

KSCAA

Karnataka State Chartered Accountants Association ®

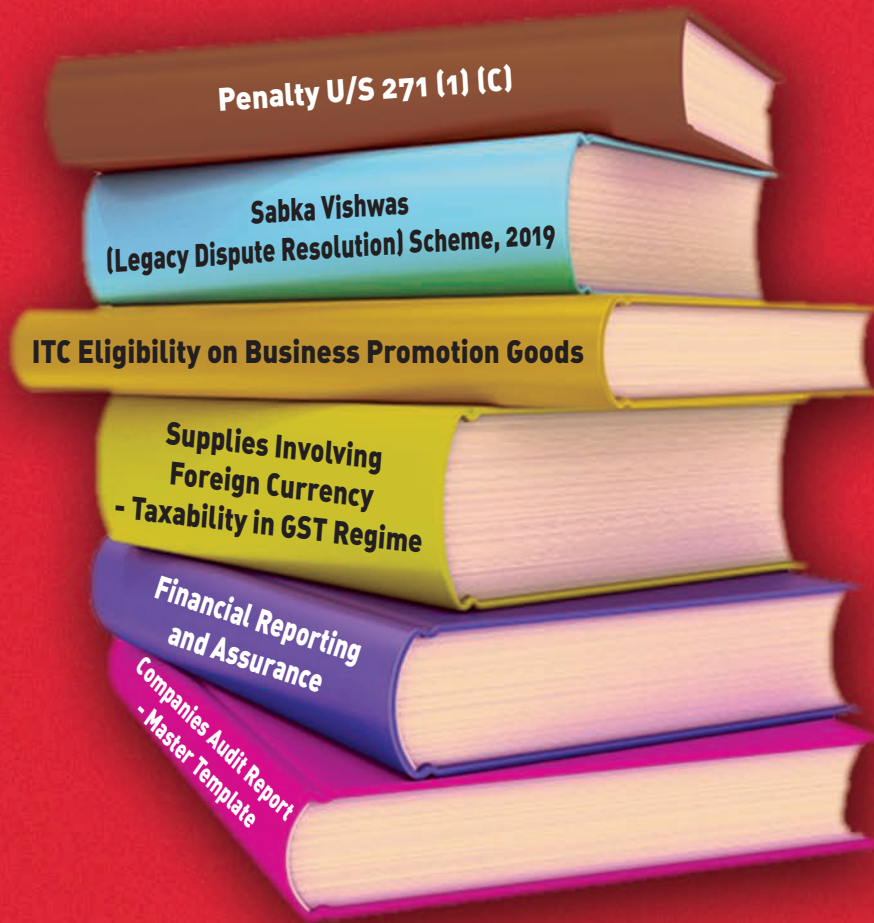
NEWS BULLETIN

September 2019 | Vol. 7 | Issue 1 | ₹ 25/-



Since 1957
www.kscAA.com

English Monthly
for Private Circulation only



Sports Meet 2019

Saturday, 9th November 2019
BEL Ground, Bangalore



[f @karnatakacaassociation](https://www.facebook.com/karnatakacaassociation) [t @kscAA_ca](https://twitter.com/kscAA_ca) [ksCAA.com](http://www.kscAA.com)



Dear Professional friends,

The month of September is one of the busiest months for finance and accounting professionals in India and this comes with toiling up the time to meet deadlines and matching the expectation of deadlines. My professional colleagues have acclimatized with the ever-demanding compliances and reports. Not only are

accounting professionals over working, as per news report even the legislative productivity is high during the recent sessions, this only assures the country of better future. The recent attempt of Chandrayan-2 has been an unimaginable attempt by a country which on other side is yet to ebb many out of poverty.

My heartily wishes for the upcoming festive season of Dasara. Dasara, which is known as 'Nada Habba', has its tradition and culture of Karnataka for long. It was celebrated during the time of Vijayanagar-King and was later adopted by rulers of Mysore and from then has been engrained as the tradition of the state.

News Round up

Goods and Service Tax

Introduction of Sabka Vishwas (Legacy dispute resolution Scheme 2019) is a bold step taken by the Government for closing all the baggage of legacy disputes related to the Central Excise, Service tax and slew of 26 cesses payable under different indirect tax enactments. This scheme also gives an amnesty to those who have failed in discharge of correct tax liability by way of voluntary disclosure. This indeed is a great opportunity for assesses with legacy tax issues to close them once for all and divert their energy and focus on GST, which is a way forward.

We Chartered Accountant professionals are the harbingers for the success of any such scheme which government promulgates and therefore it is incumbent upon us to be well versed with pros, cons and procedures involved in this scheme.

Corporate and Business law

With a view to simplify the process for incorporating Section 8 Companies, the MCA has removed the requirement of prior filing of INC-12 for new section-8 companies. Hereafter, Section 8 Companies can be incorporated by either reserving names through "Run" and filing "SPICe" thereafter or by directly filing "SPICe". Section 8 companies will be allotted with License No at the time of incorporation itself. This would ease the process of incorporating the "not for profit" companies. Central Board of Trustees ("CBT") in a meeting held on 21 August 2019 took a major decision of approving the amendment in Employees Pension Scheme for restoration of commuted value of pension to the Pensioners after 15 years of drawing commutation.

Income Tax

- To encourage Startups, the Government has provided relief on angel tax provisions i.e., non-applicability of Section 56 (2) (viib) of the Income Tax Act. CBDT has also clarified that start-ups with turnover up to ₹25 crore will continue to get the promised tax holiday as specified in Section 80-IAC, which provides for 100% deduction of income of an eligible start-up for 3 out of 7 years from the year of its incorporation.

- CBDT in order to reduce the litigation has also rationalised the monetary limits of filing departmental appeals/Special leave petition.
- To mitigate genuine hardship, the CBDT has relaxed the timeframe prescribed in second proviso to Section 143(1) and directs that all validly filed returns up to AY 2017-18 with refund claims, which could not be processed under section 143(1) and have become time-barred, can be processed now with prior approval of Pr. CCIT/CCIT concerned and intimation of such processing under section 143(1) can be sent to the assessee concerned by 31 st December, 2019

Representations

We together with Bombay Chartered Ahmedabad Accountants' Society, Chartered Accountants Association (Ahemdabad), Chartered Accountants Association (Surat) and Lucknow Chartered Accountants' Society have submitted a detailed representation on the matter of Income Tax and GST, summing to around 15-20 areas for the government to dwell and remove the hurdles for professionals and businessman.

It is happy to note that Government of Karnataka has been kind to provide relief to Cooperative Societies of specified districts, by extending the due date of Audit. This relief was well in time with our representation for the same made by us.

Upcoming Programs

By the time this issue of the Newsletter has reached you we would have conducted One Day Workshop on Practical Approach to Tax Audit & Changes in 3CD, Recent Amendments in Finance Act 1 & 2, 2019 at Shivamogga on 14th September 2019 and One Day Workshop on GST and Career Counselling Program at KLE Society's Lingaraj College, Belagavi on 16th September 2019.

With Tax audit round the corner, we have planned following program for the month of September 2019

- Demystifying issues in 44AB, AD, AE and clause by clause analysis of 3CA, 3CB and 3CD by CA. Naveen Khariwal on 18th Sep 2019 at KLE Nijalingappa college, Rajajinagar and on 19th Sep 2019 at Vasavi Vidyanikethan Trust, Basavangudi.
- Proposed changes in Audit Report Applicable to charitable or Religious Trust or Institution' by Dr. N Suresh on 20th Sep 2019 at KSCAA's Rajajinagar office.

KSCAA inaugurated a unique program called, 'Eloquent professionals' catering the needs for growing demands among professionals in their day today conduct of practice. The program is a closed meeting of professionals on weekly basis and would convey 360 degree development to professionals covering some of the daily and sundry challenges of professionals in practice.

I thought to share this piece of saying by the Indian born American Astronaut, Kalpana Chawla, which probably requires us to move the life with vision and perseverance "The path from dreams to success does exist. May you have the vision to find it, the courage to get on to it, and the perseverance to follow it."

Yours Sincerely,

CA. Chandrashekara Shetty,
President

KSCAA

News Bulletin

September 2019

Vol. 7 Issue 1

No. of Pages : 32

CONTENTS

Penalty U/S 271 (1) (C) of the Income Tax Act, 1961	4
CA S. Krishnaswamy	
ITC Eligibility on Business Promotion Goods	7
CA. Madhukar N Hiregange & CA. Mahadev R	
Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 - An opportunity to extricate from legacy litigations	9
CA G B Srikanth Acharya & CA Neha Agarwal	
Companies Audit Report - Master Template	11
CA. K. Gururaj Acharya	
Supplies Involving Foreign Currency - Taxability in GST Regime	19
Adv. M.G. Kodandaram	
Financial Reporting and Assurance	26
CA. Vinayak Pai V	

Disclaimer

The Karnataka State Chartered Accountants Association does not accept any responsibility for the opinions, views, statements, results published in this News Bulletin. The opinions, views, statements, results are those of the authors/contributors and do not necessarily reflect the views of the Association.

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

email: info@kscaa.com

Website: www.kscaa.com

KSCAA Office shifted to New Premises at below address:

.....

No 67, 1st Floor, 2nd Stage, West of Chord Road, Mahalaxmipuram, Below Rajaji Nagar Metro Station, Bengaluru – 560 086

ADVERTISEMENT TARIFF

Colour full page

Outside Back Cover ₹ 25,000/-*

Inside Back Cover ₹ 20,000/-*

Inside Colour ₹ 16,000/-*

* Plus 5% GST

Inside Black & White

Full page ₹ 12,000/-*

Half page ₹ 6,000/-*

Quarter page ₹ 4,000/-*



PENALTY U/S 271 (1) (C) OF THE INCOME TAX ACT, 1961

CA. S. Krishnaswamy

1. The recurring issue that has been coming up before Appellate forums concerns with the contents of the printed Show Cause Notice-the Show Cause Notice specifies the charge - concealing the particulars of income or for furnishing of inaccurate particulars of income. And the Assessing Officer has to indicate which of the limbs is attracted. Leaving both makes the notice invalid and the proceedings must fail. The issue came up for adjudication before the Karnataka HC in the case of **CIT v Manjunatha Cotton and Ginning Factory (2013) 359 ITR 565 (Karn)**.
- 1.1 The High Court observed -
 “Section 271 of the Act of 1961 is a specific provision providing for imposition of penalties and is a complete code in itself regulating the procedure for such imposition. The Bench therefore held that penalty proceedings have to be conducted in accordance therewith, subject always to the rules of natural justice. It was pointed out that Section 271 makes appropriate provision for levying penalties on an assessee in different eventualities and one such eventuality is for concealment of income or furnishing of inaccurate particulars of such income. It was held that for starting the penalty proceedings, the condition precedent is that the Assessing Officer must be satisfied that a person has either concealed particulars of his income or furnished inaccurate particulars of such income. The person who is accused of the conditions mentioned in Section 271 **should be made aware of the grounds on which imposition of penalty is proposed as he has a right to contest such proceedings and should have a full opportunity to meet the case of the revenue** so as to show that the conditions stipulated in Section 271(1)(c) do not exist and that he is not liable to pay the penalty. It was further held that the practice of the revenue in sending a printed form where all the grounds mentioned in Section 271 are mentioned would not satisfy the requirement of law when the consequence of the assessee not rebutting the initial presumption is serious in nature and he has to pay a penalty ranging from 100% to 300% of the tax liability. As the provisions of Section 271(1)(c) **have to be strictly construed**, the

Bench mandated that the notice issued should set out the grounds which the assessee has to meet specifically, otherwise the principles of natural justice would be offended as the show-cause notice would be vague. Dealing with concealment of particulars of income or furnishing of inaccurate particulars of income, the Bench observed that some cases may attract both the offences and in some, there may be overlapping of both, but in such cases initiation of the penalty proceedings must be specifically for both the offences. Drawing up penalty proceedings for one offence and finding the assessee guilty of another or finding him guilty for either, the one or the other, was held to be unsustainable in law.”

- 1.2 In Commissioner of Income Tax, Gujarat-III vs. Manu Engineering Works, a Division Bench of the Gujarat High Court observed that the Assessing Officer must give a positive finding as to whether there is concealment of income by the assessee or whether any inaccurate particulars of such income had been furnished by the assessee. In the event there was no such clear-cut finding, the penalty order was held liable to be struck down.”
- 1.3 These decisions and other judicial pronouncements on the same points have been fully discussed in **Harvinder Singh v ITO (2019) 72 ITR (Trib) 274 (Amritsar)**. One of the judicial member in this Tribunal case gave a dissenting judgement which however did not prevail. The dissenting judgement relied upon in the Supreme Court Judgement of **K.P. Madhusudhanan v CIT (2001) 251 ITR 99 (SC)**. The two member bench distinguished the case analysing the Section in particular, Explanation (1) and held -
 “This judgement has no application to the case on hand as what we are concerned with presently is whether the assessee is required to be put on notice as to whether she is to be penalised for concealment of particulars of income or for furnishing inaccurate particulars of income. These are two different acts. Concealment of income is an act of omission while furnishing inaccurate particulars of income is an act of commission. The consequences of such acts, being penal in nature, an

assessee has to be informed as to what exactly is the charge against him so that he may respond thereto.”

“Sec.271(1)(c) of the Act contemplates the levy of penalty by the Assessing Officer if the Assessing Officer is satisfied that the assessee has either concealed its income or furnished inaccurate particulars of income. There might be instances where the Assessing Officer is satisfied that both the limbs are attracted. The defaults thus, admittedly could be committed either simultaneously and cumulatively or separately and independently on those two separate and distinct counts. The existence of one of those three situations in the eyes of the Assessing Officer is the triggering factor on the basis of which the specific limb invoked in the notice is the culmination of the decision which clearly puts the assessee to notice as to what he is required to address. The terms “concealment of particulars of income” and furnishing of inaccurate particulars of “income” referred to in Section 271(1)(c) of the Act denote two separate and distinct defaults and situations. These two expressions convey separate and distinct meanings.”

- 1.4 The decision of the Karnataka High Court is followed in various subsequent High Court and Tribunal decisions. The Bangalore Bench of the Income Tax Appellate Tribunal in **M/s. Raicon Engineers v ITO (2019) 72 Trib (S.N) 47 (Bangalore)** held –

“Further the show-cause notice issued by the Assessing Officer before imposing penalty was imposed, viz., whether it was for concealing particulars of income or furnishing inaccurate particulars of income. Thus imposition of penalty was not sustainable”

- 1.5 It was held in the case of **CIT v Samson Perinchery (2017) 392 ITR 4 (Bom) order** held -

“The impugned order holds that the concealment of income and furnishing inaccurate particulars of income carry different connotations. Therefore, the Assessing Officer should be clear as to which of the two limbs under which penalty is imposable, has been contravened or indicate that both have been contravened while initiating penalty proceedings. It cannot be that the initiation would be only on one limb, i.e., for furnishing inaccurate particulars of income while imposition of penalty on the other limb, i.e., concealment of income. Further, the Tribunal also noted that notice issued under section 274 of the Act is in a standard pro forma, without having struck out irrelevant clauses therein. Thus indicates non-application of mind on the part of the Assessing Officer while issuing the penalty notice.”

- Other decisions are -
 - o Ratan Kumar Paul vs. DCIT vide I.T.A. No. 1748/ Kol/2016 judgement on 14/02/2018.
 - o Yumi Restaurants (India) Pvt Ltd v ITO (2017) 58 ITR (Trib) 107 (Delhi)
 - o CIT vs. Lakhdirlalji (1972) 85 ITR 77 (Guj)
 - o Dilip N. Shroff vs. JCIT, 291ITR 519(SC)

“Concealment of income” and “furnishing inaccurate particulars” are different. Both concealment of income and furnishing inaccurate particulars refer to deliberate acts on the part of the assessee. A mere omission or negligence would not constitute a deliberate act of suppression very or suggestion falsi.

The word “inaccurate signifies a deliberate act or omission on the part of the assessee. Such deliberate act must be either for the purpose of concealment of income or furnishing inaccurate particulars. The term “inaccurate particulars” is not defined. He must be found to have failed to prove that such explanation is not only not bona fide but all the facts relating to the same and material to the income were not disclosed by him, Thus, apart from his explanation being not bona fide, it should have been found as a fact that he has not disclosed all the facts which were material to the computation of his income. The explanation must be preceded by a finding as to how and in what manner he furnished the particulars of his income. It is beyond any doubt or dispute that for the said purpose the Assessing officer must arrive at a satisfaction in this behalf.

“CIT v. RAM COMMERCIAL ENTERPRISES LTD. [2000] 246 ITR 568 (Delhi) and DIWAN ENTERPRISES v. CIT [2000] 246 ITR 571 (Delhi) followed”

The order imposing penalty is quasi-criminal in nature and the burden lies upon the Department to establish that the assessee had concealed his income. Since burden of proof in penalty proceedings varies from that in the assessment proceedings, a finding in the assessment proceeding that a particular receipt is income cannot automatically be adopted, though a finding in the assessment proceedings constitutes good evidence in the penalty proceedings. In the penalty proceedings the authorities must consider the matter afresh as the question has to be considered from a different angle.

“ANANTHARAM VEERASINGHAIAH AND CO. V.cit [1980] 123 ITR 457(SC); [1980] Supp SCC 131 followed”

- o Ganpati Enterprises vs. ACIT vide ITA No. 7053/ Del/2018 pronounced on 10.04.2019.

- o Orbit Enterprises Vs. ITO[2017] 60 ITR 9Trib) 251 (Mumbai)
- 2. Change of head of income not a case for furnishing inaccurate particulars.
 - Dy. CIT vs. ACEE Enterprises vide ITA Nos. 6516 to 6519/Del/2014 judgement on 13/11/2017.
 - CIT v. Bennett Coleman & Co. Ltd (2013) 259 CTR 383 (Bom)
 - CIT v. Reliance Petroproducts Private Limited reported(2010) 322 ITR 158(SC)
- 3. Levying penalty not possible u/s 271 (1)(c) if additions made on estimation basis:
 - ITO vs. Asrafkhan K Pathan (2019) 74 ITR (Trib) 133 (Ahb)
 - CIT vs. Aero Traders Pvt. Ltd. 322 ITR 316 (Del)
 - Harigopal Singh vs. CIT 258 ITR 85 (P&H)
 - CIT vs. Subhash Trading Company 221 ITR 110 (Guj)
 - Shri RadheyShyam Vs ITO vide ITA No. 5268/Del /2015 judgement on 31/10/2015.
- 4. Specification of charge by Assessing Officer at stage of initiation of penalty proceedings and at the time of issue of notice must be the same:
 - Sanraj Engineering (P) Ltd. Vs ITO vide ITA No. 5988/Del/2016 judgement on 27/10/2017

Statutory deductions if wrongly claimed –penalty cannot be levied:

It was held by the Hon'ble ITAT-Bangalore in the case of **Racon Engineers v ITO (2019) 72 Trib (S.N) 47 (Bangalore)** that-

“The disallowances under section 40(a) (ia) and section 40A (3) are statutory disallowances. On such statutory disallowances, there cannot be imposition of penalty, especially when the assessee had not made any claim for deduction of the expenses. Penalty under section 271(1) (c) is imposed for “concealing particulars of income or furnishing inaccurate particulars of income”. When an income which was ultimately brought to tax was declared in a return, there can be no question of treating the assessee as having “concealed particulars of income or furnished inaccurate particulars of income”. The starting point of determining concealment for imposing penalty is the return.”
- 5. Penalty provisions cannot be invoked for disallowance of expenditure.
 - Perfect Homes Finance Pvt Ltd v. DCIT (2017) 58 ITR (Trib) 718 (Delhi)

- Reliance Petro products Pvt Ltd (2010) 322 ITR 158 (SC)
- 6. Penalty proceedings are independent of assessment proceedings. Even if an addition is accepted in assessment proceedings for whatever reason that cannot be held against the assessee if he contest the levy of penalty.
 - Balaji Motion Pictures Ltd Vs. DCIT [2018] 61 ITR (Trib) 421 (Mumbai)

Assessee not choosing to litigate quantum addition before higher forum. Penalty not leviable automatically. A penalty under section 271(1)(c) is only a civil liability as held by the hon'ble Supreme court in case of *Dharamendra Textile Processors* (supra) and willful concealment is not required to be proved by the revenue. However each and every addition in the assessment cannot automatically lead to penalty under section 271(1)(c). A case for penalty has to be evaluated in terms of *Explanation 1 to section 271(1)(c)* as per which in case of any addition made in assessment even if the assessee is not able to substantiate the explanation but is able to prove that the explanation is bona fide and all necessary details have been submitted penalty under section 271(1)(c) cannot be levied.

Divergent View:

In “Smt.M.Malarvizhi Vs. Income Tax Officer”

The Court was dealing with two situations:-

- ✓ Furnishing of inaccurate particulars of income
- ✓ Concealment of income

In this context, the Chennai High court took a view that the printed show-cause notice showing both situations are valid. “Held, that there was no ambiguity in the notice served on the assessee for initiating the penalty proceedings clearly indicating that the penalty proceedings were initiated towards concealment of particulars of income and furnishing inaccurate particulars of such income. Moreover, the assessee had concealed the particulars of income as well as furnished inaccurate particulars of income. The question under which limb of section 271(1)(c) penalty was levied did not arise in this case because penalty was warranted under both limbs and Assessing officer rightly levied penalty under section 271(1)(c).”

Conclusion:

Judicial view on interpretation of section 271(1)(c) is that penalty provisions are to be strictly construed and any admission in assessment proceedings will not **automatically** justify penalty.

Author can be reached on e-mail:
skcoca2011@yahoo.in



ITC ELIGIBILITY ON BUSINESS PROMOTION GOODS



CA. Madhukar N Hiregange & CA. Mahadev R

Before the introduction of GST in India, the levy of erstwhile indirect taxes resulted in cascading to some extent of taxes adding to cost of goods or services. For example, the sales tax paid on inter-State purchase of goods was never allowed to set-off against output sales tax payable. Another example could be levy of sales tax on entire sale value including excise duty amount. GST was introduced from July 2017 to avoid the cascading effect of taxes on supply of goods or services. However, restriction of input tax credit (ITC) on certain goods and services such as construction goods/ services, goods used for personal consumption, goods lost /stolen/ destroyed/ issued as free samples / gifts etc., has not allowed complete removal of cascading effect of taxes on value of goods or services. Business entities as a part of their promotional schemes distribute various goods to distributors/ customers/ prospective customers. ITC in relation to such goods is subject to litigation as department has started denying such credits.

ITC eligibility in GST

In pre-GST regime, the CENVAT credit of excise duty paid was allowed only on goods used in relation to manufacture of goods. Similarly, the VAT credit was restricted to the extent used goods used for sale of goods. In GST, credit of GST paid on procurements would be eligible on all goods and services as long as they are used or intended to be used in course or furtherance of business. In terms of Section 16 (1) of CGST Act 2017, every registered person subject to certain conditions and restrictions prescribed, would be entitled to take credit of input tax charged on supplies to him which are used or intended to be used in the course or furtherance of his business.

There is no doubt that goods used in relation to business promotion are used in course or furtherance of business as no business would like to do it without expecting return in form of additional business.

ITC restriction on goods/ services

Section 16 allows for credit on goods/ services subject to conditions. In terms of Section 17, ITC would not be eligible on inward supplies which are used in relation non-business purpose including GST exempt supplies. If partially used, then proportionate credit to the extent used in relation to taxable supplies would be eligible as ITC.

Section 17(5) includes list of goods / services which are generally restricted for credit in spite of the fact that they are used in relation to business. Some of them are listed below:

- i) Motor vehicles for transportation of passengers having approved seating capacity of not more than 13 except when used in specified supplies;
- ii) Food and beverages, outdoor catering, beauty treatment,

health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

- iii) Goods or services used in construction services except when used in providing construction service;
- iv) Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples.

If the goods/ services find entry in any of the above [refer Section 17 (5) for full list], then ITC of GST paid would not be eligible which adds to the cost of goods or services.

ITC on business promotion goods

In any business, distributors play a pivotal role in promotion of goods. It is very common for business entities to spend lot of money in incentivising the distributors for promoting the goods or achieving the set target which could be volume of purchases made. In addition to this, many entities distribute goods like dairy, calendars, pens and other gift items for events such as annual day, new year, Diwali etc.

ITC is allowed on inputs used in course or furtherance of business. "Furtherance" means making progress, promotion etc. Therefore, goods used for business promotion could get covered under the eligibility clause. However, it is important to ascertain if such goods fall under the terms 'gift or free samples' being restricted for credit. The term 'gift' is not defined in the GST law and reference to other sources such as dictionary, Gift Tax Act 1858 (which got repealed in 90s) and few court decisions provides the meaning as voluntary transfer of goods or immovable property without

any consideration. There should not be any expectation from the giver of gift from recipient. However, many a times there would be contractual obligations under these schemes wherein the goods would be distributed to customers/ distributors for meeting set target. In such a scenario, it may not be ideal to term such distribution as 'gift'. Same time it cannot be free sample also unless same goods in which tax payer is dealing are issued to customers as samples. It is also true that in ascertaining the cost of goods sold, value of business promotion goods would be normally considered.

It is relevant to note that there can be counter argument to this, wherein the tax authorities may hold it as permanent transfer or disposal of business assets without consideration wherein GST liability would arise in terms of Schedule I. If so, ITC would be allowed but GST on supply to distributors/ customers could be demanded. Recent circular no.92/11/2019 of GST also makes this aspect clear. It may be noted that there is a view among a section of experts that schedule I is applicable only for capital assets.

Treatment of goods as discounts

Another contention which could be taken in case of business promotion goods distributed is to treat them as discounts. As the consideration can be in money or in kind, even the discount can be in kind in form of goods. An alternative argument can be made to state that goods distributed are in form of discounts and not gifts to deny the input tax credit.

Advance rulings on business promotion goods

Though the legal interpretations support credit eligibility, there are couple of advance rulings (Biostadt India Limited and Sanofi India Limited – Maharashtra advance ruling authority) wherein the argument as to eligibility was not bought by the authorities. The authorities have held that in absence of written contract and consideration, the goods distributed to customers to be treated as 'gifts' and credit not eligible.

Conclusion

Considering the overall objective of the introduction of GST, restriction of credit on free samples or gifts issued as part of business promotion is not being taken well among the business community. It is fact that promotion results in increase in business and in turn increase in GST revenue. Government needs to relook at such restrictions. Though advance rulings have restricted the credits, authors are of the opinion that as long as such distribution is not in the nature of 'gift', credit should not be denied.

Entities may also need to relook the business promotion schemes and consider the option of giving price discount (which may be resisted by distributors as issue of goods is traditional practice) highlighting the possible litigations in GST. Professionals need to be cautious while advising the clients on the credit eligibility and provide for alternative remedies to avoid litigations.

Authors can be reached on e-mail:
madhukar@hiregange.com or mahadev@hiregange.com

KSCAA proposes to own office with following criteria:
Space: 2000 to 4000 sq. ft. area within BBMP Limits, access to Metro Station with sufficient parking facility
Those interested can contact:
info@kscaa.com
Ph: 080-2955 2155

KSCAA is renting its office premises at # 7/8, 2nd Floor, Shoukath Building, S.J.P.Road, Bengaluru-560 002 with area of 780 sq.ft.
Those interested can contact:
info@kscaa.com
Ph: 080-2955 2155



SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME, 2019 - AN OPPORTUNITY TO EXTRICATE FROM LEGACY LITIGATIONS

CA G B Srikanth Acharya & CA Neha Agarwal

The Hon'ble Finance Minister Nirmala Sitaraman, proposed in her first budget, a Legacy Dispute Resolution Scheme (LDRS) as a one-time measure for liquidation of past disputes under Central Excise and Service Tax Acts. The bill has received President's assent and is notified to be operational from 1st September 2019 and will be true till 31st December 2019. The Scheme offers to grant relief from the disputes and litigations advanced from the erstwhile indirect taxes regime, in the form of immunities, including penalty, interest or any other proceedings, to eligible persons. It facilitates an eligible person to declare unpaid tax dues and pay the same in accordance with the provisions of this scheme.

The scheme has two main objectives- Dispute resolution and Amnesty.

The dispute resolution component focuses on liquidating the pending cases of Central Excise and Service Tax locked up in litigation at various forums.

The Amnesty component of the scheme offers eligible taxpayers, who have failed to discharge their tax dues, to declare and pay outstanding tax dues, and to be free from any other consequences thereof.

Relief under the scheme

The scheme provides relief to taxpayers under following circumstances:-

1	All the cases that are pending in adjudication or appeal (in any forum)
2	Cases under investigation and audit where the duty involved is qualified and communicated to the party or admitted by him in a statement on or before 30.06.2019
3	In case of confirmed duty demand, where there is no appeal pending
4	In case of voluntary disclosure of duty not paid

In situations 1 and 2 above, tax relief is to the extent of 70% of the duty involved if it is less than or equal to Rs. 50 lakhs and 50%, if it is more than Rs. 50 lakhs.

For **situation 3**, tax relief offered it to the extent of 60% of the confirmed duty amount if the same is equal to or less than

Rs. 50 lakhs and 40% if the confirmed duty is more than Rs. 50 lakhs.

In case of **situation 4**, voluntary disclosure and payment of unpaid tax, the amount disclosed has to be paid in full.

In all the four categories above, there is a **full waiver of interest and penalty**.

Referring to various clauses of Section 125 of the Finance Act, 2019, in our view, the treatment for a Show Cause Notice (SCN) and an appeal pending which have been finally heard within June 30, 2019 is not clearly established in the scheme.

Section 125 provides circumstances in which persons are not eligible to opt for the scheme, as follows:

- persons who have filed an appeal before the appellate forum and such appeal has been heard finally on or before the 30th June, 2019;
- persons who have been issued a SCN, under indirect tax enactment and the final hearing has taken place on or before the 30th day of June, 2019;
- persons who have been subjected to an enquiry or investigation or audit and the amount of duty involved in the said enquiry or investigation or audit has not been quantified on or before the 30th June, 2019;

In the above scenario, it is not very clear that in case of enquiry, investigation or audit, if the final hearing has taken place on or before 30th June, 2019 whether the person is eligible for the scheme, because it only specifies that in case of enquiry, investigation or audit, if the amount of duty involved is quantified on or before 30th June, 2019, the person will be eligible for the scheme.

Moreover, the provisions of the scheme applies to any SCN for penalty or late fee irrespective of the fact that it is under adjudication or appeal, even if the SCN that originally involved or duty demand in the said notice becomes nil, whether due to payment under the scheme or otherwise, is also covered under the scheme.

Cases outside the ambit of the scheme

The scheme is intended to cover a wide range of cases, except the below mentioned:

1. Cases in respect of goods that are still subject to levy of Central Excise
2. Cases for which the taxpayer/noticee has already been convicted in a court of law
3. Cases under adjudication or litigation where the final hearing has taken place on or before 30th June, 2019, even if the order is awaited
4. Cases of erroneous refunds
5. Cases which are pending before the settlement commission

Online Declaration

Being in the era of digitalization, the scheme is fully automated on the portal-www.cbic-gst.gov.in for online filing of declaration and communication of final decision. However, in practicality, when the taxpayers have already started using the portal, it not found to be very user friendly. As the online facility is already into operation from 1st Sept, 2019, proper guidelines in the form of user manual is expected.

Conclusion

The scheme seems to provide huge relief to the taxpayers.

Apparently, the fact that the taxpayers are benefited by the scheme can be determined on case to case basis. However, it can be said that taxpayers having small amounts under litigation can surely benefit from the scheme and free up their time consumed by these legacy litigations, to focus on other business opportunities.

The true intention of this scheme is to unblock the revenue which is stuck in legacy disputes and litigations, apart from closure of these litigations and allowing the businesses to move on. It is a win-win situation from both, the government and the taxpayer's point of view. The government would recover substantial amount of past tax dues without incurring any additional cost in a very limited time. It also substantially reduces the burden of work of that of following all such disputes before various platforms, like tribunal and courts, from lowest to the highest. On the other hand, the taxpayers can let go of the legacy disputes and be fully equipped to comply with and explore the opportunities and avenues in the Goods and Services Tax Law.

Authors can be reached on e-mail:
query@dnsconsulting.net

Congratulations



We Congratulate
CA. Lakshman Srinivasan
for passing Post Qualification
Course in Information Systems
Audit exam conducted
by the ICAI
at the age of 70.



Thank You

We thank
CA. V K Sudhakar Shetty
for contributing
Furniture & Fixtures
at nominal price to KSCAA.



SAVE CAPITAL GAINS TAX 54 EC - CAPITAL GAINS BONDS

We arrange for investments in capital gain bonds issued by:



NHAI

REC



IRFC

PFC



AAA RATED BONDS

Min: ₹ 10,000 | Max: ₹ 50,00,000 | Tenure: 5 years

Coupon Rate: 5.75%

Mutual fund investments are subject to Market risks, read all scheme related documents carefully.



ADITYA BIRLA
CAPITAL

SAVE TAXES U/S BOC AND CREATE WEALTH TOO !!!

Invest in ELSS SCHEME OF ADITYA BIRLA
SUNLIFE MUTUAL FUND

ADITYA BIRLA SUNLIFE TAX RELIEF '96 FUND

(An open ended equity linked savings scheme with
statutory lock in of 3 years and tax benefit)

KUMARASWAMY C.V

ANCAPS WEALTH MANAGEMENT, Bangalore

+91 9844128984

Advt.



COMPANIES AUDIT REPORT – MASTER TEMPLATE

CA. K. Gururaj Acharya

INDEPENDENT AUDITOR'S REPORT

To The Members of ABC Company Limited

Report on the Audit of the Financial Statements

Opinion

We have audited the Financial Statements of ABC Company Limited., (“the Company”), which comprise the Balance Sheet as at 31st March, 2019, the Statement of Profit and Loss, the **Cash Flow Statement** for the year then ended, and notes to the financial statement including a summary of the significant accounting policies and other explanatory information. *[in which are included the Returns for the year ended on that date audited by the branch auditors of the company's branches at (location of the branches)]*

In our opinion and to the best of our information and according to the explanations given to us, the aforesaid financial statements give the information required by the Companies Act (“The Act”) in the manner so required and give a true and fair view in conformity with the accounting principles generally accepted in India, of state of affairs of the Company as at March 2019 and Profit / loss and **its cashflows** for the year ended on that date.

Basis for Opinion

We conducted our audit in accordance with the Standards on Auditing (SAs) specified U/s. 143(10) of the Companies Act, 2013. Our responsibilities under those Standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are independent of the Company in accordance with the Code of Ethics issued by the Institute of Chartered Accountants of India together with the ethical requirements that are relevant to our audit of the financial statements under the provisions of the Act and the Rules thereunder, and we have fulfilled our other ethical responsibilities in accordance with these requirements and the Code of Ethics. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Material Uncertainty Related to Going Concern (include only if applicable)

The Company's net worth is negative and the borrowings from banks and financial institutions have been classified by the lenders as non-performing assets during the year. The next hearing of the consortium banks is expected to be in June 2019. We were informed that the Company is also in the process of identifying alternative business plans to improve the performance of the Company and to initiate a One Time Settlement (OTS) with the banks. Pending submission of the OTS/ other alternative

resolution plans, a decision is yet to be taken by the lenders regarding restructuring of the Company's borrowings.

The above factors cast a significant uncertainty on the Company's ability to continue as a going concern. Pending the resolution of the above uncertainties, the Company has prepared the aforesaid statement on a going concern basis

Emphasis of Matter

We draw attention to the following matters in the Notes to the financial statements:

- Note X to the financial statements which, describes the uncertainty related to the outcome of the lawsuit filed against the Company by XYZ Company.*
- Note Y in the financial statements which indicates that the Company has accumulated losses and its net worth has been fully / substantially eroded, the Company has incurred a net loss/net cash loss during the current and previous year(s) and, the Company's current liabilities exceeded its current assets as at the balance sheet date. These conditions, along with other matters set forth in Note Y, indicate the existence of a material uncertainty that may cast significant doubt about the Company's ability to continue as a going concern. However, the financial statements of the Company have been prepared on a going concern basis for the reasons stated in the said Note.*

Our Opinion is not modified in respect of these matters.

Key Audit Matters

(Mandatory for Listed Entities, for others depend on Auditor's Judgement)

Key audit matters are those matters that, in our professional judgment, were of most significance in our audit of the financial statements of the current period. These matters were addressed in the context of our audit of the financial statements as a whole, and in forming our opinion thereon, and we do not provide a separate opinion on these matters.

Reporting of key audit matters as per SA 701, Key Audit Matters are not applicable to the Company as it is an unlisted company

Information other than the financial statements and auditors' report thereon

From Illustration 1 of SA 720

[Where Director's report (any other information) is available before signing]

The Company's Board of Directors is responsible for the other information. The other information comprises the information

included in the Directors' Report, (any other) but does not include the financial statements and our auditor's report thereon. Our opinion on the financial statements does not cover the other information and we do not express any form of assurance conclusion thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact.

We have nothing to report in this regard.

From Illustration 4 of SA 720

[Where Other info Not available when signing]

The Company's Board of Directors is responsible for the other information. The other information comprises the information included in the Directors' report (any other), but does not include the financial statements and our auditor's report thereon. The Directors' report (any other) is expected to be made available to us after the date of this auditor's report.

Our opinion on the financial statements does not cover the other information and we will not express any form of assurance conclusion thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information identified above when it becomes available and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit, or otherwise appears to be materially misstated.

When we read the Directors' report (any other), if we conclude that there is a material misstatement therein, we are required to communicate the matter to those charged with governance ~~and (describe actions applicable in the applicable laws and regulations).~~

From Illustration 3 of SA 720

[Where Certain Other info available but additional information yet to be made available when signing]

The Company's Board of Directors is responsible for the other information. The other information comprises the information included in the Directors' report (any other), but does not include the financial statements and our auditor's report thereon, which we obtained prior to the date of this auditor's report, and the Y (For Ex: Management Report, Chairman's Statement) report, which is expected to be made available to us after that date.

Our opinion on the financial statements does not cover the other information and we do not and will not express any form of assurance conclusion thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information identified above and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit, or otherwise appears to be materially misstated.

If, based on the work we have performed on the other information that we obtained prior to the date of this auditor's report, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

[When we read the Y report, if we conclude that there is a material misstatement therein, we are required to communicate the matter to those charged with governance ~~and (describe actions applicable under the applicable laws and regulations)~~

Responsibilities of Management's and Those Charged with Governance for the Financial Statements.

The Company's Board of Directors is responsible for the matters stated in Section 134(5) of the Companies Act, 2013 ("the Act") with respect to the preparation of these financial statements that give a true and fair view of the financial position, financial performance **and cash flows** of the company in accordance with the accounting principles generally accepted in India, including the Accounting Standards specified under Section 133 of the Act, read with Rule 7 of the Companies (Accounts) Rule, 2014. This responsibility also includes maintenance of adequate accounting records in accordance with the provisions of the Act for safeguarding the assets of the Company and for preventing and detecting frauds and other irregularities; selection and application of appropriate accounting policies; making judgments and estimates that are reasonable and prudent; and design, implementation and maintenance of adequate internal financial controls, that were operating effectively for ensuring the accuracy and completeness of the accounting records, relevant to the preparation and presentation of the financial statements that give a true and fair view and are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Company's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Company or to cease operations, or has no realistic alternative but to do so.

Those Board of Directors are also responsible for overseeing the company's financial reporting process.

Auditor's Responsibility for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an

auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with SAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with SAs, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances. Under section 143(3) (i) of the Companies Act, 2013, we are also responsible for expressing our opinion on whether the company has adequate internal financial controls system in place and the operating effectiveness of such controls. [IF IFC Report not given instead of 2nd sentence state- "but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control."].
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Company's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Company to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

We also provide those charged with governance with a statement that we have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on our independence, and where applicable, related safeguards.

We also from the matters communicated with those charged with governance, we determine those matters that were of most significance in the audit of the financial statements of the current period and are therefore the key audit matters. We describe these matters in our auditor's report unless law or regulation precludes public disclosure about the matter or when, in extremely rare circumstances, we determine that a matter should not be communicated in our report because the adverse consequences of doing so would reasonably be expected to outweigh the public interest benefits of such communication. (Note: This point is to be given for audit of entities to which key audit matters are communicated as per SA 701)

Other Matter

We did not audit the financial statement / information of _____ (number) branches included in the financial statements of the Company whose financial statements / financial information reflect total asset of Rs. _____ as at 31st March, 2019 and total revenues of Rs. _____ for the year ended on that date, as considered in the financial statements. The financial statements / information of these branches has been audited by the branch auditors whose reports have been furnished to us, and our opinion in so far as it relates to the amounts and disclosures included in respect of these branches, is based solely on the report of such branch auditors.

Our opinion is not modified in respect of this matter.

Report on Other Legal and Regulatory Requirements

1. As required by the Companies (Auditor's Report) Order, 2016 ("the Order") issued by the Central Government of India in terms of sub-section (11) of section 143 of the Act, we give in the 'Annexure – A' a statement on the matters specified in paragraphs 3 and 4 of the Order, to the extent applicable.

OR

This report does not include a statement on the matters specified in paragraph 3 of the Companies (Auditor's Report) Order, 2016, issued by the Ministry of Corporate Affairs, in terms of section 143(11) of the Act, since in our opinion and according to the information and explanations given to us, the said Order is not applicable to the company.

2. As required by Section 143(3) of the Act, we report that:

- a. We have sought and obtained all the information and explanations which to the best of our knowledge and belief were necessary for the purposes of our audit.
- b. In our opinion, proper books of account as required by law have been kept by the Company so far as it appears from our examination of those books [and proper returns adequate for the purposes of our audit have been received from the branches not visited by us.]
- c. *[The reports on the accounts of the branch offices of the company audited under section 143(8) of the Act by branch auditors have been sent to us and have been properly dealt with by us in preparing this report.]*
- d. The Balance Sheet, the Statement of Profit and Loss, and the Cash Flow Statement dealt with by this Report are in agreement with the books of account *[and with the returns received from the branches not visited by us.]*
- e. In our opinion, the aforesaid financial statements comply with the Accounting Standards specified under Section 133 of the Act, read with Rule 7 of the Companies (Accounts) Rules, 2014.

Except for the effects of the matters described in the Basis for qualified Opinion paragraphs above, in our opinion, the aforesaid financial statements comply with the Accounting Standards specified under Section 133 of the Act, read with Rule 7 of the Companies (Accounts) Rules, 2014.

- f. On the basis of the written representations received from the directors as on 31st March, 2019 taken on record by the Board of Directors, none of the directors is disqualified as on 31st March, 2019 from being appointed as a director in terms of Sec. 164(2) of the Act.

On the basis of the written representations received from all the directors, except Mr. XXX, as on 31st March, 2019 taken on record by the Board of Directors, none of the directors, except Mr. XXX, is disqualified as on 31st March, 2019 from being appointed as a director in terms of Sec. 164(2) of the Act.

In the absence of the written representation from Mr. XXX, we are unable to comment whether he/she is disqualified from being appointed as directors under Section 164 (2) of the Act.

- g. *The qualification relating to the maintenance of accounts and other matters connected therewith are as stated in the Basis for Qualified Opinion paragraph above. (only for specific cases)*
- h. With respect to the adequacy of the Internal Financial Controls over financial reporting of the Company and the operating effectiveness of such controls, refer to our separate Report in 'Annexure - B' OR

Reporting on adequacy of Internal Financial Controls with reference to Financial Statements and the operating effectiveness of such controls under section 143(3) (i) is not applicable to the Company vide exemption Notification G.S.R.583(E) dated 13.06.2017.

- i. With respect to the other matters to be included in the Auditor's Report in accordance with Rule 11 of the Companies (Audit and Auditors) Rules, 2014, in our opinion and to the best of our information and according to the explanations given to us".

- i. The Company does not have any pending litigations which would impact its financial position

The Company has disclosed the impact of pending litigations on its financial position in its financial statements – Refer Note XX to the financial statements;

- ii. The company did not have any long-term contracts including derivative contracts for which there were any material foreseeable losses.

The Company has made provision, as required under the applicable law or accounting standards, for material foreseeable losses, if any, on long-term contracts including derivative contracts – Refer to Note XX to the financial statements;

The Company has made provision, as required under the applicable law or accounting standards, for material foreseeable losses, except for the matters specified in the Basis for Qualified Opinion paragraphs;

- iii. There were no amounts which were required to be transferred to the Investor Education and Protection Fund by the company.

There has been no delay in transferring amounts, required to be transferred, to the Investor Education and Protection Fund by the Company {or, following are the instances of delay in transferring amounts, required to be transferred, to the Investor Education and Protection Fund by the company

For M/s. _____ & Co.,
Chartered Accountants
FRN _____

Bangalore

Partner / Proprietor
M.No. _____

Author can be reached on e-mail:
acharya@kgacharya.com

Karnataka State Chartered Accountants Association®

organizes

Workshop on "Demystifying issues in 44AB,AD,AE & clause to clause analysis of form 3cd , 3ca & 3cb"

By **CA Naveen Khariwal**

On **Wednesday, 18th September, 2019**

Time : 4.30 pm to 7.30 pm

For Online
Registration Visit:
www.kscAA.com

Fee: **INR 400/-**
(Inclusive of GST)

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

Venue :

Sharadha Sabhangana

KLE Society's Nijalingappa College,
No.1040, 2nd Block, Rajajinagar, Bengaluru - 560 010

Please contact:

CA Praveen S Shettar

Chairman – Direct Tax Committee, KSCAA, +91 99726 05130

CA Siddartha Javali

Convener – Direct Tax Committee, KSCAA, +91 99006 00119

CA Chandrashekara Shetty
President

CA Chandan Kumar Hegde
Secretary

Karnataka State Chartered Accountants Association®

organizes

Workshop on "Demystifying issues in 44AB,AD,AE & clause to clause analysis of form 3cd , 3ca & 3cb"

By **CA Naveen Khariwal**

On **Thursday, 19th September, 2019**

Time : 4.30 pm to 7.30 pm

For Online
Registration Visit:
www.kscAA.com

Fee: **INR 400/-**
(Inclusive of GST)

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

Venue :

Vasavi Vidyanikethan Trust(VVN)

No. 03, Vani Vilas Road, VV Puram,
Basavagudi, Bengaluru- 560 004

Please contact:

CA Praveen S Shettar

Chairman – Direct Tax Committee, KSCAA, +91 99726 05130

CA Siddartha Javali

Convener – Direct Tax Committee, KSCAA, +91 99006 00119

CA Chandrashekara Shetty
President

CA Chandan Kumar Hegde
Secretary

Karnataka State Chartered Accountants Association®

Organizes under

Professional Development series

Workshop on "Proposed Changes in Audit Report Applicable to Charitable or Religious Trust or Institution"

By **CA Dr N Suresh**

On **Friday, 20th September 2019**

Time : 5.00 pm to 7.00 pm

For Online
Registration Visit:
www.kscAA.com

Fee: **INR 400/-**
(Inclusive of GST)

No Fees
Participants
Restricted to
40 Members

Venue :

No 67, 1st Floor, 2nd Stage, West of Chord Road,
Mahalaxmipuram, Below Rajaji Nagar Metro Station,
Bengaluru –560 086

Please contact:

CA Praveen S Shettar

Chairman – Direct Tax Committee, KSCAA, +91 99726 05130

CA Siddartha Javali

Convener – Direct Tax Committee, KSCAA, +91 99006 00119

CA Chandrashekara Shetty
President

CA Chandan Kumar Hegde
Secretary

KSCAA WELCOMES NEW MEMBERS - SEPTEMBER 2019

S.No.	Name	Place
1	Raviraj S. Shetty	Bengaluru
2	Rajesh Maniar	Bengaluru
3	Rekha Parekh	Bengaluru
4	Hemanth Kumar	Bengaluru
5	Sanjay R.	Chikkamangalur
6	Vijetha H	Bengaluru
7	Badrinath S	Bengaluru
8	Anusha A. Jain	Bengaluru
9	Raghavendra D.	Bengaluru
10	Prabhava P.Hegde	Bengaluru

Karnataka State Chartered Accountants Association ®
&
Department of Commerce, KLE Society's Lingaraj College, Belagavi (Autonomous)
Jointly Organizes

One Day Workshop on Goods & Services Tax (GST)

On **Monday, 16th September 2019**

by **CA Raghavendra T.N.**, Bengaluru

CA Shriram S.S., Sagar

CA Ganesh V. Shandage, Belagavi

Career Counselling Program - CA as Career Path

On **Monday, 16th September 2019**

by **CA Shivaprakash Viraktamath**, Bengaluru

Venue: **Lingaraj College**, Belagavi

CA Chandrashekara Shetty
President

CA Chandan Kumar Hegde
Secretary



KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION

Organises

SPORTS MEET 2019

FOR ICAI MEMBERS & FAMILY

DATE: **9th November 2019, Saturday**
at **BEL SPORTS GROUND, BENGALURU**

- ★ CRICKET - CAs
- ★ VOLLEY BALL - CAs
- ★ TUG OF WAR - CAs & Family
- ★ ATHLETICS - CAs & Family



CA Raghavendra Shetty
Mentor

CA Kishor Shetty
Convener
97390 77064

CA Sunil Bhandary
Chairman
98455 60319

CA Chandrashekara Shetty
President, KSCAA

CA Chandan Kumar Hegde
Secretary, KSCAA

CONTACT DETAILS

080-2955 2155 | info@kscaa.com
www.kscaa.com

Flood Relief Material - Distribution



Flood Relief Distribution at Belgavi District



Flood Relief Distribution at Chikkamageri, Bagalkot District by KSCAA and Bagalkot CA Association



Flood Relief Distribution at Gokak, Belgaum District



Flood Relief Distribution Near Terdal, Bagalkot District

KSCAA KARNATAKA FLOOD RELIEF FUND MONETARY CONTRIBUTIONS - Continued from previous issue

Name	Place	Amount	Name	Place	Amount
LKSS & Associates (Employees and Articles)	Bangalore	11,600	K Sudhakar Hegde	Bangalore	5,000
M V Reddy and Associates	Bangalore	10,116	Sowmya D N	Bangalore	5,000
Sumana A	Bangalore	10,000	Sujatha G - Atraiva Consulting Services	Bangalore	5,000
Mohan M.P.	Bangalore	10,000	Sanjay R Shetty	Bangalore	2,500
Chandarashkara Shetty	Bangalore	10,000	Vidhya	Bangalore	2,500
Chandan Kumar Hegde	Bangalore	10,000	Pradeep Poojari	Bangalore	2,500
Chandrasaha Kannadka	Bangalore	5,009	Sanjay D Shirguppe and Co	Belgaum	1,111
S N Ravindranath	Bangalore	5,001	Mohammed Yusuf	Bangalore	1,000
Aditya BN	Bangalore	5,001	Vaishali Desai	Bangalore	1,000

NON-MONETARY CONTRIBUTIONS - Continued from previous issue

Name	Place	Description
Chandrashekara Muchchandi	Bengaluru	Food items
LKSS and Associates (Employees and Articles)	Bengaluru	Clothes
Net Crackers	Bengaluru	Food items & Consmetics

**Inauguration of 'Elloquent Professionals'
- Leadership and Skill Development Initiative for 360° Development of CAs**



**Meeting with Chief Minister and Co-Operative Department Officials
to Request Extension of Due Dates for Co-operative Audits**



**Workshop on GST Annual Return and
Audit - Key Issues Concerning Auditors
and Possible Approach**

**Workshop on 'Proposed Changes in
Audit Report Applicable to Charitable or
Religious Trust or Institution'**



**Workshop on Sabka Vishwas
- Legacy Dispute Resolution Scheme 2019**





SUPPLIES INVOLVING FOREIGN CURRENCY – TAXABILITY IN GST REGIME

Adv. M.G. Kodandaram

IRS, Assistant Director (Retd), NACIN

Introduction

We are aware that the laws relating to GST system of taxation are in force in our country since two years. The primary intention of this effort is to bring simplification and transparency into the Indian indirect tax system, and thereby evolve ourselves into a progressive developed Nation. It is an important and revolutionary move towards rebuilding of ourselves into an economically and socially strong Nation that supports and facilitates the honest tax payers. As the system processes are governed using digital mode, it supports and encourages voluntary compliance by the registered person.

The use of foreign currency and the conversion of one country's currency into another are an important part of any business engaged in finance, banking, export and imports of goods and services. The value of any particular currency is determined by the market forces related to trade, investment and geo-political risk etc. In India, it is managed and monitored by Reserve Bank of India, through many registered Banks and dealers. The exchange rate is a key financial variable that affects the decisions made by foreign exchange investors, exporters, importers, bankers, businesses, financial institutions, policymakers and other users. Foreign exchange transactions can take place on the foreign exchange market, also known as the Forex Market, which is the largest and the most liquid market in the world. There are different types of exchange rates in practice for use by various authorities and for our purposes, under GST provisions, which one should be followed are being highlighted. In this article the taxability of supplies / transactions involving foreign currencies is brought together.

In the GST regime, one of the matter which eludes the general stake holder is the taxability of such supplies as there are other related provisions like customs act, RBI circulars etc., that have to be referred, to be in a position to analyse and understand the implications. Therefore, with a view to provide a common limited understanding of the issues relating to foreign exchanges, the following attempt is made. The article mainly deliberates on the tax matters of foreign currency issues such as -

- a) Foreign currency itself subjected to tax during exchanging into other currencies by financial institution during exchange services to consumers.
- b) The computation of the values for the purposes of levy or seeking refund etc., in transactions involving foreign currency.
- c) Foreign currency used as a mode of payment or receipt in supplies involving goods and services – the methodology to be adopted for determination of exchange rate.

Taxable event under GST

As per the Article 366 (12A) of the Constitution of India the GST has been defined as follows: “*goods and services tax*” means ‘any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption.’ Therefore the taxable event for levy of GST is “supply of goods, or services or both”. The expression “supply” includes-(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business [Section 7 of CGST Act, 2017]. The terms Goods has been defined [Section 2(52) of CGST Act, 2017] to mean every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply. Therefore, in GST era, money is out of the purview of goods.

The term services as defined in Section 2(102) of CGST Act reads as follows: “*services - means anything other than goods, money and securities, but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged*”. Therefore, the transactions in money, other than its conversion, are excluded both from the definition of goods and of services. The activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or

denomination for which a separate consideration is charged are to be treated as supply of services.

In GST laws “money” means ‘*the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India, when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value*’. [Section 2(75) of CGST Act].

From the above it is clear that the definition provided under the Service Tax law for services has been borrowed into the GST law, with an addition that the money includes any foreign currency also. Under the GST law, the Money would neither be goods nor services. However, there is no exemption given to activities relating to the use of money or its conversion.

Similarly the sale of ‘*any currency that is held for its numismatic value*’ by a collector of coins would be chargeable to tax. The numismatics [Collector’s choice] means a systematic accumulation and study of coins, which is one of the oldest hobbies in the world. The supplies involving such collected currencies, including that of ‘foreign currency’, are subjected to GST, not on the value printed on such collected coins/notes but on the ‘transaction value’ of such products as determined under section 15 of the CGST Act. Also these transactions are to be treated as supply of goods and not a supply of services, as the title in the tangible goods / an asset, having its own intrinsic value gets transferred against a consideration, based on the open market value of such supplies and not on the face value of such collections.

GST on purchase or sale of foreign currency

In view of the above legal position, the activity relating to exchange of foreign currencies into Indian currency or any other currency, and Indian currency into foreign currency are to be treated as supply of services under subheading **number 997157 as Foreign exchange services**. This service code includes foreign currency exchange services provided by bureau de change, etc. The Bank or financial institution charges a commission for the currency exchange service and the GST is also applicable on such supply of services at the rate of 18% [IGST rate] on the value of services as computed under section 15 of the CGST Act.

As per the section 15 of the CGST act, the value of taxable supply of goods and services shall ordinarily be ‘*the transaction value*’ which means, ‘*the price paid or payable, when the parties are not related and price is the sole*

consideration’. The Section further elaborates on the various inclusions and exclusions from the ambit of transaction value. In cases where the transaction value of the supply cannot be determined as above, the law mandates that the same should be determined in such manner as prescribed in the Rules. Further section 15(5) provides powers to fix the value on specified supplies, notified by the Government on the recommendations of the Council. In pursuance of the above legal delegation, the Valuation Rules have been prescribed [starting from Rule 27 to Rule 35 in Chapter IV] under Central Goods & Services Tax Rules, 2017 for the purposes of determining deemed transaction value under different circumstances.

Further in CGST Rule 32, the methods of determination of Value in respect of certain specific supplies have been prescribed. These provisions include the methods of fixing the value of supply of services in relation to the purchase or sale of foreign currency, including money changing. In the beginning of the said provisions [Rule 32(1)], it has been clearly indicated that the value in respect of supplies specified therein shall, at the option of the supplier, be determined in the manner provided therein. Now we will examine the method of value to be determined under the Rule 32(2) of Central Goods & Services Tax Rules, 2017.

Assessable Value for Foreign exchange services

As stated earlier the method of determination of value of supply of services in relation to the purchase or sale of foreign currency, including money changing, have been prescribed under rule 32(2) of the CGST Rules 2017. The relevant part of the Rule is as follows:

“*Rule 32 (2) The value of supply of services in relation to the purchase or sale of foreign currency, including money changing, shall be determined by the supplier of services in the following manner, namely:-*

Option (a):

(a) *for a currency, when exchanged from, or to, Indian Rupees, the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India reference rate for that currency at that time, multiplied by the total units of currency:*

Provided that in case where the Reserve Bank of India reference rate for a currency is not available, the value shall be one per cent. of the gross amount of Indian Rupees provided or received by the person changing the money:

Provided further that in case where neither of the currencies exchanged is Indian Rupees, the value shall be equal to one per cent of the lesser of the two amounts

the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by the Reserve Bank of India.

Provided also that a person supplying the services may exercise the option to ascertain the value in terms of clause (b) for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

Option (b):

- (b) *at the option of the supplier of services, the value in relation to the supply of foreign currency, including money changing, shall be deemed to be-*
- (i) *one per cent of the gross amount of currency exchanged for an amount up to one lakh rupees, subject to a minimum amount of two hundred and fifty rupees;*
 - (ii) *one thousand rupees and half of a per cent of the gross amount of currency exchanged for an amount exceeding one lakh rupees and up to ten lakh rupees; and*
 - (iii) *five thousand and five hundred rupees and one tenth of a per cent of the gross amount of currency exchanged for an amount exceeding ten lakh rupees, subject to a maximum amount of sixty thousand rupees.”*

From the above it is clear that there are two options available to a supplier to determine the value of supply of services in a transaction involving exchange of foreign currency, which for our discussion purposes, I term them **OPTION (a)** and **OPTION (b)**. The supplier of such services is free to opt for any of the above option cited. However it is further mandated that a person supplying the services may exercise the option to ascertain the value in terms of clause (b) for a financial year and such option shall not be withdrawn during the remaining part of that financial year. In other words, the supplier who opts for Option (b) cannot return to use option (a) in the same financial year. Therefore due care has to be exercised by such service suppliers while declaring their option. The above options and value and tax payable have been explained to the reader through examples for proper understanding of the provisions.

Option (a):

Case: 1

A company M/s Cook international Ltd, a money changer, converts 1000 Euro into rupees at @ Rs. 90 per Euro. The RBI reference rate for Euro is Rs.88. Find out the value and quantify the IGST payable on such supply.

Answer 1 - In this case the value of the supply shall be the difference in the buying rate or the selling rate, as the case

may be, and the RBI reference rate for that currency at that time, multiplied by the total units of currency. Therefore the value of supply shall be equal to: (Difference in buying rate and RBI reference rate) X Total Units of currency i.e., $(90 - 88) \times 1000 = \text{Rs. } 2000$. Therefore the value of supply to be adopted by the company is Rs. 2000 and the GST payable @18% on such value works out to Rs.360.

Case: 2

A company M/s prada Ltd, a money changer, converts 1000 Euro into rupees at @ Rs. 90 per Euro. Assuming that the RBI reference rate for Euro is not available at that time, Find out the value of supplies for payment of GST. Also quantify the IGST payable on such supply.

Answer 2 - In this case, as the Reserve Bank of India reference rate for the currency is not available, the value of the supply shall be one per cent of the gross amount of Indian Rupees. Therefore the value of supply shall be equal to 1% of Indian Rupees received i.e. $1\% \times (1000 \times 90) = \text{Rs. } 900$. Therefore the value of supply to be adopted by the company is Rs. 900 and the IGST payable @18% on such value works out to Rs.162.

Case: 3

A company M/s sheeba international Ltd, a money changer, converts 1000 Euro into 1300 USD. RBI reference rate for Euro is Rs.88. and that for USD is Rs. 68. Find out the value for the purpose of GST and quantify the IGST payable on such supply.

Answer 3 - In this case, as neither of the currencies exchanged is Indian Rupees, the value shall be equal to one per cent of the lesser of the two amounts the person changing the money would have received by converting into Indian Rupee on that day at the reference rate provided by the Reserve Bank of India. Therefore the value of supply shall be equal to 1% of the lesser of the (1000×88) and (1300×68) i.e., 1% of lesser of 88000 and 88400. The lowest among the above is 88000 and 1% on this works out to Rs. 880. Therefore the value to be adopted by the company is Rs. 880 and the IGST to payable @18% on such value works out to Rs.158.40.

Option (b)

Case: 4

In one of the transaction, the gross amount of currency exchanged is Rs. 50,000. Find out the IGST payable.

Answer 4 - As per Rule 32(b) (i), the value for the purposes of levy of IGST shall be, if the gross amount of currency exchanged for an amount up to one lakh rupees, is one per cent of the gross amount of currency exchanged subject to a

minimum amount of two hundred and fifty rupees. In this case the value of gross amount of currency exchanged is Rs 50,000, the deemed value chargeable to GST is Rs 500, [1% Rs 50,000] which is more than minimum value of Rs.250 prescribed. Therefore the IGST payable on value of Rs.500 [higher amongst the two] @18% is Rs.90.

Case: 5

In one of the transaction, the gross amount of currency exchanged is 10,000. Find out the IGST payable.

Answer 5: As per Rule 32(b) (i), the value for the purposes of levy of IGST shall be, if the gross amount of currency exchanged for an amount up to one lakh rupees, is one per cent of the gross amount of currency exchanged subject to a minimum amount of two hundred and fifty rupees. In this case the value of gross amount of currency exchanged is Rs 10,000, the deemed value chargeable to GST is Rs. 100 which is less than minimum value of Rs. 250 prescribed. Therefore the GST payable on the value Rs.250 [higher amongst the two] @18% will be Rs.45.

Case: 6

In one of the transaction, the gross amount of currency exchanged is Rs. 90,000. Find out the IGST payable.

Answer 6: As per Rule 32(b) (i), the value for the purposes of levy of IGST shall be, if the gross amount of currency exchanged for an amount up to one lakh rupees, is one per cent of the gross amount of currency exchanged subject to a minimum amount of two hundred and fifty rupees. In this case the value of gross amount of currency exchanged is Rs 90,000, the deemed value chargeable to GST is Rs 900/- which is more than minimum value of Rs.250 prescribed. Therefore the IGST payable on Rs.900 [higher amongst the two] @18% will be Rs.162.

Case: 7

In one of the transaction, the gross amount of currency exchanged is Rs. 5, 00,000. Find out the IGST payable.

Answer 7: As per Rule 32(b) (ii), the value for the purposes of levy of IGST shall be, if the gross amount of currency exchanged for an amount exceeding one lakh rupees and up to ten lakh rupees will be, for an amount up to one lakh rupees, one thousand rupees and half of a per cent of the gross amount of currency exchanged for an amount exceeding one lakh rupees and up to ten lakh rupees.

In this case the value of gross amount of currency exchanged is Rs 5,00,000, then the deemed value chargeable to GST will be Rs.1,000 + 0.5% of gross amount of currency exchanged in excess of Rs.1 lakh rupees and up to Rs.10 lakhs. As the value of currency exchanged is Rs 5 lakhs, the deemed value

for GST has to be computed as follows: (i) For first Rs 1 lakh, value is Rs 1,000/- and (ii) For remaining amount of Rs. 4 lakhs the deemed value will be 0.5% of Rs 4 lakhs i.e. Rs. 2,000. The total deemed value for GST will be Rs.3, 000 and the IGST payable is Rs. 540 [@18% on Rs 3,000].

Case: 8

In one of the transaction, the gross amount of currency exchanged is Rs. 9, 00,000. Find out the IGST payable.

Answer 8: As per Rule 32(b) (ii), the value for the purposes of levy of IGST shall be, if the gross amount of currency exchanged for an amount exceeding one lakh rupees and up to ten lakh rupees will be, for an amount up to one lakh rupees, one thousand rupees and half of a per cent of the gross amount of currency exchanged for an amount exceeding one lakh rupees and up to ten lakh rupees.

In this case the value of gross amount of currency exchanged is Rs. 9,00,000, then the deemed value chargeable to GST will be Rs.1,000 + 0.5% of gross amount of currency exchanged in excess of Rs.1 lakh rupees and up to Rs.10 lakhs. Therefore the deemed value for GST has to be computed as follows: (i) for first Rs 1 lakh, value is Rs. 1,000 and (ii) for remaining amount of Rs 8 lakhs the deemed value will be 0.5% of Rs 8 lakh i.e. Rs 4,000. The total deemed value for GST will be Rs.5, 000 and the IGST payable is Rs. 900.[@18% on Rs 5,000].

Case: 9

In one of the transaction, the gross amount of currency exchanged is 11, 00,000. Find out the IGST payable.

Answer 9: As per Rule 32(b) (iii), the value for the purposes of levy of IGST, if the gross amount of currency exchanged for an amount exceeding ten lakh rupees will be, five thousand and five hundred rupees and one tenth of a per cent of the gross amount of currency exchanged for an amount exceeding ten lakh rupees, subject to a maximum amount of sixty thousand rupees.

In this case the value of gross amount of currency exchanged is Rs 11,00,000, then the deemed value chargeable to GST will be Rs.5,500 + 1/10th of 1% of balance amount of Rs 1 lakhs., subject to a maximum amount of Rs. 60,000. Therefore the deemed value is (i) For first Rs 10 lakh, value is Rs. 5,500 and (ii) for remaining amount of Rs 1 lakhs deemed value is 1/10th of 1% of balance amount equals to Rs. 100. Therefore the total deemed value for GST is Rs.5, 600 [Rs.5, 500+100] and IGST payable is Rs 1,008[Rs.5, 600 @ 18%].

Case: 10

In one of the transaction, the gross amount of currency exchanged is Rs.80, 00,000. Find out the IGST payable.

Answer10: As per Rule 32(b) (iii), the value for the purposes of levy of IGST, if the gross amount of currency exchanged for an amount exceeding ten lakh rupees will be five thousand and five hundred rupees and one tenth of a per cent of the gross amount of currency exchanged for an amount exceeding ten lakh rupees, subject to a maximum amount of sixty thousand rupees.

In this case the value of gross amount of currency exchanged is Rs. 80,00,000, then the deemed value chargeable to GST will be Rs.5,500 + 1/10th of 1% of balance amount of Rs 70 lakhs, subject to a maximum amount of Rs. 60,000. Therefore the deemed value is (i) for first Rs. 10 lakh, value is Rs. 5,500/- and (ii) for the remaining amount of Rs. 70 lakhs deemed value is 1/10th of 1% of balance amount value is Rs.7000 for GST purposes. The total deemed value for GST is Rs12, 500 [Rs.5, 500+7,000] and IGST payable is Rs. 2,250 [Rs.12, 500 @ 18%].

Case: 11

In one of the transaction, the gross amount of currency exchanged is 200 lakhs. Find out the IGST payable.

Answer 11 - As per Rule 32(b) (iii), the value for the purposes of levy of IGST, if the gross amount of currency exchanged for an amount exceeding ten lakh rupees will be five thousand and five hundred rupees and one tenth of a per cent of the gross amount of currency exchanged for an amount exceeding ten lakh rupees, subject to a maximum amount of sixty thousand rupees.

In this case the value of gross amount of currency exchanged is Rs. 200 lakhs and the deemed value chargeable to GST will be Rs.5,500 for the first 10 lakhs plus 1/10th of 1% of balance amount of Rs 190 lakhs., subject to a maximum amount of Rs. 60,000. Therefore the deemed value is (i) for first Rs 10 lakh, value is Rs 5,500 and (ii) for the remaining amount of Rs 190 lakhs deemed value is 1/10th of 1% of balance amount value is Rs.19,000 has to be considered for GST purposes. Therefore the total deemed value for GST is Rs.24, 500 [Rs.5, 500+19,000] and IGST payable is Rs. 4,410 [Rs.24, 500 @ 18%].

Case: 12

In one of the transaction, the gross amount of currency exchanged is 3,000 lakhs. Find out the IGST payable.

Answer12: As per Rule 32(b) (iii), the value for the purposes of levy of IGST, if the gross amount of currency exchanged for an amount exceeding ten lakh rupees will be five thousand and five hundred rupees and one tenth of a per cent of the gross amount of currency exchanged for an amount exceeding ten lakh rupees, subject to a maximum amount of sixty thousand rupees.

In this case the value of gross amount of currency exchanged is Rs 2,000 lakhs, then the deemed value chargeable to GST will be Rs.5,500 for the first 10,00,000 + 1/10th of 1% of balance amount of Rs. 1,990lakhs, subject to a maximum amount of Rs. 60,000/-. Therefore the deemed value is (i) for first Rs 10 lakh, value is Rs. 5,500 and (ii) for remaining amount of Rs 1990 lakhs deemed value is 1/10th of 1% of balance amount ie Rs.1,99,000 has to be considered for GST purposes. Therefore the total deemed value for GST is Rs.2, 04,500 [Rs.5, 500+ Rs.19, 90,000/]. As this value is more than maximum amount of 60,000 prescribed under law, the IGST payable has to be 18% on the value of 60,000 which works out to Rs.10, 800.

The gist of the provisions relating option (b) can be expressed as follows for ease of understanding:

Sl No	Currency exchanged Gross amount	Value of Supply
1	Upto ₹1,00,000	1% of the Gross Amount of currency exchanged OR ₹250, whichever is higher [This works to be minimum tax of Rs 45. [18 % on Rs.250]
2	Exceeding ₹1,00,000 and upto ₹10,00,000	₹1,000 + 0.50% of the (gross amount of currency exchanged – ₹1,00,000)
3	Exceeding ₹10,00,000	₹5000 + 0.1% of the (gross amount of currency exchanged – ₹10,00,000) subject to maximum value of Rs.60,000. [This works to be maximum tax of Rs 45. [18 % on Rs. 10,800]

It is to be noted that the Services by way of: (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services); (b) inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers are exempted by virtue of Notification No. 12/2017-Central Tax (Rate) dated the 28th June, 2017 as amended [Sl no 27, Heading 9971].

Import and export of goods

For the import of goods, in the invoice from the supplier, the value of the transaction will normally be indicated in terms of foreign currencies and these need to be converted into Indian rupees before calculating the rate of customs duty

and other taxes including levy under GST laws. Similarly for the goods for export, the value as agreed upon may be in foreign currency, which needs to be converted into Indian rupees, for calculating export duties [if chargeable] or to extend benefits under GST laws and foreign trade policies. It is pertinent to mention here that the export goods, if subjected to export duty, no benefits under ITC will be accruing in respect of such exports. [Proviso to section 54(3)(ii) of CGST Act 2017].

As per section 7 and 8 of IGST act, import and export transactions in goods and services are deemed to be interstate transactions, and accordingly are subjected to Levy of IGST. As per section 5(1) of IGST Act 2017, *“there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person”*. This means that maximum IGST that could be recommended by GST council, in respect of interstate supplies of GST goods and services, on value determined under section 15 of the CGST act is 40%.

However in respect of goods imported, a proviso has been added which reads as, *“Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.”* From the plain reading of the above provision it is evident that in respect of import of goods, the value of the imported goods are to be determined as per the provisions of customs act 1962 for the imposition of IGST and GST compensation cess. The IGST and GST cess will have to be paid at the time of imports itself. The above provisions empower the Customs department to collect IGST and GST cess on goods imported in the manner prescribed under section 3 of the Customs Tariff Act, 1975.

In view of the changed circumstances, the customs tariff act was suitably amended by passing of the Taxation Laws (Amendment) Act, 2017. As per the amended laws, the Integrated Tax on the goods imported would be levied and collected as per Section 3(7) (section 4 of The Taxation Laws (Amendment) Act, 2017) of Customs Tariff Act, 1975. Such taxes are collected at the time of import, at the point when customs duties are levied under the provisions of

customs law on the value determined under customs Act. IGST would be payable on Transaction value plus Basic customs duty, and any other taxes payable. Similarly, GST Compensation Cess (‘GST Cess’) would be levied and collected under Section 3(9) of the Tariff Act (under section 8 of the GST (Compensation to States) Cess Act read with section 4 of The Taxation Laws (Amendment) Act, 2017). GST Cess would be payable on Transaction value plus basic customs duty, and any other taxes payable. It may be noted that the IGST would not be included for computing the value for charging compensation cess.

The Section 14 of customs act 1962 stipulates the method to be followed for determination of rate of exchange for the conversion of the foreign currency into Indian currency and the Indian currency into foreign currency and which will be applied to arrive at the value of imported and export goods respectively. At present such values are notified in respect of 22 foreign currencies by issue of regular notifications, which could be accessed from <http://www.cbic.gov.in/Exchange-Rate-Notifications>.

For the purpose of valuation of imported or export goods, “foreign currency” and “Indian currency” will have the same meanings assigned to them in section 2 (m) and section 2 (q) of Foreign Exchange Management Act, 1999. The relevant extract of the said section in customs act 1962 are as follows:

“Section 14. Valuation of goods. - (1) For the purposes of the Customs Tariff Act, 1975, or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf:

Provided also that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill of export, as the case may be, is presented under section 50.

Explanation. - For the purposes of this section - (a) “rate of exchange” means the rate of exchange - (i) determined by the Board, or (ii) ascertained in such manner as the Board may direct, for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;”

It must be further noted that the price paid or payable shall be calculated with reference to goods: (i) in respect of

imported goods, on the rate of exchange as in force on the date on which a Bill of Entry is presented under Section 46 of the customs act, and (ii) in respect of export of goods, on the rate of exchange as in force on the date on which a Shipping Bill or Bill of Export, is presented under Section 50 of the Customs Act, 1962. This is the relevant date for determination of the foreign exchange rate in respect of import and export of goods only and not in respect of the import and export of services as customs act do not cover transaction in services as discussed in further part.

The Entry No. 83 of List 1 to Schedule VII of the Constitution empowers the Union Government to legislate and collect duties on imports and exports. The Customs Act, 1962 vide Section 12, provides powers for the levy of duties on “goods imported into or exported from India.” The “GOODS” under Customs act has been defined to include “(a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property [Section 2 (22) of Customs Act]. It is important to record here that the said customs provisions are not available to import and export of services as the customs act deals with goods that are tangible and movable only. Please note that intangible goods are not taxable goods under customs Act.

This has been further emphasised in Rule 34 of CGST rules 2017. Under the said rule [rule34(1)], the rate of exchange for determination of value of taxable goods shall be the applicable rate of exchange as notified by the Board under section 14 of the Customs Act, 1962 for the date of time of supply of such goods in terms of section 12 of the Act.

Such notifications, in exercise of the powers conferred by section 14 of the Customs Act, 1962, by the Central Board of Indirect Taxes and Customs (CBIC) to determine the rate of exchange of conversion of each of the foreign currencies specified, are frequently issued. A recent notification issued viz., Notification No.63/2019 - Customs (N.T.) dated 5th September, 2019, in respect of foreign currencies - *Australian Dollar; Bahraini Dinar; Canadian Dollar; Chinese Yuan; Danish Kroner; EURO; Hong Kong Dollar; Kuwaiti Dinar; New Zealand Dollar; Norwegian Kroner; Pound Sterling; Qatari Riyal; Saudi Arabian Riyal; Singapore Dollar; South African Rand; Swedish Kroner; Swiss Franc; Turkish Lira; UAE Dirham; US Dollar; Japanese Yen; Korean Won*, can be accessed online in the CBIC port indicated above. This notification supersedes the notification of the CBIC No.60/2019-CUSTOMS (N.T.), dated 14th August, 2019 and will be effective from 6th September, 2019, for the purpose of the said section, relating to imported and export

goods. The Rate of exchange of one unit of foreign currency equivalent to Indian rupees both for Imported Goods and for Exported Goods are stipulated in the said notification.

The Customs law provisions including drawback, exemptions would equally apply to IGST and GST Cess also. Bill of entry will continue to be the valid document for taking credit of IGST and GST Cess paid on such imported goods. However, the credit of GST Cess credit can be utilised for payment of GST Cess only. There is no availability of credit of basic customs duties and related customs duties paid at the time of import, it may be noted. The above notifications contain the exchange rates to be considered for goods exported also and the same will be normally used to grant drawback under customs act, refund of IGST and GST compensation cess under GST Laws and awarding of the MEIS Scrips and incentives under foreign trade policy of DGFT.

Import and export of Services

In respect of transactions or supplies involving import or export of services, the rate of exchange of a foreign currency for determination of value of taxable services are also essential for seeking benefits under GST Laws and FTPs. For this purpose the customs notified exchange rates are not to be considered. As per rule 34(2) the “rate of exchange for determination of value of taxable services shall be the applicable rate of exchange determined as per the generally accepted accounting principles for the date of time of supply of such services in terms of section 13 of the Act.” Therefore for the purposes of services, the exchange as on the date of time of supply of services under section 13 should be adopted. These are normally covered under provisions made by RBI. The same can be accessed by visiting https://www.rbi.org.in/scripts/BS_ViewMasterCirculardetails.aspx.

The master circulars contain the directions issued by Reserve Bank under Foreign Exchange Management Act, 1999 on various matters relating to imports and exports. In this regards the following circulars may be referred for further information.

1. RBI Master Circular No.13/2015-16 dated July 01, 2015 on Import of Goods and Services.
2. RBI Master Circular No.14/2015-16 dated July 01, 2015 on Export of Goods and Services.

The topics for discussion can be extended in respect of foreign currencies that could be carried by a person travelling abroad, for investment etc., but looking into limited requirement for GST regime, the same is concluded.

*Author can be reached on e-mail:
mgkodandaram@gmail.com*



FINANCIAL REPORTING AND ASSURANCE

CA. Vinayak Pai V

1. CHANGES: *Monthly Roundup*

AS	<ul style="list-style-type: none"> Exposure Draft (AS for Local Bodies) <ul style="list-style-type: none"> ASLB 13 – Leases.
Ind AS	<ul style="list-style-type: none"> ICAI Exposure Draft <ul style="list-style-type: none"> Guidance Note on Division III to Schedule III to the Companies Act 2013 for NBFC that is required to comply with Ind AS. MCA Clarification vide General Circular No.09/2019 <ul style="list-style-type: none"> “Appointed Date” identified under a scheme (Section 232 (6)) shall also be deemed to be the “Acquisition Date” and “Date Of Transfer Of Control” for the purposes of conforming to Ind AS 103, Business Combinations.
IFRS	<ul style="list-style-type: none"> IFRS for SMEs <ul style="list-style-type: none"> Draft Q&A on Section 35, Transition to the IFRS for SMEs Issue - Application of the undue cost or effort exemption for Investment Property on transition to the IFRS for SMEs Standard. Phase II of Project on IBOR <ul style="list-style-type: none"> IASB has added Phase II to its project on potential financial reporting implications linked to Interest Rate Benchmark Reform.
Assurance	<ul style="list-style-type: none"> Exposure Drafts of Standards on Internal Audit (SIAs) <ul style="list-style-type: none"> SIA 350 – Review And Supervision Of Audit Engagements SIA 390 – Monitoring And Reporting Of Prior Audit Issues SIA 120 – Internal Controls. ICAI Implementation Guides <ul style="list-style-type: none"> SA 570 – Going Concern SA 720 – The Auditors Responsibilities Relating To Other Information.
Company Law/ SEBI	<ul style="list-style-type: none"> MCA Clarification under Section 232 (6) of Companies Act, 2013 dated August 21, 2019. SEBI Circular – Non-compliance with certain provisions of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018. MCA Notification <ul style="list-style-type: none"> Rules amending the Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Rules, 2016. Companies (Share Capital and Debentures) Amendment Rules, 2019 <ul style="list-style-type: none"> Shares with differential rights (DVR) Debenture Redemption Reserve (DRR).
RBI Notifications	<ul style="list-style-type: none"> Levy of foreclosure charges/pre-payment penalty on Floating Rate Term Loans. Levy of foreclosure charges/pre-payment penalty on Floating Rate Loans by NBFCs. Foreign Exchange Management (Deposit) Amendment Regulations, 2019 – Acceptance of Deposit by Issue of Commercial Papers. Processing of E-mandate on cards for recurring transactions.

US GAAP	<ul style="list-style-type: none"> FASB proposal to delay effective dates for private and certain public companies and organizations the following major USGAAP updates: <ul style="list-style-type: none"> Credit Losses: Measurement Of Credit Losses On Financial Instruments (ASU 2016-13) Derivatives and Hedging: Targeted Improvements To Accounting For Hedging Activities (ASU 2017-12) Leases (ASU 2016-02).
	<ul style="list-style-type: none"> FASB has proposed effective date delay <ul style="list-style-type: none"> For all Insurance Companies applying standard on Long-duration Contracts (ASU 2018-12).

2. GETTING UP TO SPEED: Disclosure of Accounting Policies – IFRS Exposure Draft

On August 1, 2019, the IASB issued an exposure draft “*Disclosure of Accounting Policies*” proposing amendments to **IAS 1, Presentation of Financial Statements** (Corresponding standard under Ind AS being Ind AS 1, *Presentation of Financial Statements*).

Extant requirements	<ul style="list-style-type: none"> An entity shall disclose its significant accounting policies comprising: <ul style="list-style-type: none"> a) the measurement basis (or bases) used in preparing the financial statements, and b) the other accounting policies used that are relevant to an understanding of the financial statements.
Proposed amendment	<ul style="list-style-type: none"> An entity shall disclose its material accounting policies. Information about an accounting policy is material if, when considered together with other information included in an entity’s financial statements, it can reasonably be expected to influence decisions that primary users of general purpose financial statements make on the basis of those financial statements.

The exposure draft also lists the circumstances in which an entity is likely to consider an accounting policy to be material to its financial statements.

3. CASE STUDY: Reporting On A Key Audit Matter (KAM) – Staff Costs Capitalized In Relation To Capital Projects

a) Background

There is significant accounting judgment involved in capitalization criteria for company X, where assets are acquired or developed in-house, in determining that the asset meets the criteria to be capitalized as either an intangible or tangible asset.

The auditors focused on this accounting area due to the size of the costs capitalized (**existence risk**) and management judgment involved in assessing whether the criteria set out in accounting standards for the capitalization of such costs had been met (**accuracy risk**). In particular the auditors focused on the capitalization of internal staff costs in order to confirm that costs capitalized were a fair reflection of actual costs incurred and the associated time was spent of projects, which met the criteria to be capitalized.

b) How The Audit Addressed The KAM

- The auditors **gained an understanding** through **walkthroughs performed and discussion** with management of the **process in place** for evaluating capital approval for staff time capitalized in relation to capital projects.
- The auditors **tested management’s operational control** in relation to capital funding request forms that evidences that the capitalization criteria had been considered and are appropriately authorized **for the purpose of placing reliance** on such controls for the purpose of the audit.
- The auditors testing approach covered capitalization of employee time for internal staff and external contractors and of **obtaining an understanding of various selected capitalized projects, and tested time charged back** to timesheet data and **independently assessed whether sufficient economic benefits were likely to flow** from the projects to support the values capitalized.

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

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

a) *Transition Impact on Total Comprehensive Income*

Fair valuation of investments subsequently measured under FVTPL and FVTOCI	Increase of 16.5%
Fair Valuation of ESOPs	Decrease of 0.9%

b) *Impact drivers*

<i>Ind AS</i>	<i>In-scope line items</i>	<i>Impact drivers</i>
Ind AS 109, Financial Instruments	<ul style="list-style-type: none"> Government and Trust Securities Fixed Maturity Plans (FMPs) Mutual Funds 	<ul style="list-style-type: none"> Under AS, these investments were classified as long-term investments or current investments. Long-term investments were carried at cost less provision for other than temporary decline in the value of such investments. Current investments were carried at lower of cost and fair value. Under Ind AS, these investments are required to be measured at fair value. The resulting fair value changes of these investments have been recognized in retained earnings (net of deferred taxes) as at the date of transition and subsequently in Profit and Loss or OCI depending upon the subsequent measurement category for the investments.
Ind AS 102, Share Based Payment	<ul style="list-style-type: none"> Employee Stock Option Plans 	<ul style="list-style-type: none"> Under AS, the company had an accounting policy choice to measure ESOPs either at fair value or intrinsic value. The company had measured them at intrinsic value. Under Ind AS, the ESOPs qualify as equity settled and are mandatorily required to be measured at the grant date fair value. The resulting fair value has been recognised in retained earnings (net of deferred taxes) as at the date of transition and subsequently in Profit and Loss.

5. FIN ST EXTRACTS: *New Ind AS Leases standard*

Extracts from a financial statement for the year ended **March 31, 2019**:

The entity plans to adopt Ind AS 116, *Leases* retrospectively with the cumulative effect of initially applying the standard recognized at the date of initial application i.e. **Apr 1, 2019**. As lessee, the impact of Ind AS 116 adoption is **expected** to be, as follows:

Impact on the Balance Sheet as at April 1, 2019		<i>(Rs.crore)</i>
<ul style="list-style-type: none"> Increase in non-current assets (Right of Use Assets) 		4,222
<ul style="list-style-type: none"> Decrease in prepaid rentals 		(1939)
<ul style="list-style-type: none"> Increase in lease obligations 		2,284
Impact on the Statement of Profit and Loss (Rs.crore)		
<ul style="list-style-type: none"> Increase in depreciation and amortization expense 		322
<ul style="list-style-type: none"> Decrease in other expenses 		(420)
<ul style="list-style-type: none"> Increase in operating profit 		98
<ul style="list-style-type: none"> Increase in finance costs 		(198)
<ul style="list-style-type: none"> Decrease in profit before taxes 		(100)

6. BACK TO BASICS: Reversal of Impairment Losses (Ind-AS)

The accounting guidance for **reversal of impairment losses** (other than related to financial assets) is contained in Ind AS 36, *Impairment of Assets*, the salient aspects of which are summarized herein below.

- At the **end of each reporting period**, an entity assesses whether events or changes in circumstances indicate that an impairment loss recognized in an earlier period in respect of a non-financial asset (other than goodwill) or an investment accounted for using the equity method could be reversed.
- If the above is the case and the **recoverable amount** as determined based on the revised estimates **exceeds the carrying amount** of the asset (or cash-generating unit), the entity reverses the impairment loss **only to the extent** of the carrying amount that would have been determined had no impairment loss been recognized for the asset.
- Reversals of impairment loss in respect of non-financial assets are **recognized in the Statement of Profit and Loss**, while reversals of impairment losses in respect of investments accounted for using the equity method are recognized in the Statement of Profit and Loss within the line item “share of profits of investments accounted for using the equity method”.
- **Impairment losses of goodwill are never reversed**, unless the goodwill is part of the carrying amount of an investment accounted for using the equity method of accounting.

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



Income Tax Savings Schemes

<div style="background-color: #333; color: white; padding: 5px; text-align: center; font-weight: bold;">54EC</div> <h3 style="margin: 5px 0;">Capital Gains Bonds</h3> <p>AAA rated 5 year Lock in 5.75% Annual Interest payable on June 30th. Min : ₹ 10,000/- Max : ₹ 50,00,000/-</p> <p><small>आर ई सी REC</small></p>	<div style="background-color: #333; color: white; padding: 5px; text-align: center; font-weight: bold;">80C</div> <h3 style="margin: 5px 0;">Save Money & Save Tax</h3> <p>Invest in 3 years ELSS Equity Linked Saving Scheme ELSS - 3 Yr Lock in Save up to ₹ 1.5 Lakh</p>	<div style="background-color: #333; color: white; padding: 5px; text-align: center; font-weight: bold;">80CCD 1(B)</div> <h3 style="margin: 5px 0;">Invest in National Pension Scheme (NPS)</h3> <p>Save up to ₹ 50 K Get an additional Tax benefit of ₹ 50 K pa.</p>
--	---	---

For further information / clarifications, please feel free to contact us:

 **Kiran Boal: 98803 93743**
  **080 2226 4742**
  **wecare@wealthlab.co.in**

Achieve your Financial Goals with proper Financial Planning

 Tax Savings	 Wealth Protection	 Wealth Creation	 Life / Health Insurance
 Home Plan	 Marriage Plan	 Retirement Plan	 Children's Education

Advt.

KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION®

ACCOUNTING, CORPORATE AND ALLIED LAWS COMMITTEE

2019-20



CA. Niranjan Prabhu
Mentor



CA. Akash U Hegde
Chairman



CA. Santhosh Raj S
Convener



CA. Deepabali Das
Member



CA. Sini Thomas
Member



CA. Naveen S Hegde
Member



CA. Vijetha H
Member

SPORTS & CULTURAL COMMITTEE

2019-20



CA. Raghavendra Shetty
Mentor



CA. Sunil Bhandary
Chairman



CA. Kishor Shetty
Convener



CA. Rajesh S Prasad
Member



CA. Nagaraj S
Member



CA. Manjunath M Hallur
Member



CA. Sachin Vijapur
Member



CA. Varun Gore
Member



RuppeeBoss
Loan Genie



**YOUR
ONE-STOP
DESTINATION FOR
THE WIDEST RANGE
OF LOAN PRODUCTS**



**FOR ANY QUESTION ASK OUR LOAN GENIE,
THE FIRST AI VIDEO BOT PRESENTED
BY RUPEEBOSS.COM.
TO GET THE ASSISTANCE FROM LOAN GENIE,
DOWNLOAD MYJIO APP &
GO TO JIO INTERACT SECTION**



Home Loan from
10 Lacs to 25 Crores



Loan Against Property
from 10 Lacs to 25 Crores



SME Loans from
10 Lacs to 75 Crores



Fresh Car Loan/
Used Car Loan/
Car Refinance



Unsecured Business/
Personal Loan
from 10 Lacs to 7 Crores



Commercial Purchase
& LRD from
20 Lacs to 50 Crores



Balance Transfer of Loan
at Lower than Existing Rate
& Top Up

WHAT'S MORE

- Lowest Interest Rates & Easy EMI Schemes from 60+ Financial Institutions
- Instant Approvals & Quick Loan Disbursal
- Free Personalized Loan Audit to Reduce Rates through Balance Transfer
- Currently Present in 25+ Cities Pan-India and Expanding
- Ability to Offer Multi-Financier/ Multi-Funding Options
- Minimal Documentation & Paperwork
- Assistance in Improving your Credit Score

OUR PARTNERS IN ACHIEVING YOUR DREAMS



and more..

**Competitive Rate of Interest and 50% Waiver in
PF Specially for Chartered Accountants.**

RuppeeBoss Financial Services Pvt. Ltd

Call on: 7353618170 / or Email on: sathish.shetty@rupeeboss.com

CHARIOT

ANTARCTIC EXPEDITIONS

in partnership with National Geographic Expeditions

Once in a lifetime opportunity to visit the bottom of the planet



Emblematic Antarctica 24th Feb 2020 |
14 Days & 13 Nights with 3 nights in Buenos Aires



1800 102 7707 | 9900003225

www.chariotworldtours.com

Adv.