



# Gurugram Branch of NIRC

The Institute of Chartered Accountants of India

(Set up by an act of parliament)

## Chartered Accountant e-NEWSLETTER

MARCH 2017 | VOLUME 1

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We Wish You & Your Family

**HAPPY HOLI**



# Elected New Office Bearers 2017-18

*Happy Holi*



**CA. Sandeep Garg**  
Chairman



**CA. Rakesh K. Agarwal**  
Vice-Chairman



**CA. Manish Goyal**  
Secretary



**CA. Arun Aggarwal**  
Treasurer



**CA. Naveen Garg**  
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**CA. Vipul Jain**  
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Executive Member



**CA. Lalit Aggarwal**  
Executive Member

## Ex - Officio Members



**CA. Sanjeev K. Chaudhary**  
Central Council Member



**CA. Nitin Kanwar**  
NIRC Member



**CA. Yogita Anand**  
NIRC Member



**CA. Alok Jain**  
NIRC Member





Dear Professional Colleagues,

**Namaskar,**

I feel extremely privileged and honoured as 19th Chairman of Our Esteemed Gurugram Branch of NIRC of ICAI. First of all I would like to thank all my committee members who has shown faith in me for the post of chairman. I would also like to thank all my professional colleagues who has given me support for this responsible chair of our branch of institute. I would also like to thank for our past committee members of our branch who has contributed their efforts for successful functioning of the branch. I would also like to thank all our Ex Officio members who have devoted their time for managing the affairs of our branch.

Friends Dynamic and Energetic personalities CA Nilesh Shivji Vikamsey Worthy President of Our Institute and CA Naveen ND Gupta Worthy Vice President of Our Institute have taken charge for the term 2017-18 and we commit our wholehearted support along with good wishes to lead our noble profession.

We shall always seek guidance and support of our NIRC and Central Council members also.

Friends I hereby take pledge that I shall work for the benefit of our profession, members and students at large. I shall work with honesty and with ethical standards of our institute so that the dignity of our profession will always exist. I shall try to fulfill my promises which I dreamt to take my profession to achieve greater heights.

Year 2017 is the year of changes, challenges and opportunities for our professional colleagues with GST underway, Insolvency Laws and Prevention of money laundering act and other statues and compliances. We shall update knowledge of our professional colleagues through various programmes such as Seminars, GDs, Conferences and also through our newsletters to have strengthen their knowledge on these new subjects.

I would like to thank all our previous committee who have contributed lot of efforts for achievement of getting allotment of plot in manesar. Friends We have appointed architect and they are finalizing drawings/map after that the same will be sent for approval with HSIIDC and ICAI. We are trying to get completed our dream of branch building as soon as possible.

Leadership skill always play a vital role in any organization, without being good leaders organizations cannot run in smooth way so our committee members are our leaders who always leads and take keen part in our branch functioning in one or another way.

I would like to convey my heartiest congratulations to all those students who have successfully cleared their final examinations held in the month of Nov 2016 and I would also like to convey my best wishes for those appearing in May 2017.

March is a color of festivals and we wish all our members a very very happy and colorful holi

We seek your valuable support, guidance, suggestions and good wishes to ensure that we achieve our targets set for our noble profession.



**CA. Sandeep Garg**  
(Chairman)  
Gurugram Branch of NIRC  
of ICAI

### Editorial Board

CA. Sandeep Garg  
- Chief Editor

Members:

CA. Rakesh K. Agarwal  
CA. Arun Aggarwal  
CA. Manish Goyal  
CA. Naveen Garg  
CA. Vipul Jain  
CA. Amit Gupta  
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CA. Sandeep Garg  
- Chairman  
CA. Rakesh K. Agarwal  
- Vice Chairman  
CA. Manish Goyal  
- Secretary  
CA. Arun Aggarwal  
- Treasurer  
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CA. Sanjeev Chaudhary  
Ex - Officio Member  
CA. Nitin Kanwar  
Ex - Officio Member  
CA. Yogita Anand  
Ex - Officio Member  
CA. Alok Jain  
Ex - Officio Member





Dear Professional Colleagues,

It is indeed a great honour to be elected as the Vice-Chairman of Gurugram Branch of NIRC of ICAI. I would like to extend my wholehearted gratitude for reposing confidence in me by handing over the baton of Leadership of Gurugram Branch which I take with folded hand and address you for the second time as Vice-Chairman of Illustrious Gurugram Branch of ICAI.

I believe one and one makes eleven, not just two. Let's be sure that **'Together we can achieve more what we want to achieve for the profession'**. Meanwhile, we as members should always remember that we have an active role to play and we should never behave like a passing spectator.

Last month the committee had organized various programs/seminar on various topics of professional interests. There was overwhelming response especially in **"Analysis on Union Budget 2017"**. Similar programs were organized for students also who had also taken very active participation. Members are also requested to motivate their students also to take part in programs intended for benefit of students.

For students appearing in May 2017 exams, my message is to forget all other occupations and to engross themselves with full dedication in preparing for exams. There should be planned approach to study aimed at making best utilization of limited time so that you may come out with flying colors.

Our nation is charged up and optimistic, that with decisive leadership, India will leap forward into the elite class of developed nations and finally live up to its potential and promises. It is a matter of great pride for us that CA. Nilesh Vikamsey, has been elected as the President of ICAI. On behalf of our branch, I would like to congratulate him and also congratulate CA. Naveen N.D. Gupta, Vice President of ICAI, CA. Rakesh Makkar, Chairman of NIRC of ICAI, and other office bearers.

The month of March is a busy one for all Chartered Accountants with the financial year drawing to a close. However, we also celebrate the festival of colours this month and I take this opportunity to wish all members a Happy and Colourful Holi.

At the end, I request all members who are not registered with Gurugram Branch to submit their postal and email address registered with the Branch to ensure that you get the newsletter and other correspondence.



**CA. Rakesh K. Agarwal**  
(Vice-Chairman)  
Gurugram Branch of NIRC of  
ICAI

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### Ex-officio Member

CA. Sanjeev Chaudhary  
- Central Council Member  
CA. Nitin Kanwar  
- NIRC Member  
CA. Yogita Anand  
- NIRC Member  
CA. Alok Jain  
- NIRC Member





### Dear Professional Colleagues,

It gives me great pleasure to communicate as Secretary of Gurugram Branch of NIRC of ICAI, representing the members of a noble profession like ours in a city of Gurus like Gurugram, is an honor.

The wise see knowledge and action as one; they see truly ... so go the words of wisdom in the Bhagavad Gita, which are worth emulating by one and all. Specifically, in the present scenario when a cohesive team of elected members is commencing its another year as representatives of the Gurugram Branch of NIRC of ICAI. A beginning is only the start of a journey to connect another beginning. Congratulations to all the Fraternity for the new posts.

The Gurugram branch of NIRC of ICAI is committed to guide our students to become outstanding and well-informed professionals. And in this direction Gurugram Branch also conducts various programs for the holistic development of the students. These include, National Conventions, Conferences, Seminars, Elocution and Quiz contests, Sports and Students' Festivals besides various other activities for students.

Our efforts will be to work towards development of a better ecosystem for not only the students but also for the members by resorting to a multipronged approach. In order to update the DBMS of all the CA Professionals, Gurugram branch of NIRC of ICAI is in the trend of organizing various programs such as seminars on trending topics like GST, Budget, etc. These Programs have always helped the professional to deal with real life problems. Now, the time for the banks audits is coming and seeing the requirements of the professionals, we are organizing a seminar on bank audit which I think would be very useful to all the members. I assure you that this trend of organizing various programs for members will continue in future too.

I seek blessings from God the Almighty, and guidance & support from all of you to discharge my duties diligently enabling me to serve members and aspiring CA students as per their expectations and to sustain the high standards set by my predecessors and reach your expectations for the progress of our beloved branch. The road ahead is challenging and of course this great opportunity given to me has to be turned to great challenges rendering selfless service paving way for professional growth of our members there by enhancing the economic well-being of our great nation – 'Incredible India'.

Feedback and suggestions:

**"Feedback is a gift. Ideas are the currency of our next success. Let people see you value both feedback and ideas." -Jim Trinka and Les Wallace.**

Once again let me thank all our members for having given me an opportunity to project my potential in the right perspective to serve our most vibrant Gurugram Branch.



*Manish Goyal*

**CA. Manish Goyal**  
(Secretary)  
Gurugram Branch of NIRC

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- NIRC Member
- CA. Alok Jain  
- NIRC Member





**CA Anuj Agrawal**

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It is quite common where an entity provides some amounts as Share Application Money for the sake of allotment of such shares in future. The amount in substance will be advance given for such investment and the entity is waiting for the same to be converted into an Equity in future. Now, there was a query which has been sent to the Expert Advisory Committee (EAC) of ICAI to know about the treatment of such amounts to be shown in the books of accounts and its impairment etc.

### **EAC received the below query for the pending allotment money –**

- i) Whether share application money is to be considered for making provision for diminution in the value of investments even though the shares for the same are yet to be allotted.
- ii) Whether share application money, in respect of which shares are allotted subsequent to the end of the financial year but before the adoption of accounts of the company, should be considered as share capital for the purpose of making the provision for diminution in the value of Investments.
- iii) For making provision for diminution in the value of investments, whether the company can consider the fact that the revaluation of assets is under progress and that the fair market value of assets would be higher than the historical value/cost of assets?

Reader can refer this opinion in detail by using this link <http://resource.cdn.icaai.org/33930eac23624-10.pdf> related to “Opinion finalized by the committee on 21.5.2013 and 22.5.2013”

In this case EAC has given the opinion of which

relevant text is reproduced here “..... since the money would not be refundable to the company, share application money pending for allotment should be considered as long-term investment while making provision for diminution in the value of investments. Even if the share application money would have been refundable and as such, shown as ‘advances’, an appropriate provision should be made based on their recoverability.....”.

Now,

After the applicability of Ind-As the situation will be different and one needs to refer different interpretation and classification of such amounts in contrast to the existing practices which can briefly be noted as below (for reader to have more practical way of thinking)-

1. As per the guidelines prescribed by Ind-As 32 – Financial Instruments- Presentations” if such pending allotment is legally giving all powers/ rights/ entitlements to the investor and it’s just a matter of procedure/time to allot such shares (shares has been identified in numbers as well and non-refundable advance given) then this pending amount for allotment will be treated in substance as Equity Investment (whether it is Investment for trading purposes, Investment in associates/ Joint ventures etc) unlike in present practice it will never be classified as equity unless actual allotment of shares happened (refer EAC opinion above),
2. Now, one can argue that what this would change after its equity classification, Firstly the equity treatment will affect both investor and investee in same way hence investee (who needs to issue such shares) will also need to treat these shares as its capital issued even share certificates has not been





issued, Secondly once we have identified that this is equity investment then it will be analysed for its impairment testing based on the category in which such investment has been classified.

### Example-

- a. Where such Investment is valued at fair value through PL / OCI then it will not be required for separate impairment testing,
- b. If the investment is treated as associate/ JV investment then it will further be classified in two scenarios where separate financial statements is being prepared then these investment will be measured at cost as per Ind-As 27- "Separate Financial Statements" and will be subject to impairment testing as per Ind-As 36 – "Impairment of Assets", However if such investment is for consolidated financial statements then equity accounted balances will be used and impairment losses will be analyzed by using reference from Ind-As 28 para 40 to 43 unlike in current accounting practice it is being tested for impairment other than temporary,
3. Now, another situation could be where the amount is being treated just as advance given then it will be recognized as Financial Asset which requires it to measured at fair value at its initial recognition and one needs to look at all other relevant facts if this can be treated as receivable then "Expected credit loss model" (applicable for amortized cost instruments) will also be applicable

as defined in Ind-As -109,

4. Another thought would be that where such pending allotment meets equity investment classification and does not fall into either associate/ JV or subsidiary investment then it has to be fair valued (no exception for equity investments other than fair valuation under Ind-As 109) unlike in current accounting where simply these can be shown at cost,

Here the idea is to provide an approach towards some of the changes that is happening because of new accounting standards applicable in India and reader can take this as a tool to navigate standards as per its own specific requirements.

A reader will appreciate about the main objective of the standard and an approach which one can follow while keeping in mind the basis of origin of such requirements. There could possibly be some specific situations or circumstances where the interpretation of any standard will be different as we should always keep in mind that IND-AS is principle based standards and lot more areas need management judgment in line with the standards relevant interpretation and best practices.

One has to look into all related facts and patterns before concluding this type of assessment based on this concept. Readers are requested not to take this article as any kind of advice (it is not exhaustive in nature) and should evaluate all relevant factors of each individual cases separately.

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.





CA. Anil Kumar

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### AMMENDMENTS IN POLITICAL FUNDING – A WRONG DOSE NOT CAPABLE OF CURING THE DEADLY CANCER OF CORRUPTION

The government has once again succeeded in keeping the masses confused for one more year by completing the annual ritual of budget exercise. The intellectuals are still debating the long term gains of demonetization which has certainly caused short term irreversible PAIN to already struggling SME sector and our large farmer community.

The swift availability of information has educated the common man more what government would have desired for so any government in power can no longer afford to ignore the loopholes and pitfalls in our fiscal and economic policies glaringly written on the wall.

The budget 2017 certainly addresses most of such pitfalls and passé the test of presenting a GOOD BUDGET with a very good score by maintaining stability in Tax rates, giving marginal relief to honest tax payers, burdening a bit the high income earners who are virtually TAX EVADERS because only 24 lakhs people declare their income more than Rs.10 lakhs per annum, spending more for agriculture and infrastructure, pushing less cash economy, budgeting more safety of our railways and so on.

By that standard, it is the least controversial budget which pleases almost all sections of society apparently because there is nothing harsh even for those (TAX EVADERS) who have been benefiting

from impartial, inefficient and unjust tax system in the country. So we can see captains of industry, economists, politicians and well positioned people lauding the Budget-2017 as there is a status quo at least. We all owe a gratitude to the government in power for not adding miseries to our economic life.

However undoubtedly it has miserably failed to address the cancer of corruption and black money generations except making some inconsequential changes in political Funding and cash transaction.

In his own admission of our Honourable Finance Minister – **‘India on the whole is a non tax complaint country’** substantiated by smart data analysis also.

‘The ratio of Indirect tax and Direct tax to GDP is alarmingly disturbing signifying an unjust tax system in the country.’

The biggest irony of today is though there is repeatedly an open acceptance of such fatal ills in our tax system destroying the economic dividend of higher GDP earned but the actions taken are counterproductive. They do nothing much except creating sensational headlines of undertaking revolutionary REFORMS for some time. They end up further complicating the issue which is the real hidden agenda of such wild declarations.

Let me now focus only with steps announced for curbing black money getting into the hands of politicians (our rulers) legitimately by way of political Funding.

### EXISTING TAX IMPLICATION FOR POLITICAL PARTIES





Section 13A of the Income-tax Act, 1961 confers tax-exemption to recognized political parties for income from house property, income by way of voluntary contributions, income from capital gains and income from other sources. In other words, only income under the head salaries and income from business or profession are chargeable to tax in the hands of political parties in India.

These political outfits can enjoy the above-said tax-exemption if they maintain proper books of accounts and other documents along with a record of contributions in respect of donations to the party in excess of Rs 20,000. Further, the accounts of such political party are to be audited by a chartered accountant and the party must be registered with the Election Commission of India.

Under section 139(4B) of the Income tax Act, 1961, political parties are however under a statutory obligation to file return of income in respect of each assessment year.

Further, the amendment made in 2003 to the Representation of the People Act, 1951 requires that the treasurer of every political party must file a declaration in respect of donations exceeding Rs. 20,000 at a time.

The party treasurer of a political party must file a report of contributions received to the Election commission before the due date for furnishing the return of income under Section 139 of the Income tax Act. More importantly, section 13A has been amended and tax exemption for a political party is contingent upon the submission of the report by the party treasurer.

The compliance of above legal requirement by the political parties is already pathetically poor which is not more than 50% with no serious penal action

affecting their functioning .

Section 80GGB was a new insertion in the Income-tax Act, 1961. This enables Indian companies to get full deduction in their income-tax assessments for contributions made to political parties. Interestingly, there is no ceiling fixed on the amount of such contribution. Section 80GGC gives similar deduction for non-company taxpayers. Advertisements in souvenirs published by political parties would also be eligible for deduction. For this purpose, the term "political party" means a political party registered under section 29A of the Representation of the People Act, 1951.

What justifies allowing unlimited amount of donation to political parties as an expense whereas there are several restriction for giving donations to other charitable trust and Non profit companies under section 80 G of Income Tax .Thus political parties commands undisputed higher meritorious status than the charitable outfits dedicated to some noble cause and enjoy permanent immunity from Income tax as well.

#### AMMENDMENTS PROPOSED IN BUDGET 2017

In order to discourage the cash transactions and to bring transparency in the source of funding to political parties , it is proposed to amend the provisions of section 13A to provide for additional conditions for availing the benefit of the said section which are as under:

- (i) No donations of Rs.2000/- or more is received otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through electoral bonds,
- (ii) Political party furnishes a return of income for the previous year in accordance with the provisions of sub-section (4B) of section 139 on or before the due date





under section 139.

Further, in order to address the concern of anonymity of the donors, it is proposed to amend the said section to provide that the political parties shall not be required to furnish the name and address of the donors who contribute by way of electoral bond .

- ◆ Apparently on a plain reading one might infer that government has taken some measures in the right direction . However , the devil is in detail , thus these are completely eye wash amendments to generate hype that war against black money generation is on .
- ◆ What stops any political party to raise more number of cash receipts to accommodate as much cash it wants to receive as donation from millions of anonymous sources ? The answer is NO BODY ? They can continue to do it legally .
- ◆ As per statistics available in public domain , the cash collection from anonymous source ranges from 65% to 100% of the total collection which is several hundred crores for most of the political parties ?
- ◆ What is the rationale for giving income tax exemption to political parties ? Are they formed to serve society in today's time ? The answer is big NO . People by and large enter into politics to make a career out of it . MP , MLA and ministers draw handsome salaries & allowances besides enjoying unlimited perquisites and power .
- ◆ There are always a few people in business community who run their commercial enterprise for social service only so by that standard the entire business community must be given income tax exemption .
- ◆ Why anonymity of the donor to a political party should be kept ? We contradict our basic premise of doing public good by political parties for giving them exemption from Income tax .Thrust on

anonymity in itself is an evidence of ulterior motives of donor and donee thus giving birth to crony capitalism .Every donor to any NGO or charitable trust would take a pride if donor is given a recognition for the contribution .Here it is other way round , Donor does want to reveal it's identity . It is legalized now .

- ◆ The bigger devil is in further detail , by this amendments , The election commission would not have access to the donors contributing more than Rs.20,000 than and now Rs.2000 because the requirement of furnishing the annual return by the treasurer of political party with Election commissioner has been done away with .
- ◆ It puts party in power at an advantage by being privy to the information of donations done through bearer Electoral Bonds purchased from digital payment or cheque being encashed at only one designated branch of a political Party .
- ◆ Thus party in power can black mail both donor and donee ( opposition political parties) which has damaging implications for already distorted format of democracy we are practicing in India .
- ◆ In effect , This proposed amendments would deprive Election Commission of critical information about donors which it could use to do any monitoring . We know '**Information is power**' Now with this proposed amendment the power of Election Commission gets diluted for want of information It is now between the political parties only to barter/ pardon crimes for mutual benefit .So there is no pleasant surprise that every political party has welcome this so called reduction in amount of cash collection disguised to benefit them by coming out of clutches of Election Commission at least to some extent .
- ◆ There are already more than 1892 political parties (including 1837 regional unrecognized political parties ) registered with Election commission as at 11th Jan, 2017 as per gazette by ECI. Majority of them are habitual and willful violators of giving the





required details to EC and filing income tax return since ages . Surprisingly , more than 90% of the unrecognised regional political parties registered have no elected representative in Parliament or state legislative assembly .

- ◆ The point of great concern is why unrecognised regional parties having no representation continue to exist and collect donations ?
- ◆ The ongoing exemption to political party is an open incentive to every money hoarders to hide under the cover by forming a political party

**The seriously interested folk in Government for bringing genuine reform would –**

1. Ban any cash payment of even a rupee to any political party . When we are advocating that our milk man , vegetable vendor, tax driver and so on should be paid digitally so why not Political party who are not even covered under ESSENTIAL SERVICES ACT .
2. Make the income of every political party subject to Income tax provisions with immediate effect like any commercial outfit . At best they can be given liberal deductions for certain valid expenses .
3. The requirement of furnishing annual return of donations with Election Commission, An Independent watch Dog having teeth as well from the constitution of India for political parties before filing Income Tax Return **MUST** be maintained . The position of Election Commission **MUST** be made more independent with irrevocable powers .
4. There **MUST** be a maximum ceiling for any company can donate to political party(s) .
5. Any violation willful or not willful by the political party would empower election commission to cancel the registration of political party .

6. There are several other non fiscal reforms which are also over due for cleansing the electoral system in India .That is not the scope of this article thus they are not dealt with .

Anything lesser than is not going to treat the cancer of corruptions widely rampant in political parties which is a mother of all corruption .

### CONCLUSION -

The proposed amendments for political funding is not well intentioned as it is going to further facilitate the acceptance of donation from anonymous sources by keeping it's details away from the purview of Election Commission .

We have witnessed similar experience during the experiment of demonetisation done with 1.3 billion Indians in one go where political parties grossly abusing the exemption under income tax by acting as one of the big time money changers .

We cannot expect cleansing of corruption from other economic activity sphere when the controller of it has prospered to it's existing powerful position by riding on the road of corruption made of black money from anonymous sources .

There was an urgent need for doing major surgical strike on political funding and what has been given is stale coloured pill not meant for this ailment thus leaving the disease ( Black Money ) to advance to it's next higher critical stage for fulfilling the aspirations of certain select class of people .





**CA. Gopal Nathani**

Email: gnathani@dailytaxreporter.com

## GST Penalty Round- Up

Chapter XIX of the revised GST law deal with the subject of offences and penalties under such law. Section 85 lists down a series of offences and breaches within an offence for charging of penalty. For instance one could be tried for non issue of invoice as well as for issue of incorrect or false invoice. What could term an invoice as 'false' or 'incorrect' would be a matter of debate. The section covers a range of lapses/offences in the course of preparation of invoices, payments of tax and preparation of return apart from several other offences in the course of discharge of obligation for deduction of tax, collection of tax, improper availment or distribution of input credit, failure to obtain registration etc.

It is a settled principle that the omission or commission of the statutory breach is itself the offence. *Amritlakshmi Machine Works v Commissioner of Customs (Imports) 2016 (335) E.L.T. 225 (Bom.)*. Apart from those offences listed in section 85 there could be other forms of omissions or commissions that could come under the purview of section 86 for impose of general penalty upto Rs. 25000/-. Section 86 therefore affords discretion to levy even less that a penalty of Rs. 25000/- unlike section 85 provisions which are stricter and absolute. Let us reflect on section 85 offences resulting in the course of issue of invoices, payment of tax and return preparation.

## Provisions related to Invoice

### Explicit Penalty. S.85

1. Where a taxable person who

- Supplies any goods and/or services without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;
- Issues any invoice or bill without supply of goods and/or services in violation of the provisions of this Act, or the rules made thereunder;
- issues any invoice or document by using the identification number of another taxable person;
- transports any taxable goods without the cover of documents as may be specified in this behalf;
- suppresses his turnover leading to evasion of tax under this Act;

shall be liable to a penalty of ten thousand rupees or an amount equivalent to the tax evaded, whichever is higher.

2. Any person who fails to issue invoice in accordance with the provisions of this Act or rules made thereunder, or fails to account for an invoice in his books of account, shall be liable to a penalty which may extend to twenty five thousand rupees.

## Provisions related to Payment of Tax

1. Where a taxable person who

- Collects any amount as tax but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;
- collects any tax in contravention of the provisions of this Act but fails to pay the same to the credit of the appropriate Government





beyond a period of three months from the date on which such payment becomes due;

- fails to deduct the tax in terms of sub-section (1) of section 46 , or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the credit of the appropriate Government under sub-section (2) thereof, the amount deducted as tax;
- fails to collect tax in terms of section 56 , or collects an amount which is less than the amount required to be collected under the said sub-section, or where he fails to pay to the credit of the appropriate Government, the amount collected as tax.

shall be liable to a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted or short deducted or deducted but not paid to the Government or tax not collected under section 56 or short collected or collected but not paid to the Government, as the case may be, whichever is higher.

2. Any registered taxable person who supplies any goods or services on which any tax has not been paid or short-paid, other than the reason of fraud or any willful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or ten percent of the tax due from such person, whichever is higher.

## Provisions related to Returns

1. Where a taxable person who
  - falsifies or substitutes financial records or produces fake accounts and/or documents or furnishes any false information or return with an

intention to evade payment of tax due under this Act;

shall be liable to a penalty of ten thousand rupees or an amount equivalent to the tax evaded, whichever is higher.

2. Any registered taxable person who fails to furnish the details of outward or inward supplies required under section 32 (viz outward supplies) or section 33 (viz inward supplies), as the case may be, or returns required under section 34 (viz return) or section 40 (viz final return) by the due date shall be liable to pay late fee of one hundred rupees for every day during which such failure continues subject to a maximum of five thousand rupees.
3. Any registered taxable person who fails to furnish the return required under section 39 (viz annual return) by the due date shall be liable to a late fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at a quarter

## General Penalty. S.86

percent of his turnover in the State.

Any person, who contravenes any of the provisions of this Act or any rules made there under for which no explicit penalty is separately provided for in this Act, shall be liable to a penalty which may extend to twenty five thousand rupees

## Exceptions. S. 87

The penalties in section 85 are mandatory and absolute in nature and let this be known that there is no scope for discretion. Hence these are not reducible and do not necessitate any mens rea factor before initiation.

Further as per Section 87, no tax authority shall impose substantial penalties for minor breaches of





tax regulations.

Likewise it is made certain that penalty could not be imposed merely on account of failure to comply with a procedural provision following the Apex Court maxim in *Hindustan Steel Ltd. v. State of Orissa - 1978 (2) E.L.T. (J 159)* that an order imposing penalty for failure to carry out a statutory obligation is the result of a quasi-criminal proceeding, and penalty will not ordinarily be imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest, or acted in conscious disregard of its obligation.

Also in particular, no penalty in respect of any omission or mistake in documentation which is easily rectifiable and obviously made without fraudulent intent or gross negligence shall be greater than necessary to serve merely as a warning.

Further to the above a breach shall be considered a 'minor breach' if the amount of tax involved is less than five thousand rupees. Improper mention of chapter heading numbers, HSN codes, description of inputs etc. could be forms of minor breach instances. Thus breaches howsoever technical they may be in their nature will be subject to penalty unless they are minor i.e. the tax involved is less than Rs.5000.

Thus, penalties for violation in the course of preparation/accounting and issue of invoice and for any violation of payment regulations are more severe than those prescribed in relation to return procedures.

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CA. Sanjeev Singhal

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There are number of returns prescribed under GST law. Different returns are prescribed with due date of filing . We will discuss all provision of various return to be filed one by one.

### Statement of outward Supply [ Section-32]

1. A registered taxable person shall furnish electronic statement of the details of outward supplies of goods and services for the tax period on or before the 10th of succeeding tax period other than the following :

- Input service distributor
- Non resident taxable person
- Taxable person u/s 9 [ Composition Scheme ]
- Person who is deducting at source
- Person collecting tax at source

The “Detail of Outward supplies” shall include invoice, debit notes, credit notes and revised invoices issued during tax period.

2. Every RTP who has been communicated the details under section 33[3] and Section 33[4] by recipient of supplies , can either accept or reject the detail so communicated on or before 17th of the next month following the tax period. The detail furnished by him under point 1 shall stand amended.
3. Every RTP who has furnished the detail under point no.1 and remain unmatched u/s 37 and 38 shall rectify the error and omission and shall pay interest on short payment of tax, if any.
4. No rectification for point no. 1 shall be allowed after furnishing the return u/s 34 for the month of

September following the end of financial year or furnishing the annual return which ever is earlier.

### Return to be filed is GSTR-1

#### **Statement of Inward Supplies [ Section-33]**

1. A registered taxable person shall furnish the detail of inward supplies of goods and services other than the following person including the goods and services under reverse charge basis and goods and services received under IGST. RTP can rectify , modify, add or delete the detail of outward supply furnished under point 1 of Section 32 .

- Input service distributor
- Non resident taxable person
- Taxable person u/s 9 [ Composition Scheme ]
- Returns under Revised GST Law
- Person who is deducting at source
- Person collecting tax at source

Return shall be filed in GSTR -2 after the end of 10th day but before 15th day of the following month from the end of tax period.

2. Every RTP who has furnished the detail under point no.1 and remain unmatched u/s 37 and 38 shall rectify the error and omission and shall pay interest on short payment of tax, if any.
3. No rectification for point no. 1 shall be allowed after furnishing the return u/s 34 for the month of September following the end of financial year or furnishing the annual return which ever is earlier.

### Returns [ Section- 34 ] 1.

1. A registered taxable person shall furnish the





return electronically of inward and outward supplies of goods and / or services , input tax credit, tax payable , tax paid and other particular as may be prescribed other than the following person:

- Input service distributor
- Non resident taxable person
- Taxable person u/s 9 [ Composition Scheme ]
- Person who is deducting at source
- Person collecting tax at source

Return shall be filed in GSTR -3 before the 20th day of the month following the end of tax period.

2. RTP opted to file return under section 9 [ composition scheme ] will furnish GSTR -4 with in 18 days from the end of quarter.
3. RTP who deduct tax at source u/s 46 shall furnish GSTR-7 within 10 days after the end of month.
4. Every RTP registered as Input service distributor shall file GSTR-6 within 13 days from the end of the month.
5. Every non resident taxable person shall furnish GSTR-5 with in 20th day from the end of the calendar month or within 7 days after the last day of validity period of registration which ever is earlier
6. All taxpayer mentioned above shall pay the tax to appropriate Govt. not later than the last day of filing the return.
7. RTP falling under point 1& 2 above will file the return even though there is no supply of goods and/ or services.
8. Subject to the provision of Section 32 and 33, if any taxable person after furnishing return under point no. 1 ,2 and 4 find any error or omission, he

may rectify the omission or error in the return of the month or quarter subject to the payment of interest . But the above error or omission shall not form finding of Audit, Inspection, scrutiny or enforcement . Provided , no rectification shall be allowed after furnishing the return u/s 34 for the month of September following the end of financial year or furnishing the annual return which ever is earlier

#### **First Return [ Section 35 ]**

Every RTP who has made outward supply in the period between the date of liability to date of registration shall file the first return after grant of registration .

#### **Claim of input tax credit and provisional acceptance [ Section 36]**

Every RTP shall claim input tax credit as per the condition and restriction thereof on self assessed basis and take credit in his electronic credit ledger.

The above credit can be utilized against self assessed outward tax liability.

#### **Matching, reversal and reclaim of input tax credit [ Section 37]**

- Every RTP who has furnished inward supply [ recipient ] return shall be matched with return of supplier.
- The credit of input tax shall be matched with the return of outward supply of supplier subject to the provisions of section 16 &17.
- Where ITC is in excess of the tax declare by the supplier in his return , the same shall be communicated to both.
- If there is duplication of ITC same shall be added to outward tax liability.





- If any amount is added to outward tax liability shall also attract interest u/s 45.
- If there is reduction in outward tax liability and interest is also paid on the same, both shall be refunded to his electronic cash ledger.

### Matching, reversal and reclaim of reduction in output tax liability

Credit note issued by supplier of goods and/ or services shall be matched with

- ◇ The corresponding reduction in input tax credit by recipient
- ◇ For duplication of claim for reduction in tax liability
- Above claim will be matched and accepted shall be communicated to supplier and recipient. If outward tax liability found to be excess of reduction in input tax credit shall be informed to both.
- If the discrepancy has not been rectified by recipient in his return within month , the amount shall be added to the outward tax liability of supplier. This addition shall be along with interest u/s 45.
- If the credit note is accepted and corresponding reduction is done by recipient in his return . Interest shall be refunded to supplier .

### Annual Return [ Section 39 ]

1. Every RTP except the following shall furnish annual return on or before 31st December in GSTR –9 following the end of financial year.  
Input service distributor Non resident taxable person Casual Taxable Person who is deducting at source Person collecting tax at source

2. Every RTP who has to get his account audited under Section 53[4] shall furnish the annual return under point no.1 electronically for every financial year along with audited financial statement and reconciliation thereof.

### Final Return [ Section 40]

Every RTP who applied for the cancellation of registration shall file return in GSTR- 10 within three month from the date of cancellation or cancellation order which ever is later.

### 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.





# Gurgaon Branch of NIRC of The Institute of Chartered Accountants of India

## YOGA CLASSES

Tuesday to Friday at 06:30 AM

Sunday at 07:00 AM

### VENUE

Ananda Sangha, 1st Floor,  
Community Centre K- Block, DLF Phase-2, Gurgaon



**YOGA - A WAY TO HEALTHY LIVING**





Seminar on Union Budget 2017



**Topic :** Seminar on Union Budget 2017

**Audience :** Members

**Speaker :** CA. (Dr) Girish Ahuja, CA. Sanjiv Chaudhary, CA Bimal Jain

**Date & Day :** 8th February 2017, Wednesday





**CA Student Seminar on Union Budget 2017**



**Topic : CA Student Seminar on Union Budget 2017**

**Audience : Students**

**Led By : CA. Sanjay K. Agrawal, CA. Amit Rustagi. CA. Lalit Jain**

**Date & Day : 18th February 2017, Saturday**





## Workshop on Overview - Status of GST



**Topic :** Workshop on Overview - Status of GST

**Audience :** Members

**Led By :** CA. Naveen Garg & CA. Ashish Chaudhary

**Date & Day :** 17th February 2017, Friday





**Workshop on “Transition Provision GST related to CENVAT ”**



**Topic :** Workshop on “Transition Provision GST related to CENVAT ”

**Audience :** Members

**Led By :** CA. Chitresh Gupta

**Date & Day :** 25th February 2017, Saturday





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).





### 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

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### ◆ 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](mailto: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_____

### Gurugram Branch Managing Committee for the Session 2017-18

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**Undergoing of Orientation Course (15 days) in lieu of GMCS-I Course by the students registered for articleship training on or after 1st May, 2012 uptill 31<sup>st</sup> December, 2014.**

It has been decided by the Council that the students who were registered for practical training on or after 1st May, 2012 uptill 31<sup>st</sup> December, 2014 after completing Orientation Programme (35 hours) but not completed the GMCS-I course, shall be required to undergo new Orientation Course (15 days) w.e.f. 1<sup>st</sup> January, 2017 in lieu of GMCS-I.

The above students are advised to register at the online portal [www.icaionlineregistration.org](http://www.icaionlineregistration.org) or contact the nearest POU (Programme Organising Unit) for registration in Orientation Course and complete the same at the earliest.

**Director, Board of Studies**

## **Gurugram Branch of NIRC of ICAI**

Plot No-60A, 3rd Floor, Sector-18, Gurugram, Haryana.

Phone : 0124- 4268867 | Email : [icaigurgaon@gmail.com](mailto:icaigurgaon@gmail.com) | Website : [www.icaigurgaon.org](http://www.icaigurgaon.org)

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