

# KSCAA®

Karnataka State Chartered Accountants Association (R)

## NEWS BULLETIN

► RERA ► ITC ► GST - Investigation  
► Data Literacy ► GST - Government Services

March 2022  
Vol. 9, Issue 7  
₹ 25/-

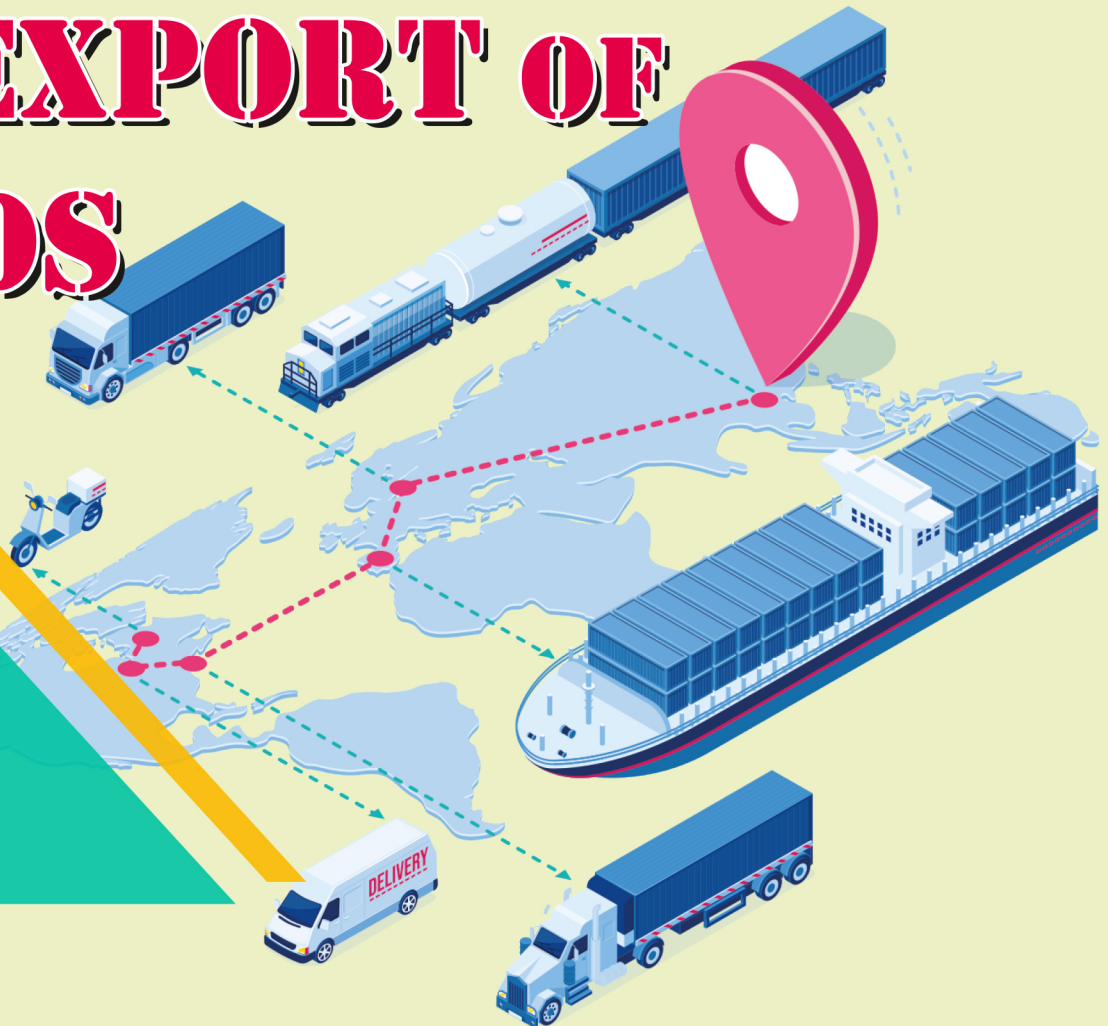
English Monthly  
for Private Circulation only



Since 1957

▶ Karnataka State  
Chartered Accountants Association  
f @karnatakacaaassociation  
t @kscaa\_ca  
kscaa.com

# PROCEDURES FOR EXPORT OF GOODS



Dear Reader,



I am happy to connect with you all through this month's President's message. Let me wish you all a very Happy Ugadi. Ugadi or Yugadi is a term that is derived from the Sanskrit words yuga meaning age and ādi meaning the beginning. So, it means "the beginning of a new age". I pray that this year brings health, happiness and prosperity of learning to you and your loved ones.

Geopolitical tension has put our government into action to reflect on its policy of not escalating and falling trap to any side but to play for the better option for nation. It also put government on thinking of medical education and loss of brain drain to other countries. The State budget which is presented is encouraging to see, less populist and more development oriented. It has laid prominence of social cause of its citizens more efficiently and is forward looking. The fiscal discipline is the first of many challenges which government would be posted with, when there is uncertainty of collection and higher spending by government for larger good. While it may be very lucrative for governments to increase tax to raise revenue, the government has held its gun for good. Global Governments are now moving to digitalization to ease the administration efficiency and improve the quality of governance, and the current budget also emphasizes the digitalization.

## News Roundup

### Direct Tax

#### Judicial developments:

- ▶ **ITAT Kolkata** : Fees for default in furnishing TDS/TCS statement couldn't be levied for period prior to 01-06-2015
- ▶ **ITAT Hyderabad** : Receipt of security deposit under JDA doesn't trigger tax liability unless possession of property is transferred
- ▶ **SC** : Gifting freebies to doctors is prohibited by law; Pharma Cos not eligible for deduction in terms of Explanation 1 to section 37(1) on such freebies
- ▶ **ITAT Bangalore** : Claim of FTC can't be disallowed just because Form No. 67 wasn't filed by due date of filing original return.
- ▶ **Rule 128(9)** of Rules does not provide for disallowance of Foreign Tax Credit in case of delay in filing Form No. 67, and filing of Form No. 67 is not mandatory but a directory requirement

#### Executive developments:

**CBDT** : Last date to link PAN-Aadhaar is 31-03-2022

### Indirect Tax

The gross GST revenue collected in the month of February 2022 is Rs. 1,33,026 crore, showing decent GST collections after the initial dip.

The GST Council in its next meeting may look at raising the tax slab to 8 per cent, from 5 per cent, and prune the exemption list in the Goods and Services Tax regime as it looks to increase revenues and do away with states' dependence on Centre for compensation. This could straightaway have an upward price impact on various goods, which are mostly necessities.

KSCAA has submitted post budget memorandum on GST budget proposals, which included the possible adverse impact and suggestions on Sec 38, which casts more responsibility on the person claiming Input Tax Credit. We need to wait and see how the said provision and related nitty-gritties are addressed.

The State GST authorities in Karnataka have initiated GST Audits in many cases u/65 and the notices have been sent through mails. Caution is required not to miss these emails as it would be a valid service.

## Corporate and Allied Laws

**Companies Act** - Communication received without SRN to be treated as unauthorized

The Registrar of Companies and the Regional Directors at all locations are required to enter all cases of complaints against the Companies and the LLPs, Inspections, Inquiries, Investigations and Prosecution in the MCA Electronic registry i.e., MCA21 before issuing any letter, notice, order etc. Thereafter, a Service Request Number (SRN) is generated. They have also been directed to mention such SRN mandatorily in all such communications to Companies, LLPs, their officers, auditors, etc., on all communications.

### LLP – MCA notifies amendments to LLP Rules and Act wherein the provisions are effective from 1st April 2022.

In exercise of the powers conferred by sub-section (1) of section 67 of the Limited Liability.

Partnership Act, 2008 (6 of 2009), the Central Government hereby directs that the provisions of sections 90, 164, 165, 167, sub-section (5) of section 206, sub-section (3) of section 207, 252 and section 439 of the Companies Act, 2013 (18 of 2013), shall apply to limited liability partnership, except where the context otherwise requires, with the modifications specified.

The Ministry of Corporate Affairs also vide Notification dated 11th February 2022 has notified the Limited Liability Partnership (Amendment) Rules, 2022, which shall come into force from 1st April 2022. The amendments are made in rule 5, 18, 19 and 37 with respect to :

- ▶ **Rule 5** - in the third proviso, for the words "Provided also" the word "Provided" shall be substituted.
- **Rule 18** - (xi) the proposed name is identical with or too nearly resembles the name of any other limited liability partnership or a company.
- ▶ **Rule 19A** - Allotment of new name to existing LLP under sub-section (3) of section 17.
- **Rule 37A** - Adjudication of penalties.
- **Rule 37B** - Appeal against order of adjudicating officer.
- **Rule 37C** - Registration of appeal.
- **Rule 37D** - Disposal of appeal by Regional Director.

Further, two new forms are notified i.e., Form 16A - Certificate of Incorporation pursuant to change of name due to Order of Regional Director not being complied and Form 33 - Memorandum of Appeal. The Central Government has also revised the fee norms for LLP by substituting the existing Annexure A.

### Concluding Remarks

Our annual conference which is generally held in the month of March every year is postponed to the month of May 2022 due to prevailing pandemic, which could have impaired our preparation. In case you have any plan or suggestion related to annual conference which you presume could be of interest to larger audience, you can also send your suggestion to me personally at [president@kscaa.com](mailto:president@kscaa.com).

Famous economist John Maynard Keynes said this famous sentence which is relevant to the times when country and profession need to work on design thinking, he said "Worldly wisdom teaches that it is better for reputation to fail conventionally than to succeed unconventionally."

Happy Reading!

Yours' faithfully,

**CA. Chandan Kumar Hegde A.**

**President**

# KSCAA®

## NEWS BULLETIN

March 2022

Vol. 9 Issue 7

No. of Pages : 40

### CONTENTS

#### INDIRECT TAX

ROAD BLOCKS TO DIVERSION - SEAMLESS FLOW OF ITC A Distant Dream	4
CA. Madhukar N Hiregange	
CA. Akshay M Hiregange	

GOVERNMENT SERVICES- AMENDMENT WITH EFFECT FROM 01.1.2022	7
CA. Annapurna Kabra	

KNOW YOUR RIGHTS DURING A SEARCH UNDER GST	11
CA. Puneeth BS	
CA. Alfred Avinash	

#### IN FOCUS

PROCEDURE FOR EXPORT OF GOODS	15
Adv. M. G. Kodandaram	

#### RERA

THE IMPORTANCE OF PROVIDING UNIFORM DATA ACROSS ALL STAKEHOLDERS	21
CA. Vinay Thyagaraj	

#### TECHNOLOGY

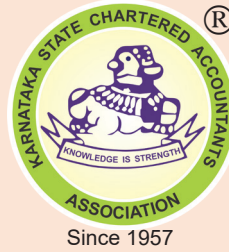
DATA LITERACY – A CRITICAL SKILL IN THE DIGITAL WORLD	24
CA. Archana Sridhar	

#### HEALTH & FITNESS

NEW RESOLUTIONS!!!	27
Dr. T Surendra Bhat	

REPRESENTATIONS	29
-----------------	----

BRAIN TEASERS	38
---------------	----



## KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R)

# 34<sup>TH</sup> ANNUAL CONFERENCE

May 21<sup>st</sup> and 22<sup>nd</sup>, 2022

Venue : Ravindra Kalakshetra,  
Bengaluru

**More Details Awaited....**

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

email: [journal@kscaa.com](mailto:journal@kscaa.com) | Website: [www.kscaa.com](http://www.kscaa.com)

#### Disclaimer

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





CA. Madhukar N Hiregange  
CA. Akshay M Hiregange

# ROAD BLOCKS TO DIVERSION - SEAMLESS FLOW OF ITC A DISTANT DREAM

The implementation of Section 16(2)(aa), Finance Act 2021 ITC conditions and restrictions, removal of GSTR 2A, changes in demand and recovery provisions, recent impetus on mass notices to the assessee without clear explanations, harassment by officers during audits/summons, etc. have created fear amongst the taxpayers. This is not “ease of doing business” as it is indirectly forcing them to comply with draconian provisions which have the potential to bring their business to a halt. In this article, we would go through the various restrictions and changes made to the claim of ITC through the Finance Bill 2022. [hopefully, there would be a dilution due to widespread concerns being expressed by Industry at large].

## Introduction

The Finance Bill 2022 is yet to be passed by both the houses of the Parliament and receive Presidential assent to become the ‘Finance Act, 2022’. Although, for the changes in the CGST Act, additionally, notifications would be required to make them effective. Amendments to notifications under CGST or IGST would be applicable once the Bill becomes an Act.

Changes in Section 16, 38, 37, 41, 43A, (omitted), and Section 50(3) have been covered below. There are other amendments in the Budget which have not been covered in this article.

## Restrictions & Conditions to avail ITC

Section 16(1)(ba) - the details of input tax credit in respect of the said supply communicated to such registered person under Section 38 has not been restricted

Section 38 –

(1) *The details of outward supplies furnished by the registered persons under sub-section (1) of section 37 and such other supplies as may be prescribed, and an autogenerated statement containing the details of the input tax credit shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.*

(2) *The auto-generated statement under sub-section (1) shall consist of--*

- (a) *details of inward supplies in respect of which credit of input tax may be available to the recipient; and*
- (b) *details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished under sub-section (1) of section 37,--*
  - (i) *by any registered person within such period of taking registration as may be prescribed; or (Rule shall prescribe the time limit beyond which when the supplier declares the details of revised invoice in his GSTR1, ITC cannot be taken)*
  - (ii) *by any registered person, who has defaulted in payment of tax and where such default has continued for such period as may be prescribed; or (Where the supplier has filed GSTR1 but not filed GSTR 3B within the time specified, which is yet to be prescribed)*
  - (iii) *by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said subsection during such period, as may be prescribed, exceeds*



*the output tax paid by him during the said period by such limit as may be prescribed; or (Where the tax liability declared in GSTR1 for the specified period is more than the tax discharged in GSTR 3B for the said period by such amount as may be prescribed)*

- (iv) *by any registered person who, during such period as may be prescribed, has availed credit of input tax of an amount that exceeds the credit that can be availed by him in accordance with clause (a), by such limit as may be prescribed; or (Where the supplier has availed the ITC for the specified period in excess of eligible ITC as per GSTR 2B by a specified amount which is yet to be prescribed)*
- (v) *by any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of sub-section (12) of section 49 subject to such conditions and restrictions as may be prescribed; or (The legal backing for Rule 86B, i.e., 1% cash liability mandatory subject to certain conditions, has been now provided in Sec 49(12) and linked to ITC claim)*
- (vi) *by such other class of persons as may be prescribed.*

**\* Note :** Wherever the term 'as may be prescribed' is used, the CGST Rules against the same are not yet notified.

Section 41(2) – Requires a recipient to reverse the credit along with interest if the supplier has not paid the tax payable against such supply.

#### ***Inference of above provisions –***

- The recipient must claim the credit based on a valid tax invoice, reflected in GSTR-2B.
- The recipient is liable to reverse credit if tax declared is unpaid through GSTR 3B by the supplier, i.e., the amount which will get auto-populated in 'ineligible ITC'
- Variance in GSTR 1 & 3B will lead to restrictions in credit (either by supplier or recipient).
- Excess credit claimed by the supplier can affect the recipient's credit
- The supplier has defaulted payment of 1% tax liability in cash based on Rule 86B, credit of the recipient will be restricted

The common understanding from the above is that to claim ITC my supplier has to be 100% compliant under GST, and any non-compliance w.r.t filing returns and payment of taxes would affect the recipient's credit. Ideally, any non-compliance by a taxpayer must first be addressed with such taxpayer only. The recipient must not be asked to bear the burden of his supplier's non-compliance.

Compare this with the UK VAT practice where if the payment of one's bill is not made by the customer, one can go for a refund of the VAT paid with no direct punitive action on the customer!

Also, if the above provisions are introduced, then what is the requirement of Section 16(2)(aa) which has been made effective from 1<sup>st</sup> January 2022?

#### ***Way forward for Taxpayers***

1. Ensure vendor categorization is performed. (Category A – compliant & organized, Category B – compliant but unorganized, Category C – non-compliant & unorganized)
2. Impose strict terms with suppliers on their tax compliance (Category B & C)
3. Implement a 75:25 payment structure, where 25% is paid only upon reflection in GSTR 2B and where supplier GSTR 3B matches to his GSTR 1.
4. Verify other supplier compliances – e-invoicing compliance, e-way bill compliance, etc.

#### ***Issues that require Clarity :***

- Would the transactions included in ineligible ITC in GSTR 2B become eligible ITC automatically once the supplier makes the correct payment of taxes?
- Any credit that is restricted due to the aforementioned conditions, is rectified subsequently, would such credit be subjected to time limits mentioned in Section 16(4)?
- Implementation of a rating system to enable recipients to accept/reject vendors during the onboarding process?
- Credit-related to previous financial year, GSTR 1 filed by supplier beyond timelines mentioned (Sep/ Nov) – suo-moto credit claim by recipient option not enabled. (earlier available under section 38, now omitted).
- Whether credit in relation to domestic reverse charge transactions with registered vendors related must

be matched for the purpose of credit claim in GSTR 3B? If liability is paid, can credit be taken in case the vendor has not filed his GSTR-1 under RCM as 'Y'?

- Unjust profiteering by the department is still not addressed – approaching both supplier and recipient.
  - o Will the department give the recipient back the reversed ITC if the supplier pays the tax?
- Cannot avail the ITC without utilisation – in a case under protest – IGST ITC balance cannot be maintained due to present GST law on utilisation mechanism of ITC.
- A scenario where supplier has filed returns and paid taxes but after the due date prescribed for availing the credit – Interplay with Sec 16(4) not addressed;
- Whether eligibility of credit also would be automated through the portal, i.e., identification of situation and ineligibility under section 17 and various conditional rate wise notifications?
- Whether the concept of interest on net liability would apply in a situation where the tax liability of a period is discharged in another subsequent tax period? This in turn questions the concept of future credit utilisation against past tax liabilities.
- Whether the implementation of such strict regulations would impact all the taxpayers similarly? Would those entities having mandatory internal audits, large teams for compliances, and the ability to spend money on outsourcing functions be on the same level as the small and medium enterprises? Considering India's unique blend of business can the government say they have considered the difficulties of the common man?
  - o Equality is a dynamic concept with many aspects and dimensions and it cannot be 'cribbed, cabined and confined' within traditional and doctrinaire limits...equality is antithetic to arbitrariness... Where an act is arbitrary it is implicit in it that it is unequal both according to political logic and Constitutional law and is therefore violative of Article 14. – [E P Royappa v State of Tamil Nadu (1974) 4 SCC 3 [85]]
- This provision can be disputed on the grounds that it is - harsh, oppressive, unreasonable, arbitrary- Article 14 & 19(1)(g).

### Clarity on Interest on ITC

Section 50(3) has been amended retrospectively from 1<sup>st</sup> July 2017 to enable interest to be charged on the input tax credit which was availed and utilised in excess. Earlier, ambiguity remained whether interest would be applicable if ITC was merely availed without utilisation. As a specific interest rate has not been provided, the residuary rate of 18% p.a. would apply presently. Although, whether the concept of net liability and the requirement that ITC must be utilised for interest to arise must be tested against the interest liability arising from Rule 37 (180 days non-payment to the vendor).

### The time limit to claim ITC extended to 30<sup>th</sup> November

Section 16(4) is being modified to allow ITC claim from September GSTR 3B due date to 30<sup>th</sup> November. Although, practically this translates to claiming the credit in October GSTR 3B which is due on 20<sup>th</sup> November, but can be delayed for 10 days additionally.

Recent Karnataka HC stay on assessment denying ITC for belated return-filing subject to deposit [TS-73-HC(KAR)-2022-GST], raises an important question – whether credit claimed in books of accounts is sufficient ground to be eligible for credit, or GSTR 3B filing is mandatory? We would have to wait and see how this pans out.

### Conclusion

Considering the stringent measures in place against non-compliance, the ineligibility of ITC to the recipient due to the actions of the supplier imposes a way of tax treatment across the B2B segment and restricts not only the input tax credit but also the business. It is surprising that the GOI has been making wonderful progress in other economic areas. However, the dream which was sold at the inception of GST that there would be a seamless flow of ITC and GST will bolster businesses in India seems to be a far-fetched dream. Earlier minimal restrictions created roadblocks in the journey to claim ITC, but Budget 2022 has strayed from the path itself. These laws would practically function appropriately in a completely matured economy with a high level of technological capabilities available to all.

The view expressed in the article are those of the authors only.

Author can be reached at :  
madhukar@hiregange.com  
akshay@hiregange.com



CA. Annapurna Kabra

# GOVERNMENT SERVICES- AMENDMENT WITH EFFECT FROM 01.1.2022

The definition of person includes Government, and the Government includes both Central Government and State Government. Supply of goods or services by or to government is leviable to GST unless it is exempted by way of Notification. Certain transactions or activities undertaken by the Central Government, State Government, or any local authority in which they are engaged as public authorities which are notified shall be treated as **neither as supply of goods nor a supply of services**.

**Vide Not. 14/2017-CT (Rate) dated 28.06.2017** state that “services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the constitution or to a municipality under article 243W of the Constitution “is treated as neither as supply of goods nor a supply of services. The service under this Article includes urban planning, regulation of land use, roads and bridges, water supply, public health, fire services, slum improvement, public amenities or any function entrusted by the Government. The definition of local authority includes panchayat, municipality, and cantonment board.... Therefore, all the services provided by Local Authority are not exempt and only few services as provided in various relevant notifications are exempt.

Government Authority means an authority or a board or any other body (i) set up by an Act of Parliament or a State Legislature; or (ii) established by any Government with 90per cent. or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243W of the Constitution or to a Panchayat under article 243G of the Constitution.

Government Entity means an authority or a board or any other body including a society, trust, corporation, (i) set up by an Act of Parliament or State Legislature; or (ii) established by any Government, with 90per cent. or more participation by way of equity or control, to carry out

a function entrusted by the Central Government, State Government, Union Territory or a local authority.

**Pure services** provided to Government was exempted prior to the amendment like consultancy services, architect services, etc. If the services were works contract services and not pure services, then the exemption was not available since the works contract service necessarily involved supply of goods also. Vide Not. 16/2021 dated 18.11.2021, Pure services provided to **Governmental Authority and Government Entity** be no longer be exempted from tax and will attract GST under the law with effect from 01.1.2022.

SAC	Description of services	Rate prior to 31.12.2021	Rate effective from 01.1.2022
99	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Government Authority or a Government entity by way of any activity in relation to function entrusted to panchayat under article 243G of the constitution or in relation to any function entrusted to Municipality under article 243W of the Constitution	NIL	18%



Even composite supply of goods and services which the value of supply of goods constitutes **not more than 25% of the value of the said composite supply to Governmental Authority and Governmental Entity** will no longer be exempted and will be liable to tax under GST with effect from 01.1.2022. Therefore, the contractors who have entered into contract with Governmental entity or Governmental Authority should revise their contracts and charge GST accordingly.

SAC	Description of services	Rate prior to 31.12.2021	Rate effective from 01.1.2022
99	Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% percent of the value of the said composite supply provided to the Governmental Authority or a Governmental Entity by way of any activity in relation to any function entrusted to a panchayat under article 243G of the constitution or in relation to any function entrusted to a Municipality under Article 243W of the constitution	NIL	18%

Works contract services provided for specified contracts to government Authority or Government Entity have been excluded from the reduced tax rate like 5%/12% with effective from 01.1.2022 vide Not. 22/2021. Those specified works contract services will be taxable at residual tax rate @18% under entry 3(xii) of tax rate notification 11/2017- CT dated with effect from 01.1.2022.

SAC	Description of services	Rate prior to 31.12.2021	Rate effective from 01.1.2022
9954	Composite supply of works contract as defined in clause (119) of section 2 of CGST Act 2017 supplied <b>to the Governmental Authority or a Government Entity</b> by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of (a) historical monument, archaeological site or remains of national importance, archaeological excavation.. (b) canal, dam or other irrigation works (c ) pipeline, conduit or plant for water supply, water treatment or sewerage treatment or disposal Composite supply of works contract as defined in clause (119) of section 2 of CGST Act 2017 provided by <b>Sub contractor to Main contractor</b> supplied to the Governmental Authority or a Government Entity	12%	18%

SAC	Description of services	Rate prior to 31.12.2021	Rate effective from 01.1.2022
9954	Composite supply of works contract as defined in clause (119) of section 2 of CGST Act 2017 supplied <b>to the Governmental Authority or a Government Entity</b> by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of (a) Civil structure or any other original works meant predominantly for use other than commerce, industry or any other business or profession (b) A structure meant predominantly for use as an educational, clinical, or art or cultural establishment or (c) A residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of Schedule III of the CGST Act 2017 Composite supply of works contract as defined in clause (119) of section 2 of CGST Act 2017 provided by <b>Sub contractor to Main contractor</b> supplied to the Governmental Authority or a Government Entity.	12%	18%

SAC	Description of services	Rate prior to 31.12.2021	Rate effective from 01.1.2022
9954	Composite supply of works contract as defined in clause (119) of section 2 of CGST Act 2017, involving predominantly earth work (that is consulting more than 75% of the value of works contract) provided to the Government Authority or Government Entity Composite supply of works contract as defined in clause (119) of section 2 of CGST Act 2017 provided by <b>Sub contractor to Main contractor</b> supplied to the Governmental Authority or a Government Entity.	5%	18%

Section 14 of the CGST Act provides for **change in rate of tax** in respect of supply of goods or services. The normal time of supply rules changes if there is a change in the rate of tax of supply of goods or services. In this scenario, time of supply has to be determined in the following manner:

Invoice issued/ Not Issued before the date of change in tax rate	Advance received/ Not Received before the date of change in tax rate	Supply completed / Not Completed prior to change in Rate of Tax	Time of Supply	Applicable rate of tax
Not Issued	Not Received	Completed	Earliest of the date in-voice or payment	18%

Invoice issued/ Not Issued before the date of change in tax rate	Advance received/ Not Received before the date of change in tax rate	Supply completed / Not Completed prior to change in Rate of Tax	Time of Supply	Applicable rate of tax
Issued	Not Received	Completed	Date of issue of invoice	5%/12%
Not Issued	Received	Completed	Date of receipt of payment	5%/12%
Issued	Received	Not Completed	Earliest of the date of invoice or payment	5%/12%
Issued	Not Received	Not Completed	Date of receipt of payment	18%
Not Issued	Received	Not completed	Date of issue of invoice	18%

For dealing with impact of change in GST rate for individual contracts, a supplementary agreement has to be entered for such contracts or revised clauses has to be incorporated in the contracts for collecting the additional liability of taxes especially for the contracts which are rendered to Government Authority or Government Entities based on the above amendments. There should not be frequent change in rate of taxes especially in case of Government contracts as many of the contracts are finalized based on tender price and accordingly will lead into additional burden of taxes to the contractor especially in the scenario where such contracts do not

permit for any revision of prices/ revision of rate of taxes. Many contractors were not able to avail reimbursement of additional taxes from Government especially for the transitional contracts during the paradigm shift from erstwhile regime to new taxation regime. The contractors have to apply the tax rate as specified in Section 14 for the transition transactions. The contractors should comply with the GST law by charging the new rate of tax for the specified contracts as specified otherwise there will be additional burden of interest and penalty as the case may be. The contractor and the sub-contractor (providing services to main contractor) providing works contract services to the Government Authority or Government Entity must revisit their contracts to check the implications in their ongoing projects and to ensure the compliance with the said amendment effective from 01.1.2022.

Author can be reached at :  
[annapurna@hskaadvisors.com](mailto:annapurna@hskaadvisors.com)

## Income Tax Savings Schemes

54EC

### Capital Gains Bonds

AAA rated 5 year Lock in  
5% Annual Interest payable on June 30<sup>th</sup>.  
Min : ₹ 10,000/-  
Max : ₹ 50,00,000/-

Capital Gains Bonds  
आरईसी  
REC

80C

### Save Money & Save Tax

Invest in 3 years ELSS Equity Linked Saving Scheme  
ELSS - 3 Yr Lock in

Save up to ₹ 1.5 Lakh

80CCD  
1(B)

### Invest in National Pension Scheme (NPS)

Get an additional Tax benefit of ₹ 50 K pa.

Save up to ₹ 50 K

WEALTH LAB 

For further information / clarification, please feel free to contact us:  
Kiran Boal: 98803 93743 | 080 2226 4742 | [wecare@wealthlab.co.in](mailto:wecare@wealthlab.co.in)

Achieve your Financial Goals with proper Financial Planning





CA. Puneeth BS  
CA. Alfred Avinash

# KNOW YOUR RIGHTS DURING A SEARCH UNDER GST

The GST law, like the other indirect tax laws, is based on self-assessment. Nonetheless, tax evasion and frauds are widely prevalent. The GST law embodies various provisions that empower the proper officer to inspect, search, seize, and investigate cases to check this evasion. The most talked-about and often abused amongst the lot is “search” proceedings. One of the key authorities which undertake search activities under GST is the Directorate General of GST Intelligence (‘DGGI’). DGGI is an apex intelligence organization that functions under the umbrella of the CBIC.

Under GST, Section 67 of the Central Goods and Service Tax Act, 2017 confers the power of inspection, search, and seizure. The section bestows the responsibility on the officer not below the rank of Joint Commissioner to authorize the search based on the reasons to believe that a taxable person has suppressed the supply or the stock of goods, or has claimed excess input tax credit, or has indulged in contravention of any of the provisions of this Act or the rules made thereunder to evade tax under this Act.

As can be seen above, the term, ‘reason to believe’ takes the centre stage and is the crux of the entire search proceedings. However, the GST law has not been defined the said term. A reference to the India Penal Code provides for the said term to mean, “A person is said to have “reason to believe” a thing if he has sufficient cause to believe that thing but not otherwise”.

With this background, now let’s understand the critical points to be noted while handling search and also the rights of the taxpayer at each stage of the search proceedings –

**1. Whether a suspension of fraudulent activity can lead to search-** The Apex Court says ‘No’. The Apex

Court in the case of **Indian Oil Corporation Vs. Income Tax Officer, Calcutta and Ors 1986 (5) TMI 272** - Supreme Court has held that *reason to believe* refers to a positive, strong, and firm opinion based on information and evidence. It is definitely a subject matter which may vary from case to case, however, a reason to believe is not the same as the reason to suspect.

*“The expression “reason to believe” does not mean a purely subjective satisfaction on the part of the Income-tax Officer. The belief must be held in good faith: it cannot be merely a pretense. To put it differently, it is open to the court to examine the question of whether the reasons for the belief have a rational connection or a relevant bearing to the formation of the belief and are not extraneous or irrelevant to the purpose of the section. To this limited extent, the action of the Income-tax Officer in starting proceedings under section 34 of the Act is open to challenge in a court of law” - S. Narayanappa and Others Vs. Commissioner Of Income-Tax, Bangalore (1966 (9) TMI 36 - Supreme Court).*

**2. Whether the revenue authorities are required to disclose the reason to believe** – The GST law is silent on the same. The income tax Act was amended retrospectively (vide Finance Act, 2017) to provide that reasons for search need not be disclosed to the taxpayer. Hence, the search party is not duty-bound to share such details with the taxpayer. However, the court has the power to ask for the reason to believe to validate the sanctity of the search proceedings.

*“Reasons enable a proper judicial assessment of the decision taken by the Revenue. However, the above, by itself, would not confer in the assessee a right of inspection of the documents or to a communication of the reasons*

for the belief at the stage of issuing of the authorization. Any such view would be counterproductive of the entire exercise contemplated by Section 132 of the Act. It is only at the stage of commencement of the assessment proceedings after completion of the search and seizure, if any, that the requisite material may have to be disclosed to the assessee” - **Director-General of Income Tax (Investigation) Pune & Ors Vs Spacewood Furnishers Pvt Ltd & Ors (2015-TIOL-118-SC-IT)**

3. **Whether recovery be made during search proceedings** - The answer is a clear ‘No’. Section 79 of the CGST Act, 2017 talks about the recovery of the ‘amount payable to the government’. Now the next question would be, when does the amount become payable to the government. As per Section 73(9)/74(9) of the CGST Act, 2017 tax becomes payable only on passing an order. Further, Section 78 of the CGST Act, 2017 provides that initiation of recovery can be made only after completion of 3 months from the date of the order.

Based on the above analysis of the GST law, the government will obtain the statutory right to recover the taxes due only after the adjudication order is passed and 3 months has been completed from the date of such order. Till such time, no officer/authority can force/instigate to pay the tax.

4. **Whether the tax paid or statement provided under coercion be retracted** - The answer is a clear ‘Yes’. The Madras High Court has in the case of **M/s Aditya Energy Holdings [2022-TIOL-17-HC-MAD-GST]** has held that “Amounts collected during the investigation to be considered as “Paid under Protest”, for its adjustment at the time of SCN and adjudication”.

Further, the Gujarat High Court in the case of **Bhumi Associate Vs. Union of India through the secretary [2021 (2) TMI 701]** has held that “even if the assessee comes forward to make voluntary payment by filing Form DRC-03, the assessee should be asked/ advised to file such Form DRC-03 on the next day after the end of search proceedings and after the officers of the visiting team have left the premises of the assessee”.

The higher courts have time and again held that search is a drastic measure. Hence, care is to be taken to ensure that the authorities follow due process of

law. Mere recording of a statement from the taxpayer under threat or coercion doesn’t fulfill the requirement of the law. An unconditional ascertainment of liability is a must to fulfill the requirement of self-assessment.

5. **Do the officer has the power to switch off the CCTC cameras inside/outside the office** - The answer is a clear ‘No’. The revenue authorities don’t have the power to order or switch off the CCTV cameras. Rather, all the taxpayers should ensure CCTV is kept on during the entire process of search.

The CCTV footage will act as a deterrent against any possible abuse of law or ill-treatment of the taxpayer and will also come in handy in the event of the search party is dragged to the court of law.

6. **Do the officer has the right to stop the business operation or send the employees out of premises during the search proceedings** - The answer is a clear ‘No’. The revenue authorities don’t have the power to stop the business operation or send the employees out of premises during the search proceedings. However, it is to be noted here that the officers should be allowed to collect evidence and produce the documents called for.

“Given the plain text of the statute i.e. especially Section 69(4), which merely authorizes the concerned officials to search the premises and if resistance is offered, break-open the lock or any other almirah, electrical device, box, etc. containing books and documents, the complete sealing of the premises, in the opinion of the court is per se illegal. Even if it were assumed that the respondents temporarily restrained the petitioner from using its premises, for a few hours, till the books of accounts are made available in order to secure the evidence available in the premises, that could not have assumed the life on “its own”, at least indefinitely. In these given circumstances, this petition has to succeed. Since the premises have been in the possession of the respondents for over a month, a direction is issued to remove the seal forthwith – within the next 12 hours and hand over the premises to the petitioner.” - **M/s Napin Impex Pvt Ltd vs Commissioner of DGST, Delhi and Ors [2018-TIOL-2876-HC-DEL-GST]**

7. **Whether an officer can audit the books and records during the search** - The answer is a clear ‘No’. The GST Law has delineated the scope of each activity

separately. The audit is guided by Section 65 of the CGST Act, 2017 and search relies on Section 67 of the CGST Act, 2017. In the case of search, Section 67 confers upon the officers' jurisdiction to investigate the transactions or activity where they have reason to believe that the taxpayer has deviated from the law as provided therein.

It is for this reason unless there is a deflation of supply or excess credit availment, the search party cannot get into the transactions involving classification, valuation, returns, etc.

*"Where the statute requires a thing to be done in a particular manner, it must be done in that manner or not at all"* – **Nazir Ahmad vs Emperor [(1936) 38 BOMLR 987]**.

8. **Are there any timings for the officers to search–** Perse, the GST law, or the rules made thereunder don't prescribe the time for the search. However, the courts have held that examination at midnight is not a routine thing. Its prima-facie amounts to deprivation of liberty if the taxpayer is forced to be present with the department at late hours.

9. **Whether the office of Chartered Accountant / Advocate consulting the taxpayer be searched –** The GST law authorizes the power to search the 'place of business' of the taxpayer. The place of business is defined to mean include the location from where supply is made, a warehouse, place where the books of accounts are maintained, and the place of the agent.

As can be seen from the above, unless any of the above criteria are fulfilled, the premises of the Chartered Accountant or Advocate is outside the jurisdiction of the search party.

*"Thus, the precondition for conducting survey under section 133A in the premises of a chartered accountant, lawyer, tax practitioner in connection with the survey of the business place of their client is that the client in course of survey must state that his books of accountant/ documents and records are kept in the office of his chartered accountant/lawyer/tax practitioner. Unless this precondition is fulfilled, the income-tax authority cannot assume any power to enter the business premises/office of the chartered accountant/lawyer/tax*

*practitioner to conduct survey under Section 133A of the Income-tax Act in connection with the survey of the premises of their client.*

*In the absence of any such statement the opposite parties lack jurisdiction to enter the premises of the petitioner-firm and conduct the survey under section 133A of the Income-tax Act"* - **U K Mahapatra And Co and others vs Income Tax Officer And Others (2009-TIOL-32-HC-ORISSA-IT)**

10. **Whether the officer bearers/key managerial person be arrested during the search proceedings** – Commonly, the officers do constantly issue a threat of arrest during the search proceedings. However, it is pertinent to note that arrest can't be done without following the due process of adjudication.

The High Court of Madras in the case of **Jayachandran Alloys Private Limited vs GST ( 2019-TIOL-1021-HC-MAD-GST)** relying on the decision of the Supreme Court in the case of **Make My Trip (India) Pvt. Ltd. V. Union of India & Ors – (2019-TIOL-65-SC-ST)**, [wherein the court concurred with the Delhi High Court views that the "issue is as to whether the power of arrest under Section 91 of the Finance Act, 1994 ('the said Act') can be exercised without following the procedure as set out in Section 73A(3) and (4) of the said Act. The High Court has decided, after detailed discussion, that it is mandatory to follow the procedure contained in Section 73A(3) and (4) of the said Act before going ahead with the arrest of a person under Sections 90 and 91". ] has held that,

*"Through the discussions and conclusions therein have been rendered in the context of Chapter V of the Finance Act, 1994, levying service tax, I am of the view that they are equally applicable to the provisions of the CGST Act as well. Section 132 of the Act as extracted earlier, imposes a punishment upon the Assessee that 'commits' an offense. There is no dispute whatsoever that the offenses set out under (a) to (l) of the provision refer to those items, that constitute matters of assessment and would form part of an order of assessment, to be passed after the process of adjudication is complete and taking into account the submissions of the Assessee and careful weighing of evidence found and explanations offered by the Assessee regarding the same".*



## 11. Other key aspects to be kept in mind –

- To see the warrant of authorization duly signed and sealed by the person at/above the rank of Joint Commissioner.
- To verify the identity of each member of the search party.
- To have at least two respectable and independent residents of the locality as witnesses.
- To have the personal search of all members of the search party before the start of the search and after the search.
- To insist on a personal search of females by another female only with strict regard to decency.
- To have a copy of the panchanama or any statement before it is used against him together with all the annexures.
- To call a medical practitioner if he is not well.
- To have the facility of having meals etc., at the normal time.

the witness should be the one who is educated and reasonably understands the law to ensure orderly conduct during the entire search proceedings.

- Search party calls upon the taxpayers with a copy of the letterhead of the taxpayer to their office to dictate the terms of the letter (which would eventually state that the amount is paid voluntarily and the taxpayers would waive his right to contest) to be subsequently signed by the signatory.
- Search party abusing the taxpayer and often losing their temper leading to manhandling.

The taxpayers should be aware of his rights and duties. On one hand, the taxpayer should fulfill his duty by fully cooperating with the authorities. On the other hand, he should always assert his rights. The law favors the one who is vigilant and questions the excessive jurisdiction assumed by the revenue authorities then and there (Section 160(2) of the CGST Act, 2017). Ignorance of the law is no excuse.

## Conclusion

In practice, quite often than not, we have seen the –

- Search party using their cab drivers as the witness. Not that the cab drivers are disqualified, however,

*Authors can be reached at :  
puneeth@raspllp.com*

## KSCAA Welcomes New Members February 2022

Sl. No.	Name	Place
1	Vinay K S	Bengaluru
2	Bharath	Bengaluru
3	Keshavagowda N	Bengaluru
4	Prakash Nagaraju	Bengaluru
5	Veerasha L M	Shivamogga
6	Akash A Parmar	Bengaluru
7	M Vedha Laxmi	Bengaluru



**Adv. M. G. Kodandaram, IRS**  
*Assistant Director (Retd.)*

# INTELLECTUAL PROPERTY RIGHTS AND PROTECTION IN INDIA PROCEDURE FOR EXPORT OF GOODS

(PART - XIX OF IPR SERIES)

In Focus

In the series of articles, the importance of owning and protecting the IPRs together with adding value to increase the profitability of the entities by using/ exploiting/ commercialising the IP, has been deliberated so far. With a view to broadening the presence of the product across the global market capturing the export market by business entities are essential. To enter the international market, the basic preparations required to be made for exporting the products have been narrated, which included issues relating to the selection of a product for export and the preparations and strategies to be equipped/ made by the entity to accomplish the goal. In this part, as a further step, the export documentation, Customs exports procedure to be followed and the export incentives extended to all the exporters are being informed.

## Proposed exports - find out the policy

The selected product for export shall be under the free category, the importance of this has already been deliberated in the earlier part. The item-wise export and import policy, notified and published by Director General of Foreign Trade (DGFT), could be searched @ [www.dgft.gov.in](http://www.dgft.gov.in) if the subject goods are in the restricted list, an application for an export license should be made through the DGFT online system. Schedule 2 of ITC (HS) gives the Export Policy pertaining to the selected export product. If the said goods are prohibited, then such goods shall not be considered for exports. Similar verifications for the policy implications, in respect of the selected product in the destination country, should also

be undertaken before finalising the exportability of the goods.

On receipt of an export order, the exporter should carefully note the product specifications, payment conditions, packaging, delivery schedule, etc., of the ordered goods. Only after verifying the possibilities of meeting the requirements, the exporter to communicate the acceptance of the order to the buyer. Accordingly, the exporter may enter into a formal contract with the overseas buyer.

After confirmation of the export order, immediate steps are to be taken for procurement / manufacture of the goods meant for export, strictly as per the requirements of the buyer as accepted in the contract / order. Adhering to a strict quality policy is necessary to sustain longer in the export business. The Exporters are eligible to obtain pre-shipment and post-shipment finance from Commercial Banks at concessional interest rates to complete the export transaction. Post Shipment finance is also given to exporters normally up to 90% of the Invoice value for normal transit period and in cases of usance export bills up to notional due date. These could be explored and analysed to meet the working capital requirements for sourcing the inputs / goods for export.

The export goods so sourced should be labeled, packaged, and packed strictly as per the buyer's specific instructions. Good packing helps in easy handling, maximum loading, reducing shipping costs, and to ensure the safety and standard of the cargo while onward shipping. Another important step to be initiated is to obtain marine

insurance for the subject goods from a recognised service provider. The Marine insurance policy covers the risks of loss or damage to the goods while the goods are in movement to the destination country. The exporter must adhere to the agreed delivery schedule failing which the order may be canceled by the overseas buyer. Planning should be there to let nothing stand in the way of fast, efficient, and on-time delivery.

After the selection of the market and the product, the subsequent procedure to be followed for the goods by sea or air or by land is subject to certain legal and procedural formalities before being permitted clearance by the Customs, beyond the borders of India. These would include adherence to local GST laws and submission of mandated documents, and following the legal procedures laid down under customs laws to seek an order by the customs officer to clear the goods for the intended purpose of exports.

### **GST procedures for exports**

Every exporter, irrespective of his turnover, is liable to register and obtain GST Identification Number (GSTIN), electronically through the GST Network (GSTN) common portal. All exports from India are treated as zero-rated supplies meaning that such goods are treated as exempted throughout the supply chain, which enables the exporter to claim a refund of GST paid on the inputs also. For this purpose, the exporter has the option to export goods by filing the Letter of Undertaking (LUT) or bond, without payment of tax (GST), and to claim refund of Input Tax Credit (ITC) after completion of exports. Exporters are also allowed to discharge Integrated Goods and Service Tax (IGST), by utilising the ITC credit and then claim refund of IGST so paid, after clearance of goods by the customs, from customs. In this article, we shall restrict our discussions only to the export of goods without payment of duty (IGST) under LUT.

The procedures relating to export have been simplified with a purpose to do away with the paperwork and intervention of the department at many stages of export. Any GST registered person availing the option to supply goods for export without payment of integrated tax shall furnish, prior to export, a Letter of Undertaking or a bond, in FORM GST RFD-11 to the jurisdictional GST Commissioner. A Letter of Undertaking is an

undertaking by authorized person of an entity on their letterhead, assuring the Government of India that they will export the subject goods without payment of tax and in case of any default, they legally bind themselves for any demands by the authorities towards tax and interest and other penal measures/consequences. Any person who has been prosecuted for tax evasion of an amount of Rs. 250 lakh or above are not eligible for the LUT procedure. Such an exporter will have to furnish a Bond with a Bank guarantee as determined by GST Authorities to protect the future liabilities that may arise in case of failure to export the subject goods.

On execution of LUT online, the exporters can export goods without payment of IGST. The LUT shall be deemed to have been accepted as soon as an acknowledgment reference number (ARN) is generated online. No other physical document is required to be submitted later. The LUT so filed is valid for the whole financial year. All these formalities could be undertaken by use of GST network services @ <https://www.gst.gov.in/>. Access the GST portal and log in using valid credentials, navigate to Services > User Services > Furnish Letter of Undertaking (LUT) command to file LUT. For specific details please refer [https://tutorial.gst.gov.in/userguide/refund/Furnishing of Letter of Undertaking for Export of Goods or Services.htm](https://tutorial.gst.gov.in/userguide/refund/Furnishing%20of%20Letter%20of%20Undertaking%20for%20Export%20of%20Goods%20or%20Services.htm)

### **E-WAY BILL – for movement of goods to port / airport**

An e-way bill is a document that is required to be carried by a person in charge of the conveyance carrying any consignment of goods of value exceeding fifty thousand rupees as mandated by the Government under the GST regime. The e-way bill is required to transport all the goods except exempted under the e-waybill related Notifications or rules. The e-way bill is generated using the GST Common Portal for E-way bill, either by the Registered persons (exporters) or the transporters who cause movement of goods of consignment, before the commencement of such movement. For more details, please refer <https://services.gst.gov.in/services/ewaybill/ewaybillsystem>

For the generation of e-way bill for the movement of export goods by the exporter to customs port/airport, the following points are to be noted :



- (1) As the consignee (foreign buyer) is an unregistered taxpayer (will not be having GSTIN as he is located in non-taxable territory(out of India), use words 'URP' [Unregistered Person] in corresponding GSTIN column.
- (2) In EWB-01 in the Place of delivery column generally, the Pin code of the place is entered but in the case of exports to a foreign country "999999" is entered in EWB-01.
- (3) The approximate distance for movement of consignment from the source to destination must be considered based on the distance within the country (port/airport/land customs station). That is, in the case of exports, the consignor's place to the place from where the consignment is leaving the country after customs clearance has to be entered.

### Invoice and Packing list to accompany goods

All goods removed for export from the factory / warehouse must be accompanied by an e- waybill as well as a commercial Invoice or Invoice-cum-Packing List during their transportation to the customs area. The invoice shall mandatorily contain, the name of the exporter, GSTIN number, IEC, description, the HSN Code of the product, details of name of the buyer and the location/ country, destination country of the goods shipped as well as details on export benefits like 'clearance for export without payment of duty', intended to be claimed. The quantum of IGST and intention to claim the Input Tax Credit (ITC) refund also need to be declared in the invoice. The Packing List is the document that includes details about the description of goods, weight, quantity, and dimensions of the goods. It also mentions how the goods were packed, and marks or numbers present on the exterior of the box, crate, or other container used to pack and protect the goods during transit.

### Customs formalities – use of ICEGATE

All the front-end activities and subsequent movement of goods in the customs area could be carried out electronically with the help of the 'Indian Customs Electronic Commerce/Electronic Data interchange Gateway' (ICEGATE). This system of Indian Customs provides the necessary e-filing services to the exporters, Importers and cargo carriers, and other clients of the

Customs Department (collectively called Trading Partners). The ICEGATE also provides a 24X7 helpdesk facility for its trading partners. To ensure secure filing, it is mandatory to use digital signatures on all documents and messages to be handled on the gateway.

### Authorised Dealer (AD) code

The exporters are required to register their Authorised Dealer (AD) Code and Bank Account(s), at every Customs station through the ICEGATE, for purposes of remittances, aggregated on availing export benefits. The AD Code is a 14-digit number issued (Circular No.32/2020-Cus dated 6/07/ 2020) to ensure that foreign currency transactions in an exporter's current account are obtained and export benefits could be remitted online. Registering an AD Code is a one-time process, and once granted is valid for as long as the entity survives /desires.

The CBIC has now enabled a functionality within ICEGATE login which allows the exporters to make an online request for registration /modification of their AD Code / Bank Account(s) and electronically submit the Passbook copy or Bank Authorisation letter through e-Sanchit. The Customs officer is expected to complete the approval process for registration/updation of the AD Code and Bank Account(s) details in ICES within the same working day of receiving the applications. if any deficiencies are noticed, the same shall be communicated to the exporter via the Customs Automated system, who would then make the required rectification through the ICEGATE portal. The Documents needed to have for the AD Code are the Passbook of Running Bank Account, Letter or Certificate for Account Holder issued by the bank, the Exporter's ID Proof (Aadhar, Passport, memorandum of Association, etc.,) along with the IEC Certificate. The detailed step-by-step guide is available on the ICEGATE portal @

[https://icegate.gov.in/Download/AD\\_Code\\_Bank\\_Account\\_Registration\\_Advisory\\_Final.pdf](https://icegate.gov.in/Download/AD_Code_Bank_Account_Registration_Advisory_Final.pdf)

### Shipping Bill – Primary document for Exports

The process of customs clearance of goods starts with the filing of a shipping bill by an exporter or a customs broker. An exporter, under the prevailing self-

assessment regime, is expected to declare the correct classification of the goods, rate of duty (if any), the value of the goods and exemption notification claimed (if any) while filing the shipping bill. The documents generated at this stage include the commercial invoice and packing list, consular invoice, certificate of origin, insurance certificate, etc.

The in-force Foreign Trade Policy prescribes the following documents as mandatory for exports- (i) shipping bill/ bill of export (for exports on land routes); (ii) Commercial invoice cum packing list; (iii) Bill of Lading/ Airway bill, to be furnished by a freight forwarder for loading the goods for export for onward movement. Other documents like certificate of origin, inspection certificate, Export License, Letter of Credit, Bill of Exchange, Health Certificates, etc., prescribed depending upon the commodity and type of transaction are to be attached.

Under Section 50 of the Customs Act, 1962, the exporter is required to present electronically on the customs automated system to a proper officer of customs a shipping bill in case of export by a vessel or by air and a bill of export. The Shipping Bill is generated through the Indian Customs EDI System (ICES) and submitted electronically. It is filed in the prescribed format and in the defined manner, and with supporting documents indicated above. All the supporting documents must be attached electronically as there is no provision to file them manually unless permitted by the commissioner in exceptional circumstances. A shipping bill could be filed seven days prior to moving goods to the customs area /station for exports.

### **E-SEALING by self of export goods**

The goods for the purposes of export from the factory / warehouse are to be carried in the containers duly stuffed and sealed in the presence of customs officers. As on date the CBIC has done away with factory stuffing of containers under the physical supervision of an officer of the Department. The eligible exporters are now entitled to self-seal their export containers by using an electronic seal. Electronic self-sealing of containers can be adopted only for a fully loaded container at an approved premise, by an authorized exporter. For less than container load (LCL) exports, stuffing could be undertaken at the

Customs area in the presence of the customs officers.

A full container load when received at a port or ICD with electronic RFID enabled one-time locker seal executed by the exporter, then it would be deemed to be the equivalent of a container sealed under the supervision of an Official. Exporters desirous of availing this procedure shall electronically inform the jurisdictional Customs Officer for permission to self-sealing at the approved premises, at least 15 days before the first planned movement of a consignment. The jurisdictional officer of Customs shall inspect the premises with regard to the viability of stuffing of container in the premises and submit a report to the jurisdictional Deputy / Assistant Commissioner of Customs (DC / AC) within 48 hours. The jurisdictional DC / AC shall forward the proposal, to the Principal Commissioner of Customs who would grant self-sealing permission at the approved premises. Once the permission is granted, the exporter shall furnish only intimation to the jurisdictional Superintendent or Customs each time self-sealing is carried out at approved premises. Self-Sealing permission so granted shall be valid for export at all the customs stations.

Transport documents for movement of a self-sealed container by an exporter from a factory or warehouse shall be the same as the transport document prescribed under the GST Laws. The exporter shall seal the container with the tamper-proof electronic seal of standard specification. The electronic seal should have a unique number which should be declared in the Shipping Bill before sealing the container, the exporter shall feed the data such as the name of the exporter, IEC code, GSTIN number, description of the goods, tax invoice number, etc.,

Exporters who are not desirous of following e-sealing procedures or having consignments less than container load could take their goods for exports to the customs port/airport and get done the export sealing and stuffing by the customs officer. For this purpose, the services of the customs brokers may also be used.

### **Customs Brokers (CBs) [Customs House Agents (CHAs)]**

Exporters may avail of the services of Customs Brokers (CBs) [ also known as Customs House Agents (CHAs)]

licensed by the Commissioner of Customs under Section 146 of the Customs Act, 1962 and regulated as per the Customs Broker Licensing Regulations 2018. They are professionals /agents duly permitted to facilitate work connected with clearance of export cargo by bridging the export procedures with the Customs department. Any exporter may appoint a CHA /CB to interface with the Customs Department and complete the required procedures for Exports. The CB will be more effective in communicating with the Customs officials, as they are trained and tested to be aware of all laws, rules, and procedures relating to the Customs Department. CBs will also interface with the Freight Forwarder (explained later in this section), on the exporter's behalf, to handle all logistic needs and costs during the actual export. The costs involved, such as freight expenses, port expenses, insurance fees, etc., borne by the CB, will be charged to the Exporter. Intended exporters are to negotiate the charges involved with the CB and mutually agree upon a contract before using their services.

After goods are manufactured and ready at the premises, the Invoice, and the Packing List (also known as an Invoice-cum-Packing List) are forwarded to the CBs (via e-Mail) for further timely export of goods.

### Processing goods for export

After receiving documents from the exporter, the Customs broker, or the exporter himself shall file the shipping bill through customs ICEGATE electronically. The ICE GATE opens its software system 24 hours a day to support export/import trade for smooth clearance procedures in India. The selected shipping bill is checked for assessment of the value of goods and other information by the customs officials. The Customs department is also alert on the export benefits schemes claimed by the exporter and verifies the same with the supporting documents attached.

The goods ready for export are moved to the airport, seaport, or container freight station and unloaded into the respective yard of the shipping carrier/ custodian. On arrival of the goods at the customs area, the custodian must endorse the quantity of the goods received for export using the ICEGATE portal. The shipping Bill along with receipt of goods for export moves online for customs verification by customs through RMS

server. The verification of such shipping bills will be done to ensure the correctness of classification, value, duty rate, exemption, etc. by the proper officer who may also examine and test the goods. The Self-assessed shipping bills are selected for verification based on the Risk Management System (RMS) of the department. Thus, the shipping bills, once filed electronically in the ICES through the service centre or ICEGATE will be processed by the RMS. Based on the compulsory compliance directed by the system, the subsequent steps are decided. The shipping bills will either be taken up for assessment or examination, or both, or will be given the Let Export Order (LEO) without further verification. Export customs procedures and formalities for inspection of goods are completed with customs officials entering the details of the examination of goods wherever selected.

### Let Export Order

After verifying all required information, customs issue 'Let Export Order' as proof of completion of export customs procedures and formalities. Let Export Order (LEO) is the green signal given by the customs to the exporter once they are satisfied with the verification and examination of the shipment. When it comes to the stuffing or loading of the container cargo, the customs preventive officer ensures the supervision for the same and gives a 'Shipped on Board' endorsement on the exporter's copy of the shipping bill.

The jurisdictional Customs Officer verifies the e-seal with the help of a handheld reader or fixed reader or through any other mode as prescribed, whether the e-seal is intact or not. If e-seal has been read as 'NOT TAMPERED', the export consignment would be processed for registration and grant of 'LET EXPORT ORDER' as per established procedures. Information of Customs clearance/rejection will be seamlessly transmitted to the registered email id of the exporter from the vendor's server.

### Role of Freight Forwarders

Freight Forwarders are the private agents responsible for the movement of goods. After let export order by the customs, the goods are handed over to authorised freight forwarders for loading onto the ship/ aircraft, to deliver them to the Buyer at the destination. They are an integral

part of the export supply chain, involved in all modes of export (sea, road, rail, and air) transport. They can arrange storage for the goods and could negotiate freight rates with the Shipping Lines. The CBs can also act as Freight Forwarders if they can provide such services. CBs will assist the Freight Forwarder with the loading of the container/ goods onto the ship. The Freight Forwarder or the Shipping Line will issue the Bill of Lading to the Exporter, certifying that the Shipping Line has now received the goods onto the ship.

### Bill of Lading (BOL)

The bill of lading (BOL) is a legal document that protects the shipper, the carrier, and the customer (buyer) comprehensively. This is a legally binding document that confirms the fact that the subject goods are in receipt and possession of the Shipping Line for onward movement. Acting as a contract between all parties, the bill of lading contains all pertinent information about a given shipment. The Bill of Lading is issued by the Shipping Line after the goods are to be taken on board the ship. After the goods are loaded onto the ship, the Master of the Ship must mandatorily file an Export General Manifest (EGM) with the Customs Department on the ICEGATE portal, informing the details of goods loaded for export. The Ship/ aircraft is allowed to leave the port by the customs only after the EGM is filed.

### Submission of documents to Bank

After shipment, it is obligatory to present the documents to the Bank within 21 days for onward dispatch to the foreign Bank for arranging payment. Documents should be drawn under Collection/Purchase/Negotiation under L/C as the case may be, along with the documents viz., Bill of Exchange, Letter of Credit (if the shipment is under L/C), Commercial Invoice, Packing List, Airway Bill/Bill of Lading, Declaration under Foreign Exchange, Certificate of Origin, Inspection Certificate (wherever necessary) and any other document as required in the L/C or by the buyer or statutorily.

As per FTP 2015-2020, all export contracts and invoices shall be denominated either in the freely convertible currency or Indian rupees, but export proceeds should be realized in freely convertible currency except for export to Iran. Export proceeds should be realized in 9 months.

### Export benefits:

**Refund of ITC credit:** Exports under GST are treated by the government as zero-rated supply. This means that the exporter can claim ITC for the product exported and the exporter does not need to pay GST on the export transaction. The exporter needs to file for the refund claim as prescribed under section 54 of the CGST Act, 2017, on the common GSTN portal.

**RoDTEP and RoSCTL scheme:** Under the Remission of Duty or Taxes on Export Products (RoDTEP) and Rebate of State and Central Levies and Taxes (RoSCTL) Scheme (for textiles), the government reimburses the exporters the embedded central, state, and local taxes and duties. Refunds are credited to an exporter's credit ledger account with customs and can be used to pay customs duty on imports or transferred to other importers. Exporters who wish to avail of the rebate must declare their intention in the shipping bill. The scheme came into effect on January 1, 2021, replacing the Merchandise Exports from India Scheme (MEIS).

**Duty Drawback (DBK):** This scheme, implemented by the Department of Revenue, reimburses exporters customs and central excise duties paid on inputs. Refunds can be claimed under an All-India Rate (AIR) or Brand Rate (where the AIR is deemed insufficient). Refunds are credited directly into the exporter's bank account duly registered with the department. For exports under GST, the duty drawback is available only for customs duty on imported inputs or central excise on some petroleum/tobacco products utilised as inputs for captive power generation.

In the coming part, the use of copyrights as IPRs by the MSMEs and industry will be deliberated.

*Author can be reached at :  
mgkodandaram@gmail.com*





CA. Vinay Thyagaraj

# RERA – THE IMPORTANCE OF PROVIDING UNIFORM DATA ACROSS ALL STAKEHOLDERS

(PART - X OF RERA SERIES)

RERA

One of the Objectives of RERA is to bring, enhance Transparency in the Real Estate Industry. Transparency has become the new paradigm of economic activities and no exception to real estate, it has a special significance due to the regulatory, economic, social, and environmental importance of properties. Although significant progress has been made in recent years, further action is needed to increase the transparency of real estate markets/entities.

Digitalisation has a considerable role in increasing transparency, but real estate organisation has generally been slow in adapting to the new technologies to automate manual procedures. The data available is abstract and varies from one department to another department inside the organisation.

Considering that transparency is a quality of communication of sustainability information, as well as the role of digitalisation in ensuring the transparency, there are various studies available on the perception of real estate entities related to promoting transparency in the relationship with stakeholders (regulators, investors, lenders, customers, market, tax authorities) and the integration of information and communication technology in their business models.

- Applying a qualitative approach, various groups analysed the sustainability reports published by real estate companies, which represent important non-financial information sources for stakeholders. Transparency is mainly reflected in corporate governance, as real estate entities are increasingly concerned with maintaining open

relationships with stakeholders and knowing their expectations to integrate them into the business strategy. The research reports have noticed a broader approach of transparency in entities and in reports that include an assurance statement.

- New digital technologies serve the purpose of improving transparency, which, although still poorly explored in real estate, offer new solutions to increase the efficiency and productivity of real estate activities. Property technology can improve real estate market transparency and liquidity, bringing lower transaction costs, which should positively impact the value of investment assets.
- Let us understand the various information or data of the Real Estate Industry and the importance of reconciliation and matching with various stakeholders.

Who are the stakeholders interested in the data and information from time to time – let me list down and start explaining it –

1. Management of the Business houses – in case of a large organisation, management/board of directors to know the various critical numbers/data of the organisation/business
2. Regulatory Body – Real Estate Regulatory Authority – is the custodian of all information related to the real estate project. Act as a bridge between the promoter entity and the public at large

3. Lenders – to ensure the funds so released/lent is utilized for the purpose of project development or intended use
4. Prospective Customers – Customers will look into the project details, business house, or organisation before they make a decision in the selection of the property and more so, the performance & delivery of the earlier projects to the customers.
5. Government Agencies – planning authorities and other statutory authorities, grant permission to construct or develop the real estate project
6. Tax Authorities – wanting to collect the applicable taxes based on the transactions
7. Research Agencies – Research Agencies to prepare the Analytical report to publish
8. Investors
9. Stock Exchanges

The report and analysis made by the few leading agencies revealed that the lenders aggressively lent money to the few real estate businesses / projects, which are beyond the requirement for the cost of development of the particular project. The lending or loans granted were not effectively used in the construction of the real estate project, payment to the suppliers or vendors of the project. The money so borrowed was used for a purpose other than intended. Having lent money and not utilised appropriately, the recovery of loans from the business/real estate project has been impacted and results in nonperforming assets to the bankers/lenders. We have seen various lenders have compromised for one-time settlement to conclude and to eliminate the bad assets in their books of accounts. This resulted in a loss to shareholders.

- o The real estate industry attracts everyone's attention and economic interest differently compared to any other industry. The smart, shrewd, ingenious can deceive in a large way by raising funds from known friends and family members, private investors, customers, financial institutions, supplier credits, etc.

The promoters of the project are mandated to submit the details to each of the stakeholders. Prior to RERA, there was minimal scope to cross verify the data provided by the promoters to various stakeholders viz., -

1. Complete details of the scheme of the project, plans, approvals, etc
2. Details of the status of booking (sold) to the prospective customers
3. Details of sold or unsold units to the lenders / financial institutions
4. Details of the amount collected from the allottees to the lenders/financial institutions
5. Details of the amount collected from the allottees to the tax authorities to discharge the GST
6. Details of the status of % completion of work in the project for the purpose of revenue recognition to Income Tax
7. Details of the Estimated cost of the project to the tax authorities, investors, lenders, etc
8. Details of the project profitability to investors
9. Details of litigation on the project land to the allottees
10. Details of borrowing/mortgage of project land to the allottees
11. Details of modification of sanctioned plan to the allottees
12. Details provided for the purpose of Audit under various statutes – Company's Act, Co-operative Housing Society, etc

As these details are available and can be accessed by everyone, now it is the responsibility of each stakeholder to ensure the data provided by the promoter is matching with the details and data submitted to the RERA Authorities.

If so, what data the promoters are mandated to submit with RERA Authorities and available to access by the public at large –

1. Details of the scheme of the project – sanctioned plan, approvals, NOCs, KYC, etc
2. Details of the promoters of the project, Land Owners, etc
3. Details of the Estimated Cost of the Project
4. Details of the Total inventory in the project – available, sold, balance unsold
5. Details of Area (measurement) of each unit in the project – Carpet Area, Common Area, Saleable Area, etc
6. Total number of car parking available in the project
7. Details of litigation on project land
8. Details of schedule of development in the project including end date to complete the development in the project
9. During the quarterly updates and annual audits, the promoters mandatorily submit the following information, details, documents, etc –
  - a. Total Sold units / unsold units
  - b. The total amount realised from the allottees and balance receivables
  - c. Total amount incurred towards development works in the project
  - d. % Of completion of development works in the project
  - e. Details of pending development work in the project
  - f. Copies of professional certificates like CA's, Architect and Engineer's
  - g. Details of fresh litigations on project land.

Recently, on 25<sup>th</sup> Jan 2022, MahaRERA has issued a circular stating that bankers shall collect the 3 professional certificates (CA, Engineer, Architect) for every withdrawal of money from the RERA Designated project Bank account.

Based on our experience the following are the gaps or differences –

1. The Estimated costs submitted with RERA are different from that of cost details submitted to the lenders/financial institutions
2. Details of Amount realised from the allottees as per RERA and as per Books of Accounts. The amount realised is classified under various heads (like sales, current liabilities, taxes, etc)
3. % of completion is more in RERA and less with Income Tax or GST
4. Number of units booked/sold is more with RERA compared to Income Tax or GST
5. Amount incurred as per RERA is more compared with the Purchases in GST R
6. Amount incurred as per RERA is more compared to the Books of Accounts audited
7. Sold/unsold inventory or receivables as per RERA compared to the certificate submitted to the banker as stock or receivable statements.

We agree that there may be a difference, if so, we recommend to the promoters to keep the reconciliation statement to protect themselves in the future from any inadvertent notices from any of the tax authorities.

Conclusion - We recommend to the promoters of the project to submit uniform data to all the stakeholders to achieve the objectives of the RERA Act and also to comply with different statutes failing which there are chances of penal action or penalty for such non-compliance. Also, it is the responsibility of the professionals to advise their clients appropriately/in accordance with the RERA Act, Rules, Notifications, Circulars.

**Author can be reached at :**  
**vinay@vnnv.ca**



CA. Archana Sridhar

# DATA LITERACY – A CRITICAL SKILL IN THE DIGITAL WORLD

## Contents

- ✓ Overview
- ✓ Definition and components
- ✓ Components explained
- ✓ The way forward

## Executive Summary

*'Data' is considered a strategic asset in recent times. Organisations generate a vast amount of data and have to deal with it on a day-to-day basis. In order to harness maximum benefits from data, it is imperative to have a well-laid out data strategy within an organisation. Data literacy competencies being a part of a data strategy is gaining significance in the business world. Not all of us who deal with data are data scientists or statisticians but as professionals, we need to be "data literate". It is the need of the hour to be prepared for the changes happening in this data-driven world (in terms of digitization, automation, data analytics, machine learning/artificial intelligence, etc). This would ensure our preparedness to handle the challenges that come our way.*

*In this article, we will focus on the concept of 'Data literacy' and its relevance to Finance professionals.*

## Overview

We all are familiar with the finance /accounting and tax jargon. In this technology-driven world, where most processes are automated how familiar are we with the data/ technology-related concepts and terms? (E.g., terms like schema, metadata, cloud platforms, data interoperability, data lakes etc). As mentioned earlier, we are not expected

to be data scientists, but in order to understand the data strategy and tools used in an organisation we must start building our knowledge base around these concepts as well.

*It is stated that "As data and analytics becomes a core part of digital business and data becomes an organizational asset, employees must have at least a basic ability to communicate and understand conversations about data. In short, the ability to 'speak data' will become an integral aspect of most day-to-day jobs."* (Source: CDO Trends).

Being data literate would bring about a change in perspective when professionals work on data-driven initiatives.

## Definition & Components

### What is data literacy?

Let us see some of the definitions related to data literacy;

Gartner defines data literacy as the ability to read, write and communicate data in context, including an understanding of data sources and constructs, analytical methods and techniques applied — and the ability to describe the use case, application, and resulting value.

*In simple terms, Data literacy is the ability to read, understand, create, and communicate data as information (Wikipedia) and also develop the competencies around working with data.*

From the above definition it can be seen that data literacy relates to the following three components;

- ✓ **Understanding & Sourcing data:** Understanding data sources and types of data.
- ✓ **Working with data:** Understanding the process and tools related to data collection and management.



- ✓ **Communication:** Reporting and presenting the data as per the user's requirements.

Though we are familiar with the above concepts, let us understand it better.

### Components explained:

#### Understanding & Sourcing data:

- **What is it & its importance**

Let us start with the challenges we face while using data in our day-to-day work. Most of the time the analysis comes to a standstill due to the lack of data or erroneous data. Sometimes it is not in the right format and we spend time putting it together in the right format. Do we find a temporary solution to deal with these issues, or do we go to the root cause and address it permanently? We need to document the challenges and have meaningful conversations with the suppliers of the data to fix the issues.

In this context it is important to understand the types of data we deal with (Understanding data types), ensure the data we use is of good quality (data quality), understand the sources from which we get the data (data sources).

- **Focus areas / Best Practices**

Suggestions relating to some best practices and focus areas are as follows;

- Document the data requirements for the particular report and correlate it with the available data in respect of data sources, availability etc. Determine the reliable sources of data.
- Plotting a data map in simple terms during the process walk-through would help get a better understanding of how the data is sourced, processed, and used.
- Set the expectations with the suppliers of data regarding the format, frequency etc. This may save time in respect of rework.
- Understand the types of data- It is important to understand data types in terms of Structured, Unstructured, Master data, transaction data etc. Master data management is a very important aspect of data management.
- Master data audit across all systems and tools : Organisations should focus on review and

clean-up of the master data at regular intervals to remove inconsistencies across systems and locations, detect and eliminate duplicates. The organisations need to spend time in building the master data right so that they need not spend much time on fixing issues that may crop up later as a result of mismanagement

- Focus on the critical data, it is important to know how to extract the 'gold' (relevant data) from the data mine.
- Audit the data in terms of quality ('Data quality' audit can be a part of the internal audit procedures or a separate project in itself). Reasons for errors need to be analysed and issues need to be fixed at the 'source' (Data cleansing).
- We need to reduce time in reconciliation, ensure minimum manual touchpoints and ensure data management processes are standardized.

#### Working with data :

- **What is it & its importance**

With the advancement in technology, organisations are using sophisticated tools and systems. Data flows through these systems and is processed at various points. It is essential to understand the business rules configured in the systems, the data processing procedures, and the data extraction methods. This is more relevant when a new ERP or tool is being deployed. Apart from providing functional expertise, finance professionals can provide valuable inputs and have a meaningful conversation with the technical expert if they are familiar with the relevant technology concepts. Some of these would include knowledge regarding system architecture, data warehouse, database management systems, data mining techniques etc.

- **Focus areas / Best Practices**

- Get to know about the data feeds and data collection methods.
- Documenting the 'data life cycle' to get a holistic view of how the data is sourced, processed, and stored.
- Understanding the tools and systems through which the data flows, the controls, and data processing methods related to it.

- Audit the master data maintenance process, business rules configured in the systems and tools.
- Scope for standardisation in relation to Master data and business rules across locations/departments.
- Focus on database normalisation procedures: In simple terms, data normalisation relates to the organisation of data in a proper manner. This is done with an aim of reducing data redundancy and improve data integrity.
- Data interoperability: The ability of data sets to work with other systems or datasets without additional efforts. This requires the adoption of standard data format and structure.
- Report preparation process: Process of extracting the 'relevant' data (data extraction methods) and deriving useful insights (data mining techniques).
- Data security/backup and privacy -Ensuring that the data is backed up / secured and ensuring adherence to the privacy laws.

## Communication

### • *What is it & its importance*

The efforts built around sourcing and managing data would be lost if it is not presented in the right format and is not as per the user's requirement. As mentioned earlier the output should be kept in mind while working on aspects like data availability, sufficiency etc. The skill lies in extracting the relevant data from the 'ocean of data' and using it for a particular purpose. Data visualisation (the process of communicating information clearly and efficiently using graphs, plots etc) is a new skill that needs to be acquired. It is also important to communicate the insights from the datasets using narratives as well (Data storytelling).

### • *Focus areas / Best Practices*

- "Does the report speak for itself?" is the question to be asked. Sharpening the visualisation & storytelling skills is the need of the hour. The message is clearly conveyed when it is presented in a pictorial form accompanied by narratives. Focus on using intelligent narratives to create business value.

- The expectation these days are to produce high-level snapshots with drill down which is made available on a real-time basis. The focus is on smart reporting, some of the tools that support this are Tableau, Power BI etc.
- Using analytics extensively, correlating financial and non-financial data and incorporating it accordingly in the Key performance indicators (KPI) or metrics.
- Continuous efforts need to be made to improve the quality of the input (data) and the output (reports) based on the feedback received from various stakeholders.
- Where errors occur, root cause analysis needs to be done and the issue needs to be corrected at source and recurrence should be avoided.

## Conclusion- The Way forward

Digital transformation initiatives are now common in most organisations. Along with developing a business strategy, it is important for organisations to focus on building a suitable data strategy. A sound data strategy (for which data literacy is the foundational element) will lead to significant value creation when AI is used on the data. Finance professionals who build on their data literacy skills can add value in helping organisations build such strategies.

**Gartner's research** shows that when considering all the decisions made across an organization, a lack of skills in data literacy can cost a company as much as 1% of revenue. Finance leaders must close this costly skill gap.

*In conclusion, having understood the significance of data literacy skills, let us begin by doing a self-assessment on the current skill level in each of the above aspects discussed. From thereon focussing on sharpening these skills is the key. The next step would then be to build a data literate workforce.*

*Author can be reached at :  
archkrish1109@gmail.com*



Dr. T Surendra Bhat

## NEW RESOLUTIONS!!!

New Year comes and goes, New Year resolutions are made by many, but most of them drop by the wayside. About 80 % of people who make New Year resolutions have given up by the 2<sup>nd</sup> week of February. They become irregular and drop off or postpone and are gradually forgotten. I am sure by now, most of the New Year Resolutions are dropped off. It is better to make fewer resolutions and carefully thought-out plans, which will lead to success, unlike the last-minute resolution. The resolution may be different for people of different ages, caliber, caste and creed, professions, and so on, but the basic resolution should be aimed at Health, Education, Finance, Environment, and their respective profession-oriented resolutions. Doctors should make up their minds, to practice medical ethics oriented one with preventive and educational, awareness programs as their basic priorities, everyone should cultivate the habit of upgrading in their respective fields, as well as in general knowledge too so that they can guide the people as and when if required. All the professionals should be service-oriented not just earning-oriented. Try to be a role model to others, a good rule of thumb in education is to give topmost priority for their individual choice after good counseling. if needed, no force applied for a particular profession like medical or engineering, education must be practical and job oriented, not just getting degrees, update is a must, one must understand learning is a never-ending process, educate your children to develop, decency and civilized behavior right from the beginning.

A good rule of thumb in the financial aspect is to save and invest, at least try to save 15% of monthly income for a rainy day. According to your age invest in a mixture of debt and equity, if you are young then you invest more in equity, don't stake up credit cards debt, keep expenses in a cheque, keep a dairy, always try to pay cash, contribute 1 % of your income for worthy causes, Charity preferably

for the education of poor, even you can pay EMI or SIP form for charity. Get out of debt and save more.

### New Health Resolutions

Remember most important threat to your health is your lifestyle, by simply making small tweaks to your daily routine you can create big changes in your life and feel natural. Lose weight if you're overweight, look after your mental health, Distress, meditation program, relaxations, etc., practice anger management. Read more good books. Learn a new skill or hobby quit smoking and alcohol if you are, travel more, spend more time with your family and friends, but not with your mobile, stop gossiping, maintain good nail hygiene, just like to Ekadashi upavas in a month give a break to your mobile whole day twice month, do a random act of kindness.

Staying healthy weight is easy if one follows simple home math—CALORIES IN – EQUAL CALORIES OUT. Exercise right, restrict carbohydrates add enough low-fat diet high fiber consumption, stay away from junk and fast foods., avoid tobacco and alcohol, be physically active, manage stress, take up yoga and meditation, pranayama, etc... Say no to addictive drugs or substances don't fall to peer pressure, have safe sex, have a regular health check-up, risk assessment tests, screening for cancer. Go trekking once a month, make spiritual journeys, and jolly vacations regularly. Getting in touch with your inner self paves the way for more open communications, confidence and peace, say hello

to a new you, be optimistic be more positive, rid yourself of all negativity, forget and forgive learn to live and learn to love, reconnect with nature, keep your environment clean, go green and eco-friendly.

Last but not the least don't forget to follow all the prevailing Covid protocols strictly- WEARING MASK PROPERLY, PHYSICAL DISTANCING, HAND & FACE

HYGIENE, FULL COVID VACCINATION.

### Special recipe!!

Take 12 complete months, clean them carefully of all bitterness, Hate & Envy. Cut each month into 28, 30 & 31 different pieces but do not cook them all at the same time. Prepare one day at a time with the following ingredients.

A pinch of faith, a pinch of courage & a pinch of patience with a pinch of work. Add to each day one part of hope, faithfulness & kindness. Mix well with one part of prayer & one part of meditation & one part of the application. Season it with a portion of happiness & a little action & a good measure of humor. Place everything in a vessel of love, cook well in the fire of radiant happiness, garnish it with a sweet smile & finally serve all abundantly. At the same time don't forget to follow all the prevailing Covid protocols strictly.

### Health Tip of the month.

Mind workout---keep your mind fit & agile by giving it a workout. Exercise your mind with a new hobby or skill such as new musical instrument learning or foreign

language class, learn Bhagavad Geeta or try word games like a crossword puzzle or sudoku, etc...

REMEMBER THESE 4 THINGS IN LIFE.

1. God will make a way for you.
2. God is fighting your battles.
3. Prayer is the Best Medicine.
4. Trust God's Timing. Thought for the day

It is the behavior of the people which decides the course of this Covid Pandemic. New Simple Tip for Good Health.

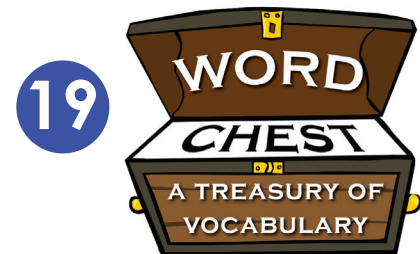
**Postprandial 10 minutes walking daily for all age groups.**

10 minutes walking after Breakfast, after Lunch, after dinner.

*The Author is a Consultant Physician ,  
at Sonologist, Sanjo Hospital, Mandya &  
can be reached at :  
drtb1953@gmail.com*

## Solution to Sudoku -18 February 2022

7	9	5	3	6	8	4	2	1
4	6	1	2	9	5	7	8	3
2	8	3	4	7	1	6	9	5
6	4	9	7	8	3	1	5	2
3	7	8	5	1	2	9	4	6
5	1	2	9	4	6	8	3	7
9	3	7	6	5	4	2	1	8
1	5	6	8	2	9	3	7	4
8	2	4	1	3	7	5	6	9



**Finance Tech Term of the Month:**

**Data management platform (DMP)**

**What is this?**

A **data management platform** is a tool that facilitates the collation and management of data from various sources including first, second and third party audience data. Once collated, the combined data set can be segmented and pushed out across wider channels. DMPs are a core tool for digital marketing as the large data set allows for refined audience targeting. Examples of DMPs include Salesforce, Adobe Audience Manager and Oracle.



Date: 17th February, 2022

To,

**Smt. Nirmala Sitharaman**  
**Hon. Union Minister of Finance and Corporate Affairs**  
**Government of India**

**Hon'ble Madam,**

**SUBJECT: MEMORANDUM SEEKING CHANGES IN UNION BUDGET 2022-23 PROPOSALS**

The Karnataka State Chartered Accountants Association (R) (in short 'KSCAA') is an association of Chartered Accountants, registered under the Karnataka Societies Registration Act, in the year 1957. KSCAA is primarily formed for the welfare of Chartered Accountants and represents before various regulatory authorities to resolve the professional problems faced by chartered accountants and business community.

At the outset, we congratulate and applaud sincere efforts of Union Government and your goods selves for undertaking and laying down a progressive, optimistic and growth-oriented Union Budget 2022-23, at a time when India is maneuvering its way out of third wave of Covid-19. As India is celebrating Azadi ka Amrit Mahotsav and has entered into Amrit Kaal, the 25-year-long leadup to India@100, the budget has all enablers to transform this vision into reality.

We here in, would like to bring to your kind notice, few of the issues which might be faced by taxpayers and Chartered accountants as regards certain specific proposals made in this Union Budget, 2022-2023. In the past, we have written to your good selves many a times populating various issues, challenges and hardships being faced by taxpayers and Chartered Accountants and suggested possible solutions on the same. Here in, we are presenting before your good selves for your kind consideration certain issues, challenges and hardships which the taxpayers and Chartered accountants might face on these proposals of this Union Budget 2022-23. For every issue, challenge or hardship highlighted, we have also suggested solutions to address them all.

Recommended changes in Finance Bill 2022 - CGST Act, 2017

Amendment to Sec 16 & Sec 38 of the CGST Act

Clause 99 & 103 to Finance Bill 2022	
Relevant Extract from the Bill relating to Sec 16	In Section 16 sub-section (2), after clause (b), the following clause shall be inserted, namely:  “(ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;”;
Relevant Extract from the Bill relating to Sec 38	“38. (1) The details of outward supplies furnished by the registered persons under sub-section (1) of section 37 and of such other supplies as may be prescribed, and an autogenerated statement containing the details of input tax credit shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.  (2) The auto-generated statement under sub-section (1) shall consist of—  (a) details of inward supplies in respect of which credit of input tax may be available to the recipient; and

Representation

	<p>(b) details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the receipt, on account of the details of the said supplies being furnished under sub-section (1) of section 37,--</p> <p>(i) by any registered person with- in such period of taking registra- tion as may be prescribed; or</p> <p>(ii) by any registered person, who has defaulted in payment of tax and where such default has con- tinued for such period as may be prescribed; or</p> <p>(iii) by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said subsection during such period, as may be prescribed, exceeds the output tax paid by him during the said period by such limit as may be prescribed; or</p> <p>(iv) by any registered person who, during such period as may be prescribed, has availed credit of input tax of an amount that exceeds the credit that can be availed by him in accordance with clause (a), by such limit as may be prescribed; or</p> <p>v) by any registered person, who has defaulted in discharging his tax liability in accordance with (the provisions of sub-section (12) of section 49 subject to such</p>
--	--

	<p>conditions and restrictions as may be prescribed;</p> <p>or</p> <p>(vi) by such other class of persons as may be prescribed.”</p>
<b>Proposal in the Bill</b>	<p>Combined Effect of Clause 99 &amp; 103 is as below:</p> <p>i. An additional condition added in Sec 16 of the Act for claim of Input Tax Credit (ITC) requires that the ITC not to be restricted as per autogenerated statement made available under Sec 38.</p> <p>ii. Such auto generated state- ment would be made available to recipient claiming ITC, based on GSTR 1 filed by his supplier, and the statement would give details of eligible and ineligible ITC.</p> <p>iii. The clause specifies a few instances under which ITC can be made ineligible as per the auto generated statement.</p>
<b>Our Observation on the Amend- ment - Impact on the trade</b>	<p>The said amendment undoubtedly intends to ensure that the ITC claim is mapped with the corre- sponding tax paid by the supplier. However, following are some of the major concerns we see if the provision is made applicable as is –</p> <p>a. There is no opportunity for the recipient or the supplier con- cerned to prove his case and de- fend eligibility as the assessment of ITC into eligible and ineligible is system driven by way of an auto drafted statement.</p> <p>b. Mechanism does not provide an option for shifting the ITC</p>

### Our Observation on the Amend- ment - Impact on the trade

from ineligible to eligible once the issue in question is ratified with required correction as mentioned in point a above.

c. Restriction of credit from recipient and possibility of subsequent recovery from the supplier could lead to unjust enrichment. Law has not spelt out a mechanism for claiming back ITC once recovery is done from the supplier.

d. System based disallowance would defy the scheme of self-assessment and would lead to a controlled assessment.

e. This would defy the intent of free flow of credit as envisaged in GST implementation

f. Working capitals would hugely be impacted to the already crippling business scenario owing to Covid-19.

g. It casts an undue hardship on the registered person to follow the said provision, and time invested on compliance would go up exponentially leading to adverse impact on business.

While the general hardships faced due to the proposed amendment are as listed above, following are our observations on the reasons for specific ineligibilities for claiming ITC as stated in Clause 103:

a.Instance 1: Till a prescribed period from the date of registration of supplier, ITC would be ineligi

### Our Observation on the Amend- ment - Impact on the trade

ble for receiver.

-Such ineligibility in case of newly registered supplier would hamper the ease of doing business.

-Given that our country encourages and supports start-ups through various schemes, instance 1 directly and adversely impacts such vision.

b.Instance 2: Supplier has defaulted payment of tax for a prescribed continuous period;

Instance 3: Output Tax as per GSTR 1 exceeds by a prescribed limit compared to actual payment by supplier in GSTR 3B;

Instance 4: Supplier of Goods has availed ITC higher than prescribed limit eligible to him u/s 38;

Instance 5: Supplier being a specified class of persons and has not discharged the minimum amount of tax which he requires to do it through cash ledger as per Sec 49(12).

- Certain valid reasons could exist for the difference between GSTR 1 & GSTR 3B, including the ones on account of error while filing GSTR 1, adjustment of previously excess paid taxes from current month's payment while filing GSTR 3B, among others. Law has not envisaged a way out in such instances. Blocking such ITC in instance 3 would unduly affect the recipient.

<p><b>Our Observation on the Amendment - Impact on the trade</b></p>	<ul style="list-style-type: none"> <li>- Supplier could have claimed excess ITC for various bonafide reasons including the case of non availment and subsequent availment within the prescribed allowed time. ITC restriction in instance 4 would unduly hamper the person claiming ITC for reasons beyond his control.</li> <li>- As a recipient, one may not be aware of applicability of Section 49(12 ) from his supplier's end. Such defaulting supplier would be the appropriate person to deal with than the bonafide recipient.</li> <li>- Many courts have time and again held that for the fault of supplier, a bonafide recipient should not be burdened and have categorically held that revenue has to be recovered from defaulting supplier. Disallowance in instances 2, 3, 4 &amp; 5 are against the well settled judicial position on this aspect.</li> </ul>
<p><b>Our Recommendation</b></p>	<ol style="list-style-type: none"> <li>We recommend continuing the existing self-assessment-based mechanism in place of the proposed system based assessment.</li> <li>Considering the existence and acquaintance to GSTR 2B/2A in its present form by trade and industry, Section 38 may be omitted or suitably amended to make 2A/2B as the basis to allow claim of ITC.</li> <li>It is reasonable and just that mistake from suppliers like excessive ITC claimed, short payment of taxes, non-payment of minimum amount through cash ledger etc., does not impact the recipient's entitlement to claim of ITC.</li> </ol>

<p><b>Our Recommendation</b></p>	<p>iv.Provisions of Sec 38 appear to define a shift from 'burden of proof to claim ITC by recipient' to 'burden of recovering taxes to Government by such recipient.'</p>
----------------------------------	---

#### Amendment to Sec 16(4)/34/37/39 of the CGST Act

Clause 99, 101, 102, 104 to Finance Bill 2022	
<p><b>Relevant Extract from the Bill</b></p>	<p>In Section 16 sub-section (4), for the words and figures "due date of furnishing of the return under section 39 for the month of September", the words "thirtieth day of November" shall be substituted.</p> <p>In section 34 of the Central Goods and Services Tax Act, in sub-section (2), for the word</p>
	<p>"September", the words "the thirtieth day of November" shall be substituted.</p> <p>In the first proviso to Section 37 sub section (3), for the words and figures "furnishing of the return under section 39 for the month of September", the words "the thirtieth day of November" shall be substituted.</p> <p>In the first proviso to Section 39 sub section (9), for the words "the due date for furnishing of return for the month of September or second quarter", the words "the thirtieth day of November" shall be substituted.</p>
<p><b>Proposal in the Bill</b></p>	<p>Time limit for the following has been extended to 30<sup>th</sup> November of the following year or date of filing Annual return whichever is earlier:</p> <ol style="list-style-type: none"> <li>Claim of ITC</li> <li>Issue of Credit Notes</li> <li>Amendment in GSTR 1</li> <li>Amendment in GSTR 3B</li> </ol>



<b>Impact on the trade and suggestions</b>	<p>It was a much-needed relief to bring the due date of referred actions to 30<sup>th</sup> November of the next financial year in place of due date for filing September return of next financial year. However, there is an anomaly to be addressed:</p> <p>It is to be clarified whether 30<sup>th</sup> November should be considered as the date of claim of ITC by filing return/last date for issue of credit note / last date for amendments, as the case may be or should be considered as the last date of period pertaining to which return containing amendments pertaining to its previous year can be filed in the subsequent month.</p>
	<p>To illustrate, GSTR 3B for the month of November is due by 20<sup>th</sup> December and cannot be filed by 30<sup>th</sup> November. Hence, the eligibility of ITC missed out be claimed by 30<sup>th</sup> November and subsequently claimed by 20<sup>th</sup> December of next financial year is to be ascertained. Similarly, eligibility of Credit note/amendments to be carried out by 30<sup>th</sup> November of next financial year is to be ascertained.</p>

### Amendment to Sec 41 of the CGST Act

Clause 105 to Finance Bill 2022	
<b>Relevant Extract from the Bill relating to Sec 41</b>	<p>For section 41 of the Central Goods and Services Tax Act, the following section shall be substituted, namely:</p> <p>“41. (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return</p>

<b>Relevant Extract from the Bill relating to Sec 41</b>	<p>and such amount shall be credited to his electronic credit ledger.</p> <p>(2) The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed:</p> <p>Provided that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.”</p>
<b>Proposal in the Bill</b>	<p>Self-assessed Input Tax Credit, after passing the test of Sec 16, Sec 17, Sec 38 among others, needs to be reversed or paid along with applicable interest, if the supplier in question has not paid taxes subsequent to filing of returns.</p> <p>Upon subsequent payment by the defaulting supplier, recipient can re-avail such ITC.</p>
<b>Impact on the trade and suggestions</b>	<p>In case of re-availing of ITC, the Clause does not mention refund of interest which would have earlier been paid by recipient while reversing the ITC.</p> <p>Since the supplier is bound to pay the taxes with interest on account of delay, it is reasonable and just that the recipient be eligible for refund. Otherwise, this would lead to unjust enrichment to Government.</p> <p>Hence, we recommend that the provision also includes interest on refund to the recipient of supply.</p>

We are presenting before your good selves the above enumerated possible potential issues, challenges and hardships which may be faced by the trade, industry and professionals due to amendments stated in the budget and also recommendations for your kind consideration and we herewith earnestly request your good selves to kindly make appropriate changes in related proposals of the Finance Bill, 2022 to address various issues we have highlighted above.

Hence, we the members of Karnataka State Chartered Accountants Association, on behalf of the entire Chartered Accountants community and also on behalf of the trade and industry in the state of Karnataka appeal to your good selves to kindly consider our above recommendations on various issues populated as above and kindly urge you to make relevant changes in the Finance Bill, 2022 before it is promulgated as Statute.

Yours sincerely,


For Karnataka State Chartered Accountants Association ®



CA. Chandan Kumar Hegde  
President



CA. Sujatha Raghuraman  
Secretary



CA. Ganesh V Shandage  
Chairman  
Representation Committee

For all representations, please visit: [www.kscaa.com](http://www.kscaa.com)

### Errata to KSCAA News Bulletin - February 2022, Vol. 9 Issue 6

In page No. 23, Para 2, after the words, "The flow-through accounting and relevant extracts of the balance sheet and the Statement of Profit and Loss for the 10-year period are provided below", the image to be replaced with the below image.

Particulars \ Year	1	2	3	4	5	6	7	8	9	10
<b>Balance Sheet Extracts</b>										
<b>PPE</b>										
Cost	52.79	52.79	52.79	52.79	52.79	52.79	52.79	52.79	52.79	52.79
Accumulated Dereciation	(5.28)	(10.56)	(15.84)	(21.12)	(26.40)	(31.68)	(36.95)	(42.23)	(47.51)	(52.79)
<b>Carrying amount</b>	<b>47.51</b>	<b>42.23</b>	<b>36.95</b>	<b>31.68</b>	<b>26.40</b>	<b>21.12</b>	<b>15.84</b>	<b>10.56</b>	<b>5.28</b>	<b>-</b>
<b>ARO Provision</b>										
Opening balance	2.79	2.96	3.14	3.33	3.52	3.74	3.96	4.20	4.45	4.72
Add: Finance cost	0.17	0.18	0.19	0.20	0.21	0.22	0.24	0.25	0.27	0.28
Less: Cash Outflow										5.00
<b>Closing balance</b>	<b>2.96</b>	<b>3.14</b>	<b>3.33</b>	<b>3.52</b>	<b>3.74</b>	<b>3.96</b>	<b>4.20</b>	<b>4.45</b>	<b>4.72</b>	<b>-</b>
Of which										
NCL	2.96	3.14	3.33	3.52	3.74	3.96	4.20	4.45		
CL									4.72	
<b>P&amp;L Extracts</b>										
<b>Depreciation</b>	<b>5.28</b>	<b>5.28</b>	<b>5.28</b>	<b>5.28</b>	<b>5.28</b>	<b>5.28</b>	<b>5.28</b>	<b>5.28</b>	<b>5.28</b>	<b>5.28</b>
<b>Finance costs</b>	<b>0.17</b>	<b>0.18</b>	<b>0.19</b>	<b>0.20</b>	<b>0.21</b>	<b>0.22</b>	<b>0.24</b>	<b>0.25</b>	<b>0.27</b>	<b>0.28</b>

Date: 10<sup>th</sup> March, 2022

To,

The Principal Chief Commissioner of Income Tax, Karnataka & Goa  
Bengaluru

Respected Sir,

## SUBJECT: CHALLENGES IN INCOME TAX PROVISIONS & RECOMMENDATIONS THERETO

The Karnataka State Chartered Accountants Association (R) (in short 'KSCAA') is an association of Chartered Accountants, registered under the Karnataka Societies Registration Act, in the year 1957. KSCAA is primarily formed for the welfare of Chartered Accountants and represents before various regulatory authorities to resolve the professional problems faced by chartered accountants and business community.

In the past, we have written to your good selves many a times populating various issues, challenges and hardships being faced by taxpayers and Chartered Accountants and suggested possible solutions on the same. Through this representation, we would like to bring to your kind notice, few of the practical issues being faced by taxpayers and Chartered accountants as regards certain provisions in the Income Tax Act, 1961 and implementation thereof. For every issue, challenge or hardship highlighted, we have also made suggested solutions to address them all.

### 1. RECTIFICATION PROCEEDINGS

#### Provisions of section 154(8):

"Without prejudice to the provisions of sub-section (7), where an application for amendment under this section is made by the assessee or by the deductor or by the collector on or after the 1st day of June, 2001 to an income-tax authority referred to in sub-section (1), the authority shall pass an order, within a period of six months from the end of the month in which the application is received by it."

#### Challenges:

1. Though there is a statutory mandate that the rectification order has to be passed within 6 months from the end of the month in which the application is received, however this mandate is not being followed. We have noticed delay of more than 2 years in most of the cases;
2. Despite the delay on the part of Jurisdictional Assessing Officers, the applications are not being attended by wrongly citing the limitation under section 154(7) of the Act.

3. Rectifications applications filed before the CPC are being rejected by way of non-speaking orders. In most cases, the reason for rejection is 'Contact jurisdictional AO'.
4. Recovery notices are being sent on automated basis without considering the pending rectification applications.

### Our Suggestions:

1. Launch a drive to clear pending rectification applications by dedicating a fortnight (or any fixed timeframe) for the same;
2. Suspend recovery measures in cases where rectification application is pending before the Assessing Officer;
3. Bring rectification proceedings under the Faceless Scheme;
4. Follow the provisions of section 154(8) in true spirit;
5. Prescribe 'Standard Operating Procedures' for submissions of documents and processing of the applications under section 154;
6. To host webinars/seminars on awareness of the provisions of rectification for the benefit of assesseees. These sessions can be conducted jointly by an income tax expert (CAs) and officers from the department.
7. To condone the delay in filing rectification or to relax the limitation as mentioned in section 154(7) of the Act;
8. Demands prior to AY 2010-11 that are due to TDS credit mismatch to be taken up on immediate/suo moto basis;
9. Suspend automated refund adjustments pending rectification application

### 2. ORDER GIVING EFFECT

#### Provisions of section 153:

- "(5) Where effect to an order under section 250 or section

254 or section 260 or section 262 or section 263 or section 264 is to be given by the Assessing Officer, wholly or partly, otherwise than by making a fresh assessment or reassessment, such effect shall be given within a period of three months from the end of the month in which order under section 250 or section 254 or section 260 or section 262 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner:

Provided that where it is not possible for the Assessing Officer to give effect to such order within the aforesaid period, for reasons beyond his control, the Principal Commissioner or Commissioner on receipt of such request in writing from the Assessing Officer, if satisfied, may allow an additional period of six months to give effect to the order:

Provided further that where an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 requires verification of any issue by way of submission of any document by the assessee or any other person or where an opportunity of being heard is to be provided to the assessee, the order giving effect to the said order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 shall be made within the time specified in sub-section (3)."

#### **Challenges:**

1. Though there is a mandate that the Order Giving Effect (OGE) has to be passed within 3 months (or an extended period of 9 months) from the relevant period, this timeline is not being followed. In various cases there is delay of more than 2 years and this undue delay is leading to miscarriage of justice;
2. In some cases, the efforts involved to obtain the OGE is significant compared to the efforts in representing the case on merits at higher forum;
3. In many cases, recovery notices are sent on automated basis without considering the pending OGE;
4. These delays are also leading to assessee's going into a cash crunch, since 20% (or such higher amount) towards disputed demand would already be deposited;
5. There are instances of refund being withheld without providing any reasons, even when OGE

is passed. This is against the principle of natural justice.

#### **Our Suggestions:**

1. Launch a drive to clear pending OGEs by dedicating a fortnight (or any fixed timeframe) for the same;
2. Suspend recovery measures in cases where such applications are pending before the Assessing Officer;
3. Bring these proceedings under the Faceless Scheme and instruct the AOs to take this on suo-moto basis;
4. Follow the provisions of section 153 in true spirit;
5. Prescribe 'Standard Operating Procedures' for effective implementation of the provisions
6. To host webinars/seminars on awareness of the provisions of rectification for the benefit of assessee's. The session can be conducted jointly by an income tax expert (CA) and an officer from the department.
7. Ensure that refund adjustments are made only by providing valid reasons.

### **3. DELAY IN PROCESSING OF REFUND**

#### **Challenges:**

1. The processing of ITRs for AY 2021-22 have been delayed in many cases and as a resultant, refund is also delayed. This is causing genuine hardship to the assessee's;
2. There are instances of delay in processing refund determined vide OGE in Vivad Se Vishwas Scheme (VSVS) cases. In the 2021 budget speech, our Hon'ble Finance Minister Smt. Nirmala Sitharaman mentioned that the refunds under VSVS would be cleared in March 2021;
3. In cases where there are delays in processing of refund, the AOs direct us to approach CPC. However, there is no dedicated contact details for the refund processing;
4. Refund adjustments under section 245 of the Act are made arbitrarily, without considering our replies to the outstanding demand;
5. In few cases, the "Response to outstanding demand" tab is not yet activated on the portal. But notice for adjustment of demand against



refund is issued and adjusted under section 245, thereby denying the assessee an opportunity of being heard;

6. The demand reflected on the income tax portal under the tab 'response to outstanding demand' are not being rectified in timely manner. This is resulting in undue adjustment of refunds;
7. Grievances raised on delayed refunds are not being resolved on timely basis. In some cases, the petitions are being disposed of by way of issuing nonspeaking order.

#### 4. DELAY IN PROCESSING LOWER DEDUCTION CERTIFICATES

##### Challenges and Suggestions:

1. Application for lower deduction certificate is required to be processed within 30 days from the date of filing of form 13. However, the same is generally not happening.
2. The average processing time for form 13 is believed to be more than three months. This delay results in serious cash crunch for the assesseees.
3. Queries are being raised at the fag-end of the above limit of 30 days. This leads to fresh reckoning of the number of days of pendency;
4. Lack of standard operating procedures is leading to confusion on submission of documents before the authorities;
5. Despite the fact that form 13 submission is made online, the assisting officers insist on print out of all the supporting documents including the application;

6. The basis of processing or rejection of form 13 is not made known to the Assessee. This is against the principle of natural justice.

#### 5. DELAY IN TAX RESIDENCY CERTIFICATES (TRC)

##### Challenges and Suggestions:

1. Assesseees are eligible for TRC on the basis of their residential status. Non-individual assesseees, more particularly firms, LLP and companies registered in India are considered as residents by default and therefore TRC should be issued immediately.
2. We have come across instances of delay of over 15 days to process the simple TRC;
3. There are also instances of AOs asking for irrelevant documents to issue TRC, thereby leading to unnecessary delays and compliances;
4. SOP may be considered to bring about consistency in documents sought and processing of TRC;

We are presenting before your good selves the above enumerated issues, challenges and hardships which may be faced by the trade, industry and professionals due to ineffective implementation of the provisions of the Act. Wherever required, we have also given recommendations for your kind consideration. We herewith earnestly request your good selves to kindly initiate reforms in the system to address various issues we have highlighted above.

We the members of Karnataka State Chartered Accountants Association, on behalf of the entire Chartered Accountants community and also on behalf of the trade and industry in the state of Karnataka appeal to your good selves to kindly consider our above recommendations on various issues populated as above.

Yours sincerely,

For Karnataka State Chartered Accountants Association \*



CA. Chandan Kumar Hegde  
President



CA. Sujatha Raghuraman  
Secretary



CA. Ganesh V Shandage  
Chairman  
Representation Committee

For all representations, please visit: [www.kscaa.com](http://www.kscaa.com)

# KEYWORD

7

## Instructions

- From the given clues, find the words in connection with it.
- In each word so derived, the letter highlighted in color box should be noted.
- Such letters derived from each word helps in forming the final Key-Word

- This is said to occur when expenses exceed revenues, imports exceed exports, or liabilities exceed assets (7)

E

- A standard against which the performance of a security, mutual fund, or investment manager can be measured (9)

N

- A temporary suspension of an activity or law until future consideration warrants lifting the suspension, such as if and when the issues that led to it have been resolved (10)

R

- The simultaneous purchase and sale of an asset in different markets to exploit tiny differences in their prices (9)

T

- Total of a non-profit institution's investable assets, also known as its "principal" or "corpus," which is meant to be used for operations or programs that are consistent with the wishes of the donor(s) (9)

E

- An open-source community focused on developing a suite of stable frameworks, tools, and libraries for permissioned, enterprise-grade blockchain deployments (11)

Y

## Brain Teaser

## sudoku-19

	9	6			8			
1								3
			9		2		8	
	5	7	8					9
3					9	1	6	
	2		3		5			
7								4
			2			5	9	

## GUESS THE KEY WORD

An estimation of revenue and expenses over a specified future period of time and is usually compiled and re-evaluated on a periodic basis

Answers will be published in next month's News Bulletin.

## Answers to "Key Word 5" (February 2022)

- Takeover, 2. Procurement, 3. Prospectus, 4. Assertion, 5. Synergy, 6. Contingency

Key Word : Merger

Credits: CA. Archana Sridhar

# Congratulations



CA. Cotha S. Srinivas  
Member, Central Council

We congratulate and extend our heartfelt wishes to the achievers who have been elected to the Central Council and Southern Regional Council of the Institute of Chartered Accountants of India (ICAI) for the term 2022 to 2025;



CA. Panna Raj S.  
Vice Chairman, SIRC

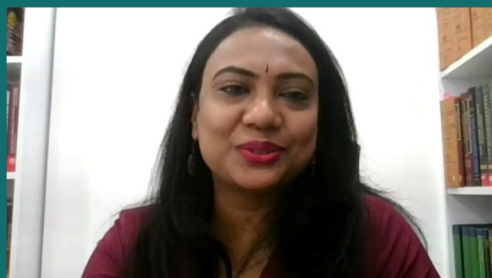


CA. Geetha A. B.  
Member, SIRC

## PHOTO GALLERY



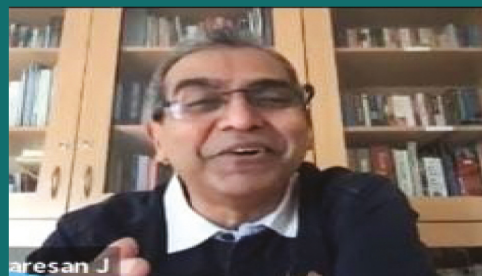
Snapshot of panel discussion on GST Annual filing conducted as part of 'Ask an Xpert' series by panelists CA Annapurna Kabra and CA. Shilpi Jain and moderators CA. Mukul Sringeri and CA. Deepa N held on 18<sup>th</sup> February, 2022.



Webinar on "Intricacies in Money Laundering under PMLA " by speaker Adv. Swamini Ganesh, held on 19<sup>th</sup> February, 2022.



Webinar on "Latest Amendments in Schedule III" by speaker CA. Aditya Kumar held on 11<sup>th</sup> March, 2022.



Webinar on "Corporate Governance vis-a-vis NSE Saga" by speaker CS. Sundharesan Jayamoorthi held on 5th March 2022

Delegates from KSCAA and Bengaluru Branch of SIRC of ICAI lead by Vice-Chairman of SIRC of ICAI, CA. Pannaraj S. visited the Director of DMA, Mrs. Archana, IAS on 10<sup>th</sup> March, 2022 to appraise the concerns of CA's in Urban Local Body Audits. It was positive interaction and Director expressed her full support and willingness to resolve the issues as soon as possible.





**ಆನ್‌ಡ್ರೋಮೆಡಾ**  
ಸೇಲ್ಸ್ ಅಂಡ್ ಡಿಸ್ಟ್ರಿಬ್ಯೂಷನ್ ಪ್ರೈವೇಟ್ ಲಿಮಿಟೆಡ್

## ONE STOP SOLUTIONS FOR ALL YOUR **FINANCIAL NEED!**



**UNSECURED  
BUSINESS LOAN  
10 LAKH TO 6 CR**



**HOME LOAN  
20 LAKH TO 35 CR**



**LOAN AGAINST  
PROPERTY  
25 LAKH TO 35 CR**



**COMMERCIAL  
PURCHASE & LRD  
50 LAKH TO 50 CR**



**WORKING CAPITAL  
(OD, CC, LC, BG)  
UPTO 100 CR**



**BALANCE  
TRANSFER  
OF ALL LOANS  
AT BEST ROI**



## WHY ANDROMEDA?

SERVICING LOAN  
CUSTOMERS FROM 1998

DISBURSING  
3200 CR + MONTHLY

PERSONALISED  
PRODUCT DESIGNING  
TO MSME'S

FREE FINANCIAL  
ADVISORY & SERVICE

INDUSTRY BEST  
TURN AROUND TIME

### CONTACT:

**RAGHAVENDRA KUNDER**  
**+91 95350 82766**

raghavendra.kunder@andromeda.in

**ANDROMEDA SALES &  
DISTRIBUTIONS PVT LTD.,**

D1&2, 2<sup>ND</sup> FLOOR DEVATHA PLAZA  
RESIDENCY ROAD OPP.BISHOP COTTON  
BOYS SCHOOL, BANGALORE - 560025

**www.andromedaloans.com**

Advt