KSCAA

Karnataka State Chartered Accountants Association ®

NEWS BULLETIN

August 2019 I Vol. 6 I Issue 12 I ₹ 25/-

Since 1957

www.kscaa.com

English Monthly

for Private Circulation only

Co-Op Societies Taxation | GST | Income Tax | Financial Reporting and Assurance | Excel

Executive Committee Members 2019-20

KSCAA Office shifted to
New Premises near Rajajinagar Metro Station

Theme Logo 2019-20

CONVERGENCE
- Creating Impact Together

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From the President

Dear Professional friends,

I'm happy to be the 47th President of Karnataka State Chartered Accountants Association. To lead the elite members is a matter of pride and honour bestowed on me. The association has to its credit extraordinary work done by my predecessors, which I wish to continue further. This happiness was short-lived with severe disaster due to flood in several parts of Karnataka, which has dislodged dreams and livelihood of many. The affected areas and devastation stories are heart wrenching to see and hear. KSCAA through its own platform has taken initiative to seek for contribution from members and others to help the needy. We have already distributed our first lot of relief material to the needy and would continue to do so in the cause of charity and relief. It is our conscious decision to keep this help moving ahead, so that we build better society in ways and means available to us. Request you all to generously contribute to the relief activity.

My wishes to all of you on the Independence Day, our forefathers have toiled hard to get us the freedom which we are enjoying. Independence is the manifest of freedom and is absolute, but freedom comes with its own responsibility. We need to ascend to the state of real freedom to uphold and justify the struggle of Indian Independence movement.

India revokes article 370, thereby the special status provided to J&K has now been withdrawn. Though, this piece of information may not have direct impact on the profession or association. But it opens the pandora box, legally and diplomatically and would be interesting to follow.

KSCAA has moved its office to a new location at Rajajinagar (near Rajajinagar Metro station), this will help your association to serve you better.

News Round up

Issues in respect of payment of third installment under the Income Declaration Scheme 2016 ('IDS') - CBDT has directed to consider all the payments made/effected by the declarants under IDS on or before 03.10.2017 as deemed to have been paid within the due date for third installment i.e., 30.09.2017 in the lieu of the continuous holidays till 02.10.2017.

Task force for drafting of New Direct Tax Legislation - The government has provided the extended time to task force for submitting the report on New Direct Tax law till August 16, 2019.

Monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs/ appeals before Supreme Court has been further enhanced.

Clarification in respect of filling-up of ITR forms for AY 2019-20 - CBDT has issued certain clarifications in order to address various queries raised by the stakeholders in respect of filling-up of the ITR forms.

India-China DTAA has been amended to incorporate BEPS related provisions.

The Companies (Amendment) Bill, 2019 was passed by the Rajya Sabha on the 31st of July, 2019. Earlier the Amendment Bill, 2019 was passed by Lok Sabha on the 27th of July, 2019. With these amendments the Government is seeking to tighten CSR norms and ensuring stricter action for non- compliance of the company law regulations. Further, more accountability has been brought on the shoulders of professionals to ensure better enforcement and compliance management.

The Government has continued its take on shell companies by adding non-maintenance of registered office as a ground for de-registration of a company. Slight relaxation has been given to the company management by recategorization of 16 minor offences as purely civil defaults. The other amendments include transferring of functions with regard to dealing with applications for change of financial year to Central Government and shifting of powers for conversion from public to private companies from NCLT to the Central Government, as well as more clarity with respect to certain powers of the National Financial Reporting Authority.

Representations

We had three representations during the period. First one, is to extend the time provided for Comprehensive Karsamadhana scheme 2019, enlightening various practical issues faced by the business and professionals in the scheme. Second one, to extend the time provided for audit under Karnataka Co-operative Society Act in the background of harsh rains and flood. Third one was to extend various timelines for filing returns provided in Income Tax and GST in the back ground of flood in Karnataka. We have not left any opportunity that could have been represented, we request members to populate any areas which needs to be represented.

Upcoming Programs

KSCAA has conducted its first program in Hassan with over 100 participants, we would like to reach to audience not generally attended and hence request members to suggest any areas or location where such programs can be benefited by members. We are also chalking out programs on areas of Income tax, GST in Davanagere, Shivamogga and Bengaluru. Watch this space for latest programs.

I've large-shoe to fill but with all your support it seems not so difficult dream. I request each one of you to suggest any plans or ideate on the areas which can help our members fraternity. We have reached a stage of development where collaboration supersedes competition, with right framework and objective we can create an extraordinary line of success. Hence, we have named this year's theme as "*Convergence – creating impact together*". Coming together is not arithmetic summation of strength but the mystic results are beyond it.

As Charles Darwin says "It is the long history of human kind that those who learned to collaborate and improvise most effectively have prevailed".

Yours Sincerely,

CA. Chandrashekara Shetty
President

KSCAA
News Bulletin
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Vol. 6 Issue 12
No. of Pages : 32

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KSCAA welcomes articles & views from members for publication in the news bulletin / website.

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KSCAA Office shifted to New Premises at below address:

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Issues in Co-Operative Societies Taxation

CA. S. Krishnaswamy

1. *A co-operative society which is into marketing of produce of its members to be covered by the SC decision in Totagara Co-operative sale Society Ltd if sale proceeds were restricted and deposited in banks for interest*
2. *Is a co-operative bank a co-operative society?*
3. *Providing credit facilities and receiving deposits from members does not make a co-operative society a co-operative bank.*
4. *A co-operative society activities covering to the provisions of the relevant Act will be denied exemption.*

The taxation of co-operative societies whose income is exempt specifically u/s 80P of the Income Tax Act, 1961 has given rise to many controversial issues with varying interpretation of transactions. Sec.80P (1) exempts Gross Total Income from taxation of co-operative societies engaged in the activities referred in Sec.80P (2) (a) (i) to (vii). Under section 80P(2)(d) - in respect of any income by way of interest or dividends derived by the co-operative society from its investments with any other co-operative society, the whole of such income This article deals with cases of societies carrying on the business of banking and credit facilities provided to its members. Also deals with Sec.80P (4) which specifically states that the provisions of the Section shall not apply to any co-operative bank in relation to any co-operative bank other than a Primary Agricultural Society or Primary Agricultural Rural Development Bank and the issue whether or not co-operative bank is a co-operative society on which there is a cleavage of judicial opinion. Interest income from deposits in other co-operative societies is exempt u/s 80P (2)(d) and hence the importance of a finding if co-operative society include a co-operative bank.

A large number of co-operative societies are in appeal before the Income Tax Appellate Tribunal contesting the application of ratio decided in the case of **Totagar's Co-operative Sale Society Ltd vs. ITO (2010) 322 ITR 283 (SC)**.

1. The lead Case : Marketing co-operative society

In the interpretation of Sec.80P (2) (a) (i) the exemption is inclusive of any income attributable to such activities. The word '*attributable*' is a matter of judicial interpretation with regard to, in particular, the interest income earned from deposits with commercial banks or even a co-operative bank, other than a co-operative society.

The income derived from interest arising from investing surplus monies in commercial banks and co-operative banks by a co-operative society marketing the products of its members was the main issue in **Totagar's Co-operative Sale Society Ltd vs. ITO (2010) 322 ITR 283 (SC)**.

Facts of this case –

The assessee is a co-operative credit society. During the relevant assessment years in question, it had surplus funds which the assessee(s) invested in short-term deposits with banks and in Government securities. On such investments, interest accrued to the assessee(s). The assessee provides credit facilities to its members and also markets the agricultural produce of its members. The substantial question of law which arose in this batch of civil appeals is whether or not such interest income would qualify for deduction as business income u/s 80P (2) (a) (i) of the Income Tax Act 1961.

The argument of the assessee was that the assessee is a co-operative credit society. Its business is to provide credit facilities to its members and to market the agricultural produce of its members. According to the assessee, its activity constituted "eligible activity" under section 80P (2) (a) (i) of the Act and hence it was entitled to the benefit of deduction from gross total income.

It was urged that, under section 80P (2) of the Act, the whole of the amount of "business profits" attributable to any of the enumerated activities is entitled for deduction. According to the assessee(s), one need not go by the source/head of such interest income because no sooner interest income accrued to the assesses on

the above mentioned specified deposits/securities, it became business income attributable to the activity carried on by the assessee by providing credit facilities to its members or marketing of agricultural produce of its members and no sooner such interest income falls under the head "business profit" attributable to one or more of such eligible activities, such interest income became eligible for deduction under the said section. The assessee further contended that under regulations 23 and 28 r.w.s 57 and 58 of the Karnataka Co-operative Societies Act, 1959, a statutory obligation was imposed on co-operative credit societies to invest its surplus funds in specified securities and, in view of such statutory obligation, the above mentioned interest income derived from short-term deposits and securities must be considered as income derived by the assessee from its business activities. In the alternative, it was submitted that, even assuming for the sake of argument that such interest income is held to be covered by Section 56 of the Act under the head "income from other sources", even then the assessee-society was entitled to the benefit of Sec.80P(2)(a)(i) of the Act. It was further submitted placing reliance on number of judgements, that the source or head of income was irrelevant for deciding the question as to whether a given item is eligible for deduction under section 80P of the Act. According to the assessee, once interest income accrues on specified investments, particularly when a local enactment makes it statutorily incumbent on the society to invest in specified investments, the interest income is automatically eligible for deduction irrespective of the source or head under which such income would fall in this connection.

Further the Court held "In this case, we are only concerned with interest which accrues on funds not required immediately by the assessee for its business purposes and which have been only invested in specified securities as "investment". Further, as stated, the assessee markets the agricultural produce of its members. It **retains the sale proceeds** in many cases. It is this "**retained amount"** which was payable to its members, from whom produce was bought, which was invested in short-term deposits/securities. Such an amount, which was retained by the assessee-society, was a liability and it was shown in the balance sheet on the liabilities side. Therefore, to that extent, such interest income cannot be said to be attributable either to the activity mentioned in section 80P (2) (a) (i) of the Act or in Section 80P (2) (a) (iii) of the Act. Therefore, looking to the facts and circumstances of this case, we are of the view that the Assessing Officer was right in taxing the interest income, indicated above, under section 56 of the Act."

It will therefore be noted the critical issue is – the society marketing the agricultural produce of its members and retains sale monies for whatever period and earns interest. This should be **distinguished from societies which provide purely facilities of receiving deposits and advancing money to its members**.

- **Distinguishing the SC decision:**

In the case of co-operative societies not marketing agricultural produce, is the interest income invested in short term deposits with banks liable to tax came up before the Karnataka High Court in the case of **M/s. Tumkur Merchants Souharda Credit Co-operative Limited (2015) 55 Taxmann.com 447 (Karn)** and the Court held that such interest was exempt as attributable to the business of co-operative activity. The society was not marketing the products of the members which was the distinguishing factor.

The Department's submission was "..insofar as the income of the assessee consisting of interest earned from short-term deposits with M/s. Allahabad Bank of Rs.1, 55,300/- and savings bank account with M/s. Axis Bank of Rs.22, 005/-, totalling to Rs.1, 77,305/- was held to be liable to income tax in view of the judgement of the Apex Court in the case of **M/s.Totagar's Co-operative Sale Society Ltd vs. ITO (2010) 322 ITR 283 (SC)**."

The assesses argument was ".. the interest accrued in a sum of Rs.1,77,305/- is from the deposits made by the assessee in a nationalized bank out of the amounts which was used by the assessee for providing credit facilities to its members and therefore the said interest amount is attributable to the credit facilities provided by the assessee and forms part of profits and gains of business and therefore he submits the appellate authorities were not justified in denying the said benefit in terms of Sub-sec(2) of Section 80P of the Act."

After referring to language of Sec. 80P (1) and (2) the Court held-

"The word 'attributable' used in the said section is of great importance. The word 'attributable to' is certainly wider in import than the expression "derived from". A co-operative society which is carrying on the

business of providing credit facilities to its members, earns profits and gains of business by providing credit facilities to its members. The interest income so derived or the capital, if not immediately required to be lent to the members, they cannot keep the said amount idle. If they deposit this amount in bank so as to earn interest, the said interest income is attributable to the profits and gains of the business of providing credit facilities to its members only. The society **is not carrying on any separate business for earning such interest income.** The income so derived is the amount of profits and gains of business attributable to the activity of carrying on the business of banking or providing credit facilities to its members by a co-operative society and is liable to be deducted from the gross total income under section 80P of the Act.

The Apex Court in the case of M/s. Totagars co-operative Sale Society Ltd on which reliance is placed, the Supreme Court was dealing with a case where the assessee co-operative society, apart from providing credit facilities to the members, was **also in the business of marketing** of agricultural produce grown by its members. The sale consideration received from marketing agricultural produce of its members was retained in many cases. The said retained amount which was payable to its members from whom produce was bought, was invested in a short term deposit/security. Such an amount which was retained by the assessee-Society was liability and it was shown in the balance sheet on the liability side. Therefore, to that extent, such interest income cannot be said to be attributable either to the activity mentioned in Section 80P (2) (a) (i) of the Act or under Section 80P (2) (a) (iii) of the Act. Therefore in the facts of the said case, the Apex Court held the assessing officer was right in taxing the interest income indicated above under Section 56 of the Act.

In the case of **M/s. Honnali Credit Co-Operative Society Ltd. vs. Income Tax Officer [I.T.A No.2752 & 2753/Bang/2017 (ITAT- Bangalore) para 8 of the Order),**Karnataka Bench of the Income Tax Appellate Tribunal on identical facts followed the above Karnataka High Court decision.

- **The Vavveru Co-operative Rural Bank Limited and The Buchireddy Palem Co-operative Rural Bank Limited Vs. CCIT and ITO, ITD**. Writ Petition Nos.12727 and 12767 of 2016 before High Court of Hyderabad in the case of The Vavveru Co-Operative Rural Bank Ltd vs. CCIT pronounced on 15th March, 2017. The original source of the investments made by the petitioners in nationalised bank is admittedly the income that the petitioners derived from the activities listed in sub clause (i) to (vii) of clause (a). The character of such income may not to be lost, especially when the statute uses the expression "attributable to" and not anyone of the two expressions, namely, "derived from" or "directly attributable to"

- **Guttigedarara Credit Co-operative Society Ltd vs. ITO (2015) 377 ITR 464 (Karn)**

- **Distinguishing the decision of Apex Court in Totagar's (supra)**, the Court held "The interest income earned by the assessee by providing credit facilities to tis members is deposited in the banks for a short duration which was earned interest."

II. Is a co-operative bank a co-operative society for the purpose of exemption of interest from deposits?

There are two decisions of Karnataka High Court in this regard.

1) Co-operative bank is a co-operative society:

PCIT vs Totagara co-operative sale society (2017) 392 ITR 74 (Karn)

The word "co-operative society" is a word of a large extent, and denotes genus, whereas the word "co-operative bank" is a word of limited extent which merely demarcates and identifies a particular species of the genus co-operative society. Co-operative society can be of different nature, and involved in difference activities; the co-operative society/bank is merely variety of co-operative societies. Thus the co-operative bank which is a speck of the genus would necessarily be covered by the word "co-operative society". Furthermore, section 56(i) (ccv) of the Banking Regulation Act, 1949 defines a primary co-operative society/bank as the meaning of co-operative society. Therefore, a co-operative society/ bank would be included in the words "co-operative society" Therefore under section 80P (2) (d) of the Income Tax Act 1961 the amount of interest earned from a co-operative society/bank would be deductible.

2) However, a different view was taken by the Karnataka High Court in **PCIT vs. Totagars Co-operative Sale Society (2017) 395 ITR 611 (Karn).**

The amendment of Section 194A (3) (v) of the Act excluding co-operative banks from the definition of

"co-operative society" by the Finance Act, 2015 and requiring them to deduct income-tax at source under Section 194A of the Act also makes the legislative intend clear that co-operative banks are not a specie of the genus co-operative society, which would be entitled to exemption or deduction under the special provisions of Chapter VI-A in the form of section 80P of the Act.

There is a preponderant view in support of the interpretation that a co-operative bank is a co-operative society although Karnataka High Court in its latest judgement (supra) differing from an earlier judgement held for the purposes for Sec.80P(4) a co-operative society is not a co-operative bank and inter alia is not eligible for deduction.

III. Providing credit facilities and receiving deposits from members does not make a co-operative society a co-operative bank:

This issue has been considered and clarified by the CBDT vide Circular No.133 of 2007 dated 09.05.2007 which provides as under:

"Subject: clarification regarding admissibly of deduction under section 80P of the income tax Act, 1961.

1. Please refer to your letter No. DCUS/30688/2007, dated 28.03.2007, addressed to Chairman, Central Board of Direct Taxes, on the above given subject.
2. In this regard, I have been directed to state that sub-section(4) of section 80P provides that deduction under the said section shall not be allowable to any co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank. For the purpose of the said sub section, co-operative bank shall have the meaning assigned to it in part V of the Banking Regulation Act, 1949.
3. In the part V of the Banking Regulation Act, "Co-operative Bank" means a state Co-operative bank, a Central Co-operative Bank and a primary Co-operative bank.
4. Thus, if the Delhi Co-op Urban T&C Society Ltd., does not fall within the meaning of "Co-operative Bank" as defined in the part V of the Banking Regulation Act, 1949, sub section (4) of section 80P will not apply in this case.
5. The issues with the approval of chairman, Central Board of Direct Taxes"

IV. Transactions with non members - violation of Co-operative Society Act

- **Exemption u/s 80P where the society transacts with non-members which term included nominal members for the purpose of understanding the issue.**

Another issue which came up in Andhra Pradesh High Court and Apex Court **M/s. The Citizen Co-operative Society Limited vide Civil Appeal No.10245 of 2017 pronounced on 8th of August 2017** is which regard to transaction with nominal members. A nominal member is also regard as members under co-operative society under the Co-operative Societies Act. It was a rare case where the members of the public and in that that guise nominal members were allowed to make deposits and receive loans. The application of this decision may not apply to all societies who do not violate the provisions of the Co-operative Societies Act, 1912. The Court held justifying the denial of exemption-

"25) However, it is significant to point out that the main reason for disentitling the appellant from getting the deduction provided under Section 80P of the Act is not sub-section (4) thereof. What has been noticed by the Assessing Officer, after discussing in detail the activities of the appellant, is that the activities of the appellant are in violations of the provisions of the MACSA under which it is formed. It is pointed out by the Assessing Officer that the assessee is catering to two distinct categories of people. The first category is that of resident members or ordinary members. There may not be any difficulty as far as this category is concerned. However, the assessee had carved out another category of 'nominal members'. These are those members who are making deposits with the assessee for the purpose of obtaining loans, etc. And, in fact, they are not members in real sense. Most of the business of the appellant was with this second category of persons who have been giving deposits which are kept in Fixed Deposits with a motive to earn maximum returns. A portion of these deposits is utilised to advance gold loans, etc. To the members of the first category. It is found, as a matter of fact, that the depositors and borrowers are quiet distinct. In reality, such activity of the appellant is that of finance business and **cannot be termed as co-operative society**. It is also found that the appellant is engaged in the activity of **granting loans to general public** as well. All this is done without any approval from the Registrar of the

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Real Estate Sector under GST

CA. G B Srikanth Acharya

Background

The Real Estate sector, being one of the major contributors to GDP of the country plays a significant role in the economic development of our country. In the recent past, real estate sector has been affected with numerous changes made in the law, including digitisation of land records in 2014, the implementation of Real Estate (Regulation and development) Act, 2016 (RERA), amendments made to Benami Transactions (Prohibition) Act in 2016, demonetization in 2016, and also the introduction of the Goods and Services Tax (GST) Act, in 2017.

Digitisation of land records and introduction of RERA aimed at increasing the transparency in real estate transactions. It also intended to streamline the compliance procedures and to monitor the real estate sector, with the view to safeguard the interest of the stakeholders. These reforms were introduced to enhance the confidence of stakeholders and attract Foreign Direct Investment (FDI) in India. In spite of having these regulatory reforms and right policies in place, the growth of real estate sector has recorded a slow down, almost from the year 2014. The sector has faced many highs and lows in the past few years.

Yet another reform has been made in the rate of GST on real estate sector, effective from 1st April, 2019. There were reports showing slowdown in the real estate sector and low off-take of under-construction houses. To address these issues, GST rates on real estate sectors have been slashed from 12% and 18% to 1.50% and 7.50%. This decision is also in line with the government's vision of "Housing for all by 2022". However, these changes have created confusion amongst people. The new rates of taxes have been introduced along with some restrictions. So the question here is, whether to opt for the new rate of tax or not? Is it in reality, even beneficial?

This article aims at understanding these reforms and to bring clarity on taxability of real estate sector under GST.

Taxability and Valuation under GST

Under GST, Sale of land is not treated as 'supply'. Sale of ready-to-move-in and completed building is also not treated as 'supply' under GST. Hence, GST is not applicable on such transactions. However, sale of ***under-construction property*** is treated as 'supply of service'. A property is considered as 'under-construction', when the consideration for sale of property is received **before the issuance of Completion Certificate (CC) or before its first occupation**, whichever is earlier. Therefore, GST is applicable on properties whose booking starts before obtaining CC or before its first occupation.

Figure 1: Real Estate: supply under GST

Sale of land is not liable to GST. However, there may be a transaction involving sale of under-construction property which also includes transfer of property in land. In such case, **tax is computed on total consideration less value of land**. The value of land, here, is deemed to be **one-third of the total consideration** for such supply.

Total consideration
Less: value of land (deemed to be 1/3rd of total consideration)
Taxable value of under-construction property

In this way, GST is not charged on the value of land. Now, the question here is- whether considering 'one-third of total consideration' as deemed value of land is logical enough? As far as the cost of construction is concerned, it does not vary

much from place to place. But, the cost of land varies considerably based on the location. In some transactions, the cost of land may be higher than the cost of construction, that is, value of land is more than fifty percent of the total consideration. In this case, taking one-third as deemed value of land is not justifiable.

Input Tax Credit (ITC)

A real estate project involves purchase of goods such as cement, sand, bricks, and other materials. It also involves availment of services such as service of architecture for building plan, labours for construction, transportation of materials, and other services. These purchases of inputs and input services include GST component, which is 'Input Tax'. Further, the builder would charge GST on sale of under-construction property. This is his 'Output Tax Liability'.

Under GST, the builder can claim credit of Input Tax paid, against the output tax liability payable. However, under the new reduced rates of tax for construction of residential apartments, ITC cannot be claimed by the builder. This has been explained further in detail, in this article.

It is to be noted that, ITC of goods and services used in construction of immovable property (other than plant and machinery) cannot be claimed if the construction is not for further supply or is not for furtherance of business. That is, the recipient of works contract service cannot claim ITC if he is not in the same line of business. This is explained in the flow chart drawn below:

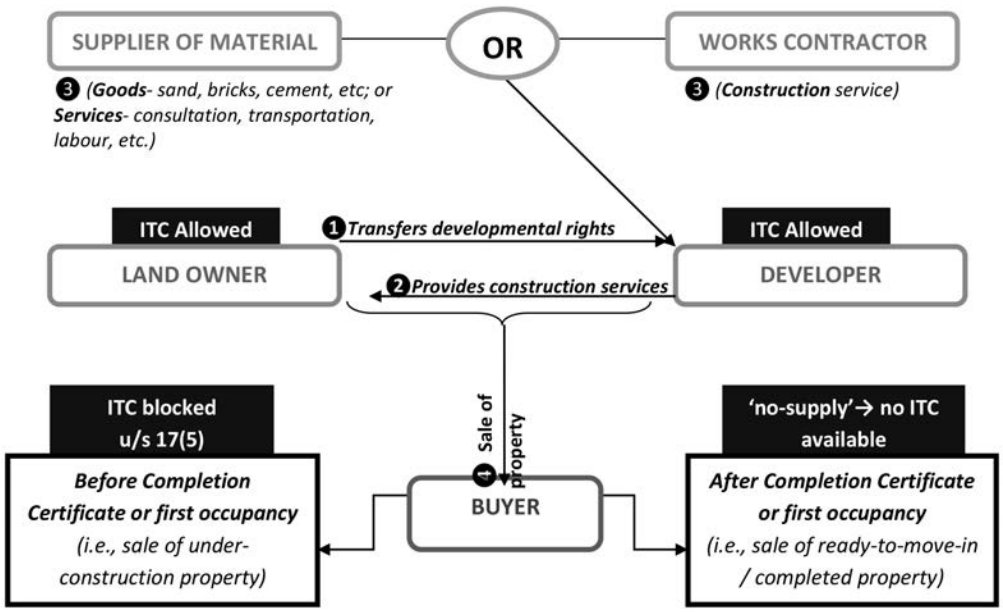

Figure 2: Flow of Real Estate transaction and ITC

Here, since the developer is in the business of construction and the land owner further supplies the constructed property to the buyer, they can claim credit of Input tax paid.

The **developer** can claim credit of input tax paid on receipt of developmental rights from 'land owner', purchases made from 'supplier of materials' and service availed from 'works contractor'. The **land owner** can claim credit of input tax paid on construction service availed from the 'developer' when he sells under-construction property to the buyer and collects tax on it. However, the **buyer** cannot claim ITC since he is not into the business of construction or further supply of constructed property.

It is to be noted that the **land owner** cannot claim credit of input tax if he sells ready-to-move-in or completed property to the buyer, since such sale is 'no-supply' under GST.

Transfer of Development Rights (TDR)

A landowner enjoys various rights with respect to the land. One of such rights is the right to develop the land into a commercial or residential building. Development rights are rights to modify an immovable property by carrying out improvements, construction, etc. Due to increased cost of construction, landowners transfer development rights of their land to the builders. Such transfer involves payment of consideration. The consideration is generally given in kind by way of ownership rights of certain percentage of the developed area.

Transfer of development rights is taxable at the rate of 18% with ITC under GST (except in case of residential apartment).

There is an **exemption provided on TDR in case of residential apartments**, vide Notification No. 04/2019, dated 29th March, 2019. Wherein, service by way of **TDR on or after 1st April, 2019** is exempt if all of the following conditions are fulfilled:

i. It is for construction of **residential apartments**;

ii. The construction is **intended for sale** to buyer;

iii. Consideration has been received before the issuance of CC or first occupation, whichever is earlier (that is, it is **sale of under-construction property**);

It is further provided that **tax shall be paid on Reverse Charge basis** at the rate of 1% (affordable housing scheme) or 5% (other than affordable housing scheme) **if the residential apartment remains un-booked** on date of issue of CC or first occupation, whichever is earlier (that is, **sale of ready-to-move-in or completed property**).

If the apartment includes both residential and commercial portion, the commercial portion shall be taxable and the exempted amount for residential portion shall be calculated taking proportion of carpet area of residential apartment with the total carpet area of apartment.

Therefore, **TDR is taxable in following cases:**

i. It is for construction of commercial apartment, or

ii. It is not intended for sale to buyer, or

iii. Apartment remains un-booked on date of issuance of CC or first occupation;

Rates of tax on Real Estate transactions

Up to 31st March, 2019, sale of under-construction property was taxable at the rate of 18% and 12%. If such transfer involved transfer of property in land, then the ***effective rate of tax*** would be 12% and 8% ***(that is, after one-third deduction)*** on total consideration.

From 1st April, 2019, sale of under-construction property is taxable at the rate of 7.50% and 1.50% that is, at ***effective rate*** of 5% and 1% as the case may be. However, the old rates of tax at 12% & 8% are not done away with completely.

The applicable rate of tax is decided based on many factors such as affordable or non-affordable housing property, commercial property, availment of Input Tax Credit, the amount of purchases made from unregistered and registered dealer, ongoing or fresh project, etc.

Now, let us understand the rates applicable from 1st April, 2019.

Table 1: Applicable rates of taxes from 1st April, 2019

Sl. No.	Project Type		Rate of tax (%)	Effective rate of tax (%)	
I	Fresh/ Ongoing Project	**Affordable** Residential property (RREP/ REP); **Affordable** Housing Scheme (Ongoing Project)	1.50	1	**Without ITC**
		Other than Affordable Residential property (RREP/ REP)	7.50	5	
		Commercial portion in RREP	7.50	5	
II	Ongoing Project	Construction under **Affordable** Housing Scheme	12	8	**With ITC**
		Residential property or Commercial property	18	12	

Meaning of important terms

i. Affordable Residential Property:

a. Carpet area-

- Metropolitan cities: ≤ 60 sq. meters
- Other cities/ towns: ≤ 90 Sq. meters

b. Gross amount charged for the property ≤ 45 Lakhs

ii. Construction under Affordable Housing Scheme:

When the construction pertains to a central or state housing scheme such as- Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (PMAY), or other like schemes as notified by the government.

iii. REP: Real Estate Project as per RERA (development of a building or converting building into apartment or converting land or plot into apartment, for the purpose of selling all or some apartments)

iv. RREP: Residential Real Estate Project as per RERA (a REP in which the carpet area of commercial apartments is not more than 15% of the total carpet area of all the apartments in REP)

v. Ongoing Project: A Project that meets all of the following four conditions-

a. *Commencement Certificate has been issued* and it is certified (by an architecture/chartered engineer/licensed surveyor) that construction has started on or before 31st March, 2019;

b. Where Commencement Certificate is not required, it is certified (by an architecture/chartered engineer/licensed surveyor) that *construction has begun on or before 31st March, 2019;*

c. *Completion Certificate has not been issued or first occupation has not taken place before 31st March, 2019;*

d. Apartment being constructed have been *partly or wholly booked on or before 31st March, 2019;*

Note: For the purpose of (a) and (b) above, construction of a project shall be considered to have started on or before the 31st March, 2019, if the earthwork for site preparation for the project has been completed and excavation for foundation has started on or before the 31st March, 2019.

vi. Fresh Project: Project other than ongoing project.

vii. Promoter: a person who constructs or converts a building into apartments or develops a plot for sale or who sells apartments or plots.

Explanation: Referring to the above table, for every project commencing on or after 1st April, 2019, the promoter is mandatorily required to charge GST at the rates mentioned in Sl. No. I (that is, effective rate- 1% and 5% without ITC).

A **one-time option** had been given to the promoters to continue with the old rate of tax mentioned in Sl. No. II (that is, effective rate- 8% and 12% with ITC) for their ongoing projects. The last date to select the option was 20th May, 2019. If not selected, then the promoter shall be deemed to have opted for the new rate of tax and the balance of input tax credit lapses.

However, for a project involving some portion as **commercial apartment**, the new rate of tax at 7.50% (effective rate- 5%) is applicable only if the carpet area of commercial portion is not more than 15% of the total carpet area. Otherwise, the rate of 18% (effective rate 12%) mentioned in Sl. No. II shall be applicable, even if it is a new project.

Now let's compare change in rate of tax since the implementation of GST:

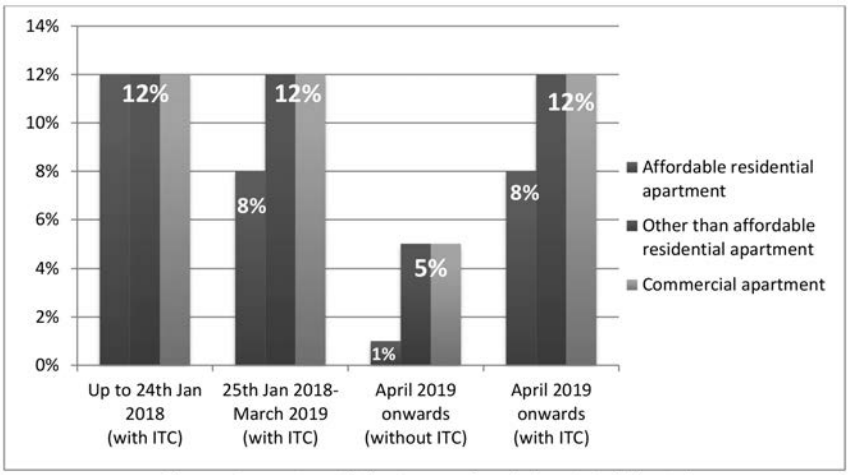

Chart 1: Comparison of Effective rate of tax (after 1/3rd deduction)

Chart 1: Comparison of Effective rate of tax (after 1/3rd deduction)

Note: *5% rate of tax can be opted for a project having some portion as commercial apartment only if the carpet area of such portion is less than 15% of the total carpet area. Otherwise 12% rate of tax is applicable for both ongoing and fresh projects.*

The new rates of tax have come with certain conditions and restrictions explained in Table 2 below:

Table 2: Conditions for opting new rate of tax

Sl. No.	Conditions
1	Tax shall be paid in **Cash only**
2	**ITC cannot be availed**
3	For an **ongoing project**, where the time of supply is after 1st April, 2019, the ITC in **electronic credit ledger can be utilized, in case:**
	a. Where % completion as on 31st March, 2019 is not zero or where there is inventory in stock
	b. Where % completion as on 31st March, 2019 is zero but invoicing has been done having time of supply before 31st March, 2019, and no input services or inputs have been received as on 31st March, 2019
(For the purpose of Sl.No.3 above, the computation of eligible ITC and reversal of ineligible ITC is prescribed in ANNEXURE I and II of Notification No. 3/2019- Central Tax (Rate), dated 29th March, 2019. Further, such reversal has to be made on or before filing the GST return for the month of September 2019 (i.e., 20th September, 2019)	
4	In case where the **landowner transfers developmental rights or FSI** (Floor Space Index) to the developer against **consideration, wholly or partly, in form of construction of apartments**, the transaction between them should be as follows:
	• The developer shall charge and pay tax on supply of construction service provide to the landowner
	• The landowner can claim credit of taxes paid to the developer on construction service only if he sells the property under-construction (i.e., sale before CC or first occupancy, whichever is earlier)
5	**80% of the value of inputs and input services** used in supplying service shall be received **from Registered supplier only**. The value is to be calculated **excluding the value of:**
	a. Developmental rights
	b. Long term lease of land (against upfront payment in form of premium, salami, development charges, etc.)
	c. FSI (including additional FSI)
	d. Electricity
	e. High speed diesel
	f. Motor spirit
	g. Natural gas
(If the value of inputs or input services received from registered suppliers does not exceed 80%, then tax shall be paid by the promoter on such shortfall at 18% on RCM)	
6	If **cement is received from unregistered person**, then the promoter shall pay **tax at applicable rates** (28%) on the value of such cement, **under RCM**
7	Project wise details of inward supplies from registered and unregistered dealers should be maintained for arriving at 80% value
8	Tax on shortfall of 80% shall be paid by **30th June of succeeding Financial Year**
9	Tax on cement payable under RCM has to be paid in the **month in which cement is received**
10	ITC not availed shall be reported every month as **ineligible in GSTR 3B**

Points to ponder

i. In case any of the **four conditions for a project to be called as ongoing project** (as mentioned in *Table 1*) are not satisfied, then the project shall be considered as a new project and new rates of tax shall be applicable on the same, along with the **conditions for opting for new rates of tax** (as mentioned in *Table 2*).

ii. Due care has to be taken while arriving at the **carpet area**. It has been defined in RERA, to **include only the usable floor area** and **exclude** - external walls, areas under services shafts, exclusive balcony or veranda area and exclusive open terrace area **but includes** the area covered by the internal partition walls of the apartment.

iii. For an ongoing project under an **affordable housing scheme**, rate of tax at 1% can be opted even if the two conditions (carpet area and gross value) of **affordable residential property are not satisfied**.

iv. The new and old rates are **opted project-wise** for ongoing projects.

Conclusion

The new rate of tax at 1% and 5% comes with many conditions and restrictions. The government has given adequate time to the builders of ongoing projects to opt for the old rates of tax. Once selected, the option cannot be changed.

This change in rates of tax has brought a mixed reaction from the builders across the country. Majority of the builders have opted for old rates of tax for their ongoing projects. This enables them to pass on the tax burden to the customers and also to avail the benefit of input tax credit on sale of under-construction properties. Some builders are of the view that old rates of tax would increase the cost of buying for the customers. Therefore, even when the new rates of tax are without the benefits to claim ITC, some builders have opted for the same. The viability of new rates can be analysed by computing and evaluating cost and benefits before and after the change in rates of tax.

If not for builders, it can be said that this reform is surely beneficial for the buyers of residential apartments, in the form of reduced cost of buying. However, the effect of these changes on real estate sector can be appropriately assessed only after some time until the industry settles down with the new rates of tax.

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Issues in Co-Operative Societies Taxation

(Contd. from page 7)

Societies. With indulgence in such kind of activity by the appellant, it is remarked by the Assessing Officer that **the activity of the appellant is in violation of the Co-operative Societies** Act. Moreover, it is a co-operative credit society which is not entitled to deduction under Section 80P (2) (a) (i) of the Act."

Also see CIT vs S-1308 Ammapet Primary Agricultural Co-operative Bank Ltd.

- **Other important Judicial pronouncements in this matter are as follows-**
  - CIT vs. Punjab State Co-operative Agricultural Development Bank Ltd (2016) 389 ITR 607 (P&H) and State Bank of India vs. CIT (2016) 389 ITR 578 (Guj) relied on.
  - CIT vs. A.P.State Co-operative Bank Ltd (2011) 336 ITR 516 (AP)
  - CIT vs. South Arcot District Co-operative Marketing Society Ltd (1989) 176 ITR 117 (SC)
  - CIT vs. Udaipur Sahakari UpbhoktaThok Bhandar Ltd (2007) 295 ITR 164 (Raj)
- **Conclusion:**

The operations of a co-operative society will decide exemption in respect of interest income from investments in institutions other than co-operative societies. The application of varying judicial decisions rests entirely on facts and therefore it is essential that the tax payer sets out the facts correctly and matches it with the applicable case laws above mentioned. Most of the remand matters arise out of the facts not being fully brought out in the appeal. This should be avoided so that proceedings do not get prolonged.

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A Deep Dive into newly introduced Cash Withdrawal Deterrence Tax

CA. Sandeep Jhunjhunwala

Research reports suggest a spurt in India's cash-in-circulation, even after demonetisation had knocked off the bulk of it in the fiscal 2018-19. This is not surprising, as the problem of a parallel economy in India is old and deep-rooted. Conventional wisdom fails to explain the underlying reasons behind the unprecedented rise of currency in circulation, specifically in a scenario when the economy is in a tailspin. The Government has been serious to unearth black money and promote electronic transactions through several initiatives to help India move towards a cashless, digital economy. While the Income Tax Act had in-built deterrence provisions in various sections, including S. 40A(3), 43(1), 44AD, 269SS 269ST, 269T etc, the Union Budget 2019 also added two such measures - the first being mandatory requirement, under Section 26SU, for all companies with a turnover greater than INR 50 crores to have a digital payments option for their customers to reduce dependency on cash for business transactions and the second, being "cash withdrawal deterrence tax" under Section 194N - a 2 percent TDS levy on cash withdrawals over INR 1 crore.

Vide the Finance Act 2019, the Government has inserted Section 194N in the Income Tax Act, with effect from September 1, 2019, which would require banks (including co-operative banks) and post offices to deduct an amount equal to 2 percent, where any person withdraws cash from an account in excess of INR 1 crore. The provision wouldn't apply to payments made by financial institutions such as Non-Banking Financial Companies (NBFCs) or authorised money changers. This provision is not applicable to any payments made to the Government, any banking company, any business correspondent of a banking company, white label ATM operator and any such person, as may be notified by the Government in consultation with the Reserve Bank of India. Two significant amendments to this provision were made in the Finance Bill (No 2 of 2019) passed by the Lok Sabha to include that the threshold of INR 1 crore would be applicable *qua* aggregate amount withdrawn from all accounts maintained by a person and that the sum deducted in accordance with the provisions of Section 194N shall not be deemed to be income received for the purpose of computing income of the assessee.

From the literal reading of the provisions, it appears that this newly introduced provision is not intended to widen or deepen tax base, but meant to discourage cash economy in India. In simplistic terms, the method prescribed under Section 194N of the Income Tax Act is similar to tax collection related provisions (TCS), as applicable on purchase of vehicles at the rate of 1 percent for cost exceeding INR 10 lakhs, or akin to Banking Cash Transaction Tax (BCCT), which was introduced vide Finance Act, 2005 and which remained in the statute books till March 31, 2009.

As this announcement was a bolt from the blue, it is important to understand the nitty-gritties of the new provision.

Q: What is the amount on which TDS under Section 194N is applicable?

A: Tax would be deducted on sums exceeding INR 1 crore. For instance, if a person withdraws INR 1.1 crores, TDS at the rate of 2 percent would be applicable on INR 10 lakhs ie INR 1.1 crore *less* INR 1 crore. Another example to note would be say, for instance, the aggregate of cash withdrawals made so far is INR 99,80,000 and the next cash withdrawal is of INR 100,000. As the aggregate cash withdrawals exceeds INR 1 crores and is now at INR 1,00,80,000, should the TDS be done on excess over INR 1 crore ie on INR 80,000 or on current cash withdrawal amount ie Rs 100,000? From a plain reading of the provisions, it should be applicable on INR 80,000. Hence, post TDS of 2 percent ie INR 1,600, the banker should release net cash payment of INR 98,400.

Q: Is the threshold of INR 1 crore for applicability of Section 194N, an annual limit or one-time withdrawal limit?

A: The threshold of INR 1 crore is for all withdrawals during a financial year. Hence, if the withdrawal exceeds INR 1 crore during a financial year, TDS would be applicable on such sum exceeding INR 1 crore. As the provision is applicable from September 1, 2019, the threshold of INR 1 crore should be counted for the period beginning September

1, 2019 till March 31, 2020 and any cash withdrawal done prior to September 1, 2019 should not be considered while determining this threshold. However, in the absence of any explicatory clarification, it is not free from doubt if the corresponding period should be full fiscal year ie April 1, 2019 to March 31, 2020 and hence cash withdrawals made prior to September 1, 2019 is to be considered as well.

Q: Is the threshold of INR 1 crore related to applicability of Section 194N, account specific or in aggregate for withdrawals?

A: The section provides that the threshold of INR 1 crore would be an aggregate for withdrawals from one or more accounts maintained by the recipient. Hence, if a person maintains more than one account with different branches of the same bank, the limit of INR 1 crore would be reckoned for all such accounts in various branches taken together. However, in case of joint account, the provisions should be applied per person. Also, in case, accounts are held in multiple banks, the limit should apply separately to all accounts in such banks. Hence, it is not clear whether the limit of INR 1 crore shall apply branch-wise or bank-wise. The language deployed in the section ie "aggregate of sums" and "from one or more accounts maintained by the recipient with it" indicates that each such payer bank needs to consider this limit separately for all accounts maintained in such bank. From a practical standpoint as well, with the current back-end infrastructure, it may not be possible for one bank to have data with respect to withdrawal done by an account holder from other banks, where such person may be maintaining accounts. A corollary could also be drawn on this view from the provision related to mandatory requirement of quoting Permanent Account Number (PAN) in the deposit slips, in cases where the cash deposit exceeds INR 50,000. This requirement is towards cash deposit exceeding INR 50,000 in that particular bank (or branch) and not on an overall basis. However, it is must to note that the intention of the legislature may be to have INR 1 crore as on overall cap, on a cumulative basis per account holder, irrespective of the number of accounts held by such person in various banks or post offices. In such a case, all accounts held by a person or entity, seeded with a single PAN, would be referred to determine whether the threshold of INR 1 crore has been crossed. Certain anomalies with respect to this aspect may get clarified over a period of time. Till then, legal quibble over the levy is quite possible.

Q: Would TDS under Section 194N apply on specific category of bank accounts?

A: It must be noted that the Hon'ble Finance Minister in her budget speech (Para 126) had referred to discouraging "business" payments in cash, while introducing provisions of Section 194N. Business payments, in a normal parlance, should relate only to a current account. However, the text of Section 194N seeks to levy TDS on withdrawal from all types of accounts, be it current or saving or any other account maintained with the specified institution. The inconsistency between budget speech and the Finance Act 2019 needs clarification. As the provisions under the Finance Act 2019 doesn't clearly specify or restrict any category of bank accounts, cash withdrawals from any category of accounts, such as savings, current, cash credit, recurring deposit, fixed deposit, salary, overdraft account etc should be covered under this ambit.

Q: Would the foreign branches of Indian Banks come within the purview of Section 194N of the Income Tax Act?

A: Even though the foreign branches of Indian Banks are covered by the Banking Regulation Act, 1949 and hence could fall under the list of specified person liable to deduct tax at source under Section 194N, as the recipient may not have a taxable presence in India, the applicability of Section 194N may have to be tested based on facts of the case. For instance, a branch of an Indian company outside India, is considered a resident for income tax purposes. So, in cases, where such foreign branch of a company is withdrawing money exceeding INR 1 crore from a foreign bank branch outside India, a question arises on applicability of Section 194N. The law, currently, is not very clear on this aspect. In absence of clarity, a position is possible that TDS of 2 percent would apply in that situation. Additionally, in my view, the provisions of Section 194N should not be applicable if withdrawals are made outside India through foreign branches of an Indian Bank by a non-resident person or entity.

Q: Would TDS under Section 194N apply on issuance of bearer draft/ bankers' cheque/ pay order, for amounts exceeding INR 1 crore, which could be encashed by the recipient at a later point in time?

A: TDS under Section 194N of the Income Tax Act should not be applicable on such instruments as the bank is not paying any sum in cash. Also, it must be noted that the term 'recipient' as used in Section 194N has not been defined anywhere. It may be possible that the 'recipient' and the 'account holder' are two different persons. The intent of the provision may be to identify recipient as an account holder. If it be so, will this section be not applicable if a person other

than account holder withdraws amount, is an aspect that requires clarity.

Q: Is tax credit available on TDS done under Section 194N?

A: Although the provision states that the deduction is by way of income tax, cash withdrawal is not an income liable to be taxed under the Income Tax Act. The Finance Minister in the course of debate on the Finance Bill had assured that if tax paying citizens have withdrawals like this, TDS will be adjusted against the total tax dues. More clarity is needed on this aspect. Technically, cash withdrawal from accounts does not partake the character of income of the recipient and consequently, the question of deduction of tax at source in respect of any transaction which is not an income also does not arise. Further the amendment in Section 198 states that the tax deducted on cash withdrawal under Section 194N shall not be treated as income of the assessee. No corresponding amendment has been made in Section 199(3) with respect to mechanism under which the credit of the tax deducted under Section 194N needs to be given to the assessee. Further, while filing return of income, when TDS under Section 194N is to be claimed as credit, there could be concerns for the assessee with respect to the head of income in which such cash withdrawal to be offered to tax as income. Legal wordsmiths have been poring over this issue since it was announced. One must appreciate instances where a person can withdraw money from banks, use such money in the cash market to earn income in cash and later re-deposit the cash into the bank account. Obviously, no tax would be paid on cash earnings and the person would be able to claim credit of 2 percent on returned income. Doesn't this defy the intent with which the provision was introduced? Also, as the Finance Act 2019 has made PAN and Aadhar card interchangeable (amendments in Section 139A and Rule 114B), there could be instances where a bank account could be opened without furnishing PAN (it was possible earlier as well with Form 61). Thus, in absence of PAN, providing credit for TDS done under Section 194N could be a challenge.

It is amply clear that the newly introduced Section194N in the Income Tax Act can detect huge cash withdrawals. However, this provision cannot spot unaccounted money or cash circulation in the economy, which is much bigger a problem than tracking the accounted money. It is equally important that the Government issues necessary clarifications on the abstruse facets of this newly introduced provisions to avoid inconvenience at large.

The views expressed in this article are personal to the Author

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Discounts under GST

CA. C.R. Raghavendra & CA. Bhanu Murthy J. S.

1. **Statutory provisions:** Valuation of supply of goods or services is contained in Section 15 of Central Goods and Service Tax Act, 2017 (CGST Act, 2017).

   Section 15 of CGST Act, 2017 reads as under:

   SECTION 15. Value of taxable supply. —

(1) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

(2) The value of supply shall include —

(a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;

(b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;

(c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;

(d) interest or late fee or penalty for delayed payment of any consideration for any supply; and

(e) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

Explanation. — For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.

(3) The value of the supply shall not include any discount which is given —

(a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and

(b) after the supply has been effected, if —

(i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and

(ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

(4) Where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined in such manner as may be prescribed.

(5) Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.

Explanation. — For the purposes of this Act, —

(a) persons shall be deemed to be "related persons" if —

(i) such persons are officers or directors of one another's businesses;

(ii) such persons are legally recognised partners in business;

(iii) such persons are employer and employee;

(iv) any person directly or indirectly owns, controls or holds twenty-five per cent. or more of the outstanding voting stock or shares of both of them;

(v) one of them directly or indirectly controls the other;

(vi) both of them are directly or indirectly controlled by a third person;

(vii) together they directly or indirectly control a third person; or;

(viii) they are members of the same family;

(b) the term "person" also includes legal persons;

(c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

2. In the context of valuation of supplies, Central Board of Indirect Taxes and Customs (CBIC) recently has issued two circulars (92/2019 dt. 7.03.2019 and 105/2019 dt. 28.03.2019) clarifying on the aspects of treatment of various types of discounts under the provisions of GST.

3. **Effect of discounts on valuation of supplies:**

Time when discounts are offered	**Effect of such discounts on valuation and input tax credit**
Before or at the time of supply and duly recorded in the invoice.	Discounts shall be deducted from the value of supply subject to condition that, the discount is recorded in the invoice.
After the supply	Discounts shall be deducted from value of supply subject to following conditions to be fulfilled: (i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices (ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply

4. **Clarifications by the Board:**

A. **Circular No. 92/11/2019-GST dt 7th March 2019:**

(Refer para C & D of the circular)

The clarifications of the Board on the aspect of discounts could be summarised as below:

a) **Volume discounts**:

Example: 10% or 20% discounts on purchase of goods worth more than 10,000/-

It is clarified that, volume discounts would be deductible as the same is shown on the face of the invoice

b) **Post-sale discounts**:

Examples: Get additional discount of 1% in case of purchase of 10000 pieces in a year. Additional discount of 2% in case of purchase of 15000 pieces in a year.

Such discounts would be allowed where the same is offered in terms of agreement entered into at or before the time of supply. However, the recipient of the supply (buyer) shall have to reverse the credit.

c) **Secondary discounts**: Secondary discounts(as per the circular) are those discounts or reduction in price etc., which are not known at the time of supply but are passed on after the supply.

In terms of the clarification, secondary discounts offered cannot be deducted from value of supply for the purpose of determination of taxable value. However, these are in the nature of financial credit / debit notes to settle the amounts payable between buyer and seller.

It is further clarified that there is no impact on the credit availed by the recipient of supply.

B. **Circular No. 105/24/2019-GST dt. 29th June 2019:**

In this circular the Board, further classifies the secondary / post sale discounts into following two categories:

a) Discounts which does not require any further obligation or action at the end of the recipient.

b) Discounts which requires the recipient to undertake or perform certain obligations.

c) **Discounts which does not require any further obligation or action at the end of the recipient:**

In terms of the clarifications, where discounts would satisfy the conditions as set out in Section 15(3) the discounts would qualify as deduction from value of supply.

d) **Discounts which requires the recipient to undertake or perform certain obligations:**

(i) **Discount for undertaking special promotion drive etc.,**: It is clarified that where the additional discount given by the supplier of goods to the dealer is the post-sale incentive requiring the dealer to do some act like undertaking special sales drive, advertisement campaign, exhibition etc., then such transaction would be a separate transaction and the additional discount will be the consideration for undertaking such activity

and therefore would be in relation to supply of service by dealer to the supplier of goods. The dealer, being supplier of services, would be required to charge applicable GST on the value of such additional discount and the supplier of goods, being recipient of services, will be eligible to claim input tax credit (hereinafter referred to as the "ITC") of the GST so charged by the dealer.

(ii) **Special discounts to dealers, in order to offer special prices to customer:**

In terms of the circular, where the additional discount is given by the supplier of goods to the dealer to offer a special reduced price by the dealer to the customer to augment the sales volume, then such discounts are to be termed as consideration flowing from supplier of goods to the dealer for his (dealer's) supply to the customers.

5. **Analysis of the clarification:**

The authors are of the view that the clarifications in terms of the circular dated 29th June 2019 would go against the statutory provisions as well as the concept of value added taxation scheme for the following reasons:

a) Merely because the dealer is under obligation to undertaken certain marketing or sale promotion activities, the discounts would not change its colour from deduction to additional consideration. The discounts are offered to the dealers so as to pass on additional margin so as to meet certain additional costs on account of the marketing or sales promotion and not to provide sale promotion or marketing services.

Under the erstwhile service tax provisions, the Tribunal in many cases, (few are listed below) have taken view that such discounts cannot be termed as consideration for services:

b) Jaybharat Automobiles Limited v. Commissioner of Service Tax, Mumbai [2015-TIOL-1570-CESTAT-MUM = 2016 (41) S.T.R. 311 (Tri.)],

c) Sai Service Station Limited v. Commissioner of Service Tax, Mumbai [2013-TIOL-1436-CESTAT-MUM = 2014 (35) S.T.R. 625 (Tri.)],

d) Tradex Polymers Private Limited v. Commissioner of Service Tax, Ahmedabad [2014 (34) S.T.R. 416 (Tri.-Ahmd.)]

e) Garrisson Polysacks Private Ltd. v. Commissioner of Service Tax, Vadodara [2015 (39) S.T.R. 487 (Tri.-Ahmd.)

f) The circular on the aspect of providing additional discounts to the dealers for the purpose of offering special prices to the customers, states that such discounts are in the nature of additional consideration by the supplier to the dealer and hence shall be included in the value of supply by dealer to the customer.

However, it is to be noted that treating discounts as additional consideration would go against the basic structure of the VAT system in as much as the tax would be collected on a price which is actually not paid by the customer. This could be understood with the help of the following illustration:

Readymade shirt, the MRP of which is Rs.1,000/- is normally sold by manufacturer to the dealer at Rs. 850/- allowing a margin of Rs. 150/- to the dealer. However, on account of festival seasons, the manufacturer plans to sell the same at Rs. 900/- (at 10% discount on MRP). In order to facilitate this the manufacturer sells the shirt at Rs. 750/- to dealer and pays tax on Rs. 750 and dealer in turn sells the garment at Rs. 900 and pays tax on Rs.900.

Going by the clarifications, the discounts offered by manufacturer to dealer would be treated as additional consideration in the hands of the dealer and the dealer is expected to pay tax on Rs.1000, even though the sale was undertaken for Rs. 900.

It is to be noted that the consideration is defined under CGST Act, 2017 to mean an amount paid towards inducement of supply of goods or services and such consideration could flow either from buyer or from other person. In the above scenario of the example, the agreed consideration for sale of garment is Rs. 900 and not Rs. 1000. The *Consensus Ad Idem* between buyer of shirt and the dealer is that of sale of shirt at Rs. 900 and not at the price of Rs. 1000/-. Therefore, Rs. 100 received as discount cannot be termed as consideration at all.

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Financial Reporting and Assurance

CA. Vinayak Pai V

1. **CHANGES:** *Monthly Roundup*

AS	• Revised **Guidance Note** on Division I – Non Ind AS **Schedule III** to the Companies Act.
	• ICAI Publication – **Compendium** of Accounting Standards.
	• Exposure Drafts (AS for Local Bodies) o **ASLB 21** – *Impairment Of Non-Cash Generating Assets* o **ASLB 26** – *Impairment Of Cash Generating Assets* o **ASLB 32** – *Service Concession Arrangements - Grantor*
Ind AS	• Revised **Guidance Note** on Division II – Ind AS **Schedule III** to the Companies Act.
	• **Educational Material** on **Ind AS 8** – *Accounting Policies, Changes in Accounting Estimates and Errors.*
	• **The Finance (No.2) Act, 2019** o Amendment to Section 2 of Income Tax Act, Demerger in compliance with Ind AS.
IFRS	• Disclosure of **Accounting Policies** o Proposed amendments to IAS 1, *Presentation of Financial Statements* and IFRS Practice Statement 2, *Making Materiality Judgments.* • Accounting for **Deferred Taxes** o Proposed amendment to IAS 12, *Income Taxes* – Deferred Tax Related To Assets And Liabilities Arising From A Single Transaction.
	• ICAI Publication – IFRS 9, *Financial Instruments* - A Study: **Transition Impact** on **Banks** Across the Globe.
Assurance	• IPSASB Exposure Draft o ***Improvements to IPSAS*, 2019**.
	• IESBA Exposure Draft o Proposed Revisions to the ***Code To Promote The Role And Mindset Expected Of Professional Accountants***.
Company Law/ SEBI	• SEBI Circular o Procedure and **Formats for limited review/audit report** of the listed entity and those entities whose accounts are to be consolidated with the listed entity.
	• SEBI Circulars (Modification) o Disclosure of **Divergence In The Asset Classification And Provisioning** by Banks. o Format for **Compliance Report** on **Corporate Governance** to be submitted to Stock Exchanges by listed entities.
	• The **Companies (Amendment) Act**, 2019 o Amendments to sections including 2(41), 92, 132 and 135.
RBI	• **Basel III** Framework on Liquidity Standards – LCR, FALLCR against credit disbursed to **NBFCs** and **HFCs.**
	• **External Commercial Borrowings** Policy – Rationalization of end-use provisions.

US GAAP	• Proposed Accounting Standards Updates o Clarifications to the interaction between the recognition and measurement of **Financial Instruments** and the accounting for **Equity Method Investments.** o Proposed improvements related to **Distinguishing Liabilities from Equity.**
	• Amendments to **SEC paragraphs** pursuant to SEC Final Rule Releases.
	• FASB FAQs o Developing an estimate of **Expected Credit Losses (ECL)** on Financial Assets.

2. **CASE STUDY:** *Reporting On A Key Audit Matter (KAM)* – Provision For Legal Issues

a) ***Background***

Company X faces a number of civil claims related to a specific business exposure. The calculation of the provision requires significant judgment based on an assessment of facts, including available evidence supporting existing claims, the potential impact of future claims and the range of possible outcomes that might arise.

b) ***How the audit addressed the KAM***

- The auditors held meetings with management, internal legal counsel and those charged with governance to **enquire whether** they have **knowledge of any actual or possible non-compliance** of laws and regulations that could have a material impact on the financial statements.
- The auditors **corroborated the results** of the above procedure **through discussions** with the external legal counsel.
- The auditors **assessed the relevant correspondence** received by the company from third parties and reviewed relevant supporting documentation.
- The auditors obtained an understanding and **observed in practice the actions the management** had taken in response to this risk.
- The auditors obtained an understanding of the reason for the increase in the provision during the period under report to determine whether it related to events that arose during the year and **challenged whether any of the increase could have reasonably been foreseen** at the end of the previous year.
- The auditors evaluated the provisions recognized in the balance sheet and the **appropriateness of the related disclosures** by reference to the audit procedures outlined above.

3. **GETTING UP TO SPEED:** *Revised IFRS Conceptual Framework* – De-recognition

The **revised** *Conceptual Framework for Financial Reporting* issued by the IASB now provides guidance on when assets and liabilities are removed from financial statements viz. de-recognition (refer table herein below for the new guidance in the framework).

	De-recognition normally occurs
For an asset	When the entity **loses control** of all or part of the recognized asset
For a liability	When the entity **no longer has a present obligation** for all or part of the recognized liability.

The de-recognition guidance aims to faithfully represent both; a) any assets and liabilities retained after the transaction that led to the de-recognition and b) the change in the entity's assets and liabilities as a result of the transaction.

4. **CASE STUDY:** *Ind AS Impact* – NBFC

In this section, a case study summarizing the impact of IND-AS transition for a NBFC is provided.

a) ***Transition Impact***

Impact on **Net Profit** for the comparative period	**Decrease** of **2.1%**
Impact on **Equity** at the date of transition	Decrease of 2.9%

b) ***Impact Drivers***

Investments	• Under previous GAAP, investments were classified into current and non-current, the former being recorded at lower of cost and NRV and the latter at cost. Provisions were recorded in case of other than temporary diminution in value of non-current investments. • Under Ind AS, the investments have been classified at FVTPL, which requires re-measurement at fair value at the balance sheet date and the recording of fair value movements in the statement of profit and loss.
Income recognition on credit impaired loans	• RBI guidelines required income on NPAs to be reversed. • Under Ind AS, income continues to be recognized on credit-impaired loans, by applying the EIR to the net amortized cost of loans (i.e. net of allowance for loan losses).
ECL (Expected Credit Loss)	• Previous GAAP provisions for credit losses were primarily based on RBI guidelines. • Under Ind AS, the ECL allowance is based on the credit losses expected to arise from all possible default events over the expected life of the financial asset, unless there has been no significant increase in credit risk since origination, in which case, the allowance is based on the 12-month ECL.
Borrowing costs	• Previous GAAP did not require amortized cost accounting for liabilities. • Under Ind AS, the company determines the effective interest rate of its borrowings and records interest expense on that basis.

5. **FIN ST EXTRACTS:** *New IFRS Leases standard*

a) ***Background***

In 2005, the United States SEC expressed concerns about lack of transparency of information about lease obligations in corporate balance sheets, thereby reiterating concerns already expressed globally by investors and other stakeholders. Responding to those concerns, the IASB and the FASB initiated a project to improve lease accounting culminating in the issuance of IFRS 16. (Ind AS 116 is the corresponding standard under the Indian Accounting Standards framework).

b) ***Extracts from an Annual Report***

- On the adoption of IFRS 16, lease arrangements will give rise to both a right of use asset and a lease liability for future lease payables.
- IFRS 16 will result in the timing of lease expense recognition being accelerated for leases that are currently accounted for as operating leases.
- The company has a portfolio of leased properties and other equipment, including stores and warehouses. The minimum lease commitments on these at the end of the financial year were GBP 1.7 billion.
- **Transition:**
- The company has decided to adopt the **fully retrospective transition approach**, restating prior year comparatives. The company will apply the **practical expedient to grandfather the definition of a lease** on transition and apply the recognition exemption for both short term and low value assets.
- The adoption of IFRS 16 has no effect on how the business is run, or on the overall cash flows for the company.
- There will be no impact on cash flows, although the **presentation of the Cash Flow Statement will change significantly**, with an increase in net cash inflows from operating activities being offset by an increase in net cash outflows from financing activities.
- Restating the prior year comparatives, the company will recognize an opening right-of-use asset in the region of GBP 1.0 billion and a lease liability in the region of GBP 1.4 billion. The deferred tax asset would increase by GBP 0.1 billion in the restated financial statements. **This adjustment will not cause any hindrance to the distribution of dividends to shareholders.**

6. **BACK TO BASICS:** *Accounting For Debt Instruments At Amortized Cost (Ind-AS)*

The accounting guidance for the financial reporting of **investments in debt instruments** is contained in Ind-AS 109, *Financial Instruments*. The salient aspects of accounting for **debt instruments at amortized cost** are summarized herein below.

Debt instruments at amortized cost: **Typical examples**	• Trade receivables • Security deposits • Other receivables

- A debt instrument is measured at amortized cost if **both** the following **conditions** are met: (I) the asset (debt instrument in this instance) is held within a business model whose **objective is to hold assets for collecting** contractual cash flows, and (ii) the **contractual terms** of the asset give rise on specified dates to **cash flows that are solely payments of principal and interest** on the principal amount outstanding.
- Subsequently, debt instruments classified as "amortized cost" investments are measured using the **effective interest rate** (EIR) **method**.
- Amortized cost is calculated by taking into account any discount or premium on acquisition and fees or costs that are an **integral part** of the effective interest rate.
- Amortization of the EIR is **included in finance income** in the Statement of Profit and Loss.
- The assets held under this classification are **subject to impairment testing** and any losses arising from impairment are recognized in the Statement of Profit and Loss.

Author can be reached on e-mail: vinayakpaiv@hotmail.com

KSCAA WELCOMES NEW MEMBERS - AUGUST 2019

S.No.	Name	Place
1	Vaddadhi Prudhvi Raj	Bengaluru
2	Shrihari J.A	Bengaluru
3	Ankit Parekh	Vijayapur
4	Thiyagarajan R.	Bengaluru
5	Parthasarathy Venkatesan	Bengaluru
6	Santosh Kumar Sundarka	Bengaluru
7	Ajay Kumar Vijay	Bengaluru
8	Prusty Jami Ganesh	Bengaluru
9	Panchandeeaswaran D. Narayan	Bengaluru
10	Narayan Bhat S	Bengaluru

Excel, With Excel : Consolidate!

CA. Shreehari Ullody

4 years ago, struggling to add the numbers in 4 cells, I belonged to the group of people who would rather be imprisoned than have to go cross-eyed, looking at the columns and rows in a spreadsheet. I would throw my hands up and tell myself that Excel just wasn't for me!

That's when **CA-Articleship** happened to me! Where we meet people singing the praises of Excel all day. We have no choice, but to agree that **excel is an incredibly powerful tool** to find exactly what we need and get things done in a jiffy --- only if we know how to use it, *correctly*.

All of us have solved various practical problems using Excel. Many a times, after doing something that took us lesser time than it took others, we have felt as if we have ascended the Mount Everest. We have done so much in Excel, that, at the completion of articleship, while filling the "details of training received" in Form 108, we search for "Excel" in the "Particulars" column – only to be disappointed, because ironically, Excel doesn't find a place in the list.

One thing almost every Excel user has in common is - Not knowing enough.

Put down from a CA's point of view, I believe, that this series of ***Excel with Excel***' will make your life simpler.

Excel's 'Consolidate' feature helps in consolidating data in worksheets (located in one workbook or multiple workbooks) into one worksheet. Even though this is predominantly used at the managerial level (say, for aggregating various financial figures from multiple branches), it can come handy to the Chartered Accountants as well.

"Examples are better than precept" and so, let us take an example to understand how it works.

Using Consolidate Feature for Opening balance verification:

Determining whether the prior period's closing balances have been correctly brought forward to the current period is called 'Opening balance verification' in the common parlance. Some of us have **manually** verified the balances and some of us have used the '**vlookup'** function. Today, we will try it with the Consolidate feature.

❖ **Input data**: 2 sets of Trial Balances ('TB') –

1. Closing TB as at 31.03.2019 (Generally, as per the audited financial statements) and
2. Opening TB as at 01.04.2019 (As per the books of account)

HRU Private Limited

TB AS AT 31.03.2019

Account Title	31.03.2019
Capital	₹ (1,00,000)
Trade Payables	₹ (72,759)
Unsecured Loans	₹ (1,53,119)
Furniture	₹ 50,744
Office Equipments	₹ 58,896
Prepaid expense	₹ 28,343
Trade Receivables	₹ 1,08,767
Cash and Cash equivalents	₹ 11,987
Other Current Assets	₹ 67,141
TOTAL	-

HRU Private Limited

TB AS AT 01.04.2019

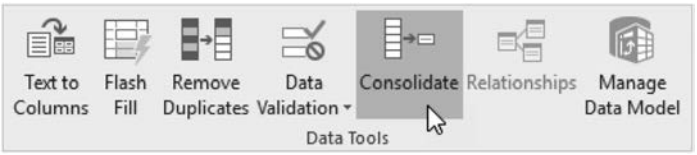
Account Title	01.04.2019
Capital	₹ (1,00,000)
Trade Payables	₹ (72,579)
Unsecured Loans	₹ (1,53,119)
Deferred Tax	₹ (13,334)
Furniture	₹ 50,744
Office Equipments	₹ 65,440
Trade Receivables	₹ 1,08,767
Stock of Consumables	₹ 26,000
Cash and Cash equivalents	₹ 20,940
Other Current Assets	₹ 67,141
TOTAL	-

Points to be noted:

1. Make sure you have **removed any blank cell in the left-most column** because excel will ignore a row if the left most cell in the selected reference is blank.
2. The columns which is to be compared shall have **different headings**. Here, they are "31.03.2019" and "01.04.2019"

❖ **Procedure**:

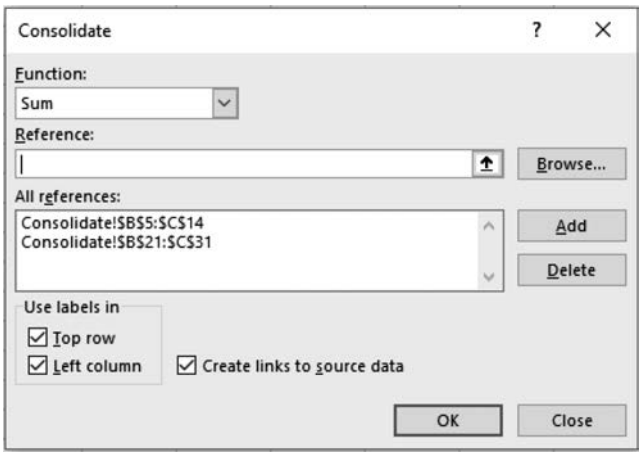
1. Open the workbook containing the data under comparison. Also, open a new worksheet.
2. On the Data tab, in the Data Tools group, click Consolidate



3. Choose the Sum function.
4. Click in the Reference box, select the range containing the data (one data set at a time), i.e. $B$5:$C$14 and click "Add"
5. Repeat step 4 for other data set(s).

   In our case, $B$21:$C$31
6. Check "Top row", "Left column" and "Create links to source data"

   Note: If you don't check "Top row" and "Left column", Excel will sum all cells that have the same position in the references list. For example, cell B6 and cell B22 will be added. Because our worksheets are not identical, we want Excel to sum cells that have the same labels. If you check "Create links to source data", Excel creates a link to your source data (your consolidated data will be updated if your source data changes) and creates an outline (grouped data).
7. Click OK.



❖ **Result**:

	A	B	C	D
1				
2			31.03.2019	01.04.2019
5	Capital		₹ (1,00,000)	₹ (1,00,000)
8	Trade Payables		₹ (72,759)	₹ (72,579)
11	Unsecured Loans		₹ (1,53,119)	₹ (1,53,119)
13	Deferred Tax			₹ (13,334)
16	Furniture		₹ 50,744	₹ 50,744
19	Office Equipments		₹ 58,896	₹ 65,440
21	Prepaid expense		₹ 28,343	
24	Trade Receivables		₹ 1,08,767	₹ 1,08,767
26	Stock of Consumables			₹ 26,000
29	Cash and Cash equivalents		₹ 11,987	₹ 20,940
32	Other Current Assets		₹ 67,141	₹ 67,141

We can now compare the figures as at 31.03.2019 with 01.04.2019, pertaining to various accounts in column B. The **differences can be easily identified** by subtracting Column C figures from Column D figures. This way, we can prepare a list of accounts having discrepancies in balances, that require further examination -- Like this:

	A	B	C	D	E
1					
2		**Account Title**	**31.03.2019**	**01.04.2019**	**Difference**
3		Capital	₹ (1,00,000)	₹ (1,00,000)	-
4		Trade Payables	₹ (72,759)	₹ (72,579)	(180)
5		Unsecured Loans	₹ (1,53,119)	₹ (1,53,119)	-
6		Deferred Tax		₹ (13,334)	13,334
7		Furniture	₹ 50,744	₹ 50,744	-
8		Office Equipments	₹ 58,896	₹ 65,440	(6,544)
9		Prepaid expense	₹ 28,343		28,343
10		Trade Receivables	₹ 1,08,767	₹ 1,08,767	-
11		Stock of Consumables		₹ 26,000	(26,000)
12		Cash and Cash equivalents	₹ 11,987	₹ 20,940	(8,953)
13		Other Current Assets	₹ 67,141	₹ 67,141	-

The above excel feature can be best used for **reconciliations**, including Bank Reconciliation.

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INDIRECT TAXES COMMITTEE

2019-20

CA. Annapurna Kabra
Mentor

CA. Ganesh V. Shandage
Chairman

CA. Nagappa B Nesur
Convener

CA. Subramanya B L
Member

CA. Prabhava Hegde
Member

CA. Mukul H S
Member

CA. Amar V Meharwade
Member

MEDIA AND TECHNOLOGY INITIATIVE COMMITTEE

2019-20

CA. Vijaykumar M. Patel
Chairman

CA. Vinayaka N L
Convener

CA. Vishal Patil
Member

CA. Ananth Nyamannanavar
Member

CA. Shivaprasada V
Member

CA. Prakash Adiga
Member

MONETARY CONTRIBUTIONS TO
KSCAA KARNATAKA FLOOD RELIEF FUND
As at 12 PM 14th August 2019

Name	Place	Amount	Name	Place	Amount
Anonymous Donation	Bengaluru	25,001	V K Sudhakar Shetty	Bengaluru	25,000
Praveen S Shettar	Masur	25,000	Suresh & Co Employees and Articles Fund	Bengaluru	25,000
Vinayak Pai V	Bengaluru	10,000	Hegde Giri And Associates	Bengaluru	12,000
CSMR and Associates	Bengaluru	10,000	Hegde Raj and Ullody	Bengaluru	10,001
Pramod And Darshan	Bengaluru	7,500	Raghavendra Patre	Bengaluru	10,000
Nagendra B	Bengaluru	5,555	Omkar S	Davangere	10,000
Virupaxi B Vantagitti	Bengaluru	5,002	Cotha S Srinivas	Bengaluru	5,004
Raghavendra Puranik	Bengaluru	5,001	Chandrashekar Patel	Raichur	5,001
Y K Anand and Co	Bengaluru	5,000	Shivaprakash Viraktamath	Bengaluru	5,001
Siddartha S Javali	Bengaluru	5,000	Sneha More	Bangalore	5,000
Bhojaraj T Shetty	Bengaluru	5,000	Tharanath V	Bengaluru	5,000
N M Arunkumar P S Ananda Rao	Bengaluru	5,000	Babu K Tevar	Bengaluru	5,000
A B Chidananda	Bengaluru	5,000	Suraj Sureshbabu Singri	Bengaluru	5,000
Ravi H Kerudi	Ranebennur	5,000	Krishna Upadhya S	Bengaluru	5,000
Prabhava Hegde	Bengaluru	5,000	Chandrakala Ajaykumar	Bengaluru	5,000
Puneeth BS	Bengaluru	5,000	Pampanna BE	Bengaluru	5,000
Sunil bellala	Bengaluru	5,000	Santhosha Kumar	Bengaluru	5,000
Sujay Ganesh Bhat	Bengaluru	4,000	Subhash Javali	Bengaluru	5,000
Smitha T S	Bengaluru	3,000	B. Ramakrishna Shetty	Bengaluru	3,006
Shravan Guduthur	Bangalore	2,500	Amar V Meharwade	Bengaluru	3,000
Archana Sridhar	Bengaluru	2,500	Siddesh Gaddi	Bengaluru	2,501
T N Raghavendra	Bengaluru	2,500	Anant Nyamannavar	Dharwad	2,501
Pramod	Bengaluru	2,500	Abhiram Bhat H R	Bengaluru	2,500
Nataraju S	Bengaluru	2,500	Gowrish	Shivamogga	2,500
Basavaraj M Katti	Bengaluru	2,001	Venkatramanan	Bangalore	2,500
Annapurna Srikanth	Mysore	2,000	Akshay Kumar Dey	Bengaluru	2,001
Harsha More	Bengaluru	2,000	Kushal Jain	Bengaluru	2,001
Mallikrjun M S	Sagar	2,000	Shivaprasada V	Bengaluru	2,000
Ramesh M S	Bengaluru	2,000	Basavaraj Shirahatti	Bengaluru	2,000
Subramanya B L	Bengaluru	2,000	Naresh Kumar	Ballari	2,000
Ganesh V Shandage	Belagavi	1,111	B Prakash Reddy	Bengaluru	2,000
Manjunatha R S	Bengaluru	1,001	Gurudath Kaiwar R	Bengaluru	1,500
Naveen S Hegde	Bengaluru	1,000	Umesh Babu J	Bengaluru	1,100
Sachin R Shetty	Bengaluru	1,000	Sharath H M	Arsikere	1,001
Sankar C	Bengaluru	1,000	Vishal Babu J	Bengaluru	1,000
Mohana Acharya	Bengaluru	1,000	Prashanth Karanth	Bengaluru	1,000
S Sathyanarayans Prasad	Bengaluru	1,000	Supriya	Bengaluru	1,000
Sapna	Bengaluru	1,000	Vandana R Kini	Moodbidri	1,000
Prashantkumar	Bengaluru	500	Vinayak E Revanaki	Bengaluru	1,000
Shivaswaroop HP	Bengaluru	500	Naveen S Hegde	Bengaluru	1,000
Kavya N	Bengaluru	200	Shashidhar	Bengaluru	500
Chaitra	Bengaluru	100	Viru Patil	Koppal	100
Bhaskar	Bengaluru	100			

REPRESENTATAION SEEKING EXTENSION OF TIME OF 'COMPREHENSIVE KARA SAMADHANA SCHEME 2019'

To,

Date: 31st July 2019

The Hon. Chief Minister Karnataka

Hon'ble Sir,

Sub: REPRESENTATAION SEEKING EXTENSION OF TIME OF 'COMPREHENSIVE KARA SAMADHANA SCHEME 2019'

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 problems / hardships faced by chartered accountants and business community.

We congratulate and applaud The Government of Karnataka for introducing a 'Comprehensive Kara Samadhana Scheme 2019' with a view to substantially reduce the tax disputes. The Scheme covered various State tax laws and provided full waiver of Penalty and Interest for the cases whose assessment order is completed on or before 31st June 2019 and The Government was magnanimous enough to respond to our earlier request to extend this scheme further to 31st July 2019. This step will go in a long way while ensuring old disputed tax matters are settled in a smooth manner. This will not only benefit the dealers and assessees but also government in it's time and effort to resolve the cases and in turn boost the tax collections.

With this backdrop, we have written to your good selves many a times populating various issues and possible solutions in VAT & GST. Your goodself would be aware about the GST hiccups being faced by the trade, industry and professional fraternity in terms of teething issues of filing returns in the backdrop of inadequate GSTN infrastructure, spate of frequent notifications and multiple due dates of monthly, quarterly and annual returns.

While 'Comprehensive Kara Samadhana Scheme 2019' is welcomed and well received by the trade, industry and professional fraternity who in general also wish to close out all pending tax disputes within the due date. However, the issues enumerated in the below mentioned clauses are causing great difficulty and hardship to the trade, industry and professional fraternity in adhering to the timeline for beneficially availing this scheme before 31st July 2019.

- A large number of taxpayers who wish to avail the benefit of this scheme have already replied to SCN and having received the acknowledgements, the assessment orders are still pending to be issued from department end. We appreciate the best efforts being put in by your department in processing the SCN replies as received from taxpayers; However it seems that the department is still short of required resources to process and clear such cases by issuing required assessment orders.
- We have come across various instances where the assessments or rectification proceedings are at various stages of assessment and are yet to be concluded within the timeline of 31st Jul 2019. These could be due to various reason like production of books, submission of records, issuance and reply to proposition notice and passing of assessment orders.
- This is particularly so in respect of assessements under CST Act, 1957, wherein the assessee is hard pressed to obtain various statutory form like C/F/H/I from third parties. Any amount of reminders from the dealers are not yielding the expected results thereby causing delay in submission of documents and completion of their assessment, effectively denying the benefits of the above scheme which was otherwise rightfully available to them.
- GSTR1, GSTR3B, GSTR-5, GSTR-6, GSTR-8, GSTR-5A and CMP 08 also had due dates falling between 10th July 2019 and 31st July 2019, clashing with deadline.
- Due date for Income tax return filing for individuals and firms without tax audit was originally 31st July 2019 and it got extended only during the last week of this month to 31st August 2019.
- Comprehensive Kara Samadhana Scheme 2019 inter alia covered all the cases where the assessment order is passed and demand notice is issued. However, some of the defaults like non filing of VAT 240, uploading of E-UPASS, delayed filing of returns is practically excluded due to non-issuance of notices thereby denying a golden opportunity to the dealers for wavier of penalty.
- For the quarter ending 30th June 2017, even assignments are not issued in majority of the cases thereby practically denying the availment of benefits of the scheme.
- In the cases where, the appeal orders were remanded back to the assessing officer to pass the revised assessment orders and issue revised demand notice, the time elapsed between the movement of time files the appeal office to assessing officer has robbed the opportunities of availing this scheme.

In view of the practical difficulties as cited above and to meet the ends of justice for the taxpayers who wish to avail the benefit of this scheme, we urge your good selves to extend the due date for availing the scheme to 30th September 2019. Please note that the extension upto 30th September 2019 would not incur any loss of revenue to the exchequer since the due date for payment of taxes fixed originally is 30th September 2019..

Yours sincerely,

For Karnataka State Chartered Accountants Association ®

CA. Chandrashekara Shetty
President

CA. Chandan K Hegde
Secretary

CA. Sateesha Kalkur
Chairman – Representation Committee

Karnataka State Chartered Accountants Association®

REQUEST FOR EXTENSION OF DATE OF AUDIT OF CO-OPERATIVE SOCIETIES

To,

Date: 7th Aug 2019

The Hon Chief Minister of Karnataka

Bengaluru

Respected Sir,

SUBJECT: REQUEST FOR EXTENSION OF DATE OF AUDIT OF CO-OPERATIVE SOCIETIES

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.

Your goodselves are aware that Section 63 of Karnataka Co-operative Societies Act, 1959 through the amendments in 2013, has reposed the work of conducting the audit of co-operative societies to Chartered Accountants. The law has envisaged that the audit work should be completed within August 31st and the report should be furnished on or before September 1st every year. We have been conducting the audit work with all sincerity and submitting the reports in time. However this year, due to the heavy rains and flooding position in the entire northern, Malnad and coastal Karnataka, we are not in a position to conduct the audits, as the co operative societies are not in a position to furnish us the details and the documents required by us for the audits.

Your goodselves are well aware of the situation in the state of Karnataka. Especially, the districts of Belagavi, Shivamogga, Uttara Kannada, Dakshina Kannada, Bagalkot, Bijapur, Raichur and Other Malanad regions are receiving unseen rains and floods which has displaced the routine activity and infrastructure of the people in the state.

Hence we are presenting before your good selves the difficulties and hardship faced by the Co-operative Societies and Auditors due to severe and destructive rains and floods in the state of Karnataka. In this hour of severity, Chartered accountants are unable to reach to their clients for the purpose of Audit and it would be inhumane and unjust to force the cooperative societies for audit until the livelihood returns to normalcy. Considering that sizable number of Co-operative Societies are from the affected and rural areas, we seek your early intervention to extend due date for audit for co-operatives from existing date of 31st of August to 30thOctober 2019 and also holding of Annual General Meetings from 25th September to 25thNovember 2019.

Hence, we the office bearers of the Karnataka State Chartered Accountants Association, on behalf of the entire Chartered Accountants community and also on behalf of the co operative societies in the state of Karnataka appeal to your goodselves to kindly consider our request and pass an order u/s 132 of the Karnataka Co-operative Societies Act, 1959 and u/s 70 of the Karnataka Souharda Co operatives Act, 1997 extending the due dates for conducting audits and general meetings to the dates as request above.

Yours sincerely,

For Karnataka State Chartered Accountants Association ®

CA. Chandrashekara Shetty President	CA. Chandan K Hegde Secretary	CA. Sateesha Kalkur Chairman – Representation Committee

NON-MONETARY CONTRIBUTIONS TO

KSCAA KARNATAKA FLOOD RELIEF FUND

- As at 9 AM 14th August 2019

Name	Place	Description
S D Krishnamurthy	Bengaluru	Rice - 25 KG: Atta - 5 KG/ 3 cotton box cloths
Raviraj Shetty - President Brahmari Sports Club	Bengaluru	Rice - 50 KG; Sugar - 5 KG; Atta - 25 KG; Blankets - 14 Nos; Tea Powder - 0.5 KG
Manjunath Gowda DR	Bengaluru	Rice - 500 KG
Jayathirtha	Bengaluru	Rice - 100 KG; Dal - 30 KG; Unibic Biscuits - 2 Large Boxes
Ashwathnarayan S.D.	Bengaluru	Clothes 1 bag
Arun Kumar	Bengaluru	Rice 25 kgs
Megana	Bengaluru	Cosmetics items 1 Box
R.S.Bhat	Bengaluru	Rice, Biscuits, Food items
Suresh & Co Employees and Articles Fund	Bengaluru	24 boxes / covers of flood relief materials incuding clothes, bedsheets, blankets and other necessary materials

MEMORANDUM SEEKING EXTENSION OF DUE DATE FOR FILING OF INCOME TAX AND GST RETURNS

To,

Date: 10th August 2019

Smt. Nirmala Sitharaman
Hon. Union Minister of Finance and
Corporate Affairs
Government of India
North Block
New Delhi

Hon'ble Madam,

SUBJECT: MEMORANDUM SEEKING EXTENSION OF DUE DATE FOR FILING OF INCOME TAX AND GST RETURNS

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 the heavy rains and flooding position in the entire northern, malnad and coastal Karnataka. The chartered accountants are not in a position to complete audits under Income Tax Act and GST Acts, and meet the specified timelines for furnishing of various monthly and annual returns, which are falling due in the months of August and September 2019 as normal life is severely affected due to nature's fury.

Your goodselves are well aware of the situation in the state of Karnataka. Especially, the districts of Belagavi, Shivamogga, Uttara Kannada, Dakshina Kannada, Bagalkot, Bijapur, Raichur and Other Malanad regions are receiving unseen rains and floods which has displaced the routine activity and infrastructure of the people in the state.

Hence, we are presenting before your good selves the difficulties and hardship faced by the chartered accountants and business community due to severe and destructive rains and floods in the state of Karnataka. In this hour of severity, Chartered accountants are unable to reach out to their clients for the purpose of Audit and it would be inhumane and unjust to force assessees until their livelihood returns to normalcy. Considering that sizable number of assessees are from the affected and rural areas, we seek your early intervention to extend due date for audit under Income Tax Act and GST Acts as well as the due dates for filing of various monthly returns falling due in the months of August and September 2019.

Hence, we the office bearers of the Karnataka State Chartered Accountants Association, on behalf of the entire Chartered Accountants community and also on behalf of the trade and businesses in the state of Karnataka appeal to your goodselves to kindly consider our request for extending the due dates for completion of audits and filing of returns by a further period of 3 months.

Yours sincerely,

For Karnataka State Chartered Accountants Association ®

CA. Chandrashekara Shetty
President

CA. Chandan K Hegde
Secretary

CA. Sateesha Kalkur
Chairman – Representation Committee

KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION®

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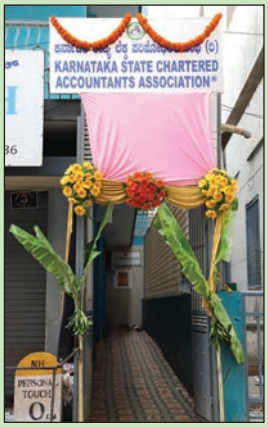
46th Annual General Meeting - Photo Gallery

"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
Total No. of Pages Printed : 32
Date of Publishing & Posting 15th of the month, Place of Posting at Bangalore PSO, Mysore Road, Bangalore 560026

KSCAA New Office near Rajajinagar Metro Station







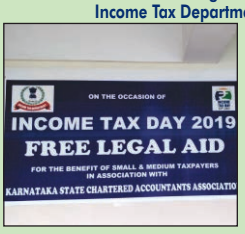





Representation seeking extension of time of 'Comprehensive Kara Samadhana Scheme 2019

Workshop on Revised audit report under SA 700 07.08.2019


Income Tax Legal Aid by KSCAA at Income Tax Department Koramangala



Seminar on GST Annual Returns and GST Audit at Hassan



Workshop on Recent Amendments in gst & Technicalities 02.08.2019



Karnataka Flood Relief Contributions Received








KSCAA NEWS BULLETIN English Monthly Printed, Published & Edited by **CA. Chandrashekara 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 : info@kscaa.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: jwalmuki@gmail.com.
Published at # 7/8, 2nd Floor, Shoukath Building, S.J.P.Road, Bengaluru-560 002. Editor : **CA. Chandrashekara Shetty**