### The Institute of Chartered Accountants of India

(Setup by an Act of Parliament)



### Hyderabad Branch of SIRC E-Newsletter

www.hydicai.org

Volume: 11/ issues:18 / April, 2022

hyderabad@icai.org



Lighting the Lamp on Seminar Bank Branch Audit at Shilpakala Vedika on 16<sup>th</sup> March, 2022



Felicitation of Vice President ICAI CA. Aniket Sunil Talati along with Council Members, Past Council Members & Branch Committee Members



Felicitation of Chairman, SIRC of ICAI CA. China Masthan Talakayala along with Council Members, Past President,ICAI & Branch Committee Members

Visit our website: www.hydicai.org for Online Registration

### Central Council Members of ICAI from Hyderabad



CA. Dayaniwas Sharma



CA. Muppala Sridhar

### Southern India Regional Council Members of ICAI from Hyderabad



CA. China Masthan Talakayala Chairman, SIRC of ICAI



CA. Naresh Chandra Gelli Secretary, SIRC of ICAI



CA. Chengal Reddy . R Member, SIRC of ICAI



CA. Mandava Sunil Kumar Member, SIRC of ICAI

### Managing Committee Members of Hyderabad Branch of SIRC of ICAI 2022-23



CA. Deepak Ladda



CA. Satish Kumar Mylavarapu



CA. Ponugoti Ravi Sankara Reddy



CA. Giridhari Lal Toshniwal



CA. Chandra Babu M CHAIRMAN SICASA



CA. Uppalapati Saran Kumar CO-CHAIRMAN SICASA



CA. Rajambal MS Member



CA. Chinna Sita Rami Reddy A



CA. Rama Rao Karumanchi

### Chairman Writes

### Dear Professional Colleagues,

At the outset, I wish each one of you Happy Ugadi & Happy Easter.

Hyderabad Branch of SIRC conducted the triennial elections to the Branch Managing Committee on March 20, 2022 and the new team took over on March 30, 2022. The details of the newly elected members and the new office bearers are given elsewhere in



the newsletter. I am sure we will have your whole hearted support and guidance for all our endeavours

I sincerely thank all the Central Council Members, Regional Council Members and the members of Managing Committee to give me an opportunity to Serve as chairman of the Hyderabad Branch of SIRC of ICAI. I assure all of you that the New Team will do its best to serve the members of CA fraternity. It is indeed heartening to mention that Hyderabad Branch of SIRC has been bestowed with the Second Best Branch Award at the Regional level. I congratulate the previous Managing Committee under the chairmanship of CA. Machar Rao Meenavalli for taking all efforts to achieve this feat. The new committee appreciate the efforts put in the previous committee and the benchmark set by them for the Term 2019-22.

April 7th is celebrated as World Health Day Internationally by W.H.O and on this occasion, I urge all my professional colleagues to take utmost care of your health and your family members. The Covid-19 Pandemic which had struck us very badly during the years 2020-early 2022 is showing a declining trend now giving us hope for future. I would however request all of you to take utmost precautions and ensure safety of you as well as your family members.

By the time this news letter is published, many of you would have received the Bank Branch Audit engagement letters. I am sure all of us understand that Bank Branch audits needs to be completed effectively in a time bound manner as the stake holders are also dependent on our audit reports for their decisions.

Team Hyderabad Branch of SIRC has conducted 2 programmes on bank audit, which were well attended and I am sure that members must have great takeaways. ICAI Vice President Shri Aniket Talati was the Chief Guest & SIRC chairman Shri CA. China Mastan Talakayala was Guest of Honour during the Bank Audit Seminar which was conducted at Shilpa Kala Vedika on 14th March 2022 and was attended by 1146 members. We have also hosted the videos of Bank Audit Seminars on our website www.hydicai.org for the benefit of our members.

The Branch will be organising various programmes for the benefit of our members during the month of April/May 2022. I request the members to support us by participating in large numbers, giving suggestions, so that we organize programmes effectively, adding value. Hyderabad Branch of SIRC has also constituted study circles on Audit, GST and Direct Taxes wherein matters of professional relevance are deliberated. The Study Circle meetings will also be resuming soon in Physical mode and we urge all members to actively participate.

On the Student front, the Branch has planned to conduct Mock tests and crash courses which will also be helpful to the student community at large. The Classes are being conducted on a No fee basis keeping in mind the student community at large. We urge all students to make use of this opportunity

Signing off with a quote:

"Every accomplishment starts with the decision to try". - John F Kennedy.

Yours Sincerely,

#### Virtual CPE Programmes for the month of April, 2022

Day & Date	Timings	Topic	Resource Person	CPE	Delegate Fee	Venue
Monday 04 <sup>th</sup> April, 22	5pm to 8pm	Bank Audit Data Analytics – LFAR/IFC	CA. Premnath D, CA. Vijay Srinivas K & CA. Saran Kumar U	3hrs	Free	Online Plat Form Zoom

Members Important Announcements

Members and Students Services Directorate

The Institute of Chartered Accountants of India

1st April, 2022

#### Online Process for Formation of Networking of CA Firms Launched

The Online process has been launched for formation of Networking of CA firms, as per new networking guidelines approved by the Council last year.

The networking tab is available under Firm Module in Self Service Portal (SSP) and members can now directly apply through Portal for approval and registration of Network.

The Guidelines for Networking of Indian CA Firms 2021 are available at ICAI website at below link: <a href="https://resource.cdn.icai.org/64061mss51444.pdf">https://resource.cdn.icai.org/64061mss51444.pdf</a>

**Members and Students Services Directorate** 

Research Committee
The Institute of Chartered Accountants of India
5th April, 2022

ICAI Doctoral Scholarship Scheme 2022 - An Initiative by the Research Committee (Last Date: July 31, 2022)

website at below link: <a href="https://resource.cdn.icai.org/69911research55861.pdf">https://resource.cdn.icai.org/69911research55861.pdf</a>

## HYDERABAD BRANCH OF SIRC OF ICAI ITT,OC,MCS & Adv.ITT CLASSES DETAILS.

SrNo	Batch ID	Course Name	Status	From Date	To Date				
MCS									
1	259-HYD-AICITSS-MCS-PHYSICAL MODE	Advanced (ICITSS) M	General	10-03-22	24-03-22				
2	260-HYD-AICITSS-MCS-PHYSICAL MODE	Advanced (ICITSS) M	General	10-03-22	24-03-22				
3	261-HYD-AICITSS-MCS-PHYSICAL MODE	Advanced (ICITSS) M	General	10-03-22	24-03-22				
4	262-HYD-AICITSS-MCS-PHYSICAL MODE	Advanced (ICITSS) M	General	26-03-22	10-04-22				
5	263-HYD-AICITSS-MCS-PHYSICAL MODE	Advanced (ICITSS) M	General	26-03-22	10-04-22				
6	264-HYD-AICITSS-MCS-PHYSICAL MODE	Advanced (ICITSS) M	General	26-03-22	10-04-22				
7	265-HYD-AICITSS-MCS-PHYSICAL MODE	Advanced (ICITSS) M	General	26-03-22	10-04-22				
8	266-HYD-AICITSS-MCS-PHYSICAL MODE	Advanced (ICITSS) M	General	12-04-22	26-04-22				
9	267-HYD-AICITSS-MCS-PHYSICAL MODE	Advanced (ICITSS) M	General	12-04-22	26-04-22				
	Adv.ITT								
1	198-HYD-AICITSS-ADV.ITT-PHYSICAL MODE	AICITSS - Advanced I	General	09-03-22	23-03-22				
2	199-HYD-AICITSS-ADV.ITT-PHYSICAL MODE	AICITSS - Advanced I	General	09-03-22	23-03-22				
3	200-HYD-AICITSS-ADV.ITT-PHYSICAL MODE	AICITSS - Advanced I	General	09-03-22	23-03-22				
4	201-HYD-AICITSS-ADV.ITT-PHYSICAL MODE	AICITSS - Advanced I	General	26-03-22	10-04-22				
5	202-HYD-AICITSS-ADV.ITT-PHYSICAL MODE	AICITSS - Advanced I	General	26-03-22	10-04-22				
6	203-HYD-AICITSS-ADV.ITT-PHYSICAL MODE	AICITSS - Advanced I	General	26-03-22	10-04-22				
7	204-HYD-AICITSS-ADV.ITT-PHYSICAL MODE	AICITSS - Advanced I	General	12-04-22	26-04-22				
8	205-HYD-AICITSS-ADV.ITT-PHYSICAL MODE	AICITSS - Advanced I	General	12-04-22	26-04-22				
	ιπ								
1	197-HYD-ICITSS-ITT-PHYSICAL MODE	ICITSS - Information	General	09-03-22	23-03-22				
2	198-HYD-ICITSS-ITT-PHYSICAL MODE	ICITSS - Information	General	26-03-22	10-04-22				
3	199-HYD-ICITSS-ITT-PHYSICAL MODE	ICITSS - Information	General	26-03-22	10-04-22				
ОС									
1	181-HYD-ICITSS-OC- PHYSICAL	ICITSS - Orientation (	General	01-03-22	16-03-22				
2	182-HYD-ICITSS-OC-PHYSICAL MODE	ICITSS - Orientation (	General	10-03-22	24-03-22				
3	183-HYD-ICITSS-OC-PHYSICAL MODE	ICITSS - Orientation (	General	26-03-22	10-04-22				
4	184-HYD-ICITSS-OC-PHYSICAL MODE	ICITSS - Orientation (	General	12-04-22	26-04-22				

### REQUEST TO CONTRIBUTE ARTICLES TO HYDERABAD BRANCH NEWS LETTER

Hyderabad Branch of SIRC of ICAI is seeking articles from members to be published in its monthly E-newsletter. The article can be on following topics:-

- 1) Articles on Academic Interest,
- 2) Articles on Work Life Balance,
- 3) Articles on New Age Professional Opportunities,

Please send your article to: hyderabad@icai.org,

Sd/-Chairman Hyderabad Branch of SIRC of ICAI

### Recent pronouncements in GST

- CA. Satish Saraf & CA Venkat Prasad. P

## 1. Registration cannot be cancelled by merely describing a firm as 'bogus' [Apparent Marketing (P) Limited Vs State of UP, 2022 (3) TMI 493 – Allahabad High Court]

The petitioner was a registered person under the GST Act. The GST officer visited the petitioner's business premises which were found closed. The GST officers visited again, where no adverse material was discovered.

Post this, the petitioner received a notice from the department alleging a cancellation of registration because the firm was "bogus". Apart from this, the notice did not disclose any other reason warranting the cancellation of registration.

The petitioner failed to submit a reply to the notice. The petitioner also failed to appear before the authorities on the appointed date. Thereafter, the GST department confirmed the cancellation of registration by issuing an order. The order was confirmed by the Appellate Authority as well.

In the light of these facts, the petitioner filed a writ petition and the Hon'ble High Court held that: -

- For the image of t
- > Thus, if the respondent proposed to cancel the registration, then a heavy burden lay on the authorities to establish the existence of facts requiring the cancellation of registration.
- A registration once granted could be cancelled only if one of the five statutory conditions provided under Section 29 of the GST Act was found present. Perse, no registration may be cancelled by merely describing the firm as "bogus".
- For proposing a cancellation of registration, the respondent had to first specify the reason why it proposed to cancel the registration and why it was attempting to treat the assessee firm as "bogus" and whether the reference was being made to Section 29(2)(c) or Section 29(2)(d) of the Act.
- Thus, for cancellation of registration, two aspects are noteworthy viz. [1] the facts as may give rise to the charge of cancellation and [2] unless the supporting material giving rise to that charge was referred to in the notice, it remained defective in material aspect.

Comments: - The statute specifically provides that registration would be cancelled only after following the principles of natural justice i.e. providing an opportunity of being heard by the registered person. However, this process is often ignored by the department. An order issued in violation of the principles of natural justice is fatal to judicial scrutiny. Accordingly, in such cases, writ courts should be approached for relief.

## 2. Goods in transit cannot be detained without proving that the petitioner has an intention to evade tax

[Ashok Kumar Sureka Vs Assistant Commissioner, 2022 (3) TMI 445-Calcutta High Court]

The goods in transit of the petitioner were detained by the officer on the ground that the e-way bill had expired the preceding day. The respondents initiated detention proceedings under the GST Act and demanded the amount payable under Section 129 of the GST Act.

The petitioner paid the amount and filed an appeal for the refund of the amount so paid because the lapse was not deliberate wilful therefore the detention proceedings under Section 129 of the GST Act were erroneous. The Appellate Authority rejected the petitioner's appeal and confirmed the demand. In light of these facts, the petitioner filed a writ petition.

In this regard, the Hon'ble High Court held that there is nothing for the revenue to show that the violation was willful and deliberate or with specific material that the petitioner intended to evade tax. Therefore, the Order in Appeals is liable to be set aside and the petitioner should be given a full refund of tax and penalty.

Comments: - It has been observed that the mobile squads are initiating detention proceedings under Section 129 of the GST Act in all and every scenario in a mechanical manner for every petty non-compliance. In this regard, it is noteworthy that detention proceedings need not be invoked in cases [1] wherein the consignment is being transported under the cover of valid documents and [2] there is no non-payment of taxes and [3] in cases wherein the non-compliance is venial. Accordingly, if the mobile squads initiate detention proceedings and issue an order demanding penalties then, such order should be contested in appellate proceedings.

## 3. The period from 15.03.2020 till 28.02.2022 shall stand excluded from the calculation of the limitation period for refund applications

[Gamma Gaana Ltd. Vs UOI & 3 Others 2022 (3) TMI 578 - Allahabad High Court]

The petitioner claimed a refund for April to June 2018, July to September 2018, and October to December 2018 on 31 March 2021 which was rejected because the period for filing the refund application was expired in September 2020. The petitioner, being aggrieved by this order, filed a writ petition.

In light of these facts, the Hon'ble High Court held that per the **Hon'ble Supreme Court's order** dated **10.01.2022**, the period from **15.03.2020** till **28.02.2022** shall stand excluded for calculation of the limitation period for filing of a refund application.

Thus, the refund application filed by the petitioner could not have been rejected by the respondent ignoring the order of the Hon'ble Supreme Court.

Comments: - The Hon'ble Supreme Court vide its order dated 10.01.2022 directed to exclude the period between 15.03.2020 till 28.02.2022 for counting the limitation period. Thus, if the limitation for appeals, refunds etc. would have expired during the period between 15.03.2020 till 28.02.2022, then such period would be excluded from the counting of the statutory period. Thus, any pending refund applications or appeals should be filed considering the benefit of the above extension order.

## 4. The reasons to be recorded in writing should be communicated to the petitioner for him to object to the provisional attachment

[Originative Trading (P) Limited Vs Union of India, 2022 (3) TMI 262, Bombay High Court]

The petitioner was searched by the officers of the GST department. During the search, the department recorded the statements of the petitioner's employees. After this, the petitioner was informed by his banks that his bank accounts are being attached per Section 83 of the GST Act. The petitioner challenged the provisional attachment before the Hon'ble High Court by filing a writ petition because the authorities did not communicate the reasons to invoke the provisional attachment in the order. Thus, the petitioner cannot file an objection against such an attachment order. In the light of these facts, the Hon'ble High Court has held that: -

- Per Section 83 of the Commissioner believed that to protect the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, belonging to the taxable person.
- Thus, a perusal of Section 83 of the GST Act indicates that the remedy provided to an assessee to object can be exercised effectively only if the petitioner knows the reasons or opinion prima facie formed by the Commissioner before exercising the power under Section 83 of the GST Act to enable the petitioner to record the objections to the prima facie opinion formed by the Commissioner.
- Unless such prima facie opinion at least at this stage is communicated to the petitioner, the petitioner would not be able to lodge the objection and canvass that the prima facie opinion formed by the Commissioner was not per Section 83 and there was no threat of loss of revenue to the respondents.
- Further, under Rule 159 of the GST Rules, the Commissioner shall send a copy of the order in Form DRC-22 to the concerned Revenue Authority or Transport Authority or any such Authority to place the encumbrance mentioning therein the details of property which is attached. The copy of such order has to be served to the above authorities and the registered person simultaneously.

Comments: - It has now been established that before attaching the property of a registered person, the Commissioner should have reasons to believe that such attachment is necessary to secure the interest of the revenue. However, such reasons to believe should only be recorded in the file, such reasons to believe are required to be mentioned in the order issued for provisional attachment.

This is pursuant to the fact that such a registered person has an opportunity to challenge the provisional attachment by way of filing an objection to the authority as unless the reasons to believe are mentioned in the order, the person would not be able to file an objection.

Thus, if the provisional attachment orders do not contain reasons to believe to file an objection then, such order should be challenged in writ courts.

## 5. Payment made involuntarily is liable to be refunded as Government does not have any authority to collect such taxes

[The Union of India Vs M/s Bundl Technologies Pvt. Ltd., 2022 (3) TMI 625, Karnataka H C]

An investigation was initiated by the GST Intelligence Department against the respondent. During the investigation, a sum of INR 15 Crores was deposited by the respondent. Despite a lapse of 10 months from the initiation of the investigation, no show cause notice was issued to the respondent. The respondent, therefore, sought a refund of the amount deposited by applying to the jurisdictional GST office. However, the department did not submit any response to the request. Accordingly, the respondent filed a petition before the Hon'ble High Court. The single-member bench of the Hon'ble High Court allowed the petition and allowed the refund of the monies deposited by the petitioner. Against this order, the petitioner filed a review petition before the larger bench.

In light of the above facts, the larger bench of the Hon'ble High Court has held that: -

- The respondent had written a letter to the petitioner to the effect that they reserve a right to claim a refund of the amount deposited during the investigation. Thus, it is evident that payments have not been made admitting the liability.
- > On the other hand, the company reserved its right to seek a refund and made it expressly clear that payment of the amount should not be treated as an admission of its liability. Besides the aforesaid, there is no material on record to establish that the amount was paid voluntarily under Section 74(5) of the CGST Act.
- Moreover, Article 265 of the Constitution mandates that the collection of tax has to be by the authority of law. If tax is collected without any authority of law, the same would amount to depriving a person of his property without any authority of law and would infringe his right under Article 300A of the Constitution of India as well. In the instant case, the only provision

which permits the deposit of an amount during the pendency of an investigation is section 74(5) of the CGST Act, which is not attracted in the fact situation of the case.

Therefore, it is evident that amount has been collected from Company in violation of Articles 265 and 300-A of the Constitution. Therefore, the contention of the department that amounts under deposit be made subject to the outcome of the pending investigation cannot be accepted. The Department, therefore, is liable to refund the amount.

**Comments: - Some noteworthy aspects are as follows;** 

- The department has no right to recover tax dues from a person without following the procedure of issuance of a show cause notice and adjudicating the same unless the liability is self-assessed, but has remained unpaid.
- Thus, if during an inquiry or an investigation, the authorities believe that non-recovery of tax dues from a registered person is prejudicial to the interest of the revenue then, the authorities could only invoke the provisions of provisional attachment of blocking of electronic credit ledger and that too after following the due process prescribed.
- Any tax paid under coercion or involuntarily is liable to be refunded as tax collected without the authority of law cannot be retained by the Government.

In the light of the above, if any sum is deposited during investigation then, the person should as early as possible [1] register that such sum was paid under protest and that the person reserves a right to claim the refund and [2] thereafter file a refund application for the amount so paid.

# 6. GST on the amount collected from employees for canteen charges is not leviable

#### [M/s Astral Ltd. [2022(3) TMI 1147 – Authority for Advance ruling]

The Applicant has more than 250 employees hence, there is a liability on them to provide canteen facilities under the Factories Act, 1948. Accordingly, the Applicant has asked for a canteen set up on its business premises. Such canteen is operated by a canteen service provider.

The employees purchase the food from the canteen. For this, part of the consideration is paid by the employees and part of the consideration is paid by the Applicant. The Applicant collects the consideration from the employees by way of deduction from salary and pays 100% consideration to the canteen service provider.

In the light of the above facts, the applicant sought an advance ruling regarding the applicability of GST on canteen expenses recovered from the employees and the AAR held that GST is not leviable on an employee's share of canteen expenses paid to the canteen service provider.

**Comments** – Although the authorities have held that the employee's share of canteen expense is not leviable to GST. However, the ruling may not be a good precedent considering that it is completely devoid of reasoning.

In the past, there have been several rulings wherein it has been held that GST cannot be levied on recovery of canteen expenses. See **Emcure Pharmaceuticals Limited [Advance Ruling No. GST-ARA-119/2019-20/B-03].** There have been negative rulings as well wherein it has been held that recovery from employees is exigible to GST. See **Amneal Pharmaceuticals Pvt. Ltd.** [Advance Ruling No. Guj/GAAR/R/51/2020].

In light of the opposite views, you may approach the respective team leader for more clarity on the taxability of recoveries made from employees.

(For queries/feedback: ss@ssnc.in, venkataprasad@hiregange.com)

#### Survey, Search and Seizure Update

CA. Hari Agarwal & CA. Vivek Agarwal

#### 1. No addition can be made under Section 153A as cases of respondents are of nonabated assessments

PRINCIPAL COMMISSIONER OF INCOME TAX & ORS. vs. BHADANI FINANCIERS PVT. LTD. & ORS.

#### (2021) 112 CCH 0015 DelHC

- ITAT has erred in confirming orders of Commissioner Income Tax (Appeal) and directing Assessing Officers to delete additions made under Section 68 on account of unexplained credits and under Section 69C on account of unexplained expenses—Held, in CIT VS KABUL CHAWLA, (2016) 380 ITR 573 it has been held that if no incriminating material is found during course of search in respect of an issue then no addition in respect of such an issue can be made in assessment under sections 153A and 153C—Questions of law raised in present appeals have been settled by earlier Division Bench in Kabul Chawla (supra) and assessment of respondents had attained finality prior to date of search and no incriminating documents or materials had been found and seized at time of search—Consequently, no addition can be made under Section 153A as cases of respondents are of non-abated assessments—Assessee's appeals dismissed.
- 2. SLP dismissed against High Court's ruling that notice issued under section 153C against
  dead person is unenforceable in law and in such case revenue cannot contend that as they
  have no knowledge about death of assessee, they are entitled to plead that notice is not
  defective
- Income-tax Officer, Ward 1(2)(1) v. Bhupendra Bhikhalal Desai [2021] 131 taxmann.com 288
   (SC)
- Section 153C of the Income-tax Act, 1961 Assessment of income of any other person (Validity of notice) Assessment years 2011-12 to 2017-18 Original assessee, namely 'B', passed away on 23-4-2017 Assessing Officer issued a notice under section 153C in name of 'B' on 29-3-2019 with regard to proceedings for relevant assessment years After receiving said notice legal heir informed Assessing Officer that his father B had passed away and requested to drop proceedings as notice was issued to a dead person Assessing Officer rejected objections raised by legal heir on ground that no information was provided about demise of B and even after his death income tax returns were filed in name of B for assessment years 2017-18 to 2019-20 -High Court by impugned order held that impugned notice under section 153C issued against dead person, was unenforceable in law and revenue could not contend that as they had no knowledge about death of assessee, they were entitled to plead that notice was not defective -

- Whether SLP filed against impugned order of High Court was to be dismissed Held, yes [Para
   2] [In favour of assessee]
- No addition in respect of assessments concluded on date of search unless some incriminating material was found: HC
- Principal Commissioner of Income-tax, (Central)-3 v. Jaypee Financial Services Ltd [2021] 130 taxmann.com 218 (Delhi)
  - Section 153A, read with section 40A(3), of the Income-tax Act, 1961 Assessment in case of (Condition precedent) Pursuant to search carried out in case of assessee, a notice under section 153A was issued In course of assessment, Assessing Officer made addition to assessee's income on account of client code modification which had been suppressed in books of account by assessee and on account of expenditure incurred in cash by assessee beyond limit prescribed Both Commissioner (Appeals) and Tribunal held that addition was not based on any incriminating material found during course of search and assessment was not pending on date of search and hence deleted addition On appeal revenue also did not make any attempt to disclose incriminating material Whether therefore, findings of Commissioner (Appeals) and Tribunal could not be held to be perverse Held, yes [Paras 6 and 7] [In favour of assessee]
- Smt. Abha Bansal v. Principal Commissioner of Income-tax, (Central), Gurgaon [2021] 132 taxmann.com 231 (Delhi Trib.)
- INCOME TAX: An order of assessment passed under section 153A read with section 143(3)
  after getting an approval of Jt. Commissioner under section 153D could not be revised under
  section 263
  - A common search warrant & panchnama issued on two separate Cos operating from a single premise is valid: HC
- Shiva Cement Ltd. v. DIT (Inv.) [2021] 132 taxmann.com 286 (Orissa)
- The assessees were two group entities engaged in different businesses but operating in same premises. During the year, a common search warrant was issued under section 132(1)(c) at their business and residential premises. Notices were issued under section 153A calling the assessees to file their return of income. Thereafter, a block assessment was made for the assessment years 1991-92 to 2000-01 wherein the Assessing Officer (AO) had determined undisclosed income of the assessees and levied tax on ground of suppression of income and non-filing of ITRs.
- Both the assessees filed writ petition contended that since they were two separate entities
  engaged in different businesses and filing separate returns, therefore, issuance of common
  search warrant and common panchnama upon them was impermissible in law.
- The High Court held that there is nothing in either in section 132 or 133A that prohibits the department from surveying an entity exclusive to one location of its operations, whereas it may

have credible information for search as regards the operations in another location.

- As rightly pointed out by the department, search is qua a 'place' and not necessarily qua the 'assessee'. The survey by its very nature could be of the entity and any place from where such
- entity may operate. It is perfectly possible that while conducting survey and seach of the
  premises of an entity, for which an authorisation has been issued, the department can come
  across material pertaining to some other person or entity. The provisions like section 153C
  deal with such contingencies.
- However, that is not to say that a survey or a search cannot happen in two different premises simultaneously. Further, if the search is qua the place, the court sees no reason why if there are two entities in one premise, there cannot be a common search operation. Consequently, the plea of the petitioners that the search and survey operations were entirely without jurisdiction could not be accepted.
- Thus, since warrant of authorization was qua 'premises' and not qua 'assessee', a common warrant of authorisation for search and common panchnama issued on assessees-group companies, operating from one premise, was justified.

#### **Installation of Office Bearers for the Year 2022-2023**





CA. Deepak Ladda Chairman



CA. Satish Kumar Mylavarapu Vice Chairman



CA. Ponugoti Ravi Sankara Reddy Secretary



CA. Giridhari Lal Toshinwal
Treasurer

**Disclaimer**: The views and opinions expressed or implied in the Hyderabad Branch of SIRC of ICAI E-Newsletter are those of the authors and do not necessarily reflect those of Hyderabad Branch of SIRC of ICAI