KSCAA

Karnataka State Chartered Accountants Association ®

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Start-up Incentives | Service Tax | Transfer Pricing | Indirect Taxes Update | Financial Reporting | Capital Gain | GST

- Interactive Session on Migration of Existing Taxpayers under GST on 22nd March 2017 at Tumkur
- Practical Approach to Bank Branch Audit on 24th March 2017 at Bengaluru

CPE 3 Hrs.

Details inside

From the President

Dear Professional Colleagues,

I would like to thank each and every one of you for your overwhelming response and grand success of UDBODHA, 29th KSCAA Annual Conference 2017 held at Jnana Jyothi campus, Bengaluru. This impressive success was possible only with your combined efforts in participating. KSCAA's intellectual contribution to the two days conference was truly outstanding—Speakers from across the nation presented sessions demonstrating their knowledge richness. Honorable Lokayukta of Karnataka Justice Vishwanath Shetty inaugurated the conference, described the role of our fraternity in fighting corruption in his key note address. Feather in the cap, KSCAA conferred formally "Jnana Sagara" to senior member CA. S Krishnaswamy, reflective of his intellect, excellence and acumen, in recognition of his outstanding contribution, support and exemplary achievement in the CA profession.

The organization was quite impeccable as acknowledged by our guests, well-nourished with provocative thoughts and fine repast and receptions. The news of the Conference was broadcast far and wide across the state. I appreciate the concentrated efforts of the Conference Committee in achieving such spectacular results. All of the week, I heard only compliments! This activity involved a lot of work but represented a significant contribution to the scholarly community in Karnataka. It provided us an opportunity to showcase the inspiring and timely insights to CA community. It presented the chance for all of us to hear some absolutely brilliant speakers. The good impression we created should help our fraternity as they leave here and should help adopt it in their profession. The success of this Conference is a proof of KSCAA's ability to shine. I doff my metaphorical chapeau to all my executive committee and reiterate my most profound gratitude.

Another happy moment I wish to share is Chief Commissioner of Income Tax was gracious enough to provide a waiting lobby to tax representatives in its Koramangala, Bengaluru Office. We sincerely thank senior member CA. N Nityananda, former Central Council Member and Past Secretary of our Association for his untiring efforts to capitulating this opportunity for all of us.

We congratulate newly elected President of ICAI, CA. Nilesh Shivji Vikamsey and the Vice President CA. Naveen N D Gupta, Chairman SIRC of ICAI, CA. Cotha S. Srinivas and Torch Bearers of all the Branches. We extend our hand of cooperation in an endeavour to take the ICAI forward in leaps & bounds.

News Recapitulation

With regard to Goods and Services Tax, Union Finance Minister led The Goods and Services Tax (GST) Council cleared the final draft of CGST and IGST law on 4th March. However, no discussion in relation to the SGST Bill took place. The government has already indicated that it is keen to roll out the new regime from July 1 onwards. Finance Minister said, "Approval of draft of state-GST (SGST) which is to be cleared by state assemblies is on the anvil. UT-GST along with SGST will be on lines of CGST law; GST Council is to consider them at March 16 meeting." He further said that GST laws are planned to be taken up in the Parliament in the second half of Budget session beginning March 9. As for the eventual rollout, Minister added: "July 1 looks possible for rollout of GST; cap rate will be kept at a higher rate; applied rate will be 5, 12, 18, 28 per cent." Prime Minister also expressed confidence that the much-awaited legislations related to GST will be passed this time and he was further looking forward to a healthy debate in the second part of Budget Session of Parliament.

Government withdraws Service tax exemption for educational institute through Notification No. 10/2017-Service Tax, New Delhi, the 8th March, 2017 w.e.f. 1st April 2017. The said notification for withdrawal of exemption excludes an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.

Upcoming Events & Programs for the month

As you know, GST Migration process will enable existing tax payers to update their information and other relevant documents as a first step towards obtaining registration under the GST. With a view to provide greater insights on GSTN user interface, procedure and documentation requirements, Karnataka State Chartered Accountants Association ("KSCAA") is organising an interactive session on Migration of existing taxpayers under GST in Tumkur on on 22nd March, 2017 in Association with Tumkur District Chamber of Commerce and Industry, Tumkur District CA Association, Tumkur District Tax Practitioners Association.

As bank audit is fast approaching, a Study Circle Meet Bank Audit is being organised by Basavanagudi CPE Study Circle on 24th March, 2017. Eminent speaker on Bank Audit and Past President of our Association, CA. P R Suresh will provide insights on practical approach to Bank Branch Audit.

Programme details are published are elsewhere in news bulletin, members are requested to make effective use of these programs.

At the end, I remember a quote which inspires us to fight all odds in our life, that is:

"You may encounter many defeats, but you must not be defeated. In fact, it may be necessary to encounter the defeats, so you can know who you are, what you can rise from, how you can still come out of it."

May this Ugadi bring a new hope, new enthusiasm and new prosperity you have ever wished for

Happy Ugadi and New Year !!!

Always at your service!

CA. Raghavendra Puranik
President

Welcoming Guests & Inaugural Session













Honouring the Guests








Release of Souvenir & Publications




Receiving Letter of Accommodation

Guests Stall Visits

Impressions of 1st Day Plenary Sessions

KSCAA

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**SERVICE TAX COMMISSIONERATE - I, BENGALURU,
TUMKUR DISTRICT CHAMBER OF COMMERCE AND INDUSTRY,
TUMKUR DISTRICT CA ASSOCIATION,
TUMKUR DISTRICT TAX PRACTITIONERS ASSOCIATION**

Organises

Interactive Session on Migration of Existing Taxpayers under GST

with

Sri. M. Vinod Kumar
Chief Commissioner, Bengaluru Zone

Sri. G. Narayanaswamy
Commissioner Service Tax - I

on Wednesday, 22nd March 2017

at TDCCI Building, APMC Yard, Batawadi, Tumkur

Time: 10:30 am to 12:00 noon

Contact:

CA. Raghavendra T N - +91 98801 87870
Sri. Prakash S - +91 94487 01305

BASAVANAGUDI CPE STUDY CIRCLE

CPE Programme for the month of March 2017

Practical Approach to Bank Branch Audit

by **CA. P R Suresh**

on ***Friday, 24th March 2017***

at ***5:00 PM to 8:00 PM***

CPE 3 Hrs.

Fees: Rs. 300/- *Per Participant*

Venue : Bangalore International Academy

 # 244/C, 32nd Cross, 2nd Main Road, 7th block, Jayanagar, Bengaluru - 560082

Contact:

CA. Maddanaswamy B V - +91 93412 14962
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Participation limited to 75 Members on First Come First Serve Basis

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Income Tax Incentives for Start – UPS

CA. S. Krishnaswamy

"People working anywhere in the world born anywhere in the world can create a product and make it available to anyone in the world" – Sundar Pichai –(CEO Google)

It was on the occasion of India's 69^{th} Independence Day that Prime Minister Narendra Modi announced Startup India initiatives from the ramparts of India's iconic Red Fort. Just five months later, on 16^{th} January, the PM unveiled the historic Startup Action Plan.

One of the Points of the Startup Action Plan was Income Tax Relief,

1. Exemption from Capital Gain Tax on investment and sale of residential property
2. Tax holiday for Startups
3. Tax exception on investments without adopting Fair Market Value

This was followed up in the Finance Act 2016 effective from 01.04.2017.

Sl No	Section	Particulars
1	80-IAC	Tax Holiday
2	54 EE	Capital Gain Exemption
3	54GB	Capital Gain on selling of residential property
4	56 (2)(vii b)	For sale of shares – fair value requirement exclusion. Angel Tax removed

1. **Section 80 – IAC – Tax Holiday**

Special Provision in respect of specified business Section 80 IAC – Income Tax Act w.e.f 01.04.2017.

The section provides a Tax Holiday of 3 consecutive years in a block of 5 years (now extended to 7 years in Finance Bill 2017) for Startups.

The definition of Startup is contained in

1. "Eligible Business" means a business which involves innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property;
2. "Eligible Start-up" means a company or a limited liability partnership engaged in eligible business which fulfils the following conditions, namely:-
   i) It is incorporated on or after the 1^{st} day of April, 2016 but before the 1st day of April, 2019;
   ii) The total turnover of its business does not exceed twenty- five crore rupees in any of the previous years beginning on or after the 1^{st} day of April, 2016and ending on the 31^{st} March, 2021; and
   iii) It holds a certificate of eligible business from the Inter- Ministerial Board of Certification as notified in the official Gazette by the Central Government;
3. Limited liability partnership means a partnership referred to in clause (n) of sub section (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009).

The other conditions are.

- It is not formed by splitting up, or the reconstruction, of a business already in existence"

  Provided that this condition shall not apply in respect of a start-up which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as referred to in section 33B, in the circumstances and within the period specified in that section;
- It is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Section Reads

(1) Where the gross total income of an assessee, being an eligible start-up, includes an profits and gains derived from eligible business, there shall in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to one hundred per cent of the profits and gains derived

from such business for three consecutive assessment years,

(2) The deduction specified in sub- section (1) may, at the option of the assessee be claimed by him for any three consecutive assessment years out of five years beginning from the year in which the eligible start – up is incorporated

(3) This section applies to a start-up which fulfils the following conditions, namely:—

(i) it is not formed by splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of a start-up which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as referred to in section 33B, in the circumstances and within the period specified in that section;

(ii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation 2.—Where in the case of a start-up, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent of the total value of the machinery or plant used in the business, then, for the purposes of clause (ii) of this sub-section, the condition specified therein shall be deemed to have been complied with.

Memorandum Explaining the Provision

With a view to providing an impetus to Start-ups and facilitate their growth in the initial phase of their business, it is proposed to provide a deduction of one hundred percent. of the profits and gains derived by an eligible start-up from a business involving innovation development, deployment or commercialization of new products, process or services driven by technology or intellectual property.

2. **54 EE – Capital Gain Exemption**

S 54EE – Capital gain exempt – w.e.f. 01.04.2017

Capital gain not to be charged on investment in units of a specified fund

The relief is in proportion to investment amount bears to capital gain

Section Reads

54EE. *Capital gain not to be charged on investment in units of specified fund.*—(1) Where the capital gain arises from the transfer of a long-term capital asset (herein in this section referred to as the original asset) and the assessee has, at any time within a period of six months after the date of such transfer, invested the whole or any part of capital gains in the long-term specified asset, the capital gain shall be dealt with in accordance with the following provisions of this section, namely:—

(*a*)	if the cost of the long-term specified asset is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45;
(*b*)	if the cost of the long-term specified asset is less than the capital gain arising from the transfer of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the long-term specified asset bears to the whole of the capital gain, shall not be charged under section 45:

Provided that the investment made on or after the 1st day of April, 2016, in the long-term specified asset by an assessee during any financial year does not exceed fifty lakh rupees:

Provided further that the investment made by an assessee in the long-term specified asset, from capital gains arising from the transfer of one or more original assets, during the financial year in which the original asset or assets are transferred and in the subsequent financial year does not exceed fifty lakh rupees.

Definitions

(*a*) "cost", in relation to any long-term specified asset, means the amount invested in such specified asset out of capital gains received or accruing as a result of the transfer of the original asset;(*b*) "long-term specified asset" means a unit or units, issued before the 1st day of April, 2019, of such fund as may be notified by the Central Government in this behalf.'.

Memorandum Explaining the Provision

The benefit of hundred per cent, deduction of the profits derived from such business shall be available to an eligible start – up which is set up before 01-04-2019.

Further, in order to promote the start-up ecosystem in the country, it is envisaged in “start-up India Action Plan” to establish a Fund of Funds which intends to raise Rs. 2, 500 crores annually for four years to finance the start –ups.

Keeping this objective in view, it is proposed to insert a new section 54EE to provide exemption from capital gains tax if the long – term capital gains proceeds are invested by an assessee in units of such specified fund, as may be notified by the Central Government in this behalf, subject to the condition that the amount remains invested for three years failing which the exemption shall be withdrawn. The investment in the units of the specified fund shall be allowed up to Rs. 50 lakh

3. **54GB – Capital Gain on selling of residential property**

If invested in equity share of a startup company on a proportionate basis

Section Reads

'54GB. *Capital gain on transfer of residential property not to be charged in certain cases.*—(1) Where,—

(*i*) the capital gain arises from the transfer of a long-term capital asset, being a residential property (a house or a plot of land), owned by the eligible assessee (herein referred to as the assessee); and

(*ii*) the assessee, before the due date of furnishing of return of income under sub-section (1) of section 139, utilises the net consideration for subscription in the equity shares of an eligible company (herein referred to as the company); and

(*iii*) the company has, within one year from the date of subscription in equity shares by the assessee, utilised this amount for purchase of new asset, then, instead of the capital gain being charged to income-tax as the income of the previous year in which the transfer takes place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*a*) if the amount of the net consideration is greater than the cost of the new asset, then, so much of the capital gain as it bears to the whole of the capital gain the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under section 45 as the income of the previous year; or

(*b*) if the amount of the net consideration is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45 as the income of the previous year.

Memorandum Explaining the Provision

The existing provisions of section 54GB provide exemption from tax on long-term capital gains in respect of the gains arising on account of transfer of a residential property, if such capital gains are invested in subscription of shares of a company which qualifies to be a small or medium enterprise under the Micro, Small and Medium Enterprises Act, 2006

With an objective to provide relief to an individual or HUF willing to set up a start-up company by selling a residential property to invest in the shares of such company by selling a residential property to invest in the shares of such company, it is proposed to amend section 54GB so as to provide that long-term capital gains arising on account of transfer of a residential property shall not be charged to tax if such capital gains are invested in subscription of shares of a company which qualifies to an eligible start-up subject to the condition that the individual or HUF holds more than fifty percent shares of the company and such company utilizes the amount invested in shares to purchase new asset before due date of filing of return by the investor.

The existing provision of section 54GN requires that the company should invest the proceeds in the purchase of new asset being new plant and machinery but does not include, inter-alia, computers or computer software.

With a view to avoid the incidence of the aforesaid condition on start-ups where computers or computer software form the core asset base owing to nature of business activity, it is proposed to amend section 54GB so as to provide that the expression “new asset” includes computers or computer software in case of technology driven start – ups so certified by the Inter-Ministerial Board of certification notified by the Central Government in the Official Gazette

4. **56 (2) (vii B) – For sale of shares – fair value not to be adopted**

A tax described as “angel tax” removed

Income from other sources w.e.f 01.04.2013

In many cases, the valuation of startups is far in excess of market value as it is based on the promise of the idea and not the immediate worth. In such a case, the start up would end up losing a chunk of the inflow to this ‘angel tax’. The Central Board of Direct Taxes has issued a notification to this effect, exempting startups raising investments from the rigors of Section 56(2)(viib)

(Contd. on page 10)

New Service Tax Levy on Ocean Freight

CA. Madhukar N Hiregange and **CA. Mahadev R**

Service tax levy on ocean freight charges even when the services are provided outside India has attracted lot of criticism from trade within the country. This would also effect countries like Nepal as the levy would affect the transit treaty between the countries. Service tax levy from 22nd January 2017 has created few confusions with respect to aspects like liability, point of taxation and Cenvat credit etc. Importers who hitherto were not liable for service tax on ocean freight upto the customs station in India are disadvantaged when services. In this article, we have tried to analyse these issues.

Service tax levy on ocean freight

Transportation of goods by vessel from outside India up to custom station of clearance in India was kept out of service tax levy as it was covered in negative list of services. However, from June 2016, this entry was removed from negative list to bring it in service tax ambit.

For payment of service tax, abatement of 70% was provided from total value and effective rate of service tax after abatement was brought to 4.5% (i.e 15% tax *30% value). The liability to pay service tax in case of transportation services in a vessel would be on service provider. However, in case services provided by any person located in a non-taxable territory and received by any person located in the taxable territory, the liability would be on person receiving services in India under reverse charge mechanism.

Services received in non-taxable territory were exempted

Any services received by a person located in non-taxable territory (J&K state and any country outside India) from a person located in non-taxable territory was exempted from service tax vide sl.no.34(c) of mega exemption notification no.25/2012. Therefore, even the transportation of goods by vessels was exempted from service tax when services provided and received by a person located in non-taxable territory. This exemption resulted in lower freight cost when foreign vessels were hired by overseas exporters or by Indian importers. This exemption has been removed from 22nd January 2017.

Service tax levy from 22nd January 2017

Notification No.01/2017-ST (effective from 22nd January 2017) has been issued to exclude the services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India from the exemption entry provided under sl.no. 34(c) of mega exemption notification. Thus, such transportation would be liable for tax going forward. This levy has created level playing field between foreign and local shipping lines.

Person liable to pay is neither service provider or receiver

Service tax cannot be imposed on service provider or receiver for services which are provided in non-taxable territory. Therefore, the burden of discharging service tax has been put on person who is appointed as person in-charge of vessel in India for compliance with relevant custom provisions (according to Section 29, 30 or 38 read with Section 148 of the Customs Act, 1962) when the vessel arrives in India. However, there is no restriction for collecting such service tax amount from the customers. Therefore, such person liable for tax could collect tax amount from customers in India. The tax liability would be on 30% of the value of services. Effective rate of service tax after abatement would be 4.5%. The value of ocean freight charged by shipping line or vessel would have to be considered for paying service tax.

However, the basic question which arises is whether service tax can be levied on person in-charge of vessel when services are provided by a person located in non-taxable territory and also received by a person in non-taxable territory. Section 66B of Finance Act 1994 provides for levy of service tax on the value of all services other than those services specified in the negative list, provided or agreed to be provided in taxable territory by one person to another. In the present case, one could argue that the services are provided as well as received in non-taxable territory and therefore, not liable for service tax.

Point of taxation for paying service tax

Point of taxation in respect of persons required to pay tax as recipients of service in respect of services notified in Section 68(2) of Finance Act 1994 would be date on which payment is made. If payment is not made within 3 months of invoice date, immediate date would be considered as point of taxation. The question is whether the person in-charge of vessel who has been made liable for service tax payment can be considered as recipient of service though he is not receiving the service. Even if yes, the point of taxation would be date of payment for the service. In this case, no payment would be made by person in-charge of vessel.

Cenvat credit of service tax charged

The person in-charge could collect the applicable service tax from his customer. Next issue to be understood is eligibility of credit to the customer based on invoice issued by person in-charge which could contain only service tax amount. But services received and provided by foreign parties located in non-taxable territories.

Conclusion:

Though it is good intention to bring even foreign shipping line services on par with domestic liners, the practical issues could have been considered. There could be many contracts which would have been finalised without factoring the new service tax levy and without amending the contracts, it would be difficult for the shippers / agents to collect tax from customers like overseas exporters. Therefore, industry could make representation and seek additional time for compliance in addition to challenging the levy itself as the services are provided as well as received in non-taxable territory. As GST law could be reality from July 2017, the government could have avoided this amendment. Professionals could communicate the issues involved with clients who could get impacted by this amendment.

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Income Tax Incentives for Start – UPS

(Contd. from page 8)

Sub section reads

"(viib) where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares:

Provided that this clause shall not apply where the consideration for issue of shares is received—

(*i*) by a venture capital undertaking from a venture capital company or a venture capital fund; or

(*ii*) by a company from a class or classes of persons as may be notified by the Central Government in this behalf".

Entity Definition as per DIPP includes partnership – slightly different

As per the current definition of startups by DIPP, an entity will be identified as a start up:

a) An entity shall cease to be a startup on completion of five years from the date of its incorporation/registration or if its turnover for any previous year exceeds Rupees 25 crore.

b) Entity means a private limited company (as defined in the Companies Act, 2013), or a registered partnership firm (registered under section 59 of the Partnership Act, 1932) or a limited liability partnership (under the Limited Liability Partnership Act,2002).

c) Turnover is as defined under the Companies Act,2013.

d) An entity is considered to be working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property if it aims to develop and commercialize: a. A new product or service or process, or b. A significantly improved existing product or service or process, that will create or add value for customers or workflow.

Provided that the mere act of developing:

a. products or services or processes which do not have potential for commercialization, or b. undifferentiated products or services or processes.

c. products or services or processes with no or limited incremental value for customers or workflow would not be covered under this definition.

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Important Transfer Pricing Proposals in the Finance Bill 2017

CA. Prakash Hegde and **CA. Raghavendra N**

In order to get a fair share out of the profits of Multinational Corporations ('MNC's), most of the countries across the world have introduced the transfer pricing regulations in their income-tax legislations. As the business dynamics change and as new kinds of businesses develop, to keep pace with such changes and developments, the transfer pricing regulations also need to be updated by the countries so that the objective of getting a fair share of profit is fulfilled. Hence, changes / amendments in these regulations are part of a never-ending process.

A comprehensive transfer pricing legislation to cover international transactions was introduced in India via the Finance Act 2001. Few Specified Domestic Transactions ('SDT') to cover certain transactions that may occur between the domestic companies were brought within the purview of transfer pricing regulations via Finance Act 2012 effective Financial Year ('FY') 2012-13.

In the Finance Bill 2017, the Finance Minister ('FM') Mr Arun Jaitley has proposed to introduce two important changes affecting international transactions and one change affecting the SDT. The proposed changes affecting international transactions are the introduction of the concepts of (i) Secondary adjustment and (ii) Thin capitalization rules and the proposal affecting the domestic transactions is to restrict the applicability of the provisions of SDT only to tax holiday scenarios.

Each of the above proposals has been discussed in the ensuing paragraphs.

1. **Secondary adjustment**

   The price at which an international transaction is carried out (i.e. transfer price) could be subject to adjustment resulting in increase of taxable profit of the taxpayer. Where an adjustment has been made to the transfer price of a transaction, it is called 'primary adjustment' and the taxpayer is required to pay additional taxes arising due to such primary adjustment.

   Secondary adjustment means an adjustment in the books of account of the taxpayer to reflect the impact of primary adjustment. This results in addition of notional interest on such excess amount lying with an Associated Enterprise ('AE') due to primary adjustment, where such amount is not transferred to the taxpayer.

In order to align the transfer pricing provisions in line with OECD guidelines and international best practices, the FM has proposed to introduce provisions relating to secondary adjustment in the Act by inserting a new section 92CE. Under the provisions of new section 92CE, a secondary adjustment is to be made where a primary adjustment is made to the transfer price under the following situations:

- *Suo motu* adjustment made by the taxpayer in his return of income
- Adjustment made by the assessing officer and accepted by the tax payer
- Adjustment determined by an advance pricing agreement
- Adjustment made as per safe harbor rules
- Adjustment arising as a result of mutual agreement procedure

However, the new section excludes the carry out of a secondary adjustment in the following cases :

(a) the amount of primary adjustment in any FY does not exceed Rs 1 Crore **and**

(b) the primary adjustment is made in respect of FY 2015-16 or any prior year

It may be noted that though the above two exceptions appear to be cumulative due to the conjunction '**and**'. However, based on the intention and reading of the provisions, there seems to be a drafting error and the correct conjunction to be considered is **'or'** instead of '**and**'.

This proposed amendment would be applicable from FY 2017-18 and thereafter.

The provisions have ignored the possibility of double taxation as the Double Taxation Avoidance Agreements do not provide clear guidelines on this kind of a secondary adjustment and relief for the same. Further, the country of residence of the AE may have its own regulations for transfer of funds representing the amount of primary adjustment in India. From the perspective of the India Companies' law read with Accounting Standards, clarification / amendment may be needed to allow the taxpayer company to make adjustment in its books of account. Therefore, this proposed amendment is likely to cause a few practical challenges.

It is expected that the Government would soon provide clarity on matters regarding issues like the period within which funds may be repatriated to India, the manner of computation of interest etc.

It is worth to note that secondary adjustment rules are already a part of transfer pricing regulations in different forms in many countries like USA, France, Canada, South Africa etc.

2. Thin capitalization rules

The amount of profit reported by a company for income-tax purposes depends on the way it is capitalized. Taxable profit would be lower with an increased borrowed funds as compared to share capital as the provisions of income-tax law allows deduction of interest paid or payable in arriving at taxable profits while dividend paid is not deductible, thereby making debt a more tax efficient option of finance than equity.

The memorandum to the Finance Bill 2017 states that the Organisation for Economic Co-operation and Development ('OECD') in its Base Erosion and Profit Shifting ('BEPS') project had taken up the issue of base erosion and profit shifting by way of excess interest deduction by MNCs in Action plan 4 and the OECD has recommended several measures in its final report to address this issue.

In view of the above, the FM has proposed to insert new provisions (section 94B) restricting the claim of interest expenses by an entity on payments made to its AE to 30% of its Earnings Before Interest, Taxes, Depreciation and Amortization ('EBITDA') or interest paid / payable to AE, whichever is less.

These provisions would be applicable to an Indian company or a permanent establishment ('PE') of a foreign company, if it is the borrower and pays interest in respect of any form of debt borrowed from a non-resident or to a PE of a non-resident and who is an AE of such borrower.

The debt shall be deemed to have been borrowed by an AE where it provides an implicit or explicit guarantee to the lender or deposits a corresponding and matching amount of funds with the lender.

The provisions would be applicable to interest expenditure exceeding Rs 1 crore per FY and also allow carry forward of disallowed interest expense up to 8 assessment years. Taxpayers engaged in the business of banking or insurance are excluded from the purview of the said provisions.

This proposed amendment would be applicable from FY 2017-18 and thereafter.

Capital intensive and infrastructure companies with long gestation period may get affected by the above provisions. Further, there is no clarity on the limit for a company which has negative EBITDA and a complete disallowance in such situation seems to be too harsh.

3. Domestic transactions to be regulated only in a tax holiday scenario

The existing provisions of the transfer pricing regulations apply to the following domestic transactions:

i. Payments made or to be made to persons referred to in section 40A(2)(b) of the Act

ii. Any transaction referred to in section 80A

iii. Inter-unit transfer of goods or services referred to in section 80IA(8) of the Act

iv. Transactions between the taxpayer and other person referred to in section 80IA(10)

v. Any transaction referred to in any other section of Chapter VI-A or section 10AA to which section 80IA(8) or 80IA(10) are applicable

vi. Any other transaction as may be prescribed

It is relevant to note that the transfer pricing regulations for the above transactions are applicable only where the aggregate of such transactions in the FY exceeds Rs. 20 Crores.

The domestic transfer pricing regulations were introduced with the intention of disallowing any tax arbitrage which a taxpayer may get by shifting profit from a person / unit taxable / taxable at a higher rate, to another person / unit which is not taxable / taxable at a

(Contd. on page 14)

Indirect Taxes Update – February 2017

CA. C.R. Raghavendra *B.Com, FCA, LLB, Advocate* and
CA. Bhanu Murthy J.S. *B.Com, FCA, LLB, Advocate*

Circulars / Clarifications / Notifications

1. **Clarification on applicability of service tax on the services by way of transportation of goods by a vessel from a place outside India to the customs station in India w.r.t. goods intended for transhipment to any country outside India:**

   Consequent to levy of service tax on ocean freight, in the context of goods intended for transhipment to any country outside India, it has been clarified that as per the charging Section 66B of the Finance Act, 1994, service tax is leviable on services provided or agreed to be provided in the taxable territory. Whether a service is provided or agreed to be provided in the taxable territory or not, is determined as per Section 66C of the Finance Act, 1994 and the Place of Provision of Services Rules, 2012 made thereunder. In terms of the applicable rule 10 of the Place of Provision of Services Rules, 2012, the place of provision of services of transportation of goods by air/ sea, other than by mail or courier, is the destination of the goods.

   In view of the above, with respect to goods imported into a customs station in India intended for transhipment to any country outside India, the destination of goods is not a place in taxable territory in India but a country other than India if the same is mentioned in the import manifest or the import report as the case may be and the goods are transhipped in accordance with the provisions of the Customs Act, 1962 and rules made there under. Hence, with respect to such goods, services by way of transportation of goods by a vessel from a place outside India to the customs station in India are not taxable in India as the destination of such goods is a country other than India.

   Accordingly, no service tax would be leviable on the transportation of goods by a vessel from a place outside India to the customs station in India which are intended for transhipment outside India.

   [Source: Circular No.204/2/2017-Service Tax dated 16.02.2017]

2. **Education Services (effective from 1.4.2017):**

   Under Mega Exemption Notification No. 25/2012 ST dated 20.06.2012, Entry 9(a) provides for exemption from services provided by an educational institution to its students, faculty and staff. Entry 9(b) grants exemption to following services provided to an educational institution:

   (i) transportation of students, faculty and staff;

   (ii) catering, including any mid-day meals scheme sponsored by the Government;

   (iii) security or cleaning or house-keeping services performed in such educational institution;

   (iv) services relating to admission to, or conduct of examination by, such institution.

   Vide Notification No. 10/2017-ST dated 8.03.2017, it is proposed to restrict the exemption under 9(b) above only to such educational institution providing services by way of pre-school education and education up to higher secondary school or equivalent.

   Therefore, w.e.f. 1.4.2017, services provided by various service providers to a educational institutions pre school and upto Higher secondary education (10+2) would be liable to service tax. It is to be noted that exemption has been withdrawn only on services provided by others to educational institutions referred above and the education services by educational institutions would continue to be exempt from service tax

   [Source: Notification 10/2017-ST dated 8.03.2017]

3. **Admission to Museum – retrospective exemption for period from 1.7.2012 to 31.3.2015:**

   Services of admission to museum are exempted from service tax retrospectively from 1.7.2012 to 31.3.2015.

   It is relevant to note that w.e.f. 1.4.2015, vide entry 45 of the Notification No. 25/2012-ST dt. 20.06.2012 grants exemption.

   [Source: Notification No.09/2017-ST dated 28.02.2017]

4. **Services by operators of Common effluent treatment plant –retrospective exemption:**

   Services provided by operators of common effluent treatment plant are exempted from service tax retrospectively from 1.7.2012 to 31.3.2015.

   It is relevant to note that w.e.f. 1.4.2015, vide entry 43 of the Notification No. 25/2012-ST dt. 20.06.2012 grants exemption

   [Source: Notification No.08/2017-ST dated 20.2.2017]

Central Excise:

5. **Remission of Duty – amendment of Rule 21 of Central Excise Rules, 2002:**

   Rule 21 of Central Excise Rules, 2002 provides for remission of duty under certain circumstances, on goods destroyed.

   The said rule has been amended to provide that the application for remission has to be decided within 3 months from the date of receipt of the application and the period could be extended where there is a sufficient cause is there. However, maximum extension would be upto 6 months.

   [Source: Notification No.5/2017-CE(N.T.) dated 02.02.2017]

Case laws:

1. **Safety Retreading Company Pvt Ltd Vs CCe, 2017-TIOL-28-SC-ST**

   Issue relates to valuation of services of tyre retreading. The assessee claimed 70% as material value (based on the state VAT laws) and balance as service value and paid service tax on such 30% value. The department contended that as actual value of goods is not available such deduction is not eligible and hence service tax shall be paid on entire value. CESTAT affirmed the said view in its majority decision.

   The Supreme Court held that in view of the clear provisions of Section 67 of the Finance Act, 1994, which specifically excludes the costs of parts or other material, if any, sold (deemed sale) to the customer while providing maintenance or repair service, no service tax could be levied on the material portion. The Court observed that the view held by the Majority in the appellate Tribunal that in a contract of the kind under consideration there is no sale or deemed sale of the parts or other materials used in the execution of the contract of repairs and maintenance, is not correct. The correct proposition of law is that an assessee is liable to pay tax only on the service component which under the State Act has been quantified at 30%.

2. **CCE Vs Vadilal Gases Ltd, 2017-TIOL-34-SC-CX**

   The assessee was undertaking packing pure Argon and Nitrogen in smaller cylinders and also undertook activity of mixing of inert gases (like argon, nitrogen, helium etc.) with other gases like oxygen, nitrogen, carbon dioxide and making available such combination to the consumers in smaller cylinders. The issue before the Court was whether such filling of gases and mixing would amount to manufacture. The Court relying on the decision in the case of Commissioner of Central Excise vs. Goyal Gases (P) Ltd. 2002TIOL793-SC-CX-LB held that such activities would not amount to manufacture.

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Important Transfer Pricing Proposals in the Finance Bill 2017

(Contd. from page 12)

lower rate. However, covering of payments to persons referred in section 40A(2)(b) did not achieve the said objective and therefore, the FM in the Finance Bill 2017 has proposed to exclude the same from the purview of domestic transfer pricing regulations. The FM has stated that the proposal is being made to reduce the compliance burden of the taxpayers.

This is a welcome amendment and will help the taxpayers from getting away with the hassles of maintaining documentation and obtaining of accountant's report etc. This proposed amendment would be applicable from FY 2016-17 and thereafter.

Conclusion: As noted above, the first two amendments affect the international transactions of a taxpayer adding additional burden, whereas the last one affects the domestic transactions and provides relief to the taxpayer. We hope that the Government will issue suitable clarifications to provide sufficient clarity on various open issues with respect to the first two amendments discussed above.

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Financial Reporting – Practitioners Update

CA. Vinayak Pai V

1. INTRODUCTION

India Inc. is witnessing two sweeping changes to its corporate reporting framework. The Indian variant of **IFRS** is mandatory in a phased manner and SEBI has also issued a circular heralding the formal arrival of **Integrating Reporting** (IR) into the regulatory framework.

IND-AS and IR are two **big-ticket corporate reporting reforms** aimed at enhancing usefulness and transparency of reporting to stakeholders. Together, they are expected to achieve goals of **financial stability and sustainable development**. IR would force companies to take into consideration its **non-monetized capitals** in decision processes and stakeholder reporting.

2. FINANCIAL REPORTING UPDATES

a) IND-AS – FAIR VALUATION OF FINANCIAL INVESTMENTS

IND-AS, the framework required to be mandatorily applied by unlisted companies that meet threshold net worth requirements from fiscal 2017-18 requires **fair valuation of financial investments** in equity and debt instruments at each reporting date. Companies that have exposures to such investments, where **unquoted**, need to arrive at a valuation technique consistent with a valuation approach advocated by **IND-AS 113** on fair valuation. The impact of moving from an AS-13 measurement model to a fair valuation model has an **impact** both at the **transition date** as well on a **steady-state** reporting basis.

b) TREATMENT OF GOVERNMENT GRANTS UNDER ICDS (REVISED)

Revised Income Computation and Disclosure Standards (ICDS) are **applicable from Assessment Year 2017-18** and the salient aspects of treatment of **government grants** addressed in **ICDS VII**- *Government Grants* are provided herein below.

- Grants should not be **recognized** until there is **reasonable assurance** that the person shall **comply** with attached **conditions** and that the grant shall be **received**.
- The recognition of grant should **not be postponed beyond** actual **date of receipt.**
- **Non-monetary asset** grants given at a concessional rate should be accounted for on the basis of their **acquisition cost.**
- Government grants related to **depreciable fixed asset** should be **deducted** from the **actual costs** of the asset **or** from the **WDV** of block of assets to which the asset relates.
- In case of grants that **cannot be directly relatable to an asset** acquired, to the extent of the amount which **bears to the total Government grant**, the **same proportion** as such asset bears to all the assets in respect of or with reference to which the grant is so received, shall be deducted from the actual cost of the asset/WDV of the block.
- The amount **refundable in respect of a grant related to a depreciable fixed asset** shall be recorded by increasing the actual cost/WDV of block. Where the actual cost of the asset is increased, **depreciation** on the revised actual cost or written down value shall be **provided prospectively** at the prescribed rate.
- **Disclosure** is required regarding the nature and extent of government grants **recognized during the previous year** by **deduction from the actual cost** of asset/WDV of block of assets.

c) INTEGRATED REPORTING FOR A CATEGORY OF LISTED COMPANIES

SEBI has recently issued a circular (*SEBI/HO/CFD/CMD/CIR/P/2017/10)* that formally introduces Integrated Reporting. For the fiscal year **commencing April 1, 2017**, **Integrated Reporting** would be on a voluntary basis for the **Top 500 listed companies** that are at present within the ambit of the requirement to prepare Business Responsibility Reports.

- The IR framework has been created by the International Integrated Reporting Council that has the mission of establishing **integrated reporting and thinking** within **mainstream business practice** as the norm. Integrated Reporting aims to provide concise information about how an **organization's strategy, governance, performance** and prospects **create value** over a period of time with the ultimate objective of providing interested stakeholders with relevant information that is perceived to be useful for making informed investment decisions.
- Accordingly, stakeholders need to be communicated about the circumstances in which the reporting entity

operates, its business model, the risks and opportunities that affect the organization's ability to create value, how its governance structure supports its ability to create value and how the organization achieved its objectives over the reporting period and what are its **outcomes in terms of effects on capital**. Capital is not merely confined to the financial aspect but is a **wider concept encompassing** manufactured, intellectual, human, social and relationship and natural **capitals**.

d) **GUIDANCE NOTE ON AUDIT OF BANKS AND DEMONETIZATION**

Our Institute has released the 2017 edition of the "**Guidance Note (GN) on Audit of Banks".** The demonetization initiative of the central government has consequential impact on the audit of banks including branches and the GN specifically addresses this issue and it also contains a separate **Appendix** labeled **XII on Demonetization**. It may be noted that demonetization has reporting implications as part of the narrative in the Long Form Audit Report (LFAR) for bank branches. Some of the salient aspects of the GN with respect to demonetization are summarized herein below.

- Auditor to require bank management to identify and inform about any **adverse observations** in the implementation of the **demonetization scheme**, the effect whereof may need to be considered by including a paragraph in the **engagement letter**.
- Auditor to take into **consideration general notifications** as well as **special announcements/notifications** that have been issued as a corollary to the demonetization scheme including PMJDY.
- Demonetization – **Effect on Asset Classification** to be taken into audit consideration.
  - o Consequent upon withdrawal of the legal tender status SBN in November 2016, the RBI had issued a notification dated November 21, 2016 providing an additional 60 days beyond what is applicable for the concerned regulated entity (RE) for recognition of a loan account as sub-standard in specified cases. The dispensation was subject to specified conditions.
- **Auditor's role**
  - o The auditor should **assess** based on the observations of the concurrent auditor/ special auditor/ other auditor/ inspectors, etc., whether the bank has **laid down a proper system** to ensure **compliance** of the **requirements of the demonetization scheme**.
  - o In case of any material **non-compliance observed**, the auditor should exercise professional judgment in determining the manner of **reporting of such non-compliance**.

e) **AUDIT – CHANGES TO SA 706**

The revised Standard on Auditing **(SA) 706** – ***Emphasis of Matter Paragraphs and Other Matter Paragraphs in the Independent Auditor's Report*** is effective for audits of financial statements for periods beginning on or after **April 1, 2017**. Some of its salient aspects are highlighted below.

- The auditor includes an EOM paragraph in the auditor's report provided that **when SA 701 applies, the matter is not a KAM** (Key Audit Matter) to be communicated in the auditor's report. It may be noted that KAMs are those matters that, in the auditor's professional judgment, were of most significance in the audit of the financial statements of the current period. KAMs are selected from matters communicated with those charged with governance.
- When SA 701 applies, the **use of EOM paragraphs** is **not a substitute** for a description of individual KAMs.
- **EOM paragraphs** are to be included **in circumstances that include**:
  - o To alert users that the financial statements are prepared in accordance with a special purpose framework.
  - o When facts become known to auditor after the date of the report and the auditor provides a new or amended auditor's report.
- When the auditor includes an EOM paragraph, the auditor shall **include the paragraph** within a **separate section** of the auditor's report with an appropriate **heading** that includes the term "EOM". The paragraph shall refer **only to information presented or disclosed** in the **financial statements**.

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OBITUARY

We deeply regret to inform the sad demise of our beloved

CA. O.R. Pandurang
Past President, KSCAA

May his soul rest in peace.

KSCAA WELCOMES NEW MEMBERS - FEBRUARY 2017

Sl. No.	Name	Place
1	Rajesh Shetty	Kundapura
2	Harshitha Gaddam	Bangalore
3	Raghavendra EK	Bangalore
4	S B S Kumar Bellala	Bangalore
5	Krishna M	Bangalore
6	Natesh B S	Bangalore
7	Trishla Harsh Jain	Bangalore
8	Amithkumar Shenoy	Bangalore
9	Ritu Agarwal	Bangalore
10	Vinutha H G	Bangalore
11	Kallari Ravishankar Reddy	Bangalore
12	Kabra Vishal	Bangalore
13	Nagaraja B	Bangalore
14	Shreeharikusta	Bangalore
15	Hegde Ramachandra Timmanna	Bangalore
16	Shravan Kumar R	Bangalore
17	Srinivasa B	Bangalore
18	Vinuth H S	Bangalore
19	Praphul P Nair	Bangalore
20	Suchindra R K	Bangalore
21	Karunkara Shetty	Bangalore
22	Akshya K S	Bangalore
23	Amareesha Prabhakar Holla	Bangalore
24	Sankar C	Bangalore
25	Mogra Smith Kumar	Bangalore
26	Nagarajan S	Bangalore
27	Padavu Anupama Shenoy	Bangalore
28	Purohit Laxminarayan Krishnacharya	Bangalore
29	Rajahekhar Mariyannavar	Bagalkot
30	Rajesh S	Bangalore
31	Nandkishor Kamalkishor Bhutada	Bagalkot
32	Narasimha Ramaswamy Vasista	Bangalore
33	Ushanth Sandhya	Bangalore
34	Girish J S	Mysure
35	Suresh N	Bangalore
36	Preethi B	Bangalore
37	Sandeep J P	Bangalore
38	Nagaraj Achar	Bangalore
39	Mahesh Soordilu	Bangalore
40	Prathik P	Bangalore
41	Radhika R Pai	Bangalore

Finance Bill 2017

Capital Gain Tax Relief on Joint Development Agreements

CA. Ganesh V. Shandage, Belagavi

Realty projects undertaken through joint development agreements are expected to get a shot in the arm with a Budget proposal to shift the trigger of capital gain tax liability only after the project completion.

Finance Bill 2017 proposes to insert sub section 5A in section 45 of the Income Tax Act. This deals with a case where a person who is the owner of land or building or both, enters in to an agreement to sell the same to a developer and the developer in turn agrees upon project completion to give to the owner a part of the constructed area. He may give 5000 Sq ft, 1000 Sq ft. whatever may the arrangement.

Under existing provisions of section 45, capital gain is chargeable to tax in the year in which transfer takes place except in certain cases. The definition of 'transfer' under section 2 (47), inter alia, includes allowing of the possession of any immovable property to be taken or retained in part performance of a contract, even though the legal title has not been transferred.

The honourable Bombay High Court in the case of Chaturbhuj Dwarkadas Kapadia vs. CIT (2003) 260 ITR 491 case took a view that this will be assessed as capital gain in the year in which the land is handed over to the builder. This would mean that unless the builder has paid sufficient advance money, one would have to pay capital gains tax without having the funds to pay it. In life there is always the flipside. Whereas, the advantage of this was that the land was valued with lesser full value of consideration on the date when the land was handed over to the builder as per the JDA executed. Obviously that value would be much lesser than if you have to value it on after the construction is completed. Because as on the date when the land is handed over, one does not know how long it would take to construct, whether builder would really construct and what will happen.

With a view to address the concerns and minimise the genuine hardship the land owner may face in paying capital gain tax in the year of transfer of land to the builder, now under section 45 (5A) it is provided that, the time for charging capital gain will be the year in which building completion certificate is received. However flipside again is that the value at that time would be much more than at the time at which the land is handed over. So therefore you gain in the point of time for paying capital gain tax which you may use, as against the quantum of gain on which higher capital gain tax is to be paid. Therefore capital gain tax payable later on will be much more than what is payable as capital gains tax in the year the land is handed over to the builder.

Now there is a possibility that the land owner obviously the person who has given the land will eventually get the constructed area could in his turn sells the property for which building completion certificate is received, at that point in time the cost of acquisition of the property he received in his hands will be what was taken as full market value as full value of the consideration for the purpose of paying capital gain tax on handing over of land to builder.

If the builder is to pay to the owner some monetary amount also, then the builder under section 194IC has to deduct tax at source at 10% on that amount. If the builder is not to pay any monetary amount, then there is no obligation to deduct tax at source.

Then there is a possibility also, that the person who owns the land and has given it to the builder may sell his right to get his share in the constructed property before he actually gets it. For example the owner enters in to an agreement in 2017 and he is entitled to get 1/10th of the constructed area. He has not yet got it. In 2021 he may sell it to someone else his right to get share in the property. In that case, in that year of sale (2021) the capital gain tax is payable in respect of the amount that he would have been liable through the transaction by giving the land to the builder. In that case again, determine the fair value of the consideration as per the stamp duty because owner will be handing over a percentage of his share in the immovable property which require registration. Then whatever is the stamp duty value that will be taken as full value of consideration. Provisions of proposed section 45 (5A) shall not apply to this scenario.

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Recap of Recent Discussion in GST Council Meetings

CA. Srikanth Acharya and **CA. Annapurna Kabra**

India, being a federal country has dual taxes and therefore the constitutional provisions are amended. The present amendments would subsume a number of indirect taxes presently being levied by Central and State Governments into GST thereby doing away the cascading of taxes and providing a common National Market for Goods and Services. GST stands for Goods & Service Tax – has been defined by Article 366 (12A) of the Constitution to mean 'any tax on supply of goods, or services or both except taxes on supply of alcoholic liquor for human consumption'. There are many amendments introduced through the constitutional One hundred and First Amendment Act 2016.

Section 12: Insertion of New Article 279A – Goods and Services Tax Council

The GST Council shall consist of the following members, namely:

a) The Union Finance Minister…………………… Chairperson;

b) The Union minister of the state in charge of Revenue or Finance……………………Member;

c) The Minister in charge of Finance or Taxation or any other Minister nominated by each state Government ………………………….. Members.

GST Council is created to examine issues relating to goods and services tax and make recommendations to the Union and the states on parameters like rates, taxes, cesses and surcharges to be subsumed, examined list and threshold limits, Model GST laws, etc. The council shall function under the Chairmanship of the Union Finance Minister and will have all the state Government as members.

Key Takeaways of Eighth GST Council Meeting: The GST Council has reached a stalemate on dual control between Centre and States. Even after eight meetings of the GST Council, the States and Centre have been unable to reach any consensus on the issue of dual control in administrative control of GST. The States have demanded for enhancing the number of items on which cess is to be levied to compensate them to deal with revenue loss. The issue broadly is that area within 12 nautical miles of the sea is Indian Territory and a question arise whose territory it is, whether belong to the Centre or the States. Integrated Goods and Services Tax (**IGST**) on goods transferred from Special Economic Zones (SEZs) across States and said that since SEZs are considered economic zones outside the Country's territory, IGST should not apply on transactions among them.

Key takeaways of Ninth Council Meeting: There was a broad view that July 1 appears to be a more realistic date for the implementation." A consensus was reached that tax payers will be split between the Centre and States for the purpose of scrutiny and audit in the following manner: The States will have the power to assess and administer 90% of the tax payers with less than Rs 1.5 crores annual turnover while the remaining would be controlled by the Centre. For tax payers with more than Rs 1.5 crores annual turnover, the States and the Centre will control and administer them in a 50:50 ratio. However, intelligence based enforcement power will be with both the Centre and States. Further, the Hon'ble Finance Minister said that each assessee would be assessed only by one authority. In this regard, Hon'ble Finance Minister said that, "As far as the area of 12 nautical miles into the territorial waters is concerned, it's part of the Union government's territory but as per the convention, states will be empowered to collect tax on any economic activity. Power to levy and collect IGST to be with the Centre but by a special provision in law, the States will also be cross empowered: The Centre, while iterating that the power to levy and collect the Integrated Goods and Services Tax ("IGST") will be vested with it solely, agreed to make a special provision in law by which the States will also be cross empowered. The Hon'ble Finance Minister said that in exercise of IGST, where there are contentious issues between conflicting States with regard to place of supply etc., then those assessment would take place by the Centre.

Key takeaways of 10th GST Council Meeting: The GST Compensation Bill seeks to stipulate the manner in which States will be compensated in the event of a loss arising in the first five years, due to the implementation of GST. The decision on categorization of goods in tax slabs (5%/12%/18%/28% and 28% with Cess) is not part of the law and will be worked out by the GST Council after the enabling laws are passed. The issue of anti-profiteering did not come up for discussion. The GST Council has decided against giving additional powers to the Comptroller and Auditor General of India (CAG) under the Indirect tax act.

Key takeaways of 11th GST Council Meeting: The Goods and Services Tax (GST) Council, in its 11th meeting held on

March 4, 2017, decided on some key contours of the CGST and IGST Acts. This meeting has effectively cleared the deck for the Central Government to take these two Bills to the Parliament for their passage in the ongoing Budget Session.

Press Information Bureau (PIB) release on 11th GST Council Meeting

1. **Single GST Registration:** The press release suggests state-wise single registration for a taxpayer for filing returns, paying taxes and to fulfill other compliance requirements. Most of the compliance requirements would be fulfilled online, thus leaving very little room for physical interface between the taxpayer and the tax official.
2. **Single GST Return:** A taxpayer has to file one single return state-wise to report all his supplies, whether made within or outside the State or exported out of the country and pay the applicable taxes on them. Such taxes can be Central Goods and Services Tax (CGST), State Goods and Services Tax (SGST), Union Territory Goods and Services Tax (UTGST) and Integrated Goods and Services Tax (IGST).
3. **Annual Turnover Threshold for GST Compliance:** A business entity with an annual turnover of up to Rs. 20 lakhs would not be required to register with GST, unless he voluntarily chooses to do so to be a part of the input tax credit (ITC) chain. The annual turnover threshold in the Special Category States (as enumerated in Article 279A of the Constitution such as Arunachal Pradesh, Sikkim, Uttarakhand, Himachal Pradesh, Assam and the other States of the North-East) for not taking registration is Rs. 10 lakhs.
4. **Composition Scheme for Business Entities:** A business entity with turnover up to Rs. 50 lakhs can avail the benefit of a composition scheme under which it has to pay a much lower rate of tax and has to fulfill very minimal compliance requirements. The Composition Scheme is available for all traders, select manufacturing sectors and for restaurants in the services sector.
5. **Input Tax Credit (ITC) Permissibility:** In order to prevent cascading of taxes, ITC would be admissible on all goods and services used in the course or furtherance of business, except on a few items listed in the Law.
6. **ITC Cross-Utilization:** In order to ensure that ITC can be used seamlessly for payment of taxes under the Central and the State Law, it has been provided that the ITC entitlement arising out of taxes paid under the Central Law can be cross-utilized for payment of taxes under the laws of the States or Union Territories.
7. **Flow of ITC in Service Sector:** In the services sector, the existing mechanism of Input Service Distributor (ISD) under the Service Tax law has been retained to allow the flow of ITC in respect of input services within a legal entity.
8. **Exporter Capital Lock-in Prevention:** To prevent lock-in of capital of exporters, a provision has been made to refund, within seven days of filing the application for refund by an exporter, ninety percent of the claimed amount on a provisional basis.
9. **Single Administrative Interface:** In order to ensure a single administrative interface for taxpayers, a provision has been made to authorize officers of the tax administrations of the Centre and the States to exercise the powers conferred under all Acts.
10. **Exemption to Agriculturists:** An agriculturist, to the extent of supply of produce out of cultivation of land, would not be liable to take registration in the GST regime.
11. **Advance Ruling Authority:** To provide certainty in tax matters, a provision has been made for an Advance Ruling Authority.
12. **Provisions for Appellate Mechanism:** Exhaustive provisions for Appellate mechanism have been made.
13. **Transitional Provisions under GST:** Detailed transitional provisions have been provided to ensure migration of existing taxpayers and seamless transfer of unutilized ITC in the GST regime.
14. **Anti-profiteering Provision:** An anti-profiteering provision has been incorporated to ensure that the reduction of tax incidence is passed on to the consumers.
15. **Tax Payment in Installments:** In order to mitigate any financial hardship being suffered by a taxpayer, the Commissioner has been empowered to allow payment of taxes in installments.

Article 246A(1) of the Constitution in Dual GST model as per which both the parliament and State legislatures have powers to makes laws with respect to GST. This is the source for levy of CGST by Centre and SGST by the States. However Article 246A(2), carves out an exception by stating that parliament has the exclusive power to make laws with respect to goods and service tax where the supply of goods or services or both takes place 'in the course of inter-state commerce'. This is the source of power to levy IGST by Centre. Implementation of GST law is on the way and the Government, Trade, Industry, Service providers and Practioners are eagerly awaiting for the final GST bill to be passed.

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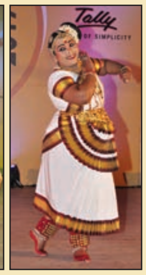
Impressions of Cultural Programmes










Gift to Lucky Couple

Cross Section Views of Audience



Impressions of Spiritual Session

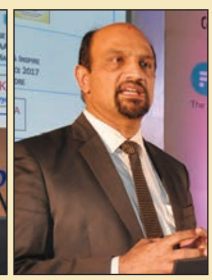




Impressions of 2nd Day Plenary Sessions










Impressions of 2nd Day Plenary Sessions




















Recognizing the Contributors




Recognizing MC's

Recognition of Presence


Recognizing Contributions of Volunteers






Hospitality at the Conference




Distribution Counter

Memento to Registration Team

Gifts to Lucky Delegate & Stall Visitor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UDBODHA Knowledge to initiate, ignite & inspire 29th kscaa annual conference 2017

Recognizing Contributions of Executive Committee Members












Executive Committee

Speakers at Workshops








Speakers at Seminar



Career Counselling Programmes




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