

GURUGRAM BRANCH OF NIRC

The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)



e-Newsletter

APRIL 2019

VOLUME 1

Chartered Accountant



CA. Arun Aggarwal
(Chairman)

Its May..... As the Sun boils down and temperatures soar, activities at your branch shall continue to roar!

And its time for the summer vacations for kids, the time when members can spend quality time with family so as to recharge themselves for the year ahead!





At Gurugram Branch, April was a busy month, with 10 programs held during the month including 02 for students. A short glimpse of the programs is as below

Sno	Details	Day and Date
1.	Group Discussion on "Impact of GST on Real Estate"	Monday, 1st April 2019
2.	Group Discussion on "GST Annual Return Form GSTR 9 "	Tuesday, 2nd April 2019
3.	Group Discussion on "Intellectual Property Rights"	Friday, 5th April 2019
4.	CA Students Seminar on "Advanced Excel"	Thursday, 11th April 2019
5.	Seminar on INC-22A, DIR-3 & MSME-1	Friday, 12th April 2019
6.	Seminar on "GST Annual Return & Auditor's Legal Liability under GST"	Saturday, 13th April 2019
7.	CA Students Seminar on "GST Annual Return"	Thursday, 18th April 2019
8.	Seminar on "Key aspects of Statutory Audit-2019"	Friday, 19th April 2019



CA. Arun Aggarwal
(Chairman)

Your committee also went to Amritsar during the month attending the Branch Orientation program organised by NIRC of ICAI.

Your branch is going to host below certificate courses in the coming months

SNO	Name of Course	Period
1.	Post Qualification Course on Information Systems Audit	20th April 2019 to 26th May 2019
2.	Certificate Course on GST	1st June, 2019 to 7th July, 2019

Like April, May is likely to be strong with a CFO Meet scheduled on 17th May, a two day Tax Conference scheduled on 3-4th May and a RRC at Chail, HP on 18th May 2019. We look forward to host you to our programs.

In India, April-May rang in the all-important polling season. We are positive that our civic conscious members have/will exercise their franchise and thereby play a pivotal role in deciding who'll represent them at the helm of affairs of the country.

On a separate note, ICAI has launched Digital Learning Hub and a special INR 590/- Fee Membership Waiver to those members who refrain from opting for a print of the Journal. Proud to say "ICAI- goes Green!"

On another note, besides Ram Navmi and Ambedkar Jayanti, April celebrated the rich cultural diversity of our country through multiple festivals like – Guddi Padva (Maharashtrian), Cheti Chand (Sindhi), Baisakhi (Punjabi), Puthandu (Tamilian), Vishu (Malayali), Pohela Boisakh (Bengali), Bihu (Assamese), Mahavir Jayanti (Jain) and Easter (Christians). Here's wishing the respective communities a fruitful year ahead.

Exams are around the corner, I convey my best wishes to all the students appearing in the exams!

"You cannot get through a single day without having an impact on the world around you. What you do makes a difference and you have to decide what kind of a difference you want to make."

That's all from my end...Here's wishing all of you and your patrons a fulfilling financial year ahead...Happy Reading and Keep Contributing

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My Dear Professional Colleagues,

At the outset on behalf of the Managing committee of the Gurugram Branch, I wish you all a very happy new financial year 2019-20. It is the time our members are asked to perform very important audit assignments in the Financial Year viz., Bank Audit, C& AG Audit. I am hopeful that all the members would exercise diligence, independence & integrity in their first audit function to give a true and fair view.

Updating knowledge is the need of the hour, since many new laws are coming into force. We need to unlearn old laws and re-learn new laws. Gurugram Branch has always taken initiatives to update knowledge of the members and in order to update new laws, we have planned many programs in coming months. We request everyone to support for all the new programs. A successful professional is inquisitive, curious and eager to learn. All these attributes are necessary for a strong desire to learn new things. There is more to learn than can ever be learned, so we need to determine where our interests lie and pursue them.

For updating the knowledge of the members, the Gurugram Branch has conducted many programs in the month of March. We also conducted Bank Audit seminar on 22nd March, 2019 for members where in more than 110 members have participated. The speakers (CA Amarjit Chopra Sir and CA Ajay Jain Sir) with their numerous years' of experience has covered the subject in well-conceived manner with simple and lucid illustrations for easy understanding. I thank all the members for the overwhelming response for all our programs.

Gurugram branch is going to start its first course of this year on DISA at Gurugram. Those who are interest to join the same may please visit at branch website for further details.

Gurugram branch is planning to conduct group discussion/lecture meeting at branch premises itself. These lecture meetings would be on regular and important updates on various matters related to members.

In view of the upcoming elections, this year, the May examinations are postponed. Let your Articles continue to stay focused on study and do well in the examinations. We wish the students all the very best !



CA. Mohit Singhal
(Secretary)





CA. Gopal Nathani

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The recent decision of the Supreme Court in Principal CIT (Administration) v. NRA Iron & Steel Pvt. Ltd arising out of SLP (Civil) No. 29855 of 2018 dated 5th March 2019 is bound to come heavily on all transactions of private placement of shares as these would require more detailed inquiries and scrutiny both on the part of the investee company as well as investor companies. The flag line paragraph in the order reads as follows:

“14. The practice of conversion of un-accounted money through the cloak of Share Capital/Premium must be subjected to careful scrutiny. This would be particularly so in the case of private placement of shares, where a higher onus is required to be placed on the Assessee since the information is within the personal knowledge of the Assessee. The Assessee is under a legal obligation to prove the receipt of share capital/premium to the satisfaction of the AO, failure of which, would justify addition of the said amount to the income of the Assessee.” Unquote

The Apex Court went on to observe that the lower appellate authorities failed to appreciate that the investor companies which had filed income tax returns with a meagre or nil income had to explain how they had invested such huge sums of money in the Assessee Company. Clearly the onus to establish the credit worthiness of the investor companies was not discharged. On this premise the Court held that the entire transaction seemed bogus, and lacked credibility.

Primary Onus

This case pertains to a company being incorporated on 29 February 2008 which received bulk of the amounts aggregating to Rs. 17,60,00,000/- through Share Capital/Premium during the Financial Year 2009

-10. The point in issue before the Apex Court was thus that in a case where Share Capital/Premium is credited in the books of account of the Assessee company, the onus of proof is on the assessee to establish by cogent and reliable evidence of the identity of the investor companies, the credit-worthiness of the investors, and genuineness of the transaction, to the satisfaction of the Assessing Officer. The question is whether the primary onus has been discharged well by the assessee company in this case.

The Supreme Court went through various evidences filed in this case by the assessee/investee companies as well as the field reports of enquiries and survey conducted by the authorities in this case.

The following revelations during enquiry/findings by the Court in particular are found to be lacking genuineness with the Court:

1. There was no material on record to prove, or even remotely suggest, that the share application money was received from independent legal entities. The survey revealed that some of the investor companies were non-existent, and had no office at the address mentioned by the assessee.

For example:

A. The companies Hema Trading Co. Pvt. Ltd. and Eternity Multi Trade Pvt. Ltd. at Mumbai, were found to be non-existent at the address given, and the premises was owned by some other person.

B. The companies at Kolkatta did not appear before the A.O., nor did they produce their bank statements to substantiate the source of the funds from which the alleged investments were made.

C. The two companies at Guwahati viz. Ispat Sheet





Ltd. and Novelty Traders Ltd., were found to be non-existent at the address provided. The genuineness of the transaction was found to be completely doubtful.

D. The enquiries revealed that the investor companies had filed returns for a negligible taxable income, which would show that the investors did not have the financial capacity to invest funds ranging between Rs. 90,00,000 to Rs. 95,00,000 in the Assessment Year 2009-10, for purchase of shares at such a high premium.

For example:

Neha Cassetes Pvt. Ltd. - Kolkatta had disclosed a taxable income of Rs. 9,744/- for A.Y. 2009-10, but had purchased Shares worth Rs, 90,00,000 in the Assessee Company.

Similarly Warner Multimedia Ltd. – Kolkatta filed a NIL return, but had purchased Shares worth Rs. 95,00,000 in the Assessee Company – Respondent.

Another example is of Ganga Builders Ltd. – Kolkatta which had filed a return for Rs. 5,850 but invested in shares to the tune of Rs. 90,00,000 in the Assessee Company etc.

3. There was no explanation whatsoever offered as to why the investor companies had applied for shares of the Assessee Company at a high premium of Rs. 190 per share, even though the face value of the share was Rs. 10/- per share.

Furthermore, none of the so-called investor companies established the source of funds from which the high share premium was invested.

The mere mention of the income tax file number of an investor was not sufficient to discharge the onus under Section 68 of the Act.

On the basis of these findings of facts the Supreme Court held that the lower appellate authorities appear to have ignored the detailed findings of the AO from

the field enquiry and investigations carried out by his office. The authorities below have erroneously held that merely because the Respondent Company – Assessee had filed all the primary evidence, the onus on the Assessee stood discharged. The lower appellate authorities failed to appreciate that the investor companies which had filed income tax returns with a meagre or nil income had to explain how they had invested such huge sums of money in the Assessee Company. Clearly the onus to establish the credit worthiness of the investor companies was not discharged. The entire transaction seemed bogus, and lacked credibility. The Court/Authorities below did not even advert to the field enquiry conducted by the AO which revealed that in several cases the investor companies were found to be non-existent, and the onus to establish the identity of the investor companies, was not discharged by the assessee.

This judgment reiterates the settled law as requiring upon the assessee to establish by cogent evidence the genuineness of the transaction, and credit-worthiness of the investors under Section 68 of the Act both of which stood unexplained as revealed from the enquiries and survey conducted at the instance of the assessing officer in this case. In the days to come perhaps the judgment will prompt the AO to scrutinize private placement transactions more rigorously to check on the wealth status of the investor companies.

Interestingly in this case the Apex Court has also desired an explanation of the investor companies though the amendment in law requiring added explanation of the investor in this regard is made applicable by the Finance Act 2012, w.e.f 1.4.2013. Clearly therefore a private placement case has more challenge in law in the Court's perspective to establish on the two elements of genuineness of the transaction and credit-worthiness of the investors as identity element is not very much relevant as it is expected that those investing are known companies.





CA. Pooja Aggarwal

Manner of ITC Reversal of Common credit of Input and Input Services

In GST Law provision has been made for reversal of ITC of Common credit of Input and Input Services used commonly between Taxable Business Supplies, Non business Supplies and Exempt Supplies . Below is the clarification with example on the relevant provision:-

Common Terms to be used

Type of Input Tax	Denotation	Eligibility to take Credit
Total Input tax involved on inputs and input Services in a tax period , Credited in Electronic credit ledger (Total Credit)	TC	
Amount of input tax used exclusively for Non business Purpose(Exclusively Personal Use)	EP	No ITC available
Amount of input tax used exclusively for Exempt Supply and Non-taxable Supply (Exclusively Exempt)	EE	No ITC available
Amount of input tax on which credit is not available under Sec 17(5) (Blocked Credit)	BC	No ITC available
Amount of input tax used exclusively for Taxable Supply including Zero Rated Supply (Exclusively Taxable)	ET	100% ITC Available

Type of Input Tax	Denotation	Computation
Total Eligible Credit	EC	$EC = TC - EP - EE - BC$
Credit to be Shared between Taxable Business Supplies, Non business Supplies and Exempt Supplies (Common Credit)	CC	$CC = EC - ET$

Credit pertaining to Exempt Supplies out of Common Credit (CC)	
Total Turnover during the period	TT
Exempt Turnover during the period	ET
Common Credit pertaining to Exempt Supplies (CCE)	$(ET/TT) * CC$

Credit pertaining to Non-Business Supplies (Personal) out of Common Credit (CC)	
Common Credit pertaining to Non Business Supplies(CCP)	$5% * CC$ (As per CGST Rules Chapter V ITC)

Credit pertaining to Business Supplies including Zero rated Supplies out of Common Credit (CC)	
Common Credit pertaining to Business Supplies(CCB)	$CC - CCE - CCP$





Example 1

Particulars	Turnover/Outward Supply	Purchase Inward Supply	IGST paid on Inward Supply @5%
Supply of Branded Cereals	3000		
Export of Branded Cereals (Zero Rated Supply)	200	2500	125
Supply of Non Branded Cereals (Exempt Supply)	500	400	Nil (Exempt being non branded)
Petrol and Diesel (Non taxable Supply)	550	500	NIL (out of GST)
Total	4250		
Total Taxable Outward Supply (Including zero Rated Supply)	3200(3000+200)	Total Exempted Outward Supply	1050(500+550)
Total Supply	3200+1050=4250		

Details of Other Inputs and input Services which are used commonly for both Taxable as well as Exempt Supplies

Particulars	Amount	GST Paid
Construction of Office – Blocked Credit 17(5)(d)	20	3.6
Other input and Input Services liable to GST (5% assumed)	110	5.5
Total	130	9.1

Computation

Type of Input Tax	Denotation
Total Input tax involved on inputs and input Services in a tax period , Credited in Electronic credit ledger (Total Credit)	TC =134.1 (9.1+125)
Amount of input tax used exclusively for Non business Purpose(Exclusively Personal Use)	EP =0
Amount of input tax used exclusively for Exempt Supply and Non taxable Supply (Exclusively Exempt)	EE =0
Amount of input tax on which credit is not available under Sec 17(5) (Blocked Credit)	BC =3.6
Amount of input tax used exclusively for Taxable Supply including Zero Rated Supply (Exclusively Taxable)	ET =125

Type of Input Tax	Denotation	Computation
Total Eligible Credit	EC	EC= TC-EP-EE-BC EC=134.1-0-0-3.6 EC= 130.5
Credit to be Shared between Taxable Business Supplies, Non business Supplies and Exempt Supplies (Common Credit)	CC	CC=EC-ET CC= 130.5-125 CC=5.5

Credit pertaining to Exempt Supplies out of Common Credit (CC)

Total Turnover during the period	TT =4250
Exempt Turnover during the period	ET =1050
Common Credit pertaining to Exempt Supplies (CCE)	$(ET/TT)*CC$ $(1050/4250)*5.5$ 1.358

Credit pertaining to Non-Business Supplies (Personal) out of Common Credit (CC)

Common Credit pertaining to Non Business Supplies(CCP) (Assumed not used for Personal Purpose)	$5%*CC$ 0
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Credit pertaining to Business Supplies including Zero rated Supplies out of Common Credit (CC)

Common Credit pertaining to Business Supplies(CCB)	$CC-CCE-CCP$ $5.5-1.358-0$ 4.142
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Total ITC Available ET+CCB

125+4.142=129.142



Group Discussion on “Impact of GST on Real Estate”



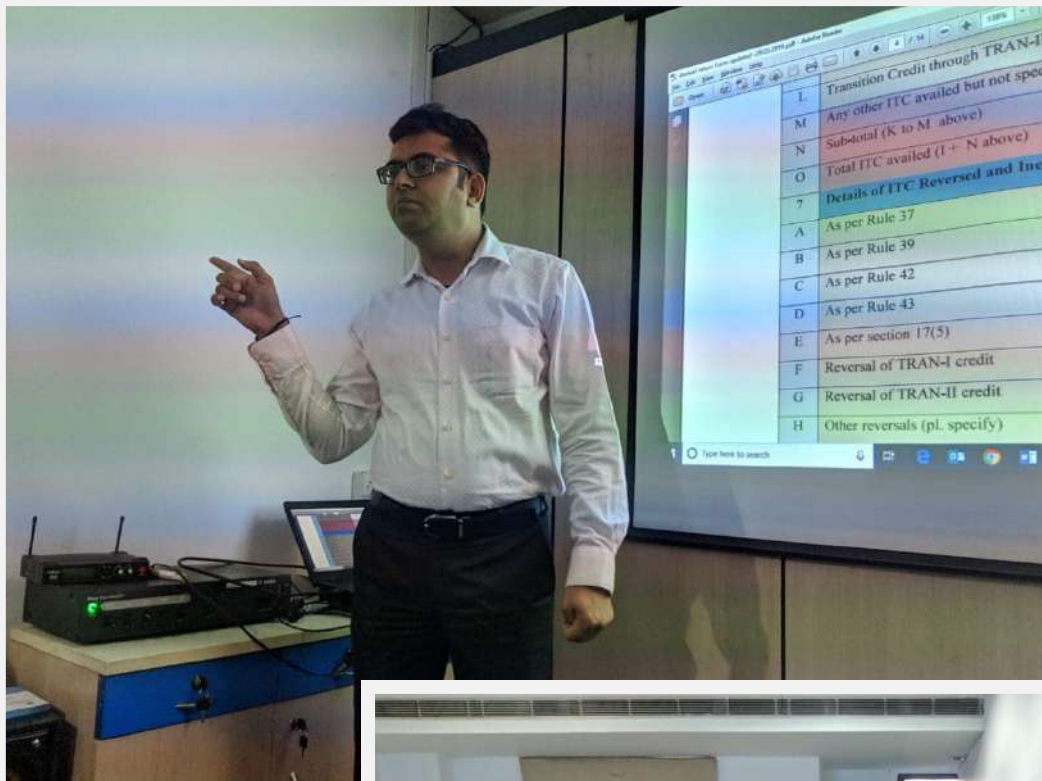
Topic : Group Discussion on “Impact of GST on Real Estate”

Audience : Members

Date & Day : 1st April 2019, Monday

Venue : 2A(second floor), Pavilion Building, 339/2 (Behind Hotel VITS Mango) Sector-14, Gurugram.

Group Discussion on "GST Annual Return Form GSTR 9"



Topic : Group Discussion on "GST Annual Return Form GSTR 9"

Audience : Members

Date & Day : 2nd April 2019, Tuesday

Venue : 2A(second floor), Pavilion Building, 339/2 (Behind Hotel VITS Mango) Sector-14, Gurugram.

Seminar on INC-22A, DIR-3 & MSME-1



Topic : Seminar on INC-22A, DIR-3 & MSME-1

Audience : Members

Date & Day : 12th April 2019 , Friday

Venue : 2A(second floor), Pavilion Building, 339/2 (Behind Hotel VITS Mango) Sector-14, Gurugram.

Speaker : CA Jasna P

Seminar on “GST Annual Return & Auditor’s Legal Liability under GST”



Topic : Seminar on “GST Annual Return & Auditor’s Legal Liability under GST”

Audience : Members

Date & Day : 13th April 2019, Saturday

Venue : Fortune Select Excalibur, Main Sohna Road, Sector - 49, Gurugram.

Speaker : CA. Gurjit Singh Bhullar & CA. Puneet Aggarwal



CA Students Seminar on "GST Annual Return"



Topic : CA Students Seminar on "GST Annual Return"

Audience : CA Students

Date & Day : 18th April 2019, Thursday

Venue : Hotel Treehouse Queen's Pearl, District Court Civil Lines, Rajiv Chowk, Gurugram.

Speaker : CA. Ashish Chaudhary



Seminar on “Key aspects of Statutory Audit-2019”



Topic : Seminar on “Key aspects of Statutory Audit-2019”

Audience : Members

Date & Day : 19th April 2019, Friday

Venue : Hotel Ramada Gurgaon Central, Sector 44, Near Huda city Metro Station, Gurugram.

Speaker : CA Madhuri Ravi Srinivasan and CA Amit Mitra

Certificate Course on ISA



Topic : Certificate Course on ISA

Audience : Members

From : 20th April 2019, Saturday

Venue : Fortune Select Excalibur, Main Sohna Road, Sector - 49, Gurugram.



Lecture Meeting on "Startup Taxation - Angel Tax"



Topic : Lecture Meeting on "Startup Taxation - Angel Tax"

Audience : Members

Date & Day : 26th April 2019, Friday

Venue : 2A(second floor), Pavilion Building, 339/2 (Behind Hotel VITS Mango) Sector-14, Gurugram.

Speaker : CA Nitin Kanwar



Feedback & Suggestions

Gurugram Branch will be happy to receive the feedback from you regarding the seminars/workshops and other activities organized by branch.

You may please send feedback at-

Gurugram Branch of NIRC of ICAI requests the members & students to come forward & share the articles (Professional & other) to be published in the upcoming newsletter. The submissions may be sent to arunaggarwalca@gmail.com with the subject line (Article Newsletter).

Regarding	Email	Subject line
Seminars/Workshops	icaigurgaon@gmail.com	Sub: Seminar_____
Others	icaigurgaon@gmail.com or arunaggarwalca@gmail.com	Feedback_____

Gurugram Branch Managing Committee for the Session 2019-20

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Respected Members,

We are pleased to inform that the Registration for Annual Membership of Gurugram Branch of NIRC of ICAI for year 2019-20 has been started.

The Study group membership entitles members to attend all the CPE events organised by Gurugram Branch during the financial year. CPE programs organised by Gurugram branch are amongst the best managed programs in the region wherein best speakers take session at 4-5 star rated hotel venues.

Below is what you need to know for the membership:-

1. Annual Membership fee is applicable for 1st April 2019 to 31st March 2020;
2. Membership entitles the member to attend most seminars/workshops/conferences and other events hosted by Gurugram Branch at zero cost;
3. Seminars/Workshops/Conferences hosted at the branch are evenly spread through the year keeping in mind the key due dates;
4. Seminars/Workshops/Conferences hosted at the branch cover all major and recent topics that interest professionals in practice as well as Industry;
5. 2019 is the last year in the four year block to complete the CPE hours requirement. Joining the annual membership program is a sure way to be compliant;
6. Seminars/Workshops/Conferences in Gurugram are a good place to network;
7. Gurugram Branch reserves the right to organize Seminars/Conferences/Workshops/Events which can be attended on chargeable bases irrespective of the Membership.

Registration Form can be accessed at this link ([Click Here](#))

Particulars	Fee Per member	GST @ 18%	Total Amount
For Individual Member	Rs.5500/-	Rs.990/-	Rs.6490/-
For five or more declared members from any organization i.e. names of the Members to be declared at the time of payment of fee. (payment will be made with a single cheque only)	Rs.5000/-	Rs.900/-	Rs.5900/-

Payment can be made via different mechanism:-

- a) Offline Mode - Please fill up the form (attached form) and send the cheque to branch along duly filled form.
- b) NEFT/RTGS Mode - RTGS/NEFT at below bank and share the details of payment along duly filled form at icaigurgaon@gmail.com

Bank Account Details:-

A/C Name : Gurgaon Branch of NIRC of ICAI

A/C Number : 910010026661826

IFSC Code : UTIB0000056

(Kindly mention your name and Membership Number in the remarks while making the payment)

- c) Payumoney - Please follow the link and make the payment.

For Individual Member : <https://goo.gl/v7i7XU>

For Five Member : <https://goo.gl/Mn3kuN>

Note:- GST details (in membership form) need to be shared at the time of making the payment. An invoice once issued will not be altered,

Disclaimer :- Request you to please send a mail at icaigurgaon@gmail.com alongwith invoice/GST details (in membership form) within 3 days of making the payment to receive a copy of GST Invoice with your details.

