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There is no specific provision to deal with the grievances of the taxpayer but these are available in the present law under rectification, appeal and revisional powers. These provisions under the existing law are proposed to be curtailed by the Code.

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Power to seek assistance of Joint Commissioners removed: The Joint Commissioner has power to entertain the pre-assessment application from an assessee for interference against any proposed action of the assessing officer under the present law in Sec. 144A. Now the corresponding Sec. 164 would limit such interference only at the instance of the assessing officer himself and not at the instance of the assessee by omitting reference to the assessee.

Source : *The Hindu*  
02-11-2009



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# Insight



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Activities of SIEMA from 16th October 2009 to 31st October 2009

### Managing Committee Meeting

The 4th Managing Committee meeting was held on 21st October 2009 at our Association. The minutes of the meeting will be sent separately.

### Meeting with Council General, Germany

President, Jayakumar Ramdass had a meeting with Mr. Hans Bukhard Sauerteig, Consul General. Federal Republic of Germany on the bilateral trade between two countries and about the scope for further cooperation on 22nd October 2009 at Hotel the Residency, Coimbatore.

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## IPVS 2009 – India

Sri Jayakumar Ramdass, President attended the 3rd Edition of IPVS, Industrial Pumps, Valves & Systems Trade Fair 2009 – India organized by Indian Pump Manufacturers' Association on 28th and 29th October 2009 at Bombay Exhibition Centre, Mumbai.

## Meeting with Orbitz Officials

Sri Rupen Vikamesy, Managing Director, Sri Pankaj Chaudhary, Divisional Head and Sri Rajeev Singh, Branch Manager, Orbitz Exhibitions P Ltd., met Sri Jayakumar Ramdass, President and discussed about the latest developments of Techno 4 Exhibition on 29th October 2009 at Mumbai.

## SIEMA Day

We organized SIEMA Day - a get-together of our members with family - on 31st October 2009 at COINDIA Complex, Avarampalayam, Coimbatore. Sri Vedapuri gave a lecture on Food Habbits and happy life. We also arranged entertainment by Sun TV fame Assathal Mannargal Sri Kovai Kumar, Sri Kovai Jagan, Madurai Maha and Bomma Balu. Nearly 200 members attended with their family members.

## FORTH COMING EVENTS

An Interaction with Shri Dinesh Rai, I.A.S., Secretary, MSME, Government of India, New Delhi will be held on 5th November 2009 at our Association.

A Lecture on “Life is simple arithmetic..... Let us not complicate it” by Sri C. Rajendiran, Commissioner, Customs, Central Excise and Service Tax, Coimbatore will be held on Monday the 9th November at our Association.

National conference on Pumps will be held on 20th and 21st November 2009 at COINDIA complex. The conference will be jointly organized by CII, Coimbatore Zone, IPMA, Mumbai and SIEMA in association with COINDIA.

## Direct Taxes Code: changes in procedural law

An improvement as regards assessment procedure in the Code is the need for a draft assessment order to be served before any variation to returned income.

The Direct Taxes Code, 2009, makes a distinction between a stop filer, who was once an assessee but has not filed return, and a non-filer who has taxable income but has not filed return. Both are treated alike for default. Time limit for filing return for non-business is proposed to be advanced to June 30, while for others it will be August 31. Time limit for revised or belated return will also be curtailed to 21 months from the end of the financial year. If the fiscal year as in most countries is calendar year, this time limit would be convenient, besides ensuring advance tax on correct income instead of being on estimate.

Where no voluntary return is filed, the assessing officer can issue notice

requiring return within 21 months from the end of the financial year as against the present limit of 12 months. The return will be acknowledged by electronic mode. There would be automatic processing of return to correct arithmetical errors and incorrect claims inferable from the return, apart from the determination of tax, interest or eligible refund after giving credit for pre-paid taxes.

The notice for scrutiny will be issued only in select cases chosen by criteria framed by the Board in line with “risk management strategy” with such criteria not being revealed to any person. The need for tax audit report where the gross income exceeds Rs. 10 lakh or turnover exceeds Rs. 40 lakh will continue. The limits are inconsistent with the limit of Rs. 1 crore recognised both for gross receipts and turnover for presumptive taxation. Commissioner has been recognised for approval of application of Rule 12 to ignore impermissible avoidance agreement covered by Sec. 112 listed under the title “General Anti-Avoidance Rule” (GAAR) and to issue appropriate instruction thereon after a show cause notice.

One material change is that the right to require pre-assessment interference from the Joint Commissioner under the present Sec. 144A will be available under the Code only for the assessing officer and not the assessee under Sec. 164 of the Code. But where he issues direction, it can be done only after hearing the assessee.

An improvement as regards assessment procedure in the Code is the need for a draft assessment order to be served before any variation to returned income. Where the proposed addition exceeds Rs. 25 lakh, it will go to Disputes Resolution Panel, if there is any objection to the addition by the assessee. Opportunity will be given by this Panel which will consist of three commissioners. There is a direct appeal to the Tribunal against the order of the Panel.

Reopening of the assessment would be on the same basis under the present law with additional power to act on any objection or observation by the Comptroller and Auditor General of India or where the assessment is not in accordance with Board Circular or any order or direction or instruction or Circular issued by any superior officer.

Time for rectification is proposed to be curtailed to two years from four years. Rectification will be possible on the basis of the decision of the Supreme Court or jurisdictional High Court or on the basis of a retrospective amendment or to accord with finding or direction in any order passed on to the assessee for any other financial year or an order in appeal, reference or revision or in any other proceedings under any other law. Jurisdiction for rectification will get widened.

## Penalties and prosecutions

The law, at present, for penalties and prosecutions do not have any significant changes except for

drafting of the provisions. Penalty for transactions by modes other than account payee cheque or draft by acceptance or repayment of loan or advance, is dropped, replaced by treating such receipt or payment as concealed income.

Penalty for concealment under Explanation to Sec. 271(1), which was a complete code, the interpretation of which is a matter of settled law, is now sought to be replaced by a set of rules. The corresponding provision for under-reporting of tax base under Sec. 224 of the Code, parallel to Sec. 271(1)(c) is, therefore, bound to create more problems of interpretation.

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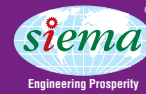
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