KSCAA

Karnataka State Chartered Accountants Association ®

NEWS BULLETIN

November 2018 I Vol. 6 I Issue 3 I ₹ 25/-

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English Monthly

for Private Circulation only

GST Annual Return
Evidence Income Tax
Karnataka VAT Update
Exemption Supply of Services

Saberimala Judgement
Future of HUF Taxability ?
Genesis of Income Tax in India
Financial Reporting & Assurance

Kscaa ಕಪ್ಪ

on Saturday, 15th December 2018

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From the President

Dear Professional friends,

ನಮ್ಮ ಎಲ್ಲಾ ಸನ್ನದು ಲೆಕ್ಕಪರಿಶೋಧಕರಿಗೆ ಕನ್ನಡ ರಾಜ್ಯೋತ್ಸವದ ಶುಭಾಶಯಗಳು,

Kannada Rajyotsava also known as Karnataka Formation day, is celebrated on November 1st of every year. The entire state of Karnataka wears a festive look during Rajyotsava day, with yellow and red Kannada flags decorating streets, houses and institutions. The state flag is also hoisted at offices of political parties and various localities.

Aluru Venkata Rao was the first person who dreamt of unifying the State as early as 1905 with the Karnataka Ekikarana movement. In 1950, India became republic and different provinces were formed in the country on basis of language spoken in the particular region and this gave birth to the state of Mysore including various places in south India, which were earlier ruled by the kings. On 1st November 1956, Mysore state, comprising most of the area of the erstwhile princely state of Mysore, was merged with the Kannada-speaking areas of the Bombay and Madras presidencies, as also of the principality of Hyderabad, to create a unified Kannada-speaking sub national entity. North Karnataka, Malnad (Canara) and old Mysore were thus the three regions of the newly formed Mysore state.

The newly unified state initially retained the name "Mysore", which was that of the erstwhile princely state which formed the core of the new entity. But the people of other part of Karnataka did not favour the retention of the name Mysore, as it was closely associated with the erstwhile principality and the southern areas of the new state. In deference to this logic, the name of the state was changed to "Karnataka" on 1st November 1973. Devaraj Arasu was the Chief Minister of the state when this landmark decision was taken.

It gives me immense pleasure to communicate to you about the grand success of our Sports and Talent event. This time we conceived an idea of convening the events in all parts of the State with the active support of respective ICAI branches, study chapter and district association across the State and the basic intent was to bring out the cultural talent and vibrancy of our members and promote the togetherness. The pan-State event was well received by our members and they turned out in large numbers, the happiness of which is difficult to express in words. With your active participation and zeal, we hope to continue the good work in the future too!

Also, I wish to invite your kind attention to the ICAI elections and stress herein the importance of choosing a right bunch of candidates to occupy the helm of the Institute. It is pertinently important to elect candidates who are capable of taking Institute to newer heights and this calls for a proactive analysis and casting of vote after diligently understanding the candidate profile. I am sure, with a little bit of research and also from your network, you will be able to arrive at good candidates who should don the roles at the altar of the alma mater. Last but not the least, I call upon our members to participate and raise above the Caste/ Creed/ Religion/ Region/ any other bias which can impede our ability to choose a right candidate.

On the Representation front, KSCAA during this period had proactively identified difficulties faced by our members to adhere the ROC annual forms timelines, especially due to overlapping tax audit and other deadlines. It gives us immense pleasure to put before you all that KSCAA has represented on this matter and could help turnout a much needed extension in ROC annual filing due date. We request our members to appraise us on issues worthwhile and relevant for pursuing.

You can access all our representations at www.kscaa.com. We request our members to write to us giving pointers where they need support and we are more than willing to build around it and populate before right forums.

Upcoming Events and programs

We are organizing a State Level "KSCAA Sports and talent meet 2018" on Saturday 24th November 2018 outdoor games, Sunday 25th November 2018 indoor games at Bengaluru.

We are organizing workshop on "Overview and Practical Approach to GST Audit" on Wednesday 21st November 2018 in VVN at Bengaluru.

We are organizing workshop on "GST Audit" on Monday 3rd December 2018 in KLE Society's Nijalingappa College at Rajajinagar, Bengaluru.

We are organizing cultural event **"KSCAA HABBA"** on the eve of Founders Day Celebration on Saturday 15th December 2018 in VVN at Bengaluru. All the performances will be by Chartered Accountants and their family members.

I earnestly request members to actively participate in our programs and make use of it.

The details of the programs are published elsewhere in the News Bulletin. For registrations, please visit www.kscaa.com.

Sincerely,

CA Raghavendra Shetty
President

Together We Serve
Together We Grow

KSCAA
News Bulletin

November 2018
Vol. 6 Issue 3
No. of Pages : 32

CONTENTS

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Karnataka State Chartered Accountants Association ®
organizes

Workshop on

Overview and Practical Approach to GST Audit

By **CA Hanish S**
CA B.D. Chandrashekar

On **Wednesday, 21st November 2018** | Time: **4:30 PM to 8:00 PM**

Venue : **Vasavi Vidyanikethan Trust**
No-3, Vani Vilas Road, VV Puram,
Basavanagudi, Bengaluru 560 004

Fee: **Rs.350/-** (Inclusive of GST)

Discount Available for online Registration Coupon Code **DISC5**

For Online Registration Visit: **www.kscaa.com**

Contact: **CA Sujatha Raghuraman,** Chair Person, Indirect Tax Committee, KSCAA +91 99455 98565
CA Nagappa B Nesur, Convener, Indirect Tax Committee, KSCAA, +91 98867 11611

CA Raghavendra Shetty — President
CA Kumar S Jigajinni — Secretary

Karnataka State Chartered Accountants Association ®
organizes

Workshop on

GST AUDIT

By **CA Annapurna Kabra**
CA T.N. Raghavendra

On **Monday, 3rd December 2018** | Time: **4:30 PM to 8:00 PM**

Venue : **Sharadha Sabhangana**
KLE Society's Nijalingappa College, No. 1040,
2nd Block, Rajajinagar, Bengaluru- 560 010

Fee: **Rs.350/-** (Inclusive of GST)

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Contact: **CA Sujatha Raghuraman,** Chair Person, Indirect Tax Committee, KSCAA +91 99455 98565
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CA Raghavendra Shetty — President
CA Kumar S Jigajinni — Secretary

Evidence in Income Tax Act, 1961

CA S. Krishnaswamy

(Contd. from Previous Issue)

Certain important judicial decisions on evidence are discussed in this article. The first is on the applicability of the Evidence Act to income tax proceedings. The principles laid down in the Evidence Act in certain circumstances do apply as noted in some of the judicial decisions.

- The tax authorities are not bound by the technicalities of the Evidence Act, but, the general principles of evidence are applicable to income-tax proceedings as held in the decision of the Hon'ble Supreme Court in the case of ***Chuharmal vs Commissioner Of Income-Tax (1988) 172 ITR 250 (SC).***
- In the case of ***Dhakeshwari Cotton Mills Ltd v. CIT (1954) 26 ITR 775 (SC)*** it was held that Assessing Officer is a quasi-judicial authority, but he is not fettered by technical rules of evidence and pleadings and he is entitled to act on materials which may not be accepted as evidence in a Court of law. In other words, the A.O. while making an assessment is not bound by the parameters laid down in the Civil Procedure Code.
- When the authorities are called upon to consider the effect of terms of documents, then in interpreting certain terms of the document and the effect of the document, Section 91, 92 and 94 of the Evidence Act would be required to be considered. It was held in ***A.V.N. Jagga Row v. CIT (1987) 166 ITR 862 (AP)*** that the Court came to the conclusion that with regard to the effect of the terms of the document and the validity, the provisions of the Evidence Act is required to be considered.
- The Assessing Officer is required to take into consideration "circumstantial evidence" and he is also required to take into consideration "totality of the circumstances" before coming to a determinative question as to whether a particular item of income or expenditure is proved or not. This rule of evidence in circumstantial probability was considered in ***CIT v. Rameshwar Prasad Bagla (1968) 68 ITR 653 (All).***
- A.O. can go beyond the parameters laid down in Civil, Criminal and Evidence Act and look into the surrounding circumstances and even issue summons and examine witnesses and other people who he suspects would have given the loans or entered into agreements in order to find out the reality of the situation as was laid down in ***CIT v. Durga Prasad More (1971) 82 ITR 540 (SC).***
- The Punjab and Haryana High Court in the case ***Paramjit Singh v ITO [2010] 323 ITR 588 (P&H)*** held that the inadmissibility of oral evidence in the presence of registered deed is binding on this Tribunal and also held that no oral evidence is admissible once the document contains all the terms and conditions. Secs. 91 and 92 of the Indian Evidence Act, 1872 incorporate the aforesaid principle.

  Further, as per section 91 of the Indian Evidence Act 1872, when terms of contract, grants for other dispositions of property have been reduced to the form of documents then no evidence is permissible to be given in proof of any such terms of such grant of disposition of the property except the document itself or the secondary evidence thereof. What the aforesaid Section 91 provides is that if **the document itself creates a contract or a grant or any other disposition of property, then the terms of that contract or grant or disposition of property, cannot be proved by oral evidence**. This section applies when the entire contract is in writing. According to section 92 of the evidence Act, once the documents is tendered in evidence and proved as per the requirements of section 91, then no evidence of any oral agreement or statement would be admissible as between the parties to any such instrument for the purposes of contracting, varying, adding to or subtracting from its terms. Whereas in Section 92 of the Evidence Act, the oral evidence is prevented for the purpose of varying the terms of the contract as between the parties to the contract, however, no such limitations are imposed under section 91 of the Act. Hence, even if a third

party wants to establish a particular contract between certain others which has been reduced into writing or is required by law to be reduced into writing, can prove such contract only by production of such writing as held in ***Meenakshisundram Pillai v. S.T. Chenchu Mudaliar and another AIR, 1928 M 459:109 IC 18).***

- The Hon'ble Punjab & Haryana High Court in ***Paramjit Singh v ITO [2010] 323 ITR 588 (P&H)*** while placing reliance on Sections 91 and 92 of the Indian Evidence Act, held that no oral evidence or agreement contradicting / varying the terms of a documents could be offered. That the sale consideration disclosed in the sale deed has to be accepted and it cannot be contradicted by adducing any oral evidence.

The second, nature of evidence in search proceedings and its application in u/s 153A/Regular assessment proceedings:

- In the case of ***V.Ramchandra Construction Pvt. Ltd. V ACI T (2011) 131 I TD 71(TM),*** it has been held that the statement recorded u/s 131 of the Act will not affect evidence on record, in the form of agreement to sell and Power of Attorney executed by the assessee. The statement can be an after-thought. In income tax proceedings, oral evidences are not to be so relevant as written evidences". Oral evidence, no doubt has evidentiary value so far criminal proceedings are concerned, but in the income tax proceedings, the oral evidences have to be looked into when written evidences are not available on record and oral evidences can be accepted only when they are corroborated by the written evidences.
- The Supreme Court in ***Prem Dass v. ITO (1999) 236 ITR 683 (SC)*** held that the presumption laid down in Section 132(4A) cannot be applied to criminal proceedings in view of the specific language mentioned in Sections 276C and 277 of the Income-tax Act. Section 276C requires that it must be established that there is wilful attempt to evade any tax and hence the doctrine of *mens rea* is still required to be proved by the prosecution. Thus in matters of prosecution u/ss. 276 and 277 of the Income-tax Act, the rule of presumption would not operate, but the doctrine of mens rea would still prevail.
- In ***Pooran Mal v. Director of Investigation 93 ITR 505 (SC)*** it was held that even when search and seizure was held to be illegal, yet documents and other papers seized would have "evidential value". However, the Supreme Court in ***Pratap Singh v. Director of Enforcement 155 ITR 166 (SC)*** held that the illegality in the method, manner or initiation of search, does not necessarily mean that anything seized during the search has to be returned.
- In the case of ***CIT v. Vindhya Metal Corporation 224 ITR 614*** in Supreme Court, the SC held that presumption under Section 132(4A) would also apply to documents requisitioned and assets found.
- The Supreme Court in ***Calcutta Discount Co. Ltd. v. ITO (1961) 41 ITR 191 (SC),*** laid down that it is a duty of the assessee to disclose all primary facts, the duty to find inferential facts from primary facts disclosed and the duty to draw inferences of law from such facts is the duty of the Assessing Officer. The assessee is only bound and required to disclose all the facts fully and truly.
- In ***Pullanagade Rubber Produce Ltd. v. State of Kerala (1973) 91 ITR 18***, it was held that retraction is permissible in law and it is for the assessee to show that the statement recorded is incorrect. Further, in ***Satinder Kumar v. CIT (1977) 106 ITR 64 (HP)***, retraction is possible where the assessee states that he was under a mistaken understanding of the true position and state of affairs.
- In ***ITO v. Lakhmani Mewef Das (1976) 103 JTR 137 (SC)***, the Supreme Court observed that all that the assessee is required is to make true and full disclosure of primary facts at the time of original assessment. Production of account books and other evidence from which material could be with due diligence be discovered by the A.O. does not amount to disclosure contemplated by law. The duty of the assessee does not extend beyond making full disclosure of primary facts. Once this is done, his duty ends and it is for the A.O. to draw correct inference from primary facts.
- Any document that is mandatorily required to be registered but is not registered, cannot be admitted as evidence in any court of law as held in ***ACIT Patiala vs Shri Mohinder Singh ITA No. 665/Chd/2016 AY 2013-14.***

'Evidence' in Assessment procedures:

- The Hon'ble Supreme Court in the case of ***Chuharmal vs Commissioner Of Income-Tax, 1988 AIR 1384, 1988***

SCR (3) 788 : (1988) 172 ITR 250 (SC) approved the observations made by the Hon'ble Bombay High Court in the case of ***J.S.Parker v. V.B. Palekar, 94 ITR 616*** holding that what was meant by saying that the Evidence Act did not apply to proceedings under the Income Tax Act was that the rigour of the rules of evidence contained in the Evidence Act, was not applicable but that does not mean that when the taxing authorities were desirous in invoking the principles of the Evidence Act in proceedings before them, they were prevented from doing so. The Hon'ble Supreme Court further observed that salutary principle of common law jurisprudence embedded in the Evidence Act could be applied to the taxation proceedings.

- In ***Indore Construction Pvt. Ltd. v. ACIT (1999) 71 ITD 128 (Ind.),*** it was held that where the A.O. had referred the matter to Valuation Cell to ascertain the investments made by the assessee and thereafter applied Section 69 and added the amount as unexplained investments, the action of rhe A.O. was treated as beyond the scope of Section 158BB.
- The A.O. cannot estimate and place a higher sale consideration based only on estimation and suspicion. In absence of cogent evidence arbitrarily taking and guessing larger apparent consideration is unsustainable in law: ***Pankaj Dayabhai Patel (HUF) v. ACIT (1999) 63 TT] 790 (Ahd.).***
- The Tribunal is the final fact-finding authority. A decision on fact can be gone into by the High Court, only if a question has been referred to it, stating that the finding of the Tribunal on facts is perverse. In ***K. Ravindranathan Nair v. CIT (2001) 247/TR 178 (SC)***, the Supreme Court held that when a finding of fact made by the Tribunal is challenged as being perverse, a question of law can be said to arise. In ***Omar Salay Mohammed Sait v. CIT (1959) 37 /TR 151 (SC)***, it was held that a question of law arises if the Tribunal has improperly rejected the evidence. Rejection of evidence, which is material converts a question of fact into a question of law. Where the Tribunal has relied upon partly relevant and partly irrelevant materials and it is not possible to find out what influenced the mind of the Tribunal, the finding is vitiated because of use of irrelevant materials, which give rise to the question of law: ***Dhirajlal Giridharilal v. CIT (1954) 26 ITR 736 (SC) and CIT v. Daulat Ram Rawatmull (1973) 87 ITR 349 (SC)***. Where the Tribunal has ignored essential matters and evidence a question of law arises, ***CIT v. Radha Kishan Nandlal (1875) 99 ITR 143 (SC).***

Some of Case laws on Sec.68, 69, 69A and 69B relating to 'Evidence':

Section 68:-

- Amount credited in business books can normally be presumed as business receipt – When an amount is credited in business books, it is not an unreasonable inference to draw that it is a receipt from business, if the explanation given by the assessee as to how the amounts came to be received is rejected by all the income-tax authorities as untenable. ***Lakhmichand Baijnath v. CIT [1959] 35 ITR 416 (SC)***.
- Department need not locate source of receipt – Where the assessee has failed to provide satisfactorily evidence to prove the source and nature of a credit entry in his books, and it is held that the relevant amount is the income of the assesse, it is not necessary for the department to locate its exact source ***CIT v. M.Ganapathi Mudaliar [1964] 53 ITR 623 (SC)/A. Govindarajulu Mudaliar v. CIT [1958] 34 ITR 807 (SC).***
- Deposits from tenants – In regard to deposit from tenants, it is sufficient if the assessee provides sufficient evidence to w.r.t identity of the tenant and the genuineness of transaction under which the deposit is made. It will not be necessary for the assessee to prove the capacity of the tenant to make the deposit/advance – ***CIT v. Nevendram Ahuja [2005] 197 CTR (MP) 462.***
- Gifts – In the case of cash gifts recorded in the books of the donee, mere identification of the donor and showing the movement of the amount through banking channels is not sufficient to prove the genuineness of the gift. The onus lies on the donee not only to establish the identity of the donor but also the donor's capacity to make such a gift. Where there was nothing on record to show as to (i) what was the financial capacity of the donors, (ii) what was the creditworthiness of the donors, (iii) what was the kind of relationship the donors had with the donee-assessee, (iv) what are the source of funds gifted to the assessee, and (v) whether the donors had the capacity of

giving large amount of gift to the assessee, the Tribunal would not be justified in deleting the additions made by the Assessing Officer, especially when the assessee did not appear in person before the Assessing Officer despite being asked to do so – ***CIT v. Anil Kumar [2008] 167 Taxman 143 (Delhi)***.

Section 69:-

- Madras HC in ***N Swamy 241 ITR 363*** relied by Chennai ITAT in ***Omega Estates and Chd ITAT in Dr. R.L.Narang***, it was held that the burden of showing that the assessee had undisclosed income is on the revenue. That burden cannot be said to be discharged by merely referring to the statement given by the assessee to a third party in connection with a transaction which was not directly related to the assessment and making that the sole foundation for a finding that the assessee had deliberately suppressed his income.

Section 69A:-

- In P&HHC in 294 ITR 78, the assessee was found to be in possession of loose slips and not any valuable article or things. Neither the possession nor the ownership of any jewelry mentioned in the slips was proved by any evidence. Therefore, the Tribunal had rightly held that the provisions of section 69A of the Act were not applicable. The Tribunal also held that if the assessee failed to explain the contents of the slips, it was for the Revenue to prove on the basis of material on record that they represented transactions of sales or stock in trade before making any addition on this score. The assessee had duly explained that these were rough calculations and the assessee's explanation had not been rebutted by any material evidence.
- ***Commissioner of Income-tax vs. Meghjibhai Popatbhai Virani*** – Where assessee in support of certain amount received from his family members on account of sale of property, produced family settlement agreement and sale agreement, there being no defect in said agreements, amount so received by assessee could not be added to his taxable income as unexplained money.
- Possession of cash is evidence of ownership – Where cash was found in possession of assessee-politician during search and his claim that it belonged to a political party was denied by President and Treasurer of said party, addition of such cash to assessee's income was rightly sustained by Tribunal – ***Sukh Ram v. Asstt. CIT [2006] 285 ITR 256 (Delhi).***
- Where assessee was managing a firm which collected deposits from public, but there was no evidence regarding registration and genuineness of firm and assessee could not explain source of deposits, nor could assessee establish that such deposits did not belong to him, addition of such deposits as asseesee's unexplained investments was justified – ***CIT v. K. Chinnathamban [2007] 162 Taxman 459/292 ITR 682 (SC).***

Section 69B:-

- In ***Smt. Amar Kumari Surana v. CIT [1996] 89 Taxman 544 (Raj.)***, it was held that the burden is on the revenue to prove that real investment exceeded the investment shown in account books of the assessee. Merely on the basis of fair market value no addition can be made under section 69B, but if on the basis of sufficient material on record some reasonable inference can be drawn that the assessee has invested more amount in purchase of plot than that shown in account books, then only the addition under section 69B can be made.
- In In ***CIT v. Daya Chand Jain Vaidya, the Allahabad Court*** shifted the onus on to the department saying that if the assessee's explanation that the investments were in fact held by his wife and sons is not sustainable, then the department has to prove with material evidences that the investments were owned only by the assessee himself. Having said this, it is noteworthy that Sec.69B per se uses the phrases like "is found to be the owner of any bullion, jewellery or other valuable article, and the Assessing Officer finds that the amount expended on making such investments or in acquiring such bullion, jewellery or other valuable article……" (as opposed to the word 'reasons to believe') which is very conclusive that there is no room for any taxation based on a mere suspicion.

Conclusion:

Appropriate evidence in support of the tax returns filed is absolute and every care must be taken to gather proof in respect of transactions that come under critical lens of the Department. The evolved case laws is a sure guide post.

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GST Annual Return - Overview

CA Madhukar N Hiregange & CA Mahadev R

Much awaited GST annual return format in form GSTR-9 and GSTR-9A have been notified by the government vide CGST notification no.39/2018 dated 4th September 2018. Though the format appears to be simple and consolidation of figures from the monthly returns filed in form GSTR-3B and GSTR-1, there are few additional requirements including issues which needs more clarity for the tax payer. In this article, we have discussed the basic requirements and few issues in the present annual return which should be known to professionals assisting the tax payers. GST has come as an opportunity to serve professionally and get back the respect of the industry/ trade and public. The opportunity comes with a responsibility to ensure that updated and correct returns are filed in GSTR- 3B & 1 before Annual Return is taken up and uploaded. This would enable smooth Audit as well avoid the demands in future. However the liability for correctness is on the registered person who signs and certifies the same.

Concept of annual return

In terms of Section 44 of the CGST Act 2017, every registered person needs to furnish an annual return for every financial year electronically in a specified form on or before the 31st day of December following the end of such financial year. However, following categories of persons are not required to file annual return:

(i) Casual taxable person

(ii) Input service distributors

(iii) Non-resident taxable persons

(iv) Persons paying TDS/TCS under section 51 or 52 of the Act.

Further, Section 44 (2) provides that every person who is required to get his accounts audited in accordance with the provision of section 35 (5) is required to furnish the annual return along with the copy of audited annual accounts and a reconciliation statement reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.

Rule 80 of the CGST Rules lays down the manner in which annual return is required to be filed by the registered persons. Sub rule 1 provides that every registered person who is required to file annual return under Section 44 needs to file it electronically in Form GSTR-9 through the common portal. In case of person paying tax under composition scheme under section 10, the annual return has to be filed in Form GSTR-9A. E commerce operator who are required to collect the tax under section 52 needs to file annual return in the form GSTR-9B. The last date for filing of the annual return for all categories of taxable persons is the 31st December following the end of financial year. For each registration, a separate annual return to be furnished by the registered taxable person.

It may so happen that a registered person registered under regular scheme could have opted for composition scheme or vice versa during the financial year. In such as case, there could be requirement of filing both GSTR-9 and GSTR-9A. In this chapter, only GSTR-9 form has been discussed which would be relevant for GSTR-9A as well.

Penalty for non-compliance

Non-filing of annual return could have the following consequences:

(1) Notice under Section 46 could be issued to file the return within 15 days.

(2) Late fee for delayed filing of annual return could be demanded under Section 47 (2) of the Act which would be lower of Rs.100 per day during which such failure continues or quarter percent of turnover in the state or union territory. Equal late fee would be applicable in SGST law as well.

(3) General penalty as per section 125 of the Act could also be applicable which may extend up to Rs.25,000/- with equal penalty under SGST law as well.

It is also important to note that the GST audit report requires reconciliation between books of account and the GST

annual return. Therefore, without filing the annual return, the tax payer would not be in a position to file his audit report which could have additional penal consequences.

Structure and parts of annual return

The GSTR-9 form has been divided into VI parts which are briefly discussed below:

Part I	Basic details such as FY, GSTIN, legal and trade name to be provided. This information could get auto populated
Part II	This part requires disclosure of outward supply details, advances received and details of inward supplies which are subject to GST. Details of exempt supplies, exports and non-GST supplies should also be disclosed in this part. All details to be taken based on the returns which are filed by the tax payer.
Part III	Details of ITC as declared in the return during the financial year to be provided with break-up of credit claimed on inputs, capital goods, input services. Credits to be segregated between import of goods, import of services, RCM credits etc. The amounts reversed as ineligible ITC along with reconciliation between GSTR-2A and actual credits claimed is also required.
Part IV	Details of taxes paid as declared in the return to be provided.
Part V	Particulars of previous financial year transactions declared in current financial year should be disclosed in this part.
Part VI	Other information such as details of refunds and demands, supplies details from composition tax payers, goods sent on approval basis and HSN wise summary of inward and outward supplies to be provided in this part.

Few issues to be addressed in few parts of return

Details of outward supplies

Part II of the annual return requires details of supplies which are subject to and not subject to GST as declared in the return. The instructions provided in the annual returns states that the information may be taken based on the details disclosed in GSTR-3B and GSTR-1. Being first year of GST, there are plenty of cases wherein there have been confusion on disclosure of information in GSTR-3B and GSTR-1. There are instances where the mistakes in GSTR-3B have been corrected in GSTR-1 return. In such cases, it is not clear if the details to be taken as per GSTR-1 or GSTR-3B. In an ideal situation, the tax payers should ensure that the details match between these two statements. However, government may provide some relaxation considering that this is first year which do not have revenue impact.

There is also requirement show details of credit notes, debit notes issued in respect of exempt, nil rated and non-GST supplies including amendment details which could be done away as it really may not have impact on revenue.

Details of inward supplies

Part III requires details of inward supplies on which credit has been claimed in GSTR-3B and few additional details. The detailed segregation to be provided between inputs, input services and capital goods which could be challenging for most of the tax payers. GSTR-3B requires disclosure of consolidated credit amount. Now for the purpose of annual return, tax payers need to segregate the credits which could take substantial amount of time unless the input tax credit register has HSN details. Where HSN details are captured, professionals could advise the tax payers to prepare the summary based on HSN. All services would have HSN prefixed with 99 and goods which are capitalised in books of account could be categorised as capital goods.

Table 8 of the part III provides for comparison of ITC as per GSTR-2A with ITC availed as per the GSTR-3B returns. As per the format, if there is any credit which is more in GSTR-2A but not disclosed in GSTR-3B, the same would get lapsed. This has created lot of fear in minds of tax payers as there are plenty of instances wherein the vendors have not filed the GSTR-1 or filed incorrectly. Tax payers should remember that the non-filing of GSTR-1 by the vendors cannot be a reason for denying the credits. Tax payers could do a general follow up with vendors to file the GSTR-1 in future appropriately so that they need not worry in future. Wherever, the difference exists, tax payers should have detailed reconciliations prepared.

In table 8, details of ITC claimed pertaining to previous financial year in present financial year to be provided. However, the same does not provide for disclosing details of credit claimed in present financial year on goods imported in previous financial year. This would result in lapse of such credits. This seems to be a technical issue which could get addressed by the government once the online annual return form is enabled. Professionals should be aware of this issue and bring this to notice of the tax payers.

Details of composition dealers and HSN wise summary

Table 16 of part VI requires details of supplies received from composition tax payers which is not captured separately anywhere for GSTR-3B return filing. Therefore, such details may not be readily available and only for the purpose of filing annual return the same needs to be prepared which may not be very useful information for the government.

Further, table 17 of part VI requires HSN wise summary of inputs, input services and capital goods which again may not be available readily. Tax payers could find it difficult to comply with this requirement unless some relaxation is provided. This information may not add much value to either tax payer or the government. Therefore, government could do away with this requirement. If not possible to comply, it maybe clearly indicated that it is not possible to do so.

Conclusion

Annual return does not create any additional liability or opportunity to take additional credit by itself. However, it provides for necessary disclosures made pertaining to previous financial year in present financial year between April to September months. Tax payers could be guided by the professionals on this aspect and take due care while filing the returns for September month in future. Correct filing of annual return is important as it would become the basis along with books of account for reconciliation by the auditor. Incorrect details would lead to more differences which may lead to additional liabilities in form of tax or credit reversals etc.

The professionals who are only involved in annual return can refer to the article section for a comprehensive article on Form9 & 9A. [October 18] Those who are supporting in Annual Return and also conducting the GST Audit under Form -9C may refer to the Technical Guide for Annual Return and GST Audit. [October 2018] from the web site of the Indirect Tax Committee of ICAI. idtc@icai.org- Soft download available.

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Karnataka VAT – Update

CA Annapurna D Kabra

Karnataka VAT (KVAT) Audit – (April 2017 to June 2017)

Notification No FD 53 CSL 2018 Bangalore dated 27/09/2018/Press Note No KSA CR 10/2018-2019 dated 06/10/2018

With reference to the powers conferred by section 174(2) of the Karnataka GST Act 2017 the Government of Karnataka amends Rule 34(3) KVAT Rules 2005. This Rule is effective from 01.4.2017.

Section 31(4) of the KVAT Act states that every dealer whose turnover is exceeding one crore shall submit Audited statement of Accounts in Form VAT 240 electronically within nine months after the end of the relevant year. Rule 34(3) of the KVAT Rules state that the Audited Statement of accounts shall be submitted in Form VAT 240 to the Jurisdictional Local VAT officer or VAT sub officer within nine months after the end of the Relevant Year. For the period from April 2017 to June 2017 of the financial year April 2017 to June 2017 of the financial year 2017-2018 every dealer whose total turnover exceeds one crore shall file the Audit Report within the due date i.e 31st December 2018.

The Government has notified the notification no FD CSL 2018 dated 27/9/2018 according to which if total turnover for the period April 2017 to June 2017 exceeds 25 lakhs but less than one crore it is required to submit Audited statement of Accounts in Form VAT 240 electronically and the last due date of furnishing the Audit Report is 31st March 2019.

Analysis

Therefore, effectively if the total turnover for the period April 2017 to June 2017 is exceeding 25 lakhs and less than one crore then the due date of filing the Form VAT 240(Audit Report) is **March 2019** and if the total turnover for the said period is exceeding one crore than the due date of filing the Form VAT 240(Audit Report) is **December 2018.**

Role of KVAT Auditor

Section 31(4) of the KVAT Act 2003, states that every dealer whose *'total turnover'* in a year exceeds rupees one Crore shall have his accounts audited by a Chartered Accountant or a Cost Accountant or a Tax Practioner. The Auditor should be updated with KVAT laws, CST laws, KTEG laws, applicable notification, exemptions, and circulars while conducting the audit. The auditor forms the opinion or conclusion based on the audit evidence and decides the matters, which are required to be reported and commented.

KVAT Audit Report

The KVAT Audit Report (Form VAT 240) has been bifurcated between the Certificate and the Report. The contents of the KVAT Audit report is classified as general information, particulars of turnover, deduction and payment of tax and particulars of declaration and certificates. Given the nature of business and the volumes involved, the auditor should apply the sampling audit techniques for compliance of the KVAT Audit. The key success factor for an effective audit will be clear understanding the nature of business of the dealer, verification of the documents and controls, effective Implementation of the KVAT Act and KVAT Rules and Impact of GST Transition Provisions in KVAT Audit

Audit Procedures

Generally the Auditor should comply with Basic Audit Procedures like verification of sales book, corresponding entries in the stock records should have been made, ensure that rates on which sales have been made are according to price list, sales return should be duly account for and stock should duly adjusted, ensure that goods sent on approval basis, goods sent on consigner are not recorded as sales, tally sales with sales tax returns, reconcile VAT collections with payments and transfer after adjusting the input tax credit, the net balance to appropriate accounts, Check adjustment of input tax by setting off against output tax by relevant journal entries, Check the different classification of sales at different of taxes as per schedule, Check the credit notes issued and reason for issue, Check the tax invoices, bill of sale prepared as per the Provisions of account, tally the monthly figures with the figures shown in the monthly return, Check the purchase invoices and proper classification of purchase

is made at different rate of taxes, Purchase returns are accounted correctly, Check whether any stock is transferred to branches within the state and outside the state, Check whether capital goods are purchased, Ensure rebates and discounts have been adjusted properly etc

Documentation

The Documentation for Audit under KVAT law should be like Books of accounts including trading account (as required under VAT), all Invoices/Bills, declarations, E-Sugam bills, Delivery notes relating to stock, Purchase and Purchase orders, Input credit – Partial rebating, special rebating, Output tax , Copies of Audited Balance sheets, Copies of Vat returns filed, Copies of Form VAT 240 for earlier periods, Internal, Statutory Audit & Tax Audit reports , Agreements/Contract copies, details of Consignment sales, Form 140/145, particulars of details for each contract like material procured, utilization, payments received etc, Bank Statements in support of Advances Received, Running Account Bill Copies in support of Works Contract Bills Raised bifurcating material and labor, etc

Reconciliation Statement

The Auditor should prepare the list of Reconciliations statements like reconciliation of purchase in the P&L Account to purchases in VAT 100, Reconciliation of Sales in the P&L Account to Sales in VAT 100, Reconciliation of Vat payable as per returns with details of payments made, Reconciliation of E-Sugam generated to purchases/ sales, Reconciliation of interstate / export / sale-in-transit / SEZ / stock transfer with statutory forms and other reconciliations.

Aspects of KVAT Audit

The Important Aspects on KVAT Audit for the Quarter April 2017 to June 2017

- The Financial statements must be enclosed along with the certificate and Report. The Audited financial statements must be enclosed along with the certificate.
- It would also be essential for the auditor to reconcile the figures which are disclosed in the returns and the figures reported in the financial statements. The reconciliation may have to be made considering various factors leading to differences. Some of the aspects, which need to be considered therein like ….
  - Sales outside state to be excluded;
  - Accounting done in the financials based on accrual basis, but sales are not affected yet;
  - Effects given in the financial statements for the events occurring after the balance sheet date.
  - Accounting effects given in terms of accounting standards but those or neither sale or purchase as per KVAT laws.
  - Sales Returns shown in the accounts may be even for the period beyond 6 months whereas the amount that can get credit is pertaining only to sales returns for the period within 6 months.
- In case the classification made by the dealer controversies with the classification made by the auditor then he must comment on the same in the Audit Certificate.
- The Auditor while verifying the books of Accounts of the dealer must verify the sale of fixed asset and the tax is offered as per the law.
- The KVAT Auditor must verify the statutory forms obtained manually or electronically from the department under the KVAT law and CST law.
- The KVAT law has specified the formula for the special rebate and partial rebate and if there are any discrepancies between the Auditor formula and dealer formula, then the dealer must highlight in the KVAT Audit report accordingly.
- In addition to the general analysis of records of the dealer, there may be requirement to verify some of the specific areas which requires special attention. Some of the important areas which require special attention are as follows:
- Sales return – Whether the goods have come within 6 months and the conditions for taking credit of the same are fulfilled
- Discount, Freight Tax etc., – Whether the discount, freight and other elements shown separately in the invoice is considered as part of taxable value or not if not whether the conditions for claiming exclusion are fulfilled.
- Claiming Labour Expenses on Actual or Adhoc basis
- Sub-contractor deductions: Whether sub-contractor have paid the taxes and filed the return

(Contd. on page 14)

Law Commission's Proposal to Abolish HUF as a Taxable Entity - Will Taxpayers Lose a Legal Way to Optimise Tax?

CA Sandeep Jhunjhunwala and CA Sonali Debnath

The Law Commission of India on August 31, 2018 had presented a consultation paper on "Reform of Family Law" that proposes to abolish Hindu Undivided Family (HUF). In June 2016, the Ministry of Law and Justice had made a reference to the Law Commission of India to examine the matters pertaining to Uniform Civil Code (UCC) and it was the first step by the current Central Government to live up to its promise made in 2014 Lok Sabha election manifesto. The Law Commission in its recommendation to abolish HUF has quoted "*…today, when it has been seventy-two years since independence, it is high time that it is understood that justifying this institution on the ground of deep-rooted sentiments at the cost of the country's revenues may not be judicious".* The Commission said the special status given to the entity of HUF was a *"so-called gift by the British"* who could not comprehend the complex socio-economic structure of the Indian families. Now, this status is being used for the evasion of tax only. It also observed that "*in present times, HUF is neither congruent with corporate governance, nor is it conducive for the tax regime*." In addition to these, the Commission had also recommended that coparcenary of ancestral property under Hindu law be abolished and the right in a property by birth be extinguished in favour of 'tenancy in common', instead of 'joint tenancy'.

The deep root of HUF goes to British era that gave a legal status to HUF as a trading entity. The expression HUF has not been defined under the Income Tax Act, 1961. The essentials of HUF are (1) One should be Hindu; (ii) There should be a family ie group of persons – more than one and (iii) existence of ancestral property. All these three essentials are cumulative. HUF is essentially, a body consisting of persons lineally descended from a common ancestor and includes their wives and daughters. Based on the Delhi High Court ruling in the case of Mrs Sujata Sharma [CS(OS) 2011/ 2006], daughters can also be a Karta of HUF. HUF being a separate taxpayer, considered as "Person" under Section 2(31) of the Income Tax Act is eligible for basic exemption and deductions under Chapter VIA (Sections 80C, 80D, 80DDC, 112A etc). HUF income is taxed at rates applicable under different slabs applicable for individuals below 60 years and the tax provisions applicable on HUF are largely similar to those applicable to individual taxpayers. Hindu families having inherited properties retain the income under HUF to get the tax benefits available to HUF such as basic exemption and other deductions. As per data available in the income tax portal for AY 2017-18, 1,070,688 HUFs had filed its return of income. Out of total returns filed, 447,669 HUFs having total income of INR 7,248 crores have taxable income below basic exemption limit of INR 250,000.

Where HUF is abolished and such income is added to the income of the Karta or co-parceners, it should result in a significant increase in the total tax collection for the Government (statistics show that in case Karta/ coparceners are subject to tax at the maximum marginal rate of 30 percent, it shall trigger a jump of approximately 20 percent in total tax collection from HUF held assets). It would be interesting to understand the impact of removing the concept of HUF. If the proposal to abolish HUF is implemented, it is likely to create a lot of ambiguities with respect to taxing HUF-held assets and income, in addition to opposition from numerous small traders and businessmen, who operate with an HUF structure. One of the key areas of concerns shall be regarding the dissolution of HUF assets and how the distribution of assets shall be taxed. In summary, any abolishment of HUF structure shall complicate the taxation of existing HUFs. The Kerala Joint Hindu Family System (Abolition) Act, 1975 which became effective in the entire state of Kerala from 1976 could provide some guidance in this regard. The legislation provided for de-recognition of the institution of HUF within the state of Kerala. Section 3 of this Act provides that after passing of this legislation, no Hindu would be entitled to claim any interest in the

property of an ancestor during his or her lifetime just because he is born in the family of the ancestors. Moreover, the law of Kerala provides that all the assets of any existing HUF as on the date of passing of the law shall be deemed to have been fully divided amongst all its members and they shall hold any immovable property as tenant in common as full-fledged owners from the date of enactment of that law. The law as and when implemented for de-recognising the HUF as a tax unit (currently it is just a consultation paper and as the law-making process in quite long, spanning over years, there could be evident difference between the lip and the cup to implement this) may provide for rules on the similar lines deeming that a full-fledged partition of HUF has taken place in metes and bounds amongst all its members and income arising to his/ her share in the HUF asset/ properties shall be included in the income of such members in respect of the assets which cannot be divided or distributed amounts the members.

If the provision for the abolition of the HUF and deemed division of immovable property are introduced, it could have various other income tax related implications as well. For instance, by virtue of Section 26 of the Income Tax Act, the co-owners of the partitioned HUF property would be treated as absolute owners of their share. As the benefit of self-occupied property is available with respect to only one property, such persons may have to offer notional income for their share in such property, in case the same is not actually let-out and is used by other family members for their residence etc. Similarly, under Section 47 of the Income Tax Act, any distribution of capital asset on total or partial partition of a HUF. Ambiguity on taxation may arise on distribution of assets by a HUF to its members on legal abolition. Section 171 of the Income Tax Act dealing with assessment after partition of a HUF may also pose significant challenges from tax assessment perspective in case of legal abolition of HUF as taxable entities.

Instead of the proposed plan to obliterate HUFs as taxable units, the Government, could alternatively, look at the option of introducing Specific Anti-Avoidance Rules (SAARs) for the taxation of HUFs. In view of taking steps in furtherance of devising a revised direct taxes code, the Government is in the process of reconstituting the panel deployed in the said regard. The new direct taxes code could have rules framed in sync with the option to have SAARs for HUFs. Also, some jurisdictions outside India have the concept of taxing a family income, rather than taxing individual members of a family - there are deductions for maintenance of dependents in the family, and a separate tax slab for the family. India could consider adopting such a practice as well. This would certainly, eliminate some of the complexities in our tax laws, such as clubbing provisions applicable to income of spouse, minor children, etc and could result in a more equitable tax structure in the long run.

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Karnataka VAT – Update

(Contd. from page 12)

- Methodology adopted for computation of Gross Turnover and Taxable Turnover.
- The Payment of the taxes can be made along with the KVAT Audit Report accordingly.
- The Auditor must highlight the details of Department Visits.
- There is no specific method specified by the KVAT law for the valuation of the opening stock or closing stock. Basically, it differs from dealer to dealer like the valuation may differ for manufacturing industry, Trader, works contractor, etc.
- The Auditor must verify the TDS certificates as issued by the dealer like TDS certificates to industrial canteen or to the Government contracts.
- The Stock or inventory of inputs or work in progress or finished goods or trading goods in the premises of the dealer, with the third-party including consignment agents /Job worker on 30th June 2017 are critical as there is transition to the new GST law on 01.7.2017.

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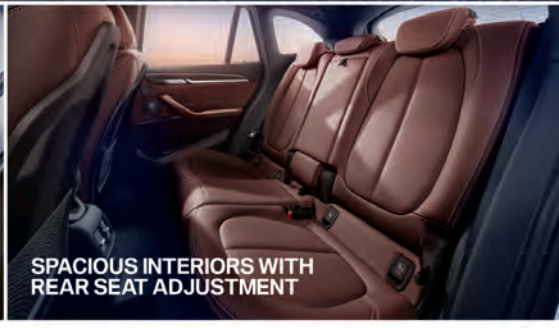

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Analysis of Exemption from GST on Supply of Services:

Notification No. 12/2017 Central Tax(Rate) Dated 28.06.2017 –

Exemption under GST for agricultural activities:

CA Raghavendra C R & CA Bhanu Murthy J S

In this part, we have examined the exemptions available under GST for 'Agricultural activities' and the relevant entry is Sl. No. 54 and 55 of Notification 12/2017 CT(R) dt. 28.06.2017 is reproduced for the sake of easy reference:

Sl No.	*Chapter, Section, Heading, Group or Service Code (Tariff)*	*Description of Services*	*Rate (per cent.)*	*Condition*
54	Heading 9986	Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of— (a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; (b) supply of farm labour; (c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market; (d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use; (e) loading, unloading, packing, storage or warehousing of agricultural produce; (f) agricultural extension services; (g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.	Nil	Nil
55	Heading 9986	Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce.	Nil	Nil

Relevant definitions are as below:

(c) "agricultural extension" means application of scientific research and knowledge to agricultural practices through farmer education or training;

(d) "agricultural produce" means any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market;

(e) "Agricultural Produce Marketing Committee or Board" means any committee or board constituted under a State

law for the time being in force for the purpose of regulating the marketing of agricultural produce;

Analysis of the exemption entry

It is clear from the above that all services relating to cultivation of plant, agriculture or 'agricultural produce' as specified above are covered under the exemption under entry no. 54. Further, job work services relating to cultivation of plant and agriculture is also exempted under sl. No 55 of the notification.

In this, we need to understand the term 'Agricultural produce' as defined in Para 2(d) wherein all produce which is result of cultivation of plant for food, fibre, fuel, raw material or other similar products would be termed as 'agricultural produce'. For the purpose of understanding the meaning and scope of the definition of 'agricultural produce', it would be relevant to note that the competence to charge tax on agricultural income vests with the State Legislature and not the Union vide entry 46 of the State List. The above referred definition of 'agricultural produce' as per GST notification makes it clear that any produce of agriculture which has not undergone any further processing (with exception of those initial processes done by the cultivator/producer not altering the essential characteristics) could be termed as 'agricultural produce'.

In the context of term 'agricultural produce', it is interesting to note that the term 'agriculture' has not been defined under CGST or IGST Act, 2017. Instead, there is definition of the term 'agriculturist' as defined in Section 2 (7):

(7) "agriculturist" means an individual or a Hindu Undivided Family who undertakes cultivation of land—

(a) by own labour, or

(b) by the labour of family, or

(c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family;

In view of the absence of the definition of 'agriculture', the term 'agriculture' can also be understood as per the definitions contained in various authorities:

P.Ramanatha Aiyar Advanced Law Lexicon which is as follows:

"AGRICULTURE" means the basic and applied sciences of the soil and water management, crop production including production of all garden crops, control of plants, pests and diseases, horticulture including floriculture, animal husbandry including veterinary and dairy science, fisheries, forestry including farm forestry, home-science, agricultural engineering and technology, marketing and processing of agricultural and animal husbandry products, land use and management. (Central Agricultural University Act, 1992 (40 of 1992), S.2(c)

The science or art of cultivating soil, harvesting crops, and raising livestock.

'Agriculture' is the science or art of cultivating the soil, growing and harvesting crops, and raising livestock. (New Encylopaedia Britannica, Vol.I,p.156 as referred in Maheshwari Fish Seed Farm v. T.N.Electricity Board (2004) 4 SCC 705, 710, para 7).

PRODUCT OF AGRICULTURE. The product of agriculture is that which is the direct result of husbandry and culture of the soil. It embraces the product in its natural, and manufactured condition, Getty v. C.R.Barnes Milling Co., 40 Kan. 281, 19 Pac. 617 "Agriculture" and 'cultivation' include Horticulture, and the use of land for any purpose of husbandry, inclusive of the keeping or breeding of Livestock Poultry, or Bees, and the growth of Fruits, Vegetables, and the like".

Further, the term agriculture itself has been interpreted by the Supreme Court in the case of CIT vs Benoykumar Sahas Roy (1957) 32 ITR 466.

It is clear from entry in Sl. No. 54 of the Notification that services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of—

(a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;

(b) supply of farm labour;

(c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;

(d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;

(e) loading, unloading, packing, storage or warehousing of agricultural produce;

(f) agricultural extension services;

(g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.

It is relevant to note that under clause (c) above under Sl. No. 54 provides that operations essential to make the product marketable and carried out in an agricultural farm are out of the tax net. The only condition seems to be that the said operations should be carried out in an agricultural farm.

Further, clause (f) of Sl. No. 54 covers services relating to 'agricultural extension services' which is defined in the Notification as follows:

(c) "agricultural extension" means application of scientific research and knowledge to agricultural practices through farmer education or training;

Therefore, it can be concluded that the entire range of activities undertaken in relation to agriculture and could be termed as agriculture and 'agricultural extension service' would get exempted from GST.

GTA – Exemptions from GST in relation to agriculture:

Further, in the context of 'agricultural produce', entry in Sl. No. 21 of Notification no. 12/2017 dated 28.06.2017 whereby it specifically exempts as given below:

Sl.No	Heading	Description of Services	Rate(%)	Conditions
21	Heading 9965 or 9967	Services provided by a goods transport agency, by way of transport in a goods carriage of (a) agricultural produce; (b) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees; (c) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred and fifty; (d) milk, salt and food grain including flour, pulses and rice; (e) organic manure; (f) newspaper or magazines registered with the Registrar of Newspapers; (g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or (h) defence or military equipments.		

It is relevant to note that under Sl. No. 21 of Notification No. 12/2017-CT, all services provided by GTA by way of transport in a goods carriage inter alia relating to 'agriculture produce' would be exempt from payment of GST. It is clear from the above that the services of goods transport agencies (GTA) for transport of goods are taxable (generally under reverse charge), however, where the services related to agricultural produce are specifically exempted which are covered under heading 9965 or 9967. Further 9965 covers goods transport services and heading 9967 covers supporting services in transportation of goods such as storage and warehousing, road transport etc.

For clarity, the term 'goods transport agency' is defined in Para 2(ze) of Notification No. 12/2017-CT as under:

(ze) "goods transport agency" means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called;

The term 'goods carriage' is defined in Para 2(zd) as under:

(zd) "goods carriage" has the same meaning as assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

Considering the definition of the term GTA and 'agricultural produce', the transportation services pertaining to all agricultural produce entirely gets exempted from GST under Sl.No.21 of Notification No.12/2017-CT.

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Sabarimala Judgment – An Analysis

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The Supreme Court rendered one its most polarizing judgments on September 28, 2018, in the case of Indian Young Lawyers Association v. State of Kerala, 2018 SCC Online SC 1690, more popularly known as the "Sabarimala judgment." The aftermath of the judgment has seen some strong viewpoints, political and religious, ranging from one end of the spectrum to the other. However, from a purely constitutional and legal standpoint, it is safe to say that the judgment is an authoritative exposition of the law on the subject, particularly regarding the interplay between the fundamental rights set out under Articles 25 and 26 of the Constitution. This article briefly discusses the constitutional issues analyzed in the judgment, without in anyway venturing into the vexed political issues it gives rise to.

The petitioner in the case, an association of lawyers, filed a writ petition under Article 32 of the Constitution before the Supreme Court: (a) challenging the Constitutional validity of Rule 3(b) of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965 ("the Rules"), which restricts the entry of women into the Sabarimala Temple as being ultra vires Section 3 of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Act, 1965 ("the Act"); and (b) praying for a writ of mandamus to the State of Kerala and other authorities directing them to ensure that female devotees between the age group of 10 to 50 years are permitted to enter the Sabarimala Temple without any restriction.

A three-judge bench of the Supreme Court thought it fit to refer the matter to a Constitution bench and framed several questions for the Court's consideration, which can be summarized as follows: (a) whether the practice of excluding women between the ages of 10 and 50 from entering the temple violates Articles 14, 15, and 17 of the Constitution; (b) whether the exclusionary practice is an "essential religious practice" protected under the freedoms enshrined under Article 25; and (c) whether the followers of Lord Ayyappa can be said to be a "religious denomination" for purposes of Article 26, who have the right to manage their own affairs, thereby prohibiting the entry of women. The 5-Judge Constitution Bench, after a detailed analysis of the Constitutional provisions and the Court's previous judgments, answered the questions framed in favour of the petitioner and held that the exclusionary practice is unconstitutional and, therefore, unenforceable. Four separate judgments were written by the Court - the majority judgment was written by CJI Dipak Mishra (writing for himself and Justice Khanvilkar), and concurring judgments were written by Justices Nariman and Chandrachud. Interestingly, the sole dissenting opinion was authored by Justice Indu Malhotra, the only woman on the Bench. For the sake of brevity, this article merely summarizes the Court's majority judgment, without analyzing each of the judgments separately.

The first question the Court answered was whether followers of Lord Ayyappa constitute a religious denomination. Article 26 of the Constitution guarantees the right of "every religious denomination or any section thereof" to, inter alia, "manage its own affairs in matters of religion." If the followers could be said to be a "religious denomination," the exclusionary practice could then, arguably, be protected by the right conferred on religious denominations to manage their own affairs in matters of religion. After referring to several judgments on the issue of what constitutes a religious denomination, including the famous Shirur Math case,[1] the Court observed that the most important condition to constitute a religious denomination is that "the collection of individuals ought to have a system of beliefs or doctrines which they regard as conducive to their spiritual well-being," and that "there is nothing on record to show that the devotees of Lord Ayyappa have any common religious tenets peculiar to themselves, which they regard as conducive to their spiritual well-being, other than those which are common to the Hindu religion." Accordingly, the Court concluded as follows:

1 The Commissioner, Hindu Religious Endowments v. Sri. Lakshmindra Thirtha Swamiar of Sri Shirur Math, 1954 SCR 1005.

> *"Therefore, the devotees of Lord Ayyappa are just Hindus and do not constitute a separate religious denomination. For a religious denomination, there must be new methodology provided for a religion. Mere observance of certain practices, even though from a long time, does not make it a distinct religion on that account."*

The next question the Court dealt with was regarding the enforcement of the rights guaranteed under Article 25(1) to the Travancore Devaswom Board. It is relevant to note, at this stage, that the fundamental rights under Part III of the Constitution are enforceable only against the State and its functionaries, as specified under Article 12. Therefore, the threshold question the Court had to decide was whether fundamental rights, be it under Article 14, 25, or any other right, could be enforced against the Devaswom Board, who is in charge of administering the temple. This question had to be answered as no writ can be issued directing a private body to permit women of all ages to enter the temple. The Court answered this question in the positive by holding that by virtue of the fact that Section 15 of the Act vests all powers in the Board, which can be categorized as any "other authority" under Article 12, fundamental rights can be enforced against the Devaswom Board. Having held that fundamental rights are enforceable against the Board, the Court proceeded to examine whether the exclusionary practice violates the right to practice religion guaranteed under Article 25.

Article 25(1) states that, "subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion." Article 25(2)(a) states that the nothing in the article shall prevent the State from making any law regulating any economic, financial, political or other secular activities that may be associated with religious practice. Sub-clause (b) of Article 25(2) further permits the State make any law that provides for "social welfare and reform or throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus."

After referring to the text of the abovementioned Article, the Court observed that "by employing the expression 'all persons', [the Article] demonstrates that the freedom of conscience and the right to freely profess, practise and propagate religion is available, though subject to the restrictions delineated in Article 25(1) itself, to every person including women." Therefore, the Court, in no uncertain terms, held that the rights guaranteed under Article 25 are available to all persons, including women. The Court further observed that "the right guaranteed under Article 25(1) has nothing to do with gender, or for that matter, certain physiological factors, specifically attributable to women." Accordingly, the Court concluded as follows:

> *"We have no hesitation to say that such an exclusionary practice violates the right of women to visit and enter a temple to freely practice Hindu religion and to exhibit her devotion towards Lord Ayyappa. The denial of this right to women significantly denudes them of their right to worship. […] The right guaranteed under Article 25 is not only about inter-faith parity but it is also about intra-faith parity. Therefore, the right to practice religion under Article 25(1), in its broad contour, encompasses a non-discriminatory right, which is equally available to both men and women of all age groups professing the same religion."*

Accordingly, the Court held that Rule 3(b), which codifies the exclusionary practice is a clear violation of the fundamental right guaranteed under Article 25. The Court further observed that the exclusionary practice cannot be justified on the ground that allowing women to enter the temple would affect public order, morality, and health, or jeopardize any other right under Part III. It is pertinent to note that the right to practice religion under Article 25 has expressly been made subject to the above exceptions. The Court held that none of the exceptions would justify the curtailing of a woman's right to practice her religion by entering the temple at Sabarimala.

Interestingly, this very right under Article 25, which, in Shirur Math, has been held to include religious practices, faiths, and doctrines, also protects those practices that are considered "essential" to a religion. Therefore, if the exclusion of women between the ages of 10 and 50 from entering the Ayyappa temple is proved to be an essential religious practice, the allowing of women to enter would be a violation of the right guaranteed under Article 25. The Court, accordingly, examined whether the exclusionary practice is an "essential practice" as per the Hindu religion. In Shirur Math, the Supreme Court observed that, "what constitutes the essential part of a religion is primarily to be

ascertained with reference to the doctrines of that religion itself." In other words, "what constitutes an essential part of a religion is to be ascertained with the reference to the tenets and doctrines of that religion itself."

The Supreme Court had earlier been called upon to examine several such cases and determine whether a particular practice is a practice essential to a religion. For instance, in Mohd. Hanif Qureshi v. State of Bihar, AIR 1958 SC 731, the Supreme Court rejected the argument of the petitioner that the sacrificing of cows on Bakrid was an essential practice of the Mohammedan religion. In Acharya Jagadishwarananda Avadhuta v. Commissioner of Police, (1983) 3 SCC 522, the Court held that carrying of lethal weapons and human skulls by Ananda Margis while performing the Tandav dance in public places was not an essential religious practice. After referring to the law laid down in a number of such judgments, the Court held as follows:

> *"In the light of the above authorities, it has to be determined whether the practice of exclusion of women of the age group of 10 to 50 years is equivalent to a doctrine of Hindu religion or a practice that could be regarded as an essential part of the Hindu religion and whether the nature of Hindu religion would be altered without the said exclusionary practice. The answer to these questions, in our considered opinion, is in the firm negative. In no scenario, it can be said that exclusion of women of any age group could be regarded as an essential practice of Hindu religion and on the contrary, it is an essential part of the Hindu religion to allow Hindu women to enter into a temple as devotees and followers of Hindu religion and offer their prayers to the deity. In the absence of any scriptural or textual evidence, we cannot accord to the exclusionary practice followed at the Sabarimala temple the status of an essential practice of Hindu religion."*
>
> *123. By allowing women to enter into the Sabarimala temple for offering prayers, it cannot be imagined that the nature of Hindu religion would be fundamentally altered or changed in any manner. Therefore, the exclusionary practice, which has been given the backing of a subordinate legislation in the form of Rule 3(b) of the 1965 Rules, framed by the virtue of the 1965 Act, is neither an essential nor an integral part of the Hindu religion without which Hindu religion, of which the devotees of Lord Ayyappa are followers, will not survive.*

The Court, therefore, concluded that the exclusion of women from entering the temple is not so essential a practice of the Hindu religion that it merits protection under Article 25 of the Constitution. The Court also observed that where a practice changes with the efflux of time, such a practice cannot be regarded as a "core upon which a religion is formed." In order to "attain the status of an essential practice, the Court held that "there has to be unhindered continuity in a practice." In this regard, the Court observed that the Devaswom Board itself had accepted that female worshippers between the ages of 10 to 50 used to conduct poojas at the temple earlier. Therefore, the Court concluded that "there seems to be no continuity in the exclusionary practice" and in view of the same, "it cannot be treated as an essential practice."

Lastly, the majority judgment also observed that Rule 3(b), which codified the exclusionary practice was ultra vires Section 3 of the Act, wherein the Kerala Legislature had expressly declared that every place of public worship, which is open to Hindus, shall be open to all sections of Hindus, and no Hindu of whatsoever class, shall be prevented from entering such place of worship.

As mentioned earlier, Justices Nariman and Chandrachud wrote separate judgments concurring with the views expressed by Chief Justice Mishra, and Justice Indu Malhotra wrote a dissenting opinion. The said judgments make for extremely interesting reading, but it wouldn't be possible in this limited space to discuss them. It would suffice to state that although the judgments are an authoritative exposition of the law on the Constitutional issues, the practical issues it gives rise to, including the inability of the State to implement the judgment, will continue to be debated. Also, a review petition has been filed and, at the time of writing this article, the matter had been placed before the Bench headed by Chief Justice Ranjan Gogoi. It remains to be seen if the Supreme Court will rehear the matter and write another judgment on an issue that has already consumed a considerable amount of its time.

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Financial Reporting and Assurance

CA Vinayak Pai V

1. Heads Up – Latest/Upcoming Changes

AS (Accounting Standards)	
1	Limited ***Amendments to Schedule III –Division I*** of Companies Act applicable to AS financial statements.
IND-AS (Indian Accounting Standards)	
1	Limited ***Amendments to Schedule III –Division II*** of Companies Act applicable to IND-AS financial statements.
2	Insertion of ***Division III to Schedule III*** of Companies Act – Instructions and Formats for Financial Statements of ***Non-Banking Financial Companies (NBFCs).***
IFRS (International Financial Reporting Standards)	
1	Amendment to **IFRS 3**- ***Business Combinations*** amending the definition of Business.
2	Tentative Decision taken by IFRS Interpretations Committee • **IFRS 9** - *Application of the Highly Probable Requirement* in a Cash Flow Hedge Relationship.
Assurance	
1	***ICAI Code of Ethics, 2018*** Exposure Draft issued.
2	Technical Guide on the ***Functioning of the Audit Committee and its Review Checklist*** issued by ICAI.
Company Law – Accounts and Audit Related	
1	**Commencement Notification** – Section 132 ***Sub sections 2, 4, 5, 10, 13, 14 and 15*** (Constitution of National Financial Reporting Authority (**NFRA**) – October 24, 2018.
2	General Circular No.10/2018 dated October 29, 2018: **Relaxation of additional fees and extension of last date in filing of forms (for YE March 31,2018).** • Circular relaxing additional fees payable by companies on e-forms AOC-4, AOC (CFS), AOC-4 XBRL and e-form MGT-7 up to December 31, 2018.
Certain Reserve Bank of India Notifications	
1	RBI Notifications • **Basic Cyber Security Framework** to be implemented by ***Primary (Urban) Co-Operative Banks.*** • ***Basel III Framework on Liquidity Standards*** – Liquidity Coverage Ratio (LCR), FALLCR against credit disbursed to NBFCs and HFCs.

2. Limited Amendments to Schedule III – Division I (AS)

The MCA vide Notification dated October 11, 2018 has made limited **amendments to Division I of Schedule III** to the Companies Act that is applicable to **AS** financial statements as follows:

1	Nomenclature change – Fixed Assets to **Property, Plant and Equipment.**
2	Instructions regarding maintaining **uniformity in unit of measurement** (rounding off figures).
3	Nomenclature change – Securities Premium Reserve to **Securities Premium.**

3. Case Study – Impact Of New IND-AS Revenue Recognition Standard

The new IND-AS revenue recognition standard (IND-AS 115) is based on the core principle that an entity recognizes revenue to depict the transfer of promised goods and services to customers in an amount that reflects the consideration to which it expects to be entitled in exchange for those goods or services. The standard is effective from fiscal 2018-19.

Case Study:

The following case study is based on quarterly results of a company based on information available in the public domain.

Impact on topline – consolidated revenues	• **Reduction of 10.6%**

- The company **builds** all **customized products for its clients** and in certain contracts, the company undertakes higher-level assemblies of modules such as instrument panels, cockpits etc. wherein whole/substantial ***components are procured from suppliers nominated by the customers*** per contract. The reporting entity itself does not take over any risks on itself.
- The above situations have been defined in the new IND-AS revenue recognition standard as the **company acting as an agent and not as a principal,** and accordingly should recognize revenues excluding the value of such components.
- In migrating to the new standard, **only service fees** involved in such contracts where the company has limited risks **have been recognized as revenue** by netting the cost of such components from raw material consumption as well as from sales in contrast with the earlier accounting for the full value as revenue.
- Although impacting reported revenue figures, it may be noted that this change does not have impact on EBITDA/PBT and ROCE performance measures.

4. **Limited Amendments to Schedule III – Division II (IND-AS)**

The following amendments vide MCA Notification dated October 11, 2018 apply to IND-AS financial statements.

On the **face of the Balance sheet**	• Current and non-current liabilities **Trade payables** line item to be substituted with: a) Trade payables – Total outstanding dues of micro and small enterprises. b) Trade payables – other dues
Nomenclature change	Securities premium account to **securities premium.**
Revised sub-classification of **Trade Receivables** in the notes to financials for ***both current*** *and* ***non-current categories***	• Considered good – secured • Considered good – unsecured • Receivables that have significant increase in credit risk • Credit impaired.
Revised sub-classification of **Loan Receivables** in the notes to financials for ***both current*** *and* ***non-current categories***	• Considered good – secured • Considered good – unsecured • Receivables that have significant increase in credit risk • Credit impaired.
Additional disclosures w.r.t **trade payables** relating to **micro, small and medium enterprises** in the notes to financial statements: • Principal amount and the interest due thereon (to be shown separately) remaining unpaid to any supplier at the end of each year, • Interest paid by the buyer in terms of section 16 of MSMED Act, 2006, along with the amount of the payment made to the supplier beyond the appointed day during each year, • Interest due and payable for the period of delay in making payment (which has been paid but beyond the appointed day during the year) but without adding the interest specified under MSMED Act,	

• Interest accrued and remaining unpaid at the end of each year, and • Further interest remaining due and payable even in the succeeding years, until such date when the interest dues above are actually paid to the small enterprise, for the purpose of disallowance of a deductible expenditure under section 23 of MSMED Act.	

5. **Case Study: IND-AS Transition Impact**

The following case study of an **IND-AS first-time adopter** is based on published financial statements available in public domain.

IND-AS Measure	Transition Impact (%)
Net profit for the comparative period	**Decrease** of **0.9%**
Total Equity at date of transition	Increase of 2.8%
Total **Equity at end of comparative period**	**Increase** of **2.3%**

Key **Contributing Factors** for IND-AS Impact:

- Under AS, **Jointly Controlled Entities** were accounted using the ***proportionate consolidation method*** whereas **IND-AS** requires the accounting for entities now classified as joint ventures using the ***equity method of accounting*** since the parties to the joint arrangements do not have direct right to the assets and liabilities of these entities.
- In contrast with AS, the company has created Deferred Tax Liability on ***unremitted earnings of JVs and Subsidiaries*** and also created Deferred Tax Asset on ***unrealized profit arising on intra-group*** services.
- Under AS, **investments in equity instruments** were classified as long-term or current investments based on intended holding period and realizability with long-term investments carried at cost less provision for other than temporary decline in value and current investments being carried at lower of cost and fair value. Under IND-AS, equity instruments are **measured at fair value** with the **fair value changes** being **recorded** in **other comprehensive income** for investments designated as FVTOCI.
- Under AS, **employee loans at concessional rates** were recorded at their transaction value. Under IND-AS these are **recognized at fair value** with the difference between the fair value and transaction value of the employee loans being recognized as ***deferred employee cost***. The profit for the year also is consequently impacted on account of amortization of the deferred employee cost that is partially offset by the i***nterest income recognized on employee loans.***
- Under AS, **retention money on capital expenditure** was recorded at face value. Under IND-AS the retention money has been ***discounted*** to their present values. The profit for the year decreased due to the ***unwinding of discount*** on the liability.

6. **New Definition of Business under IFRS**

Alert: Amendments to IND-AS 103 expected consequent to the amendment discussed herein below.

The International Accounting Standards Board (IASB) has recently amended IFRS-3 dealing with the accounting topic of business combinations. The definition of business has been amended. The amendments are expected to assist companies determine whether an acquisition made is of a business or a group of assets. The amended definition emphasizes that the output of a business is to provide goods and services to customers. The extant definition focused more on investment returns. The extant and amended definition of business is highlighted in the below table.

Extant definition	Amended definition
An integrated set of activities and assets that is capable of being conducted and managed for the purpose of providing a return in the form of dividends, lower costs or other economic benefits directly to investors or other owners, members or participants.	An integrated set of activities and assets that is capable of being conducted and managed for the **purpose of providing goods or services to customers**, generating **investment income** (such as dividends or interest) or **generating other income** from ordinary activities.

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We thank following members for generously contributing towards expenditure of

KSCAA Sports & Talent Meet 2018

Name	Place	Contribution (Rs.)
CA Arun Shetty	Bengaluru	10,000
CA Shantharam Shetty	Mangaluru	5,000
CA Padmanabha Kanchan K	Udupi	5,000
CA Jeevan Shetty	Udupi	5,000
CA Ganesh Kanchan	Udupi	5,000
CA Rajesh Shetty	Udupi	5,000
CA Madiwallappa Tigadi	Belagavi	5,000
CA H Kiran Kumar	Udupi	2,500
CA Ananthanarayana Pai K	Udupi	2,500
CA Veeranna Murgod	Belagavi	2,500
CA Prashanth Holla T	Udupi	2,000
CA Yaseen Devalapur	Belagavi	1,000
CA Vijay Ummi	Belagavi	1,000
CA Shivanand Peddannavar	Belagavi	1,000

KSCAA WELCOMES NEW MEMBERS - NOVEMBER 2018

S.No.	Name	Place
1	Nagaraja Singh S.K.	Shivamogga
2	Lakshminarayanan S	Bengaluru
3	Bhavesh Jain	Devanahalli
4	Mohammed Yusuf	Bengaluru
5	Krishna Murthy Raju R	Bengaluru
6	Anuradha Suresh Bole	Bengaluru
7	Pradeep Jogi	Udupi
8	Roshan Shetty	Bengaluru
9	Mallesha Kumar	Udupi
10	Uma H.N.	Bengaluru

Congratulations

CA Vinay Mruthyunjaya
was conferred with Prestigious
Nada Prabhu Kempegowda Award
by Sri G. Parameshwar, Honourable Deputy Chief Minister, GoK,
Managing Committee Member of the Karnataka State Cricket Association and also the official Spokesperson of KSCA, Bangalore.

Genesis of Income Tax in India

CA Karthik Bhatt

All documentation tracing the origin and progress of income tax in our country recognise the contribution of James Wilson, who in February 1860 in the first ever Budget Speech introduced the levy. However, seldom mentioned is the equally important and interesting contribution of Sir Charles Trevelyan, Governor of Madras from 1858 to 1860. This article commemorates his role in the introduction of the levy.

Born in 1807, Sir Charles Trevelyan joined the East India Company's Bengal Civil Service as a writer in 1826 and gradually moved up the ranks, becoming Deputy Secretary to the Government in the Political Department. He later became Secretary to the Sudder Board of Revenue, before returning to England in 1838. During his tenure, he earned a reputation for promoting the cause for education and it was thanks to him that the Government decided in favour of the promulgation of European Literature and Science amongst the Indians.

Sir Charles Trevelyan returned to India two decades later, when his experience in Indian conditions weighed in his favour and he was appointed Governor of Madras in 1858 succeeding George Harris, 3rd Baron Harris. His arrival came at a time when the administration of the country was undergoing a change. Soon after the Mutiny of 1857, the Government of India Act, 1858 was passed that placed India under the direct rule of the Queen, thus bringing to an end the East India Company rule.

The Mutiny had left in its wake a tremendous deficit that needed to be overcome. An increase in customs duty was proposed, which led to widespread protests, especially in Bengal and Madras. A need was felt for the presence of a person who would be the panacea for the financial mess the government was finding itself in. Thus, came into picture James Wilson, a man known to be of great financial ability. Little would he have imagined then that his brainchild would go on one day to become one of the country's mainstays of revenue. James Wilson proposed to bridge the gap between revenue and increase in public debt through an increase in import duties, a tax on home-grown tobacco, a small and uniform license duty upon traders of every class and the temporary imposition of an income-tax on all incomes above Rs 200 a year, but with a reduction for those not exceeding Rs 500 per annum. Needless to say, these proposals were to meet with considerable opposition.

Sir Charles Trevelyan was quick to raise in protest against the proposed taxes, and Income Tax in particular. The Madras Presidency had by and large been unaffected by the Mutiny and hence he was of the view that it was not proper to impose a levy that sought to alleviate the financial burden on it. A public meeting was held at the Pachaiyappa's Hall in George Town (then known as Black Town) to garner support against the imposition of Income Tax. Joining hands with Sir Charles Trevelyan in the protest was Sir Henry Nelson of Parry and Co, who was then the Chairman of the Madras Chamber of Commerce. Trevelyan also found fault with the imposition of the tax on people who had no representation in the Legislative Council. Needless to say, this did not go down well with the powers in England and led to the recall of Trevelyan on charges of insubordination.

It was however not the last that the country would see of Sir Charles Trevelyan. James Wilson did not live to see his initiative bear fruit as he died of dysentery in August 1860. His death caused a sizable hole to fill in the Finance Department. Two years later, Sir Charles Trevelyan returned to India as Finance Member in 1862 and played a vital role in the implementation of a levy he had so vehemently opposed!

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REPRESENTATION ON EXTENSION OF DUE DATE FOR ROC FORM AOC4 AND MGT7

To,

Date: 25th October 2018

Shri. Arun Jaitleyji
Hon. Union Minister of Finance and Corporate Affairs
Government of India
North Block, New Delhi - 110001

Hon'ble Sir,

SUBJECT: REPRESENTATION ON EXTENSION OF DUE DATE FOR ROC FORM AOC4 AND MGT7

The Karnataka State Chartered Accountants Association (R) (in short **'KSCAA'**) is an association of Chartered Accountants, registered under the Karnataka Societies Registration Act, in the year 1957. KSCAA is primarily formed for the welfare of Chartered Accountants and represents before various regulatory authorities to resolve the professional problems faced by chartered accountants and business community.

We have written to your good selves many a times populating issues and possible solutions. Herein, we are presenting before your good selves the difficulties and hardship faced by the trade, consultants and companies at large due to incessant changes in due dates for filing Income Tax returns, GST reconciliations, delay in finalization of accounts by the company management, festive season etc.

There is sufficient cause and need for the extension of filing of Annual Forms AOC-4 and MGT7 for a reasonable period of time to give justice to the correctness of returns. The reasons for the request is as outlined below:

- GST has been blockbuster reform of the Government, which introduction has taken a decade to reach a logical end. Naturally this introduction had its fair share of issues on trade and companies due to lack of infrastructure capacity of GSTN and various issues, which required incessant changes of forms, dilution etc. Since it was unable to introduce in lucid form, it has tumultuous impact on reconciliation of accounts for corporates and other bodies. This has continuously percolated and intruded into time required for other compliances and has played havoc to say the least.
- Income Tax returns filing due date for individuals, corporates were regularly extended due to factors like reconciliation, infrastructure strength, delay in schema from department, frequent changes to reporting, last minute introductions even against the spirit of judicial pronouncements to make schema ready before the beginning of the pertinent year, GST figures to be mentioned in returns etc. and inconsistency possibility between income tax and GST returns for corporates due to supra matters. The preponed due date for filing income tax returns and introduction of late fees mandatory beyond the normal interest not helping the cause either.
- GST Annual Returns and audit are expected to be completed before Dec 31st 2018 and October 20th being the legitimate date for filing of lost/ unclaimed Input Tax Credit, and inconsistencies calling for attention of company's management and consultants as well leaving both fraternity high and dry to attend to other statutory timelines under other enactments.
- The festive season being delayed by a month due to adhika masa also has played a fair share of delay for preparation of accounts for audit on the part of corporates to attend to supra matters thereby having impact on accounts finalization.
- Unless proper reconciliation is effected, it could be a matter for extended litigation later on to the unreconciled and qualified reports if proceeded as it were. The reconciliation element possibly arises partly due to the niggling issues in GST and loose ends therein pursuant to delayed correction submission from suppliers of goods and services for genuine reasons, onslaught of financial difficulties having cumulative bearing on compliances.
- The additional fee of Rs.100/- per day for delay in filing of annual returns under Section 92 and 137 of the Act has been introduced for the first time with effect from 1st July 2018. This may cause lot of hindrance for complying with the due dates in view of the above mentioned issues.
- The matters above are acting in concert and playing havoc on the routine compliances. The ground realities can be felt from the communications received by the professionals from the company managements and other stakeholders and the same being sought for redressal through your august office.

We hereby appeal your good selves to consider the supra issues faced by the corporates and consultants and provide a reasonable extension for filing of annual forms AOC4 and MGT7.

This write-up is on the back of representation received from trade bodies and practitioners who are in the thick of things and their request for seeking redressal to issues faced.

We would be highly thankful if you could extend the due date well in advance, which would be very useful in planning the filings for the corporates and practitioners meaningfully.

Thanking you,

Yours sincerely,

For **Karnataka State Chartered Accountants Association ®**

CA. Raghavendra Shetty
President

CA. Kumar Jigajinni
Secretary

CA. Niranjan Prabhu
Mentor – Accounting, Auditing, Corporate & Allied Laws Committee

CA. Deepaboli Das
Chairperson - Accounting, Auditing, Corporate & Allied Law Committee

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CC To: Hon. Minister of State for Corporate Affairs, New Delhi

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KSCAA NEWS BULLETIN English Monthly Printed, Published & Edited by CA. Raghavendra Shetty, President on behalf of Karnataka State Chartered Accountants Association, # 7/8, 2nd Floor, Shoukath Building, S.J.P. Road, Bengaluru-560 002. Ph : 2222 2155, Tel. Fax : 2227 4679, e-mail : kscaablr@gmail.com, Website : www.kscaa.com
Printed at Jwalamukhi Mudranalaya Pvt. Ltd., 44/1, K.R.Road, Basavanagudi, Bengaluru- 560 004, Ph : 080-2660 1064, e-mail: jwalmukhi@gmail.com.
Published at # 7/8, 2nd Floor, Shoukath Building, S.J.P.Road, Bengaluru-560 002. Editor : CA. Raghavendra Shetty

"Registered" News Bulletin for India vide No.KA/BGGPO/2542/2018-20
RNI Regn. No. KARENG/2013/51293
Licensed to post without prepayment License No. WPP-309
Date of Publishing & Posting 15th of the month, Place of Posting at Bangalore PSO, Mysore Road, Bangalore 560026
Total No. of Pages Printed : 32