

KSCAA

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OECD Secretariat Guidance | GST | Financial Reporting | Environmental Concerns | Lockdown – Opportunity for Self-Improvement





Dear Professional friends,

The month of March and April has been a month of challenge throughout the world, especially when the word battles the pandemic with full force. The data is so rapidly changing that science behind this rapid spread, containment and medicine is still

distantly unseen. The cascading effect may be catastrophic to all the industries. The government interim relief package tried to dose the initial anxiety to businessmen but is still felt as uncooked by economist. The intent of any government will be to wait and watch, I'm hopeful that government would scale up the game to fight with same rigour to save the economy from its tailspin. We all agree that labour market would be deeply impacted and those with marginal incomes are the ones to whom the impact would be substantially high. From the business side, all those industries which had higher fixed expense, those whose elasticity to collection is high etc are severely impacted. The CA practice for all of us may also be not same, considering that many of us are involved in backend part of the business and would be negatively impacted, in terms of trimming of fees and higher unproductive fixed cost.

I also believe that prevailing and existing technology had enabled us to use work from home, reduce commutation / travel but the force to change was missing amongst us, the epidemic among few positive changes has also forced to use the technologies like, cloud storage, VPN, Webinars, video conference etc. We may have to embrace technology like never before to improve quality, optimise time or improve the horizon of work.

KSCAA had taken a pledge to serve 8,000 meals to underprivileged and stranded workers in Bengaluru area and the response to such pledge was overwhelmingly received, we collected all of this within 24 hours. The team of volunteers from KSCAA had been to place of distribution and the plight at distribution was heart wrenching to see and experience. I'm told by the volunteers that many proceeded to acknowledge the noble gesture of feeding with gratitude and admiration. I'm must place on record that these types of engagement get us close to society and I'm privileged to have presided when such noble causes are carried through.

News Roundup

Goods and Service Tax

Due to COVID-19 pandemic and challenges faced by taxpayers, the Government has extended various GST

compliance dates and also provided other reliefs as listed below:

- Last date for filing GST annual returns of FY 18-19 extended till the last week of June 2020.
- Last date for filing GSTR-3B due March, April, May 2020 returns and composition returns extended till last week of June 2020.
- No interest, late fee or penalty for companies with less than Rs. 5 crore turnover; For the bigger companies, interest would be 9 per cent.
- Last date for opting a composition scheme is extended till the last week of June 2020.
- Payment date under Sabka Vishwas Scheme extended to June 30, 2020.
- Cumulative adjustment of input tax credit under rule 36(4) is allowed for months Feb-20 to Sep-20 while filing 3B of Sep-20.

Corporate and Business Law

MCA has recently issued a circular for providing an opportunity to companies to file pending documents, statements and returns etc., Companies who have failed to file any document, statement, return etc., including annual statutory documents (AOC-4, MGT-7) can make good their failures by filing them now by paying only normal fees applicable. No Additional fees shall be payable. The timeline provided for this opportunity is 1st April 2020 to 30th September 2020.

Conclusion

I've liked this phrase '*This too shall pass*' meaning, we are faced with challenges and the outcome of them may be some favourable to us or not favourable to us. But the eternal called the being must proceed to move ahead in life. Nothing stays too long; the cycle goes on. Good times come to an end. So do the bad ones. Today, where there is sorrow, there may be joy tomorrow and where there is jubilation, there may be mournful silence. Man can bear anything if he sets his mind to it, even the harshest of times. Just the hope of a better tomorrow is what keeps us going. It says, "keep your head steady, this hardship which you are going through, shall too, come to an end, one day or the other".

This too shall pass. Stay healthy and safe!

Yours Sincerely,

CA. Chandrashekara Shetty
President

KSCAA

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No. of Pages : 36

CONTENTS

OECD Secretariat Guidance - Halfway there to sort out	
COVID-19 related knotty tax issues	4
CA. Sandeep Jhunjunwala	
Amendments in GST Refund Procedures – including Special Reliefs during COVID-19	6
CA. Annapurna D Kabra	
Quantum of ITC – Analysis of Rule 36(4)	8
CA. Prateek Marlecha	
Indirect Tax updates	12
CA. Raghavendra C R & CA. Bhanu Murthy J S	
Financial Reporting and Assurance	17
CA. Vinayak Pai V	
Contemporary Environmental Concerns	21
Adv. M G Kodandaram	
Lockdown – An Opportunity for Self-Improvement	26
CA. Shiva Subramanyam A.B.	
Representations	28

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OECD SECRETARIAT GUIDANCE - HALFWAY THERE TO SORT OUT COVID-19 RELATED KNOTTY TAX ISSUES

CA. Sandeep Jhunjunwala

The pandemic Covid-19 has spread widely affecting almost all the countries around the world. To fight this outbreak, various countries are taking unprecedented measures, such as restriction on travel, imposing lockdown and implementing strict quarantine requirement. As a result, economic activities in many countries slumped sharply and increasing global uncertainty has further eroded confidence. In this difficult time, most countries have come forward with various stimulus packages providing relief to general public. Due to this unprecedented situation, businesses are facing unforeseen and forced changes in the working pattern of their employees who are operating out of a country other than their country of residence or habitual abode, some staying at home and working remotely. These issues also pose Permanent Establishment (“PE”) exposure risk, impact on residential status of a company having its senior executives working out of non-home locations, overall affecting the right to tax between countries.

In light of these challenges, the Organisation for Economic Cooperation and Development (OECD) Secretariat has released a guidance report analysing the impact of Covid-19 crisis on taxing rights of jurisdictions.

Q: How does Work from Home (“WFH”) scenario impact the determination of a PE for companies in case the employees are stranded in a country other than the one in which they regularly work?

A: In some cases, Covid-19 travel restrictions and quarantines require employees to work outside the tax jurisdiction in which their employer is located. However, this situation is expected to be temporary, whereas the concept of PE existence is based on contemplation of permanency as against temporary or transitory situations, as explained in Para 6 of 2014 Commentary on Article 5 of OECD Model. For such place to be considered as fixed place of business, it should be at the disposal of the Company. However, employees carrying on sporadic business activities at home does not render that home at the

disposal of the enterprise and the same has been laid out in Para 18 of the Commentary on Article 5 of OECD Model as well. Since WFH is a result of the Government directives on account of Covid-19 crisis and not a regular working norm set by the employer company, it perceives unlikely for WFH to impact PE position for companies. From the angle of Agency PE where the employee exercising WFH in a different country and concluding contracts binding the Company, such activities by an agent should have also been carried out in a habitual way. In this regard, Para 33.1 of the 2014 Commentary on Article 5 indicates that activities carried by an agent ‘habitually’ is mandate to determine the existence of PE and mere transitory activities shall be disregarded. Similarly, the same is also indicated in Para 98 of the 2017 Commentary on Article 5. The OECD guidance note of April 3 also accentuates that COVID-19 crisis is an exceptional circumstance and tax administrations will have to consider a more normal period of time when assessing a person’s residential status.

Q: Numerous senior executives on their international visits, are stranded in host countries due to restrictions on travel on account of Covid-19 outbreak. Whether these restrictions will have any repercussions on the residency status of the Company?

A: The probability of the restrictions affecting the Place of Effective Management (“POEM”) of the Company and triggering the dual residential status appears low, particularly in the presence of tiebreaker test provided by the international tax treaties ensuring that the enterprise is tax resident in only one state. Moreover, the determination of residential status of the enterprises under tax treaties depend on the ‘usual’ and ‘ordinary’ place of effective management considering various facts and circumstances. One has to look at POEM and decision making for the business activity as a whole together with certain degree of permanence, durability implicit into the requirement of the tax laws. A case of ratification by the Board of the decision

made by some senior executive in case of emergency situations such as COVID-19, needs to be distinguished from a 'repetitive' or 'routine' approval of such decisions by the Board. While the recent OECD guidance also indicates the same view, considering that different countries have adopted varying norms for their own domestic laws for determining POEM, it would be important that tax authorities independently clarify their views on this point to avoid international tax issues. Indian tax authorities should also look into these guidance by OECD and issue related circulars and notifications for clarification on these aspects. In the absence of any specific guidance, consideration may be given to updating current remote work policies to minimize the risk that the company, or its employees, are subject to tax in another jurisdiction as a result of this situation.

Q: How will the change of the place where the cross-border employees exercise their employment due to lockdown on account of Covid-19 outbreak impact the taxability of the salary received?

A: Tax treaties between most countries provides that salaries are taxable only in the employee's country of residence unless employment is exercised in other country and such employee is physically present there for more than 183 days, or employer is a resident of such source country or employer has a PE that bears the salary in such source country. Applying this provision in the current scenario, if the country where the employment was formerly exercised loses its taxing right, additional compliance difficulties would arise for both the employer and employee such as employers may have withholding obligations and employees having new or enhanced tax liabilities in different countries. In this exceptional circumstance, OECD Secretariat calls for an exceptional level of coordination between countries to mitigate the compliance and administrative costs for employers and employees associated with involuntary and temporary change of the place where employment is performed. The OECD Secretariat has also expressed its view that stimulus packages introduced by Governments, which are intended to keep employees on payroll during the Covid-19 crisis, resembling termination compensation should be attributed to the position where the employee would otherwise have served (mostly being the place the individual used to work before the Covid-19 crisis) in compliance with the guidance given in the OECD model commentary. Tax administrations should provide

guidance on the application of the domestic law threshold requirements, domestic filing and other guidance to minimise or eliminate unduly burdensome compliance requirements for taxpayers in the context of the COVID-19 crisis.

Q: What is the impact on residence status of an individual who was temporarily away from his home country for the purpose of work and is stuck in the host country due to travel restrictions on account of COVID-19 outbreak?

A: It is unlikely that the individual stranded temporarily in the host country because of exceptional circumstance such as COVID-19 becomes resident of that country under the tax treaty rules. However, due to domestic rules of residence (where a person staying in the country for certain number days acquires residence status in that country), such persons can become resident of host country. Where on account of domestic laws, a person is resident in both the countries, by applying the tie-breaker rules under Article 4 of the tax treaty, residential status shall be determined. It is most likely that the tiebreaker test looking at a hierarchy of factors (permanent home, centre of vital interests, place of habitual abode, nationality etc) would award treaty residence to the home country. The OECD guidance note of April 3 also emphasises that COVID-19 crisis is an exceptional circumstance and competent authorities will have to consider a more normal period of time when assessing a person's residential status. Another key aspect to be noted is that the individual as well as the company must maintain a record of facts and circumstances of the relevant presence in the state or outside for production to the Revenue Authorities at a later point of time to corroborate bonafide.

Conclusion

It is pertinent to note few aspects, first being the guidelines issued by the OECD Secretariat are not binding on India, but being an observer member, the guidelines certainly will aid Indian business houses in case their employees are stranded in OECD member countries. Second being that the threshold for physical presence test of the employees applicable under domestic laws may be different or lower than those in tax treaties triggering the existence of PE and imploding a burden of compliances on the employer or companies. While countries such as France, Belgium, Switzerland and Luxembourg have mutually agreed to relax thresholds for their crossborder workforce, other nations

(Contd. on page 15)



AMENDMENTS IN GST REFUND PROCEDURES – INCLUDING SPECIAL RELIEFS DURING COVID-19

CA. Annapurna D Kabra

Under the erstwhile taxation regime, the refund was onerous area for the tax applicant and the tax administrators. In the initial period the taxpayers were not able to apply for refund as there were technical issues in the GST portal. Thereafter, the numerous amendments are made to make the refund procedure more effective and efficient. The following are the recent refund procedures including special reliefs during COVID-19 for the benefit of applicants.

During the phase of lockdown during COVID-19, certain amendments are made by giving relaxations for extensions of dates for applying the refunds under the GST law. As per section 54, the applicant can make an application for refund before expiry of two years from the relevant date. In case if the due date for making application for refund falls between 20.3.2020 to 29.6.2020 then the date of refund is extended to 30.6.2020. There is requirement to furnish the letter of undertaking (LUT) for each financial year when the exports are to be made without payment of tax. The requirement for furnishing any report, document, return, statement or such other records falls during the period from 20.3.2020 to 29.6.2020 is extended till 30.6.2020. Therefore, the time limit for filing the LUT for 2020-2021 is extended to 30.6.2020. Therefore, in the meantime the tax payer can continue to make the supply without payment of tax under LUT provided that the Form GST RFD -11 for 2020-2021 is furnished on or before 30.6.2020 and can give the reference number of LUT for the year 2019-2020 in the relevant documents. **(Circular No. 137/07/2020-GST dated 13.4.2020)**

The circular has issued certain clarifications for certain procedural aspects towards claiming of Refund like wherein the tax payer has paid GST on advances and has want to refund such advances to the recipient, then in such instances the taxpayer should issue the refund voucher to the recipient and can apply for refund of GST paid on advances by filing Form **GSTR RFD -01** under the category as 'Refund of excess payment of taxes'. In case if the taxpayer

has already issued the Tax invoice for the advances received, then the taxpayer can issue the credit note under section 34(1) of CGST Act and if there is no output liability then such taxpayer can apply for refund of excess payment of tax. **(Circular No. 137/07/2020-GST dated 13.4.2020)**

The preceding refund circulars state that the applicant can file a refund claim for a tax period or by clubbing successive tax periods. But such tax periods cannot be clubbed for across different financial years. For example, the applicant wants to file the refund application for tax periods from January 2019 to June 2019 the in such scenario the tax payer cannot file the one consolidated application for January 2019 to June 2019 and has to file two separate applications for January 2019 to March 2019 and April 2019 to June 2019 respectively. But there is no bar under GST law for claiming refund by clubbing different months across successive financial years. Therefore, based on the above amendments the applicant can file consolidated refund application for the tax periods from January 2019 to June 2019 respectively. Thereafter now it is clarified that the taxpayer can file the refund application by clubbing different months across successive financial years. **(Circular no 135/05/2020- GST 31/3/2020)**

The applicant can claim refund in case of inverted duty structure, wherein the credit has been accumulated on account of the rate of tax on inputs is being higher than the rate of output supplies. For example, in case of Incense sticks where the output tax rate is 5% and the inputs are at different rate at 18%, 12% or 5% then the applicant can claim refund of accumulated credit under Inverted duty structure. But the applicant cannot claim refund under inverted duty structure due to change in the GST rate on the same goods at different points of time. For example: the applicant has purchased the goods at applicable rate of 18% and later the rate of tax on such goods is reduced to 12% therefore in such instance there will be accumulation of credit of 6% credit which is not eligible for refund to be claimed under Inverted

duty structure. Therefore, the refund of accumulated Input Tax credit would not be applicable in case where the rate of tax on input and output supplies are same though it is accumulated due to change in rate of tax. **(Circular no 135/05/2020- GST 31/3/2020.)**

Previously the applicant was able to apply for refund even for those inward invoices which were not reflected in GSTR 2A. In such instance the applicant was uploading the copies of invoices and claiming the refund even though such inward Invoices were not reflected in GSTR 2A. Similar to claiming of input tax credit based on GSTR 2A even the refund is restricted to the tax credit as reflected in GSTR 2A. Therefore, the applicant can claim the refund of accumulated input tax credit only for those invoices which are uploaded by the supplier in Form GSTR-1 and are reflected in Form GSTR -2A of the applicant. Therefore, the applicant lost the options of claiming the refunds for those tax Invoices which has not been uploaded by the supplier. There is no clarity on claiming the provisional refund though there is provision to claim 10% of tax credit (subject to restrictions) as provisional credit under the GST law. **(Circular no 135/05/2020- GST 31/3/2020.)**

Basically, the Form GSTR-2A does not contain the details of HSN/SAC of goods and services. The Form GSTR-2A does not bifurcate the details of the Input tax credit pertaining to inputs/input services and capital goods to assess the eligibility of input tax credit to claim refund under the GST law. Thereafter the amendments are made in refund procedure by mandating the applicant to affix HSN/SAC for all the inward supplies at the time of filing the refund application in **Annexure-B**. The above requirement has mandated the applicant to extract the details of HSN/SAC from the Inward Invoices. The above amendment is done to facilitate the identification of capital goods and ineligible input tax credit which was claimed as Refund. **(Circular no 135/05/2020- GST 31/3/2020.)**

To avoid the unintended encashment of credit balances by the tax payers, if a registered person claims the refund of any amount paid as tax wrongly paid or if the taxes are excess paid of which debit has been made from the electronic credit ledger, then the amount if any found admissible shall be recredited to the electronic credit ledger by the proper officer by an order made in Form GST PMT 03. **(Rule 84(4A))**

The undertaking while filing RFD-01 should state that "I hereby undertake to deposit to the Government the amount

of refund sanctioned along with interest in case of non-receipt of foreign exchange remittances as per the proviso to section 16 of the IGST Act, 2017 read with rule 96B of the CGST Rules 2017. **(Declaration under Rule 89(2)(g))**

There is change in the terminology of '**Turnover of zero-rated supply of goods**'. It means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond/ LUT or value which is 1.5% times the value of like goods domestically supplied or similarly placed supplier as declared by the supplier whichever is less other than the turnover of supplies in respect of which refund is claimed under sub rule (4A) or (4B) or both. **(Rule 89(4)(c))**

In case if the proper officer is satisfied that refund pertains to cases of tax paid other than tax paid on zero rated supplies and deemed export, then **Form RFD -06** will be issued sanctioning the amount of refund. The cases can be like refund of excess payment of tax, refund of tax paid on intra state supply which is subsequently held to be interstate supply and vice versa, refund on account of assessment/provisional assessment/appeal/any other order or any other reasons. The proportionate refund has to be computed for the amount to be paid in cash and the amount to be paid in credit. The proper officer shall issue **FORM GST PMT -03** for recrediting the amount of Input Tax credit in electronic credit ledger. **(Rule 92(1A))**

The amount to be paid in cash will be refund sanctioned * amount debited to electronic cash ledger/total liability for the refund period and the balance amount shall be refundable. The refund amount to be paid in credit = Refund sanctioned x amount debited to electronic credit ledger / total liability for the refund period. The amount debited to electronic cash ledger/electronic credit ledger means the liability paid in cash or credit for the refund period (Rule 92(1A)). The refund to be paid in cash and credit shall be calculated in the same proportion in which the cash and credit ledger has been debited for discharging the total tax liability for the relevant period for which the refund application is filed. **(Circular No 135/05/2020- GST 31/3/2020.)**

The Registered person can apply for refund of IGST paid on export of goods with payment of IGST wherein IGST and cess are paid but basic custom duty is claimed as exemption. **(Rule 96(10)(b) with effect from 23.10.2017)**

(Contd. on page 11)



QUANTUM OF ITC – ANALYSIS OF RULE 36(4)

CA. Prateek Marlecha

Subject to conditions and restrictions, a registered person is eligible to take input tax credit (ITC) on inputs, input services and capital goods which are used or intended to be used in the course or furtherance of business. As per 16(2)(c) of the CGST Act, ITC cannot be claimed unless supplier has actually paid to the Government, either in cash or through utilization of credit, the tax relating to such supply. Further, as per Section 37(1) of the CGST Act, a dealer is entitled to claim input tax credit on invoices which are appearing in GSTR-2A

The Government vide notification no. 49/2019-CT dated 09.10.2019 inserted rule 36(4) to the CGTST Rules with effect from 09.10.2019 to restrict ITC on invoices which are not appearing in GSTR-2A. Rule 36(4) states that the ITC availed in respect of invoices/debit notes which are not appearing in GSTR-2A, shall not exceed 20% of the eligible credit available in respect of invoices/debit notes appearing in GSTR-2A. With effect from 01.01.2020, the 20% limit was reduced to 10% (vide notification no. 75/2019-CT dated 26.12.2019).

On a perusal of the above provisions, it can be seen that ITC can be availed on the following: -

- a. Invoices/Debit notes which are eligible credits and the details of which are appearing in GSTR-2A; and
- b. Invoices/Debit notes which are eligible credits but the details of which are not appearing in GSTR-2A. However, credit under this category cannot exceed 10% of the eligible ITC invoices which are appearing in GSTR-2A.

Whether the Government has powers to impose such restrictions?

Section 16 specifically states that ITC can be claimed subject to certain conditions and restrictions as may be prescribed. Therefore, the Government has the right to prescribe the conditions and restrictions for availing ITC which are consistent with the law. The conditions for availing the credit is listed in Section 16(2). One of the restrictions is prescribed under Rule 36(4) of the CGST Rules to restrict credit in respect of invoices which are not appearing in GSTR-2A.

What does the restriction imply?

Prior to October 2019, dealers were entitled to avail ITC in Form GSTR-3B based on the invoices available with them, irrespective of whether such invoices are appearing in GSTR-2A or not. However, with the introduction of Rule 36(4), the ITC to be claimed in Form GSTR-3B has to be verified with GSTR-2A and the ITC on invoices which are not appearing in GSTR-2A has to be restricted to the extent of 10% of eligible input invoices which are appearing in GSTR-2A. Further, as and when the invoices are uploaded by the vendors, the registered dealer can avail the input tax credit in that particular month (subject to the overall time limit specified in Section 16(4)). The Government vide its Circular no. Circular No. 123/42/2019- GST, dated 11.11.2019 (http://www.cbic.gov.in/resources/htdocs-cbec/gst/circular-cgst-123_New.pdf) has clarified as to how the ITC has to be computed and availed.

Illustrations for understanding the provision of Rule 36(4):-

Registered dealer has received eligible input invoices for Rs. 10 Lakhs for the month of January 2020.

Case	Value of eligible ITC for which invoices appearing in GSTR-2A	10% of eligible credit of invoices appearing in GSTR-2A	Eligible ITC to be taken in GSTR-3B of January 2020
Case-1	Rs. 6,00,000	Rs. 60,000	Rs. 6,00,000 (i.e. amount of eligible ITC available, as per details uploaded by the suppliers) + Rs. 60,000 (i.e. 10% of amount of eligible ITC available, as per details uploaded by the suppliers) = Rs. 6,60,000/-

Case	Value of eligible ITC for which invoices appearing in GSTR-2A	10% of eligible credit of invoices appearing in GSTR-2A	Eligible ITC to be taken in GSTR-3B of January 2020
Case-2	Rs. 9,00,000	Rs. 90,000/-	Rs. 9,00,000 + Rs. 90,000 = Rs. 9,90,000/-
Case-3	Rs. 9,50,000	Rs. 95,000/-	Rs. 9,50,000/- + Rs. 50,000/-* = Rs. 10,00,000 * It is assumed that the total credit for the month is Rs. 10,00,000. The additional amount of ITC availed is limited to ensure that the total ITC availed does not exceed the total eligible ITC.

Condition to be satisfied on monthly basis or cumulative basis

It is not clear as to whether the condition of Rule 36(4) has to be satisfied on monthly basis or cumulatively for the period. For example, while filing the return for the period October 2020, the limit of 10% has to be determined based on invoices of October 2020 which are not appearing in GSTR-2A or invoices of April 2020 – October 2020 which are not appearing in GSTR-2A. The author is of the opinion that 10% limit has to be satisfied cumulatively for period April 2020 - October 2020 in this example.

Illustration

Details of ITC availed in April 2020 – September 2020 GSTR-3B

Particulars	April - Sept	October	Total
Input tax credit availed, as appearing in GSTR-2A	165,000	30,000	1,95,000 (A)
Input tax credit, not appearing in GSTR-2A	15,000 (B)	10,000	25,000
Total Input tax credit availed	1,80,000	40,000	2,20,000

Credit that can be claimed for October 2020	Amount
1. Credit, appearing in GSTR-2A	30,000
2. Credits, not appearing in GSTR-2A - a. As per books of account - Rs. 10,000/- ; or b. As per amended Rule - Maximum of 10% of Eligible credits appearing in GSTR-2A (-) already availed from April to September, which are not appearing in GSTR-2A = (10%*A) (-) B) = Rs. 4,500 ; whichever is lower	4,500
Total credit for October 2020	34,500

Relaxation of restriction of Rule 36(4) for February to August 2020

Considering the difficult situation the country is facing due to the pandemic of Covid-19, the Government has announced various relief measures for the trade and industry. One such measure is deferring the restriction contained in Rule 36(4) for the tax period of February 2020 to August 2020.

The Government vide notification no. 30/2020-Central Tax dated 03.04.2020 has introduced a proviso below Rule 36(4) which states that ITC for the period February 2020 to August 2020 can be availed based on invoices available, irrespective of whether such invoices are appearing in GSTR-2A or not. Further, while filing the return for the period September 2020, the restriction contained in Rule 36(4) has to be satisfied on a cumulative basis for the period of February 2020 to August 2020. It may be noted that for the month of September 2020, the restriction contained in Rule 36(4) will continue to apply. Therefore, the ITC for the period September 2020 will have to be calculated in the following manner:-

ITC on eligible invoices of September 2020 which are appearing in GSTR-2A	XXXXX
Add: ITC on eligible invoices of September 2020 which are not appearing in GSTR-2A (10% of eligible invoices appearing in GSTR-2A, subject to actual credit).	XXX
Add/Less: Adjustment for ITC of February 2020 to August 2020	XXX
Credit to be availed in September 2020 return	XXXXX

Illustration for understanding

Credit availed for February 2020 to August 2020 in GSTR-3B		1,00,000
Out of the above, invoices which are appearing in GSTR2A - A	80,000	
Out of the above, invoices which are not appearing in GSTR2A - B	20,000	

Credit details of September 2020		20,000
Out of the above, invoices which are appearing in GSTR2A - C	15,000	
Out of the above, invoices which are not appearing in GSTR2A - D	5,000	

Calculation of ITC that can be claimed in September 2020

Credit appearing in GSTR-2A of September - (C above)	15,000	
Add: ITC on invoices not appearing in GSTR-2A of September - Restricted to 10% of credit based on invoices appearing in GSTR-2A as per Rule 36(4) - (C*10%)	1,500	
Add/Less - ITC Adjustment for February 2020 to August 2020*	(12,000)	
Credit to be claimed in September 2020 return		4,500

* Calculation of ITC Adjustment for February 2020 to August 2020

ITC on invoices not appearing in GSTR-2A of February 2020 to August 2020 - Restricted to 10% of credit based on invoices appearing in GSTR-2A as per Rule 36(4) - (A*10%)	8,000	
Less: Credit on invoices not appearing in 2A already claimed in February to August (B above)	(20,000)	(12,000)

In the above illustration, ITC on invoices for Rs. 20,000 (**B** above) which were not appearing in GSTR-2A for the period February 2020 – August 2020 have been claimed as ITC in the returns for the period February 2020 to August 2020. While filing the return for the period September 2020, the registered dealer has to compute the eligible ITC for the period February 2020 to August 2020 after satisfying the restriction provided in Rule 36(4). As per Rule 36(4), the registered dealer is actually entitled to avail ITC on invoices which are not appearing in GSTR-2A to the extent of 10% of the eligible ITC of invoices appearing in GSTR-2A. The actual credit eligible on such invoices is only Rs. 8,000 (10% of **A** above). As the registered dealer has availed excess ITC of Rs. 12,000 (Rs. 8,000 (-) Rs. 20,000), the registered dealer will be liable to adjust such credit in the return for the period of September 2020.

Whether interest is liable to be paid for excess availment of ITC

While ascertaining the actual eligible credit for February to August 2020, if it is found that excess ITC has been availed, the adjustment by way of reversal of credit has to be done in the return of September 2020. While reversing the credit, the registered dealer will not be liable to pay any interest. This is for the reason that the proviso requires the adjustment to be carried out while filing the return of September 2020. Therefore, there is no delay in reversing the excess credit availed and accordingly there will not be any liability towards interest.

Importance of September 2020 return

It has to be noted that the return for the period September 2020 is relevant for carrying out the following adjustments:-

1. **ITC of 2018-19 which has not been availed** – The ITC on invoices pertaining to FY 2018-19 has to be availed on or before the due date for furnishing the GSTR-3B of September 2020.
2. **Credit notes for FY 2018-19** – Credit notes in relation to invoices for the FY 2018-19 has to be issued on or before the due date for furnishing the GSTR-3B of September 2020.
3. **Adjustment for Rule 36(4) for February to August 2020** – Adjustment for ITC on invoices which are not appearing in GSTR-2A of February to August 2020 has to be given effect in the GSTR-3B of September 2020.

Conclusion

The Government has acted quickly and has relaxed the restrictions relating to ITC on invoices which are not appearing in GSTR-2A. Trade and Industry should have considerable time to get back and carry out the reconciliation process.

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AMENDMENTS IN GST REFUND PROCEDURES – INCLUDING SPECIAL RELIEFS DURING COVID-19

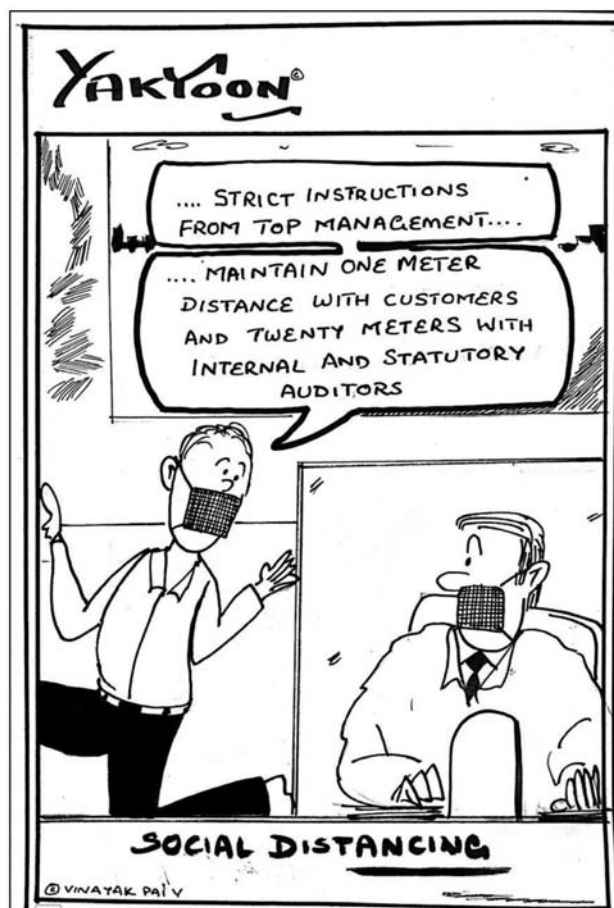
(Contd. from page 7)

There is an amendment in the procedure for the recovery of refund of unutilised input tax credit or IGST paid on export of goods where **exports proceeds are not realised**. Where the refund has been paid to the applicant but if the sale proceeds of export goods is not realised within the time limit including extended time limit under FEMA then the applicant should deposit such proportionate refund along with interest within 30 days of realisation. If not done within the specified period, then it will be recovered by officer under section 73 or 74 along with interest under section 50. The recovery of refund is not required to be done if the Reserve bank of India writes off the requirement of realisation of sale proceeds on merits. Where the sale proceeds are realised after the recovery of refund and if the applicant produces the evidence within three months of realisation (within extended time permitted by RBI) then the amount so recovered will be refunded accordingly. **(Rule 96B)**

Under the GST regime, the government has assured the hassle-free refund process on the primer of the GST law in the country. The economic shut down due to COVID-19 has raised the concerns for the business entities and government entities. The Government has made certain amendments under the GST law including the relaxations for extension of dates. There is deferment in payments of

GST without charging interest, late fee or penalty except for large entities as specified. But there is no deferment to apply for the refund and accordingly the applicant can apply for the refund subject to compliance of the GST law.

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INDIRECT TAX UPDATES

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



The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 – Indirect Taxes:

1. Central Goods and Services Tax Act, 2017

- a. Section 168A has been inserted empowering Government issue notification extending the time limit specified in, or prescribed or notified under the CGST Act, 2017, in respect of actions which cannot be completed or complied with, due to force majeure. The notification under this section could be issued with retrospective effect.

The expression “*force majeure*” means a case of war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature or otherwise affecting the implementation of any of the provisions of CGST Act.

- b. In terms of the said section 168A, Notification No. 35/2020-Central Tax, dated: April 03, 2020 is issued. Summary of the said notification is as below:
- i. Wherever, any time limit for compliance or completion of any action is prescribed under the act, which falls during the period from 20.03.2020 to 29.06.2020, and where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action, shall be extended up to the 30th day of June, 2020.
- ii. However, the above extension is not applicable to the time limits prescribed under the following provisions:

Sec. No.	Summary of the provisions
Chapter VI	Deals with time of supply
10(3)	Lapsing of the composition facility on crossing the turnover limit
25	Procedure for registration
27	Special provisions relating to casual taxable person and non-resident taxable person
31	Tax invoice

Sec. No.	Summary of the provisions
37	Furnishing details of outward supplies.
47	Levy of late fee
50	Interest on delayed payment of tax.
69	Power to arrest
90	Liability of partners of firm to pay tax
122	Penalty for certain offences
129	Detention, seizure and release of goods and conveyances in transit
39	Furnishing of returns- However, returns for TDS, ISD and Non resident are excluded
68	In so far as e-way bill is concerned

Therefore, anything to be done within due dates mentioned in any of the provisions or rules made thereunder of notifications issued thereunder, except the time limits mentioned in the above listed provisions or rules made thereunder shall be extended.

- iii. Where an e-way bill has been generated under rule 138 of the Central Goods and Services Tax Rules, 2017 and its period of validity expires during the period 20th day of March, 2020 to 15th day of April, 2020, the validity period of such e-way bill shall be deemed to have been extended till the 30th day of April, 2020.
- c. Notifications relating to filing of various returns:
- i. **GSTR-1:[33/2020-CT, Dt. 03.04.2020]**
- There is no extension of due date for filing GSTR-1
 - However, returns for the periods March, April & May 2020, Quarter ending March 2020, if not furnished within due dates, then late fee shall be waived, if such return(s) are filed within 30.06.2020
- ii. **GSTR-3B:**

The below table summarizes the time limits and the waiver of interest or late fee for the returns to be filed under GST provisions:

Turnover of the assessee	Month	Due date	Interest	Late fee	Condition-Returns to be filed on or before	Notification reference
Up to Rs.1.5 crores in the previous year	Feb 2020	No change	NIL	Waived	30.06.2020	31 & 32 /2020 -CT
	March 2020	No change	NIL	Waived	03.07.2020	
	April 2020	No change	NIL		06.07.2020	
	May 2020*	12.07.2020	NA	NA		36/2020-CT
More than Rs.1.5 crores but up to Rs.5 crores in the previous year	Feb 2020	No change	NIL	Waived	29.06.2020	31 & 32 /2020 -CT
	March 2020	No change	NIL	Waived	29.06.2020	
	April 2020	No change	NIL		30.06.2020	
	May 2020*	12.07.2020	NA	NA		36/2020-CT
More than Rs.5 crores in the previous year	Feb 2020	No change	Nil for first 15 days from the due date, and 9 per cent thereafter	Waived	24.06.2020	31 & 32 /2020 -CT
	March 2020	No change		Waived	24.06.2020	
	April 2020	No change			34.06.2020	

* Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep-12th July 2020

Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi,-14th July 2020

- d. Relaxation of restriction on avilment of credit in terms of Rule 36(4) of CGST Rules, 2017
- Rule 36(4) – restricting the ITC on the basis of the outward supply reported by the supplier:**
- The said rules presently restricts the ITC availed in GSTR-3B as below:
- A. **Outward supplies reported by the supplier** – entire credit could be availed
- B. **Outward supplies reported by the supplier** - shall be restricted to 10% of the eligible credit which is availed based on invoices uploaded as indicated in (A) above.
- The rule has been amended to provided that said condition of 10% cap, shall apply cumulatively for the period February, March, April, May, June, July and August, 2020 and the return in FORM GSTR-3B for the tax period September, 2020 shall be furnished with the cumulative adjustment of input tax credit for the said months in accordance with the condition above.
- e. Relaxation of time limits to file certain forms by taxable person paying tax under composition scheme:
- A. Intimation to pay tax under composition scheme, Form GST CMP-02 for 2020-21- could be filed upto 30.06.2020.
- B. Furnishing statement of reversal of ITC in Form GST ITC-03 on availing composition scheme – could be filed by 31.07.2020
- C. Furnishing return for Quarter ending 31.03.2020 in Form GST CMP-08 to be filed by Composition supplier- could be filed by 07.07.2020.
- D. Furnishing of return in Form GSTR-4 to be filed by Composition Supplier for 2019-2020- could be filed by 15.07.2020.
- 2. Central Excise/ Service Tax/ Customs provisions:**
- Amendment vide The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020**
- Where time limit for completion of any proceedings, issuance of any notice, notification or order or filing of any appeal or review etc., falls due between 20th March 2020 and 29th June 2020, and such compliance or completion is not made within such time, the time

limit so specified shall get extended to 30th June 2020 or such other date as may be prescribed by the Central Government.

3. SVLDR Scheme, 2019 [Amendment vide The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020]

Time limit for completion of the following procedures under SVLDR Scheme, 2019 has been extended vide the Taxation and Other Laws (Relaxation Of Certain Provisions) Ordinance, 2020:

- A. In terms of section 127(1), where the amount estimated to be payable as declared by the assessee/ declarant is same as the amount estimated by the designated committee, then statement was required to be issued (SVLDR-3) within 60 days from the date of the declaration. In terms of the amendment, the said statement shall have to be issued within 31.05.2020.
- B. In terms of section 127(2) where the amount estimated to be payable by the declarant, as estimated by the designated committee, exceeds the amount declared by the declarant, then, the designated committee shall issue an estimate (in form SVLDR-2) of the amount payable by the declarant within thirty days of the date of receipt of the declaration. In terms of the amendment, the such estimate shall have to be issued within 1.05.2020.
- C. In terms of the Section 127(4), the committee after issue of SVLDR-2 and after hearing the declarant, shall issue statement (in SVLDR-3) indicating the amount payable by the declarant, within a period of 60 days from the date of receipt of the declaration. In terms of the amendment ordinance, the such statement shall have to be issued within 31.05.2020.
- D. In terms of section 127(5), the declarant is required to remit the dues indicated in terms of section 127(1) / (4), within 30 days from the date of issue of statement. In terms of the amendment, the such payment shall have to be made on or before 30.06.2020.

4. Foreign Trade Policy:

- a. Foreign Trade Policy and Hand Book of Procedure which was applicable up to 31.3.2020, has been extended up to 31.03.2021 [Notification No. 57/2015-2020 dt. 31.03.2020 & Public Notice No.67/2015-2020 dt. 31.03.2020]

b. Last date of filing of application for Duty Credit Scrips (MEIS & SEI)

- i. **Merchandise Exports From India Scheme (MEIS):** Application for obtaining duty scrip shall be filed within 12 months from the date of Let export order. However, in terms of the amendment, where let export order date falls during the period from Feb 2019 to May 2019, the application shall be filed within 15 months instead of 12 months.

- ii. **Service Exports from India Scheme (SEIS):** For SEIS, the last date for filing application shall be 12 months from the end of relevant financial year of claim period. However, the last date for filing application for Financial year 2018-2019 has been extended to 31.12.2020.

c. Advance Authorisation Scheme

i. Extension of time limit to import under Advance Authorisation Scheme:

In terms of Public Notice No.67/2015-2020 dt. 31.03.2020, where validity for import under the Advance Authorisation is expiring between 01.02.2020 and 31.07.2020, the validity stands automatically extended by 6 months from the date of expiry.

ii. Extension of time to meet export obligation:

In terms of Public Notice No.67/2015-2020 dt. 31.03.2020, where validity for completing the export obligation under the Advance Authorization is expiring between 01.02.2020 and 31.07.2020, the validity stands automatically extended by 6 months from the date of expiry. No separate application or composition fee amendment or endorsement would be required for this extension.

- iii. Similarly, time limit for filing replenishment authorization or export or re-export of diamonds etc., falls between the dates 1st Feb 2020 and 31st July 2020, the date stands extended by 6 months.

- iv. Further, in para 4.80 of the HBP to provide that note has been appended to provide that in all those cases where last date, calculated as per the durations mentioned in para 4.80, is expiring between the dates 1st Feb 2020 and 31st July 2020, the said last date stand extended by 6 months. This would include extension of time in time for replenishment, booking with nominated agencies, and time allowed to re-import. However, relaxation

in sale proceeds period would be equal to the period allowed plus 6 months, or as directed by RBI, whichever is less.

- v. Similarly, para 4.85A has been inserted to provide for extension of time limits as stated paras 4.82 to 4.85.

d. EPCG Scheme:

- i. Certificate of installation of capital goods imported under EPCG Scheme, shall be submitted within 6 months from the date of importation of the capital goods. Where such 6 months' time limit falls between the dates 1st Feb 2020 and 31st July 2020, the said due date stands extended by 6 months from the original due date .
- ii. Para 5.14 provides for block wise fulfillment of export obligation under t-he EPCG Scheme. The para is amended by inserting 5.14(e) to provide that where the block wise export obligation period expires between the dates 1st Feb 2020 and 31st July 2020, the said period is deemed to be automatically extended by 6 months from date of expiry.
- iii. In case where extension has been granted earlier for fulfillment of export obligation, and such extended

export obligation period expires between the dates 1st Feb 2020 and 31st July 2020, the said period is deemed to be automatically extended by 6 months from date of expiry.

e. EOU/EHTP/STP

- i. Letter of Permission (LOPs) /Letter of Intent (LOIs) issued would be valid for 2 years within which EOU/ EHTP/STP shall be set up. Validity of LOP/LOI could be extended subject to conditions and procedures set out in HBP. Where the said LOP/LOI whose original or extended validity expires on or after 1st March 2020 may be deemed to be valid upto 31st December 2020.
- ii. Para 6.06(c)(ii) of HBP requires export obligation for certain goods to be fulfilled within a period of 90 days from the date on which first import consignment is cleared by Customs Authorities. The said para is amended to provide that where such export obligation period expires between the period from 1st March 2020 to 30th June 2020, the same would be valid upto 30th September 2020.

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OECD SECRETARIAT GUIDANCE - HALFWAY THERE TO SORT OUT COVID-19 RELATED KNOTTY TAX ISSUES

(Contd. from page 5)

such as Ireland, UK and Australia have already promulgated respite from the thresholds as guidance to disregard the presence of an individual in these countries on account of exceptional circumstances due to Covid-19 outbreak. While many double-tax treaties provide protection, where there is no tax treaty, it will be important to review whether expats could create corporate tax risks and, if so, to determine how businesses should prepare to take appropriate mitigating action. It would also be interesting to see the reaction

of authorities for taxing income in situations where multinational companies are providing technical services to their customers across geographies from the employer's home country itself (through digital or video capabilities) instead of project team traveling onsite. Under this scenario, question may arise whether income generated from such projects are taxable in the project country or the employer's country. In recent times, few countries such as Saudi Arabia, Israel, Kuwait as well as India have adopted a view that multinational companies may be considered to have a permanent establishment without physical presence of their employees in the source country.

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FINANCIAL REPORTING AND ASSURANCE

CA. Vinayak Pai V

1. UPDATES: Monthly Roundup¹

AS	<ul style="list-style-type: none"> • ICAI Accounting and Auditing Advisory - <i>Impact of Coronavirus on Financial Reporting and the Auditors Consideration.</i> <ul style="list-style-type: none"> ○ Impact on AS Financial Reporting.
IND AS	<ul style="list-style-type: none"> • RBI Notification - <i>Implementation of Ind AS</i> <ul style="list-style-type: none"> ○ Regulatory Guidance framed on Ind AS for NBFCs and ARCs for preparation of financial statements from FY 2019-20 onwards. • ICAI Accounting and Auditing Advisory - <i>Impact of Coronavirus on Financial Reporting and the Auditors Consideration.</i> <ul style="list-style-type: none"> ○ Impact on Ind AS Financial Reporting.
IFRS	<ul style="list-style-type: none"> • IFRS 17- <i>Insurance Contracts</i> <ul style="list-style-type: none"> ○ Effective date deferred to annual reporting periods beginning on or after January 1, 2023. • IASB Guidance on application of <i>IFRS for SMEs</i> Standard <ul style="list-style-type: none"> ○ SMEIG Q&A 35.1 - Application of the undue cost or effort exemption when measuring an Investment Property at fair value on transition to <i>IFRS for SMEs.</i> • IASB Document <ul style="list-style-type: none"> ○ IFRS 9 and Covid 19 – <i>Accounting for Expected Credit Losses</i> - Education material on application of IFRS 9 during the period of enhanced economic uncertainty arising from the Covid-19 pandemic.
Assurance	<ul style="list-style-type: none"> • ICAI Guidance Note <ul style="list-style-type: none"> ○ Guidance Note on Audit of Banks (2020 Edition). • ICAI Announcement <ul style="list-style-type: none"> ○ Extension of validity of Peer Review Certificate in wake of Covid-19. • ICAI Accounting and Auditing Advisory - <i>Impact of Coronavirus on Financial Reporting and the Auditors Consideration.</i> <ul style="list-style-type: none"> ○ Impact on Audit of Financial Statements.
Company Law/ SEBI	<ul style="list-style-type: none"> • MCA Order dated March 24, 2020 <ul style="list-style-type: none"> ○ CARO 2020 (Order dated February 25, 2020) shall be made applicable from FY 2020-21 instead of FY 2019-20 notified earlier. • MCA General Circular No. 07/2020 dated March 5, 2020 <ul style="list-style-type: none"> ○ Extension of last date of filing Form NFRA-2 <ul style="list-style-type: none"> ▪ Time limit for filing for <i>FY 2018-19</i>: 150 days from date of deployment of form on website of NFRA.

	<ul style="list-style-type: none"> • MCA General Circular No. 11/2020 dated March 24, 2020 <ul style="list-style-type: none"> ○ Special Measures under Companies Act in view of Covid-19 outbreak <ul style="list-style-type: none"> ▪ No additional fees shall be charged for late filing during a moratorium period (April 1 to September 30, 2020) in respect of any document, return, statement etc., required to be filed in MCA-21 Registry. ▪ Deposit Repayment Reserve. ▪ Rule 18 of <i>Companies (Share Capital and Debentures) Rules</i> – Investments/deposits of debentures maturing.
	<ul style="list-style-type: none"> • MCA General Circular No. 12/2020 dated March 30, 2020 <ul style="list-style-type: none"> ○ Companies Fresh Start Scheme, 2020 <ul style="list-style-type: none"> ▪ Grant of one-time opportunity to enable completion of pending compliances by filing necessary documents including annual filings without higher additional fees for delay.
	<ul style="list-style-type: none"> • SEBI Consultative Paper <ul style="list-style-type: none"> ○ Guarantees provided by a Listed Company.
	<ul style="list-style-type: none"> • SEBI Circular dated March 19, 2020 <ul style="list-style-type: none"> ○ Relaxation from compliance with certain provisions of SEBI (LODR) due to virus pandemic <ul style="list-style-type: none"> ▪ Includes period of relaxation of 45 days/1 month – <i>Regulation 33</i> – Filing of Quarterly and Annual Financial Results.
RBI Notifications	<ul style="list-style-type: none"> • Limits on Exposure to Single and Group Borrowers and Large Exposures and Revision in the Target for Priority Sector Lending – UCBs.
	<ul style="list-style-type: none"> • Large Exposures Framework.
	<ul style="list-style-type: none"> • Covid-19 – Regulatory Package <ul style="list-style-type: none"> ○ Rescheduling of payments – Term Loans and Working Capital Facilities. ○ Easing of Working Capital Financing.
	<ul style="list-style-type: none"> • Priority Sector Lending – Lending by Banks to NBFCs for On-lending.
	<ul style="list-style-type: none"> • Basel III Framework on Liquidity Standards – Net Stable Funding Ratio (NSFR).
	<ul style="list-style-type: none"> • Foreign Exchange Management (Export of Goods and Services) (Amendment Regulations), 2020.
US GAAP	<ul style="list-style-type: none"> • FASB Accounting Standards Updates (ASUs) <ul style="list-style-type: none"> ○ ASU No. 2020-03 – Codification Improvements to <i>Financial Instruments</i>. ○ ASU No. 2020-04 – Reference Rate Reform (Topic 848) - Facilitation of the Effects of Reference Rate Reform on Financial Reporting.
	<ul style="list-style-type: none"> • SEC Provides Conditional Regulatory Relief and Assistance for Companies affected by Covid-19.
	<ul style="list-style-type: none"> • PCAOB publication <ul style="list-style-type: none"> ○ Covid-19 : Reminders for Audits Nearing Completion.

¹ Updates for the period Mar 1 to Mar 31, 2020.

2. GETTING UP TO SPEED: Accounting for Expected Credit Losses – Application of IFRS 9 in the light of Coronavirus Uncertainty

The IASB on March 27, 2020 published a document **IFRS 9 and Covid 19 – Accounting for Expected Credit Losses** that highlights requirements within IFRS 9 that are relevant for companies considering how the corona pandemic affects accounting for Expected Credit Losses (ECL).

The document highlights the importance of using **all reasonable and supportable information** available – historic, current and forward-looking to the extent possible, in determining whether lifetime losses should be recognized on loans and in measuring ECL. It reinforces that IFRS 9 does not provide bright lines nor a mechanistic approach and therefore IFRS reporting entities may **need to adjust approaches for forecasting and determining when lifetime losses** should be recognized to reflect the current environment.

3. CASE STUDY: *Reporting On A Key Audit Matter (KAM) – Revenue Recognition for Construction Contracts*

Background

Auditing management’s revenue recognition for construction contracts is complex and judgemental as such recognition is materially affected by changes in assumptions regarding the determination of the stage of completion, the timing of revenue recognition and the calculation under the percentage-of-completion method. In particular, judgemental aspects include assumptions of the estimated materials, hours, and other costs required to fulfil contractual performance obligations.

How the scope of the audit responded to the KAM

The auditors obtained an understanding, evaluated the design and tested the **operating effectiveness of controls** over the Company’s revenue recognition for construction contracts process. This involved inter alia, **testing of controls** over the company’s process for evaluating the estimated contract value, estimated and actual costs upon completion, including the estimation of units of measurement, and the amount of profit or loss to be recognized in accordance with IFRS 15, *Revenue From Contracts With Customers*.

In order to test the revenue recognized by the Company, the auditors **performed audit procedures** that included, among others, **testing a sample** of contracts and **evaluating the original executed contract** including any change orders. For these contracts, the auditors tested key components of the cost to complete estimates and actual costs to date, including vouching materials, hours and subcontractor costs to source documentation, and conducted interviews with and inspected questionnaires prepared by the project personnel.

The auditors **recalculated revenues recognized and assessed compliance** with IFRS 15. In addition, the audit procedures included performing a **retrospective review** of estimated profit and costs to complete and enquiring of key personnel regarding adjustments for job costing and potential contract losses.

4. FIN ST EXTRACTS: *Customer Credit Risk – IFRS 9*

Extracts from published financial statements of a global listed company operating in the construction sector (related to Disclosure of **Customer Credit Risk** in the notes to the financial statements) is provided herein below.

Customer credit risk is managed according to established policies, procedures and controls. Customer credit quality is assessed in line with strict credit rating criteria and credit limits are established when appropriate.

Outstanding customer balances are regularly monitored and a review of indicators of impairment (evidence of financial difficulty of the customer, payment default, breach of contract, etc.) is carried out at each reporting date. Significant balances are reviewed individually while smaller balances are grouped and assessed collectively. There have been no significant changes to the Group’s credit risk parameters or to the composition of the Group’s trade receivable portfolio during the financial year.

The Group applies the simplified approach to providing for Expected Credit Losses (ECL) permitted by IFRS 9, which requires expected lifetime losses to be recognized from initial recognition of the receivables. Given the economic outlook in the economies in which we operate we consider that our ECL adequately represents the risk of default on our receivable balances.

Trade receivables are written off when there is no reasonable expectation of recovery, such as a debtor failing to engage in a repayment plan with the company. Where recoveries are made, these are recognized in the Consolidated Income Statement.

5. BACK TO BASICS: *Impairment of Property, Plant and Equipment (Ind AS)*

The salient aspects of accounting for **Impairment of property, plant and equipment** under Ind AS are discussed herein below.

The carrying values of items of property, plant and equipment (PPE) are **reviewed for indicators of**

impairment at each reporting date and are subject to impairment testing when events or changes in circumstances indicate that the carrying values may not be recoverable.

PPE assets are reviewed for potential impairment by **applying a series of external and internal indicators** specific to the assets under consideration; these indicators encompass macroeconomic issues, actual obsolescence or physical damage, a deterioration in forecast performance in the internal reporting cycle and restructuring and rationalisation programmes.

Similar to the process for goodwill, where the carrying values exceeds the estimated recoverable amount (being the greater of fair value less costs of disposal and value-in-use), an **impairment loss is recognized by writing down the assets to their recoverable amount.**

In assessing the value in use, the estimated future cash flows are discounted to their present value using a **pre-tax discount rate** that reflects current market assessments of the time value of money and the **risks specific to the asset** for which the future cash flow estimates have not been adjusted.

The estimates of future cash flows **exclude** cash inflows or outflows attributable to **financing activities and income tax**. For an asset that does not generate largely independent cash flows, the recoverable amount is determined by reference to the **cash generating unit** to which the PPE asset belongs.

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4	Aravind C B	Bengaluru
5	Punith Kumar K	Bengaluru
6	Deepak Kumar Vagrecha	Bengaluru
7	Dhruv Dedhia	Bengaluru
8	Arun kumar S	Bengaluru
9	Tappan Das	Bengaluru
10	Shreyas S	Bengaluru

S.No.	Name	Place
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12	Sathish Kumar B.V.	Bengaluru
13	Jayashree T	Bengaluru
14	Veena Ramachandran	Bengaluru
15	Swami Manoj Kumar	Bengaluru
16	Venkat Shyam V	Bengaluru
17	Sriharsha V S	Bengaluru
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CONTEMPORARY ENVIRONMENTAL CONCERNS

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IRS, Assistant Director (Retd), NACIN

Modern day human being

We all live on this beautiful planet called Earth, along with wide variety of plants, animals and other organisms. The age of the Earth is said to be approximately 4 to 5 billion years, while the human beings are stated to have evolved only around 2 million years ago. But the way the modern human being (*Homo sapiens sapiens*) is leading her/ his life, to me, appears to be highly self-centered one, which may end up in destruction / disaster of the entire mankind. This is happening primarily due to reckless attitude exhibited by us towards overuse / misuse /disuse of common natural resources like air, water, soil, food etc.,. Added to this, the speed at which we are polluting or exploiting or exhausting such shared reserves, without a thought to preserve them appropriately for the posterity is quite alarming. Treating the natural resources, both living organisms (biotic) and non-living materials (abiotic), in a senseless and stupid manner has created scary situations as regards to health and existential issues on this Earth. In nature, the interactions between abiotic and biotic components are so fine tuned that there exists equilibrium. As years passed by, the human activities have interfered with this stability. Uncontrolled human activities have caused huge damages to the environment. As human beings became more civilised, through the progress of science and technology, created unessential luxuries for living. The population explosion coupled with human greed for progressive prosperity exploited and degraded the environment mercilessly to such a large extent that human survival itself now stands threatened. Contaminated food, water and air are taking their toll on human health. The recent Corona virus is only one such example.

I further feel heartrending to write that our mother Earth at present is facing plenty of environmental degradation and pollution issues, due to irrational way of living by the modern woman/man. The environmental problems such as air pollution, water pollution, global warming, acid rain, soil and land pollution, climate change and many more affect every human, animal and Nation on this Globe.

It is to be noted that Indian civilization, being the most ancient on this earth, has certain well founded beliefs and practices in place for proper use and further preservation of such natural assets, to the coming generations. Our early civilization flourished with our seers [call them as Tapasvis or Scientists] contributing to linguistics, mathematics, agriculture and horticulture, natural sciences like physics, chemistry, biology, engineering and technology, architecture, aeronautics and navigation, cosmology, astronomy and astrology, medicine and high philosophy, and may, when other parts of the world were undeveloped or in total darkness. Mr.N. J. Lockyer, of Massachusetts, Institute of Technology in his work ‘the dawn of Astronomy’ has declared: “The Vedas, in fact, is the oldest book in which we can study the first beginnings of our language and of everything which is embodied in all the languages under the sun.” It is appropriate for all of us to revisit the ancient wisdom and practices, make an effective learning out of such knowledge, so that the reasons for the present crisis could be understood. This may usher change in our attitude and outlook towards others and help us to resolve the crisis in a fruitful manner.

The Vedic scripts herald loud and clear that the earth belongs to all living beings. Therefore it commands protection of the home, for the welfare of all creations. But in present times, sapiens are under the belief and impression that the earth exists only for them, for their exploitation and extraction, to seek their individual pleasure, which is not true. The idea of preserving it for the future generations has fallen apart as we have little concern for others in the society. I feel this is the right time for all of us to think together the reasons for such a critical situation, transform our attitudes, adapt positive societal ways of living and bring change in ourselves, so that entire eco-system remains intact fit for a healthy and happy living.

Ancient India – concern for others

Ancient generations knew that different constituents of the environment co-exist with set relationships with one another. The relation of human being with environment is

imminent as he has no other place to live. During the ancient times, say in the Vedanta period, the approach revolved around the right balance between environment, nature and life. The study of ancient texts clearly depict that pure water, air, food, environment, etc., are essential for good health and happiness, and hence they sensed the presence of divinity in all of them. Keeping the environmental scenario unpolluted, clean and peaceful was a bounden duty of the then humans. The oldest and simplest form of Nature-worship finds expression in these words. Here worship should not be understood in the literal sense, but as a connecting factor, between individuals and the nature. The inward reverences towards these natural resources help us to realise our role on this earth much better.

According to the Upanishads, the universe consists of five basic elements viz., (i) Earth or land, (ii) Water, (iii) Light or luster, (iv) Air and (v) Ether. The nature has on its own, maintains a status of balance between and among these five constituents or elements and living creatures. Any disturbance in any constituent of the environment beyond certain limits disturbs the natural balance which causes problems to the living creatures. The following Sanskrit rendering indicates the relationship of humans with earth comparing it to like a mother and child inferring that one should not harm either the environment or its flora and fauna.

माता भूमि पुत्रोहं पृथिव्या॥

“Earth is my mother I am her son”

Environmental ethics had always been an inherent part of Bharat, as we believed in relationship of human beings with the Nature as the centre for graceful and happier living. We always proclaimed that our primary duty should be to preserve environment for a harmonious living. This was practiced by worshipping of nature – the Sun, the Moon, the Fire, the Earth, the Air and the Water, as a mark of deep reverence to the forces of nature that sustained and preserved human life on earth. The Vedas deliberate the human beings as the caretakers of nature / resources, one who replenishes the abundances rather than spoils it, conserves and protects. The daily rituals and routine and life styles of ancient people, as gathered from *Srutis*, *Smritis*, *Puranas* and *Nibandhas* clearly indicate their reverential approach towards natural assets. The Atharva Veda focuses on numerous significant characteristics of human and nature interconnectedness, outlining a profound ethos of ecological sustainability. As of

today, this attitude is necessary to change the minds of the natives. We require education focusing on environmental ethics viz., leading a *yoga marga* [meaning a Yogic way i.e. to be in union with the laws of nature, and to use the resources with due care] and not the *Bhoga marga* [over exploitation of resources for selfish needs and pleasure] as the valued way to have a continued life on this earth.

Buddhism too emphasizes that human beings cannot survive in the nature without respecting consciousness of nature. The preaching directs the followers for more harmonious and less harmful ways of dealing with our environment. It believes that it is the responsibility of everyone to guide global family in right direction. It unequivocally advocates that the human being is the custodian, guardian and overseer and affirms a duty towards nature for sustaining life. This doctrine forms the basis for the environmental ethical concerns. The basic thrust of the Jainism is also on the minimum destruction of living and non-living resources for the benefit of man. I feel we all should start by sharing this eternal truth and practice it in right spirit, before indulging in any activity which disturbs the eco-system. We should use these commons with utmost care, failing which we may end up paying a very heavy price.

Environmental laws

In current times, humans on earth are suffering from pollution in all common essentials, imbalance in environmental cycles, virus infections, typhoid, cholera, jaundice, hepatitis and other water and air borne diseases in addition to cancer. Environmental degradation due to deforestation, siltation, air, land, insanitation, water and noise pollution all pose a grave threat not only to the quality of human life but also to its basic survival. Unless we protect the basic commons from pollution, we cannot protect ourselves. In this civilised society, as tools to enforce such a regime we do have environmental laws in place. But mere law enforcements suffice? The replies remain open ended.

Environmental law, also known as natural resources law, is a collective term describing the group of treaties, statutes, and regulations, common and customary laws addressing the effects of human activity on the natural environment. Environmental Law is expected to play a very crucial and important role in regulating the use of natural resources with a view to protect the environment. We have plenty of such international treaties and agreements in place, but we have failed to enforce them and preserve this earth intact.

Although environmental issues are global in nature, each country is in control of its own environment with jurisdiction over its territory. Hence, it should monitor, control, and enact suitable regulations to safeguard its environment. This is true in respect of India too.

Indian laws for protection of environment

Article 21 of the Indian Constitution assures every Indian citizen a fundamental right to a healthy and pollution free environment. The Article 51A (g) of the Indian constitution states that, "It shall to be duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life and have compassion for living creatures." The Directive Principles of State Policy regarding the protection and improvement of the environment viz., Article 48A mandates that "the State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country".

Further in the wake of the Bhopal tragedy, the Government of India enacted a comprehensive legislation with pretext to protection and improvement of environment, titled "The environmental Environment (Protection) Act of 1986. The said Act defines the environment as, 'Environment includes **water air and land** and the inter-relationship which exists among and between water, air and land and human beings, other living creatures, plants, micro organisms and property'. The objectives stated therein are: "An Act to provide for the protection and improvement of environment and for matters connected therewith. WHEREAS decisions were taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, to take appropriate steps for the protection and improvement of human environment; And Whereas it is considered necessary further to implement the decisions aforesaid in so far as they relate to the protection and improvement of environment and the prevention of **hazards to human beings, other living creatures, plants and property;**"

By virtue of the above Constitutional and legal framework, the Apex Court in the case of Damodar Rao v. S.O. Municipal Corporation [AIR 1987 AP 171] held that the environmental pollution and spoliation which is slowly poisoning and polluting the atmosphere should also be regarded as amounting to violation of Article 21 of the Indian Constitution. The Right to Pollution Free Environment was declared to be a part of Right to Life under Article 21 of the Constitution of India in the case of Subhash Kumar vs. State

of Bihar and Ors. (1991). Therefore the Right to Life is a Fundamental Right which includes the Right of enjoyment of pollution free water and air for full enjoyment of life.

India's National Environment Policy 2006 is in further response to our national commitment to a clean environment. The policy declares the intentions of the Government to ensure adherence to international efforts on environment concerns and contributions towards various environmental initiatives. The National Environment Policy intends to inspire integrated involvement of different stakeholders, i.e. public agencies, government and non-government agencies, academic and scientific institutions, investment community, local communities, and the international development associates, in yoking their resources.

But when we see the ground reality, we can confidently conclude that our legal and policy frame work have failed to sustain or arrest the degradation of earth's health. Over the last few decades, the exploitation and degradation of our environment have gone up at an alarming rate. All humans are not keen in following the prescribed law, as it is against their narrow and selfish mindset towards the luxury way of living and against their material desires. As our actions are not in favor of protecting this planet, we have seen natural disasters occurring more often in the form of flash floods, tsunamis and cyclones. The diseases like COVID-19 are making the surgical strikes on living beings, including humans. The earth's condition has turned out to be serious and therefore no longer feasible for anyone of us to ignore. There is immediate need for changing of our mindset, so that we respect the law of the nature and provide it enough space to play its balancing role. In the following part an attempt is made to bring out some major environmental concerns in the present day eco-system on the earth and throw open the same to obtain response of the civilized society to change their attitude towards their life so that we handover a clean and livable earth to the coming generation.

Pure air! A rarity?

We are aware that seven key types of pollution viz., pollution of air, water, soil, noise, radioactive, light and thermal Pollution are the primary causes of environmental distortion, including climate change and biodiversity. The earth is enveloped by a gaseous atmosphere that supports life. The most essential element required for all living beings to survive on this earth is the availability of clean air, in its natural form, with sufficient quantity of oxygen

for a healthy living. As we know the oxygen from the atmosphere is used by all the living organisms including humans during respiration. Oxygen is necessary to oxidize food for liberating energy required for various activities in the living organisms. The Green plants utilize carbon dioxide from the atmosphere during photosynthesis. When pure air is or was available in abundance, we have polluted the same without a second thought. In the name of development, we have landed ourselves in certain death as we engaged in activities that generated disastrous toxic air. Air contamination occurs due to poisons gases discharged by manufacturing plants, with little care to preserve pure air. These unsustainable activities make the whole mankind pay a heavy price in the days to come. In a couple of years from now, the human beings may have to carry the oxygen filled cylinders for their survival. In such a situation what will happen to our animal and plant kingdom?

Air pollution is becoming an increasingly dangerous problem, particularly in heavily-populated cities. The World Health Organization (WHO) has found that 80% of people living in urban areas are exposed to air quality levels deemed unfit by the organization. The other major sources of air pollution are: Vehicular emissions and Domestic emissions. It is also directly linked to other environmental issues, such as acid rain. Acid rain comes as a result of air pollution, mostly through chemicals released into the environment when fuel is burned. The aquatic ecosystems are damaged due to increased acidity in the water and it can further lead to death of animals and plants. Further the Air pollution and climate change are closely linked, as the same greenhouse gas emissions that are warming the planet are also creating smoggy conditions in major cities that endanger public health. We should also realize that the environmental resources are limited and fast getting depleted due to over exploitation. The Pollution of air, water and land caused by human activities are posing serious threat to human survival and well being.

Impact on soil and land

Land pollution means degradation of earth's surface as a result of human activities like mining, littering, deforestation, industrial, construction and agricultural activities. Land pollution can have huge environmental impact in the form of air pollution and soil pollution which in turn can have adverse effect on human health and production of food. In addition to this the mining activity ie., extraction of minerals from earth's core also bring out

harmful chemicals from deep inside the earth to the earth's surface. The toxic emissions from mining can cause air, water and soil pollutions.

Activities such as deforestation, release of toxic substances on the land, throwing of unhygienic waste on earth, dumping of garbage, biomedical waste etc. also causes land pollution. Excessive use of pesticides is another source of land pollution as this affects the potability of water. Cutting down trees also threatens animals and humans who rely on healthy forests to sustain themselves. Not only do natural forests act as biodiversity reserves, they are also carbon sinks, keeping carbon out of the atmosphere and oceans.

Bottled water regime

The demands of an increasing population have resulted in increasing levels of deforestation and the estimates state that the planet is losing 80,000 acres of tropical forests per day. The deforestation is estimated to produce 15% of the world's greenhouse gas emissions. Added to all the above woes, the numbers of inhabitants in the planet are reaching the unsustainable levels as it confronts deficiency of assets like water, fuel and food. The over population is turning out to be one of the most important environmental concerns as it fuels number of issues, such as a lack of fresh water, habitat loss for wild animals, overuse of natural resources and even species extinction.

Water pollution is the contamination of water bodies (e.g. lakes, rivers, oceans, aquifers and groundwater) and occurs when pollutants are discharged directly or indirectly into water bodies without adequate treatment to remove harmful compounds. Waste generated from industries and also from agricultural activities pollutes the water used by humans, animals and plants. The polluted water is not only a huge financial strain on the economy but also killing agent for both humans and marine life. With oil spills, an abundance of plastic waste and toxic chemicals entering our waterways, we are damaging the most valuable resource our planet has to offer. Natural clean drinking water has become an uncommon thing. Just a decade ago most of the water sources contained natural fresh water, which could have been consumed, without any risk to life. But as of today, due to severe pollution, the Water has become a manufactured product in the form of bottles. No one could dare to drink directly from the water bodies, which have been contaminated due to poor disposal methods in urban waste and sewerage.

All living beings require food to obtain energy and if the food consumed is polluted or adulterated, it will have injurious effects on the health. The pollution of food for the present day person starts with the use of chemical fertilizers and pesticides at various stages of the plant growth. These chemicals directly or indirectly affect the quality of foods produced and thereby affect the health of the consumers. Can we resort to, for production and use of organic manures, as a way to protect our food from pollution, as practiced by our ancestors?

The way out

As we deliberated above that all types of environmental concerns and pollutions are interlinked, as they influence one another. Therefore we need to work together as a community, to reduce the impact of pollution on our living. Sustainable development, that is, a prosperous economy that respects the diverse interest in the area of environmental issues, is the key for the future. Ancient seers knew the various aspects of environment, about cosmic order, and also about the importance of co-ordination between all natural powers for universal peace and harmony. This time tested wisdom should be spread throughout the present generation, so that we can expect some attitudinal change in the minds of the inhabitants. If this happens, then positive solutions to the concerns of the earth could be implemented in an effective manner. This brings out the true essence of happy living in the form of “वसुधैवकुटुम्बकम् - the whole world is one family”.

Our ancient people for generations prayed for peace at all levels. In the ‘Shanti Mantra’, they expressed the importance interrelationship among all natural powers and regions. The prayer says that not only regions, waters, plants, trees, natural energies but all creatures should live in harmony and peace. The Atharva Veda’s “भूममसूक्त” (*Bhumi Sukta*) emphatically declares that the Earth is imperishable, non-destructible, endless one, and is stable, on which reside people of countless languages and religions as one family.

जनंभिभ्रती बहुधा विवाचसानानाधर्मणं पृथिवीयथौकसम्।
सहस्रं धाराद्रविणस्य मे दुहांध्रुवेवधेनुरनपस्फुरन्ती॥

Observe the positive outlook of our ancestors in the above hymn. The Sukta in further part assures the love of nature towards its occupants.

यस्यां समुद्र उत सिन्धुरापो यस्यामन्नं कृष्टयः संबभूवुः ।
यस्यामिदं जिवन्ति प्राणदेजत्सा नो भूमिः पूर्वपेये दधातु ॥३॥

Meaning: In her is woven together Ocean and River Waters; in Her is contained Food which She manifests when ploughed, In Her indeed is alive all Lives; May She bestow us with that Life.

Conclusions

Unfortunate that we find that, world over including India, the human beings have not changed their mindset and therefore the Environmental laws have totally failed to address the ongoing critical situations. Unless this is addressed, the issues relating to nature and environment remain unresolved. The Ancient wisdom focuses on numerous significant characteristics of human and nature interconnectedness. It has outlined a profound ethos of ecological sustainability on the earth. It is high time for all of us to realise that this earth belongs to all of us and it is our primary duty to preserve it intact for the benefit of every one.

Any developmental activity that harms the environment should not be encouraged at all. Let us kick start the campaign to protect our only planet by resorting to growing of more trees, and resolve to use resources in a limited way without causing pollution, so that we could preserve the balanced eco-system for the coming years. I conclude my writings with a prayer from *Atharva Vedas* -

O Mother Earth

Let thy bosom be free

From sickness and decay

May we through long life

Be active and vigilant

And serve Thee with Devotion (hymn 12.1.62)

उपस्थास्ते अनमीवा अयक्ष्मा अस्मभ्यं सन्तु पृथिवि प्रसूताः ।

दीर्घं न आयुः प्रतिबुध्यमाना वयं तुभ्यं बलिहतः स्याम ॥

(hymn 12.1.62)

(Reference Source: ‘Hymns on the positive sciences’ in the book titled “The holy Vedas - a golden treasury’ authored by Sri Pandit Satyakam Vidyalkar, published by clarion books, 1983)

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LOCKDOWN – AN OPPORTUNITY FOR SELF-IMPROVEMENT

CA. Shiva Subramanyam A.B.

All of us are going through tough times in a scenario which is really an unprecedented one at least for our generation. We had only heard stories about people of earlier generations going through such tough times whenever there was a breakout of epidemics like cholera or plague. After hearing such stories and experiences from our elders, we were always under the impression that our generation and the future generations will not get affected by any such breakout of epidemics / pandemics, due to the advancement of medical inventions and facilities to take care of all kinds of diseases and all kinds of such eventualities. But nature has its own plans and shown to the world that it can take the mankind to its control just with a small invisible microorganism called Corona Virus which is spreading like wildfire all over the globe. With this, the nature which is the supreme has belittled the human race which is filled with lot of arrogance and had totally forgotten the fact that there is some super natural power in the form of universal energy that exists and is taking care of all of us.

The result of this pandemic called Covid-19 that the entire world in facing today is **LOCKDOWN** in our country for 21 days, which we have already gone through in the first phase, staying 24/7 in the warm comforts of our sweet homes. Now, that the same has been extended again into second phase for another 19 days, we are still not sure whether the lockdown will come to an end or gets extended for some more period of time. According to our Chief Minister, it is in the hands of all the people of our State to see to it that the situation improves so that the Government can also relax the rules of the lockdown in a phased manner. Hence, it is the collective responsibility of all the citizens of not just our State of Karnataka but the entire nation to strictly adhere to and follow the guidelines given by the Government about maintaining the social distancing, hygiene etc., Nonetheless, we can hope for a gradual relaxation in the rules of the lockdown because the life must move on. In the meantime, while the economy is taking a beating, nobody

knows the consequences of the same in the months and years to come. This would apply to all the sectors across the Nation and the Globe as well, our services are no exception to this phenomenon. In this scenario, I am sure most of our members have already taken certain measures like work from home, attending to the webinars conducted and hosted by our Institute and KSCAA etc. Additionally, we need to gear up to this situation and learn to Change and adapt ourselves to the changes which are happening in the outside world. So, let us accept this as a challenge and treat it as an opportunity given to all of us to improve ourselves and try to unlearn and relearn things that we have not done before or we may not attempt to do in the normal course. This reminds me of the famous quote which is very close to my heart:

“It is not the strongest of the species that survive nor the most intelligent but the one most responsive to change” – Charles Darwin.

Dear friends, this is the time for all of us to bring in more professionalism in our work and to become better human beings by growing inwardly i.e. introspecting our own true self and act accordingly. It is a golden opportunity for all of us to become better versions of our own selves. We may not get this kind of opportunity again in our lifetime. All of us know that there are four dimensions in our lives; Physical, Mental, Emotional & Spiritual. Let us make a concerted effort to improve each of these dimensions and according to me the following activities can be done while we are at home during the lockdown period.

I. PHYSICAL DIMENSION

1. Doing physical exercises, Yoga, Surya namaskar etc.
2. Cleaning, Gardening etc.,
3. Dance for fitness and joy.
4. Household chores.
5. Developing healthy eating habits.

II. MENTAL DIMENSION

1. Improve knowledge by reading books on our chosen fields of profession.
2. Reading books and online material on self-improvement
3. Watching interesting YouTube & TED Talk videos.
4. Playing board games
5. Developing the creative side of our mind.

III. EMOTIONAL DIMENSION

1. Pursuing hobbies like singing, painting,
2. Watching some interesting movies / serials on TV Amazon / Netflix
3. Calling up friends and relatives
4. Storytelling and getting to know about History
5. Have meaningful conversations and sharing experiences with the family.

IV. SPIRITUAL DIMENSION

1. Practice meditation
2. Indulging in some social service i.e. helping fellow human beings in this time of need.
3. Offering prayers to the supreme & chanting Mantras
4. Watching and Listening to the discourses by the spiritual masters.
5. Listening to music.

There is a belief that whatever we do continuously for a period of 21 days, becomes a habit. Let us make use of this Lockdown period to its full potential and make some of the above listed activities as part and parcel of our life and make these as habits. Let me remind you that no amount of money or intent may give this golden period of isolation to work on our inner selves and the future. If we prod ourselves relentlessly, I am sure our lives will improve for the better.

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To,
Ms. Nirmala Sitharaman
Union Finance Minister of India
15, Safdarjung Road,
New Delhi – 110029

February 20, 2020

Respected Madam,

Sub.: - Representation for the Amendments made in Section 254 of the Income Tax Act, 1961.

We, Bombay Chartered Accountants' Society, Chartered Accountants Association, Ahmedabad, Chartered Accountants Association, Surat, Karnataka State Chartered Accountants' Association and Lucknow Chartered Accountants' Society represent thousands of Chartered Accountants of the country and, through them, a large number of tax payers of the country.

The Finance Bill, 2020 has proposed certain amendments in section 254 of the Income Tax Act, 1961. These amendments need your separate attention; therefore, we are sending a representation describing the hardships to you for your kind consideration.

We will send a detailed representation to your office on other matters contained in the Finance Bill, 2020 shortly. In the meantime, we request you to consider this representation while finalising the Finance Act, 2020.

Thanking you

Yours sincerely,

Manish Sampat
President,
Bombay Chartered Accountants' Society

Anand Sharma
President,
Chartered Accountants Association, Ahmedabad

Rasesh Shah
President,
Chartered Accountants Association, Surat

Chandrashekara Shetty
President,
Karnataka State Chartered Accountants' Association

Anshul Agarwal
President,
Lucknow Chartered Accountants' Society

Points for representation

Amendments made to Section 254 of Income-tax Act, 1961 ('Act') by Finance Bill, 2020 ('Bill') with respect to power of grant of stay by Income-tax Appellate Tribunal ('ITAT')

A. Existing provisions of Section 254:

- ▶ Section 254 of the Act deals with powers of Income Tax Appellate Tribunal (ITAT) to pass order in respect of appeal filed before it.
- ▶ Section 254(2A) was introduced by way of an amendment vide Finance Act, 1999, which provides that ITAT shall endeavour to hear the appeal and decide the appeal within 4 years from the end of financial year in which appeal is filed before it.
- ▶ At present there are three provisos to Section 254(2A) of the Act which provide as under:
 - **First proviso** - After considering the merits of the application filed by a taxpayer, the ITAT shall pass an order of stay for a maximum period of 180 days in any proceedings against the order of the CIT(A).
 - **Second proviso** - Where appeal is not so disposed during stay period, ITAT on being satisfied that the delay is not attributable to the assessee, can extend the stay for a further period subject to the restriction that the aggregate of the periods originally allowed and the period so extended shall not exceed 365 days. Further, ITAT shall dispose of the appeal within the period or periods of stay so extended or allowed.
 - **Third proviso** - Provides that if such appeal is not so disposed of within the period allowed under the first proviso or the period or periods extended or allowed under the second proviso, order of stay shall stand vacated after the expiry of such period or periods, even if the delay in disposing of the appeal is not attributable to taxpayer

Accordingly, as per current provisions, ITAT may grant stay considering the merits of the case for a period up to 180 days and further, the ITAT may extend the same on application filed by taxpayer subject to condition that aggregate period or periods of stay does not exceed 365 days, where delay in disposal of appeal is not attributable to the taxpayer. Based on views taken by several Courts (some of them being - CIT VS. Ronuk Industries Ltd. [(2011) 333 ITR 99 (Bom)]; Narang Overseas (P) Ltd. v. ITAT [(2007) 295 ITR 22] (Bom); Pepsi Foods (P) Ltd vs ACIT (232 Taxmann 78) (Delhi HC) (Struck down validity of insertion



of third proviso) etc), ITAT can extend the period of stay beyond 365 days, where delay in disposal of appeal is not attributable to the taxpayer and taxpayer has met the terms and conditions laid down by ITAT in the stay order, inspite of the introduction of third proviso to Section 254(2A) of the Act.

B. Amendments proposed in the Finance Bill, 2020:

- ▶ The Bill proposes amendment in the first proviso and substitution of the second proviso to Section 254(2A) of the Act.
- ▶ It is proposed that first proviso shall be amended to provide that the ITAT, after considering the merits of the application filed by taxpayer, shall grant a stay for a maximum period of 180 days provided that **taxpayer deposits not less than twenty per cent of the amount of tax, interest, fee, penalty, or any other sum payable under ITA or furnish security of equal amount.**
- ▶ The substituted second proviso provides that **no extension of stay shall be granted by ITAT, where such appeal is not disposed of within the stay period granted.** However, on an application made by taxpayer, ITAT may grant further stay if the delay in disposing of the appeal is not attributable to the taxpayer **AND** the taxpayer has deposited not less than 20% of amount of tax, interest, fee, penalty, or any other sum payable under the ITA or furnish security of equal amount **AND** period of stay granted in aggregate of the period originally allowed and period extended shall not exceed 365 days.

C. Procedure followed by ITAT in granting stay of demand:

As a general practice, the ITAT follows the below mentioned procedure while granting stay of demand:

- ▶ On filing of stay application by an appellant, the ITAT schedules the hearing of the stay petition at the earliest and takes into consideration the merits of the case and also, the disputed demand and how much payment has been made against the same.
- ▶ The ITAT also considers whether the taxpayer has approached the lower authorities i.e Assessing Officer ('AO') and Commissioner of Income-tax ('CIT') and whether the stay of demand has been rejected by the lower authorities and what are the terms and conditions laid down by the lower authorities for granting stay and whether same are reasonable or whether following them would cause undue hardship to the taxpayer.
- ▶ The ITAT also considers the terms laid down under CBDT Instruction No. 1914 dated 21st March, 1996 and further amendments made therein vide Office Memorandums dated 29th February, 2016 and 31st July, 2017, while deciding the stay matters coming up before them. It is to be noted that the ITAT has often taken cognizance of the Office Memorandum issued by CBDT, wherein powers to give stay by payment of lower amount have been granted in following circumstances:
 - taxpayer has a past-history of tax litigation and the taxpayer's appeal on same issues in preceding years has been decided in his favour by the appellate authorities;
 - where the Supreme Court or the jurisdictional High Court has decided on same issue in favour of the taxpayer.

Accordingly, on the whole, ITAT while granting a stay, looks into the merits of the case as well guidelines laid down by CBDT for granting stay of demand, and decides accordingly, so as to not be unfair with the taxpayers. It is to be noted that in several cases (notably - Reuters India (P) Ltd (84 TTJ 95) (Delhi ITAT); KEC International Ltd (136 TTJ 60) (Mumbai Tribunal) etc), it has been held that merely because the taxpayer is in position to pay, but the balance of convenience is in favour of taxpayer, the taxpayer cannot be asked to pay balance/higher demand and that stay of demand must be granted to the taxpayer.

D. Impact of the amendment and why the said amendment should be deleted/withdrawn:

PART I - AMENDMENT TO FIRST PROVISOR OF SECTION 254(2A) OF THE ACT

- ▶ This amendment also seems to interfere with the exercise of judicial discretion vested in the Tribunal under section 254(1) of the Act as also declared by the Apex Court in the case of **Mohammed Kunhi (71 ITR 815)**.
- ▶ Also, this gives an impression that the Government seems to be **endeavouring to interfere with the judicial discretion** vested in the Tribunal while **imposing a threshold of 20% payment towards outstanding tax demand in application seeking stay**. From a plain reading of the amendment sought, it appears that all the applications seeking extension of stay coming up after 1st April, 2020 would have to meet the said requirement.
- ▶ Also, in several cases, where stay of demand is sought by taxpayers from ITAT, the demand raised by tax department is subject to rectification issues (like non-grant of credit for tax) etc. or taxpayer is due to large refunds from the tax department which have not been released for some reason or the other. In such cases, recovery of tax demand would cause undue hardship to the taxpayers.
- ▶ It is to be noted that in case of high-pitched assessments, even payment of 20% of demand would severely impact businesses of the taxpayer as payment would entail, huge cash-flow getting blocked with tax department also, providing bank guarantees in this situation will be practically difficult considering the actual credibility of taxpayer vis-à-vis demand created in a high pitched assessment. Accordingly, instead of putting a condition of granting stay of demand, it is suggested that a mechanism be put in place for methodology of granting stay in high pitched assessments.



- ▶ Further, the threshold of 20% which is now sought to be imposed is contrary to CBDT Instructions as well as the stand of the Revenue Department in stay granted matters before the Apex Court i.e. in fit cases, recovery of tax could be kept in abeyance and in deserving cases, stay could be granted on payment of less than 20% of disputed tax demand [please see - LG Electronics India Pvt Ltd ((2018) 168 DTR 0353 (SC)); Flipkart India Private Ltd (396 ITR 0551 (Kar.)) etc.].
- ▶ These amendments proposed in the Bill seem to stem out of the need of the government to meet fiscal targets. However, we strongly believe that these would cause more harm than good in aligning to its own reformatory agenda of making India the “**most attractive destination for doing business**”.
- ▶ It is also generally believed that the tax department is the biggest litigant in India with a very low success rate and therefore directing 20% deposit also seems to be counter-productive given the interest cost that it may have to bear when the said amount is to be refunded to the appellant(s).
- ▶ The Government also seems to be unaware that the whole purpose of vesting the judicial discretion in the ITAT was that in an appropriate case (for example where the issues had already been decided in favour of the taxpayer in the preceding years or where the matter stands covered by the decision of jurisdictional High Court or the Apex Court), the Tribunal was competent to grant stay in recovery proceedings without insisting on payment of disputed tax demand.
- ▶ As a result of the amendment proposed in the Bill, it would now be incumbent upon the ITAT to insist on a payment of 20% in every case. This would result in a flood of litigation and the already burdened High Courts would be burdened even more. Time and again, when unreasonable fetters have been imposed by the Legislature on the Tribunal’s power to grant stay, the judiciary has intervened to uphold the principles enshrined in the Constitution of India.
- ▶ The Apex Court in *Venkateshwara Theatre vs. State of Andhra Pradesh* observed that just as a difference in the treatment of persons similarly situated leads to discrimination, so also, discrimination can arise if persons who are un-equals, i.e., differently placed, are treated similarly. In that context it was held that a law providing for equal treatment of unequal objects, transactions or persons would be condemned as discriminatory if there is absence of rational relation to the object intended to be achieved by the law. It seems that proposed amendment in first and second proviso to section 254(2A) of the Act does the same without shedding any light on the mischief it seeks to remedy. It treats those taxpayers who have a strong prima facie case in their favour at par with taxpayers who do not. Accordingly, the said amendment must be excluded as it leads to discrimination among the taxpayers and is also contrary to the law laid down by the Courts as referred above.
- ▶ Further, the mandate of minimum payment of 20% of demand would mean that even in cases where there is genuine hardship caused to the taxpayer due to non-grant of credit of taxes paid, TDS, foreign tax credit etc, the taxpayer will still need to shell out payment of 20% and only then will a stay of demand will be granted by ITAT. This is contrary to the Office Memorandum issued by CBDT which was embedded with certain level playing principles to protect the parties in appeal. Accordingly, such an amendment, being contrary to judicious powers of ITAT, ought to be deleted/withdrawn before passing of the Finance Act, 2020 as it is likely to cause unnecessary hardship to taxpayers and, it also conveys contrary message to investors & taxpayers of the government’s aim of ‘Ease of Doing Business’, ‘Tax friendly atmosphere’ and ‘Non-adversarial Tax regime’.

PART II – AMENDMENT TO SECOND PROVISOR OF SECTION 254(2A) OF THE ACT

- ▶ It is to be noted that existing third proviso to Section 254(2A) already provides that ITAT cannot grant stay of demand beyond period of 365 days. Accordingly, inclusion of the said wording in the amended second proviso is not required as the third proviso has not been deleted from the Act and thus both the provisos overlap each other. Hence, this amendment may not be made to second proviso to Section 254(2A).

We strongly urge your Honor to take into consideration the above in the larger interest of tax payers of the country.

Thanking you

CC to:

1. Shri Anurag Thakur - MOS, Finance,
2. Shri Pramod Chandra Mody - Chairman, CBDT
3. Shri Kamlesh Varshney - Joint Secretary, TPL



16th March 2020

To,
Honourable Finance Minister
Ministry of Finance,
Government of India,
128-A North Block, New Delhi

Dear Madam,

Sub: Representation for extension of time-line of 31st March 2020 for Vivad Se Vishwas Scheme, 2020 ('VSVS')

We have enclosed herewith our representation for extension of time-lines of 31st March 2020 for payment of 100% of 'Disputed Tax' for VSVS in wake of the prevailing economic situations on account of outbreak of Corona Virus, for your consideration.

We trust that the issues highlighted, and submissions made would draw your kind attention and necessary measures would be taken at the earliest to make VSVS a Success.

Thanking you
Yours sincerely,

Ashish Vaid
President,
IMC Chamber of Commerce and Industry

Manish Sampat
President,
Bombay Chartered Accountants' Society

Chandrashekara Shetty
President,
Karnataka State Chartered Accountants' Association

Anand Sharma
President,
Chartered Accountants Association, Ahmedabad

Rasesh Shah
President,
Chartered Accountants Association, Surat

Anshul Agarwal
President,
Lucknow Chartered Accountants' Society

Representation for Extension of time line of 31st March 2020 for Vivad Se Vishwas Scheme, 2020:

Presentation of scheme:

1. The Hon'ble Finance Minister in the Annual Budget – 2020 had announced the '**Vivad Se Vishwas Scheme**' ('VSVS') for resolving pending litigation under Income-tax Act, 1961 (ITA) before Appellate Forums (viz Commissioner of Income-tax (Appeals) ('CIT(A)) and Income-tax Appellate Tribunal ('ITAT') as wells High Court ('HC') and Supreme Court ('SC') by payment of disputed tax liability ('DTL').
2. Post the announcement in the budget, the chronology of events is as under:
 - ▶ The Direct-tax Vivad Se Vishwas Bill, 2020, was announced on 5th February 2020 in the Lok Sabha.
 - ▶ Post the introduction of Bill, to make it a success, the Government had been in continued interaction with taxpayers and all the stakeholders and had been seeking their suggestions. Based on the suggestions and representations received from the stakeholders, the Government announced modifications to VSVS, as approved by Union Cabinet to the Press in the end of February.
 - ▶ The revised scheme was tabled before Parliament on 2nd March 2020 and was approved by the Lok Sabha on 4th March 2020 and subsequently, approved by Rajya Sabha on 13th March 2020.
 - ▶ CBDT has issued 54 FAQs on 4th March 2020, clarifying many issues which are likely to come up and be faced by taxpayers under the scheme.
 - ▶ It is expected that the Hon. President of India will accord assent to Scheme shortly.
 - ▶ The Form, Rules, and Procedures under VSVS are likely to be notified and issued immediately upon the assent of the President being received.
3. **Hence, the finally Approved Scheme and Forms, Rules and Procedures under the VSVS, are likely to be available to the stakeholders by 20 or 21st March 2020.**
4. We understand that there have been several issues raised by stake-holders post introduction of the revised Bill by the Government and FAQs issued by CBDT, which is pending clarification and another set of FAQs will have to be rolled out by CBDT, which will take some time. Also, once rules and procedures are notified, there would be certain issues which will require clarifications from Government for smooth implementation and functioning of the Scheme.



5. As mentioned above, to avail the scheme under payment of 100% of 'disputed tax', taxpayers will have only 8 to 10 days to decide to make application, get the same processed from Designated Authority ('DA') and make the payment before 31st March 2020 to avail of benefit of payment of 100% of Disputed Tax.

As your Honour is aware, the procedure prescribed under VSVS itself provides 15 days for DA to issue Certificate and thereafter another 15 days for the taxpayers to make payment under the scheme. It will therefore be appreciated that since very little time (hardly 10 days) will be available with the taxpayer to do necessary filings and make payments under the scheme, which in effect will not be as promised in the scheme itself, i.e. time limit of 15 days each, necessary extension may be issued.

Turmoil in economic situations on account of Corona Virus world-over

6. Amid all this, there has been tremendous turmoil in economic situation in India and world-over, because of outbreak of Corona virus ('COVID-19') which will severely affect businesses. Borders in many countries are closed through-out the globe because of the pandemic.
7. Several business houses across India have asked their teams to refrain from coming to office and instead, work from home. Because of this, the interactions between tax payers and their tax professionals for the purpose of understanding and availing of VSVS has been hampered. Nowadays, very few meetings are taking place as the taxpayers do-not have enough data available with them on their computers while working from remote locations.
8. As mentioned above, there has been global shut-down of businesses on account of out-break of COVID-19 in United States, European countries like UK, Italy, Germany as well as other countries like China, Iran, South Korea etc. Accordingly, in cases of MNC taxpayers willing to avail the scheme, there will be restrictions and delay for them to get approval from their Global Offices/ Headquarters for availing of the VSVS.

Even if approvals are received by them for availing of the scheme, it is highly unlikely that the Global offices/ Headquarters will be able to remit the necessary funds by 31st March 2020 and make necessary payments of 'disputed taxes', amid the prevailing situation.

9. Further, to add to the problems, there is severe cash-crunch and melt-down in Indian economy because of pandemic of COVID-19, because of which stock markets in India as well as across the globe have crashed. Also, there are severe liquidity issues with lending institutions i.e. NBFCs and Banks and also, several leading banks and lending institutions like Yes bank, PMC Bank and IL&FS, have frozen the accounts and closed the operations for their depositors.
- 10. In this scenario, it is unlikely that the taxpayers even-though willing to settle the disputes under VSVS, will be able to avail the scheme by 31 March 2020 and make payment of 100% of 'disputed tax' by then (to avoid additional 10% payment), in this liquidity crises.**

Our Recommendation for making the scheme a success:

11. In view of the current situation, to make the scheme successful, we suggest as under:
- The time-limit for settling the disputes by payment of 100% of Disputed Tax be extended to 15th May 2020, so that the taxpayers get almost 2 months' period to evaluate the scheme once it becomes an Act, and also the Government has necessary time to issue and clarify all the matters raised before them by the taxpayers and stakeholders;**
 - Alternatively/additionally, it is suggested that the taxpayers be allowed 2 or 3 instalments for payment of 'disputed taxes' under the scheme as was permissible under the earlier scheme, so that the taxpayers are not burdened, in this severe economic melt-down.**

Thanking you

CC to:

1. Shri Anurag Thakur - MOS, Finance,
2. Shri Pramod Chandra Mody - Chairman, CBDT
3. Shri Kamlesh Varshney - Joint Secretary, TPL
4. Shri Rajesh Bhoot - Joint Secretary, TPL



30th March, 2020

To,
Honourable Finance Minister
Ministry of Finance,
Government of India,
128-A North Block, New Delhi.

Dear Madam,

We refer to the situation arising on account of out-break of pandemic of COVID – 19 and lockdown being imposed by the Government Authorities of all the offices and institution across globe. Currently, Indian Government has announced lock-down up-to 14th April 2020.

The Hon'ble Finance Minister ('FM') on 24th March 2020, has made certain announcements on Tax Compliance and Regulatory matters for providing relief to taxpayers. However, there are certain issues in the announcement which needs further clarifications, as well there are other compliance deadlines for taxpayers in the months of March and April which are still not addressed by Hon'ble FM and which need to be extended by the CBDT so that taxpayers do not have to face hardships on account of non-compliance of the same.

- **Delayed payment of TDS for month of March and April:** The Hon'ble FM has announced that the taxpayers shall be liable to lower interest @ 9% p.a for delay in deposit of TDS if it is paid by 30 June 2020. In this connection, it is to be noted that as per provisions of Section 201, where the taxpayer, who is required to deduct the TDS, does not deduct or does not pay such tax or fails to pay such tax after making the deduction, then such person shall be deemed to be an "assessee in default" in respect of such tax. During this period, it is quite likely that a number of taxpayers who are required to deduct and pay TDS will not be able to do so on account of complete lock-down. The announcement has provided them relief in the form of lower interest on delayed payment of TDS and absolved them from penalty arising if any on account of the same. However, if such taxpayer who on account of this forced delay in TDS deposit, is deemed to be an "assessee in default" as per provision of Section 201, then tax authorities can initiate prosecution proceedings for delay in deposit of TDS. Accordingly, it is suggested that necessary announcement may be made that for delay in deposit of TDS for this period, the taxpayers will not be considered as "assessee-in-default" and prosecution proceedings will not be initiated against such taxpayers.
- **Stay of demand:** It has been announced by Hon'ble FM that various due-dates/ time limits expiring between 20 March 2020 to 29 June 2020 shall be extended to 30 June 2020. It is to be noted that there is no mention regarding whether recovery proceedings will be initiated or it will be stayed, in respect of collection of outstanding demand due from taxpayer in this period. Various High Courts on their own motion have issued directives to authorities falling within their jurisdiction, that all the interim orders passed and expiring during this period will be automatically extended. In view of the same, in the cases where stay of demand has been granted by AO/ CIT/ ITAT is expiring in lock-down period, same shall stand automatically extended for further period, till authorities start functioning. However, in cases where no stay of demand has been granted or time-limit of 30 days as provided by section 156 is expiring in lock-down period, it is suggested that necessary clarification may be issued that the time-limit for payment of demand in such scenarios is extended till 30 June 2020 and the taxpayer will not be treated as an "assessee-in-default" for this period and there will not be any interest/ penal/ criminal action be taken against the taxpayer.
- **Validity of certificates issued u/s. 197:** In many cases, the income-tax department has issued certificates u/s. 197 for nil or lower withholding tax. The validity of such certificates would end on 31st March, 2020. Considering the complete disruption in normal life, it is requested that the validity of all such certificates should be extended by 3 months.

Further, it is suggested, powers may be delegated to CBDT to issue instruction to grant appropriate relief to an assessee who has been adversely affected by Covid-19.

Thanking you
Yours sincerely,

Ashish Vaid
President,
IMC Chamber of Commerce and Industry

Manish Sampat
President,
Bombay Chartered Accountants' Society

Chandrashekara Shetty
President,
Karnataka State Chartered Accountants' Association

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President,
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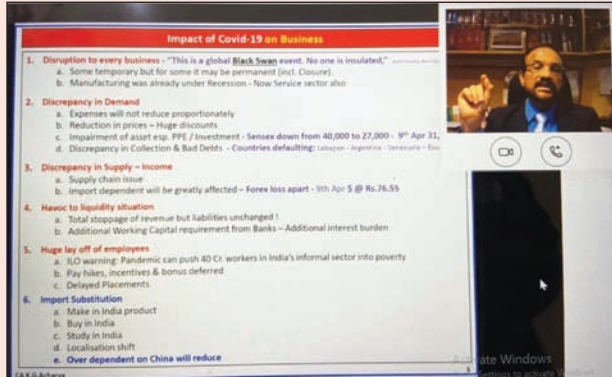
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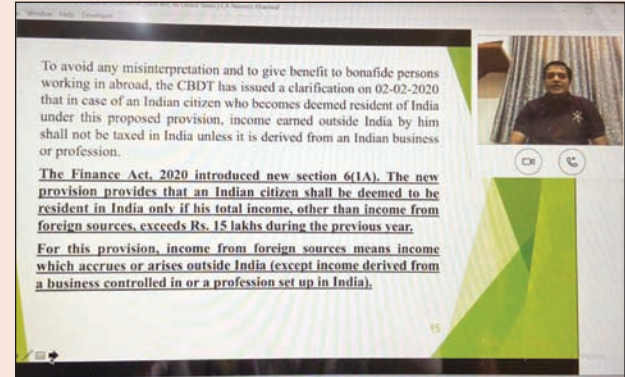
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KSCAA Food Distribution during Lockdown





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