

BHUJ BRANCH OF WIRC OF ICAI

E-NEWSLETTER FOR THE MONTH OF APRIL-2021

(FOR PRIVATE CIRCULATION ONLY)

CA. Ramesh Pindolia

Chairman & Treasurer
9825662808

CA. Purvi Mehta

Vice Chairman, Secretary &
WICASA Chairman
9374338587

CA. Jitendra Thacker

Imm.Past Chairman
9825537937

CA. Hardik P.Thacker

Member
9825858580

CA. Ashish Gadhavi

Member
9925738543

CA. Priti Savla

Branch Nominee (WIRC)

CA Jagrut Anjaria

Newsletter Advisor
9426788728

Address:-

Hall No. 2,

Katira Complex-2

Sanskar Nagar

Bhuj-Kachchh

Phone:-258580; 9925738543

E-mail:-

bhujbranch.wirc@gmail.com

DISCLAIMER

The views and opinions expressed or implied in this newsletter are those of the authors and do not necessarily reflect those of the Branch. The Branch is not in any way responsible for the result of any action taken on the basis of views and opinions expressed in this newsletter.

IN THIS EDITION

CHAIRMAN'S COMMUNICATION

RECENT CASE LAWS

01. When The Hon'ble Supreme Court finds no ground to allow the prosecution to continue:

02. Validity Of a Notice u/s 142(1) When ROI Is Filed & Notice Barred By Limitation As Additional Ground

CA Jagrutkumar A Anjaria

CURRENT DEVELOPMENTS

Mandatory Use Of Accounting Software Having Audit Trail

Vidhi Bhanushali

ICAI ANNOUNCEMENTS

BRANCH COMMITTEE

BRANCH SUB COMMITTEES

EVENTS IN IMAGES



***CHAIRMAN'S
COMMUNICATION***

Respected Members,

Greetings and Best Wishes for the New Fiscal Year 2021-22

March 2021 was the first month for the new office bearer of Year 2021-22. We have organised a Women's Day celebration with Seminar on Financial Literacy (Awareness) for womens by Past Chairperson and expert faculty in this filed CA Bhavee Thacker has shared expert knowledge & clear the doubts related to Basic Banking, Investments, Insurance, Cards & Online Banking and Basics of Loan with the female members and female students of Bhuj Branch as well as with the various Mahila Mandals of Bhuj like Nagar Mahila Mandal, VBC Mahila Mandal, Lohana Mahila Mandal, Flemingo & Wallcity Innerwheel and Lions Queens. We have also arranged 02 hours CPE Seminar on “How to Face....A Faceless E-Assessment by expert faculty CA Sanjay Pandya. I am sure that this seminar would definitely helpful for Members to handle faceless e-assessment.

Professionally, for members in practice the month of April is generally dominated by Bank Branch Audits. This time we have arranged 04 hours CPE Seminar on Bank Branch Audit by eminent faculty CA Hitesh Pomal (RCM WIRC) and CA Bhavee Thacker. I am sure these seminar would helped our members to clarify their doubts and develop expertise in this area.

“Safety” and “Security” of you and your family along with people working for you is the top priority for each of the professional. I would urge all members to take due precautions in COVID situations.

The challenges in our profession and the expectations are high and hence there is a need for each one of us to promote the ultimate goal to pursue **PROFESSIONAL EXCELLENCE** while maintaining **INTEGRITY** and **COMMITMENT**.

With COVID-19, we all have now realised the importance of health and fitness. Regular exercises and taking care of health not only boosts our immune system, but also helps us reduce stress & anxiety, prevent weight gain and also improves our sleep. While the work goes on all the time, our next tax & audit season will start from July onwards. The months of **April, May and June 2021** can be utilised to give time to ourselves, focus on health and take the learnings ahead in the remaining months too to maintain a healthy lifestyle.

SINCERELY YOURS

I would end on the thought that “Physical fitness is the first requisite of happiness.” Let us be fit physically and mentally and discharge our duties to the best of our abilities.

Warm Regards

CA Ramesh Pindolia

Chairman, Bhuj Branch of WIRC of ICAI

When The Hon'ble Supreme Court Finds No Ground To Allow The Prosecution To Continue:

(Union of India v/s Pravir Kumar Shaw & Anr)

CA Jagrutkumar Avinash Anjaria

B.Com., FCA, DISA(ICAI)

In this article we are going to read an interesting judgment pronounced by the Hon'ble Supreme Court of India. The subject matter of the decision pertains to Sections 276C, 277 and 278B of the Income Tax Act. Section 276C is about "Willful attempt to evade tax, etc;" Section 277 is about "False statement in verification, etc" and 278B is about "Offences by companies." All these sections fall under the Chapter "Offences and Prosecutions" and consequently seek to impose criminal liability on the person on the wrong side of these sections.

While dealing with prosecution initiated under the Criminal Procedure Code, the Hon'ble Supreme Court has taken recourse to Section 482 of the Criminal Procedure Code. The judgment goes on to define and explain the scope and ambit of section 482. The power under this section can be exercised by a High Court. This section carries two inherent powers. First, it empowers the High Court to "do real and substantial justice" and second, "to prevent the abuse of the process of the Court." The judgment goes on to caution that such powers are to be exercised sparingly, carefully and with much circumspection."

After expressing the note of caution as to when and how to use this special power, the judgment, in the very next line, goes on to speak its mind as to why and how the exercise of such power is justified in the case under consideration. The judgment, broadly, talks about three points that convinced it of the justification of exercise of this power: the points enumerated are:

1. The entire liability (tax and penalty) has been paid
2. There has not been any loss to public exchequer
3. Eleven years have elapsed

Apart from these three immediate points, the judgment also seems to be hinting at the opinion that when no useful purpose appears to be served by

continuing with such prosecution, the proceedings ought to be quashed. It will not be inappropriate to read in these lines that the judgment seems to be hinting that the prosecution is not likely to serve any useful purpose, mainly for the three reasons enumerated above.

The judgment further goes on to make a very pertinent observation. It says that though the Act has provided for criminal prosecution, the matters continue to pertain to wrong disclosure of income. Hence, the elements of the offence are more like civil liability and what they attract are tax and penalty. Following up on this observation of the inherently civil nature of the offence, the judgment further notes two things; One, petitioners have been paying tax regularly, two, they have not been prosecuted before or after this incident. On a combined reading of these, the judgment observes that if the case is allowed to continue it would only amount to harassment to the petitioner (and serve no other useful purpose, which was observed earlier).

The judgment concludes by quashing the criminal prosecution.

We can try summarise a few “takeaways” from the total reading of the judgments:

- Wrong disclosure of income and tax are inherently liability of civil nature
- If repeated breaches are not made, if the default is an exception and one is otherwise regular and honest in discharge of liabilities, it might come to the rescue in such criminal proceedings.
- Subsequent discharge of liability (tax and penalty) and the fact of exchequer not being at a loss might well be reliable defences.
- Passage of long time from the commitment of offence, lodging of prosecution might play a role in deciding whether the prosecution is likely to serve any useful purpose.
- If the purpose of the Law behind envisaging the powers to prosecute is “retribution,” the imposition of penalty already serves that purpose. In other words, penalty and prosecution can be argued as “alternative measures” intended to serve the same purpose and consequently, if penalty is imposed, prosecution could possibly be dropped as a remedy.

Validity Of a Notice u/s 142(1) When ROI Is Filed & Notice Barred By Limitation As Additional Ground

(Sajan Kumar jain v/s. DyCIT)

CA Jagrutkumar Avinash Anjaria

B.Com., FCA, DISA(ICAI)

This article is based on a very recent judgment of the Hon'ble Delhi Bench of the Income Appellate Tribunal. The judgment was pronounced on 16-03-2021 and is a very small one.

The judgment deals with two small aspects; admissibility of an additional ground and the validity of a notice issued under section 142(1) when return of income was already filed by the assessee.

First issue is the admissibility of additional plea (ground) for the first time at the level of the ITAT. The facts are as under;

- Regular return was submitted on 20-03-2017
- Notice under section 143(2) was issued on 16-10-2017
- Last date for issueance of notice under 143(2) would be 30-09-2017
- The plea that the notice under section 143(2) was time barred was raised before the Tribunal for the first time and was never raised before the lower authorities

The tribunal went on to admit this additional plea (ground). The Tribunal explains the rationale behind the decisions to admit the additional plea on the following lines

- This was a challenge to the jurisdiction of the Assessing Officer
- Such a challenge goes to the root of the matter
- The ratio laid down by the Hon'ble Supreme Court in the case of NTPC 229 ITR 383 directs that the additional plea to be admitted in such circumstances

Though the judgment does not specifically refer to applicability of section 292BB and whether that section will come to the rescue of the notice to deem it as valid, it is clear that the Tribunal is of the conclusion that the notice shall

not be saved by the provisions of section 292BB. The mention of “challenge to the jurisdiction of the Assessing Officer” is sufficient to take section 292BB out of the picture as it is a fairly settled law that section 292BB fails to make a notice valid in case where it is challenged on the ground of jurisdiction.

The takeaway from the above judgment may be that in case there is a challenge to the jurisdiction, the plea of notice being barred by the limitation can be taken at a later stage of the proceeding and got admitted at a later stage of appellate proceeding.

The second issue relates to the validity of a notice under section 142(1) requiring the assessee to furnish a return of income where a return of income was already filed under section 193(1)

The facts of the case were as under

- Original Return under section 139(1) was filed on 20-03-2017
- That return was processed under section 143(1) on 20-05-2017
- Case was transferred to Central Circle pursuant to search operation carried out on 18-11-2015
- A notice under section 142(1) was issued on 22-07-2017 asking the assessee to file Return of Income within 15 days.

The Tribunal arrived at the following conclusion:

- Issue of Notice under section 142(1) asking the assessee to furnish fresh return is INVALID
 - Once a valid Return of Income was available on record, which was already processed
- As the issue of notice itself was invalid, subsequent proceedings become void ab initio.

Mandatory Use Of Accounting Software Having Audit Trail

Vidhi Bhanushali

B.Com.

Awaiting membership

The Ministry of Corporate Affairs has mandated every company that uses accounting software to maintain its books of accounts to only use software that has the feature to record audit trail of each and every transaction put through after April 1.

Also, Companies have now been mandated to create edit log of each change made in account books with the proper dates. As per the amendments, companies must ensure that the audit trail is not disabled.

The Intent

These reflect a laudable intent of the government to bring in more transparency and improve compliance. The objective seems to be to detect manipulation of electronic accounting records by management of corporates to play a fraud on the interests of stakeholders and in the process, defeat the object and purpose of law.

The Concerns

The notification has an impact on businesses, auditors and software providers. There are concerns that emanate from the operational areas of businesses and there are still details that remain unclear that do need to be understood and highlighted.

- While audit trail aims to track, penalize and discourage fraudulent changes in accounting entries, it is important to note that there is an aspect of 'human error' also involved in this subject. One such example among the many is, 'while making a sales entry of INR 1990, if the user by mistake types INR 1099, they will need to change the same afterwards to reflect the on-ground reality.' This, however, will also get recorded in the audit trail and may lead to unnecessary difficulties for

both the auditor and the business in question.

- Although from an accounting and control perspective, audit trail has existed since decades, businessmen as well as the accounting community supporting them do not fully understand the same.

The above amendment shall be applicable from 1st April 2022.

Corporate Laws & Corporate Governance Committee The Institute of Chartered Accountants of India

26th March, 2021

ANNOUNCEMENT

Sub: Amendment in the provisions of Rule 11 of Companies (Audit and Auditors) Rules, 2014, to include additional matters in the Auditor's Report, w.e.f. 01st April 2021

This is to inform you that the Ministry of Corporate Affairs has issued a notification dated 24.03.2021 amending the provisions of Rule 11 of Companies (Audit and Auditors) Rules, 2014, to include additional matters in the Auditor's Report, w.e.f. 01st April 2021.

The analysis of pre and post amendment of additional matters to be included in the Auditor's Report is as follows:

S No.	Rule	Pre-Amendment	Post-Amendment
1	Rule 11 of Companies (Audit and Auditors) Rules, 2014	The auditor's report shall also include their views and comments on the following matters, namely:- a) Whether the company has disclosed the impact, if any, of pending litigations on its financial position in its financial statement. b) Whether the	The auditor's report shall also include their views and comments on the following matters, namely:- a) Whether the company has disclosed the impact, if any, of pending litigations on its financial position in its financial statement. b) Whether the

company has made provision, as required under any law or accounting standards, for material foreseeable losses, if any, on long term contracts including derivative contracts.

c) Whether there has been any delay in transferring amounts, required to be transferred, to the Investor Education and Protection Fund by the company.

d) Whether the company had provided requisite disclosures in its financial

company has made provision, as required under any law or accounting standards, for material foreseeable losses, if any, on long term contracts including derivative contracts.

c) Whether there has been any delay in transferring amounts, required to be transferred, to the Investor Education and Protection Fund by the company.

d) Omitted
e) (i) Whether the management has represented that, to the best of it's knowledge and

Announcement

Criteria for classification of Non-company entities for applicability of Accounting Standards

The Council, at its 400th meeting, held on March 18-19, 2021, considered the matter relating to applicability of Accounting Standards issued by The Institute of Chartered Accountants of India (ICAI), to Non-company entities (Enterprises). The scheme for applicability of Accounting Standards to Non-company entities shall come into effect in respect of accounting periods commencing on or after April 1, 2020.

1. For the purpose of applicability of Accounting Standards, Non-company entities are classified into four categories, viz., Level I, Level II, Level III and Level IV.

Level I entities are large size entities, Level II entities are medium size entities, Level III entities are small size entities and Level IV entities are micro entities. Level IV, Level III and Level II entities are referred to as Micro, Small and Medium size entities (MSMEs). The criteria for classification of Non-company entities into different levels are given in Annexure 1.

The terms 'Small and Medium Enterprise' and 'SME' used in Accounting Standards shall be read as 'Micro, Small and Medium size entity' and 'MSME' respectively.

2. Level I entities are required to comply in full with all the Accounting Standards.

3. Certain exemptions/relaxations have been provided to Level II, Level III and Level IV Non-company entities. Applicability of Accounting Standards and exemptions/relaxations to such entities are given in Annexure 2.

4. This Announcement supersedes the earlier Announcement of the ICAI on '**Harmonisation of various differences between the Accounting Standards**

issued by the ICAI and the Accounting Standards notified by the Central Government' issued in February 2008, to the extent it prescribes the criteria for classification of Non-company entities (Non-corporate entities) and applicability of Accounting Standards to non-company entities, and the Announcement '**Revision in the criteria for classifying Level II non-corporate entities'** issued in January 2013.

5. This Announcement is not relevant for Non-company entities who may be required to follow Ind AS as per relevant regulatory requirements applicable to such entities.

6. The changes arising from this Announcement will be incorporated in the Accounting Standards while publishing the updated Compendium of Accounting Standards.

Annexure 1

Criteria for classification of Non-company Entities as decided by the Institute of Chartered Accountants of India

Level I Entities

Non-company entities which fall in any one or more of the following categories, at the end of the relevant accounting period, are classified as Level I entities:

(i) Entities whose securities are listed or are in the process of listing on any stock exchange, whether in India or outside India.

(ii) Banks (including co-operative banks), financial institutions or entities carrying on insurance business.

(iii) All entities engaged in commercial, industrial or business activities, whose turnover (excluding other income) exceeds rupees two-fifty crore in the immediately preceding accounting year.

(iv) All entities engaged in commercial, industrial or business activities having borrowings (including public deposits) in excess of rupees fifty crore at any time during the immediately preceding accounting year.

(v) Holding and subsidiary entities of any one of the above.

Level II Entities

Non-company entities which are not Level I entities but fall in any one or more of the following categories are classified as Level II entities:

(i) All entities engaged in commercial, industrial or business activities, whose turnover (excluding other income) exceeds rupees fifty crore but does not exceed rupees two-fifty crore in the immediately preceding accounting year.

(ii) All entities engaged in commercial, industrial or business activities having borrowings (including public deposits) in excess of rupees ten crore but not in excess of rupees fifty crore at any time during the immediately preceding accounting year.

(iii) Holding and subsidiary entities of any one of the above.

Level III Entities

Non-company entities which are not covered under Level I and Level II but fall in any one or more of the following categories are classified as Level III entities:

(i) All entities engaged in commercial, industrial or business activities, whose turnover (excluding other income) exceeds rupees ten crore but does not exceed rupees fifty crore in the immediately preceding accounting year.

(ii) All entities engaged in commercial, industrial or business activities having borrowings (including public deposits) in excess of rupees two crore but does not exceed rupees ten crore at any time during the immediately preceding accounting year.

(iii) Holding and subsidiary entities of any one of the above.

Level IV Entities

Non-company entities which are not covered under Level I, Level II and Level III are considered as Level IV entities.

Additional requirements

(1) An MSME which avails the exemptions or relaxations given to it shall disclose (by way of a note to its financial statements) the fact that it is an MSME, the Level of MSME and that it has complied with the Accounting Standards insofar as they are applicable to entities falling in Level II or Level III or Level IV, as the case may be.

(2) Where an entity, being covered in Level II or Level III or Level IV, had qualified for any exemption or relaxation previously but no longer qualifies for the relevant exemption or relaxation in the current accounting period, the relevant standards or requirements become applicable from the current period and the figures for the corresponding period of the previous accounting period need not be revised merely by reason of its having ceased to be covered in Level II or Level III or Level IV, as the case may be. The fact that the entity was covered in Level II or Level III or Level IV, as the case may be, in the previous period and it had availed of the exemptions or relaxations available to that Level of entities shall be disclosed in the notes to the financial statements. The fact that previous period figures have not been revised shall also be disclosed in the notes to the financial statements.

(3) Where an entity has been covered in Level I and subsequently, ceases to be so covered and gets covered in Level II or Level III or Level IV, the entity will not qualify for exemption/relaxation available to that Level, until the entity ceases to be covered in Level I for two consecutive years. Similar is the case in respect of an entity, which has been covered in Level II or Level III and subsequently, gets covered under Level III or Level IV.

(4) If an entity covered in Level II or Level III or Level IV opts not to avail of the exemptions or relaxations available to that Level of entities in respect of any but not all of the Accounting Standards, it shall disclose the Standard(s) in respect of which it has availed the exemption or relaxation.

(5) If an entity covered in Level II or Level III or Level IV opts not to avail any one or more of the exemptions or relaxations available to that Level of entities, it shall comply with the relevant requirements of the Accounting Standard.

(6) An entity covered in Level II or Level III or Level IV may opt for availing certain exemptions or relaxations from compliance with the requirements prescribed in an Accounting Standard:

Provided that such a partial exemption or relaxation and disclosure shall not be permitted to mislead any person or public.

(7) In respect of Accounting Standard (AS) 15, *Employee Benefits*, exemptions/relaxations are available to Level II and Level III entities, under two sub-classifications, viz., (i) entities whose average number of persons employed during the year is 50 or more, and (ii) entities whose average number of persons employed during the year is less than 50. The requirements stated in paragraphs (1) to (6) above, mutatis mutandis, apply to these sub-classifications.

MANAGING COMMITTEE & SUB COMMITTEES



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by Act of Parliament)

BHUJ BRANCH OF WIRC OF ICAI

MANAGING COMMITTEE FOR THE YEAR 2021-22

Sr. No.	Name	Mobile No.	Satus	Photo
1	Ramesh Pindolia	9825662808	Chairman & Treasurer	
2	Purvi Mehta	9374338587	Vice-Chairman & Secretary	
3	Jitendra Thacker	9825537937	Immediate Past Chairman	
4	Hardik Thacker	9825858580	Past Chairman	
5	Ashish Gadhavi	9925738543	Member	

SUB COMMITTEE FOR THE YAER 2020-21

<u>NEWS LETTER COMMITTEE</u>				
Sr. No.	Name	Mobile No.	Satus	Photo
1	Ramesh Pindolia	9825662808	Chairman	
2	Falguni Katarmal	9537150119	Member	
3	Riddhi Thacker	9898298747	Member	
4	Shaheen Khalifa	9537942843	Member	

MANAGING COMMITTEE & SUB COMMITTEES

<u>STUDENT COMMITTEE</u>				
Sr.No.	Name		Satus	Photo
1	Purvi Mehta	9374338587	Chairman	
2	Jagdish Hirani	9879740857	Member	
3	Vishnu Joshi	8460606138	Member	
4	Ojas Mehta	9427819929	Member	

MANAGING COMMITTEE & SUB COMMITTEES

<u>CPE COMMITTEE</u>				
Sr.No.	Name	Mobile No.	Satus	Photo
1	Purvi Mehta	9374338587	Chairman	
2	Vijay Thakkar	9879996644	Member	
3	Sneha Varma	9099921286	Member	
4	Hardik N. Thakkar	9727206264	Member	

MANAGING COMMITTEE & SUB COMMITTEES

<u>TAXATION COMMITTEE</u>				
Sr.No.	Name	Mobile No.	Satus	Photo
1	Jitendra Thacker	9825537937	Chairman	
2	Bhaumil Jani	9426956951	Member	
3	Deep Koradia	9429042996	Member	
4	Pooja Thacker	9428680055	Member	

MANAGING COMMITTEE & SUB COMMITTEES

<u>MEMBER IN INDUSTRIES COMMITTEE</u>				
Sr.No.	Name	Mobile No.	Satus	Photo
1	Hardik P Thacker	9825858580	Chairman	
2	Daxesh Tripathi	9825228319	Member	
3	Jigar Thacker	9428032232	Member	
4	Dilip Jabuani	8980015326	Member	
5	Harsh Joshi	8866491983	Member	

CPE ON STATUTORY BANK BRANCH AUDIT

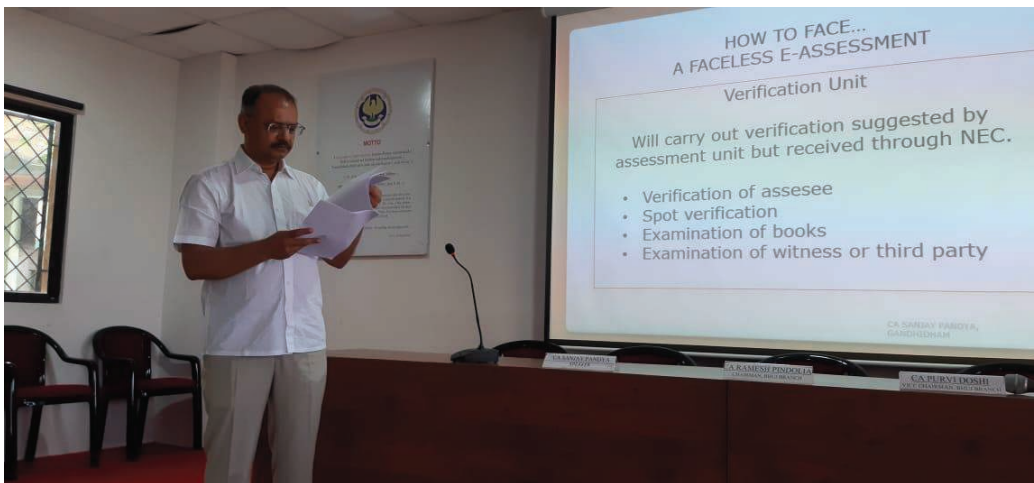


CPE ON STATUTORY BANK BRANCH AUDIT



7

CPE ON FACELESS ASSESSMENT



WOMEN'S DAY CELEBRATION



WOMEN'S DAY CELEBRATION

WOMEN'S DAY CELEBRATION

