

# KSCAA

Karnataka State Chartered Accountants Association ®

## NEWS BULLETIN

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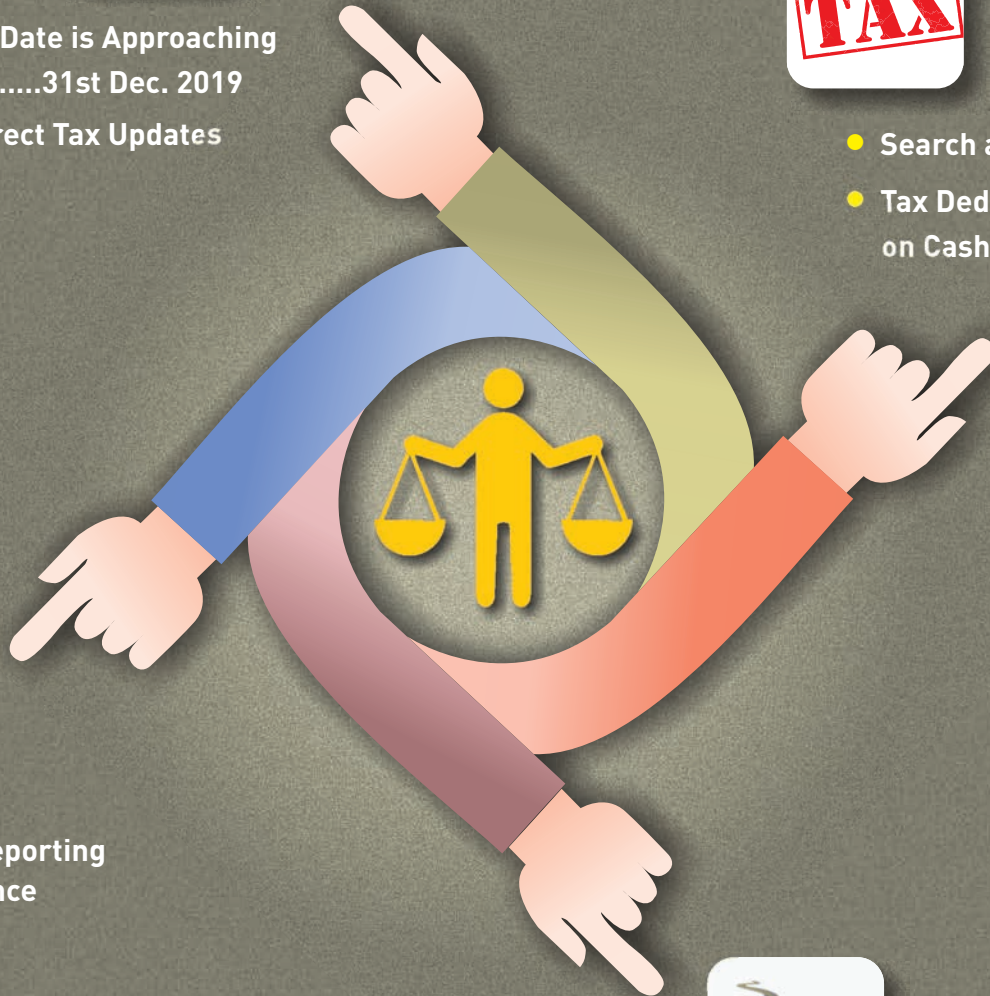
- Due Date is Approaching  
.....31st Dec. 2019
- Indirect Tax Updates



- Search and Seizure
- Tax Deduction at Source  
on Cash Withdrawal



- Updates on  
Financial Reporting  
and Assurance



- Integrity  
- As a Way of Life

## 32<sup>nd</sup> KSCAA Annual Conference

6<sup>th</sup> & 7<sup>th</sup> March 2020  
Friday & Saturday



**Dear Professional friends,**

**Merry Christmas and Happy new year members!**

**Wishes for the new year is not an indication of plain year spent by us but for the virtues and learning we have acquired during the times of this year. It probably is symbolic to**

wrap up lot of learning, consciously decide to aspire high and develop the faculty which would be accessory to success. So it is that part of the year which requires us to reveal to ourself the goals met and unmet, to conspire and turn those unmet.

**KSCAA is conceptualizing its State Level Conference to be held on 6<sup>th</sup> and 7<sup>th</sup> of March 2020 in Bengaluru and is chalking topics and speakers for the event. Members are requested to pass on the suggestion of topics which can be of interest to the profession at large. ICAI in its recent announcement has clarified that members cannot be associated with any form of network other than those approved by ICAI, it is in the members interest to exercise caution and stay away from such network.**

**ICAI has impleaded in the case of KSCAA, preferring a Special Leave petition in Supreme Court against amendment allowing CWA/CMA to conduct financial audit of Co-Operative Society. Court has taken cognisance and is yet hear the contention and objection in the case.**

### **News Roundup**

#### **Goods and Service Tax**

**Recognizing practical difficulties being faced by professionals, trade and industry in submission of Annual Return (GSTR-9) and Reconciliation Statement (GSTR-9C), the Government has finally simplified these forms to make the process of submission of data in these forms much more simpler and relevant. The new versions of these forms have been released for use. Furthermore, the Government has also decided to extend the due dates of filing these forms for FY 17-18 to 31<sup>st</sup> December 2019 and FY 18-19 to 31st March 2020. With these changes and extension of due dates, it can be expected that all GST taxpayers would be able to file their Annual Returns along with Reconciliation Statement for FY 17-18 and 18-19 in time.**

#### **Corporate and Business Law**

**The Company Law Committee, constituted by the Ministry of Corporate Affairs (MCA) vide order dated 18.09.2019, has submitted the first phase report to the Union Finance & Corporate Affairs Minister Smt. Nirmala Sitharaman on 18<sup>th</sup> November, 2019, proposing amendments in the Companies Act, 2013 for further**

**decriminalising the offences under the said Act and to facilitate ease of doing business and ease of living.**

**The main recommendations of the Committee with regard to decriminalization of compoundable offences are as under:**

- a) **Re-categorising 23 offences out of the 66 remaining compoundable offences under the Act, to be dealt with in the in-house adjudication framework wherein these defaults would be subject to a penalty levied by an adjudicating officer.**
- b) **Omitting, altogether, 7 compoundable offences; limiting punishment for 11 compoundable offences to only fine by removing provision for imprisonment and recommending that 5 offences be dealt under alternative frameworks;**
- c) **Reducing the quantum of penalties in respect of certain provisions, which were shifted to the in-house adjudication framework through the recently passed Companies (Amendment) Act, 2019;**
- d) **Retention of status-quo in case of the non-compoundable offences.**

#### **Income Tax**

**Lok Sabha passed Taxation Law Amendment Bill 2019 on the 2nd of December 2019 to give effect to reduction in Corporate Tax.**

**Recently CBDT has notified that any sum deducted under section 194M shall be paid to the credit of the Central Government within a period of thirty days from the end of the month in which the deduction is made and shall be accompanied by a challan-cum-statement in Form No. 26QD.**

#### **Conclusion**

**A great German Philosopher, Mr. Immanuel Kant once said "In law a man is guilty when he violates the rights of others. In ethics he is guilty if he only thinks of doing so". The Word ethics stand at the heart of our profession. And our profession has to its credit, some of the highest order of codified ethical requirement and whilst we may perceive that ethics and law to be the same, general temptation of its meaning is understandable, the Juxtaposition is equally interesting to read and moralise. I request members to dwell on this more and understand the changing requirement of 'ethics' and 'law'.**

**My Wishes to you all for a great learning and enriching experience.**

**Yours Sincerely,**

**CA. Chandrashekara Shetty,**

**President**



# KSCAA

## News Bulletin

December 2019

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#### Disclaimer

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## KSCAA Office shifted to New Premises at below address:

.....

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# SEARCH AND SEIZURE – THE INCOME TAX ACT, 1961

## EVIDENTIARY VALUE OF STATEMENT ON OATH, AND LOOSE PAPERS FOUND

CA. S. Krishnaswamy

- Warrant of authorization is person-specific and not location specific.
- Statement made on oath as evidentiary value and can be retracted only on strict proof.  
- if it was extracted by coercion or without any Supporting materials.
- Mere entries in loose papers/sheets are inadmissible as evidence-SC.

In my last article (November 2019), I dealt with the conditions for issue of a Search and Seizure warrant under section 132 of Income tax Act, 1961.

1. A search under the section is person-specific and not location -specific. Rebutting an argument that it is location-specific, Gujarat High Court in the case of **Zinzuwadia and Sons vs. DCIT (2019) 419 ITR 169 (Guj)** held-

“Under section 132(1) of the Income Tax Act 1961, the warrant of authorization is person-specific and states the places where search is required to be conducted qua such person. Such search may be at the office premises, residential premises or even at the premises of a third person, depending on where the competent authority has reason to suspect that books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept. On a bare reading of Rule 112 of the Income Tax Rules, 1962 as a whole, there is nothing therein to indicate that search is location-specific. The address at which search could be conducted would be the place or location, where books of account, documents, jewellery, unaccounted assets, etc., could be located or found.”

2. The section lays down the powers of the Authorized officer, one such power is to examine an oath;

The authorized officer may, during the course of the search or seizure, examine on oath any person who is

found to be in possession or control of any books of account, documents, money, bullion, jewellery or other valuable article or thing and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act.

*Explanation.*—For the removal of doubts, it is hereby declared that the examination of any person under this sub-section may be not merely in respect of any books of account, other documents or assets found as a result of the search, but also in respect of all matters relevant for the purposes of any investigation connected with any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act.

The Explanation appended to clause (4) also makes it clear that such examination can be in respect of any matters relevant for the purpose of any investigation and need not be confined to matters pertaining to the material found as a result of the search. A plain reading of section 132(4) would clearly show that what was intended by empowering an officer conducting the search to take a statement on oath was to record evidence as contemplated in any adjudication especially since section 131 confers on all officers empowered therein with the same powers as vested in a Court under the Code of Criminal Procedures, 1973, for the purpose of the Income tax Act. (**Bannalal Jat Constructions Pvt. Ltd. V. ACIT [2019] 418 ITR 291 (Raj)**)

- 2.1. The question of retraction of any statement made has been considered in a number of judicial decisions. This must be distinguished from a statement made during the survey which does not provide for a statement on oath.

- 2.2. The Allahabad High court in **Dr.S.C.Gupta v. CIT (supra)** in para 7 of the report, held as under (page 784 of 248 ITR) cited in above case

“As regards the assessee’s contention that the statement having been retracted the assessing

officer should have independently come to a conclusion that there was an additional income as sought to be assessed and that there was no material to support that there was such income, this contention in our view is not correct. As held by the Supreme Court in ***Pullangode rubber produce Co. Ltd v. State of Kerala***[1973] 91 ITR 18(SC) an admission is an extremely important piece of evidence though it is not conclusive. Therefore, a statement made voluntarily by the assessee could form the basis of assessment. The mere fact that assessee retracted the statement could not make the statement unacceptable. The burden lay on the assessee to establish that the admission made in the statement at the time of survey was wrong and in fact there was no additional income”.

- In the case of ***Bannalaljat Constructions Pvt. Ltd. V. ACIT***[2019] 418 ITR 291(Raj) it was held-

“The reliability, importance and sanctity of admission made during search could be refuted only by cogent and convincing evidence. We may in this connection refer to earliest judgment of the Supreme Court in *Pullangode rubber produce Co. Ltd*(supra) wherein it was held that admission is an extremely important piece of evidence but it cannot be said that it is conclusive. It is open to the person, who made admission to show that it is incorrect. The assessee should be given proper opportunity to show the correct state of affairs. The law with regard to this has developed much thereafter. There is no gainsay the fact that the admission during the search can be disputed by the assessee and at the same time however it is equally well settled that the statement made voluntarily by the assessee could form the basis of assessment. Mere fact that the assessee retracted the statement at later point of time could not make the statement unacceptable. The burden lay on the assessee to show that the admission made by him in the statement earlier at the same time of survey was wrong. Such retraction however, should be supported by a strong evidence stating that earlier statement was recorded under duress and coercion, and this has to have certain definite evidence to come to the conclusion that indicating that there was an element of compulsion for the assessee to make such statement. However, a bald assertion to this effect at much belated stage cannot be accepted”.

### 2.3. In the case of ***R. Bhoopathy v. CIT***[2019] 418 ITR 591(Mad) it was held-

“We cannot sustain such an addition merely on the basis of the alleged admission made by the assessee in the statements such an addition could not have been made, as we do not find any incriminating confession made by the assessee in the said statements recorded under section 132(4) of the Act. Such an admission on the part of the assessee would require a corroborative evidence to support such an addition and, therefore, such an unsupported, vague and non-specific admission cannot result in a sustainable addition in the declared income, attracting imposition of tax thereon.”

### 3. Loose papers-Presumption [S.132(4A)]:

Sub-section(4A) of Sec. 132 deals with one of the issues which frequently comes up in search cases is the evidentiary value of issue of loose papers found at the time of search. The department usually considers these such entries found reflect the income or expenditure of the person named therein, and based on such entries, unexplained income (cash credit ) or unexplained expenditure/investment is pinned down on such person and adverse influences drawn

The SC dealt with this issue at great length in ***Interlocutory Application Nos. 3 and 4 of 2017 in Writ Petition (Civil) No. 505 of 2015 in the case of Common Cause (A Registered Society) and Others vs Union of India & Others***. It is worth repeating the relevant paragraphs of this classic decision of the Apex Court analyzing the issues relating to loose papers- pages and required relevance of evidence.

#### **Facts-Aditya Birla Group:**

“It is averred that, Central Bureau of Investigation (in short 'the C.B.I.')

conducted raid on the premises of Aditya Birla group industries in four cities on 15.10.2013, followed by another raid by the Income Tax Department on the very next day. The raid by the C.B.I. reportedly led to recovery of incriminating documents and unaccounted cash amounting to Rs.25crores. It is submitted that C.B.I. transferred the incriminating documents to the Income Tax Department. The laptop of Mr. Shubhendu Amitabh, Group Executive President was seized during the raid. An E-mail dated 16.11.2012 containing a cryptic entry was also recovered from the said laptop

referring to political functionaries. When Mr. Amitabh was questioned about the transactions, he stated that these were purely personal notes. Not meant for SMS or e-mail transmission. And the first note is only to note for my knowledge and consumption a business development at Gujarat Alkali Chemicals it does not relate to any political functionary. During investigation, top officials of the Birla Group admitted that large amounts of cash were routed by the Group through hawala. The Income Tax Department prepared a detailed appraisal report on the Hawala transactions. The CBI has not taken any concrete action. The CBI is trying to protect the influential personalities named in the documents seized and is shielding powerful corporate entities. It has been alleged that Respondent No.2 has also tried to shield the offenders.

#### **Facts-Sahara Group:**

“4. With respect to Sahara Group, it is averred that the Income Tax Department raided Sahara India Group offices in Delhi and Noida on 22.11.2014. During the raid, incriminating documents and cash amounting to Rs.135 crores had been seized. Certain documents have been filed in the form of printouts of the Excel sheet showing cash receipt of over Rs.115 crores and cash outflow of over Rs.113 crores during a short period of 10 months. The random log suggests that cash was transferred to several important public figures. Copies of the random pages have been filed as Annexure A-8. Details have been given as to Birla Group that cash of Rs.25 crores was not accounted for in the regular books of accounts of Aditya-Birla Group or another company and it is also stated that Mr. Anand Saxena told the Income Tax Department that he was responsible for handling the cash transactions and he had received cash from Mr. Jaluram in the range of Rs.50,00,000/- (rupees fifty lacs only). Mr. Jaluram is the Angadia, courier of local Hawala operators. However, it was stated that he was not aware about the payment made to anyone and he could not say to whom the unaccounted money had been paid. E- mails dated 2.1.2013, 7.4.2013 and 3.5.2013 have been placed on record”.

#### **Random Sheets and loose papers:**

“8. It is averred that evidence of certain highly incriminating money transactions was also found in the laptop of Mr. Shubhendu Amitabh. An E- mail dated 16.11.2012 containing a cryptic entry, has been recovered which in fact does not relate to Gujarat Alkali

Chemicals but to a political functionary and that this fact ought to have been ascertained. The documents which have been filed by the Birla as well as Sahara Group are not in the form of account books maintained in regular course of business. They are random sheets and loose papers and their correctness and authenticity, even for the purpose of income mentioned therein have been found to be un-reliable having no evidentiary value, by the concerned authorities of income tax. The documents of Birla Group are also the same. They are not in the form of regular books of account and are random and stray materials and thus the case of Birla also stands on the same footing.”

#### **Precedent-SC Case:**

“14. Placing implicit reliance of the decision of this Court in C.B.I. versus V.C. Shukla (supra), it was submitted that it is open to any unscrupulous person to make any entry any time against anybody's name unilaterally on any sheet of paper or computer excel sheet. There being no further corroborative material with respect to the payment, no case is made out so as to direct an investigation, and that too against large number of persons named in the documents. Such entries have been held to be prima facie not even admissible in V.C. Shukla's case. He urged that in case investigation is ordered on the basis of such documents, it would be very dangerous and no constitutional functionary/officer can function independently, as per the constitutional imperatives. No case is made out on the basis of material which is not cognizable in law, to direct investigation.”

#### **Entries in loose sheets irrelevant:**

“16. With respect to the kind of materials which have been placed on record, this Court in V.C. Shukla's case (supra) has dealt with the matter though at the stage of discharge when investigation had been completed but same is relevant for the purpose of decision of this case also. This Court has considered the entries in Jain Hawala diaries, note books and file containing loose sheets of papers not in the form of Books of Accounts and has held that such entries in loose papers/sheets are irrelevant and not admissible under Section 34 of the Evidence Act, and that only where the entries are in the books of accounts regularly kept, depending on the nature of occupation, that those are admissible”.

“17. It has further been laid down in V.C. Shukla (Supra) as to the value of entries in the books of account, that such statement shall not alone be sufficient evidence to



charge any person with liability, even if they are relevant and admissible, and that they are only corroborative evidence. It has been held even then independent evidence is necessary as to trustworthiness of those entries which is a requirement to fasten the liability.”

18. This Court has further laid down in V.C. Shukla (Supra) that meaning of account book would be spiral note book/pad but not loose sheets. The following extract being relevant is quoted herein below-

**Evidence Act-Section 34:**

14. In setting aside the order of the trial court, the High Court accepted the contention of the respondents that the documents were not admissible in evidence under Section 34 with the following words:

"An account presupposes the existence of two persons such as a seller and a purchaser, creditor and debtor. Admittedly, the alleged diaries in the present case are not records of the entries arising out of a contract. They do not contain the debits and credits. They can at the most be described as a memorandum kept by a person for his own benefit which will enable him to look into the same whenever the need arises to do so for his future purpose. Admittedly the said diaries were not being maintained on day-to-day basis in the course of business. There is no mention of the dates on which the alleged payments were made. In fact the entries there in are on monthly basis. Even the names of the persons whom the alleged payments were made do not find a mention in full. They have been shown in abbreviated form. Only certain 'letters' have been written against their names which are within the knowledge of only the scribe of the said diaries as to what they stand for and whom they refer to."

**Books of accounts-Meaning:**

The Court further explained the meaning of book of account regularly kept in the course of business and stated –

“It is thus seen that while the first part of the section speaks of the relevancy of the entry as evidence, the second part speaks, in a negative way, of its evidentiary value for charging a person with a liability. It will, therefore, be necessary for us to first ascertain whether the entries in the documents, with which we are concerned, fulfill the requirements of the above section so as to be admissible in evidence

and if this question is answered in the affirmative then only its probative value need be assessed.”

19. With respect to evidentiary value of regular account book, this Court has laid down in V.C. Shukla, thus;

37. In Beni v. Bisan Dayal it was observed that entries in books of account are not by themselves sufficient to charge any person with liability, the reason being that a man cannot be allowed to make evidence for himself by what he chooses to write in his own books behind the back of the parties. There must be independent evidence of the transaction to which the entries relate and in absence of such evidence no relief can be given to the party who relies upon such entries to support his claim against another. In Hira Lal v. Ram Rakha the High Court, while negating a contention that it having been proved that the books of account were regularly kept in the ordinary course of business and that, therefore, all entries therein should be considered to be relevant and to have been proved, said that the rule as laid down in Section 34 of the Act that entries in the books of account regularly kept in the course of business are relevant whenever they refer to a matter in which the Court has to enquire was subject to the salient proviso that such entries shall not alone be sufficient evidence to charge any person with liability. It is not, therefore, enough merely to prove that the books have been regularly kept in the course of business and the entries therein are correct. It is further incumbent upon the person relying upon those entries to prove that they were in accordance with facts.”

**Not admissible evidence:**

“20. It is apparent from the aforesaid discussion that loose sheets of papers are wholly irrelevant as evidence being not admissible under Section 34 so as to constitute evidence with respect to the transactions mentioned therein being of no evidentiary value. The entire prosecution based upon such entries which led to the investigation was quashed by this Court. We have apprehension whether it would be safe to even initiate investigation. In case we do so, the investigation can be ordered as against any person whose high integrity on the basis of irrelevant or inadmissible entry falsely made, by any unscrupulous person or business house that too not kept in regular books of accounts

but on random papers at any given point of time. There has to be some relevant and admissible evidence and some cogent reason, which is prima facie reliable and that too, supported by some other circumstances pointing out that the particular third person against whom the allegations have been levelled was in fact involved in the matter or he has done some act during that period, which may have co-relations with the random entries. In case we do not insist for all these, the process of law can be abused against all and sundry very easily to achieve ulterior goals and then no democracy can survive in case investigations are lightly set in motion against important constitutional functionaries on the basis of fictitious entries, in absence of cogent and admissible material on record, lest liberty of an individual be compromised unnecessarily. We find the materials which have been placed on record either in the case of Birla or in the case of Sahara are not maintained in regular course of business and thus lack in required reliability to be made the foundation of a police investigation.

27. Considering the aforesaid principles which have been laid down, we are of the opinion that the materials in question are not good enough to constitute offences to direct the registration of F.I.R. and investigation therein. The materials should qualify the test as per the aforesaid

decision. The complaint should not be improbable and must show sufficient ground and commission of offence on the basis of which registration of a case can be ordered. The materials in question are not only irrelevant but are also legally inadmissible under Section 34 of the Evidence Act, more so with respect to third parties and considering the explanation which have been made by the Birla Group and Sahara Group, we are of the opinion that it would not be legally justified, safe, just and proper to direct investigation, keeping in view principles laid down in the cases of Bhajan Lal and V.C. Shukla (supra).”

○ **Conclusion:**

The authorized authority invariably examines on oath the person concerned to pin down the person to the incriminating material found at the time of search and extract a confession. A person therefore should show utmost vigilance in making a statement which has high evidentiary value and will be used against him in assessment proceedings. It is better to disown any details regarding entries on loose papers and papers which have no evidentiary value per se.

Author can be reached on e-mail:  
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## DUE DATE IS APPROACHING .....31ST DECEMBER 2019

CA. Annapurna D Kabra

### 1) Sabkha Vishwas (Legacy Dispute Resolution) Scheme 2019

- The scheme shall become effective from 1<sup>st</sup> September 2019 and **will end on 31.12.2019**.
- The objective of the scheme is to reduce the huge outstanding litigation and free the taxpayers from the burden of litigation and investigation under the legacy taxes.
- This scheme is one-time measure for liquidating of past disputes of central excise and service tax.
- This scheme is also an opportunity for non-compliance taxpayers.
- The **eligible persons** are those persons to whom the SCN is issued for demand of duty/tax, penalty/late fee or whose appeals are pending/where in cases of investigation or audit or enquiry the duty has been quantified and communicated before 30.6.2019 or where such declarant makes voluntary disclosure.
- If an audit, enquiry or investigation has started, and the amount of duty/duty payable has **not been quantified** on or before 30th June 2019, the person shall not be eligible to opt for the Scheme under the enquiry or Investigation or audit category.
- In cases of voluntary disclosure, where any material particular furnished in the declaration is subsequently found to be false, within a period of one year of issue of the discharge certificate, it shall be presumed as if the declaration was never made and proceedings under the applicable indirect tax enactment shall be instituted. The system automatically disallows persons who are not eligible from filing a declaration.
- Any amount paid as **Pre-deposit** at any stage of appellate proceedings under the indirect tax enactment or as deposit during enquiry, investigation or audit, shall be adjusted while issuing the statement indicating the amount payable by the applicant.
- There is total **waiver** of Interest and penalty and there is immunity from prosecution. The applicant shall not

be liable to pay any further duty/tax, interest, or penalty with respect to the matter and time period covered in the declaration.

- In case Show Cause Notice is issued and ***the final hearing has taken place on or before 30.06.2019*** then he may not file the declaration under litigation category but can file in arrear category subject to the condition that order has attained finality and should file an undertaking stating that there is no further appeal in the matter. If any SCN issued, whether main or periodical and where the final hearing has not taken place on or before 30.06.2019 then such person is eligible under the Scheme for a declaration under the litigation category.
- In case ***Adjudication order*** determining the duty/tax liability is passed and received prior to 30.06.2019, but the appeal is filed on or after 01.07.2019 then in that case he may not file the declaration under litigation category but can file in arrear category subject to the condition that order has attained finality and should file an undertaking stating that there is no further appeal in the matter.
- In case the persons filed an appeal before ***the Appellate Authority [Commissioner (Appeals) /CESTAT]*** and such appeal has been heard finally on or before the 30th day of June 2019, then in that case he may not file the declaration under litigation category but can file in arrear category subject to the condition that order has attained finality and should file an undertaking stating that there is no further appeal in the matter. Deemed withdrawal will be applicable for departmental appeals.
- In case of a Writ petition or appeal or reference ***before any High Court or the Supreme Court***, the declarant shall file an application before such High Court or the Supreme Court for withdrawing the writ petition, appeal or reference and after its withdrawal with the leave of the Court, he shall furnish proof of such withdrawal to the Designated Committee.

- If cases are pending in adjudication or appeal, a relief of 70% from the duty/tax demand if it is Rs. 50 lakhs or less and of 50%, if it is more than Rs. 50 lakhs. The same relief is available for cases under enquiry, investigation and audit where the duty involved is quantified on or before 30.06.2019. In case of an amount in arrears, the relief is 60% of the confirmed duty/tax amount if the same is Rs. 50 lakhs or less and it is 40% in other cases. In case of voluntary disclosure, the applicant has to pay full amount of disclosed duty. The declarant cannot take Input tax credit/Refund for any amount paid under the Scheme.
- The taxpayers can apply for this scheme from <https://cbic-gst.gov.in>. The Registered taxpayers can directly fill part B of **SVLDRS Form-1**. The Unregistered Taxpayers can register by filling Part-A of **SVLDRS Form -1**. After the application filed, SVLDRS-2 will be issued in case the authority doesn't agree with the amount estimated by taxpayer/system generated. The Form SVLDRS 2A shall be issued if the taxpayers do not agree with SVLDRS-2 and adjournment of Personal hearing. The **SVLDRS-3** in case the authority agree with the amount estimated by taxpayer/system generated. The declarant shall pay electronically within 30 days of the amount as stated. Thereafter the designated committee shall issue SVLDRS 4 accordingly.

## ii) GST Annual Return and Audit Report

The Annual Return GSTR-9/ 9A and Reconciliation Statement (GSTR-9C) for the financial year 2017-18 to be furnished on or before the **31st December 2019**. The Registered person whose aggregate turnover in a financial year does not exceed Rs. 2 crores may at their option file Form GSTR 9/GSTR 9A.

The taxpayer has the option to self-ascertain such tax amount and pay it through Form GST DRC-03. Therefore, if registered taxpayer during course of reconciliation of accounts notices any short payment of taxes or ineligible availment of input tax credit then it can be paid through Form GST DRC-03.

It is mandatory to file all FORM GSTR-1 and FORM GSTR-3B for the financial year for which the return is being filed for before filing Annual Return for 2017-2018, the details for the period between July 2017 to March 2018 are to be provided in this Return.

The followings are the amendments as stated in Notification 56/2019 dated 14/11/2019 for filing GSTR 9 and GSTR 9C.

## Annual Return- Form GSTR 9

Table	Description	Amendments
4B to 4E	Outward taxable supply	Option to show net of credit notes, debit notes and amendments
5D, 5E and 5F	No tax cases	Option to report all in exempt supplies
5H,5I, 5J & 5K	Outward non-taxable supply	Option to show Net of Credit Notes, Debit Notes and Amendments
6A to 6E	ITC break up	Option to report in inputs row only
6C and 6D	ITC on RCM	Option to report from registered person
7A to 7E	Reversal of ITC	Option to report the entire amount of reversal in Table 7H only.
7F	Trans-1	Mandatorily Reported
7G	Trans-2	Mandatorily Reported
8A to 8D	2A break up	Option to not report and upload a signed PDF in (Form GSTR 9C without CA Certification)
12 and 13	Amendments in ITC	Optional
15A to 15D	Refund	Optional
15E to 15G	Demands	Optional
16A	Supply received from composition taxpayers	Optional
16B	Deemed supplies (job work)	Optional
16C	Deemed supplies (sale on approval)	Optional
17 and 18	HSN details	Optional

## Form GST 9C- Audit Report

Table	Description	Amendments
<b>Part B</b>	Certification	True and fair
<b>5B to 5N</b>	Turnover adjustments	Optional to report everything in 5O
<b>12B</b>	ITC booked in earlier FY but claimed in current FY	Optional
<b>12C</b>	ITC booked in current FY to be claimed in subsequent FY	Optional
<b>14</b>	Expense wise ITC Reconciliation	Optional

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## INDIRECT TAX UPDATES

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



### Circulars:

**1. Circular No.127/46/2019-GST dt. 4.12.2019:-  
Withdrawal of circular issued in 18.07.2019 on the  
aspects relating to ITES services:**

Vide Circular No. 107/26/2019-GST dated 18.07.2019 certain clarifications were issued in relation to various doubts related to supply of Information Technology enabled Services (ITeS services) under GST.

Vide circular dated 4.12.2019, the Board clarifies that numerous representations were received expressing apprehensions on the implications of the said Circular and in view of these apprehensions and to ensure uniformity in the implementation of the provisions of the law across field formations, the said clarifications dated 18.7.2019 are withdrawn *ab initio*.

**2. Circular No. 126/45/2019-GST dt. 22.11.2019-  
clarification on the issue of rate of tax applicable  
on manufacturing services**

Rate of tax on manufacturing services/ job work was amended w.e.f. 1.10.2019 vide Notification No. 20/2019-Central Tax (Rate) dt. 30.09.2019. The said notification contains two residual entries [i.e. entry 26(id) and (iv)]. On this issue, it is clarified that Entry at item 26 (id) covers only job work services as defined in section 2 (68) of CGST Act, 2017, that is, services by way of treatment or processing undertaken by a person on goods belonging **to another registered person**. On the other hand, the entry at item (iv) covers the job-work undertaken for unregistered persons.

**3. Circular No. 124/43/2019 - GST dt. 18.11.2019 -  
filing of annual returns:**

On the aspect of optional filing annual returns by persons whose turnover is below Rs. 2 crores, in terms of notification No. 47/2019-Central Tax dated 9th October, 2019, the following clarifications have been issued:

- a) Registered person opting to pay tax under section 10 (composition scheme) and whose turnover has

not exceeded Rs. 2 crores, has an option to file annual return in Form 9A. In case such person wish to file 9A, the same shall be filed within due date. However, after the due date, portal would not allow such filing.

- b) Every other registered person, other than an input service distributor, whose turnover has not exceeded Rs. 2 crores, has an option to file annual return in Form 9A. In case such person wish to file 9A, the same shall be filed within due date. However, after the due date, the portal would not allow such filing.
- c) Further it is clarified that if any registered tax payer, during course of reconciliation of his accounts, notices any short payment of tax or ineligible availment of input tax credit, he may pay the same through FORM GST DRC-03.

### Removal of difficulty orders:

**1. Order No. 09/2019-Central Tax dt. 3<sup>rd</sup> December 2019:**

On account of non constitution of Goods and Services Tax Appellate Tribunal and Benches, in terms of section 109 of Central Goods and Service Tax Act, 2017, the said order has been issued to clarify that the three month time limit for filing the appeal by the party or sixth month time limit for the purpose of filing appeal by the department shall be computed as below:

The start of the three months / six month period shall be considered to be the later of the following dates:-

- (i) date of communication of order; or  
(ii) the date on which the President or the State President, as the case may be, of the Appellate Tribunal after its constitution under section 109, enters office.

Therefore, effectively, the time limit for computation of 3 months or 6 months shall begin from the date on which the President or State President assumes office.



## Important decisions under GST laws:

### 1. **Adfert Technologies Pvt Ltd Vs Union of India And Ors 2019-TIOL-2519-HC-P&H-GST:**

On the issue of filing of GST TRAN-1 or rectification of already filed GST TRAN-1 the High Court held that introduction of Rule 117(1A) & Rule 120A and absence of any time period prescribed under Section 140 of the Act indicates that there is no intention of government to deny carry forward of unutilized credit of duty/tax already paid on the ground of time limit. The Court held that unutilized credit arising on account of duty/tax paid under erstwhile Acts is vested right which cannot be taken away on procedural or technical grounds. Based on the above observations and also placing reliance on the decision of the High Court of Gujarat in the Siddharth Enterprises- 2019-TIOL-2068-HC-AHM-GST and High Court of Delhi in the case of Krish Automotors Pvt. Ltd. Vs UOI and others - 2019-TIOL-2153-HC-DEL-GST, directed the GST authorities to accept the GST TRAN-1 either electronically or manually on or before 30<sup>th</sup> November 2019.

### 2. **Sutherland Global Services Pvt Ltd Vs. Assistant commissioner CGST and Others, 2019-TIOL-2516-HC-MAD-GST**

On the issue of admissibility of transition of Education cess, Secondary and Higher Education cess and Krishi Kalyan cess in terms of Section 140 of the CGST Act, 2017, the Court held that there is no bar on transiting the said cess. The Court observed that accumulated credit cannot be said to have been wiped out unless there is a specific order under which it lapses. Though there may be embargos placed by the Statutes and Rules, such as the embargo against cross –utilisation placed by Rule 3(7)(b) of the CCR, the accumulated credit continue in the books of the assessee till specifically wiped out.

On the basis of the above observation, the Court held that accumulated credit of Education cess, Secondary and Higher Education Cess and Krishi Kalyan Cess could be transited.

### 3. **Akhil Krishan Maggu Vs Deputy Director, 2019-TIOL-2615-HC-P&H-GST :**

On the issue of arrest of assessee during investigation, the court observed that it is consistent opinion of courts that power of arrest should be resorted in exceptional circumstances and with full circumspection. The maximum sentence prescribed under GST is 5 years and it is directly linked with quantum of evasion of tax. Prosecution of any person is directly linked with determination of evasion of tax because if there is no evasion of tax, there cannot be criminal liability. The determination of tax liability does not fall within realm of criminal courts whereas liability of tax and penalty is determined by adjudicating authority under GST Act which is subject to challenge before Tribunal and Courts. To record statement under CGST Act, 2017 summons are served and if any person complies with summons, the mandate of Section 41 and 41A of Criminal Procedure Code should be taken care of.

The Court further held that the opinion expressed by Telangana High Court in the case of .V. Ramana Reddy v. Union of India 2019 (25) G.S.T.L. 185 (Telangana) cannot be made applicable to each and every case and cannot be treated an authority to conclude that DGGI has power to arrest in every case during investigation and that too without determination of tax evaded as well finding that accused has committed an offence described under Section 132 of the CGST Act, 2017.

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**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](mailto:info@kscaa.com), Ph: 080-2955 2155**



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# KSCAA Outdoor Sports Meet at BEL Ground - 24th November 2019





# KSCAA Outdoor Sports Meet at BEL Ground - 24th November 2019





# KSCAA Outdoor Sports Meet at BEL Ground - 24th November 2019







# FINANCIAL REPORTING AND ASSURANCE

CA. Vinayak Pai V

## 1. CHANGES: Monthly Roundup<sup>1</sup>

<b>Ind AS</b>	<ul style="list-style-type: none"> <li>ICAI <b>Guidance Note</b> <ul style="list-style-type: none"> <li>Guidance Note on <b>Division III – Schedule III</b> to the Companies Act, 2013 for <b>NBFC</b> that is required to comply with Ind AS.</li> </ul> </li> </ul>
<b>IFRS</b>	<ul style="list-style-type: none"> <li>IFRS Foundation's <b>Guide</b> <ul style="list-style-type: none"> <li>Guide To <b>Selecting And Applying Accounting Policies – IAS 8</b>.</li> </ul> </li> </ul>
<b>Assurance</b>	<ul style="list-style-type: none"> <li>ICAI <b>Exposure Draft</b> <ul style="list-style-type: none"> <li>ICAI <b>Code of Ethics</b>, 2019 Volume II (Existing Part – B of <i>Code of Ethics</i>, 2009).</li> </ul> </li> <li>ICAI <b>Report on Audit Quality Review 2018-19</b>.</li> <li>MCA General Circular No. 4/2019 dated November 27, 2019 <ul style="list-style-type: none"> <li><b>Extension</b> of last date of <b>filing Form NFRA-2</b> <ul style="list-style-type: none"> <li>Time limit for filing will be 90 days from the date of deployment of Form on website of NFRA.</li> </ul> </li> </ul> </li> </ul>
<b>Company Law/ SEBI</b>	<ul style="list-style-type: none"> <li>SEBI Circular dated November 21, 2019 <ul style="list-style-type: none"> <li><b>Disclosure</b> by Listed Entities of <b>defaults</b> on payment of interest/repayment of principal amount on loans from <b>Banks/Financial Institutions</b> and <b>Unlisted Debt Securities</b>.</li> </ul> </li> </ul>
	<ul style="list-style-type: none"> <li>MCA Notification dated November 18, 2019 <ul style="list-style-type: none"> <li>Companies (<b>Meetings of Board and its Powers</b>), Second Amendment Rules, 2019 - <i>Contract or Arrangement with a Related Party</i>.</li> </ul> </li> </ul>
<b>RBI Notifications</b>	<ul style="list-style-type: none"> <li><b>Liquidity Risk Management Framework</b> For NBFCs and Core Investment Companies.</li> </ul>
	<ul style="list-style-type: none"> <li><b>Qualifying Assets Criteria</b> – Review Of Limits.</li> </ul>
	<ul style="list-style-type: none"> <li><b>Withdrawal Of Exemptions</b> Granted To Housing Finance Institutions.</li> </ul>
	<ul style="list-style-type: none"> <li><b>Foreign Exchange Management (Deposit)</b> Third Amendment Regulations, 2019.</li> </ul>
<b>US GAAP</b>	<ul style="list-style-type: none"> <li><b>Accounting Standards Update</b> No. 2019-08 amending <b>Topic 718</b> (<i>Compensation – Stock Compensation</i>) and <b>Topic 606</b> (<i>Revenue From Contracts With Customers</i>) <ul style="list-style-type: none"> <li>Codification Improvements – <b>Share-based Consideration Payable To A Customer</b>.</li> </ul> </li> <li><b>Accounting Standards Update</b> No. 2019-11 amending Topic 326 (<i>Financial Instruments – Credit Losses</i>) <ul style="list-style-type: none"> <li>Narrow Scope Improvements to <b>Credit Losses Standard</b>.</li> </ul> </li> </ul>
	<ul style="list-style-type: none"> <li><b>Exposure Draft</b> proposing amendment to <b>Topic 815</b> (<i>Derivatives and Hedging</i>) <ul style="list-style-type: none"> <li>Codification improvements to <b>Hedge Accounting</b>.</li> </ul> </li> </ul>

<sup>1</sup>Updates for the period Nov 1 to Nov 30, 2019

## 2. GETTING UP TO SPEED: *Selecting and Applying Accounting Policies – IFRS*

The International Accounting Standards Board (IASB) released a **Guide to Selecting and Applying Accounting Policies – IAS 8** in November 2019. It provides guidance on **selecting and applying accounting policies** for **transactions** where **an IFRS standard does not specifically apply**.



Salient aspects of the same are summarized herein below.

- a. With respect to a transaction for which a specific IFRS does not apply but to which one or more **other IFRS standards deals with similar/related issues**, then the entity should refer to those requirements in developing an accounting policy **rather than** to the definitions, recognition criteria and measurement concepts laid down in the **Conceptual Framework**.
- b. In developing accounting policies based on (a) above, preparers should use judgment in **applying all aspects of the standard** applicable to the issue including **disclosure requirements**.
- c. For transactions with **several issues** to consider in developing an accounting policy and to which one or more IFRS standards may deal with some of similar/ related issues and not for other issues, preparers might need to refer to requirements in IFRS standard for some issues and to concepts in the Conceptual Framework for other issues.

It may be noted that the Guide is relevant to **Ind AS** stakeholders too.

### 3. CASE STUDY: *Reporting On A Key Audit Matter (KAM) – Credit and Performance Risk*

#### **Background:**

Company A is exposed to credit and performance risk arising from its global production and marketing operations, particularly in markets demonstrating significant price volatility with limited liquidity. Such risk is heightened in times of increased price volatility, where suppliers may be incentivized to default on delivery and customers may be unwilling to take the deliveries or are unable to pay.

The auditors identified this as a key audit matter in view of the significance of the matter and considering the quantum of total advances and loans and trade receivables classified as financial assets.

#### **How the scope of the audit responded to the KAM:**

- The auditors **assessed the design and implementation** of internal controls relevant to the company's centralized and local credit and performance risk monitoring procedures.
- The auditors **challenged the management's assessment** of the recoverability of aged and overdue receivables, loans and advances payments with delayed or overdue deliveries, considering historical patterns of trading and settlement as well as recent communications with the counterparties and other post balance sheet data evidence.
- The auditors **challenged the valuation** of significant fixed price positions across the company at year-end, with particular focus on commodities demonstrating high price volatility during the reporting period, where the risk of non-performance is higher.

### 4. AMENDMENT UPDATE: *Definition of Business – IFRS 3*

The IASB issued amendments in October 2018 to IFRS 3- *Business Combinations* in connection with clarification of business definition that helps in determining **whether an acquisition** made is of a **business or a group of assets**.

The amendment, effective for annual reporting periods beginning on or after **January 1, 2020** has **added a test** that makes it easier to conclude that a company has acquired a group of assets, rather than a business, **if the value of the assets acquired** is substantially all **concentrated in a single asset** or group of similar assets.

### 5. FIN ST EXTRACTS: *Defined Benefit Plans – Risk Exposure*

Extracts from published financial statements of a listed company from the notes to financial statements (Ind AS – Defined Benefit Plans – Risk Exposure) is provided herein below.

*“Through its defined benefit plans, the Company is exposed to a number of risks, the most significant of which are detailed below:*

#### **Asset volatility:**

*The plan liabilities are calculated using a discount rate set with reference to bond yields; if plan assets underperform this yield, this will create a deficit. Most of the plan asset investments are in fixed income securities with high grades and in government securities. These are subject to interest rate risk and the fund manages interest rate risk with derivatives to minimize risk to an acceptable level. A portion of the funds is invested in equity securities and in alternative investments*

that have low correlation with equity securities. The equity securities are expected to earn a return in excess of the discount rate and contribute to plan deficit. The company has a risk management strategy where the aggregate amount of risk exposure on a portfolio level is maintained at a fixed range. Any deviations from the range are corrected by rebalancing the portfolio.

#### **Changes in bond yields:**

A decrease in bond yields will increase plan liabilities, although this will be partially offset by a yield increase in the value of the plans bond holdings.

#### **Inflation risks:**

In the pension plans, the pensions in payment are not linked to inflation, so this is a less material risk.

#### **Life expectancy:**

The pension obligations are to provide benefits for the life of the member, so increases in life expectancy will result in an increase in the plan liabilities. This is particularly significant where inflationary increases result in higher sensitivity to changes in life expectancy.

### 6. **BACK TO BASICS: Contract Assets Vs. Trade Receivables (Ind AS)**

**Contract balances** under Ind AS 115, *Revenue From Contracts With Customers* comprise **contract assets, trade receivables and contract liabilities**. The distinction between contract assets and trade receivables is summarized herein below.

#### **Contract assets**

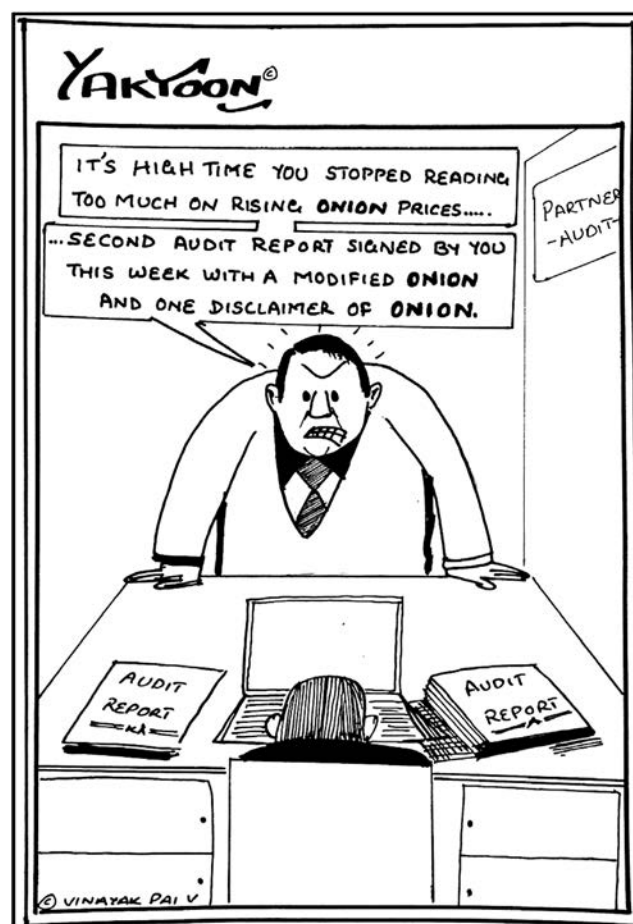
Contract assets is defined as “an entity’s right to consideration in exchange for goods or services that the entity has transferred to a customer when that right is conditioned on something other than the passage of time (for example, the entity’s future performance).

A contract asset is the right to consideration in exchange for services transferred to the customer. If a company performs by providing services to a customer before the customer pays consideration or before payment is due, a contract asset is recognized for the earned consideration that is conditional. Revenues in excess of invoicing are classified as contract assets. The same is also referred to as unbilled revenue.

#### **Trade receivables**

A trade receivable represents a company’s right to an amount of consideration that is unconditional (i.e. only the passage of time is required before payment of the consideration is due).

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## TAX DEDUCTION AT SOURCE ON CASH WITHDRAWAL

CA. Prakash Hegde

The present Government has been taking quite a lot of measures to encourage usage of banking channels or digital methods for payments and curb usage of cash. One of the recent steps in that direction is introduction of section 194N in the Income Tax Act, 1961 ('the Act') under which if a tax payer (i.e. a recipient) withdraws more than Rs 1 Crore from a bank (whether a banking company or a co-operative bank) or a post office during any Financial Year ('FY'), the amount withdrawn will be subject to Tax Deduction at Source ('TDS') of 2% of the amount of withdrawal. These provisions are applicable for cash withdrawal from 01 September 2019.

The section is reproduced below for ready reference.

Quote:

### Payment of certain amounts in cash.

**194N.** Every person, being,—

- (i) a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act);
- (ii) a co-operative society engaged in carrying on the business of banking; or
- (iii) a post office,

who is responsible for paying any sum, or, as the case may be, aggregate of sums, in cash, in excess of one crore Rupees during the previous year, to any person (herein referred to as the recipient) from one or more accounts maintained by the recipient with it shall, at the time of payment of such sum, deduct an amount equal to two per cent of sum exceeding one crore rupees, as income-tax:

**Provided** that nothing contained in this sub-section shall apply to any payment made to,—

- (i) the Government;
- (ii) any banking company or co-operative society engaged in carrying on the business of banking or a post office;

- (iii) any business correspondent of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the guidelines issued in this regard by the Reserve Bank of India under the Reserve Bank of India Act, 1934 (2 of 1934);
- (iv) any white label automated teller machine operator of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the authorisation issued by the Reserve Bank of India under the Payment and Settlement Systems Act, 2007 (51 of 2007);
- (v) such other person or class of persons, which the Central Government may, by notification in the Official Gazette, specify in consultation with the Reserve Bank of India.

Unquote

Let us look into the important Features, Exemptions and Implications of the provisions of this new section.

The above limit of Rs 1 Crore is applicable for accounts with 'each bank' or 'each post office'. If the recipient has accounts with more than one bank, he can manage his withdrawals in such a way that the withdrawal from each bank is Rs 1 Crore or less and can get out of the rigours of this section.

TDS would be applicable only on amount exceeding Rs 1 Crore. For example, if the amount of cash withdrawn during a Financial Year ('FY') from one bank is Rs 1,20,00,000, TDS will be effected only on Rs 20,00,000 at 2%.

The Central Board of Direct Taxes has clarified that any cash withdrawal prior to 01 September 2019 will not be subjected to TDS under section 194N. However, since the threshold of Rs 1 crore is with respect to the FY, calculation of amount of cash withdrawal for triggering deduction under section 194N shall be counted from 01 April 2019.



## Exemptions

The above provisions created a serious concern for many organisations, particularly, in the agricultural sector where the recipients (whether co-operative societies or traders) had to withdraw cash to pay to the agriculturists upon purchase of the agricultural produces. Considering the genuine challenge in this regard, the Central Government specified [vide a notification Notification No. SO 3427(E) 70/2019/F. No. 370142/12/2019-TPL (Part-1)] dated 20 September 2019] that the commission agent or trader, operating under Agriculture Produce Market Committee ('APMC') can get the exemption from TDS if he has intimated to the banking company or co-operative bank or post office his account number through which he wishes to withdraw cash in excess of Rs 1 crore in the FY and has certified that the withdrawal of cash from the account in excess of Rs 1 crore during the FY is for the purpose of making payments to the farmers on account of purchase of agriculture produces.

There are many co-operative societies / traders which advance money to the agriculturists against the produces which are hypothecated or against the personal security or security of agricultural land for cultivation. The notifications do not provide any relief in such situations. This has been causing lot of hardship to the agriculturists as well as the co-operative societies / traders. Also, the co-operative societies which are providing credit facilities will be hard hit by the provisions of this section as the exemption / relief is not applicable to them.

By way of Notification no. SO 3356(E) NO. 68/2019 (F.NO. 370142/12/2019-TPL), dated 18 September 2019 the Central Government has relaxed the provisions of this section for Cash Replenishment Agencies and franchise agents of White Label Automated Teller Machine Operators (WLATMOs) maintaining a separate bank account from which withdrawal is made only for the purposes of replenishing cash in the Automated Teller Machines (ATMs) operated by such WLATMOs.

Further, by way of Notification SO 3719(E), No. 80/2019/F. No. 370142/12/2019-TPL (Part 2), the Central Government has relaxed the above provisions for

- (a) the authorised dealer and its franchise agent and sub-agent; and
- (b) Full-Fledged Money Changer (FFMC) licensed by the Reserve Bank of India and its franchise agent;

maintaining a separate bank account from which withdrawal is made only for the purposes of,-

- (i) purchase of foreign currency from foreign tourists or non-residents visiting India or from resident Indians on their return to India, in cash as per the directions or guidelines issued by Reserve Bank of India; or
- (ii) disbursement of inward remittances to the recipient beneficiaries in India in cash under Money Transfer Service Scheme (MTSS) of the Reserve Bank of India;

and a certificate is furnished by the authorised dealers and their franchise agent and sub-agent, and the FFMC and their franchise agent to the bank that withdrawal is only for the purposes specified above and the directions or guidelines issued by the Reserve Bank of India have been adhered to.

## Constitutional Validity

The provisions of the section discussed above are just procedural / machinery in nature. But the unanswered fundamental question that arises is, whether provisions of Section 194N are constitutionally valid? It is an elementary principle that TDS is applicable in a case where there is an element of 'income'. Under the provisions of section 4(2) of the Act, tax liability may be paid or deducted at source as per the provisions of the Act. In other words, in order to be subjected to TDS, the amount being received by the recipient (i.e. deductee) should qualify to be income in his hands. However, under the provisions of section 194N, TDS is effected on mere withdrawal of cash from the bank account. This is in absolute contrast to other TDS provisions e.g. section 194C, 194H or 194J etc. which require deduction of tax since there is an element of income in the hands of the recipient. Therefore, section 194N does not vindicate the basic principle of the Act and the Constitution of India that tax deduction has to be effected where income becomes liable to tax in the hands of the recipient. It is hoped that this issue will soon be a matter of examination by the Honourable High Courts or the Supreme Court of India (if the provisions are challenged by any tax payer).

## Miscellaneous

The provisions do not clarify whether payments made by bearer cheques to third parties would be considered for the

purpose of TDS. This leaves the matter with ambiguity and will be prone to litigation.

As per the general provisions prevalent until the FY 2018-19, the amount of TDS was also to be considered as income of the deductee under the provisions of section 198 of the Act. Since the amount of TDS done under section 194N does not take the character of the income of the tax payer who has withdrawn the amount, an exception to this general rule has been carved out and therefore, the amount of TDS under section 194N will not be considered as the income of the deductee (i.e. the recipient of cash).

The Central Board of Direct Tax ('CBDT) has amended Rule 37BA and inserted sub-rule (3A) which provides that for the purpose of Sec 194N, credit for TDS shall be given to the person from whose account tax is deducted and paid to the Central Government account for the assessment year relevant

to the FY in which such tax deduction is made.

### Conclusion

As a result of the insertion of section 194N, money belonging to the recipient deductee will get blocked which will remain with the Government until the amount is adjusted against the tax liability or until the refund is issued. Further, this section also helps the tax authorities to track huge cash withdrawals. Ideally, in order to alleviate hardship and cash flow issues to the genuine tax payers, the Government should have considered stipulating a much lower rate of TDS (say 0.01% or 0.1%) without compromising on the tracking of cash withdrawals.

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## Income Tax Savings Schemes

<div style="background-color: #333; color: white; padding: 5px; text-align: center; font-weight: bold;">54EC</div> <p><b>Capital Gains Bonds</b></p> <p>AAA rated 5 year Lock in</p> <p>5.75% Annual Interest payable on June 30<sup>th</sup>.</p> <p>Min : ₹ 10,000/- Max : ₹ 50,00,000/-</p> <p> आरईसी REC</p>	<div style="background-color: #333; color: white; padding: 5px; text-align: center; font-weight: bold;">80C</div> <p><b>Save Money &amp; Save Tax</b></p> <p>Invest in 3 years ELSS Equity Linked Saving Scheme</p> <p>ELSS - 3 Yr Lock in</p> <p>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> <p><b>Invest in National Pension Scheme (NPS)</b></p> <p>Get an additional Tax benefit of ₹ 50 K pa.</p> <p>Save up to ₹ 50 K</p>
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For further information / clarifications, please feel free to contact us:

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Achieve your Financial Goals with proper Financial Planning

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Home Plan	Marriage Plan	Retirement Plan	Children's Education

Advt.



## INTEGRITY - AS A WAY OF LIFE

**Adv. M.G. Kodandaram**

*IRS, Assistant Director (Retd), NACIN*

### Introduction

The Central Vigilance Commission (CVC) observes Vigilance Awareness week (VAW) every year to promote transparency, integrity and accountability and to create increased awareness among the public and to encourage the stakeholders to participate in the fight against the corruption. The term “Vigilance” has been described in dictionaries as “Watchfulness, Alertness, Awareness, Observation, Attention and Caution & Care.” The true essence of Vigilance is said to be 3Es, meaning “Everyone’s Everyday business in every sphere of their Life” shall remain vigilant. Every person should become a vigilant citizen, a volunteer and one who helps the Nation in curbing the corruption. She / he should actively involve herself / himself in the fight against corruption. Only when the citizen registers his intentions, the elected politician emphasizes so, and then it is easy for the public servant to follow the same in the larger interests of the Society.

This year also VAW was observed from 28th October, 2019 to 2nd November, 2019 and the theme for this year attracted me most, as I always consider the said premise to be the backbone for a purposeful and happy life. The most valuable ornament a human being could wear is ‘Integrity’ without which life will be a wasteful journey. Through this writing the author explores the way to attain the said jewel.

The observation of VAW coincides with the birthday of Sri. Sardar Vallabhbhai Patel, [31<sup>st</sup> October] a man of integrity, popularly known as the Iron man of India, the Bismark of India. He is one among the great leaders our country has produced, an outstanding icon, a role model for patriotism, political integrity, and focused vision with highly pragmatic attitude. His caliber in executing ‘Hyderabad chalo’ Liberation Day with code-name “Operation Polo”, is unparalleled. We had similar experience recently while our Government took us through the ‘Jammu Kashmir bachalo’ by abrogation of Article 370 and the introduction of Jammu and Kashmir Reorganization Act, 2019. Therefore to create greater awareness among public, the theme used is appropriate to the present day situation. Let us start the learning about the theme, by finding out the various attributes of the term ‘Integrity’.

### Meaning and attributes of ‘Integrity’

It is stated that the Integrity and ethics form the foundational pillars of a nation and the national development takes place when individuals and organizations are committed to integrity as a core value. Combating corruption is not just a matter of making laws and creating institutions, but is deeply rooted in **human values** and morals of individuals. Cultivating ethical values is essential for building a new India.

Our ancestors in Sanskrit use the term ‘integrity’ to mean values such as Unity, Honesty and Cleanliness, [non-divisionary, Unity, Shuddata, Sheelata, Showcha (अखंडता, शुद्धता, शील, शौच)] in life. Here Oneness means attaining unity in individual’s thought, action/deed and sayings [manasa, kaya, vacha,]; to be truthful to oneself and towards the motherland, and be on service for the welfare of all, both non-livings and living, and move further on this valuable path to create a healthy and happy society. It is important to note that mere physical cleanliness will have no worth in itself unless the unity in all spheres of oneself is accomplished. This makes one to be Honest to oneself, which spreads the positivity to benefit every other person with immense confidence for the journey we are on. This has been more beautifully and elaborately defined as Unity, Honesty, completeness, security, devotion in our kannada language. [ಐಕಮತ್ಯ, ಸಮಗ್ರತೆ, ಪ್ರಾಮಾಣಿಕತೆ, ಪೂರ್ಣತೆ, ಭದ್ರತೆ, ದೃಢನಿಷ್ಠೆ].

According to the Collins Dictionary, “if you have integrity, you are honest and firm in your moral principles.” Personal integrity is an inborn moral conviction to do what is right, and reject that which is wrong, regardless of the consequences that are attached to such decisions. The Cambridge dictionary defines it as, “the quality of being honest and having strong moral principles that you refuse to change”. Therefore the attainment of integrity for life should start from each individual, in adopting and following the same as a central code, or say, as a way of life. From the above we can conclude that Integrity is the quality or trait of moral uprightness and honesty one brings in his performance. Individuals that are noted to have integrity often adhere to principles that they consider moral, and remain true to their beliefs and inner self. In this article we will explore the ways to attain the integrity in oneself. Later



we shall take up the other aspect of integrity like, integrity towards organization and motherland.

### **Integrity towards mother land**

From the days of yore, to integrate oneself with the land she / he took birth and lived, have been the value that is engraved and followed by every being. Loving Mother and motherland, without any conditions, is the born quality inbuilt in every human being, and it should never be diluted. These have been emphatically expressed by the Maryada Purusha Lord SRIRama, who after winning the war against lanka, desires to return to his motherland rather than stay and rule over the rich and wealthy Lanka. There are two versions of His statement, which are reproduced herein to understand the importance of motherland. He says, “Friends, riches and grains are highly honoured in this world. (But) mother and motherland are superior even to heaven.” [मित्राणि धन धान्यानि प्रजानां सम्मतानिव | जननी जन्म भूमिश्च स्वर्गादपि गरीयसी ||]. In another version, it is spoken by Rama to Lakshmana, “dear Lakshmana, even this golden Lanka does not appeal to me. Mother and motherland are superior to heaven” [अपि स्वर्गमयी लङ्का न मे लक्ष्मण रोचते | जननी जन्मभूमिश्च स्वर्गादपि गरीयसी ||] we shall in depth explore these aspects in the later writings.

### **Practicing Integrity in oneself**

Heralding week long activities to bring awareness, the CVC announced the theme as “Integrity – A way of life (ईमानदारी - एक जीवन शैली)”. As we are aware the Corruption, defined as dishonest or unethical conduct by a person entrusted with a position of authority, either to obtain benefit to oneself or to some other person, is a global phenomenon, affecting all strata of society in some way or the other. Corruption undermines political development, democracy, economic development, the environment, people’s health and much more and therefore it is imperative that the public be sensitized and motivated towards efforts for weeding out corruption. The E-governance, and systemic changes in procedures, minimal discretion, reduced public interface, technology based procurement and automation continue and have a long lasting impact in reducing corruption. But if the human element driving the whole system does not change her / his mindset, the desired level of integrity cannot be established. Always women / men behind the system are more important than of the mechanism or machinery in place. Therefore our journey should begin with how to integrate oneself? What are the essential principles to be adopted to have integrity in ourselves first?

For this purpose, we should prepare the citizen / individual, which are essential and of a priority. Without bringing

the change in the mindset of the public as well as public servant, expecting changes in the organisation where she / he is assigned to serve, will be a far-fetched goal and could never be realised. An individual in a society has to ingrain such principles as a way of life, and then alone we can expect good dividends through such organizations. As Mahatma Gandhi writes, ‘Keep your thoughts positive, because your thoughts become your words. Keep your words positive, because your words become your behavior. Keep your behavior positive, because your behavior becomes your habits. Keep your habits positive, because your habits become your values. Keep your values positive, because your values become your destiny’. He emphasized “Be the change that you wish to see in the world.” “Cultivation of mind should be the ultimate aim of human existence”, stated Dr. B.R. Ambedkarji. The self-integrity is being what Socrates stated “to thine own self be true.” Recently the spiritual guru Sri Sri Ravi Shankar told the European Parliament that “Yoga is feeling the connection with oneself, and with everyone around. Yoga is aspiring for the highest goal of the world as one family and unity with the infinity. It brings harmony in one’s environment.”

Integrity is the quality or trait of moral uprightness and honesty. It also refers to a state of completeness or wholeness. Individuals that are noted to have integrity often adhere to principles that they consider moral, and remain true to their beliefs and inner self. Integrity and honesty are often used synonymously, although integrity also incorporates fairness and adherence to high moral and ethical standards as well as a sense of wholeness. Practicing Yoga is one of the surest ways of attaining this goal. Doing Yoga does not mean mere practicing physical exercises, but much more than that. It also means that we should practice unity in what we think, what we say and what we do. When all these three expressions come together in union, the human element gets the eternal light of honesty to guide that person towards Integrity in life. So we have to first practice to tell the truth in our day to day life and make our decision based on truth, cherish and follow the same in all situations.

For exhibiting the consequences of being truthful, there cannot be a greater example than our ‘Karnataka deshada Punyakoti’ the holy cow that believed in truth as God in all its activities of life and pursued it till the end. Hope everyone know the story of the cow Punyakoti, where the tiger surrenders before the honest practices of the sacred cow. The eternal value stated and followed by Punyakoti in her own words, is “Truth is motto of my life, it is my parent, and it is my kith and kin. If I do not follow the path

of honesty, God will never forgive me, [ಸತ್ಯವೇ ನಮ್ಮ ತಾಯಿ ತಂದೆ, ಸತ್ಯವೇ ನಮ್ಮ ಬಂಧು ಬಳಗ, ಸತ್ಯ ವಾತ್ಯಕೆ ತಪ್ಪಿ ನಡೆದರೆ ಮೆಚ್ಚಿನಾ ಪರಮಾತ್ಮನು] reverberates even now in my heart. Being honest we can overcome all other obstacles of life, as it brings in calmness into one's mind due to power of unity in oneself.

To adopt the above valued path, it does not require much effort, except adopting certain small changes in our life style. We can practice the path of integrity and progress by adhering to simple moral commands of our Bhakthi Bhandary Basavannavar. He provides easy path for attaining purification in oneself through the great vachana:

'Do not steal, do not kill,  
Do not lie, do not rage,  
Do not loathe the other,  
Do not brag of yourself,  
Do not revile the opponent,  
This is the inner purity,  
This is the outer purity.

In other words, do not bring misery to others by stealing others' belongings; do not cause physical violence by killing any creature; do not cause trouble in others' life by uttering lies [be honest]; do not show anger on others; do not cause injury to the feelings of others by expressing a sense of rejection of others; do not indulge in self-praising which only strengthen your ego; do not cause psychic violence by condemning others. This is called the purity of the 'Inner self'. This is what is also called the purity of the 'Outer arena'. This is the manner in which we can actually please our God. [ಕಳಬೇಡ, ಕೊಲಬೇಡ, ಹುಸಿಯ ನುಡಿಯಲು ಬೇಡ, ಮುನಿಯ ಬೇಡ, ಅನ್ಯರಿಗೆ ಅನಾಹುತ ಪಡ ಬೇಡ, ತನ್ನ ಬಣ್ಣಿಸ ಬೇಡ, ಇದಿರ ಹಳಿಯಲು ಬೇಡ, ಇದೇ ಅಂತರಂಗ ಶುದ್ಧಿ, ಇದೇ ಬಹಿರಂಗ ಶುದ್ಧಿ, ಇದೇ ನಮ್ಮ ಕೂಡಲಸಂಗಮ ದವರನೊಲಿಸುವ ಪರಿ]. He laid great stress on action stating and showing that 'work is worship'. Following the above principles we can reduce the ego, as well as get connected with the inner self, developing a self of integrity – the one that is more whole and connected.

One major difference between honesty and integrity is that one may be entirely honest without engaging in the thought and reflection integrity demands. The honest person may truthfully tell what he or she believes without the advance determination of whether it is right or wrong. But Integrity in its essence means adherence to principles, namely choosing the right course of conduct, acting consistently whether it is inconvenient or otherwise and declaring where he stands. Therefore integrity is the moral reflection, steadfastness to commitments, trustworthiness. This is the natural way, a human being should follow. To come back to valuable route, we have to unlearn the gathered contaminants stated above.

## A Story about Integrity: "The New Emperor"

Integrity is one of the qualities that is often talked about in connection with leadership but is not always easy to define. It includes honesty, decency, ethics, authenticity, and uprightness, but is at one and the same time, not any of these and yet more than them. Let us understand the integrity principle through the following short story.

An ageing emperor in the East, who had no children to take over the reign, decided on a novel way to choose his successor. He called all the youths in the city to his palace and initiated the selection procedure. Handing out some special seeds with pots to all, he told them, "Go and plant these seeds. In a year's time, I will judge your plants and choose the new emperor for this kingdom."

One boy named Ling took his pot home and planted the seed. Every day he watered it but nothing grew in the pot. Even though his friends at school were talking about their growing plants, Ling only had an empty pot in possession.

When the day came to return to the palace, Ling went with a frightened heart. The emperor appeared. All the other youths had magnificent plants. When the emperor saw Ling's pot with no plant, he summoned him to the front and announced to the crowd, "Behold your new emperor! He has courage and integrity for all the seeds I gave you was boiled and useless. He was the only one not to cheat. He will be a wise ruler over you all."

Always what counts is the spirit to be on the path of Truth.

## Being integrated to truth brings togetherness

Telling the truth has immense benefits. By being honest, it brings us better quality friends and acquaintances. By telling Truth one don't have to remember for the future, whereas Once you have told a lie, you need to remember that lie so as not to contradict yourself in the future. This can create a state of anxiety as you worry about being in a situation where you could be 'found out'. If you never lie, you don't need to worry about your lies being discovered and you'll live a happier, less anxious life. By telling truth we earn trust, generate respect and create deeper connections with people. This makes you feel more confident. Always a Trust creates opportunities whereas Lying reduces confidence and energy. Always Truth attracts truth. Being in pursuit of truth brings everyone together in the eternal journey of Life.

Persons who speak the truth are instinctively drawn to other honest speaking persons. The Aesop's fable, "The Boy Who Cried Wolf" evidences that a dishonest person will not get any credence from the society at all times. The story is retold here in brief. A young shepherd boy sent to watch the



sheep in the field, to make sure they remain safe. While on watch, the boy called “WOLF! WOLF! WOLF!”, to attract the attention of the villagers. Upon hearing his cries the villagers ran to help the boy and the sheep. When they came to help him, the boy laughed at them for their pains. Such taunts regularly used by the boy generated ill will among the villagers. They started ignoring his calls.

One day, the Wolf, did truly come. The Shepherd-boy, alarmed and shouted in an agony of terror, “Pray, do come and help me; the Wolf is killing the sheep”, but no one paid any heed to his cries, nor rendered any assistance. The Wolf, having no cause of fear, at his leisure destroyed the whole flock. There is no purpose in believing a liar, even when he speaks the truth. The importance of being honest and truthful is more prominent in this fable. This is the first requirement needed towards building integrity as a way of life.

#### **Meditation benefits a lot**

Along with the above practice, adopting meditation to drive our minds towards calmness will immensely help in guiding us through our lives.

If we practice meditation, gradually our distracting thoughts will subside and we will experience a sense of inner peace and relaxation. Meditation reduces stress as the density of brain tissues associated with anxiety and worrying gets depleted. It also increases the sense of well-being, our sense of connectedness and empathy. This leads us to improved focus and relationships in our day to day activities. Further the meditation increases memory, makes one more creative and thereby improves the ability to make wise decisions. It also enhances the immune system, reduces physical and

emotional pain. One may practice any version of meditation, but practicing it with regularly brings immense benefits to life. Some of the popular methods of meditation are, the ancient method of Mantra Meditation, the Zen meditation, Vipassana meditation, Transcendental Meditation etc. All Meditation takes everyone towards enlightenment.

Once Buddha was asked, “what have you gained from meditation?” “Nothing” However Buddha continued, “let me tell you what I lost: anger, anxiety, depression, Insecurity, fear of old age and death”. Meditation drives the consciousness into the present moment, pushing aside events of the past and anxieties for the future. Being focused on the present is what meditation is all about. It ultimately gives freedom from the relentless preoccupations of the busy mind, which is so often absorbed anywhere but on the present. Being present in the present makes you more integrated and be directed by your inner self towards the eternal values of life.

Dear readers, Success will come and go, but integrity remains a thing lasting forever. Integrity means doing the right thing at all times and in all circumstances, whether or not anyone is watching. It takes having the courage to do the right thing, no matter what the consequences will be. Following and preserving integrity takes years to build, but it is easier to lose. So never allow yourself to ever do anything that would damage your integrity. On matters like how this should be developed to bloom into way of life to help the nation in its fight against corruption, we shall deliberate in the subsequent part.

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