

KSCAA

Karnataka State Chartered Accountants Association ®

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INSIDE

Collective Investment Scheme

GST

Health & Wellness

Financial Reporting



GROW, SHARE
& TRANSFORM



Dear Professional Friends,

Season's Greetings to you all in advance for Christmas, New Year and Sankranti! The last month of the calendar year is dawning upon one and all. It's a time to ponder on our pleasant achievements and take positive things therefrom. Also, it is a time to dwell upon the unpleasant things to cast away, unlearn, work upon and transform in the

coming year. In a way this has been a really eventful year with the GST implementation and culmination of various indirect taxes into a single fold, thereby forming a unified regime. Though unpleasant initially, hopefully we expect things to get better. With hope lies life and beautiful things unravel.

Our new theme conference on Startups titled 'Startup Conference - Challenger Perspective' jointly with Bombay Chartered Accountants Society on 1st & 2nd December at The Chancery Pavilion, Bengaluru was well-received by Start-up community as well as consultants and VC / Angel funds and was a resounding success and a very satisfying one. The entire conference was themed around the three segments, one where the Venture Capitalists/ Angel Investors showcased what they are looking for; two the Start-ups shared their journey of ups and downs on their success path; and three the consultants how to adapt to the needs of the Start-ups on the valuation and accounting and tax aspects of the Start-ups. The highlight of the conference was the talk of the Honorable Minister for IT, BT & Tourism Shri. Priyank M. Kharge who was very insightful of the Start-ups ecosystem and shared enormous possibilities for the businesses interested in enrolling with the Karnataka Startup Cell and extended the goodies in store for the start-ups. The panel discussions with the Start-ups who made it big and the one with Venture Capitals was highly appreciated by the delegates for the sheer content and live experience on the field being shared for the enlightenment of the aspiring start-ups in such ecosystem.

News Roundup:

The Central Board of Direct Taxes has given more time for tax payers to link their Aadhar with PAN and has extended the earlier specified deadline of 31st December 2017 to 31st March 2018. Under the provisions of recently introduced section 139AA of the Income Tax Act, 1961, with effect from 1st July 2017, all tax payers having Aadhar number or Enrolment number are required to link the same with their PAN. In view of difficulties faced by some of the tax payers in the process, the due date for linking of Aadhar with PAN was initially extended till 31st August 2017, which was further extended to 31st December 2017. Now the deadline has been extended to 31st March 2018.

Indian Chartered Accountants who have gone through the rigours of interpreting and implementing the Goods and Services Tax, dubbed the most complicated tax law, are in great demand in the United Arab Emirates and other Gulf countries these days. Their knowledge of Hindi has come as an added advantage for Indian professionals, as many residents of the Gulf are comfortable with the language. UAE will be introducing Value Added Tax from 1st January 2018. This is similar to the GST, which came into force in India from July this year. After UAE, other Gulf countries will also be implementing the new tax. This has led to a demand for Indian experts to help businesses understand the indirect tax system. In fact, Indian professionals find the tax in UAE much simpler than the Indian GST. Chartered Accountants across the country are camping in UAE or making frequent visits to help host of clients understand the new law.

The digital currency Bitcoin is rallying at phenomenal speed, leaving many high and others dry in markets around the world. While the Bitcoin bull run has been welcomed by many, financial regulators in emerging economies are still trying to find a way to understand it. A gravity-defying bitcoin rally to over Rs.10 lakh a piece, interspersed with stories of people making crores from thousands, has left the regulators flummoxed amid fears that a

complete lack of regulatory regime for such cryptocurrencies may give rise to 'e-ponzi' scams. In the absence of any specific legal framework, online Bitcoin trading platforms are operating freely even as the Reserve Bank of India getting jittery. The RBI has already issued multiple warnings about such risks, while reiterating that it has not given any license or authorization to any entity or company to operate such schemes or deal with bitcoin or any virtual currency. And now Income Tax department is also jumping into the party to get its fair stake by conducting surveys nation-wide.

The Ministry of Corporate Affairs has moved the National Company Law Tribunal (NCLT) seeking management control of debt-ridden real estate company Unitech Ltd on the grounds of alleged mismanagement and diversion of funds. If the Government has its way, this could be the third instance in history, after the Satyam and NSEL cases, where the government takes over the board of a company and makes efforts to turn it around. The move will help thousands of Unitech homebuyers who are yet to receive possession of their houses. The NCLT debarred all eight Unitech directors and allowed the Government to appoint 10 nominee directors. Just that during the pendency of SC hearing, the move is a bit surprising.

The FRDI Bill proposes to create a framework for overseeing financial institutions such as banks, insurance companies, non-banking financial services (NBFC) companies and stock exchanges in case of insolvency. The Resolution Corporation proposed in the draft FRDI Bill, would look after the process and prevent the banks from going bankrupt. The Bill empowers Resolution Corporation to cancel the liability of a failing bank or convert the nature of the liability. Seeking to allay concerns of depositors over provisions of FRDI Bill, the Hon. Finance Minister said the government will fully protect public deposits in financial institutions even as he hinted at openness to changes in the proposed Financial Resolution and Deposit Insurance Bill 2017. He said the government's massive Rs. 2.11 trillion bank recapitalization plan was to strengthen banks and there was no question of any lender failing. If any such situation arises, the government will fully protect the deposits made by customers.

There were some messages being aired in social media that some persons have approached the Court of Law seeking direction to the Institute of Chartered Accountants of India for making provisions for reservation in the Chartered Accountancy course. ICAI has clarified that no such case has been instituted in any Court of Law by any person seeking direction to the ICAI for making provision for reservation in Chartered Accountancy course.

Upcoming programs:

KSCAA is organizing a workshop on 'Recent Changes and Provisions & Issues in Exports under GST' in Bengaluru on Friday 12th January 2018. Eminent speaker CA. Siddeshwar Yelamali will be addressing the members in this workshop. Program details are published elsewhere in this news bulletin. You may also visit www.kscAA.com for details.

I wish to end my message with a provoking thought:

"Our greatest glory is not in never failing, but in rising every time we fall" - Confucius

Failure and success are the part of life. Many people give up after facing failure. But one should not do that. One must get up and try again with double the level of one's energy, because one has now gained more experience. Never forget that the failures are the pillar of success. Life is great teacher. Learn from it and be a real winner.

With warm regards,

CA. Raghavendra T.N.
President

KSCAA

News Bulletin

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KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION®

VISION

- KSCAA shall be the trusted and value based knowledge organisation providing leadership and timely influence to support the functional breadth and technical depth of every member of CA profession;
- KSCAA shall be the nucleus of activity, amity and unity among members aimed at enhancing the CA profession's social relevance, attractiveness and pre-eminence;
- KSCAA shall in the public interest, be a proactive catalyst, offering a reliable and respected source of public statement and comments to induce effective laws and good governance;
- KSCAA shall be the source of empowerment for leadership and excellence; disseminating knowledge to members, public and students; building a framework for new opportunities and partnerships that enhance life in the community and beyond; encouraging highest ethical standards and professional integrity, in realization of India global leadership vision.

MISSION

- The KSCAA serves the interests of the members of CA profession by providing new generation skills, amity, unity, networking and leadership to strengthen the professional capabilities, integrity, objectivity, social relevance, standards and pre-eminence of India's Chartered Accountants nationally and internationally through; becoming gateway of knowledge for Chartered Accountants, students and public; helping members add value to their customers/employers by enhancing their professional excellence and services; offering a reliable and respected source of public policy advice and comments to bring about more effective laws and policies and transparent administration and governance.

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COLLECTIVE INVESTMENT SCHEME - A RECENT EPISODE

CA S. Krishnaswamy

1. Introduction
2. Recent Episode
3. Collective Investment Scheme-SEBI Act and Regulation
4. Companies Act 2013 – Deposits
5. Reserve Bank of India Act -Sec.45-I(bb)
6. Central and State Legislation
7. The Chits Fund Act, 1982
8. Indian Penal Code

1. The recent episode involving a famed jewellery shop shutting down its' shops including its branches after a cash crunch letting down hundreds of depositors, once again brings to surface the absence of any regulation relating to Collective Investment Scheme in the nature of Gold Purchase Scheme. This company was carrying number of Gold Savings Schemes. Normally a gold savings scheme is for 11 months of subscription and to which the shop will add 1 month's interest free amount and the depositor is free to redeem the scheme by purchase of jewellery. This Chennai based company failed to meet its' commitment on the due date. Its schemes were also different and was not confined to 11 month's but open ended.

2. Chennai Company

2.1. Chennai's famed jewellery company shuts down branches after cash crunch.

The Chennai based company was incorporated on April 3rd, 2007 absorbing 3 group firms. The group was promoted in the year 1928 and the detailed operation was commenced in 1998. The company is classified as Non-Govt. company and is registered at Registrar of Companies, Chennai. Its authorized share capital is Rs.20,00,00,000 and its paid up capital is Rs.19,49,91,376. The company's Annual General Meeting (AGM) was last held on 30th of September 2016 and as per records from Ministry of Corporate Affairs, its last filed Balance Sheet as at 31st March 2016. The company is primarily engaged in trading of gold

jewellery and gold bullion which accounted for almost 98% of the income for FY16. 72% of the company's net sales in FY 2016 came from wholesale sale of gold jewellery (FY15 74%). It showed Rs.16 crores as Profit After Tax on an operating income of Rs.1,428 crores following audit in FY16.

Below is the snapshot of financials -

Brief Financials (Rs. crore)	FY15 (A)	FY16 (A)
Total operating income	1,415	1,428
PBILDT	74	70
PAT	18	16
Overall gearing (times)	2.31	2.42
Interest coverage (times)	1.78	1.64

2.2 There has been a skirmish around the company repaying the customers of its gold saving schemes. One way in which investors in the gold scheme could have skirted trouble was by looking at the company's credit rating. Most banks insist that companies get a credit rating before they lend to them. Also SEBI regulation imposes this obligation.

In October 2016, the company had been rated by CARE at BBB, one step above least investment grade. The rating agency had then indicated that the company's average utilisation of funds was almost full, implying that the **liquidity position was tight**.

2.3 Subsequently, the company did not share any information for reviewing the ratings. In line with SEBI regulations, CARE moved the rating to "**Issuer not co-operating**" category in August 2017. This move indicates that the ratings already assigned by the rating agency can no longer be used by the company.

2.4 More recently, immediately after a customer filed a complaint against the company over a delay in the repayment of his dues, CARE moved the company to "**Default**" rating, based on publicly available information.

2.5 Had they kept track of these rating changes, existing and potential investors may have been suitably warned about impending trouble.

2.6 Two days after the closeout, at least 53 customers have lodged a police complaint for defrauding customers to the tune of Rs.17.57 Lakhs and police arrested its manager, the case is likely to be transferred to **Central Crime Branch (CCB)**.

2.7 There are many jewellery retailers in all regions offering gold saving schemes not regulated by either the RBI or SEBI. In such cases, investors can check the rating of the company before making investments. Ratings above BBB- are investment grade and ratings below that are non-investment grade. ‘Investment grade’ indicates investors can consider putting in their funds. ‘Non-investment grade’ rating is where the investment is unsafe and there is a high likelihood of default.

2.7 The Company stated-

“.....We continue to honour our values despite the unfortunate turn of events which has created a financial crunch for us.....”

N. Prappana Kumar, Managing Director of the Company said *“we are selling our ancestral property to settle customer’s dues, particularly those who invested in the gold savings schemes. We are also planning to reach out through mails. We hope to settle dues in a couple of weeks”*

2.8 Customer Grievances

Example

 shobana on Oct 23, 2017

We have been paying rs. 2, 000 per month in their monthly installment scheme for the gold jewellery / coin. We have completed a total of 39 months totaling to inr 78, 000. The last installment we have paid on 30th sep 2017 vide receipt no. 129573 through their online transaction. Now with so many complaints raising against the [redacted] jewellery on the closing of shops etc.. We went to the velachery showroom and found the showroom is closed and not functioning. Can anyone guide us the next steps towards the recovery of this from [redacted] shop.

Submit a Complaint

Likewise, lots of customers have registered their complaints and described their anguish on the Nation Consumer Complain Forum’s website. Customers complained that the jeweller’s shops were closed in all the places.

2.9 The substance of gold investment schemes is nothing but a deposit. The investors under such schemes approach the investor to pay few instalments and the investor on its part pays interest in the form of last instalment. Thus, what the company takes up is monetary liability. Since, the amount of gold to be

purchased is not fixed at the time of first deposit itself, it is only money which is earning money. Although, the companies may claim that the amount invested in put in fixed deposits to ensure safety of return (this was not done by the Chennai based company and there is no legal compulsion), however what happens of the interest earned is anybody’s guess – i.e. deployed as to fulfil the working capital needs of the company.

3. Collective Investment Scheme – SEBI Act/ Regulations

3.1 *What is meant by Collective Investment Schemes?*

A Collective investment scheme is any scheme or arrangement, which satisfies the conditions, referred to in sub-section (2) of section 11AA of the SEBI Act. Any scheme or arrangement made or offered by any company under which the contributions, or payments made by the investors, are pooled and utilised with a view to receive profits, income, produce or property, and is managed on behalf of the investors is a CIS. Investors do not have day to day control over the management and operation of such scheme or arrangement.

3.2 *Which are the schemes not treated as CIS?*

The following do not constitute a collective investment scheme:

- i. any scheme or arrangement made or offered by a co-operative society.....
- ii. any scheme or arrangement under which deposits are accepted by non-banking financial companies.
- iii. any scheme or arrangement being a contract of insurance.
- iv. any scheme or arrangement providing for any Scheme, Pension Scheme or the Insurance Scheme framed.
- v. **any scheme or arrangement under which deposits are accepted under the Companies Act;**
- vi. any scheme or arrangement under which deposits are accepted by a company declared as a Nidhi or a mutual benefit society.
- vii. any scheme or arrangement falling within the meaning of Chit business;
- viii. any scheme or arrangement subscription to a mutual fund;

3.3 In 2013, in the backdrop of Sahara / Sharada scams, SEBI modified the definition of CIS to include any scheme / arrangement floated by any person (instead of a company); and any such scheme with corpus of more than Rs. 100 crore shall also be deemed to be a CIS by SEBI.

3.4 According to a media report, both Securities and Exchange Board of India (SEBI) and Reserve Bank of India (RBI) have replied to a Right to Information (RTI) application stating that such schemes are not regulated by them at all. It is however, difficult to believe how the regulatory bodies could take such a stand.

The SEBI Act, 1992 gives the market regulator power to regulate the working of schemes which are in effect CIS and have the following characteristics:

1. Pooling of money;
2. Entrustment of money to someone such that the investors are not the ones who are managing their own money; and
3. Sharing of returns from a specified investment.

The same is taken as a CIS and such schemes have to be necessarily registered with SEBI in the recent ruling of Maitreya Services (P.) Ltd. vs Securities and Exchange Board of India.

3.5 Many companies have challenged the constitution validity of this Section approaching the Apex Court. The Apex Court came heavily on this challenge calling them as frivolous-

“Frivolous challenges to the constitutionality of provisions of law are raised with a view to thwart the applicability and rigour of those provisions and as an escape route from the applicability of those provisions of law and thereby create an impediment for the authorities and the institutions who are to monitor those persons who seek such challenges by abusing the process of the Court.”

4. Deposits – Companies Act 2013

Definition of Deposits

Under Rule 2C made under Chapter V is under-

“Deposit” includes any receipt of money by way of deposit or loan or in any other form, by a company, but does not include-

- any amount received in the course of or for the purpose of the business of the company.

- as an advance for the supply of goods or provision of service provided that such advance is appropriated against supply of goods or provision of service within a period of **three hundred and sixty five days** from acceptance of such advance.

To **get out of the definition of the Deposits** under the Companies Act, jewellery establishment introduced a scheme which does not extend **more than 12 months**- 11 contributions by the participant and 1 month contribution by the enterprise.

5. Reserve Bank of India Act 1934 – Sec.45I (bb):

“Deposit” includes and shall be deemed always to have included any receipt of money by way of deposit or loan or in any other form, but does not include,-

- i. amounts raised by way of share capital;
- ii. amounts contributed as capital by partners of a firm;
- iii. amounts received from a scheduled bank or a co-operative bank or any other banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949;
- iv. any amount received from,-
 - a. *[Item (a) - containing the words “the Development Bank” - omitted by the Industrial Development Bank (Transfer of Undertaking and Repeal) Act, 2003 (Act No.53 of 2003), Sec. 4.]
 - b. a State Financial Corporation,
 - c. any financial institution specified in or under section 6A of the Industrial Development Bank of India Act, 1964, or
 - d. any other institution that may be specified by the Bank in this behalf;
 - e. amounts received in the ordinary course of business, by way of-
 - i. security deposit,
 - ii. dealership deposit,
 - iii. earnest money,
 - iv. **advance against orders for goods, properties or services.**
 - v. any amount received from an individual or a firm or an association of individuals not being a body corporate, registered

under any enactment relating to money lending which is for the time being in force in any State; and

- vi. any amount received by way of subscriptions in respect of a chit.

Gold schemes claim that monies received are advances against purchases.

6. Legislative actions

Considering the nature of the illegal deposit-taking schemes, their extent and coverage, it is but natural that the State Governments will need to be fully on board to tackle this menace. The Prize Chits and Money Circulation Schemes (Banning) Act, 1978 (PCMCSB Act) through a Central Government have enacted State Acts to protect the interest of depositors in Financial Establishments. The Committee examined PCMCSB Act, different State Acts and various statues with a view to further tighten regulatory oversight over deposit schemes.

Taking into account that many of such schemes operate in multiple states, succeed in obtaining patronage of local politicians/administration and require active intervention of various regulators established under the Central Government enactments to contain the menace, the Committee is of the view that **there is a need for a comprehensive Central Government legislation to deal with the problem so as to bring in uniformity in statutory provisions throughout the country.** However, considering the spread of illegal deposit taking schemes in the country and criminality involved, the proposed enactment should be implemented through the State Governments, as in the case with the PCMCSB Act, 1978.

6.2 Banning of Unregulated Deposit Schemes and Protection of Depositors' Interests Bill, 2016

The primary intent of the 'Banning of Unregulated Deposit Schemes and Protection of Depositors' Interests Bill, 2016 is to protect the interest of depositors by banning commercial deposit-taking by establishments under schemes which are not under the supervision of any regulator or government. For this purpose, the Bill categorises deposits into Regulated Deposit Schemes, which have been identified and listed, and Unregulated Deposit Schemes. Such clear demarcation serves both

as a guide for depositors as well as law enforcement agencies and prevents proliferation of 'Ponzi Schemes'. Schemes or arrangements under which deposits are accepted by way of business, and which are not Regulated Deposit Scheme will be considered as an Unregulated Deposit Schemes.

Deposit

'Deposit' means the receipt of money, by way of advance or loan or in any other form, to be returned, whether **after a specified period or otherwise**, either in cash or in kind or in the form of a specified service, by any Deposit Taker, with or without any benefit in the form of interest, bonus, profit or in any other form.

Even the proposed legislation keeps Gold Purchase scheme outside of its purview.

7. The Chit Fund Act, 1982

Deposits are excluded from the Chit Fund Act, 1982.

8. Indian Penal Code

Sec.415- 'Cheating'

"Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to cheat."

Tail piece:

The Biggest scam ever:

- In the matter of PACL Ltd vs. SEBI.
- Estimated number of investors and liability towards principal alone:
 - No. of investors 5.15 crores
 - Total amount invested Rs.57.927 crores
- Supreme Court has appointed Justice (Retd.) R.M.Lodha Committee for disposing of the assets and disburse proceeds amongst the depositors.

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GST IMPACT ON FREE ISSUES AND SAMPLES

CA Madhukar N Hiregange and CA Mahadev.R



Introduction of GST has definitely changed the way in which business is being done due to change in indirect tax structure and law. Levy of tax has been changed from the act of sale or manufacture to act of supply. GST is levied on supply of goods or services for consideration. There are few activities which would be treated as supply even in absence of consideration. For example, stock transfer of goods to branches in other states are treated as supply to levy GST. There are doubts among the tax payers with regard to treatment of free issues or free sample of goods in GST. In this article, we have analysed few of them with possible answers.

Issue of free goods or free samples by business entities to attract customers is very common in most businesses. There was good clarity on taxation of such goods in earlier indirect tax laws such as central excise and sales tax. Central excise levy was on the act of manufacturing and therefore, if there were free issue of manufactured goods, excise duty was attracted. The levy of sales tax attracted on sale of goods for consideration. As free samples or free issues did not have any consideration, there was no sales tax levy. There was restriction on availing input tax credit on inputs used in free issue goods or samples.

GST on free samples

Section 17(5) of CGST Act 2017 restricts credit on goods issued as free samples. It is very clear that when credit availed goods are issued as free samples, credit relating to same would be ineligible. However, the doubt which arises is whether the restriction is applicable on free sample of finished goods manufactured out of ITC availed inputs as well. The sectoral series on 'Drugs and Pharmaceuticals' released by CBEC clarifies that on physician samples, GST is not payable as value would be zero and credit is not to be availed. Therefore, it is clear that on removal of finished goods as samples, there is no need to pay GST on value of finished goods but reversal of credit is needed.

Sometimes it could be difficult to identify the exact amount of credit on inputs used in finished goods. In such cases, option of claiming credit based on turnover ratio can be an alternative option. However, this may not be always feasible as Rule 42 of CGST Rules 2017 prescribes taking total input tax credit including input services for reversal when

actual amount credit cannot be identified on non-taxable transactions.

Schedule II to CGST Act 2017 consists list of activities to be treated as supply of goods or services. Sl.no. 4(a) of the schedule prescribes that transfer or disposal of any business assets which no longer form part of business assets should be treated as supply of goods whether or not there is consideration. Even finished goods which are business assets issued as free samples could be considered supply of goods for payment of GST. This view could be adopted when there is difficulty in identifying the credit on inputs or applying Rule 42 formula for reversal of credits.

GST on free supplies

Schemes such as 'Buy 1 Get 1 free' or 'Buy 10 and Get 1 free extra' are very common in fast moving consumer goods including pharma companies. In such cases, issue is if credit reversal or GST payment is needed on goods supplied as free under various schemes.

Free issue goods cannot be considered as a separate supply to levy GST. However, the main issue is requirement of credit reversal in accordance with Section 17(5) of CGST Act 2017. If one were to analyse the real nature, it is not difficult to understand that such free issue is in form of quantity discount. Discount need not be in cash form always. Even seller would have factored cost of free issue while fixing the price of first supply on which GST would be paid.

There have been few tribunal judgements in case of excise levy on free issue of goods. Many of them were in favour of suppliers. Delhi tribunal in case of *Surya Food & Agro*

Limited Vs CCE 2003 (156) ELT 488 held that free supplies made by appellant are in nature of trade discount wherein cost of free issues would have been factored in price of non-free goods. Accordingly, extra excise duty levy was not levied on free goods. This analogy may hold good even in GST regime.

Even in European VAT laws, when the customer is required to pay a consideration in connection with goods, even if the supplier describes part of that goods as a 'gift' or 'free', (example "buy 1, get 1 free") it does not come within the terms of a gift for VAT purposes. There is no need to reverse credit or pay VAT.

One is not clear if these views would be accepted by tax department without questioning. A simple change in terminology of schemes such as 'Buy 2 for the price of 1' instead of 'Buy 1 Get 1 free' could make lot of difference.

GST on free supplies from customers

There are occasions wherein goods such as tools, dies would be supplied by the customers for use by manufacturer supplier. Important question which is arising in such cases is treatment of such free supplies for valuation by supplier. Central Excise provisions had a specific provision on considering amortised value of such free supplies. Though model GST law had specific provision covering the aspect, the final GST Act or rules do not discuss this specifically.

Section 15(1) of the CGST Act provides that the value of a supply of goods or services or both would be the transaction value which is the price actually paid or payable for the said supply of goods or services or both where supplier and recipient of supply are not related and ***price is the sole consideration*** for the supply. Further Section 15(2) specifies that the value of supply shall include any amount that the supplier is liable but incurred by recipient which is not included in price of goods or services.

In case of contracts wherein the tools are not supplied by the customers, the supplier would incur the tools cost and add it to price of final goods. This price would get reduced when tools are supplied by customer. Therefore, such supply of tools could be held as additional consideration. This scenario would invite reference to valuation rules.

Rule 27 of CGST Rules states that the value of supply when consideration is wholly in money should be open market

value (OMV). When such value is not available, then value would be total consideration in money plus money equivalent to consideration which is not in money. OMV means full value in money where supplier and recipient are unrelated and price is sole consideration. When tools are supplied, the supplier could ascertain the OMV and discharge the GST on such OMV. If there is no OMV, then the prorated (total cost/ possible number of parts that can be manufactured) value of tools to be added to consideration received for supply of finished goods for payment of GST. Earlier central excise law stated that the value of tools and dies to be appropriately apportioned for valuation. Such clarity is absent in GST. However, adding entire value of tool at a time may not be logical. Therefore, the age old method of adding amortised value could be followed for valuation of freely supplied tools.

There is another school of thought that the tool supplied by customer is for his own use and it does not become consideration for the supplier for discharging GST. This could be a risky proposition as any view against this proposition could invite demand of tax including interest and penalties which are quite high in GST law.

The safer option could be to hire the tools from the customer for consideration with tax invoice instead of getting it free of cost. The tax amount could be claimed as credit as well.

Conclusion:

Many tax payers would be facing issues in taking decisions with respect to treatment of free samples or free issues. As discussed in one of the paragraphs earlier, it is not clear if one has a choice to reverse the credit on inputs contained in free samples or to treat such free sample as supply of goods in terms of Schedule II. Once an activity is supply, there should not be any option of treating it otherwise for reversing credit. A clarification by the CBEC on treatment of free samples and free issues could make the task of businessmen easier in taking right decision. Government could also consider allowing credit on goods as samples which ultimately results in increase in sale of goods on payment of GST.

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GST UPDATES

CA G.B Srikanth Acharya and CA Annapurna D Kabra



I) Press Release on GST Refund dated 29th November, 2017

- ❖ The prerequisites for sanction of refund of IGST paid are filing of GSTR 3 B and Table 6A of GSTR 1 on the GSTN portal and Shipping Bill on Customs EDI system by the exporter.
- ❖ It is essential that exporters should ensure that there is no discrepancy in the information furnished in Table 6A of GSTR 1 and the Shipping Bill.
- ❖ Certain common errors resulting in delay or rejection of GST Refund observed are :
 - Incorrect Shipping Bill number in GSTR1
 - Mis - match of invoice number and IGST amount paid
 - Wrong bank account etc.
- ❖ If the exporters are registered the information on the errors committed will be available on ICEGATE. They may also contact jurisdictional Customs authorities to check the errors committed in furnishing information in GST returns and Shipping Bill, and rectify them at the earliest.
- ❖ Customs system is designed to grant refunds automatically without involvement of any officer by matching information that is furnished on GSTN portal and Customs system. However, for this purpose the onus is on the exporters to fill the details accurately.
- ❖ The facility for filing GSTR 1 for August 2017 would be ready in December, 2017.
- ❖ In case of wrong entries for the month in July, Table 9 of GSTR 1 of August month would allow amendments to GSTR 1 of July 2017.
- ❖ With regard to the unutilized input tax credit on inputs or input services used in making exports, the exporters shall file an application in **FORM GST RFD- 01A** on the common portal where the amount claimed as refund shall get debited from the electronic credit ledger of the exporter to the extent of the claim.
- ❖ An **ARN (Acknowledgement Receipt Number)** shall be generated on GST portal, which is to be mentioned

on the print out of the FORM GST RFD-01A and to be **submitted manually to the jurisdictional officer.**

- ❖ Further, necessary documents have to be submitted along with Form GST RFD 01A for timely sanction of refund.
- ❖ Therefore, the exporters are necessary to do the following:
 - File Table 6A and GSTR 3B, if not already done, for processing of IGST refund
 - File RFD 01A on GSTN portal for refund of the unutilized input tax credit on inputs or input services used in making exports and
 - GSTR 1 for August 2017 for amending details provided in July GSTR1 wherever required.

II) Press Release on passing the benefit of GST rate reduction to the consumers

In the 23rd GST Council meet held on 10th November, 2017 where recommendations were made on the reduction of GST rates from 28% to 18% on 178 headings. Further reduction was witnessed in GST rates from 18% to 12%, 12% to 5% and so on. This benefit of reduction of GST rates has to be passed on by the suppliers to the consumers by way of commensurate reduction in prices. The reduction in GST rates is also expected to encourage domestic demand and investment.

III) Press Release for acceptance of Unique Identity Number of Foreign Diplomatic Missions / UN Organizations while making sales or supplies dated 13th November, 2017

It is to be noted that sale or supply to Missions/ Consulates or UN Organizations is similar to any other Business to Consumer (B2C) sale and will not affect the supplier's tax liability. Therefore, the suppliers should not decline to record the UIN of the diplomat/ official on the tax invoice. Recording the UIN is important because it will enable Foreign Diplomat Missions/ UIN Organizations to claim refund of the taxes paid in India.

IV) Maximum limit of late fee payable for delayed filing of return in FORM GSTR- 3B:

In case of failure to furnish the return on FORM GSTR- 3B for the month of October, 2017 and onwards within the due date, the late fees will be **waived which is in excess of an amount of Rs. 25/- for every day during which such failure continues.**

Further where in the return filed the amount of Central tax payable is Nil and there is failure to furnish the return on FORM GSTR- 3B for the month of October, 2017 and onwards within the due date, the late fees will be waived which is in excess of an amount of Rs. 10/- for every day during which such failure continues.

V) Due dates to be noted for filing of returns

Return	Taxpayers	Time Period	Due date
GSTR – 3B	All taxpayers	Every month till March' 18	20 th of the succeeding month
GSTR- 1	Annual aggregate turnover upto Rs. 1.5 crore file on quarterly basis	July- Sept' 17 Oct- Dec' 17 Jan- Mar' 18	31 st Dec' 17 15 th Feb' 17 30 th April' 17
GSTR- 1	Annual aggregate turnover upto Rs. 1.5 crore file on monthly basis	July- Oct' 17 Nov' 17 Dec' 17 Jan' 18 Feb' 18 Mar' 18	31 st Dec' 17 10 th Jan' 18 10 th Feb' 18 10 th Mar' 18 10 th Apr' 18 10 th May' 18
GSTR- 4	Taxpayers who have opted for composition scheme	Jul- Sept' 17	24 th Dec' 17
GSTR- 5	Non- resident taxable person file on monthly basis	Jul' 17	11 th Dec' 17
GSTR- 5A	Non- resident Foreign taxpayers making supplies for a short period in India to file by providing information online or through database access retrieval service	Jul' 17	15 th Dec' 17
GSTR- 6	Input service distributor	Jul' 17	31 st Dec' 17

VI) Clarification on Inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes]:

On the Inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes], Circular issued 1/1/2017- IGST shall mutatis mutandis apply to inter-State movement of such goods, and except in cases where movement of such goods is for further supply of the same goods, such inter-state movement shall be treated 'neither as a supply of goods or supply of service,

VII) Clarification on taxability of custom milling of paddy:

Milling of paddy is not an intermediate production process in relation to cultivation of plants. It is a process carried out after the process of cultivation is over and paddy has been harvested. Therefore, milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural

produce. Hence, clarified that milling of paddy into rice is not eligible for exemption under S. No 55 of Notification 12/2017 - Central Tax (Rate) dated 28th June 2017 and corresponding notifications issued under IGST and UTGST Acts.

VIII) Extension of time limit for submitting the declaration in FORM GST TRAN-1:

The period for submitting the declaration in FORM GST TRAN – 1 is extended till 27th December, 2017. Facility to revise Form GST TRAN-1 has been enabled for taxpayers who had filed it after 8.11.2017. Taxpayers who have not revised their Form GST Tran-1 so far will also be able to use this functionality.

IX) With reference to the Notification No. FD 48 CSL 2017, Bengaluru, dated 14/11/2017, in exercise of power conferred under section 11(1) of KGST Act, 2017 on the recommendation of the Council, the Government of Karnataka makes further amendments in the

Notification (4/2017) No. FD 48 CSL 2017, dated 29th June 2017 – in the said Notification after Serial No. 4, the supply of goods being raw cotton where the supplier being agriculturist and recipient being any registered person will be liable to pay tax under reverse charge.

- X) With reference to the Notification No. FD 48 CSL 2017, Bengaluru, dated 14/11/2017, in exercise of power conferred under section 54(3) of KGST Act, 2017 on the recommendation of the Council, the Government of Karnataka makes further amendments in the **Notification (5/2017) No. FD 48 CSL 2017, dated 29th June 2017- In the said notification for serial No. 6A and the entries relating thereto, the following entries shall be substituted:**

6A	5608	Knotted netting of twine, cordage or rope; made up fishing nets and other made up nets, of textile materials
6B	5801	Corduroy fabrics
6C	5806	Narrow woven fabrics, other than goods of heading 5807; narrow fabrics consisting of warp without weft assembled by means of an adhesive (bolducs)".

where no refund of unutilized input tax credit shall be allowed, where credit has been accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supplies of such goods (other than NIL rated or fully exempt supplies).

- XI) With reference to the Notification No. FD 47 CSL 2017, Bengaluru, dated 13/10/2017, in exercise of power conferred under section 6(1) of KGST Act, 2017 on the recommendation of the Council, the Government of Karnataka hereby **specifies that the officers** appointed under CGST act, 2017 who are authorized to be proper officers for the purposes of Section 54 or Section 55 of the CGST Act by the Commissioner in the Board, **shall act as proper officers for the purpose of sanction of refund** under section 54 or section 55 of KGST Act, 2017 read with rules in respect of registered person located in territorial jurisdiction of the said officers who applies for the sanction of refund to the said officers.
- XII) With reference to the Notification No. FD 47 CSL 2017, Bengaluru, dated 13/10/2017, in exercise of power conferred under section 23(2) of KGST Act, 2017 on the recommendation of the Council, the Government of Karnataka hereby **specifies the casual taxable**

persons making taxable supplies of handicraft goods as the category of persons exempted from obtaining registration under the aforesaid Act provided that the aggregate value of such supplies, to be computed on all India basis, **does not exceed an amount of Twenty Lakh rupees in a financial year.**

- a. The casual taxable persons mentioned **shall obtain a Permanent Account Number and generate an E- way bill** in accordance with the provisions of Rule 138 of the Karnataka Goods and Services Tax Rule, 2017.
- b. The above **exemption will be available to such persons who are making inter- State taxable supplies of handicraft goods** and availing the benefit of 8/2017- Integrated Tax dated the 14th September, 2017.

XIII) With reference to the Order No. 01/2017- GST/ Karnataka dated 21/11/2017 **provides for division of taxpayer base between the Central Government and State Government to ensure single interface** under GST, the

State Level Committee comprising Principal Chief Commissioner, Central Tax, Bengaluru Zone and Commissioner of Commercial Taxes, Government of Karnataka, has decided to assign the taxpayers registered in the State of Karnataka.

- a. The taxpayers and the Trade and Industry can view and check their details including the name of administering authority i.e. Centre and State by visiting either of the websites- **gstkarnataka.gov.in or gst.kar.nic.in**.
- b. In case of discrepancy in the name of GSTIN are noted or if the taxpayer name is missing from the annexure, the same may be informed by email to the authorities of Centre or State for appropriate action by the State level committee. The email communication made in this regard should have the subject line Karnataka State Level Committee on Division of Taxpayers.
- c. **Email: Centre- cbz-excise@nic.in**
- d. **Email: State- cto.karbnng@nic.in**

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HEALTH IS WEALTH - TIPS FOR A HEALTHY AND FIT BODY

Dr. Vitthal Khode

As we all live in super-fast, crowded and busy time, we multitask throughout the day to earn more wealth, however we forget that good health is as necessary for our life as air and water for the body. We forget to take proper food in timely manner, exercise daily, take proper rest, all this to earn monetary wealth. We should never forget that our health is the real wealth of life. It is true for all that 'Health is Wealth'.

A good health reduces the stress level and promotes healthy life without any sufferings. We should eat balanced food having fresh fruits, salad, green leafy vegetables, milk, egg, curds, etc. in timely manner to maintain the good health.

In earlier days, life was not so hectic. It was quite simple and free of too many challenges with healthy environment in comparison to current days. People were healthy as they had to perform all the daily routine activities by themselves. But now, life in the technological world has become easy and comfortable but hectic because of the competition. Cost of living has increased, life has become tough, as well as unhealthy as everything including air, water, environment, food has become contaminated, infected and polluted.

People work for at least 9 to 10 hours in the offices by just sitting on the chair without any physical movement. They come home late in the evening or night and are too tired to perform any household work or exercise. In the morning they get up late from bed, get ready and go to their office. In this way, they live their daily routine only to earn wealth and not live their life for themselves. It is very necessary to earn wealth for fulfilling basic needs, however, it is also necessary to live a healthy and peaceful life.

Maintaining a healthy body is not that easy and not so difficult too. Here are some tips which will help to have a happy and healthy life.

Healthy Food and Eating at Proper Time

Most important tip for a healthy body is to have healthy food and eating at proper time. Avoid eating junk food. No nutrients are available in these junk foods. Your diet should contain food which has more nutrients. Try to include leafy vegetables, fresh vegetables, fruits, milk and fish in your daily diet. Limited number of dried fruits can also be included in your diet. Reduce intake of foods which are

saltier and food with more sugar. Too much sugar and salt are bad for health. Make sure you are having your breakfast regularly. Skipping your breakfast regularly will affect your health. If water content in your body goes low, it will lead to dehydration. So, to keep the body healthy make sure you drink enough water daily.

Exercise

Exercise also plays a vital role in keeping your body healthy. By exercise it doesn't mean a simple and slow walk. Exercise should make your body sweat. You can go for running, cycling, brisk walk etc. Daily exercise of 30 minutes to one hour is recommended. Make it a routine to move your body. You can do this by running around your home, playing with your kids, climbing up and down the stair case and so on. This will help in increasing your blood circulation. You can also join a gym where you will have an instructor who can guide you to have a healthy and fit body.

Stress Management

Try to manage your stress. Stress at work is the major cause for health problems for most people. By controlling your stress, you can maintain a healthy body. Smoking, consumption of alcohol, drugs should be avoided. Your body should get enough time for rest, make sure you get a sleep of 8 hours daily. Sleep is very important factor for healthy body, mental and emotional happiness.

Personal Hygiene

Keeping hands clean regularly is very important step we can take to avoid getting sick and spreading germs to others. Try to maintain good personal hygiene which will keep all the sickness away from your body.

Comparison of Health and Fitness

Fitness and health seem to be same for everyone, but they have entirely different meanings. Fitness can be defined as the physical ability to perform work, sports etc. with ease. While health is a condition in which the body should have resistance capacity from all illness, all parts of the body should work fine without any problem. Your body should possess both fitness as well as health.

To maintain a healthy and fit body primarily requires self control and will power. Many factors can divert us from

achieving our goal of having a fit and healthy body. But never deviate and focus on it and try achieving the goal as 'Health is wealth'.

Health can be maintained by proper diet, exercise and hygiene. But in the other case to keep your body fit you need to do proper exercise. Normally sports person have a fit body, they shape their body in such a way that it fits their respective sport. But coming to healthy body it is just a matter of controlling weight and making your body immune to diseases. Some people try to make their body fit so vigorously that they do not think about their diet and health, this creates problem. So always make sure your body needs to be both healthy and fit. For a healthy and fit body, walking is very good exercise which helps in burning the excess fat in your body. A fit body doesn't mean that it should look good from outside. A fit and healthy body should be physically active, energetic and smart enough to accept any task given to it.

How Can Regular Exercise Keep You Healthy?

Both nutrition and exercise play a very vital role in the amount of fat stored in the body. All types of exercise will not reduce your body fat. For reducing body fat, first try to increase the duration of exercise rather than decreasing the level of food intake. Studies have proved that there is a significant relation between lack of physical activity and fat build up.

Just by being more active generally such as using stairs instead of taking the lift, moving in the office instead of sitting still in front of our desktops, as well as showing some enthusiasm instead of boredom, are all various means to

burn calories and reducing body fat. It seems everyone have forgotten the value of being active. Dieting without exercise will result in one getting fatter. One should increase his/her metabolism by exercising regularly to avoid getting fat.


The easiest exercise for strengthening your bones, controlling weight, toning of leg muscles and improving self-esteem is walking. It is advisable to walk at a moderate pace. Walking at high speeds every alternate day will help improve one's system.

Exercise and diet are linked to each other when it comes to good health and weight loss. Better than maintaining a balanced diet without exercise, it is better to exercise without dieting. Performing sit ups and crunches alone, the fat in your body will not transform to muscles. You must do many other activities like active sports, running, cycling that help get rid of excess body fat as it burns lots of calories.

Monitor your weight regularly and try to control it. Regular medical checkups and dental checkups are essential, which will let you know about your health condition.

*The Author is a Professor of Physiology in
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OBITUARY



We deeply regret to inform sad demise of
CA. C.S. Gupta
Past EC Member of KSCAA & Past Chairman of
Bangalore Branch of SIRC of ICAI
on 26.11.2017.
May his soul rest in peace.

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FINANCIAL REPORTING AND ASSURANCE – KEY UPDATES

CA Vinayak Pai V

1. Introduction

Akin to International Financial Reporting Standards (IFRS), the Financial Accounting Standards Board (FASB), the USGAAP standard setter had issued a new reporting standard related to revenue recognition. Under the standard, revenue is recognized when a customer obtains control of promised goods or services in an amount that reflects the consideration the entity expects to receive in exchange for those goods or services. In addition, the standard requires disclosure of the nature, amount, timing, and uncertainty of revenue and cash flows arising from contracts with customers. The standard as of date is not currently effective but early adoption is permitted.

A leading technology company in the United States that has early adopted the revenue standard had the following impact of the new revenue standard viz.

- The most significant impact of the standard related to accounting for software license revenue. The entity earlier used to recognize revenue predominantly at the time of billing and delivery rather than ratably over the life of the related item.
- Due to the complexity of certain of its commercial license subscription contracts, the actual revenue recognition treatment required under the new standard now depends on contract-specific terms and in many instances varies from recognition at the time of billing.
- Revenue recognition related to its hardware, cloud offerings and professional services remains substantially unchanged with the implementation of the new standard

Heads Up – Few Upcoming Changes which impact IND-AS

1	Amendments to IAS 1 – Classification of liabilities
2	Amendments to IAS 23 – Borrowing costs eligible for capitalization
3	Amendments to IFRIC 14 – Availability of a Refund
4	The IFRS Conceptual Framework

2. Financial Reporting And Assurance Updates

a) Amendment to Companies (Accounts) Rules

The central government has amended the Companies (Accounts) Rules 2014 vide **Companies (Accounts) Amendment Rules, 2017**. Accordingly, Forms AOC-4 Non XBRL and AOC-4 XBRL (Non IND-AS) have been revised and notified on November 7, 2017 including therein demonetization related disclosures.

The below mentioned table needs to be populated with respect to Specified Bank Notes (SBN) held and transacted during the period from November 8, 2016 to December 30, 2016.

Particulars	SBNs	Other denomination notes	Total
Closing cash in hand as on 08.11.2016			
(+) Permitted receipts			
(-) Permitted payments			
(-) Amount deposited in Banks			
Closing cash in hand as on 30.12.2016			

b) “Structured Entities” Disclosures In IND-AS Financial Statements

Our Institute’s **Guidance Note On Division II- IND-AS SCHEDULE III TO THE COMPANIES ACT 2013** provides implementation guidance on the new accounting framework.

The presentation and disclosure aspects of the line item “**Structured Entities**” are detailed herein below.

- Schedule III (IND-AS) requires a reporting entity to disclose the names of bodies corporate, including separate disclosure of investments in “**structured entities**”. This is in addition to investment in subsidiaries, associates, joint ventures,
- It may be noted that a “structured entity” is an entity that has been designed so that **voting or similar rights are not the dominant factor** in deciding who controls the entity, such as when any voting rights are related to administrative tasks only and the relevant activities

are directed by means of contractual arrangements per IND-AS 112- *Disclosure of Interests in Other Entities*.

- Under IND-AS Schedule III, investments in all structured entities need to be disclosed, **irrespective of whether controlled or not**.
- IND-AS Schedule III also requires disclosure of the **‘nature and extent’** of the investment so made. It may be noted that in a normal company, the nature and extent would imply the number of such instruments held and the face value of such instrument. However, in case of a Structured Entity, rights are mainly established by way of contractual arrangements and therefore as a part of ‘nature and extent’, a brief description of the nature of contracts may be provided along with the rights held in such entities as evidenced by such contracts.

c) **Technical Guide on Income Computation and Disclosure Standards – ICDS V: Tangible Fixed Assets**

Our Institute released a **Technical Guide** on ICDS to gear members and stakeholders for its implementation. The salient aspects of the Technical Guide with respect to **ICDS V- Tangible Fixed Assets** are summarized herein below.

- **Assets held for the purpose of rental** could be regarded as held for the purposes of providing services, if the income from such assets is taxable either under the head business income or income from other sources and would therefore fall within the purview of this ICDS. However, in cases where the income from such rental would fall under the head “Income from House Property”, such rental properties would not be covered.
- Assets for which the **possession** has been acquired and the assessee **has control** over the asset, are covered under this ICDS.
- ICDS does not have the concept of materiality and therefore one will have to **consider the principle of enduring benefit** of the asset for the purpose of treating the particular item as tangible fixed asset.
- The **initial estimate of the costs of dismantling and restoring** the site on which the asset is located cannot be considered as expenditure directly attributable in making the asset ready for intended use per ICDS.
- Bifurcation of costs into asset cost and finance cost in case of **purchase of assets on deferred credit terms** is to be ignored for the purposes of ICDS.
- Due consideration needs to be given to ICDS IX on *Borrowing Costs* that provides for capitalization of

borrowing cost on qualifying assets, which include tangible assets.

- It may be noted that adjustment to the actual cost of the asset under the provisions of **Sec 43A** is to be done for the reduction or increase in the liability at the time of payment towards such liability and not for the reduction or increase in the liability calculated for the amount outstanding at the end of the previous year at the exchange rate prevailing on that day.
 - It is pertinent to note that **section 30** of the Income Tax Act which inter alia deals with **repairs to buildings**, provides that cost of repairs (which is not capital expenditure) to premises where the assessee is a tenant, is deductible as an expenditure. Also, section 31 of the Act that deals with **repairs and insurance of machinery, plant and furniture**, provides that the amount expended on current repairs is also deductible as an expenditure.
 - ICDS does not have a provision for **change in the method of depreciation and revaluation of fixed assets**.
- d) **Clarifications On Transition Amounts in Computation Of Book Profits For MAT (Section 115JB)**

The CBDT vide **Circular No. 24/2017** dated July 25, 2017 has issued clarifications on certain issues arising at **IND-AS** transition and on steady-state reporting with respect to **computation of Book Profits** under **section 115JB** of the Income Tax Act.

The salient aspects of certain key clarifications on transition amounts as relevant to a wide array of companies are provided herein below.

- **Service Concession Arrangements**
 - Adjustments on account of Service Concession arrangements would be included in the Transition Amount and also on an ongoing basis.
- **Losses as per Books getting wiped off due to transition adjustment**
 - For Assessment Year 2017-2018, the deduction of lower of depreciation or losses shall be allowed based on the position as on 31 March 2016. For the subsequent periods, the position as per books of account drawn as per IND-AS shall be considered for computing lower of loss brought forward or unabsorbed depreciation.

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