

KSCAA

Karnataka State Chartered Accountants Association ®

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Dear Professional friends,

My wishes to members for Sankranti and Republic day!

Republic day signifies the day on which Constitution of India was adopted, which remain as sacrosanct as our forefathers wanted it to be, even to this day. As I conveyed in my President message in August that

Independence is not the physical freedom to whatever one wishes to do but the freedom of thought and such thought is not an absolute freedom but with some regulation which all solemnly engaged to observe. And such resolve was observed on this Republic day. Be it Kesavananda Bharati vs State of Kerala or in the case of Indira Nehru Gandhi vs Raj Narain, or in many other cases the sanctity was tested and upheld within the framework.

ICAI has decided to revise the Code of Ethics applicable to the profession with effect from 1st April, 2020 after a decade when it was last revised. Part A contains provisions of the International Ethics Standards Board for Accountants (IESBA) Code of Ethics 2005 as suitably incorporated after modification, and Part B representing the domestic provisions of India governing the Chartered Accountants' Act, 1949. This would align itself to IESBA Code of Ethics 2005,

The work related to Annual Conference is in full swing and the topics chosen have been carefully cherry picked in the background of its relevance today and tomorrow. The name 'Anavarata' was an apt choice for complexly placed web in the fraternity, which needs forethought of leaders and speakers who would guide us to reflect on means and depths while facing the challenge.

News Roundup

Goods and Service Tax

In order to curb tax evasion, the concept of e-Invoicing has been introduced under GST to be implemented in phased manner. Various portals have been set live for use of e-Invoicing function by from 1st January 2020 for voluntary adoption. However from 1st April 2020, it is a mandatory requirement to generate invoices through e-Invoicing portal by taxpayers with aggregate turnover in a financial year exceeds Rs. 100 Cores.

Late filing fees in respect of all pending GSTR1 for the period July, 2017 to November, 2019, will be waived off, if the forms are filed by 17th January 2020.

Following key decisions were taken at 38th GST council meeting held on 18th December 2019

- The last date for filing GSTR-9 and GSTR-9C for 2017-18 is further extended from 31st December 2019 to 31st January 2020
- The restriction on availing ITC in respect of invoices/debit notes not reflected in GSTR-2A is further reduced from existing 20% to 10% of total invoices reflected in GSTR-2A

Corporate and Business Law

On 3rd January 2020, Ministry of Corporate Affairs issued a notification amending the Companies (Appointment and Remuneration of Managerial Personnel) Rules which are effective from April 1st 2020. Prior to this amendment, the Rule 8A of the Rules provided that all the companies not covered under Rule 8[1] and having a paid-up share capital of Rs. 5 Crore or more shall have a whole-time company secretary. The amendment has substituted the rule by providing that every private company which has a paid-up share capital of Rs. 10 Crore or more shall have a whole-time company secretary.

Also, pursuant to section 204 read with Rule 9, every listed company and public companies having a paid-up share capital of Rs. 50 crore or more, or having a turnover of Rs. 250 crore or more shall annex a Secretarial Audit Report, given by a Practicing Company Secretary, with its Board Report. Post amendment, every company having outstanding loans or borrowings from banks or public financial institutions of Rs. 100 crore or more are also required to annex the Secretarial Audit report.

Further, Every listed company and every other public company having a paid-up share capital of Rs. 10 crore or more shall have whole-time key managerial personnel (which includes a company secretary).

Direct Tax

- CBDT has notified:
 - revised FORM NO. 10DA (Report under section 80JJA- Deduction in respect of employment of new employees, of the Income-tax Act, 1961).
 - 31st Jan, 2020 as the last date for payment of pending amount under Income Declaration Scheme (IDS) 2016
 - Government designates special court under Black money law.
- Annuities payable to NRI (Non Resident Indian)/ OCI (Overseas citizen of India) are subject to TDS at rates applicable as per the DTAA (Double Taxation Avoidance Agreements) of the country where the annuitant resides.

Conclusion

Decision is outcome of the thought process of an individual and success of each of them depends on cognitive ability, perception, history, creativity and many other factors. The Six thinking hat theory by Edward de Bono explains six various thought process which every independent person contemplates before arriving at his decision. For example, an optimistic overseas the downfall and pessimistic misses an opportunity. The theory explains the conscious efforts before making a rational thought, this theory also helps a leader in getting the perception of his team before concluding the decision.

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

Yours Sincerely,

CA. Chandrashekara Shetty,
President

KSCAA

News Bulletin

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SEARCH AND SEIZURE – INCOME TAX ACT, 1961

GOLD AND JEWELLERY - GUEST ON THE PREMISES - POWERS OF TAX AUTHORITIES

CA. S Krishnaswamy

1. In search cases, one of the common issue is relating to gold and jewellery found on the premises. The plea taken by a taxpayer is that it belongs to his wife or other female members and if at all any portion is considered to be excessive having regard to the CBDT circular it should be considered in the hands of the female members.

2. In **Kotu Sarat Kumar v DCIT (2019) 71 ITR (Trib) 147 (Visakapatnam)**, the facts were -

During the course of search, gold jewellery of 1064.6 grams, diamonds of 27 carats and silver of 11,525 grams were found. The assessee explained that both gold jewellery and silver articles belonged to his wife and his mother. The assessing officer accepted the explanation as reasonable but due to non-submission of evidence to support the claim with the wealth tax returns of the wife and mother, he treated 50 percent of the jewellery as unexplained and added the sum as unexplained investment. The CIT (A) allowed the gold and jewellery to the extent of 500 grams for a married lady, 250 grams for unmarried lady and 100 grams for male member was not to be seized if they were not assessed to wealth-tax. As the assessee's wife, mother and two unmarried daughters were not assessed to wealth-tax, the CIT (A) held that holding of 1000 grams of gold jewellery was reasonable and accordingly, allowed 1000 grams of gold. With regard to silver articles, he held that 50 percent of the silver articles required to be taxed in the hands of the assessee and his mother. Accordingly, addition of 50 percent of the value of the silver articles amounting to Rs.9,69,737 (50 percent of Rs.19,31,474) was confirmed, on appeal it was held that the assessing officer had found the explanation was reasonable, there was no case for making the addition in the hands of the assessee. The CIT (A) allowed relief of 1000 grams of gold and taxed 50 percent of the value of the silver articles. The assessing officer had accepted the explanation of the assessee that the gold jewellery and silver articles found in the premises of the

assessee belonged to the assessee's wife and his mother and were inherited. There was no case for making the addition in the hands of the assessee. Merely because of non-furnishing of wealth-tax returns, the assessing officer could not make the addition in the hand of the assessee when it was explained to the assessing officer that the jewellery belonged to his wife and mother. If at all the addition was required to be made it should be made in the hands of the right person duly initiating the proceedings. In the absence of wealth tax returns, if the gold and jewellery was to be taxed, it was required to be brought to tax in the hands of the assessee's wife and mother, and not in the hands of the assessee. The assessee had filed wealth tax returns for the AY 2009-10 and 2010-11, which had been accepted by the Department without making any addition. Therefore there was no case for making the addition on account of gold and jewellery found during the course of search in the hands of the assessee.

In a press release dated 02/12/2016 the CBDT clarified that there will be no seizure of gold jewellery and ornaments to the extent of 500 grams per married lady, 250 grams per unmarried lady and 100 grams per male member of a family during search operations as per Instruction No.1916 dated 11-05-1994.

It was held by the Supreme Court in the case of **Director General of Income Tax and Anr. vs Diamondstar Exports Ltd and Ors. [2006] 293 ITR 438** that Jewellery and ornaments seized during an illegal search were to be returned to the owners as soon as possible, along with the interest at the rate of 8 per cent on the value of the seized items.

In the case of **Alleppey Financial Enterprises vs ADIT (Inv.) & Anr. ,(1999) 236 ITR 562 (Ker)** it was held that gold ornaments pledged by the customer with the assessee as security for loan amount sanctioned by him cannot be seized u/s 132, respondent directed to return the gold ornaments together with the pledged forms.

3. One of the other issue is about the presence of a guest on the premises for which the search warrant is given. Can a guest be searched or be allowed to leave? The related provision is contained in Section.132 (1)(ia)

“(ia) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing;”

In a classic case **H.L. Sibal vs Commissioner of Income-Tax and Others 1975 101 ITR 112 (P&H)** -

The petitioner, Shri H. L. Sibal, is an advocate. On October 17, 1974, while he was, working in his office at about 7.30 a.m., the authorised officer entered his office and showed him a warrant under Section 132 of the Income-tax Act, 1961 authorising him to search the premises of the petitioner.

The petitioner informed the authorised officer that he had to appear in some cases before this court including a part-heard case, but he was ordered by authorised officer not to leave his premises.

The son of the petitioner, Shri Kapil Sibal, advocate, was coming by air from Delhi and the wife of the petitioner was preparing to leave by car to receive him but she was also not allowed to leave the house.

Shri Gurdial Singh Mann, a retired P. C. S. officer, and his wife had been staying with the Petitioner for the last 4/5 days, because the father of the former was lying ill in the Post Graduate Institute of Medical Education and Research (P.G.I.). Chandigarh. They had been lodged in the guest room of the house in which their luggage was also kept. Shri Mann wanted to leave the premises for some work but the authorised officer did not allow him to do so. The authorised officer also wanted to make a search of the luggage of Shri Mann and his wife to which Shri Mann objected. The petitioner also requested the authorised officer that it was unfair to conduct a search of the luggage of a guest because this action tantamount to insulting the guest as well as the host. A warrant was also obtained to search. The petitioner alleges that blank warrants of search signed by the Commissioner were available at Chandigarh, which were filled in at this place and were issued against Shri Mann.

The Court held-

“33. To sum up, the case of the petitioner is that as a successful advocate, he had been paying a large amount as income-tax every year. His returns were never doubted

by the income-tax department nor did he ever decline to produce any document when called upon to do so. Neither there was nor there could possibly be any information with the Commissioner for initiating proceedings under Section 132 of the Act. The Commissioner did not apply his mind to the facts of the case and issued the search warrant as a matter of policy.”...

“85. For the reasons mentioned above, we quash the warrant dated October 8, 1974, issued by Respondent No. 1 for conducting search of the premises of the petitioner, and the proceedings pending against him under Section 132(5) of the Act.”

4. Powers of tax authorities during a search:

The officer authorized to carry out the search can:

- a. Enter and search any building, place, etc. where he has a reason to suspect that the books of account, other documents, money, bullion, jewellery or other valuable article or thing representing undisclosed income is kept.
- b. Break open the locks, where the keys are unavailable.
- c. Carry out personal search of a person who is suspected to have secreted some item as mentioned in (1) above.
- d. Seize the items as mentioned in (1) above.
- e. Place marks of identification and take extracts or copies of the books of account and other documents.
- f. Make a note or inventory of the valuables found during the search.

5. Assets that can be seized.

The authorized officials can seize the following types of assets:

- a. Undeclared cash, jewellery
- b. Books of accounts, challan, diaries, etc.
- c. Computer chips and other data storage devices
- d. Documents relating to property, deed of conveyances, etc.

6. Assets that cannot be seized:

The authorized officials cannot seize the following types of assets:

- a. Stock-in-trade (except cash) of a business
- b. Assets or cash which are disclosed before the Income Tax and Wealth Tax Department
- c. Assets declared in books of account
- d. Cash which are duly explained
- e. Jewellery provided in wealth tax return

(Contd. on page 7)



CONTINUOUS SUPPLY OF GOODS – REDUCTION IN OTHER COMPLIANCE



CA. Madhukar N Hiregange & CA. Mahadev R

GST law has introduced lot of new concepts in Indian indirect tax system such as levy of tax on inter-State stock transfers to branches, cross charge mechanism, taxation of gifts distributed to employees etc. One of such new concepts is continuous supply of goods and its taxation. Most of us agree that introduction of GST has resulted in increased (rather than reducing) compliance for the registered persons (SME) and the professionals (SMP). Few of the reasons are complicated forms, less awareness of compliance requirement among tax payers and portal issues. In addition to GST, the tax payer need to ensure compliance under various other provisions of Companies Act, Income tax Act etc., in addition to running his business. In this, article, we analyse how the concept of ‘continuous supply of goods’ can be used to tax payer’s advantage to reduce the compliance burden.

Continuous supply of goods

In terms of Section 2(32) of the CGST Act 2017, “continuous supply of goods” means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify.

Important points to be considered from the definition are as follows:

1. **Continuity** - As the name suggests, there should be continuous or recurrent supply of goods. The word “recurrent” can be understood as occurring often or repeatedly or regularly.
2. **Supply under a Contract** – Supply has to be under a contract. Contract means agreement made between the two parties which is enforceable under law. Such contracts can be oral as well. Many oral contracts have been held valid by Indian courts including Indian Contract Act 1872.
3. **Means of supply** – Means of supply can be anything such as through wire, cable, pipeline or other conduit or any other mode.
4. **Issue of invoice** - Supplier need to issue the invoices on regular or periodic basis.

Time of supply and issue of invoice

Time of supply in case of supply of goods would be earlier of the date of issue of invoice by the supplier or the last date

on invoice to be issued under section 31 OR the date on which the supplier receives the payment with respect to the supply.

In terms of Section 31, in case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice needs to be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.

From these provisions, it can be understood that in case of regular supply of goods wherein the statement of account or payment is issued on periodical basis, such date can be the date for issue of invoice which becomes the time of supply.

In case of *HP India Sales Private Limited [TS-587-AAR-2018-NT]*, the advance ruling authority has held that supply of printing ink and other consumables such as oil, bib for press machines for which running invoice was being issued once in 15 days can be held as continuous supply of goods.

It is very common in most of the industries such as automobile and engineering to follow just in time concept where goods are produced and procured just when needed. This concept helps in elimination of unnecessary manufacturing cost, inventory cost and saves time. Due to this concept, the number of supply transactions are more with equal number of supply invoices. The suppliers could in order to reduce the number of invoices, concept of continuous supply could be followed. Following are few advantages of reducing the number of invoices:

1. Reduction in the effort and time required to be spent for accounting of such transactions both by supplier and customers

2. Reduction in reconciliation of transactions between their books of account
 3. Reduction of effort involved in payment processing, follow ups for payment, bank reconciliations and more
 4. Reduction in number of transactions for filing returns, claim of credits
 5. Better compliance of new Rule 36(4) of CGST Rules 2017 which restricts 80% credit on undisclosed entries in GSTR-2A
 6. Reduction in time spent for reviews / audit of transactions in different audits
- c. Documentation for movement of goods such as delivery challan, invoice, e-way bill should be in line with law. While generating e-way bill, suppliers can select sub type of outward supply as 'others' specifying the sub-supply as continuous supply of goods. A tax invoice can be issued with reference of all such removals made in a period according to time of supply schedule.
 - d. Intimation to the department before adopting this concept seeking confirmation. Such confirmation letter could accompany goods so that there is no dispute during the movement of goods.

Pre-requisites for adopting the concept

Before adopting the continuous supply concept, the tax payer needs to take care of few aspects so that there is no dispute from the department in future regarding such arrangement. Impact of non-GST laws, if any along with implication of such decision on business should also be considered. The concept would work well when same types of goods are supplied. Few other pre-requisites could be as under:

- a. Enter into a contract (ideally written) for continuous / regular supply with periodical statement / payment system. Period can be weekly, fortnightly, monthly etc.
- b. Purchase order terms also should be in line with agreed terms of contract for continuous supply.

Conclusion

Industries where there are regular supplies of goods of similar goods to specified customers, this concept can be explored to save substantial time in compliance. Such saved time can be used in better productive jobs. As many are not following this concept though there is no restriction, department could object to such concept. On conservative basis, the proposed procedure needs to be disclosed on acknowledgement before starting. If objected then only an advance ruling can be sought to confirm that there are no legal implications in such practice. Professionals could guide the clients wherever such concept can be followed which can save their professional time as well.

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SEARCH AND SEIZURE – INCOME TAX ACT, 1961

(Contd. from page 5)

- f. Gold up to 500 gm for each married lady and 250 gm for each unmarried woman and 100gm per male member.
- 7. Rights of a person during a tax raid:**
- a. To insist on personal search of ladies being taken only by a lady, with strict regard to decency.
 - b. To have at least two respectable and independent residents of the locality as witnesses
 - c. A lady occupying an apartment being searched has a right to withdraw before the search party enters, if, according to custom, she does not appear in public.
 - d. To call a medical practitioner in case of emergency.
 - e. To allow the children to go to school, after checking their bags.
 - f. To have the facility of having meals, etc. at the normal time.
- g. To inspect the seals placed on various receptacles, sealed in course of search and subsequently at the time of reopening of the seals.
 - h. To have a copy of the panchanama together with all the annexures.
 - i. To have a copy of any statement that is used against him by the Department.
 - j. To have inspection of the seized books of account, etc., or to take extracts therefrom in the presence of any of the authorised officers or any other person empowered by him.
- 8. Conclusion:**
- In search cases clarity in identity of ownership of gold, jewellery and ornaments is extremely critical. In the case of a guest on the premises a search is not permitted unless there is evidence i.e. in possession of undisclosed asset/income.

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ALL ABOUT TRANSFER OF DEVELOPMENT RIGHT (TDR)

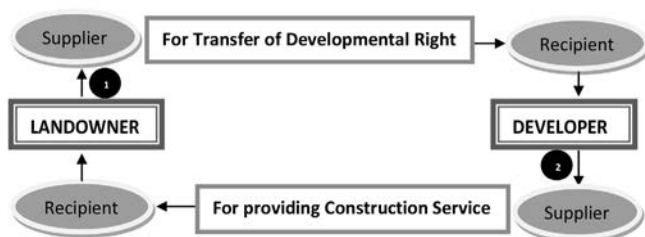
CA. G B Srikanth Acharya

Background

A landowner enjoys various rights with respect to the land he owns. One of such rights is the right to develop the land into a commercial or residential building. The Development rights are rights to modify an immovable property by carrying out improvements and construction. Buying a land for construction and sale thereafter, would be uneconomical for a builder as it would block huge capital in the initial stages of the project. Also, it would not be so prudent or economical for a landowner to bear the entire cost of construction.

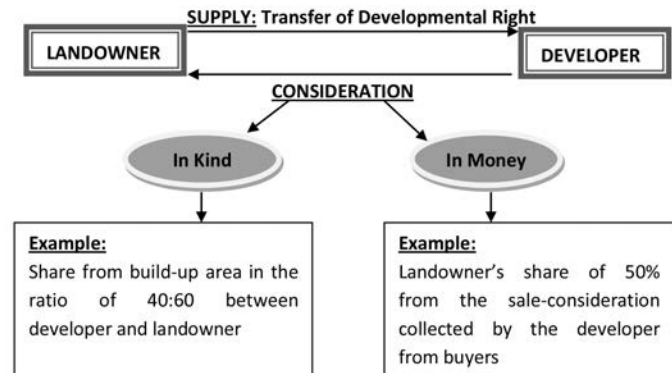
To aid the need of both the parties, the concept of Joint Development Agreement has emerged and it now exists. The JDAs are most prevalent form of development in Real Estate Sector; wherein, the landowner transfers development rights of his land to the builder (developer). Such transfer enables the developer with certain rights for the purpose of construction; including rights to obtain various approvals and licenses associated with the development of land.

Further, the transfer involves payment of consideration by the developer to the landowner, for transfer of development right (TDR). Such consideration can be in kind or in money.



The consideration “in kind” is given by way of share in certain percentage of the build-up area by the developer to the landowner. The remaining portion of the build-up area is retained by the developer and is sold by him to the buyers. The consideration may also be paid “in money”, wherein the developer gives specified share of the sale consideration collected from the buyers, as and when the collections are made after effecting sales.

Upon entering into JDA, generally the developer gives certain amount as refundable security deposit to the landowner. Such deposit is refundable on completion of the



project, that is, at the time when the owner’s share in the build-up area is handed over to him.

Now, the moot question here is, whether transfer of development right is taxable under GST? If taxable, what would be the time of supply and who shall be liable to pay tax on such supply? and also, at what rate of tax?

Current position of TDR under GST

I. Taxability

Notification No. 11/2017, as amended from time to time, does not provide a specific heading for rate of tax applicable on Transfer of Development Rights. It provides a residual entry for real estate services under Sl. No. 16(iii) of the heading 9972. TDR being an activity directly related to real estate shall fall under this entry. The same has been clarified in the FAQs (Part II) on Real Estate, issued by the GST council- F. No. 354/32/2019-TRU, dated 14th May, 2019, under the Sl. No. 7 of the said FAQ.

Therefore, transfer of development rights is **taxable at the rate of 18% under** (Notification No. 11/2017, serial no. 16 (iii)) under GST, **except in the case of residential apartments.**

There is an **exemption provided on TDR in the case of residential apartments**, vide Notification No. 04/2019, dated 29th March, 2019, amending Notification No. 12/2017-Central Tax (Rate). Wherein, service by way of TDR **on or after 1st April, 2019** is *exempt* if all of the following conditions are satisfied:

- i. It is for construction of **residential apartments**; and
- ii. The construction is **intended for sale** to buyer; and

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

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

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

- i. It is for construction of commercial apartment, or
- ii. It is not intended for sale to buyer, or
- iii. Residential Apartments remain un-booked on date of issuance of CC or first occupation, whichever is earlier;

Author's view: As per Notification No. 4/2019, the exemption from tax on TDR is provided only in case of "residential apartment booked prior to receipt of completion certificate or first occupation, whichever is earlier". There is no clarification provided for exemption from tax on TDR for construction of commercial property. It would be inequitable to levy tax on TDR in the case of construction of commercial property when TDR for residential apartment is exempt.

Further, the plausible rationale to exempt tax on TDR for "residential apartment booked prior to completion of construction" is that 'construction service' of such property is taxable under GST (as works contract service), therefore taxing 'TDR' for such construction would result in double taxation. The same should hold good in the case of commercial property also.

II. Person liable to pay tax

Notification No. 05/2019- Central Tax (Rate), dated 29th March, 2019, amending Notification No. 13/2017- Central Tax (Rate), dated 28th June, 2017, inserts a new entry under serial no. 5B, notifying that, **tax on the supply of service by way of transfer of development rights** for construction of a project shall be **paid on reverse charge basis** by the recipient of the service, that is, **by the developer**.

III. Time of Supply

Notification No. 06/2019- Central Tax (Rate), dated 29th March, 2019 provides to decide the point of time where the liability to pay tax on TDR shall arise. It says that the person who receives the development rights (that is, **the developer**) against consideration payable in the form of construction

service or in any other form including cash, **shall be liable to pay tax on the date of issuance of completion certificate or on its first occupation, whichever is earlier.**

IV. Valuation

Transfer of Development Rights, being a supply for which consideration is received in kind (share in build-up area) and the value of such share in build-up area is not determinable in case it is unbooked; shall be levied to tax considering the 'deemed value' of such service.

Sl. No. 6 of FAQs (Part II) on Real Estate, issued by the GST council- **F. No. 354/32/2019-TRU, dated 14th May, 2019**, read with **Para 1A of Notification No. 04/2019- Central Tax (Rate), dated 29th March, 2019**, amending Notification No. 12/2017- Central Tax (Rate) provides that, GST shall be calculated on the value of transfer of development rights which **shall be deemed to be equal to the value of similar apartments** charged by the promoter from the independent buyers **nearest to the date on which such development rights is transferred to the promoter.**

In case of **commercial property**, since there is no exemption provided for the levy of tax, the value of both under-construction and completed portion shall be taxable, considering the deemed value of the units.

If the **residential property** includes both under-construction and completed apartments, the completed portion shall be taxable and the exempted amount for under-construction portion shall be calculated taking proportion of carpet area of under-construction apartment with the total carpet area of apartment (**Sl. No. 41A of the Notification No. 04/2019- Central Tax (Rate), dated 29th March, 2019**).

Controversy: Can GST be levied on TDR?

The Taxation of 'Transfer of Development Rights' has remained controversial since the service tax regime. The debatable point here is whether 'transfer of development rights' even fits into the definition of supply?

To be taxable under GST, the foremost condition to be satisfied is that the transaction should be supply.

Under GST, 'supply' includes -

- a) all forms of supply of goods or services or both such as sale, **transfer**, barter, exchange, license, rental, lease or disposal made or agreed to be made **for a consideration** by a person **in the course or furtherance of business**;
- b) import of services for a consideration whether or not in the course or furtherance of business;
- c) the activities specified in **Schedule I**, made or agreed to be made without a consideration; and

- d) the activities to be treated as supply of goods or supply of services as referred to in **Schedule II**.

Further, the Act provides that activities or transactions specified in **Schedule III** shall be treated **neither as a supply of goods nor a supply of services**.

Analysis:

- i. The transaction of TDR involves **transfer** of development rights **by landowner to developer**
- ii. It also **involves consideration in money or in kind**, that is, by way of share in the developed area or by payment in agreed ratio from the sale consideration, to the landowner.
- iii. Under GST, 'Business' is a broad term. It includes any trade, **commerce**, manufacture, profession, vocation, adventure, wager **or any other similar activity**, whether or not it is for a pecuniary benefit; **and whether or not there is volume, frequency, continuity or regularity of such transaction**. From the landowner's perspective, the Joint Development Agreements is essentially a business for him, wherein he transfers the development rights of his land to the developer and in return, receives construction service or monetary consideration from the developer.
- iv. So far, the transaction of TDR perfectly fits into the definition of supply. But, the exception to supply, that is schedule III, is where the controversy emanates.

Para 5 of schedule III provides that '**Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building' is neither a supply of goods nor a supply of service**.

GST Act does not define 'land'. The Land Acquisition Act, 1894 defines land as "*the expression 'land' includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth*"

The Development Right is essentially a benefit arising out of land; and reference can be given to various cases wherein, the courts held that 'land' includes 'benefits arising out of land'; such as in the case of-

- o Safiya Bee v. Mohd. Vajahath Hussain Alias Fasi [2011] 2 SCC 94,
- o Chheda Housing Development Corporation v. Bibijan Shaikh Farid, Chamber Summons No. 321 OF 2007 in Suit No.567 of 2007
- o Pradeep Oil Corpn. v. Municipal Corporation of Delhi [2011] 5 SCC270

Therefore, development right is a 'benefit arising out of land'; and hence the taxability of transfer of development rights is a questionable subject.

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1. CHANGES: *Monthly Roundup*¹

IFRS	<ul style="list-style-type: none"> • Exposure Draft: General Presentation and Disclosures <ul style="list-style-type: none"> ○ IASBs Proposed Improvements to Communication in Financial Statements (part of Primary Financial Statements Project and Better Communication in Financial Reporting) <ul style="list-style-type: none"> ▪ New Sub-totals in the Statement of Profit or Loss ▪ “Non-GAAP” Transparency ▪ Improved Disaggregation of Information.
	<ul style="list-style-type: none"> • IFRIC Tentative Agenda Decisions <ul style="list-style-type: none"> ○ Player Transfer Payments – IAS 38, <i>Intangible Assets</i> ○ Multiple Tax Consequences of Recovering an Asset – IAS 12, <i>Income Taxes</i>.
	<ul style="list-style-type: none"> • IFRIC Agenda Decision <ul style="list-style-type: none"> ○ Lease Term and Useful Life of Leasehold Improvements – IFRS 16, <i>Leases</i> and IAS 16, <i>Property, Plant and Equipment</i>.
Assurance	<ul style="list-style-type: none"> • ICAI Announcement <ul style="list-style-type: none"> ○ Applicability of “<i>Implementation Guide on Resignation/ Withdrawal from an Engagement to Perform Audit of Financial Statements</i>” to Statutory Auditors of Listed Entities and their Material Subsidiaries.
	<ul style="list-style-type: none"> • ICAI Announcement <ul style="list-style-type: none"> ○ Joining/Association with “Networks” by members in practice.
	<ul style="list-style-type: none"> • ICAI Advisory <ul style="list-style-type: none"> ○ Exhibit B3 of SEBI’s Circular dated March 29, 2019 regarding procedure and formats for limited review/audit report of the listed entity and those entities whose accounts are to be consolidated with the listed entity.
	<ul style="list-style-type: none"> • ICAI Announcement <ul style="list-style-type: none"> ○ Time limit of UDIN generation:15 days ○ Members will be required to generate UDIN within 15 days for all Certificates / Reports / Documents signed on or after 1st January, 2020.
Company Law/ SEBI	<ul style="list-style-type: none"> • SEBI (Issue of Capital and Disclosure Requirements) (Sixth Amendment), Regulations 2019.
	<ul style="list-style-type: none"> • SEBI (Listing Obligations and Disclosure Requirements) (Fifth Amendment) Regulations 2019.
	<ul style="list-style-type: none"> • MCA General Circular No. 17/2019 dated December 30, 2019 <ul style="list-style-type: none"> ○ Relaxation of additional fee and extension of last date of filing of CRA-4 (Cost Audit Report) for FY 2018-19 (Extended till February 29, 2020).
NFRA	<ul style="list-style-type: none"> • Audit Quality Review (AQR) Report <ul style="list-style-type: none"> ○ IL&FS Financial Services Limited (FY 2017-18)

RBI Notifications	• Review of Master Directions – NBFC – P2P Lending Platform Directions.
	• Introduction of A New Type of Semi-Closed Prepaid Payment Instrument (PPI) .
	• Reporting of Large Exposures to Central Repository of Information on Large Credits (CRILC) – UCBs .
	• Comprehensive Cyber Security Framework for Primary (Urban) Cooperative Banks (UCBs) – A Graded Approach.
	• Constitution of Board of Management in Primary (Urban) Co-Operative Banks (UCBs).
	• Extension of Relaxation on The Guidelines to NBFCs on Securitization Transactions .
US GAAP	<ul style="list-style-type: none"> • FASB Accounting Standards Update No. 2019-12 <ul style="list-style-type: none"> ○ Simplifying the Accounting for Income Taxes ○ Amends Topic 740, Income Taxes of USGAAP.

¹Updates for the period Dec 1 to Dec 31, 2019.

2. GETTING UP TO SPEED: *New Sub-totals in the Statement of Profit or Loss –IFRS*

The International Accounting Standards Board (IASB) issued an Exposure Draft (ED/2019/7), **General Presentation and Disclosures** in December 2019 that proposes **replacement of IAS 1, Presentation of Financial Statements** with a new standard.

One of the focus area of the ED is “New Sub-totals in the Statement of Profit or Loss”. Salient aspects of the same are summarized herein below.

• An entity to present following new sub-totals in the Statement of Profit or Loss
○ Operating profit or loss
○ Operating profit or loss and income and expenses from integral associates and joint ventures
○ Profit or loss before financing and income tax .
• In applying above, an entity would present income and expenses in following categories
○ Operating,
○ Integral associates and joint ventures,
○ Investing, and
○ Financing.

3. CASE STUDY: *Reporting On A Key Audit Matter (KAM) – Asset Held for Sale Impairment Assessment*

Background:

Company A announced its plans to dispose of its X business during the year. In the later part of the year the disposal plans advanced sufficiently resulting in the recognition of an asset held for sale. Such recognition created a need for an impairment assessment on the basis of fair value less costs to sell. The resulting assessment significantly contributed to the total impairment charge. The statutory auditors focused on this area due to its complexity and estimation involved.

How the scope of the audit responded to the KAM:

- The auditors **performed testing** over the **asset base** to ensure that the appropriate amount of assets have been allocated to the held for sale asset.
- The auditors **assessed the potential sales price** of the disposal, by analysing recent offers and terms.
- The auditors **tested management’s modelling** of the impairment calculation, **analysed the mathematical accuracy** and obtained an understanding of other inputs, **testing** them where material.
- The auditors **obtained evidence** and **performed analytical reviews** to obtain comfort that the impairment was appropriate and based on the best available information at the reporting date.

4. **ITFG Clarification: Determination Of Lease Term For Availing Short-Term Exemption – Ind AS 116, Leases**

Determination of lease term is a precondition to assess **whether a lease is a short-term lease** in order to avail the **recognition exemption** under Ind AS 116. The Ind AS Technical Facilitation Group (ITFG) in a recent bulletin dealt on this issue and salient aspects of its clarification are extracted herein below.

- Paragraph B34 of Ind AS 116 states “*In determining the lease term and assessing the length of the non-cancellable period of a lease, an entity shall apply the definition of a contract and determine the period for which the contract is enforceable*”. The term ‘contract’ is defined in the standard as “*An agreement between two or more parties that creates enforceable rights and obligations*”.
- In determining the lease term (and therefore, in determining whether a lease is a short-term lease), only the enforceable rights of the lessee to renew or extend the lease beyond the non-cancellable period are taken into consideration.
- Where a lease agreement (including any addendum thereto or a side agreement) is entered into for a period of 12 months or less and does not grant a renewal or extension option to the lessee, it qualifies as a short-term lease within the meaning of the standard (provided it also does not grant a purchase option to the lessee). This is so even if there is a past practice of the lease being renewed upon expiry for a further one year at a time with the mutual consent of the lessee and the lessor. Conversely, where a lease agreement grants a renewal or extension option to the lessee, the lessee is required to determine whether it is reasonably certain to extend the lease.

5. **FIN ST EXTRACTS: Restructuring Costs – Ind AS 37**

Extracts from published financial statements of a listed company from the notes to financial statements (related to Restructuring Costs) is provided herein below.

*“The cost optimization programme announced during the year is part of the Group’s change in strategic direction to achieve a unique, non-recurring and **fundamental transformation of the business**. The costs of factory closures and implementation of a standardised operating model are considered to be **one off** as they are a **permanent scaling down of capacity** and a once in a generation **transformational change** respectively. The cost optimisation programme is a discrete, time bound project, which, given its scale, will be delivered over a number of years and once delivered associated restructuring costs will cease.*

*Costs of implementing cost savings **that do not arise from the change in strategic direction are excluded from restructuring costs.***

The charge of XXX for the year relates to our cost optimisation programmes announced during the year. Restructuring costs are included within administrative and other expenses in the Statement of Profit and Loss.”

6. **BACK TO BASICS: Investment Property (Ind AS)**

The accounting guidance for **Investment Property** is contained in Ind AS 40, *Investment Property*, the salient aspects of which are discussed herein below.

- Investment property is **property held** either to **earn rental income** or for **capital appreciation** or for both, but not for sale in the ordinary course of business, use in the production or supply of goods or services or for administrative purposes.
- Upon **initial recognition**, an investment property is **measured at cost**.
- Subsequent to initial recognition, investment property is measured at **cost less accumulated depreciation** and accumulated impairment losses, if any.
- Any gain or loss on disposal of an investment property is recognized in the Statement of Profit and Loss.
- The **fair values** of investment property is **disclosed** in the notes to the financial statements.
- In case a decision is taken by management to dispose the investment property in the near future and upon meeting the criteria to be classified as asset held for sale in accordance with Ind AS 105, it is reclassified as non-current asset held for sale.

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

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Friday, 6th March, 2020

08:30 AM Registration

INAUGURAL SESSION

09:30 AM Inaugural Address by
Chief Guest

Release of Souvenir & Publications

10:45 AM Inauguration of Exhibition & Tea Break

FIRST TECHNICAL SESSION

11:15 AM **Panel Discussion on
Companies Act Compliance
- Regulatory vs Practitioners'
Perspective**

Moderator:

CA. K. Gururaj Acharya

Panelists:

Eminent Subject Matter Experts

12:25 PM **CA Talk - Sharing an inward
transformational experience**

CA. Guru Prasad

12:45 PM SECOND TECHNICAL SESSION

**Industries of the Future and
Role of Chartered Accountants**

Eminent Speaker

01:30 PM Sponsor Program

01:45 PM Lunch Break

THIRD TECHNICAL SESSION

02:30 PM **Auditors in a World of
Advanced Analytics and
Emerging Technologies**

Eminent Speaker

03:40 PM **CA Talk - Sharing an inward
transformational experience**

Eminent Speaker

03:55 PM Tea Break

04:10 PM FOURTH TECHNICAL SESSION

Eminent Speaker

05:30 PM FIFTH TECHNICAL SESSION

VUCA - GST Panel Discussion

Moderator:

CA. Sanjay Dhariwal

Panelists:

Shri. D.P. Nagendra Kumar, IRS

Principal Chief Commissioner GST

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- Others

Saturday, 7th March, 2020

08:30 AM Breakfast

SPECIAL SESSION

10:00 AM A Talk on
Ethics, Values and Impulse
Eminent Speaker

11:00 AM Tea Break

SIXTH TECHNICAL SESSION

Direct Tax

CA Dr. Girish Ahuja
New Delhi

SEVENTH TECHNICAL SESSION

Nuances of New Benami Law and its Interplay with Income Tax Law, Anti-Money Laundering Law (PMLA) and other Economic Laws and role of CAs in handling these laws before the ED, IO and other authorities

CA. Ashwani Taneja
Ex-ITAT Member, New Delhi

01:30 PM Lunch Break

EIGHTH TECHNICAL SESSION

Eminent Speaker

03:15 PM Tea Break

03:30 PM Cultural Program

CA Family - Cultural Program

05:00 PM VALEDICTORY SESSION

Chief Guest

Dr. Gururaj Karajagi

06:30 PM FAMILY ENTERTAINMENT PROGRAMME

08:30 PM Family Theme Dinner

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'PRINCIPLE OF MUTUALITY' IN GST REGIME

Adv. M G Kodandaram

IRS, Assistant Director (Retd), NACIN

Introduction

Recently the Supreme Court of India in its landmark judgment dated 03/10/2019, in the case of State of West Bengal & Ors. Vs Calcutta Club Limited [Civil Appeal No. 4184 of 2009] has upheld the 'principle of mutuality' as a valid doctrine in respect of the sales and / or activities of the Clubs with their permanent members, and held that the same are not chargeable to Sales Tax or VAT and Service Tax. 'Whether the ratios of the said decision are applicable to such supplies made in the GST era? Whether GST is payable by the members in respect of such supplies?' these are the fundamental questions that every organization engaged in similar activities for their members want to know about. An attempt is made through this article to examine the applicability of the ratio of the said decision to the supplies made by a Club, in the changed GST scenario.

The doctrine of mutuality, based on common law principle, is premised on the theory that a person cannot make profit on oneself as there is no existence of two persons to engage in sales or profit making activity. It is a fact that no person can trade with oneself. When the said concept is expanded to include organizations of members formed for a common purpose and benefit among members, through pooled investments, and as the members derive benefit, could such an activity be subjected to levy of taxes? These issues crop up regularly, both in direct and indirect tax regimes. The honorable Supreme Court, in the cited case, held that the Sales Tax or VAT and Service Tax are not leviable in respect of such activities involving permanent members of a club.

GST regime in India

It is a point to be taken note of that after the introduction of Goods and Services Tax (GST for brief), the entire Indirect tax system has made huge impact on Business environment of the country. The radical changes brought out through the implementation of GST law and procedure, together with the trust based voluntary compliance tax system, by use of common digital portal has removed the day to day interference by the administration in the business processes. This has placed all the business activities and the economy on a high pedestal. Now the GST system is

in the process of evolving itself into a comprehensive, destination based consumption tax, with the availability of seamless credit across all transactions in the entire Supply or value chain. The definition and the meaning of the Taxable event have been expanded to include all types of 'Supply of goods or services or both, except on the supply of alcoholic liquor for human consumption', by appropriate amendment to the Constitution of India. The concept of dual levy in GST by adopting co-operative federalism and the imposition different levies on a single taxable event viz., 'Supply of Goods or Services or both' questioned in the case Union of India v. Mohit Minerals (P) Ltd. [(2018) SCC Online SC 1727], has received favorable endorsement by the honorable Apex court. The Court has ruled that the amendments carried out to the Constitution are valid under the Constitution. This is the first decision of the Supreme Court on GST that has set tone for judicial appreciation of the changes effected through the GST system. The Supreme Court has further endorsed the constitutional and legislative changes brought about on account of GST. In view of the changed circumstances, it will not be fair or proper, or legally tenable to simply borrow the argument that the ratios of the judgment in the case of State of West Bengal Vs Calcutta Club Limited are equally applicable to the present indirect tax environment. Therefore the following detailed analyses of GST Laws are made to find out the validity of the doctrine of mutuality in respect of supplies by Clubs, in the present indirect tax regime.

Sales tax on Goods sold to members

Let us first understand the stated decision of Supreme Court in respect of sale of goods to permanent members of the club in brief. The questions of law for consideration before the court on the issues raised are:

“(a) whether the doctrine of mutuality is still applicable to incorporated clubs or any club after the 46th Amendment to Article 366(29A) of the Constitution of India?

(b) Whether the judgment of this Court in *Young Men's Indian Assn. [CTO v. Young Men's Indian Assn., (1970) 1 SCC 462]* still holds the field even after the 46th Amendment of the Constitution of India; and whether the decisions in

Cosmopolitan Club [(2017) 5 SCC 635] and Fateh Maidan Club [(2017) 5 SCC 638] which remitted the matter applying the doctrine of mutuality after the constitutional amendment can be treated to be stating the correct principle of law?

(c) Whether the 46th Amendment to the Constitution, by deeming fiction provides that provision of food and beverages by the incorporated clubs to its permanent members constitute sale thereby holding the same to be liable to sales tax?"

The reading of the decision makes it abundantly clear that the doctrine of mutuality as applied by Apex court are with limited scope, and it is in respect of sales covered under 'Article 366(29A) clause (e)', to the permanent members only. The sales made to persons other than permanent members, guests and non-members are not matters for consideration before the court, it must be noted. Therefore the benefits derived by application of 'mutuality doctrine' cannot be expanded to include all transactions and to every person using the various facilities at the club, both in the past period as well as in present era. The facts recorded at Para 5 of the judgment viz., "The respondent assessee charges and pays sales tax when it sells products to the non-members or guests who accompany the permanent members. But when the invoices are raised in respect of supply made in favour of the permanent members, no sales tax is collected," clearly indicate that sales to non-members or guests are not at all disputed in the cited judgement.

The gist of the reasons and decision by the court are as follows:

The Article 366(29A), introduced by way of 46th Constitutional Amendment with the view to expand the scope of tax on sale in respect of certain specified activities involving supply of goods or supply of goods and services, which hitherto was held by the Supreme Court in various decision as not amounting to sale of goods. The Clause (e) to Article 366 (29A) reads as under: "tax on the sale or purchase of goods includes a tax on the supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration." The Supreme Court relying upon the 61st Law Commission Report, which recommended the above amendment and the Statement of Objects and Reasons for 46th Constitutional Amendment, held that the doctrine of mutuality remains applicable, before and even after the amendment. The Court also referred to the Constitution Bench decision in the case of BSNL v. Union of India [2006-TIOL-15-SC-CT-LB] wherein it was specifically observed that the said Amendment overcomes the decision

in Young Men's Indian Association case. However, the Court held that such an observation was not the ratio decidendi and hence cannot be said to be laying down any law in this regard. The Court further held that even in case of sale of goods by unincorporated associations or body of persons to members, the requirement of consideration is not fulfilled since in case of sale of goods to self, there is no consideration as per the provisions of the Contract Act, 1872 subsists. Accordingly, the Court ruled that there is no sale taking place even in cases of sale by unincorporated association or body of persons to member. Thus it held that: "(1) the doctrine of mutuality continues to be applicable to incorporated and unincorporated members' clubs after the 46th Amendment adding Article 366(29A) to the Constitution of India.

(2) Young Men's Indian Association (supra) and other judgments which applied this doctrine continue to hold the field even after the 46th Amendment.

(3) Sub-clause (f) of Article 366(29-A) has no application to members' clubs".

Service tax on Services to members

The second issue decided in the cited judgement by the Apex court is with regards to the applicability of Finance Act 1994 to levy of Service Tax, in respect of the discussed transactions. In this regard the supreme court held that for the period prior to 1.7.2012 i.e. before the Negative List regime, the definition of "club or association" as per Section 65(25a) of the Finance Act, 1994 specifically excluded incorporated entities and thus, the incorporated entities providing services to its members would be outside the service tax net. For the period post 1.7.2012, the Court referred to the definition of "services" given under Section 65B (44) of the Finance Act, 1994 which required *provision of service by one person to another*. The Court held that the doctrine of mutuality, doctrine of agency, trust, as applicable to sales tax cases, would be applicable to the definition of services. Accordingly, the Court ruled that services by a member's club to its members would amount to services to self and hence would not qualify as service as defined above. Having said this, the Court referred to Explanation 3, which was subsequently incorporated and read that incorporated associations or body of persons and their members are statutorily to be treated as distinct persons. Accordingly, it was held that services provided by member's club, who are not incorporated under any law for the time being force, to its members would not be taxable.

Taxable event in GST regime

In GST scheme, the taxable event mandated is, 'Supply of 'Goods or Services or both except taxes on the supply of the alcoholic liquor for human consumption,' [refer Article 366(12A) of the Constitution], whereas the taxable events in respect of levy of VAT was limited to 'sale of Goods' and for levy of services tax, to 'provision of services by one person to another'. As the scope and application of taxable event has been changed and expanded, to include all transactions including sales, there is need for fresh examination of other features and definitions of GST Law so as to determine the levy in respect of supplies made by clubs. The applicability of the ratio of the cited judgment in respect of 'supply of goods and services or both' by member's clubs is explored in the following part.

As per Section 9(1) of CGST Act 2017, [charging provision] there shall be levied a tax called the Central Goods and Services Tax on all intra-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 and at such rates, not exceeding twenty 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. The term 'Supply' has been defined in section 7 [scope of supply] of the CGST Act 2017 as follows: "Section 7. (1) For the purposes of this Act, 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." Here the term 'includes' means, the scope of supply is not limited to sale, transfer, barter, exchange, licence, rental, lease or disposal, but extendable to all types of transactions, including all 'businesses' defined under the CGST Act. In the earlier regime the taxable event was restricted to sale of goods only. Further, for any supply to render itself taxable under GST, transaction resumed by a person will suffice, as the law doesn't use the words 'by one person to another' as existed in the erstwhile laws. Now the transactions does not mandate for existence of 'another person', to levy GST, whereas both the earlier laws required existence of two different persons as a stipulated condition to impose the levy.

Business as defined in GST law

The word 'business' has to be recognised, not as a commonly understood terminology. The same has been specifically defined under GST law to include [Section 2(17) of

CGST Act / SGST Act - only relevant extract reproduced] "(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit; (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a); (e) Provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members; (f) Admission, for a consideration, of persons to any premises;". Another condition stipulated that it should be in the course or furtherance of such business, encompasses all the related supplies of goods and service by a club. As per the rule of interpretation to be applied to taxing statutes, 'the doctrine of strict interpretation'; the literal meaning has to be adopted, and therefore the activities by a club to its own members by law have since been defined to be as business, even when it benefits to its members, the ratio of the above case cannot be applied in the GST regime. Therefore the ratio of the above decision based on the doctrine of mutuality cannot be borrowed to cases involved in self- sales or self-service.

Person, Goods and Services in a Supply

Further the term "Person" as defined in GST Law includes among others: '(f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India; (h) anybody corporate incorporated by or under the laws of a country outside India; (i) a co-operative society registered under any law relating to cooperative societies; (l) society as defined under the Societies Registration Act, 1860 (21 of 1860); (m) trust; and(n) every artificial juridical person, not falling within any of the above; [Section 2(84) of CGST Act 2017- only relevant parts extracted]. The above definition is totally different from the ones used in erstwhile regimes, on which the current decision is made by the Apex court.

The section 7 of the CGST Act records the Scope of Supply. Under the Sub-section (1A), it is stipulated that 'where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II. In clause 6(b) of schedule II of CGST act it is stipulated that the Composite supply viz., 'Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration' shall be treated as a supply of services only. In clause 7 of

schedule II of CGST act it is mandated that, 'the Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration' shall be treated as supply of goods. In view of this specific legislation, it can be concluded that such transactions between the club and members amounts to supply. These specific legislations made abundantly cover all sorts of supplies.

Further, the stated judgment is specifically covers the ramification of Article 366(29A), the deemed provisions to treat certain transactions as also of deemed sale of goods, in spite of having an element of service. The GST Law do not rely any of its provisions on Article 366(29-A), either to determine levy, or the taxable event 'goods or services or both' or terms 'Supply', 'Goods' [Section 2(52) of CGST Act 2017] and 'Services' [Section 2(102) of CGST Act 2017]. The article 366(29A) has lost its implications in the GST regime as goods and services are differently defined and the scope of supply as well as business has been expanded in the present laws. As GST is a comprehensive levy on goods and services, the purpose and provisions of Article 366(29A) are no more relevant to determine Supply under GST.

Seamless credit across supply chain

As stated earlier, the GST system is an expanded form of Value Added Tax, wherein the tax is levied across the value chain, at every stage, with the facility of seamless credit on taxes paid on procurements made available at each stage. All the Clubs, barring certain exceptions under section 17(5) of CGST Act, are eligible to avail credit on GST charged on the supply of goods or services used or intended to be used in the course of their business [Section 16 of CGST Act 2017]. These include Inputs, Input services as well as Capital goods used in the course or furtherance of the business. Assuming that the club desires to, in respect of transaction with permanent members, to supply the goods and services or both, without collecting any consideration or without imposing GST on such transactions, and in such an event they are not eligible for availment of the Input Tax credit. They are expected to reverse the credit if availed, on prorata basis. The matter becomes more complicated if it involves common goods and services. If the business asset on which ITC credit has been availed is supplied to members, without consideration, then also it is deemed to be supply chargeable to GST in view of clause 1 of schedule

I. Therefore it is pertinent to avail ITC credit on all taxable inputs and utilize the same for payment of tax on all taxable supplies made, without any exception.

Further the GST law has specifically includes admission fee also as a chargeable factor, to mean as business. The GST levy continues to be applicable on all types of transaction/ supplies. As elucidated above, the self-sale or self-service activities in an organization/ club are specifically made chargeable to levy under GST. GST is consumption tax to be borne by the final consumers. The supplier's role is to collect taxes from consumers and forward the tax part to the exchequer. It may be noted that the element of profit is not a prerequisite for charging GST.

Conclusions

It is a matter of facts that most of the present day clubs do not remain as entities catering to the needs of its members only. Their business and commerce has multiplied and being expanded, with profit making as a primary objective. The membership fee and entry fee charged in certain clubs reveal the business interests of these clubs. The activities have multiplied and expanded to attract more persons to utilize the available facilities so that better profits could accrue to the organization. To meet the increased demands and to provide quality of supply, the clubs instead serving through their employees, are outsourcing or hiring such services from various reputed agencies on contract basis. The clubs are expanding themselves into a business ventures rather than a service to 'the member only by the members' community / organization. Therefore treating members to exemptions may not be a healthy practice as the business element has more influence. Instead, such permanent members could be offered pre-determined discounts on value of goods and services used, which are legally allowable deductions under GST Laws.

In view of the changed legal position clarified, the author finds that the decision of the Apex court in the case of State of West Bengal & Ors. Vs Calcutta Club Limited has no effective implications in the present indirect tax regime. Therefore it is opined that the ratios of the cited decision are no more valid to the taxability on member services in a Club.

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FIFTY SHADES OF BLACK AND WHITE

CA. V Pattabhi Ram & CA. Anju Mary Peter

When we were young, we clearly knew the difference between right and wrong; between black and white. Either this was taught to us in our schools, or we picked it from what we saw people practice around us. Like Ernest Hemingway wrote, "I know that what is 'moral' is what you feel good after, and what is 'immoral' is what you feel bad after." It was that simple.

But as we grew older, as we did our CA, and as we began working in firms or in corporate India something happened; the voice of our hearts became feebler, and the vision about right and wrong blurred. We started to bend the law without breaking it. Somewhere along the line, we began to say, "but, hey, forget the moral position; we are legally right." Let us be honest. The audit and accounting profession too has contributed to the mess.

In this article, we look at ethical dilemmas faced by professionals: doctors, lawyers, accountants, and auditors. These men hold positions of trust and have encountered 'conflict of interest' issues. Today, the CEO and the CFO are chummy; while in the natural scheme of things, they should act as each other's check. We now know Enron was the rule, not the exception. Satyam, DHFL, IL&FS, etc., have slowly begun to shatter the trust people had in the CA profession.

The Shades of Gray

Among corporates, Tata and Infosys, still considered doyens of governance, have mud slung at them, and some of it has stuck. Air Asia and Infosys' Panaya deal come to the mind. Cognizant and Larsen & Toubro didn't cover themselves with glory in the bribery scandal that rocked them in the US. We get shattered once the truth is broken, leaving us skeptical about trusting again.

A chief contributor to this is 'ethical dilemmas.' You face such a dilemma when you have to choose between two situations that are equally dicey. The process becomes complicated as it differs from person to person either due to culture or because of individual perceptions of right and wrong.

To understand the ethico-legal conundrum, let's raise a few questions.

Do I as the CEO recruit a close relative in a position of influence? You may say "Yes. Why deny him the opportunity

if he is, otherwise, eligible." I disagree because promotions and payments, of which I am in charge, will see a conflict of interest. Remember, Infosys' founders decided that none of their children will work in the company.

Is it unethical to sell tickets in the gray market? You may say "Yes," while I might say "No" because I have spent time and resources in procuring a ticket and wish to charge a premium for my effort. If products can be sold above cost, why not tickets? Remember a banana being sold at a 5-star hotel at Rs 375 plus tax? Who is right, and who is wrong? Aren't there shades of gray?

Next, is the question of legality. What is legal in one country is illegal in another. Both betting and abortion are wrong in India, but perfectly okay in some other countries. How do we then sit on judgment over these? Also, when laws change to allow for what was once illegal, is it right to say the code was wrong earlier. One day when professional bodies allow advertising, would it mean the decision not to allow advertising all these years was morally wrong?

We must understand the relationship between law and ethics to further understand the ethical dilemma.

Law is a set of rules created by the government to govern society, and is made after considering moral values. We must obey the law; otherwise, anarchy will prevail. A breach of law invites penalty. In contrast, morality guides us about what is good or bad, and is an unwritten code of conduct adopted by people. Allowing an ambulance to jump the traffic signal is a case in point.

The situation becomes dicey since we cannot define a moral law for all cases because code is principle-based, and not rule-based. Do I give a seating space to a pregnant lady on a bus while I am feeling sick? Do I wink at a possible qualification in an accounting statement because I am promised a more remunerative audit the following year? Do I, as a partner, accept a gift or hospitality from a company I am auditing? Do I as a doctor refuse a diwali present from a medical laboratory?

We cannot define a law for all situations and must rely on good faith.

More Shades of Gray

A person can face an ethical dilemma in any aspect of life, including personal, social, and professional.

I am an awardee recognized by the government to travel business class at a concessional rate. I travel business class at the reduced fare but charge the client the full fare. Am I morally wrong? After all, the discount was for my past work. Is there a need to pass on that benefit to the client? But a reimbursement is getting back of actual money spent. Ha, there is a dilemma there!

Staying with travel, if I am eligible for air travel, do I travel by train and pocket the difference saying that any way the company was willing to spend the higher amount? To whom does the frequent flyer points accumulated on use for company travel belong? You or to the company? Take another example. Suppose an airline allowed you a free trip for every nine trips you made. If you traveled nine times on company's expense, to whom does the 10th travel, which is free, belong: to you who traveled, or the company which had paid nine airfares? Meaning, can you use the free ticket for personal travel, or must you use it for business travel?

Auditors, either because of their proximity to the board or because of sheer competition, take decisions that are legally right but morally wrong. Like, how much fraud should the company's shareholders know when you realize that the company is turning around? Can I push an April sale to March knowing the product was produced in March, moved out in March, delivered in April, money collected in May, and financials are to be signed in June? Is euthanasia morally wrong? What about a lawyer who takes up the cause of an assassin? Does the legal nonsense that every man is entitled to defense not run counter to morality?

Ethical Dilemmas in Business

Acting ethically means determining what is "right" and which is "wrong." While some unethical business practices are evident; in other instances, they are not. This is why organizations frame their codes of conduct, violation of which may lead to sanctions.

For example: should the purchase officer visiting the vendor company be put up by the supplier in a 5-star hotel and all his needs met? Should doctors accept sponsorship for international conferences by pharmaceutical companies. Maybe the doctor is not influenced in his decisions, but Caesar's wife should be above suspicion. Should auditors accept the hospitality of their clients or should their fee be all-inclusive? Can the chief of selectors of the Board of

Control for Cricket in India also be the brand ambassador of a franchisee in IPL?

In technical terms, these practices are legal, but it is a gray matter. The purchasing officer is likely to favor the vendor with a price discount. The doctor may prescribe the sponsoring company's expensive medicine. The auditor may want to look the other way when there is an accounting transgression. The selector may be influenced by the fact that he receives top dollars for his work as an ambassador.

There is unethical behavior among individuals, businesses, and professionals. Being inaccurate on the resume is an example that come to the mind in the case of individuals. Dumping pollutants into the water supply, and wrongly classifying employees as contractors to avoid ESI are examples of businesses resorting to unethical practice.

Ethical Leadership

Managers face day-to-day ethical dilemmas as conflicts of interest, unauthorized payments, cherry picking between suppliers, unfair pricing, and discrimination in hiring throng. But one thing is clear. Without an ethical leadership, we cannot see long-term growth. A Deloitte survey identifies five key factors in promoting an ethical workplace: behavior of management (42%), practice of the direct supervisor (35%), positive reinforcement for ethical conduct (30%), compensation including salary and bonus (29%), and the act of peers (23%). As the old English adage goes, "actions speak louder than words."

Management must create an environment that is conducive to ethical behavior by acting as role models. A code cannot anticipate every possible ethical dilemma. You can have unanticipated situations with no guidance available about how to behave in that circumstance. In these situations, it is best to 'disclose and discuss,' say, by either talking to the boss or a colleague.

When faced with ethical dilemma we must act on it; otherwise, it may result in severe consequences for organizations. To solve moral problems, companies and organizations work on developing strict ethical standards for their employees.

Resolving the Conflict

Good ethics is equal to good business. According to *greatplacetowork.com*, companies that travel from good to great are those who had their moorings soundly based on values and ethics. There are two tests or guidelines.

1. **Potter Box** provides a **guideline** for ethical decision making by focusing on facts, values, principles, and loyalties.

Step One: Face Facts:

List the facts without making judgments. Example: Do I as a video journalist shoot a riot even as it is happening?

Step Two: Examine Values:

What do you value most? This helps the analyst to identify differences in perspectives. We may judge according to aesthetics (pleasing), professionalism values (prompt), logic (competent), sociocultural (hard work), and moral (honesty). Example: Will the shock value of the video discourage riots? Or will it stir up disturbing memories?

Step Three – Examine Principles:

Principles are reasoning applicable to a situation. You must decide which one of these principles you wish to apply.

- Take the middle path. Emphasize moderation. (Aristotle's Golden Mean)
- Compromise, as moral values lie between two extremes. (Confucius' Golden Mean.)
- Do to others what you would want them to do to you. (Kant's Imperative.)
- Seek the greatest happiness for the highest number of people. (Mill's Principle of Utility.)

Staying with the riot example, we would perhaps go with either Aristotle's Golden Mean or Mill's Principle of Utility.

Step Four – Determine Loyalties:

Where does your loyalty lie in the given situation? Answering this will clarify your thinking. Example: In the video shoot of the riot, does your loyalty lie with the media company or with the general public?

The Potter Box is not a magic wand. Two people analyzing the same issue with the Box could arrive at two very different conclusions.

2. **Mamma's Test** wonders whether you would be proud to tell your mother about what you did. If you would, and she would be equally proud of you, it has passed the test of ethical dilemma, and you can go ahead. If it has not, it has failed the test. You might say this is juvenile; trust me it works.

A Final Note

When addressing ethical dilemma, make sure you're aware of all sides of the story, and talk to the right people for advice. "Good people do not need laws to tell them to act responsibly, while bad people will find a way around the rules," wrote Plato.

Let's be good, responsible citizens; and good, responsible, businesses.

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KSCAA WELCOMES NEW MEMBERS - DECEMBER 2019

S.No.	Name	Place
1	Krishnan K R	Bengaluru
2	Srivatsa V S	Bengaluru
3	Ajith Kumar Kallala	Udupi
4	Amith R K	Bengaluru
5	Aniruddha Shenoy	Udupi
6	Kartik Ishwar Hegde	Bengaluru
7	Kumar R S	Bengaluru
8	Prashantkumar	Bengaluru
9	Santosh N	Bengaluru

S.No.	Name	Place
10	Vignesh Kumar Killur	Mangalore
11	Yogesh Agarwal	Bengaluru
12	Avinash C	Bengaluru
13	Gopi S	Bengaluru
14	Pavitra Bhat	Sirsi
15	Appaji Parasa	Bengaluru
16	Mahadevaprada G	Bengaluru
17	Shruthi A Chiplunkar	Bengaluru
18	Anusha G N	Davanagere



COMPOUNDING OF CONTRAVENTIONS UNDER FEMA

CA. Sachin S D

Compounding is a mechanism under which a contravener who has violated any provisions, regulations, notifications of FEMA, have an opportunity to confess such contravention voluntarily and thereby he can avoid prosecution of that offence by paying compounding amount. Compounding is not an inherent right; it is just a settlement to prevent examination and adjudication of contraventions.

Compounding procedure regularises contraventions. Unless a contravention is regularised, such contravention cannot be compounded. Hence, if the contravention is a reporting contravention then it shall be regularised by completion of reporting obligations through belatedly. If the contravention is substantive contravention, then it shall be regularised either by unwinding the transaction or obtaining post-facto approval if the transactions cannot be unwound.

Compounding is permitted even when the matter is pending before Adjudicating Authority. However, compounding is not permitted if adjudication is completed and appeal has been filed by the contravener. Only one compounding is permissible in a period of three years in respect of similar contravention.

Statutory provisions

Section 15 of FEMA provides that, RBI is empowered to compound any contraventions under section 13 of the FEMA, except contraventions under section 3(a) of FEMA (i.e., *hawala* transactions).

Compounding of contraventions under FEMA is governed by Master Direction - Compounding of Contraventions under FEMA, 1999. Whereas, Foreign Exchange (Compounding Proceedings) Rules, 2000 (hereinafter referred as 'Compounding Rules, 2000') make provisions relating to compounding. Further, these rules are supplemented by RBI (FED) Master Direction No.4/2015-16 dated 1-1-2016 and which consolidates all instructions regarding the issue.

Section 13(1) of FEMA requires that, if any person contravenes any provision of FEMA or any rule, regulations, notifications, direction or order issued by in exercise of the power under FEMA is liable to a penalty up to thrice the sum involved in such contravention where the amount is quantifiable or up to Rs. 2 lakhs. Where the contravention is

a continuing one, further penalty may extend to Rs. 5,000 for every day after the first day during which the contravention continues.

As per Rule 4 of Compounding Rules, 2000, RBI is empowered to compound contraventions relating to Sections 7, 8 and 9 and the third schedule to Foreign Exchange Management (Current Account Transactions) Amendment Rules. Whereas, any offences under section 3(a) will be compounded by Enforcement Directorate (ED). Any minor offences or offences of technical nature can be condoned by RBI by giving administrative/ cautionary notice. However, any matters which is sensitive or serious in nature will be referred to ED.

Powers to RBI Officers to compound contraventions by RBI

The powers of various grades of RBI officers are as follows:

Sl	Sum involved in contravention	Power to compound
1	when sum involved in contravention is 10 lakhs or below	Assistant Manager of RBI
2	when sum involved in contravention is between 10 lakhs and 40 lakhs	Deputy General Manager of RBI
3	when sum involved is between Rs 40 lakhs and up to 100 lakhs	General Manager of RBI
4	if amount involved exceeds Rs 100 lakhs.	Chief General Manager of RBI

Note: Contravention cannot be compounded unless the amount involved in such contravention is quantifiable.

Authorisation to compound the contraventions

Following are some offences which can be compounded under FEMA with **Regional Offices**:

- Delay in reporting inward remittance received for issue of shares
- Delay in filing form FC (GPR) after issue of shares
- Delay in filing the Annual Return in respect of the Foreign Liabilities and Assets
- Delay in issue of shares/refund of share application money beyond 180 days, mode of receipt of funds

- Violation of pricing guidelines for issue of shares
- Issue of shares without approval of RBI or FIPB respectively, wherever required.
- Delay in submission of form FC-TRS on transfer of shares from Resident to Non Resident and from Non-Resident to Resident.
- Receiving investment in India from non-resident or taking on record transfer of shares by Investee Company.
- Delay in reporting the downstream investment made by an Indian entity or an investment vehicle in another Indian entity to Secretariat for Industrial Assistance, DIPP.
- Delay in reporting receipt of amount of consideration for capital contribution and acquisition of profit shares by LLPs delay in reporting disinvestment/transfer of capital contribution or profit share between a resident and a non-resident (or vice-versa) in case of LLPs.
- Gift of capital instruments by a person resident in India to a person resident outside India without seeking prior approval of the RBI.

Following are some offences which can be compounded under FEMA by **Foreign Exchange Department, Central Office Cell** (FED CO Cell, New Delhi):

- Contraventions relating to acquisition and transfer of immovable property in India/outside India
- Contraventions relating to establishment in India of Branch office, Liaison Office or Project office
- Contraventions falling under Foreign Exchange Management (Deposit) Regulations, 2000

The powers to compound the contraventions as afore stated have been delegated to all Regional Offices (except Kochi and Panaji) and FED, CO Cell, New Delhi respectively without any limit on the amount of contravention. Kochi and Panaji Regional offices can compound the contraventions at paragraph 3 for amount of contravention below Rs. 1 Crore. The contraventions for amounts of Rs. 1 Crore or more under the jurisdiction of Panaji and Kochi Regional Offices with respect to all the delegated powers shall henceforth be compounded at Mumbai RO and Thiruvananthapuram RO respectively.

For rest of the contraventions, applications can be submitted to **Compounding Authority, i.e., Cell for Effective Implementation of FEMA (CEFA)**, Foreign Exchange Department, RBI, 5th floor, Amar Building, Sir P. M. Road, Fort, Mumbai 400001.

Application for Compounding

All applications for compounding may be submitted together with the prescribed fee of Rs. 5,000 by way of a demand draft drawn in favour of "Reserve Bank of India" payable at the concerned regional office. However, if the compounding application is submitted to Compounding Authority, CEFA, then, demand draft shall be drawn in favour of "Reserve Bank of India" payable at Mumbai. Further, the format of the application is given in Compounding Rules, 2000.

Along with application in the prescribed format, the applicant may also furnish the details as per *Annex-II* relating to FDI, ECB, ODI and Branch Office / Liaison Office, as applicable, a copy of the Memorandum of Association and latest audited balance sheet along with an undertaking as per *Annex-III* that they are not under investigation of any agency such as ED, CBI etc. as on date of application and to inform compounding authority/RBI immediately, in writing, if any enquiry/investigation/ adjudication proceedings are initiated by any agency against the applicant after the date of filing the compounding application but not on or before the date of issuance of the compounding order to enable to complete the compounding procedure within the time limit.

RBI shall examine the application in detail and assess whether contravention is quantifiable and, if so, the amount of contravention. Further, if necessary the Compounding Authority may call for any information, record or any other documents relevant to the compounding proceedings.

In case of defective or incomplete application or cases where required approvals are not obtained from the authorities concerned or for any other reason the application has to be returned, the application fees of Rs. 5,000 received along with the application will be credited to the applicant's account though NEFT as per ECS mandate.

Pre-requisite for Compounding Process

- Compounding can be made only once in 3 years in respect of similar contravention.
- Contraventions relating to any transaction where proper approvals or permission from the Government or any statutory authority concerned, such contraventions would not be compounded unless the required approvals are obtained from the concerned authorities.
- Cases of contravention, such as, those having a money laundering angle, national security concerns and/ or involving serious infringements of the regulatory framework or where the contravener fails to pay the sum for which contravention was compounded within the specified period in terms of the compounding order,

shall be referred to the ED for further investigation and necessary action.

- Contravention may be identified by the RBI or brought to its notice by the applicant, involved in contravention by way of a reference.

Standard rates of compounding fees

The standard rates of compounding have been specified by RBI on 26-5-2016 for various offences under FEMA, to avoid variations and ensure standardisation. The standard rates are available on website of RBI. These are given in para 7.4 of RBI (FED) Master Direction No. 4/2015-16 dated 1-1-2016.

Factors to be considered for adjudicating sum payable

The following factors, which are only indicative, may be taken into consideration by the RBI for the purpose of passing compounding order and adjudging the quantum of sum on payment of which contravention shall be compounded:

- The amount of gain of unfair advantage, wherever quantifiable, made as a result of the contravention
- The amount of loss caused to any authority/ agency/ exchequer as a result of the contravention
- Economic benefits accruing to the contravener from delayed compliance or compliance avoided
- The repetitive nature of the contravention, the track record and/or history of noncompliance of the contravener
- Contravener's conduct in undertaking the transaction and in disclosure of full facts in the application and submissions made during the personal hearing; and any other factor as considered relevant and appropriate

Compounding Order by compounding authority

The Compounding Authority shall pass an order of compounding not later than 180 days from the date of application after providing an opportunity of being heard. If the applicant opts for appearing for the personal hearing, the RBI would encourage the applicant to appear directly for it rather than being represented/accompanied by legal experts/consultants, as compounding is only for admitted contraventions. The copy compounding order will be sent to the applicant and also to the Adjudicating Authority, where applicable. Further, the compounding orders are not appealable.

Payment of the amount for which contravention is compounded

The compounding sum shall be paid by way of demand draft in favour of the "Reserve Bank of India" within 15

days from the date of the order of compounding of such contravention. If the compounding amount is not paid, it shall be deemed that the contravener had never made an application for compounding.

Publishing compounding orders on RBI website

Compounding orders passed by the RBI on or after June 1, 2016 will be published on the RBI's website (www.rbi.org.in) to ensure transparency and greater disclosure. The data on the website will be updated on monthly intervals.

Conclusion

India, being developing country requires strict control over foreign exchange management. Hence, RBI being regulatory authority frequently issues notifications, circulars and explanations to simplify Do's and Don'ts in relation to the flow of foreign exchange. Whereas, most of them are necessary, some of them seem to be not so. This result into non-compliance, involuntary as well as voluntary. The penalty for the non-compliance being rigid, one may have to approach RBI for compounding the penalty. The fact that the compounding amounts to admitting of contraventions and any orders in this regard is not appealable makes it crucial for business community to provide utmost importance to compliance part.

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EXCEL, WITH EXCEL!

GOAL SEEK

CA. Shreehari Ullody

"It takes time to save time" and When we invest time to learn Excel, we are actually saving our time.

❖ Background:

You need to borrow some money - - You know how much you want (the amount of borrowings), how long you want to pay off the loan (the time period), and how much you can afford to pay each month (the EMI). But you are confused, face to face with the banker, as to what rate of interest to bargain for, so that your "loan goal" is met.

You take a piece of paper and a pen, recall your knowledge of Algebra that you learnt during your High-School and start solving it by assuming the rate of interest to be "X" Yes! 5 minutes down, you are delighted after arriving at the desired rate of interest. That's when the banker tells you that the duration of the loan that you had in mind is too long for him to approve and everything else is okay. You take the pen and the paper again, start solving and Boom! This time you took just 4.5 minutes to arrive at the rate of interest.

To your astonishment, the Banker, sitting right in front of you, does the calculation in a jiffy. All he did was to feed some data into Excel and the solution was there with a click of the button. The difference between you and the banker? He knew one Excel feature more than you – the Goal Seek feature!

❖ So.. what is it about?

Excel comes with Three kinds of What-If Analysis: Scenarios, **Goal Seek**, and Data Tables. What-If Analysis is the process of changing the values in cells to see how those changes will affect the outcome of formulas on the worksheet. Goal Seek works differently from the others, it takes a result and determines possible input values that produce that result. Put simply, Goal Seek comes handy when we know the result that we want from a formula, but we are not sure what input value the formula needs, to get that result.

❖ Goal Seek and a CA:

The above situation might look a little redundant from a Chartered Accountant's view point. So, here's something that will interest you.

Your client consults you, with the following information, as to the amount of investments he shall make in schemes eligible for deduction under Chapter VI-A so that the advance tax takes care of his entire tax liability.

Gross Total Income:	Rs. 7,75,000/-
Tax Rate:	30% (Flat)
Education Cess:	4% on Tax
Advance Tax Paid:	Rs. 2,00,000/-

Ignore Surcharge and Interest.

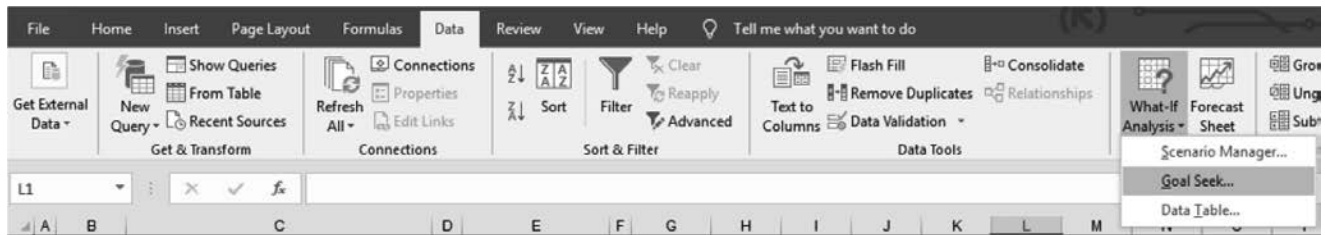
To make it lucid, here is how the situation looks like:

The task is to determine the contribution to be made to LIC, so that the Balance Tax Payable is Nil.

HRU	
STATEMENT OF TOTAL INCOME	
Assessment Year	: 2019-20
Previous Year Ending	: 31st March 2019
Status	: Individual
PAN	: *****
PARTICULARS	AMOUNT IN ₹
GROSS TOTAL INCOME	7,75,000
Less: Deduction u/s 80C - Contribution to LIC	-
TOTAL INCOME (rounded off u/s 288A)	7,75,000
TAX (30% flat)	2,32,500
Add: Education cess at 4%	9,300
TOTAL TAX	2,41,800
Less: Advance Tax Paid	2,00,000
BALANCE TAX PAYABLE	41,800

❖ **Procedure:**

1. On the 'Data tab', click 'What-If Analysis', and then click 'Goal Seek'



2. In the 'Set cell' box, enter the reference for the cell that contains the formula to be resolved. In the example, this reference is cell E19 (amount of balance tax payable).

Note: The 'Set cell' must contain a formula. In our case, it is "=E17-E18" (Total tax minus Advance Tax paid)

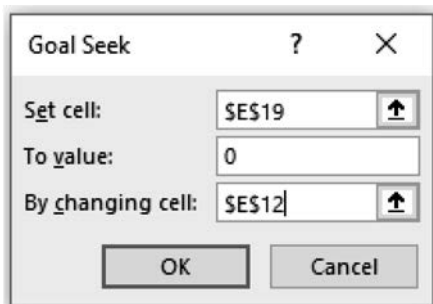
3. In the 'To value' box, type the formula result that you want in the Set cell. In our example, this is 0 (since we desire the Balance tax payable to be Nil).

Note: The 'value' must be feasible. i.e., it cannot be lower than -2,00,000 in our case.

4. In the 'By changing cell' box, refer to the cell that contains the value that you want to adjust. In the example, this reference is cell E12 (deduction u/s 80C).

Note: The 'changing cell' must directly or indirectly be a precedent to the 'set cell'. i.e., 'set cell' should be able to change with a change in 'changing cell'.

5. Click "OK".



❖ **Result:**

We now know that Rs. 1,33,974/- has to be contributed to the LIC so that the objective is achieved.

In addition to the above, Goal seek can be used in areas such as **budgeting** and **valuation**.

HRU	
STATEMENT OF TOTAL INCOME	
Assessment Year	: 2019-20
Previous Year Ending	: 31st March 2019
Status	: Individual
PAN	: *****
PARTICULARS	AMOUNT IN ₹
GROSS TOTAL INCOME	7,75,000
Less: Deduction u/s 80C - Contribution to LIC	1,33,974
TOTAL INCOME (rounded off u/s 288A)	6,41,026
TAX (30% flat)	1,92,308
Add: Education cess at 4%	7,692
TOTAL TAX	2,00,000
Less: Advance Tax Paid	2,00,000
BALANCE TAX PAYABLE (REFUNDABLE)	-

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