shah addressing the students



Presentation - ITC



Presentation - KPMG



Presentation - Evosys Global



Presentation - Saint Gobain



Presentation - Wipro



Presentation - Meru Cabs

NOTICE – EXTRAORDINARY GENERAL MEETING

In terms of Regulation 137 of the Cost and Works Accountants Regulation 1959, Notice is hereby given that Extraordinary General Meeting of the Members of Western India Regional Constituency of the Institute of Cost Accountants of India will be held **on Thursday, 14th May 2015 at 6.00 p.m. at WIRC Office, Rohit Chambers, 4th Floor, Janmabhoomi Marg, Fort, Mumbai 400 001** to transact the following business:

AGENDA: To Appoint Auditors for the year 2014-15 and fix their remuneration.

Place : Mumbai

Date : 19-04-2015

Sd/-



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