



Gurgaon Branch of NIRC Of

The Institute of Chartered Accountants of India
(set up by an Act of Parliament)

CHARTERED ACCOUNTANT



e-NEWSLETTER

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INDIVIDUAL COMMITMENT
TO A GROUP EFFORT- THAT IS WHAT MAKES

- "A TEAM WORK"

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KEY CONTENTS

• Sale in the Course of Export: Implications under CST Act -----	04
• Service Tax On Services Provided By Government -----	06
• Key amendments in accounting standards by Ministry of Corporate Affairs -----	10
• More Rationality for High Credit brought in Rule -6 of Cenvat Credit -----	15
• Masala Bonds - The Local Flavour in Overseas -----	16
• Practical aspects of GST law to be -----	18
• Rules for furnishing the information regarding payment to Non-resident -----	25
• Forthcoming Programmes -----	28

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e-NEWSLETTER

Dear Professional Colleagues,

It's my pleasure to communicate with you once again on behalf of Gurgaon Branch. It is because of the love and mutual respect amongst members of Gurgaon, that we are able to organize various programmes for our members benefits. I would like to focus on conducting quality programmes for enrichment of members, promoting young members in any manner possible and equipping ourselves with best infrastructure.

Our branch is determined and committed to organize workshops and GDs along with seminars for in-depth knowledge on the subject and for discussion on routine practical issues. We have already organized one workshop on International taxation in the month of April, which was a resounding success and have received a huge appreciation in the way of feedback form. One GD has also been organized on Service Tax Return, which has proved to be a successful way of mitigating the practical issues faced by our fellow members while filing the ST return.

A step forward Gurgaon branch has requested for pre- registration for attending seminars and workshops for which we receive a heartwarming response from members.



CA. Naveen Garg
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It's a humble request to all members to make this a practice of pre- registration so that necessary sitting arrangements at the venue can be made.

Apart from this, our branch is going to conduct professional training classes of Post qualification course on Information System Audit (DISA) in the month of June 2016. All interested members are requested to avail this opportunity.

With this, I thank everyone once again for their continuous support and guidance. All feedbacks, suggestions and grievances are always welcome.

With warm regards,

(CA. Naveen Garg)
Chairman



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Dear Professional Colleagues,

It is always been a pleasure interacting with you through this journal and personally. Your continuous guidance and suggestions give us the strength to move forward with a positive attitude.

Here at the Branch, the month of April was slightly lighter as members were generally busy in Bank audit through this month. The action is expected to grow here onwards with multiple seminars on current topics planned through the month of May followed up by DISA course starting June 4th.

Apart this, I would like to highlight that the Gurgaon Branch has several group discount MOUs with major hospitals (Medanta, Fortis, Artemis) where in the members and their dependents can avail specific discounts on OPD/IPD facilities. Further, we are in the process of adding several such MOUs with different service providers and consumer businesses for the general benefit of the members. I, hereby, request to share your views/suggestions on the topic.



CA. Arun Aggarwal
Secretary

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“Good Feedback is the key to Improvement”

We are in the process of creating the system for two way communication with the members. Some of the steps being taken here includes,

- The website is being updated to facilitate easier remission of feedback and suggestion by the members; and
- We have started taking live feedback from the attendants in the seminars which helps us improve on the ingredients of the seminars.

Before concluding, I would like to thank all the members who have contributed their inputs towards this e-newsletter.

Jai Hind!

Thanks,

CA. Arun Aggarwal
Secretary

From Secretary's Desk



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Sale in the Course of Export: Implications under CST Act



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Under CST law, the tax cannot be levied on sale of goods in course of import and export. One should refer to Section 5(1) and 5(2) to understand what constitutes sale in course of export and sale in course of import. Even Article 286 of Constitution of India imposes restriction on levy of tax either on sale in course of export or import by a state government. It is interesting to note that such restriction is only for the state government and not for the union government. However, levy of tax on such sales could result in double taxation of foreign trade. Such exemption is important even to ensure that only goods are exported and not the taxes. Even on imports, principle is to impose import duties and not sales tax. Let us understand the important concepts in sale in course of import and export transactions.

◆ What is Sale in course of export

As per Section 5(1), Sale is deemed to be in course of export only in case of following:

- A) The sale occasions export
- B) The sale is effected by a transfer of documents of title to goods after goods have crossed the customs frontiers of India

In addition to this, even last sale or penultimate sale to export would be treated as sale in course of export. However, for this purpose the seller should submit Form H with the tax department obtained from buying dealer (generally termed as 'Merchant Exporter').

Relevance of crossing the customs frontiers

Section 2(ab) of the Act states that 'crossing the customs frontiers of India' means crossing the limits of customs area station in which goods imported or for exports are ordinarily

kept before clearance by customs authorities. It is important to note that the goods should be meant for foreign destination to be treated as sale in course of export. Based on this logic, there are decisions of Supreme Court wherein it has been held that sale of food to aircraft/vessels would not be treated as sale in course of export. However, sale of goods to a buyer in India who ultimately takes goods outside India cannot be treated as in course of export. But the same would be treated as sale inside the state or inter-state sale.

Penultimate sale would be considered as in course of export

The last sale or penultimate sale would be exempt from CST as the same is treated as in course of export. However, such penultimate sale must take place after an agreement/order under which goods are to be exported out of India and such penultimate sale is for the purpose of complying with such export agreement/order. These conditions are specified by Supreme Court in case of *State of Karnataka vs. Azad Coach Builders in 2006*. If such sale is prior to agreement,



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Sale in the Course of Export: Implications under CST Act

then the same would not be treated as penultimate sale.

In addition to this, goods are to be exported in same form as sold in penultimate sale. However, activities like cleaning, freezing before export would not change the form of goods. Similarly roasting of coffee seeds do not results in change in form. It is essential that the identity of goods procured under penultimate sale do not lose the identity to be eligible for exemption from CST under Section 5(3). The packing materials used for packing or use as containers would also be eligible for the exemption unless there is change in form.

However, having Form H for the purpose of exemption is very important. Such Form should contain all necessary details like description of goods, quantity, name etc.

What is Sale in course of import

As per Section 5(2), a sale is deemed to be in course of import of the goods into the territory of India in case of following:

- A) The sale occasions such import
- B) The sale is effected by a transfer of documents of title to goods before the goods have crossed the customs frontiers of India (Usually termed as High sea sale)

Direct imports are exempted from levy of central sales tax. Such imports could be even through agents which quite common. However, if the goods are imported by the agents and sold to customer in India wherein the two sales are integrated or inter-linked so as to form one transaction, the same could be considered as sale in course of import. Accordingly, sale by the agent to customer would be eligible for exemption.

Is Privity of contract must?

In case of High sea sale, to treat a transaction as a sale in course of import, there should be privity of contract entitling each other to sue one another between actual buyer of goods in India and the foreign supplier. This is confirmed even by High Courts on many occasions.

Relevance of crossing the customs frontiers

It is important to note that to treat a sale as in course of import by a way of transfer of documents of title, such transfer must have completed before the goods cross the customs frontiers.

As explained, customs frontiers mean area where the imported goods are kept before clearance by customs authorities. Therefore, sale by way of transfer of documents of title even when goods are in customs bonded warehouse could be treated as sale in course of import. However, this view would be proper only when the custom bonded warehouse could be held as customs frontiers. The Supreme Court in case of *Kiran Spinning Mills Vs. CC 1999 (113) E.L.T. 753 (S.C.)* has held that the goods would not be considered to be crossed the customs barriers if they are in bonded warehouse.

Conclusion: One could avoid payment of local sales tax/CST with proper planning under the high sea sale mode. Having a contract which clearly stipulates the terms, rights and obligations of the parties to contract is absolute must. The high sea sale buyer should also ensure that the declaration for goods valuation under Rule 11 of Customs Valuation provisions is filed by him including filing bill of entry. These precautions would prove handy and avoid unwarranted disputes.



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SERVICE TAX ON SERVICES PROVIDED BY GOVERNMENT OR A LOCAL AUTHORITY TO BUSINESS ENTITY



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Effective from April 1, 2016, under clause (iv) of Section 66D (a) of the Finance Act, 1994 ("the Finance Act"), the words 'support services' have been substituted by the words 'any service' thereby, any services provided by the Government or Local authority to a Business Entity [Section 109(1) of the Finance Act, 2015 read with Notification No. 06/2016-ST dated February 18, 2016] is made chargeable to Service tax.

However, the services provided by Government or Local authority to a Business Entity having turnover up to Rs. 10 lakh in the preceding Financial Year remains exempt [New entry No. 48 inserted in the Mega Exemption Notification No. 25/2012- ST dated June 20, 2012 vide Notification No. 07/2016 -ST dated February 18, 2016].

Amendment in the Reverse Charge Notification: The Union Budget, 2016 vide Notification No. 18/2016-ST dated March 1, 2016, has amended Reverse Charge Notification No. 30/2012-ST dated June 20, 2012, to delete the words "by way of support services" appearing at Sl. No. 6 of the Table in the said notification with effect from April 1, 2016.

Therefore, effective from April 1, 2016, the liability to pay Service tax on any service provided by Government or a Local Authority to Business Entities is on the service recipient under Reverse Charge except in case of (1) renting of immovable property, and (2) services specified in sub-clauses (i), (ii) and (iii) of clause (a) of Section 66D of the Finance Act.

However, it may be noted that the words "ANY SERVICE Provided by the Government or Local Authority" to business entity is having wide ramifications given that the term "Service" defined under section 65B(44) is exhaustive enough to cover any activity carried out by any person for another for consideration. Hence, there are lot of apprehensions among the professionals and trade & Industry regarding the exact scope of the levy.

In order to clear the confusion, the CBEC on April 13, 2016, has issued the following important Notifications/ clarification to limit the scope of the Governmental services, which have been brought to Service tax under Reverse Charge w.e.f. April 1, 2016:

Type of Amendment/ clarification	Notification/ Circular No.	Particulars
Amendment in the Mega Exemption Notification	Notification No. 22/2016-ST dated April 13, 2016	Amendment in the Mega Exemption Notification to exempt certain services provided by Government or a local authority to a Business entity (Explained in the later part of the Article)
Amendment in Service Tax (Determination of Value) Rules, 2006	Notification No. 23/2016-ST dated April 13, 2016	Proviso inserted in Rule 6(2)(iv) of the Service Tax (Determination of Value) Rules, 2006, to include in value of taxable services, payment of interest/ other consideration payable on Governmental services whose payment is allowed to be deferred on such payment of interest/ other consideration
Amendment in Point of Taxation Rules, 2011	Notification No. 24/2016-ST dated April 13, 2016	Rule 7 of the Point of Taxation Rules, 2011 amended to provide that in case of services provided by the Government or local authority to any business entity, the POT shall be the earlier of the dates on which, - (a) <u>Any payment, part or full</u> , in respect of such service <u>becomes due</u> , as specified in the invoice, bill, challan or any other document issued by the Government or local authority, demanding such payment; or (b) <u>Payment</u> for such services is made.
Amendment in Cenvat Credit Rules, 2004	Notification No. 24/2016 CE (IT) dated April 13, 2016	Rule 4(7) of the Cenvat Credit Rules, 2004, amended to provide that the Cenvat credit of Service tax paid in a financial year, on the one-time charges payable in full upfront or in instalments, for the service of assignment of the right to use any natural resource by the Government, local authority or any other person, shall be <u>spread evenly over a period of 3 years</u> . Further, time limit of 1 year for availment of Cenvat credit on Input services is not applicable in case of services provided by Government, local authority or any other person, by way of assignment of right to use any natural resource.
Clarification Issued by TRU on Service Tax on Services provided by the Government	Circular No. 192/02/2016-ST dated April 13, 2016	Clarification on taxability of Governmental services & Illustration explaining how the Cenvat credit is to be availed on Service tax paid for assignment of right to use natural resources. The Circular covers clarification on the amendments made in the Mega Exemption Notification and also provides that taxes, cesses or duties levied are not consideration for any particular service as such and hence not leviable to Service tax. These taxes, cesses or duties include excise duty, customs duty, Service Tax, State VAT, CST, income tax, wealth tax, stamp duty, taxes on professions, trades, callings or employment, octroi, entertainment tax, luxury tax and property tax...."



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SERVICE TAX ON SERVICES PROVIDED BY GOVERNMENT OR A LOCAL AUTHORITY TO BUSINESS ENTITY

Amendment in the Mega Exemption Notification to exempt certain services provided by Government or a local authority to a Business entity
In order to put rest to the confusion on the taxability of all Governmental services, the CBEC vide Notification No. 22/2016-ST dated April 13, 2016, has amended the Mega Exemption Notification to amend/insert the Entries in the following manner:

Relevant Entry	Particulars of Exemption
	Exemption Amended
Entry No. 39	After the words "Services by, the words "Government, a local authority or" shall be inserted. The amended Entry No. 39 reads as under: "Services by <u>Government, a local authority or governmental authority</u> by way of any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution."
	New Exemptions Provided
Entry No. 54	Services provided by Government or a local authority <u>to another Government or local authority</u> . Provided that nothing contained in this Entry shall apply to services specified in sub-clauses (i),(ii) and (iii) of Section 66D(a) of the Finance Act
Entry No. 55	Services provided by Government or a local authority by way of <u>issuance of passport, visa, driving license, birth certificate or death certificate</u>
Entry No. 56	Services provided by Government or a local authority where <u>the gross amount charged for such services does not exceed Rs. 5000/-</u> . This exemption is not applicable to services specified in sub-clauses (i), (ii) and (iii) of Section 66D(a) of the Finance Act; In case of continuous supply of service, the exemption shall apply only where the gross amount charged for such service does not exceed Rs. 5000/- in a Financial Year.
Entry No. 57	Services provided by Government or a local authority by way of <u>tolerating non-performance of a contract</u> for which consideration in the form of fines or liquidated damages is payable to the Government or the local authority under such contract
Entry No. 58	Services provided by Government or a local authority by way of- (a) <u>registration required under any law</u> for the time being in force; (b) <u>testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, required under any law</u> for the time being in force
Entry No. 59	Services provided by Government or a local authority by way of <u>assignment of right to use natural resources to an individual farmer</u> for the purposes of agriculture
Entry No. 60	Services by Government, a local authority or a governmental authority by way of any <u>activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution</u>
Entry No. 61	Services provided by Government or a local authority by way of <u>assignment of right to use any natural resource where such right to use was assigned by the Government or the local authority before the April 1, 2016</u> . Provided that the exemption shall <u>only to Service tax payable on one time charge payable</u> , in full upfront or in installments, for assignment of right to use such natural resource
Entry No. 62	Services provided by Government or a local authority by way of allowing a business entity <u>to operate as a telecom service provider or use radio frequency spectrum during the financial year 2015-16</u> on payment of license fee or spectrum user charges, as the case may be
Entry No. 63	Services provided by Government by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to <u>import export cargo on payment of Merchant Overtime charges (MOT)</u> .

Conclusion: Although, the Government has made an effort to bring clarity with respect to the scope of Government Service being liable to Service Tax. However the ambiguity on the actual scope of service rendered by Government to Business entities, still prevails. The fate of various services provided by Government is still not clear. Instances of such services are ESI Inspection charges, PF administration charges, ROC Additional Form Filing fees etc.



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GLIMPSES - Student Seminar on Service Tax Return

Topic :

Service Tax Return

Audience :

Students

Guest Speaker :

CA. ASHISH CHAUDHARY
CA. RANJNI RAO ACHARYA

Date & Day :

14th APRIL 2016,
Thursday



Gurgaon Chartered Accountants, a newsletter owned by Gurgaon 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 Gurgaon Branch of NIRC of ICAI and the branch does not take any responsibility of views expressed by contributors. Gurgaon 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.



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DISA Course being Started at Gurgaon Branch

Gurgaon Branch of NIRC of ICAI is going to conduct Professional Training classes of Post Qualification Course on Information Systems Audit as scheduled by Committee of Information Technology of ICAI from 4th June 2016.

Please register yourself as earlier as possible to take the benefit of this opportunity. Limited seats are available.


Fee Schedule are as follow:

Course fees of Rs.17,500/- (For members who have completed five years of ICAI membership as on date) & Rs. 12,500/- (For members who have not completed five years of ICAI membership as on date)

Please visit website <http://cit.icaai.org> for online registration and payment.

Please also note that members have to mandatory complete 18 hours of e-learning of Module-1 & 2 available at the website <http://cit.icaai.org> before joining the classes. For other details please visit Information Technology Committee of ICAI's website <http://cit.icaai.org>.

For any query or clarification please call CA. Manish Goyal-9910812727 (Treasurer, Gurgaon Branch).



Enrollment Form For PT Classes

Disclaimer :

1. Please enter your ISA number and click on Fill Data button. If you don't have isa number please do not fill the form.
2. To expedite the registration process, member can make online payment through the link [ISA Registration form](#).
3. Please enter your Date of Birth.

Venue	Hotel Leisure Inn, Old Delhi Road, Gurgaon		
Start From	04-Jun-2016	End Date	17-Jul-2016
ISA No	<input type="text"/>	<input type="button" value="Fill Data"/>	
Mem. No	<input type="text"/>		
Name	<input type="text"/>		
Gender	Male ▾	DOB	<input type="text"/> (eg. 12-Jan-14)
Mobile	<input type="text"/>	Phone	<input type="text"/>
Email	<input type="text"/>		
<input type="button" value="Submit"/>			
Get Current Status			
Enter Membership No	:	<input type="text"/>	
<input type="button" value="Check Status"/>			



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Key amendments in Accounting Standards by Ministry of Corporate Affairs



CA. Joy Kumar Jain

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The Ministry of Company Affairs had published certain draft revised Accounting Standards and Indian Accounting Standards for comments on 16 February 2016.

The MCA has now notified final amendments/ revisions to Accounting Standards and Indian Accounting Standards on 30th March 2016 and such amendments/revisions have become effective from that date. It appears that no changes have been made by the MCA between the and final notifications.

In my opinion, since the amendments/revisions to Accounting Standards will be applicable for the year ended 31 March 2016 and later and hence will affect the financial statements of all companies for the year ended 31 March 2016 and later.

The revised Indian Accounting Standards provided for deferral of Ind-AS 115, Revenue from Contracts with Customers, to accounting periods beginning on or after 1 April 2018 and hence include corresponding converged versions of IAS 18, Revenue (Ind-AS 18), and IAS 11, Construction Contracts (Ind AS 11), with consequent amendments to other Indian Accounting Standards as well as certain other amendments to various Ind-ASs based on recent amends to IFRS.

This is a welcome step as it harmonizes the implementation of Ind-AS 115, Revenue from Contracts with Customers, with the implementation of IFRS 15 in rest of the world and provides necessary time to Indian corporates to understand and implement the standard better.

On the other hand, certain accounting standards contained in The Companies (Accounting Standards) Rules, 2006 have been revised considering the provisions of the Companies Act 2013 and certain other changes.

Accounting Standards that have been revised are AS 2 -Valuation of Inventories, AS 4 - Contingencies and Events occurring after the Balance Sheet Date, AS 10 - Accounting for Fixed Assets, AS 13 - Accounting for Investments, AS 14 - Accounting for Amalgamations, AS 21 - Consolidated Financial Statements, and AS 29 - Provisions, Contingent Liabilities and Contingent Assets.

AS 10 has been renamed as "Property, Plant and Equipment" and includes accounting for depreciation as well. Hence AS 6 - Depreciation Accounting, is proposed to be omitted.

Considering that Indian Accounting Standards become mandatory for certain companies for accounting periods beginning on or after 1 April 2016, I expect that the revised Indian Account Standards and revised Accounting Standards shall also become mandatory from accounting periods beginning on or after 1 April 2016.

There are a number of amendments in the accounting standards that are likely to impact a number of companies.

This note covers only the key amendments.

AS 10 - Property, Plant and Equipment

AS 10 (Revised) has now been aligned more closely to Ind-AS 1

Firstly, the scope of AS 10 has been extended to include (i) biological assets except those related to agricultural activity other than bearer plants, and (ii) expenditure on real estate development - both of which were specifically excluded from the scope of current AS 10. Spare parts, which meet the definition of property, plant and equipment are also now specifically covered under the standard.

Secondly, AS 10 now proposes Companies to follow either the Cost model or the Revaluation model in accounting for fixed assets.

Cost model provides for Companies to account for its fixed assets at cost less accumulated depreciation.



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Key amendments in Accounting Standards by Ministry of Corporate Affairs

Revaluation model provides for Companies to account for all or a class of fixed assets to be accounted for at revalued values less subsequent accumulated depreciation.

The key differences between provisions on revaluation as contained in the existing AS 10- Accounting for Fixed Assets and the AS 10- Property, Plant and Equipment, are that

- While the current AS 10 provided for revaluation of assets selected on a systematic basis or an entire class of assets, the AS 10 provides for revaluation of an entire class of fixed assets only; and
- While the current AS 10 does not provide for any need for regular revaluations or any periodicity thereof, the AS 10 provides that revaluations should be made with sufficient regularity to ensure that the carrying amount does not differ materially from that which would be determined using fair value at the balance sheet date.

However, more importantly, it is the transition provision in the AS 10 which is of key concern and is likely to cause difficulties to some companies wishing to follow the Cost model.

The transition provision in AS 10 provides that while the Revaluation Model shall be applied prospectively, in case a Company adopts the Cost model and has previously revalued fixed assets, it shall adjust the amount of revaluation reserve against respective items of revalued fixed assets. This would effectively mean restating the fixed assets at their historical costs less depreciation and also significantly impact the net worth of such companies.

Thirdly, the AS 10 provides that a change in useful life of fixed assets or a change in method of calculating depreciation, should be accounted for in accordance with AS 5 - Net Profit or Loss for the Period, Prior period Items and Changes in Accounting Policies i.e. as a change in accounting estimate. AS 10 further provides that companies should carry out an annual review of the depreciation method, useful life and residual value of fixed assets and if expectations differ from earlier estimates/ method,

Fourthly, the AS 10 now specifically provides for component accounting of fixed assets i.e. various components of fixed assets should be recorded separately and also depreciated separately based on respective useful lives. This is also in accordance with the requirements of Schedule II to the Companies Act 2013. It also provides that when such a component of a fixed asset is replaced, the cost of replacement should be capitalized and the cost of the part replaced is derecognized.

Fifthly, the AS 10 now covers specifically the accounting of

- i. Any compensation received in respect of fixed assets that were impaired, lost or given up; and
- ii. Decommissioning, restoration and similar liabilities, which are now to be capitalized along with other costs of bring the fixed asset to its present condition and location.
- iii. Accounting for changes in liabilities, price adjustments, changes in duties, and changes in initial estimates of costs of dismantling, removal, restoration and other similar factors, included in the cost of fixed asset.

Sixthly, the AS 10 also specifies that costs of any major replacement of parts of a fixed asset which are required at regular intervals (e.g. seats of an aircraft or parts of a conveyor system) and any major inspection/overhaul of a fixed asset required on a regular basis, should be capitalized. In such a case the balance cost of such an item already existing in the books should be decapitalized.

Seventh, AS 10 clearly specifies that in case of deferred payment (i.e. beyond the normal credit terms) of cost of a fixed asset, the asset should be capitalized at its cash value and the difference between the purchase price and its cash value should be expensed as interest cost over the credit period unless such interest can be capitalized in accordance with AS 16.

Eighth, AS 10 now specifies that in case of a fixed asset acquired in a non-monetary exchange of assets, the fixed asset acquired should be accounted for at its fair value unless its fair value cannot be estimated. In such a case, it shall be accounted for at the carrying value of the asset given up.



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Key amendments in Accounting Standards by Ministry of Corporate Affairs

Lastly, the AS 10 now allows costs incurred during construction period, to be capitalized on a project basis rather than individual fixed assets basis.

This includes capitalization of assets under "unit of measure" approach where items which could not be capitalized earlier on account of lack of control (e.g. a road constructed on government land to connect the factory to the main road), can now be capitalized as a part of the project.

The transition provision provides that any costs which could have been capitalized under this standard but have been expensed earlier, may be capitalized retrospectively and the effect of such retrospective capitalization be accounted for on a net-of-tax basis in revenue reserves.

AS 29 - Provisions, Contingent Liabilities and Contingent Assets

Paragraph 35 of the standard dealing with measurement of provisions/liabilities has been amended to now provide for discounting of provisions to their present value in case of decommissioning, restoration or other similar liabilities that are recognized as cost of Property, Plant and Equipment. The discounting is not applicable to other liabilities and provisions.

The standard provides that decommissioning, restoration or other similar liabilities (also known as "Asset Retirement Obligations") that are recognized as cost of Property, Plant and Equipment, should be discounted to their present value using pre-tax discount rate that reflects the time value of money and risks specific to that liability.

Further, periodic unwinding of the discount should be taken to the Statement of profit and Loss.

Most importantly, the transitional provision provides that all the existing provisions for decommissioning, restoration and other similar liabilities should be discounted prospectively with the corresponding effect to related item of property, and equipment.

Most importantly, the transitional provision provides that all the existing provisions for decommissioning, restoration and other similar liabilities should be discounted prospectively with the corresponding effect to related item of property, and equipment.

This transitional provision will require a number of companies who have already created Asset Retirement obligations to discount such provisions to their present values on the day the standard becomes effective and to adjust such discounting in the respective values of property, plant and equipment. This could also cause significant difficulties to many companies who may have created such provisions on a large number of items.

The standard does not cover change in estimate of Asset Retirement Obligations. The provisions regarding such change are covered in AS 10 (Revised).

AS 3 - Valuation of Inventories

The only changes in the AS 3 appears to be that of disclosure and capital spares. The standard now specifies disclosure of carrying amounts also for stock in trade (in respect of goods acquired for trading) and Others, apart from disclosure of carrying amount of classes of inventories already specified in the current Standard. As regards capital spares, the Standard states that capital spares shall be capitalized and depreciated, if such spares meet the definition of Property, Plant and Equipment in terms of AS 10.

AS 4 - Contingencies and Events Occurring after the Balance Sheet Date

The AS 4 now provides that if any dividend is proposed subsequent to the balance sheet, such dividend should not be accounted for in the balance sheet but should be disclosed in the notes to accounts.

This amendment is conformity with the requirements of the Companies Act, 2013 which do not require proposed dividend to be accounted for in the balance sheet.



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Key amendments in Accounting Standards by Ministry of Corporate Affairs

AS 13 - Accounting for Investments

The only change in AS 13 appears to be is that of the carrying amount of investment properties. The standard now specifies that investment properties should be accounted for in accordance with the cost model prescribed in AS 10 - Properties, Plant & Equipment.

Accordingly, the investment properties would also need to be depreciated in accordance with AS 10. The Current standard prescribes that investment properties should be accounted for as long term investments.

AS 14 - Accounting for Amalgamations

The definition of amalgamation has now been expanded to include "merger". However, this appears to be clarificatory in nature.

The only other change in AS 14 appears to be that paragraphs 23 and 42 which provide for treatment of reserves specified in a scheme of amalgamation, shall not apply to any scheme of amalgamation approved under the Companies Act, 2013.

This means that once the relevant provisions under the Companies Act, 2013 regarding amalgamation and restructuring of companies are notified, companies will no longer be able to follow a different accounting treatment for the amalgamation, other than that specified in the standard.

This change will not impact listed entities since SEBI regulations already require compliance with accounting standards in case of an amalgamation.

AS 21 - Consolidated Financial Statements

The only change in AS 21 appears to be that it provides for preparation of consolidated financial statements in case accompany does not have subsidiaries but has associates or joint ventures. Such consolidated financial statements should be prepared in accordance with AS 23 - Accounting for Associates in consolidated Financial Statements, and AS 27 - Financial Reporting of Interests in Joint Ventures, respectively.

This amendment is in conformity with the requirements of the Companies Act, 2013 which had already mandated for preparation of consolidated financial statements in case accompany does not have subsidiaries but has associates or joint ventures.



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GLIMPSES - Workshop on International Taxation

Topic :

International Taxation

Audience :

Members

Guest Speaker :

CA. KAPIL GOEL

CA. NITIN KANWAR

Date & Day :

15th APRIL 2016,

Friday





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More Rationality For High Credit Brought In Rule -6 Of Cenvat Credit Rule, 2004



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Rule -6(1)

Rule is amended to provide that CENVAT Credit shall not be available on input used for manufacture of exempted goods and input used for exempted services. Rule further direct that procedure for calculation of credit not allowed is stated in sub rule (2) and (3) for different situation.

Rule - 6(2)

The manufacturer who exclusively manufacture exempted goods or service provider who provides only exempted services only , shall pay or reverse the entire credit and will not be entitle for CENVAT credit on input and input services.

Rule - 6(3)

When manufacturer , manufacture exempted as well taxable goods or provide taxable as well as exempted services, then the manufacturer or provider of services have one of the two option mentioned below ;

- a) pay an amount equal to 6% of value of the exempted goods and 7% of value of the exempted services, subject to a maximum of the total credit taken.
- b) pay an amount as determined under sub-rule (3A);

Provided that the amount paid in the first option shall not exceed the credit taken.

Rule -6 (3A)

Rule is amended to provide the condition and procedure for availing the credit allowed & credit disallowed and prescribed for such credit not allowed shall be paid, provisionally for each month.

- (a) No credit of inputs or input services used exclusively in manufacture of exempted goods or for provision of exempted services shall be available;
- (b) Full credit of input or input services used exclusively in final products except exempted goods or output services except exempted services shall be available;
- (c) Credit left thereafter is **common credit** and shall be attributed towards exempted goods and exempted services by multiplying the common credit with the ratio of value of exempted goods manufactured or exempted services provided to the total turnover of exempted and non-exempted goods and exempted and non-exempted services in the previous financial year;

(d) Final reconciliation and adjustments are provided for after close of financial year by 30th June of the succeeding financial year, as provided in the existing rule;

Existing Rule:

On or before 30th June of the subsequent year , person who opt under Rule -6(3A) shall calculate the CENVAT credit allowed and disallowed and make the payment of Credit disallowed by doing reversal of CENVAT or making payment, if the credit is not available. Calculation of actual credit disallowed shall be in same manner as discussed in condition -c above, as per the actual figures of financial year.

The difference of shortfall of the two i.e. provisional reversal and actual disallowed shall be reversed or paid by 30th June of the subsequent year. Alternatively excess provisional reversal shall be by taking credit .Thereafter the payment shall be made along with the interest .

Example :

TOTAL CENVAT - Rs. 100

CENVAT on exempted goods - Rs. 10

CENVAT on exempted services- Rs. 10

CENVAT on Taxable goods and Taxable Services- Rs 40

Common CENVAT on taxable goods and exempted goods and taxable services and exempted services - Rs. 40

Exempted goods Rs.1000

Taxable goods Rs. 6000

Taxable services Rs. 2000

Exempted Services Rs. 1000

CENVAT to be reversed or paid shall be Rs. 8 out of Rs. 40 of total Common CENVAT . CENVAT of Rs. 10 for exempted goods and Rs. 10 for exempted services will not be availed. In other word total eligible CENVAT shall be Rs.80 , 72 shall be allowed and Rs. 8 shall be disallowed.

Rule - 6 (3AA)

New Sub rule is being inserted to provide that a manufacturer or a provider of output service who has failed to follow the procedure of giving prior intimation, may be allowed by a Central Excise officer, competent to adjudicate such case, to follow the procedure and pay the amount prescribed subject to payment of interest calculated at the rate of 15% per annum

Rule - 6(3AB)

New sub rule is being inserted as transitional provision to provide that the existing Rule 6 of the Credit Rules would continue to be in operation up to 30.06.2016, for the units who are required to discharge the obligation in respect of financial year 2015-16;

Explanation - 3 & 4 is being inserted in Rule 6(1)

Provide for reversal of Cenvat credit on inputs/input services those have been commonly used in providing taxable output service and an activity which is not a "service" under the Finance Act;

Sub Rule 4

Provide that where the capital goods are used for the manufacture of exempted goods or provision of exempted service for two years from the date of commencement of commercial production or provision of service, no Cenvat credit shall be allowed on such capital goods. Similar provision is being made for capital goods installed after the date of commencement of commercial production or provision of service



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Masala Bonds - The Local Flavour in Overseas



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Overview

'Masala Bonds' refers to Rupee Denominated Bonds issued in Overseas Markets. The nomenclature 'Masala Bond' was assigned by International Finance Corporation (IFC), the Investment arm of World Bank, to give Indian flavor to their Rs. 1000 cr Rupee Denominated Bonds issued Overseas in November 2014. The name 'Masala bond' has since then been in vogue and is often used to refer to Rupee Denominated Bonds issued Overseas.

Regulatory Framework:-

Considering the favorable market response to Masala Bond issues of IFC and Asian Development Bank (ADB); Reserve Bank of India (RBI) in September 2015 came up with Regulatory Framework for Issuance of Rupee Denominated Bonds Overseas. Certain amendments were made to the framework in April 2016.

As per the regulations, any Indian Corporate/Body Corporate, REIT (Real Estate Investment Trust), Infrastructure Investment Trusts (InvIT) is permitted to issue Rupee Denominated Bonds in an FATF (Financial Action Task Force) member Country

subject to ceiling of INR 50 billion per Borrower during a financial year under automatic route. Borrowing beyond INR 50 bn would require prior approval of RBI.

Further, the aggregate ceiling limit for Masala Bonds shall be within aggregate limit (Rs. 2443.23 billion) of foreign investment permitted in Indian Corporate debt.

Currently, Indian Banks, Limited Liability Partnerships (LLPs) and Partnership Firms are not permitted to issue 'Masala Bonds'; though Indian Banks can act as arranger/underwriters for such bond issues subject to condition that they cannot hold more than 5 percent of the issue size beyond 6 months from the date of issue.

As for stipulations w.r.t. terms of bond issue,

- i) The bonds shall be of minimum average maturity of three years and cannot have any prepayment option before completing the applicable maturity.
- ii) Such bonds can be privately placed or listed as per host country regulations.
- iii) The foreign currency-Rupee conversion will be at the market rate on the date of settlement of transactions for issue and servicing of the bonds.

Further, the proceeds from the bonds can be used for all purposes except for:-

- i) Real estate activities other than for development of integrated township / affordable housing projects (as per extant FDI policy);
- ii) Investing in capital market and using the proceeds for equity investment domestically;
- iii) Activities prohibited as per the Foreign Direct Investment (FDI) guidelines;
- iv) On-lending to other entities for any of the above objectives; and
- v) Purchase of land.



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Reporting Requirements

The process of issuance/servicing of such bonds requires dual reporting by the issuer through its Authorized Dealer (AD) Category-I bank:

- i) Bonds are issued only after obtaining Loan Registration Number (LRN) from the Reserve Bank. The reporting through ECB 2 Return is also required.
- ii) In addition, actual inflows / outflows (principal only) have to be reported on the date of transaction itself by email along with related LRN.

Opportunities & Impact Analysis

Masala bonds currently offers a new funding avenue (along with Rupee Term Debt from Banks/FIs & domestic bonds) to Indian borrowers for raising long term debt facility. With Domestic banks grappling with Asset Liability Maturity (ALM) mismatches to fund capital/infrastructure projects; Masala Bonds Issues taps International Capital Markets to raise long term funding.

Unlike ECB or Dollar Denominated bonds; Masala Bond Issuer are not exposed to the exchange fluctuation risk; the risk is borne by the Investor (though Investor are permitted to hedge the risk with derivate products of AD Category -1 banks in India or through branches/subsidiaries of Indian banks abroad).

Accordingly,

Issuer does not carry un-hedged exposure in its books.

Overseas Investors by subscribing to Masala Bonds can take benefit of higher interest rates. The yield offered on Masala bonds may be higher vis-à-vis ECBs on account of forex risk to investor (IFC Masala bond issue was at yield of 6.3%). It is herein to be noted that, the interest income to offshore investor shall be subject to 5% withholding tax (at par with that of ECBs).

Conclusions

With clarity on tax structure and RBI framework in place, many reputed Indian Companies viz. Housing Development Finance Corporation (HDFC), National Thermal Power Corporation (NTPC), Indian Railways Finance Corporation (IRFC) have lined up big plans for issuance of Masala Bonds.

On a cautionary note, the success of forthcoming Masala bonds shall be dependent upon creditworthiness of Bond Issuer, forex outlook and macro economic factors. Also, the overseas market for Rupee Denominated bond issuance is at a nascent stage. Only reputed borrowers with high creditworthiness are expected to get a warm response to their bond issuance. If these proposed issues are successful, this will in turn strengthen the Rupee as currency at global level.



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Practical aspects of GST law to be



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Introduction

GST is a Goods and Service Tax based on consumption. The law will require all businesses to register for GST with Central government as well as state government simultaneously.

Essentially a GST registered business can offset GST paid by the business against GST charged on supplies to that business. GST is charged on the value added at each stage of the supply chain. The consumer is at the end of the supply chain and therefore cannot recover the GST. In addition, GST is charged when a sale is made and not when payment is received and is payable to the Government monthly. GST is a major difference from the present sales and service tax in India. Some very small businesses will be exempt from registration.

In the forgoing provisions of this article we will try to discuss in a concise manner all the important wings of GST which will include Levy, Rate of tax, Returns, Refunds, Input tax credit, Provisions relating to place and time of supply.

2. Chargeability

Conditions for charging GST on any transaction:-

- 2.1 Supply of Goods and/or Services;
- 2.2 Supply will include sale, transfer, barter, exchange, license, rental, lease or disposal, and importation of services;
- 2.3 Made or agreed to be made

- 2.4 For a consideration
- 2.5 By a person
- 2.6 In the course of business

It is amply clear that if any of the above conditions are not satisfied then GST would not be chargeable on the underlying transaction.

However there are certain transactions specified in Schedule I, which are which will always be treated a supply.

3. Time of payment of GST

Determination of time of supply will be very important criteria to determine the liability of an entity for payment of tax. In the below mentioned tables we have summarized the entire provision with regard to time of goods and services both.

3.1 Time of place of goods

S. no.	Situation
(a)	Where goods are removed by supplier (in case goods are required to be removed) or Where goods are made available to Buyer (in case goods are not required to be removed)
(b)	Date on which supplier issues invoice
(c)	Date on which supplier receives the payment
(d)	Date on which buyer shows goods in his books

3.2 Time of place of services

S. no.	Situation	Time of Supply of Services
(a)	Where the due date of payment is ascertainable from the contract	date on which the payment is liable to be made by the service receiver
(b)	due date of payment is not ascertainable from the contract	Earlier of: Receipt of Payment, or Issues of an invoice
(c)	payment is linked to the completion of an event	time of completion of that event



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Practical aspects of GST law to be

4. Place of supply

Determination of place of supply will be very important criteria to determine the liability of an entity for payment of tax. In the below mentioned tables we have summarized the entire provision with regard to place of goods and services both.

4.1 Place of supply of Goods

Rule	Condition	Place of Supply
Distance supply	Goods are supplied to a buyer located in another State; and Supplier arranges the transport of goods.	Location at which the goods are delivered to the receiver
No movement of goods	Supply does not involve the movement of goods	Location of such goods at the time of the delivery to the receiver
Assembly and installation	When the goods are assembled or installed at site	Location of such installation or assembly.
Goods supplied on transportation vehicle	Where the goods are supplied on board a conveyance	Location at which such goods are taken on board.
General Rule	Supply of goods involves the movement of goods from one State to another	Interstate supply of goods
	Supply of Goods within the same State	Intra state supply of goods

4.2 Place of supply of services

Rule	Place of supply
Immovable property services	location of immovable property
restaurant services and grooming services	location where the services are actually performed.
Event based services	Location of event
Goods transportation services	Goods transported to registered person: Location of service receiver
	Goods transported to un-registered person: Location at which goods are handed over.
Passenger transportation services	Point of embarkation known : Location of embarkation
	Point of embarkation not known and service rendered to a registered person – Location of service receiver.
	Point of embarkation not known and service rendered to unregistered person – Location of service provider.
Services during journey	location of the point of departure of that conveyance for the journey.
Telecommunication services	In case of fixed lines : Location where such fixed lines/connections are installed
	In case of post paid services : Registered address of service receiver on records of service provider
	In case of pre paid services: Place where payment has been made.
Banking and other financial services	Service linked to the account of receiver : Location of service receiver
	Service not linked to the account of receiver : Location of service provider
Insurance service	Location of service receiver
General insurance services	Location of immovable property
Advertisement services to Government or Government bodies	Place of service shall be the state in which services are rendered
General Rule	The place of supply of all other services, made to a registered person shall be the location of the service receiver.
General Rule	The place of supply of all other services, made to any person other than a registered person shall be the location of the service provider.



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Practical aspects of GST law to be

5. Thresholds

Threshold will be very important criteria to determine the liability of an entity for tax. In the below mentioned table we have summarized the entire provision with regard to threshold limit with a comparison with the current system

	Current Goods	Services	Under GST regime Goods plus Services
Centre	1.5 crore; exports and exempted Goods ex- cluded from threshold	10 lakhs	25 lakhs combined with no exemptions and aggregated at the level of legal entity
States	5-10 lakhs	Not Appli- cable	Same as above

I hope with this you will gather that the number of persons requiring registration under GST regime will increase multiple folds. Thereby the burden on GSTN network will also increase, especially on the last date of return filing. For this reason the development of IT infrastructure is an important part of GST the contract of which has been given to Infosys for Rs. 1,380 crore.

6. Registration

6.1 Mandatory for-

Person who is registered under an earlier law
A registered person transferring his business, making the transferee liable to get registered.
Persons making any inter-State supply.
Casual taxable persons
Persons required to pay tax under reverse charge
Rest of the above, if person exceeds threshold limit

6.2 Numerous Registrations.

Thereby in this case for a registered company which is having projects all over India then at least one registration in every state is compulsory. If a company has more than one project in a state then in such case at least one state registration is mandatory. This will increase the work of traders which are having multiple outlets in various states.

7. Valuation

Value of a supply of goods and/or services shall be the transaction value i.e. the price actually paid or payable for the said supply of goods and/or services where the supplier and recipient of the supply are not related and the price is the sole consideration for the supply. There are special provision with regard to pure agent and money changer.

However, value of the supply of goods and/or services in the following situations shall be determined using specific valuation rules:-

- (i) Consideration, whether paid or payable, is not money, wholly or partly;
- (ii) Supplier and the recipient of the supply are related;
- (iii) There is reason to doubt the truth or accuracy of the transaction value declared by the supplier;

RNR	Rate on precious metals	"Low" rate (goods)	"Standard" rate (goods and services)	"High/ Demerit" rate or Non-GST excise (goods)
15	6	12	16.9	40
	4		17.3	
	2		17.7	

These tax rates are given by Dr. Arvind Subramanian, Chief Economic Adviser, and Ministry of Finance to government of India in his report titled "Revenue Neutral Rate and Structure of Rates for the Goods and Service Tax".

This report basically states that there would be four different tax rates:

1. Rate on precious metals- As per the Report on the "Revenue neutral Rate and Structure of rates for the Goods and Service Tax" Gold, Silver and other Precious metals shall be charged @ of 6%
2. "Low rate" goods – As per the Report on the "Revenue neutral Rate and Structure of rates for the Goods and Service Tax" Food items, especially Cereals, Pulses, Edible oils, Vegetables, and Fuel shall be charged @ of 12%
3. "Standard rate" goods- 16.9
4. "High/demerit or Non-GST(Excise) goods- 40



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(set up by an Act of Parliament)

Practical aspects of GST law to be

9. Payment

Mode of payment of GST would be as follows:

- Internet banking, Credit cards, Debit cards
- Over the counter payment - Tax payer will log on to GSTN with limit of 10,000/Challan. Now the tax payer will prepare challan and feed details of payment done by cheque, DD, Cash and will print the final Challan and make payment within 7 days.
- NEFT/RTGS - Tax payer will draft Challan and file GSTN. Now the tax payer will generate CPIN and make payment with NEFT/RTGS. Bank will provide UTR to taxpayer and the tax payer will log on to his GSTN and will update the UTR details and generate Challan.

10. Input Tax Credit

Every taxable person shall be entitled to take credit of input tax and may deduct the amount of admissible credit from the output tax.

Where the goods and/or services are used partly for the purpose of any business, the amount of credit shall be restricted to so much of the input tax attributable to his business. And also same case applies in case where the goods, other than capital goods, or services are used by the taxable person partly for effecting taxable supplies (This will include export supplies and any other zero rated supply) and partly for effecting non-taxable supplies.

Manner of Utilisation of Input Tax Credit

S.No	Input Tax credit	Input Credit Utilised
1.	IGST	IGST then CGST and SGST
2.	CGST	CGST then IGST
3.	SGST	SGST then IGST

Where the input tax credit in respect of a tax period exceeds the output tax for the same period, such excess credit may be carried forward for adjustment against the output tax of the subsequent tax period.

10.1 ITC not available in respect of:

- (a) Motor vehicles, except when used for
 - (i) Transportation of passengers/Goods,
 - (ii) Imparting training on motor driving skills;
- (b) High speed diesel oil, motor spirit (commonly known as petrol), aviation turbine fuel, petroleum crude oil and aviation gasoline.

(c) Goods or services provided in relation to outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness Centre, life insurance, health insurance and travel benefits extended to employees on vacation such as leave or home travel concession, when they are used primarily for personal use or consumption of any employee.

(d) Goods and/or services acquired by the principal in the execution of works contract when such contract results in construction of immovable property, other than plant and machinery;

(e) Goods acquired by a principal, the property in which is not transferred (whether as goods or in some other form) to any other person, which are used in the construction of immovable property, other than plant and machinery;

(f) Goods or services on procured from a composition dealer.

(g) Goods or services used for private or personal consumption.

Example:-

Unity group sold a flat to Mr. Rajat on 20th February 2016 in nature of B2B supplies where the tax charged on consideration was Rs. 13,000. Later Unity group found that the invoice was overvalued due to which tax of Rs. 2,000 was excessively charged.

Now, Unity group disclosed only Rs. 11,000 in their GSTR-1 which auto populated in their payment ledger. Mr. Rajat filed their GSTR-2 claiming an ITC of Rs.13, 000.

In this case Mr. Rajat will get credit of only Rs.11, 000. Remaining credit of Rs.2000 would not be given till the time same has been provided and uploaded by Unity group in their return.

Example:-

Unity group sold a constructed house property worth Rs 25, 00,000/- , such services are liable to CGST @ 10% and SGST @ 15%. Following input services and goods were used for rendering such output services:-

- Assume all receipt of supplies are Interstate
- Floor tiles of Rs 3, 00,000/- (excluding GST)
- Bricks of Rs 5, 00,000/-(excluding GST)
- Cement of Rs 2, 00,000/-(excluding GST)
- Iron rods purchased from another state of Rs 1, 00,000/-(excluding IGST)

Rate in respect of input services and goods are as follows:

CGST @ 10%

SGST @ 15%



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Practical aspects of GST law to be

Treatment of Goods and service tax will be as follows:

Input tax credit Ledger

S. No.	Services	Amount	CGST(10%)	SGST(15%)	IGST(25%)
1.	Floor tiles	3,00,000	-	-	75,000
2.	Bricks	5,00,000	-	-	1,25,000
3.	Cement	2,00,000	-	-	50,000
4.	Iron rods	1,00,000	-	-	25,000
TOTAL			-	-	2,75,000

Output tax payable (CGST)		Output tax payable (SGST)	
Particulars	Amount	Particulars	Amount
CGST (25, 00, 000 * 10%)	2,50,000	SGST (25, 00, 000 * 15%)	3,75,000
Less: CGST credit	-	Less:- SGST Credit	-
Less: IGST credit	2,75,000(Balance Rs. 25,000 can be set off from SGST)	Less: IGST credit	25,000
Net CGST payable	-	Net SGST payable	3,50,000

10.2 ITC for Capital Goods

In respect of ITC on capital goods nothing clearly is mentioned in the model law, but it will come out in the rules framed under section 18 of GST Act.

We can take a clue from task force report (central government Agency report) which stipulates that ITC will be available immediately on purchase of such capital goods. However, we are of the view that keeping in view the current law of excise whereby this credit is available in two succeeding year, same law would be accepted under GST also.

11. Returns

11.1 Every registered person is required to file monthly tax returns. A return needs to be filed even if there is no business activity (i.e. Nil Return) during the said tax period of return.

Total number of returns to be filed in one year is given as follows:

Return	For	To be filed by	Periodicity
GSTR 1	Outward supplies made by taxpayer	10th of the next month	12
GSTR 2	Inward supplies received by a taxpayer	15th of the next month	12
GSTR 3	Monthly return	20th of the next month	12
GSTR 8	Annual Return	By 31st December of next FY	1
Total			37



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Practical aspects of GST law to be

The above chart clearly shows that every company will need to file 37 returns in one year. For large companies which will have at least one registration in every state it will file 36 (29 states and 7 Union territories) X 37= 1332.

11.2 Issue

I think this will be a big issue under the new GST structure whereby the main target of government is towards ease of doing business. I think we should opt for a centralised registration in which only 37 returns should be filed for an entity for all the services rendered from one vertical of business all over India.

11.3 Process of GST returns

Example:

TCS provided maintenance services to AMRG & Associates on 18th February, for a consideration of Rs. 5 Lakhs in nature of B2B supplies.

Steps:

- 1) TCS will file GSTR-1 by 10th March being due date of filling Outward supply return. It will include invoice level details of Maintenance service to AMRG & Associates.
- 2) After that invoice details of Maintenance service will be auto populated in the GSTR-2 of AMRG & Associates being input supply return. AMRG & Associates will file their GSTR-2 by 15th of March. In this return they will accept the details filed by TCS.

After the acceptance of the details filed by AMRG & Associates, credit will get locked and now TCS cannot reverse the details uploaded.

- 3) Now TCS will file GSTR-3 by 20th March and pay the tax so applicable.

This mechanism will reduce tax evasion practices and denial of credit by tax authorities on one ground or the other. Now this will be in the favour of industry as the entire process will be made online and the payment of taxes could be checked without any hassles.

12. Refund

It was suggested that as a thumb rule, up to 90% of the refund claimed by the taxpayer may be sanctioned automatically by the system. The balance amount of refund may be granted after completion of verification of documents / accounts to be done at the end of the financial year and to be completed within a period of three months.

Post audit

Post audit of refund application (and not of the accounts of the taxpayer) can be dispensed with if so decided by the respective Tax Jurisdiction for refunds up to Rs. 1 lakhs for normal taxpayers and for refund up to Rs. 2 lakhs for certain prescribed categories of applicants (like public sector undertakings, applicants having the AEO Status, etc.).

Pre-audit

For refund amounts exceeding a pre-determined amount a provision for pre-audit of refund application (and not of the accounts of the taxpayer) before the sanction of the refund may be provided for. Monetary limit for pre-audit of the refunds sanctioned may be kept at Rs. 1 crore or as may be decided by the respective Tax Jurisdiction.

13. Conclusion

By now you all would have seen that GST is the law for this country which will scrub all current indirect taxes and bring along a new scheme of taxation which will offer not only seamless credit and single rate of taxes but it will also offer a great IT infrastructure in which everything would be digitalized along with the accordance of the aspirations of our honorable prime minister *Shri Narendra Modi*.

I am of the firm believe that one day GST will come because of the immense pressure of foreign investors and industry in general. In this background I hope I have been able to do complete justice to the various aspects of many indirect taxes. But still if you feel that there is any point which is not in the best interest of the industry then I assure that government agencies are ready to listen to you and are ready to make a change you just need to apply to the appropriate authorities.



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GLIMPSES - Group Discussion on Service Tax Return

Topic :

Service Tax Return

Audience :

Members

Guest Speaker :

CA. NAVEEN GARG

CA. RANJNI RAO ACHARYA

Date & Day :

16th APRIL 2016,

Saturday



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Rules for furnishing the information regarding payment to Non-resident



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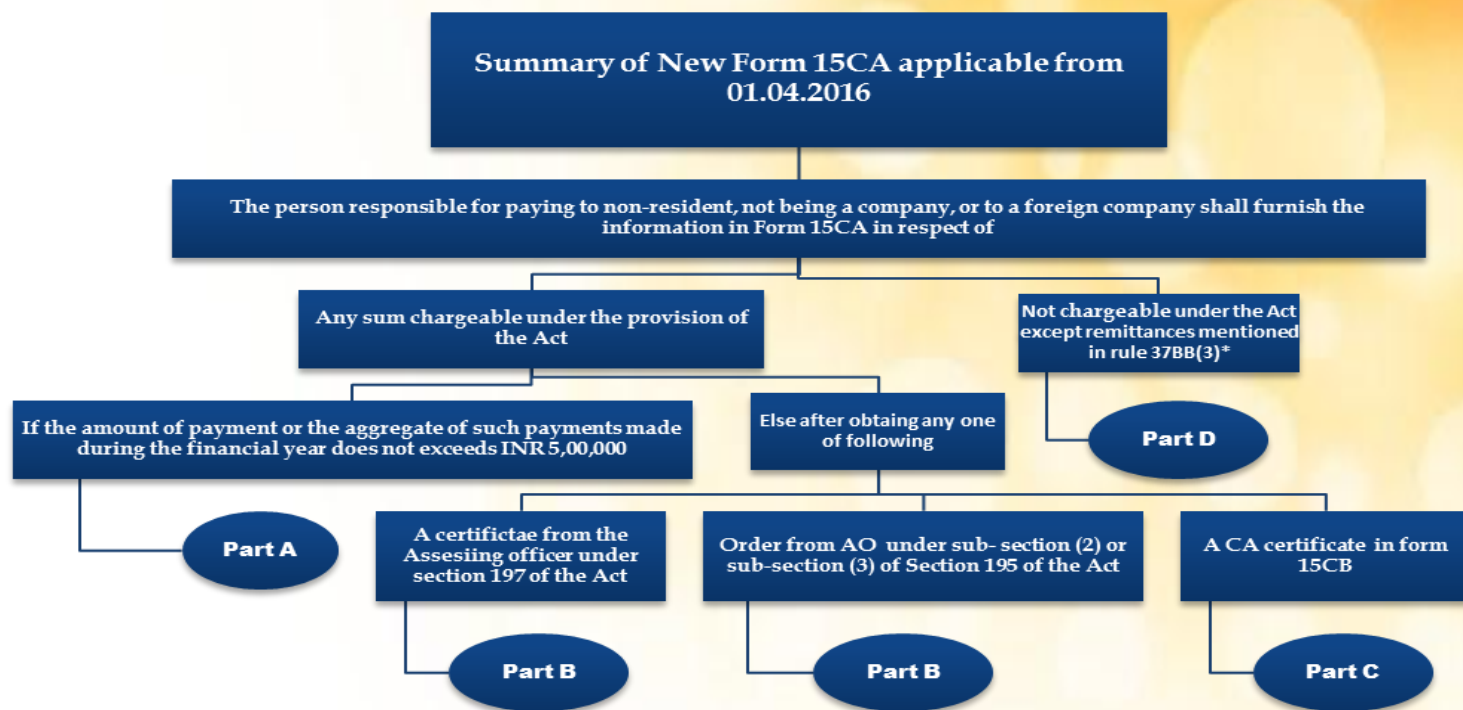
Background

Section 195(6) of the Income Tax Act, 1961 (the Act) amended by Finance Act 2015 provides that person responsible for paying to Non-resident (not being a company), or to a foreign company, **any sum, whether or not chargeable** under the provision of this Act, shall furnish the information relating to the payment of such sum, in such form and manner, as may be prescribed.

Rule 37BB of the Income tax Rules, 1962 (the rules) provides the procedure to be followed while making the payment to the Non-Resident. At present Rule 37BB is not in line with the amended provision of section 195(6). Amended Rule 37BB broadens the requirement of collecting information and reporting requirement for remittances to be made outside India. The amended rule 37BB will come into effect from **1 April 2016**.

Revised Notification of CBDT

The CBDT has amended the Rule 37BB for furnishing the information by notification G.S.R. 978(E) dated 16th September 2015. The amendments to the Rule are summarized as follow:





Gurgaon Branch of NIRC Of

The Institute of Chartered Accountants of India
(set up by an Act of Parliament)

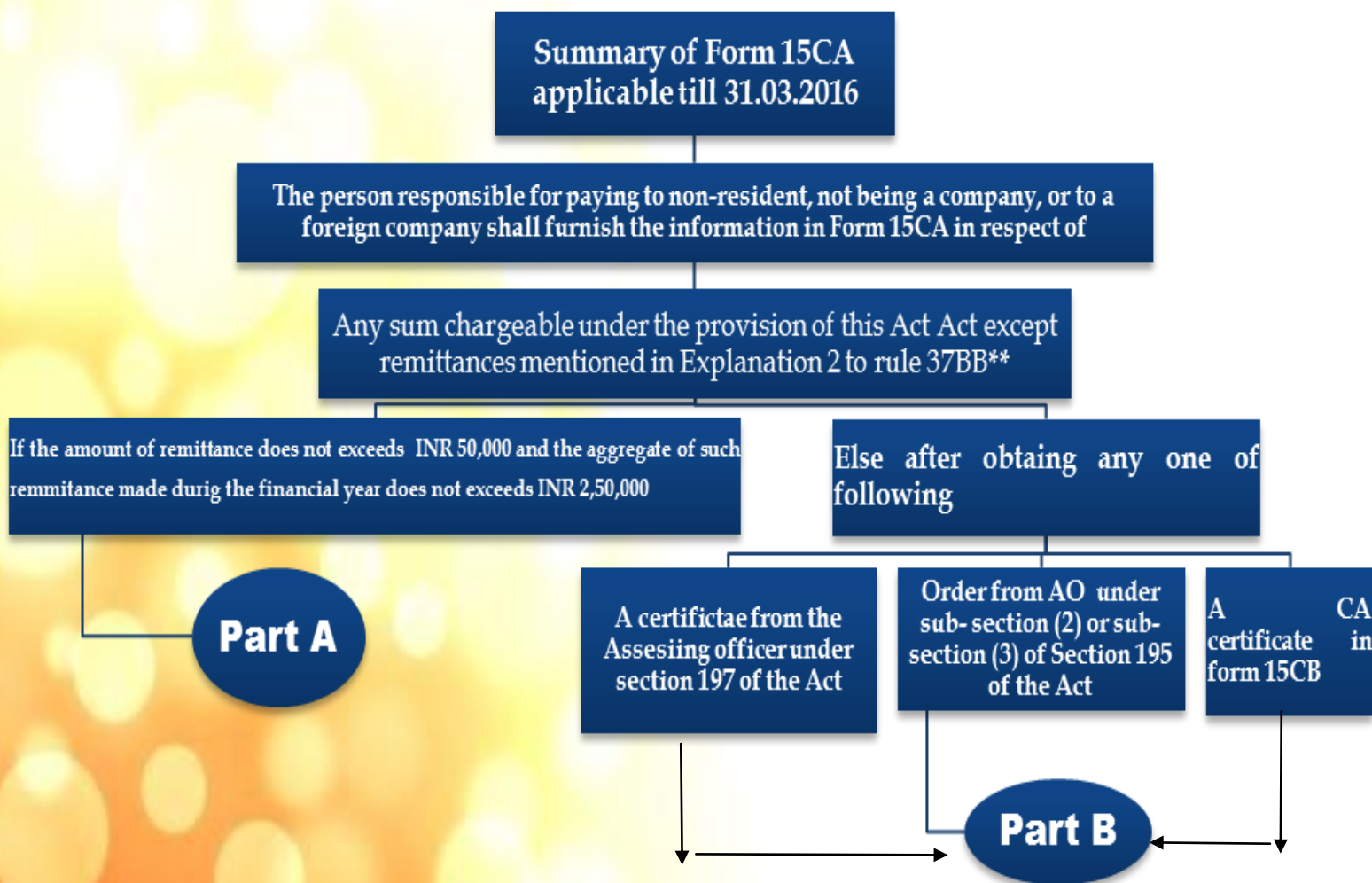
Rules for furnishing the information regarding payment to Non-resident

*Rule 37BB (3) provides that no information is required to be furnished for any **sum which is not chargeable** under the provisions of this Act, if-

- The remittance is made by **Individual** and it does not require prior approval of Reserve Bank of India(RBI) as per the provision of Section 5 of the Foreign Exchange Management Act,1999 read with schedule III to the Foreign Exchange (Current Account Transaction) Rules,2000

Or

- The remittance is of specified nature which has been expended from existing 28 items to 33 items including the advance payment against import, payment towards imports-settlement of Invoice, imports by diplomatic missions, intermediary trade or import below INR 5, 00,000.



- Explanation 2 to Present rule 37BB provides that for payment of specified nature containing the list of 28 items does not require furnishing of any information



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Rules for furnishing the information regarding payment to Non-resident

Difference between the Present and New Rule 37BB of the Rules:-

Basis	Revised 37BB	Old Rule 37BB
No need for 15CA	Updated Rule 37BB (3) provides that for payment of specified nature containing the list of 33 item not chargeable to tax does not require furnishing of any information including the advance payment against import ,payment towards imports-settlement of Invoice ,imports by diplomatic missions, intermediary trade or import below INR 5,00,000)	Explanation 2 to Present rule 37BB provides that for payment of specified nature containing the list of 28 item does not require furnishing of any information whether chargeable to tax or not
15CA and 15CB	The CA certificate in Form 15CB will be required to be furnished only in respect of such payments made to non – residents, which are chargeable to tax, amount of payment during the year exceeds INR 5,00,000	The CA certificate in Form 15CB will be required to be furnished only in respect of such payments made to non – residents, which are chargeable to tax, amount of payment exceeds the 50,000 and aggregate of such remittance exceeds 2, 50,000 during the year
15CA in case income of not chargeable to	Updated Rule 37BB(3) provides that information required to be filled even if in case of transaction not chargeable to tax except remittance is made by individual and which does not require RBI approval.	Rule 37BB does not mandate the filling of information in 15CA which is not chargeable to tax.
Filling of form 15CA	Rule 37BB(4) provides the furnishing of information in Form 15CA electronically as per the format and standards specified by Principal Director General of Income Tax (PDGI).	Rule 37BB(2) provides the furnishing of information in Form 15CA electronically to the website designated by the income tax department.
Online filling of CA	Rule 37BB(6) provides that certificate in form 15CB shall be furnished and verified electronically in accordance with the procedure and format specified by PDGI.	No need to file 15CB online
New Form 15CC	Rule 37BB(7) provides that The Authorized dealer shall furnish a quarterly statement for each quarter of the financial year in Form 15CC to the PDGI or the person authorized by the PDGI electronically under digital signature within 15 days from the end of quarter of the financial year to which such statement relates in accordance with the procedures, formats and standards to be provided by the PDGI.	Rule 37BB(3) provides that an income tax authority may require the authorized dealer to furnish signed printout of 15CA

Summary of Key Change

- The CA certificate in Form 15CB will be required to be furnished only in respect of such payments made to non – residents, which are chargeable to tax, amount of payment during the year exceeds INR 5, 00,000.
- Form 15CA and 15CB will not be required to be furnished by an Individual for remittance not chargeable to tax and which does not require RBI approval or the remittance is of specified nature (33 Items). Earlier it was 28 items.
- Now form 15CA was divided in four parts earlier it has been divided into two parts.
- The certificate in Form 15CB shall be furnished and verified electronically in accordance with the procedures, formats and standards specified by the PGDI.
- The quarterly reporting by authorized dealers for tax purposes is introduced for the first time.



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Forthcoming Programmes

Gurgaon Branch of NIRC of ICAI is organizing a Seminar on “Overview and Practical Aspects of Internal Control over Financial Reporting (ICFR)” on Saturday, 7th May 2016 For 4(Four) CPE Hours.

Members are requested to please pre-register through link : <https://goo.gl/6EzfFr>

Members can also register by sending confirmation mail at : icaigurgaon@gmail.com

Schedule for the Seminar is as per below mentioned program :

Day & Date		Saturday, 7 th May 2016	
Timings	9.30 AM to 02.30 PM		
Venue	Fortune Select Excalibur Main Sohna Road, Sector - 49, Gurgaon - 122018, Haryana		
CPE Hours	04 (Four) CPE Hrs.		
Fee	Rs.1200/- for Members Rs.1500/- Non-Members Rs.600/- for Students No Fee for Study Group Members		
Payment	Cash/Cheque (Cheque should be in favour of - “Gurgaon Branch of NIRC of ICAI”)		
Time	Seminar Topics	Speakers	
09:00 AM to 9:30AM	Registration		
09:30 AM to 11:30AM	Introduction and Overview of ICFR	CA. Parveen Kumar	
11:30 AM to 11:45 AM	Tea Break		
11:45 AM to 01.45 PM	Practical Aspects of ICFR	CA. Gaurav Khandelwal	
01.45 PM onwards	Lunch		

Managing Committee Members

CA. NAVEEN GARG Chairman Cell: 9911283111	CA. RAKESH K. AGARWAL Vice Chairman Cell: 9310630306	CA. ARUN AGGARWAL Secretary Cell: 9891338830	CA. MANISH GOYAL Treasurer Cell: 9910812727
CA. AMIT GUPTA Executive Member Cell: 9654346350	CA. SANDEEP GARG Executive Member Cell: 9818798009	CA. LALIT AGGARWAL Executive Member Cell: 9999565491	CA. VIPUL JAIN Executive Member Cell: 9711537400



Gurgaon Branch of NIRC Of

The Institute of Chartered Accountants of India
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ICAI EOI (Expression of Interest)/ Tender

Appointment of Architect for ICAI Bhawan at Gurgaon Branch of NIRC of ICAI

Notice for inviting the tender/Pre-Qualification Document for appointment of Architect for ICAI Bhawan at Gurgaon Branch of NIRC of ICAI " last date of receipt of dully filled in Tender bid is on or before 14-05-2016.

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA (ICAI)

Head Office: 'ICAI Bhawan', Indraprastha Marg, New Delhi-110002

Branch Office: Gurgaon Branch of NIRC of ICAI, Plot NO. 60A, 3rd Floor, Sector 18, Gurgaon

NOTICE INVITING TENDERS

ICAI invites applications, in prescribed format, from experienced and reputed Architectural firms/Architects for appointment of Architects for comprehensive architectural/PMC services for its proposed institutional building at Plot NO. P-5, Sector 5, IMT Manesar, Gurgaon, Haryana.

The last date of receipt of duly filled in Applications is on or before **14/05/2016** upto 3pm. The detailed terms and conditions / Application Forms are available at ICAI's website www.icaai.org. & www.icaigurgaon.org

Secretary, ICAI



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Administration

- ◆ For the Financial Year 2016-17 the branch has constituted a Study Group for conducting the programs. The details of membership fee for which are as follows:

Particulars	Fee Per Member
For Individual Member	Rs.5000/-*
For five or more declared members from any organization i.e. names of the Members to be declared at the time of payment with the fee.(payment will be made with a single cheque only)	Rs.4500/-*

* Fee is applicable for the period April 2016 to March 2017

Please note that Study Group members shall not be required to pay any fee for attending the seminars organized by the Branch during the financial year 2016-17.

Members are requested to enroll for the Membership of the Study group by sending a cheque in favour of "Gurgaon Branch of NIRC of ICAI" at Plot No. 60 - A, Sector-18, 3rd Floor, Gurgaon.

◆ Feedback & Suggestions

Gurgaon 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-

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

- ◆ Gurgaon 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 icaigurgaon@gmail.com with the subject line (Article Newsletter).

Gurgaon Branch Managing Committee for the Session 2016-19 and Office Bearers for the year 2016-17

Name	Designation	Contact No.	E-mail
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