



Gurugram Branch of NIRC

The Institute of Chartered Accountants of India

Chartered Accountant | e-NEWSLETTER

DECEMBER 2018 | VOLUME 1

Chairman's Message

Dear Professional Colleagues and Students,

After receiving a wonderful response to the November edition of our e-Newsletter, it gives me immense pleasure to share the December edition.

"If you do not vote, you lose the right to complain"

There can be many such quotes which I may mention in my message. But my enlightened members do not need more of preaching. The year 2018 brings along with it the Central & Regional Council Elections. The ICAI and the candidates will be reaching out to you for casting your votes. As a Chairman, it's my earnest request to all the members to come and vote. The voting dates are 7 & 8 December 2018 and the details of your respective voting centre given below:-

- **Haryana Institute of Public Administration, 76 HIPA Complex, Sector 18, Gurugram, Haryana 122001 (near Gurugram Branch of NIRC of ICAI)**

The voting percentage every year is a paltry 40% – 45%. We must improve upon this voting ratio. We must also ensure that Gurugram gets the appropriate representation in the Regional & Central Council, whether it be in numbers or in quality. The members must be self motivated to select their leaders and in turn must motivate other members.

During the past month we have been able to conduct programmes for members. The most important programme of the past month was the organisation of "Life Management" & "Cultural Evening" on season of Diwali which was of immense value to the participants. Our branch have also organized Cricket Tournament 2018 & Three Days Residential Programme on GST for members. These events have touched upon various aspects from updates, peer interactions to exploring professional opportunities

November 2018 mock tests were conducted at the Branch and the participation was very encouraging. Immediately after the exams get over, the IIT, OP, ADV. ITT and MCS batches will begin. Students and members must keep tab of the announcements in this respect.

Few words to CA Examinees :

The CA examinations are over. I wish every examinee best of luck. I also want to request the aspirants who might not qualify, to keep hope, keep faith and reappear with stronger determination. Keep in mind the immortal saying in Upanishad, "Awake, arise, stop not till the goal is reached".

I conclude by reminding all of you that a better future is where we are trusted with decisions about the future and remain highly prized for our judgement and rigor. As such, we need to show and prove to the world that we are extending our core expertise and adding value to the decisions the organizations and government entitles make for a sustained future. Let's prove our worth as an indispensable "complete business solution provider" of the modern day business.

Wish you a life long lasting happiness and best of your health. Let's touch base today, tomorrow and forever !!!



CA. Rakesh k. Agarwal
(Chairman)

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Dear Professional Colleagues,

The adage 'to share is to care' is the foundation of personal, social and professional advancement. It is only when you care deeply for a person or an organisation that you will share your knowledge, expertise and time with them. If you look at the history of our Institution, at its core you will find this ethos of sharing which is now part of the whole Institution and inculcated across the Regions, Branches and Study Circles across the country. Gurugram Branch continues this proud tradition of furthering our profession by sharing through our activities, seminars and conferences which enable members and students to grow personally and professionally.

Elections to the Central and Regional Councils:

The election to the Twenty-Fourth Council and Twenty-Third Regional Councils of ICAI are scheduled to be held on 7th and 8th December, 2018. Announcement/s made by ICAI in this regard is published in last month Newsletter and also hosted in ICAI Website. Members may please note and exercise their franchise. Gurugram Branch requests members to exercise their franchise to elect their representatives. We may suggest the members to indicate as many preferences as possible in their Ballot papers since the ICAI Elections are held on Single Transferable Voting System. Let I especially urge all the Companies, Banks, Institutions, Firms and other organisations to allow members to report to work after casting their votes. On behalf of our team members I wish all the Candidates our best wishes for the upcoming elections.

Professional Development:

Gurugram Branch as part of its professional endeavour has organized a series of CPE programmes. There was a huge response and participation in each of the above programmes especially the CPE Programme on GST. I assure you that many such programmes are lined up for our esteemed members not only to comply with the mandatory CPE Hrs participation but also to offer familiarity with the diversified subjects.

Let us conclude and take this opportunity to wish all our members and students a Merry Christmas and fun-filled moments with Family. "Let's Shape Tomorrow by Voting Today".



Manish Goyal

CA. Manish Goyal
(Secretary)
Gurugram Branch of NIRC

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- CA. Sanjeev Chaudhary
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Various sectors such as FMCG, consumer durables, pharma, Automotive OEMs, etc. have to deal with situations where there is a requirement for issuance of credit notes ('CN') and debit notes ('DN'). These situations vary from price adjustments post sale, various discounts/schemes which are linked to future events like achievements of turnover (either primary or secondary sales), sales returns/rejections etc.

In these situations, CN/DN are typically being issued by suppliers/recipients to settle the accounts. These CN/DN could be either with tax or without tax. Rationale depends on varied parameters i.e. the exact business situation, commercial arrangements between parties, tax consideration (say for e.g. in case of credit notes, permissibility under the respective tax law as regards tax adjustment by the supplier and mandatory credit reduction by the recipient) etc.

Historically, issuance of CN/DN were more prevalent under erstwhile respective VAT laws and Service tax law. Price adjustments under Excise and Customs laws were more complicated as well as onerous except in few specific situations. State VAT laws as well as Service tax law used to prescribe mandatory conditions (which varied from State to State in case of VAT) for allowing tax adjustments where CN/DN (viz. with corresponding tax – 'CN/DN with tax') were being issued. State wise different conditions for tax adjustment (viz. in case of issuance of CN/DN with tax) was the prime reason why many industry players struggled to make PAN India consistent procedure/policies to deal with various situations. For services, there were different conditions prescribed under Service tax law. Thus, Companies followed different practices for settling the accounts.

Besides this area was also marred with countless litigations in erstwhile tax regime. Predominantly under VAT regime where tax adjustment was being claimed say for e.g. by supplier through issuance of CN with tax, fulfillment of prescribed conditions under respective State VAT laws were being challenged for denying such tax adjustment.

With introduction of GST, specifically with respect to conditions for issuance of CN/DN, industry was relieved since prescribed conditions became consistent for issuance of CN/DN with tax in relation to both goods and services and that too across all Indian states.

In terms of the GST law, (a) where tax invoice is found to exceed/be less than the taxable value or tax payable in respect of such supply, or (b) where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, supplier may issue to the recipient CN/DN with tax (viz. as the case may be) for claiming adjustment of tax liability subject to appropriate declaration in GST returns (within prescribed timelines – i.e. before return date for the month of September of subsequent FY).

Here, few of the important points to note are that it is not mandatory to issue CN/DN with tax, CN/DN can only be issued by supplier of goods or services, and timely disclosure in the GST returns. Also, from industry standpoint, whether CN/DN with tax or without tax would be more viable is a matter of a fact and answers could vary. Some of the key aspects under GST which goes into consideration to determine issuance of CN/DN with or without tax include (a) linkage with the original supply transaction (since it is a mandatory requirement to claim the tax adjustment), (b) eligibility of the recipient to claim full/partial credit (viz. due to recipient's non-taxable



outward supplies or inability to utilize the credits due to inverted duty structure/subsidies); (c) fulfillment of prescribed conditions under GST law; (d) status of the recipient (i.e. registered or un-registered) etc.

Certainly the above GST provisions resolved majority of the problem as compared to erstwhile VAT and Service tax regime. However, the procedural aspects coupled with some of the finer nuances did not support the issuance of CN/DN with taxes and industry players still follow varied practices with larger proportion being tilted towards issuance of CN/DN without taxes.

The main aspect was linkage with original tax invoice number. GSTN system allowed linkage with only one CN/DN with a particular tax invoice. CN/DN with taxes could not be linked to multiple tax invoices. The said restriction never existed in the GST law but was there in GSTN portal. Across industries, said invoice wise linkage could not be implemented/followed since the same was too cumbersome given the volumes of such adjustments which unnecessarily increased paper work and tracking. At various other instances non implementation was attributed to the fact that ERP systems could not support such linkage. GST law has recently been amended to allow issuance of CN/DN with taxes against multiple tax invoices. However, the said amendment is yet to be given effect – welcome move by CBIC. In respect of this amendment, Industry is still waiting to see how the respective sections on GSTN portal/GST returns would be modified to give effect to this amendment.

The process of reconciliation of credits added to the intricacy. As per GST law, input credit claimed by the recipient in GSTR-3B (viz. input credit as per ERP of the Company) and input tax credit available to recipient as per GSTR 2A (viz. populated basis

outward supplies along with CN/DN with taxes shown by supplier) should reconcile. Due to the timing issue where CN/DN issued by supplier (which is a mandatory condition – recipient cannot issue a CN/DN) is later than the timing of adjustment done by recipient in his books of accounts has created challenges during input credit reconciliations as well as reconciliation from accounting standpoint. This coupled with the fact that many FMCG companies follow weighted average method of recording inventory value. Due to said method, value at which adjustments in books was carried out by recipient and value used by supplier in the CN/DN with tax was different. This has led to further difficulties in the reconciliation process.

Similar to the VAT regime, GST authorities are also likely to check whether conditions prescribed under GST law for issuance of CN/DN with taxes were fulfilled. The fear of prolonged litigation and wide impact on this count has also instigated many players to issue CN/DN without taxes. Even where industries are issuing CN/DN with taxes, it has been seen that there is a challenge in creating a documentation trail (specifically in case of post sales discounts) to substantiate the qualification of the scenario within the boundary of the GST provisions.

It is clear that there cannot be 'one size fits all approach'. Industry is expected to continue the tactical approach (depending on commercial, tax or technology considerations) as regards the decision to issue a CN/DN with or without tax so as to ensure minimum tax/compliance burden on the overall supply chain.



CA Shiv Kumar Gaur

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High Sea Sales is a terminology used in common parlance whereby the original importer sells the goods to a third person before the goods are entered for customs clearance. It is carried out by the carrier document consignee to another buyer while the goods are yet on high seas. In other words, it can be defined as a sale of goods which is made after the goods cross the Customs Barrier of the Foreign Country but before crossing the Customs Frontiers of India by way of transfer of title. It is accepted under the Import Trade Control Regulations.

For example, ABC INC of U.K. sells goods to XYZ Ltd of India. Now XYZ Ltd further sells the goods to BCD Ltd of India by entering into a High Sea Sales Agreement after crossing the Customs Frontiers Of U.K. but before entering the Customs Frontiers of India. The sale transaction between XYZ Ltd and BCD Ltd is High Sea Sales. High Sea Sale for same consignment can be one or multiple.

Process for making High Sea Sales:

1. **Sale by the Foreign Supplier:** The foreign supplier will make sale to the Indian Buyer. This will be an export sale for him. If these goods are sold by the First Indian Buyer to another Indian buyer after departure from Port of origin but before arrival at the territorial border of India, such sale is construed as High Sea Sales.
2. **Execution of High Sea Sales Agreement:** The next step in High Sea Sales is making of a High Sea Sales Agreement. This agreement must be executed after dispatch of goods from origin port but prior to their arrival at destination for Customs Clearance. This agreement should be on Stamp Paper.
3. **Endorsement of Export Documents:** On concluding the High Sea Sales Agreement, the Bill of Lading should be endorsed in favour of new buyer for transferring the title of goods to the HSS Buyer. Intent Letter of sales from HSS seller on letter head should be signed and stamped. Similarly Letter of Purchase from HSS Buyer on the letter head should be signed and stamped.
4. **Handing over the endorsed Documents to HSS Buyer:** HSS Seller will prepare the invoice in favour of HSS Buyer in local currency and handover all import documents like Bill of Lading,, his invoice in local currency, import invoice, packing list, certificate of origin, certificate of insurance and other necessary documents to HSS Buyer duly endorsed.
5. **Filing of Import Clearance Documents with Customs:** HSS Buyer will arrange to file Bill of entry along with other necessary documents for Customs Clearance of Goods. He will pay the import duty and other port dues on final assessment of Bill of Entry. HSS Seller can also undertake customs clearance and then make the delivery of goods to HSS Buyer. This is of relevance if HSS Seller does not want the HSS Buyer to know the actual contract price of Exporter and HSS Seller.

On concluding the HSS agreement, the HSS Seller should write to the Shipping Line/the Airline informing that a HSS agreement has been executed with the HSS Buyer and that the carrier documents should therefore be considered as endorsed in favour of the HSS Buyer and further the IGM Should be filed by the carrier in the name of the HSS Buyer.



If the EDI systems allows name of HSS Buyer to be entered in the system, then there may not be any need to amend the IGM. In this case BOE is filed in the name of the original importer as the IGM is in this importer name and the name of HSS Buyer shall appear under a separate head in the BOE. If system does not have this provision than IGM should be got amended and the name of HSS Buyer should be incorporated as importer.

Check Points of High Sea Sales:

(i). Stamp Paper should be purchased by the HSS Seller for execution of High Sea Sales Agreement. This should be dated prior to the actual HSS Agreement date. FORMAT OF High Sea Sales Agreement is attached with this article.

(ii). HSS Agreement should be dated after the date of B/L but before the date of arrival of goods into Indian Customs Barrier for Customs Clearance.

(iii). Intent letter of Sales from HSS Seller on Letter Head should be signed and stamped. Similarly Intent Letter of Purchase from HSS Buyer on the letter head should be signed and stamped for submission to Customs Authorities for Clearance.

(iv). HSS Seller and HSS Buyer must have IEC Code, AD Code and GSTIN No.

(v). High Sea Sale can be single or multiple. In case of multiple sales, the last HSS value is taken by Customs for purposes of duty levying. The last HSS agreement should give indication of previous title transfers. The last HSS Buyer should have copies of previous HSS Agreements, as Customs Authorities may ask for the same at the time of assessment of Bill of Entry.

(vi). The title of Goods transfers to HSS Buyer prior to entry of goods in territorial jurisdiction of India and delivery of goods is on account of HSS Buyer. Hence, HSS Buyer is entitled to take credit of Duty/taxes.

(vii). HSS Buyer is entitled for all the notification benefits as would be applicable to similar import of goods in normal course.

(viii). If HSS Seller does not mind disclosing original import values to HSS Buyer, in such cases it is better from Customs Clearance point of view for seller to endorse the B/L, invoice, packing list in favour of HSS Buyer. The endorsement should read “ Transferred on High Sea Sales basis to M/S_____ for a sales consideration of Rupees_____.

HIGH SEA SALES & GST:

Section 7(2) of IGST Act, 2017 provides that supply of goods imported into the territory of India, till they cross Customs Frontiers of India, shall be treated to be supply of goods in the course of inter-State trade or commerce.

1. Customs frontiers of India includes:
2. Custom Port
3. Custom Airport
4. International Courier Terminal
5. Foreign Post Office
6. Land Custom Stations
7. Area in which imported Goods meant for export are ordinarily kept before clearance by Customs Authorities.
8. Bonded Warehouse

Plane reading of section 7(2) of IGST Act, 2017 causes a doubt about taxability of transaction of High Sea Sales, since section 7(2) covers transaction of sale causing in the territorial water of India i.e the transactions causing before entering the goods in the Customs Barriers for Customs Clearance. High Sea Sale transactions can be entered into before the goods are entered for Customs clearance.

High Sea Sales of imported Goods are akin to inter-state transaction. Owing to this there was a doubt as to whether the High Sea Sales of imported Goods would be chargeable to IGST twice i.e. at the



time of clearance of goods from Customs under section (7) of section 3 of Customs Tariff Act, 1975 and also separately under section 5 of the Integrated Goods and Service Tax Act, 2017. In order for every supply to come within the operation of section 7(2) of IGST Act it requires that the resultant effect of the supply must cause the goods to enter the territory of India. This Act does not enjoy extra-territorial jurisdiction and is limited to imposing tax if the goods are imported into the territory of India. Authority of Advance Ruling Authority of Kerala has also supported this view vide its order no. CT/2275/18-3 dated 26/3/2018.

Board Circular no. 33/2017-CUS dated 1/8/2018 has resolved the doubt of taxability of High Sea Sales of imported Goods. GST council has decided that IGST on High Sea Sales transactions of imported Goods, whether one or multiple, shall be levied and collected only at the time of importation i.e. when the import declarations are filed before the Customs Authorities for the Customs Clearance for the First time. However, the value addition accruing in each such High Sea Sale shall form part of the value on which IGST is collected at the time of clearance.

FORMAT OF HIGH SEA SALES AGREEMENT

Know all men by these present that we M/S XYZ Ltd, 17 Greater Kailash, New-Delhi-110017 made this High Sea Sales Agreement on 03/11/2018 with M/S BCD Ltd., 41, Chandni Chowk, Delhi-11006 as per the following terms and conditions:

1. Name & Address of Importer:
2. Name and Address of Purchaser:
3. Name and Address of the Foreign Supplier:
4. Description of Goods sold:
5. Quantity:
6. Invoice No. Date:
7. Bill of Lading No. & Date:
8. Name of the Vessel:

9. Value of Consignment:
10. Consideration: CIF Value+2%
11. Payment: Payment will be made to the seller as per high seas sale debit note. If any interest and other charges debited by Customs or Port Trust Authorities that shall be debited to buyer's account and buyer shall pay the full amount.
12. Delivery: All the rights and title of the goods will be transferred from seller to the buyer by endorsing the above Bill of Lading.
13. Customs Clearance: The Buyer shall arrange the customs clearance of the goods and the applicable duties and taxes shall be paid by buyer.
14. Dispute: If any dispute arises between buyer and seller at any stage, same shall be settled at _____ with mutual understanding.
15. IGST: Buyer shall pay the amount of IGST as application under IGST Act, 2017.
16. Insurance Claim: As regards any loss, damage, shortage and /or any other claim relating to the goods sold, seller shall nominate and subrogate the right to buyer to recover the amount of loss from the Insurance Company/Shipping Company and enable the buyer to deal directly with the concerned Agency.
17. Condition: The above goods are sold for own consumption by the Buyer.

IN WITNESS THERE OF THE HIGH SEA SELLER
AND THE HIGH SEA BUYER HERETO HAVE SET
THEIR RESPECTIVE HANDS ON THIS
DT _____.

HIGH SEA SELLER

HIGH SEA BUYER

IEC No.

IEC No.

WITNESS:

1.

2.



CA. Sanjeev Singhal

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First of All housing societies means unincorporated body or Non –Profit entity registered under any law for the time being in force whether it is cooperative society or society register under Societies Act.

“Simply put these are a collective body of persons, who stay in a residential society. As a collective body, they would be supplying certain services to its members, be it collecting statutory dues from its members and remitting to statutory authorities, maintenance of the building, security etc.”

A Society is akin to a club, which is composed of its members. So, can a service provided by a Housing Society to its members be treated as service provided by one person to another. The answer is yes. The following extracts of the GST law will make the position clear.

Section- 9 of the CGST Act says that GST is applicable on “supply of Goods and Services”.

Section -7 of the CGST Act narrated Supply as ;

“all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;”

Society is person as per section 2(84) of the CGST Act,2017.

GST on Housing Societies for Rendering Services to its Members Next question arises here is whether activity of the society can be said to be in the course or furtherance of business .

Section -2(17) of the CGST Act is defined as under;

“business” includes----

(a) any trade, commerce, manufacture, profession,

vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;

- (b) any activity or transaction in connection with or incidental or ancillary to subclause (a);
- (c) any activity or transaction in the nature of sub-clause (a),whether or not there is volume, frequency, continuity or regularity of such transaction;
- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
- (f) admission, for a consideration, of persons to any premises;
- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- (h) services provided by a race club by way of totalisator or a licence to book maker in such club ; and
- (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities.

Thus, as per section 2(17)(e) of the CGST Act, 2017 provision by a club, provision by a club, association, society, or any such body (for a subsc association, society, or any such body (for a subscription or any



other rption or any other consideration) of the facilities or benefits to its members is deemed to be a business. The activities of the housing society would thus attract the levy of GST and the housing society would be required to register and comply with the GST Law.

Hence herein above, it is proved that society need to pay GST on services provided to its members . But this is subject to Notification No. 12/2017 dated 28.06.2017 where S.N. 77 (c) provide the following exemption to

Service by an unincorporated body or a non- profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution --

- (a) as a trade union;
- (b) for the provision of carrying out any activity which is exempt from the levy of Goods and service Tax; or
- (c) up to an amount up to an amount of five thousand rupees per month per member for sourcing for sourcing of goods or services from a third person for the common use of its members in a housing housingsociety or a society or a society or a residential complex residential complex

Now from 25.01.2018 by Notification No. 2 the limit of Rs. 5,000 increase to Rs. 7,500.

Means thereby if the housing society charge Rs. 8500 per month for all services provided to its members , GST shall be charged on Rs. 1000 only. Therefore charges collected by the society on account of property tax, electricity charges shall be excluded while calculating the limit of Rs. 7500.

A per the TRU F.N. 332/04/2017 issued by the Ministry of Finance , the following FAQ has been released .

Subject: FAQs on levy of GST on supply of services to

the Co-operative society- reg

Question 1.

The society collects the following charges from the members on quarterly basis as follows:

1. Property Tax-actual as per Municipal Corporation of Greater Mumbai (MCGM)
2. Water Tax- Municipal Corporation of Greater Mumbai (MCGM)
3. Non- Agricultural Tax Maharashtra State Government
4. Electricity charges

Answer 1

1. Services provided by the Central Government, State Government, Union territory or local authority to a person other than business entity, is exempted from GST. So, Property Tax, Water Tax, if collected by the RWA/ Cooperative Society on behalf of the MCGM from individual flat owners, then GST is not leviable.
2. Similarly, GST is not leviable on Non Agricultural Tax, Electricity Charges etc, which are collected under other statutes from individual flat owners. However, if these charges are collected by the Society for generation of electricity by Society's generator or to provide drinking water facility or any other service, then such charges collected by the society are liable to GST.



3. Sinking fund, repairs & maintenance fund, car parking charges, Non- occupancy charges or simple interest for late payment, attract GST, as these charges are collected by the RWA/Co-operative Society for supply of services meant for its members.

Question 2.

As per guidelines on maintenance charges upto Rs. 5000/- no GST is applicable. Maintenance charges means only maintenance or collection of all charges

Answer 2

This is applicable to only the reimbursements of charges or share of up to an amount of five thousand rupees per month per member for sourcing of goods or services from a third person for the common use of its members. Here, charges mean the individual contributions made by members of the society to avail services or goods by the society from a third party for common use. [*Entry 77(c) of notification no 12/2017 Central Tax (Rate) dated 28.6.2017 refers]

Question 3.

Monthly maintenance (all above charges) are below Rs.5000/-but yearly

Answer 3.

Reimbursement of charges or share of contribution up to an amount of Rs. 5000/- per

*Amount of Rs. 5000 shall be read as Rs. 7500 amended since 25.01.2018.

All Housing Societies Falls under the Parameter of Notification No. 12 dated 28.06.2017.

----- > Answer is No

Reason of the above answer is as follows:

If the turnover of housing society is above 20 lakhs, it needs to take registration under GST in terms of Section 22 of the CGST Act, 2017. If the turnover of

the society is less than or equal to Rs. 20 lacs , no GST shall be applicable on housing society.

Whether the activities of housing society shall be costlier as compared earlier.

Answer is No. because of the simple reason that Housing Society will get the ITC on all supply of Goods and services to society and capital goods.

Is the Society will get the benefit of only Part of the total Input Tax Credit

Yes, the Society will get only part of the credit as per Rule 42 and 43 of the CGST Rules,2017. Simple reason is that Housing Society provides both Taxable and Exempted Services and portion of the credit of ITC belong to exempted services as well . Therefore, the proportion of credit belongs to exempted and non GST Supply shall be added back.

Conclusion

As long as tax implication are concerned, the status under Service Tax is sought to be continued under GST. The tax burden under GST will be lower on the society as they will be entitled to take ITC which was hitherto not allowed under service tax. Moreover, the exemptions given ensure that there would be no tax burden on smaller societies where the monthly contribution of the individual members does not exceed Rs.7500 . In a nutshell, GST is more favourable tax regime for housing societies vis a vis service tax.

Disclaimer : The contents of this article are solely for information and knowledge and does not constitute any professional advice or recommendation. Author does not accept any liability for any loss or damage of any kind arising out of this information set out in the article and any action taken based thereon.



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In the course of survey by the TDS team of the Income tax department in the case of ACIT v SDV International Logistics Ltd. (2018) 97taxmann.com 573 it was found that there were some employees of the assessee company deductor who had let out their properties to earn rental income and they were themselves staying in the rental premises. Such employees had claimed exemption against house rent allowance as well as have claimed deduction of interest on housing loan against the rental incomes. The department held the stand that the employees who had been allowed exemption for house rent allowance on the basis of rent paid thus were not entitled to deduction on account of interest on housing loan and the benefit of such interest was allowed by the assessee in excess to the extent of Rs. 43,66,699/- while deducting tax at source. Accordingly the assessee was treated by him as the assessee in default to the extent of Rs. 11,74,088/-. The A.O. thus passed an order u/s 201(1) / 201(1A) of the Act treating the assessee company as the assessee in default for non-deduction / short deduction of tax at source to the tune of Rs. 27,21,647/- and also levied interest u/s 201(1A) to the extent of Rs. 9,79,792/-.

The Commissioner of Income tax (Appeals) however found that these two benefits were governed by two independent provisions and since the concerned employees had satisfied the conditions for claiming the benefits under these two independent provisions, there was no violation on the part of the assessee of the Income Tax Act. Against such order the revenue took the following ground of appeal before the Income tax Appellate Tribunal:

"2. That under the facts and circumstances of the case, the CIT(A) - 24, Kolkata has erred in holding that in case of deduction of tax at source on salary, the employer can simultaneously allow benefit of exemption of HRA and benefit on loss on account of interest payment on housing loan of self-occupied property as the provisions relating to the same are independent. Actually the employer can allow the benefit of any one of the two, while deducting the tax at source on salary and in case due to some

peculiar circumstances, the employee is eligible for both the benefits, he has to file an Income Tax return to claim the benefit. The Assessee deductor failed to furnish any documentary evidences in this regard to prove that the double benefit allowed by the assessee was legitimate." (unquote)

The Kolkata Tribunal however upheld the order of the Commissioner (Appeals) as the revenue had no justification to offer in this case scenario. The Tribunal order is however silent on the subject whether the employer is authorized under the law to consider reliefs under both the provisions. The Bench did not even refer to the guidelines offered by the CBDT in this regard in their year on year Circulars on procedure and parameters for deduction of tax under section 192 of the Income tax Act, 1961.

This ruling is a recent one and almost for certain one of a kind enabling salaried taxpayers to take maximum benefit out of investment in property.

At the same time this ruling is nascent and for certain going to invite attention of the TDS wing of the department all across to initiate surveys on this very subject alleging double benefit. Employers have thus more reason to be cautious on this account in the coming days.

Section 192 oblige upon the employer to deduct taxes on salary income. Employees are given an option to offer their additional incomes and in certain cases even losses to their employer to consider the same while discharging their liability u/s 192. But there is no mandatory law that obliges the employer to include such incomes/losses in computing the taxable income otherwise. In the best course it is advisable therefore that the employers may restrain themselves and do not consider house property losses while discharging obligation for deduction of taxes on salary income to escape unnecessary demands on account of shortfall in deduction of taxes.


FINAL LIST OF CANDIDATES-CENTRAL COUNCIL

The Institute of Chartered Accountants of India
ELECTION TO THE TWENTY FOURTH COUNCIL – DECEMBER, 2018

NORTHERN INDIA REGIONAL CONSTITUENCY

S No.	Membership No.	Name of the Candidate <i>(As Published in list of Voters)</i>
1	88583	AGARWAL SUDHIR KUMAR , FCA
2	92678	AGRAWAL SANJAY KUMAR , FCA
3	507949	BANSAL POOJA , FCA
4	94645	BHAGWAN LAL , FCA
5	90460	CHAWLA RAJ , FCA
6	88646	CHUGH HANS RAJ , FCA
7	501557	GARG VISHAL , FCA
8	97009	GUPTA ATUL KUMAR , FCA
9	86481	GUPTA VIJAY KUMAR , FCA
10	90358	JAIN PRAMOD , FCA
11	54629	KEDIA GOPAL KUMAR , FCA
12	92805	KHEMKA MANMOHAN , FCA
13	506353	KHURANA VIVEK , FCA
14	89658	NANDA CHARANJOT SINGH , FCA
15	91043	NARANG RAJINDER , FCA
16	55258	PATAWARI MANOJ KUMAR , FCA
17	98258	SHARMA RAJESH , FCA
18	95377	SINGHAL SANJEEV KUMAR , FCA
19	90989	VASUDEVA SANJAY , FCA



The Institute of Chartered Accountants of India
ELECTION TO THE TWENTY THIRD REGIONAL COUNCILS –
DECEMBER, 2018

FINAL LIST OF CANDIDATES – REGIONAL COUNCILS

Sr No.	Membership No.	Name of the Candidate <i>(As Published in the list of Voters)</i>
1	502489	AGARRWAL MUKKUL
2	508472	AGARWAL SANDEEP
3	516131	AGGARWAL SANGAM KUMAR
4	526600	AGRAWAL SHASHANK
5	502649	ARORA RAJENDER
6	505485	ARYA PRANAV
7	515189	ATTRI SANDEEP
8	533069	BANSAL GOPAL
9	090232	BANSAL RAJNISH KUMAR
10	505763	BHANDARI RACHIT
11	512742	CHUGH NITISH KUMAR
12	511643	DHARAM SINGH
13	504757	GARG GAURAV
14	506945	GARG SUMIT
15	087009	GOYAL AJOY KUMAR
16	096797	GOYAL GAUTAM
17	503976	GOYAL HITESH
18	513349	GUPTA AVINASH
19	501398	GUPTA PANKAJ
20	510808	GUPTA SHELLY
21	501902	GUPTA VIJAY KUMAR
22	531557	HUSSAIN SHEKH MOHAMMAD AFZAL



23	512338	JAGS JAGJEET SINGH
24	526975	JAIN ADISH
25	501690	JAIN ALOK
26	093027	JAIN HARISH KUMAR CHOUDHARY
27	090526	JAIN SUMNISH KUMAR
28	098342	JAIN VINEET
29	512365	JHA KUBER NATH
30	096227	KANWAR NITIN
31	511042	KAUSHIK PRADEEP
32	094751	KEJRIWAL MAN MOHAN
33	093391	KUMAR RAVINDER
34	528828	MAHESHWARI DEEPAK
35	098142	MEHTA MUNISH
36	503886	MEHTA RAJESH
37	092826	PANDEY ANU
38	522215	PATHAK SHWETA
39	516583	SAINI BALRAM SINGH
40	512515	SHARMA VIPIN
41	511168	SINGH ARUN KUMAR
42	091119	SINGHAL AJAY
43	085931	SINGHAL SANJAY KUMAR
44	096936	UPADHYAY PRADEEP
45	093171	VISHNOI MANOJ KUMAR
46	094845	YADAV RATTAN SINGH



Programme on Life Management & Cultural Evening with Sham-e-Ghazal



Audience : CA Members

Day & Date : Saturday, 3rd November 2018

Speaker : CS. Govind Mishra

Venue : Hotel Radisson Gurugram Udyog Vihar, NH 8, Udyog Vihar Phase III, Gurugram







Cricket Tournament 2018



Participating Team: Gurugram Branch XI, Royal chartered-Sirsa, Gladiators, Panchkuin Study circle, Udain's alumni CA, Devalya , Shree Shyam United, Royal-PB-HR, Chairman XI- Faridabad, J Mandal, Adish Jain & Co., Hisar

Audience : CA Members

Day & Date : Saturday & Sunday, 17th & 18th November 2018

Venue : Action Land Baliawas, Bandhwari, Faridabad Road, Gurugram





Cricket Tournament 2018



Participating Team: Gurugram Branch XI, Royal chartered-Sirsa, Gladiators, Panchkuin Study circle, Udain's alumni CA, Devalya , Shree Shyam United, Royal-PB-HR, Chairman XI- Faridabad, J Mandal, Adish Jain & Co., Hisar

Audience : CA Members

Day & Date : Saturday & Sunday, 17th & 18th November 2018

Venue : Action Land Baliawas, Bandhwari, Faridabad Road, Gurugram





Three Days Residential Programme on GST



Topic : Three Days Residential Programme on GST

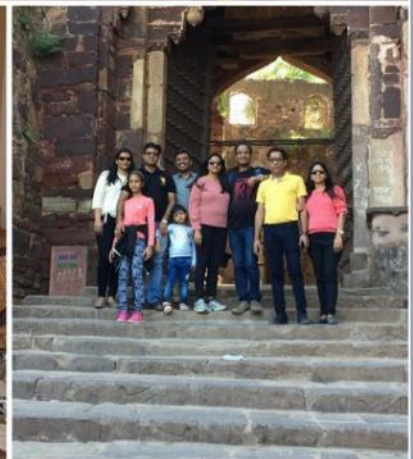
Audience : CA Members

Day & Date : Friday, Saturday & Sunday, 23rd-25th November 2018

Lead By : CA. Naveen Garg

Venue : The Sher Garh Resort, Sherpur, Ranthambore, Sawai Madhopur, Rajasthan







SAG Infotech Pvt. Ltd. having its registered office at Plot No 495, Above Bank of Baroda, Raja Park Gali No 5, Near AC Market, Raja Park, Jaipur – 302004, Rajasthan, India.

And

Gurugram Branch of NIRC of ICAI having its registered office at 60A, 3rd Floor, Sector-18, Gurugram, 122001, Haryana.

WHEREAS, SAG Infotech Pvt. Ltd. is a reputed IT Company AND WHEREAS, Gurugram Branch of NIRC of ICAI, is an branch of NIRC of Chartered Accountants.

In this Regard. Upon successful implementation of the arrangement, both parties are interested to work together for a mutually beneficial and strategic alliance in respect of the benefit of Chartered Accountants of Gurugram Branch of NIRC of ICAI.

NOW THEREFORE THIS MOU WITNESSETH AS FOLLOW CONDITIONS:

1. The objective of this MoU is primarily to establish a fruitful association with Gurugram Branch of NIRC of ICAI and SAG Infotech Pvt. Ltd.
2. SAG Infotech Pvt. Ltd.'s Genius software, primarily used by Chartered Accountants, is used for Taxation purpose and very popular software across India and available at an MRP of 10,000 (Exclusive Taxes).
3. SAG Infotech Pvt. Ltd, is willing to provide this said product with name of Genius to all Chartered Accountants, under Gurugram Branch of NIRC of ICAI, with a discount of 50%. Therefore, all Chartered Accountants, under Gurugram Branch of NIRC of ICAI exclusively get this software with name of Genius at Rs. 5,000 (Exclusive Taxes).
4. Gurugram branch will share this understanding with its members through suitable means.
5. SAG Infotech Pvt. Ltd. will treat each Chartered Accountant, under Gurugram Branch of NIRC of ICAI, as an individual customer of Company and all conditions which are applicable to any other customer will be applicable to them as well. (Separate Document of Customer Guidelines/Conditions is attached).



Medanta - The Medicity

Medanta – The Medicity with ‘The Institute of Chartered Accountants of India’ for providing medical services to the members & their dependents of ‘The Institute of Chartered Accountants of India’

Following are the agreed terms & conditions:

- 10% discount on OPD services such as Consultation Fees, Investigations (Laboratory & Radiology). Please note that no discount will be given on any package based OPD procedures, drugs, consumables, blood components, implants, devices, day care procedures, CT Angiography, CT Scan, PET CT, MRI & outsourced investigations.
- 10% discount on IPD services (for non – insured employees) such as Room Rent & Investigations (Laboratory & Radiology) except drugs, disposables, consumables, blood components, implant, devices, contents of pre defined packages, outsourced services, CT – Angiography, MRI, OT, Anesthesia Charges & outsourced investigations.
- 10 % discount on Standard Health Checkup packages.
- Personal assistance in admissions & treatment.
- Health Education talks in organization premises.
- Discount on Healthcare services can be availed by the employee by showing the Membership ID Card. In case of dependent family member the Membership ID Card of the member & the Govt. ID Card (like PAN Card, Election ID Card, Passport etc.) of the dependent will be required.
- The validity of the agreement will be one year i.e. from September, 15, 2018 to September, 14, 2019.
- All services are agreed in cash mode. No credit to be extended.



Overview of 'Lite Bite Foods' and Validity

'Lite Bite Foods' is one of the largest & most dynamic Food & Beverage retail company in the country, with over 14 core brands & 6 Franchise brands under its umbrella. We have 95 operational outlets in India, Bangkok, Singapore, Abu Dhabi, Dubai & United States of America & with a plan of opening 31 new outlets company aims to become one of the largest Food & Beverage players in India by 2016. Currently we have a strong presence in Malls, High Streets, Airports, Multiplexes, Office complexes, Hotels and other high footfall locations.

Our awarded hero brands are Punjab Grill, Zambar, Fresco Co, Asia 7, Street Foods By Punjab Grill, Baker Street, Artful Baker, Pino's, Flamez & Roasted, Naashto, American Tandoor, Savour (Outdoor Catering Brand), Clink, Bottoms Up. We also run Franchise stores of Subway, KFC, Pizza Hut, Burger King, and Café Istanbul.

We invite all are members to avail this opportunity at their restaurants.

The Terms and Conditions offered will be as follows:

1. Fine Dining Restaurants & Casual Dining Restaurants will offer 15% discount on food & soft beverage. The restaurant covered under this policy will be:
 - a) Punjab Grill
 - b) Asia Seven
 - c) Zambar- Coastal Kitchen
 - d) Fresco Co
 - e) Bottoms Up
2. Quick Service Restaurants will offer 10% discount on food. The restaurant covered under this policy will be:
 - a) Baker Street
 - b) Pino's
 - c) Street Foods by Punjab Grill
 - d) Subway
 - e) Asia Seven Express
 - f) Zambar Express

Other applicable Conditions:

- All Discount OFFER(s) are NOT applicable on Festivals and Public Holidays.
- All Discount applicable on Saturdays and Sundays also.
- Discounts are only applicable on showing valid Membership Card/CA logo visiting card at the time on Dining.
- The menu prices at Outlets are subject to change without any prior notice.
- The conditions mentioned on the menu are applicable.



- Taxes and other Govt. levies are applicable.
- No other offers, exemptions or discount schemes can be clubbed with this corporate offer.
- Discounts are not applicable on Hard drinks & MRP products.
- Discount are not applicable at Airport/ railway/ Metro outlets.
- Mode of Payment-Cash / Credit Cards.

S.No	Outlet Name	Location	Outlet Landline No.	Address
1	ASIA 7	Ambience Mall	0124-4665571	Shop No. 318, 3rd Floor, Next to Food Court, Ambience Mall, Gurugram.
2	BAKER STREET	Ambience Mall	0124-4665567	Shop No.16, Food Union, 3rd Floor, Ambience Mall, Gurugram.
3	FRESC CO	Ambience Mall	0124-4665572	Shop No. 317, 3rd Floor, Next to Food Court, Ambience Mall, Gurugram.
4	PINO'S	Ambience Mall	0124-4665495	Shop No. 14, 3rd Floor, Food Union, Ambience Mall, Gurugram.
5	PUNJAB GRILL	Ambience Mall	0124-4665478	Shop No. 319, 3rd Floor, Next to Food Court, Ambience Mall, Gurugram.
6	SF by PG	Ambience Mall	0124-4665513	Shop No. 02, 3rd Floor, Food Union, Ambience Mall, Gurugram.
7	SF by PG	MGF Metropolitan Mall	0124-4222238	Shop No. 05, 3rd Floor, Food Court, MGF Metropolitan Mall, Gurugram.
8	SF by PG (Delivery Only)	Udyog Vihar	0124-4236633	Plot - 317 Udyog Vihar Phase - 4 Gurugram
9	SUBWAY	Ambience Mall	0124-4665515	Shop No. 04, 3rd Floor, Food Union, Ambience Mall, Gurugram.
10	SUBWAY	DT Mega Mall	0124-4015577	3rd Floor, Food Court, DT Mega Mall, Gurugram.
11	SUBWAY	Cyber Green	0124-4016962	Ground Floor, Food Court, Cybergreen Tower, DLF Phase-III, Gurugram.
12	SUBWAY	Fortis Hospital	0124-4039728	Fortis Hospital Sector 44, Gurugram Haryana
13	ZAMBAR	Ambience Mall	0124-4665639	Shop No. 310, 3rd Floor, Next to Food Court, Ambience Mall, Gurugram.
14	ZAMBAR	Cyber Hub	91-8130450438	Ground Floor, Cyber Hub, Cyber City, Gurugram

Gurugram Chartered Accountants, a newsletter owned by Gurugram Branch of NIRC of ICAI is normally published in the first week of every month. Non Receipt of any issue should be notified within one month. Articles in interest of profession and management skills are welcome. Views expressed by contributors are their own and may not be in concurrence with Gurugram Branch of NIRC of ICAI and the branch does not take any responsibility of views expressed by contributors. Gurugram Branch is not responsible in any manner of any result of the action taken on the basis of advertisements published in the newsletter. Rights & copying of articles or write ups is not allowed without permission of Editorial Committee.



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 itticaigurgaon@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_____

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