

GOLDEN JUBILEE EDITION - 1



CELEBRATING GOLDEN JUBILEE YEAR

**And the Legacy continues...**

INDORE BRANCH OF CIRC OF ICAI



# NEWSLETTER

September, 2020 ► Price ₹ 20





## PRESIDENT'S MESSAGE

It is a matter of immense pleasure that the Indore Branch of Central India Regional Council (CIRC) of ICAI is entering into 50<sup>th</sup> year of its formation. It is indeed a momentous occasion and great milestone to achieve in the service to the society and all stakeholders of the profession. I extend my best wishes to the entire branch managing committee team, past chairmen and managing committee members, and all the members and students whose efforts continuous contribution have made the branch a very vibrant one.

The Accountancy profession is undergoing a paradigm shift. The Chartered Accountancy profession has emerged stronger with testing times and this has empowered the professionals to face the new world with more confidence and expertise, so that not only the opportunities are explored to the fullest, but at the same time withstand the changes of ever dynamic economic and regulatory scenario.

In the present challenging times, when the world is facing an unprecedented challenge in the form of Covid-19 pandemic, we as a profession need to come out stronger to be a role model in society and to contribute towards the revival of Indian economy. Every challenging circumstance which presents disorder is in fact is the best occasion to learn more and fear less. Our members need to realign themselves and innovate to face the emerging realities to maintain the competitive edge achieved by the profession over a period of more than seven decades.

The Institute of Chartered Accountants of India (ICAI) has always ensured the growth of the profession amidst the business, economic and social diversities present in the global environment with knowledge sharing and capacity building activities in varied fields including accounting, legislative procedures & compliances. In these difficult times of global pandemic, the Institute is constantly striving to disseminate up to date knowledge and awareness amongst its members and other stakeholders by way of conducting webinars and bringing out e-newsletters on various pertinent topics. I am glad that all the branches of ICAI are playing a dynamic role for the members of the ICAI in enhancing their skills and professional knowledge in these unprecedented times.

My best wishes to the Indore branch for all its future endeavours and once again heartiest congratulations for the entering into 50<sup>th</sup> year of its formation!

**CA. Atul Kumar Gupta**  
President, ICAI





**CA Manoj Fadnis**  
(Past President - ICAI)



## M E S S A G E

It is a matter of great joy to note that our Indore Branch of CIRC of the ICAI has entered into its Golden Jubilee. Established on 18<sup>th</sup> August 1971 with barely around 100 members, today it has grown into one of the 10 top branches in the country with more than 3600 members. The profession continue to evolve and grow, acting as a catalyst in the economic growth of our city and the region.

I have been fortunate to be active part of this journey since 1991 when I first became a member of the Managing Committee of branch. I treasure the memories of January 1994 when I was conferred the position as Chairman of the branch by my learned managing committee colleagues to 2015-16 when the blessings of all the members enabled me to be the President of our Institute. The footprints of Indore spread to Asia and Pacific as I had the privilege to become the President of Confederation of Asian and Pacific Accountants (CAPA) in 2017. While each and every member whole heartedly supported me, CA Vishnu Jhavarji and CA Rajendra Goyal ji always stood by me as mentors and CA Vikram Gupte as my partner.

Late Shri M C Mehtaji was the first person from our branch to get elected to the Central Council of the ICAI. Also we had several distinguished members who served as Chairman of the CIRC. CA Kemisha Soni became the first lady Chairman of the CIRC and the first lady Council member from the Central Region. The Managing Committee composed of stalwarts from the first year of formation of the branch. At the same time several eminent members like late Shri R.D. Joshi ji, late Shri O.T. Gandhi ji, late Shri C H Padliya ji and many more laid the foundation of the growth of a robust profession in the city. All this has reflected in the way our branch has transformed from a small city branch to a major player on the national & international scene in our profession.

Indore has always been blessed with civic conscious population. This is also evident in our profession. Given the national message of being "Partners in the Nation Building", our branch has always strived to perform more in the interest of the stake holders first, next our CA students and finally for the members. The public meetings on Union Budget, organised since decades to the recent numerous programmes with the trade

bodies for the successful implementation of GST, our branch has always been at the forefront of public service. We have also effectively contributed in the Swachh Bharat campaign and can take pride in our city being the cleanest in the country.

One of the major challenge in the nineties was to have own premises for the branch. With the participation of our members, the branch acquired the premises at Jaora Compound in 1993. The excitement of acquiring the premises was short lived as the growth in the number of members and students soon made the premises small as compared to the increased needs. This led to the next phase where again with the help of all members, the branch was allotted the land by IDA and then the collections from the members & support from the Institute saw the construction of the present building in 2007 and the auditorium in 2009. The enormous contribution of late CA R.S. Bansal ji and CA M.P. Agrawal ji as Chairman and Secretary of the Building Committee can never be forgotten.

With the modern infrastructure available, the scales of activities were bound to increase. Each successive committee has only added laurels to the branch. Winning the Best Branch awards has become a habit.

Excellence is not a destiny. We need to improve and innovate every day. The present COVID 19 has taught us as how disruptions happen unexpectedly. In last few months the whole world has changed as never before. To paraphrase Oscar Wilde, "being caught unprepared in the face of a shock may be regarded as a misfortune, but to be caught unawares more than once may be a sign of carelessness." Continuous learning and adopting the new technology is the only way we can succeed.

While we need to change and re-orient our practices and procedures, we need to stand like a rock regarding Ethics. Our local council member CA Kemisha Soni, the current Chairperson - ESB, needs to be complimented for the key role played by her in implementation of the International Ethical Standards in our profession, effective from 1<sup>st</sup> July 2020.

I am confident that the current and the future managing committees of our branch will do far better than their predecessors.





## CA Kemisha Soni

(Chairperson - ESB & CCM - ICAI)

Indore Branch of CIRC of ICAI marks its entry into the 50th Anniversary of commitment, perseverance and dedication. My heartiest Congratulations, all these years have been a commendable journey towards growth and perfection. On this special occasion of the Golden Jubilee year, it is about celebrating the contribution and continuous efforts made by our members, which have led towards these moments of glory and pride. Reaching this milestone is a very special year for all of us.

The branch has worked hard with dedication and motivation, the members have done a commendable work spread over these 50 glorious years, which shall always be remembered by history.

The branch has stood strong with its head high at all times, in all situations.

Not only the members of the branch but the students and the CICASA, Indore has also made a great contribution towards many events at various levels throughout these years. The branch is what the members make of it, so this achievement not only is for the branch, but each and every member of the branch who has been associated with it, from the beginning, till this day.

Day by day we have grown stronger, this is reflected in our history when we look back at the years passed.

## MESSAGE

Thus, together, we take pride in the achievement and commitment to excellence and look forward to see many great achievements by Indore Branch in the years ahead.

**As mentioned in the Epilogue of 'History of the Accountancy Profession in India' written by our first President Shri Kapadiaji:**

*The task stands accomplished  
Nay—it has just begun*

*It's not a question of what stands  
achieved*

*It's a question of what still remains to  
be done*

*And am I not a creature of Destiny*

*A mere instrument for 'His Purpose'*

*My assignment I see as one of duty*

*Fruits whereof I cannot and do not seek*

*With humility and full dedication I  
salute my Institute—I adore my  
profession.*

Once again, congratulations to the members of the branch. We shall always be committed towards improving our branch, and achieving a lot in the coming years.





## CA Devendra Kumar Somani

(Chairman - CIRC of ICAI)

I am very joyous to note that the Indore Branch of Central India Regional Council (CIRC) of the Institute of Chartered Accountants of India (ICAI) is bringing out its special *e-Newsletter with the special features in a very new style on entering into its Golden Jubilee year and hope that this will surely help the Branch to communicate and disseminate information amongst its members and students.*

However painful these COVID 19 setbacks, failures, and tragedies are, it's a part of life. Life has a way of kicking us when we're down. Whether we manage to find joy in the daily struggle of life and achieve success is largely dependent on our ability to persevere through even the toughest adversity without giving up. If you're going through a rough time, finding something to give you a little lift can help you remember that life isn't always bad. These seemingly endless stretches of fear.

"Hope is important because it can make the present moment less difficult to bear. If we believe that tomorrow will be better, we can bear hardship today." "Never let your head hang down". Never give up and sit down and grieve. Find another way. And don't pray when it rains, if you don't pray when the sun shines."

## M E S S A G E

Coming to Central India Regional Council of ICAI, as always working towards the betterment of its stakeholders has anticipated that there will be many Members and students resuming their work and thereby there will be many Members and Students who will be requiring a resolution to their issues related to ICAI which remained unresolved due to Lockdown and situation arising out of this Pandemic.

As we were expecting a large number of requests and grievances related to Member and Student Services due to unlocking of the work after a large gap, CIRC has taken an initiative to reach to its Members and thereby requesting them to share their grievances which are pending for more than 10 days **via Mail** and further we hold **Video Conferencing on every Friday.**

I congratulate the Chairman Indore Branch, Branch committee members and all those who are involved in publishing the *e- Newsletter and a memorable moment.*

**"What a weary time those years were -- to have the desire and the need to live but not the ability."**



# M E S S A G E



**CA Nilesh Gupta**  
Regional Council Member

It gives me immense pleasure and a sense of pride as we enter the 50<sup>th</sup> Year of Indore Branch of CIRC of ICAI. I would like to express my heartfelt thanks and gratitude to all Fellow senior Chartered Accountants who have contributed their best to make Indore branch foundation so strong to achieve more than what we could have expected.

Members have managed their role beyond par excellence whether it was era of huge marginal Income Tax Rate of 75% (Year 1974-1975) to the Current marginal income tax rate of 30%. Members have managed well to successfully cope up with tax changes and reforms from time to time be it Digitalization of Tax compliances, Introduction of New taxes Like Goods & Services Tax in places of numerous Indirect Taxes.

Participation of female members has also been encouraging; a lot of female members were representative at various levels in a number of working committees time and again. At present 1/3rd Members in the branch are female members.

Indore CA Branch could achieve many milestones such as moving from rented premises to own building, CA Udyaan, Dedicated CA Street, CA Coaching Classes & Library for Students. Such achievements are only due to generous efforts & dedication of the members of the branch at large. From few founder members to a family of 3700+ members & 10,000+ CA Students we have come a long way. I believe with the blend of young Energy, Enthusiasm & Rich Experience our branch will achieve many more milestones in years ahead.



**CA Churchill Jain**  
Regional Council Member

At the outset, I wish each one of you a Happy 74<sup>th</sup> Independence Day. I am also very happy to take this opportunity to wish you a Happy Parushan Parv, Eid ul Adha, Raksha Bandhan, Janmashtami, Ganesh Chaturthi & Onam.

Every year we used to celebrate the above festivals along with our loved ones and every festival had its unique importance. Keeping in view the present situation, all the festivals now have to be celebrated as a low-key affair. I urge you to celebrate the festivals only with family members and step out of the house only when it is very important.

This year, Indore is celebrating its 50<sup>th</sup> Establishment Year of Indore Branch of CRIC of ICAI. Every CA is remembering and honouring the efforts made by our Seniors, Past Committee Member, Present Committee Members, colleagues and office staff. I wish all our members a Happy 50th Establishment Year.

Amidst the chaos caused by the life-threatening global pandemic - COVID-19, we initiated several enabling measures and initiatives, keeping in mind the larger benefit of its members and students.

As you are all aware the whole world has been badly hit by pandemic COVID-19, it is our social responsibility to follow the instructions of the authority to protect the country from its fatal spread. Since this disease has adversely affected the economy of the Nation. It is our duty to be an important pillar in the rebound of economic growth.

I rest my pen with a positive thought 'In the middle of every difficulty lies opportunity.' I hope this adverse situation will soon end and we will come out of it stronger and brighter. Till then, take care of your health, eat healthy, exercise and most importantly 'Stay Home, Stay Safe'.



## Chairman's Communique

Respected Members,

**We have few blessings during this disguised period of lockdown.**

Our Branch has entered into its golden jubilee year. During this glorious history of the Branch, it has become the 2<sup>nd</sup> largest branch of Central Region and has grown leaps and bounds in these years, all because of the highest level of active participation & support of our members along with guidance and support of our senior members. Together we have come a long way from rented premises to this most prized possession **"State of the ART Building"**. We not only share a learning space for 600 people at a time but also are proud to have dedicated CA Street. The last month, we have recorded more than 7500 structured CPE hours. We would hopefully exponentially expand our fraternity and achieve other milestones in this year of celebration. I also wish everyone the 72<sup>nd</sup> year of foundation. We will religiously try to enable excellence & augment trust in serving the society & nation to rebuild the economy.

Also wishing you all, Happy Independence Day with utmost fervour, zest, and a spirit of patriotism to mark the innumerable sacrifices of the freedom fighters of India and honour the fact that we are living in a free India. At the same time, we are proud citizens of Indore to grab the number one spot for cleanliness in India under Swatch Bharat Abhiyaan consecutively for the fourth time. The continuous improvement cycle & strategic changes like door to door collection from placing garbage bins across the city and responsible citizen has made it possible.

Simultaneously, we appreciate the structural reforms made by the Government of India as a part of Transparent Taxation.



**CA Harsh Firoda**  
(Chairman)

### Key recent developments on the professional front

The Faceless Assessment has been announced on 13<sup>th</sup> August 2020 in which other than serious fraud matters, search, Tax evasion, International tax, and Benami property etc, no need to visit Income Tax office. Also, Jurisdiction will no longer be a boundary.

The Faceless appeal applicable from 25<sup>th</sup> Sept. will also bring relief. Its salient features are random allotment of IT officers with unknown identity to the appeals made by taxpayers which will encourage hassle free and transparent income tax proceedings. The exemption of GST late fees for GSTR 3B returns from July 2017 to July 2020 will encourage the tax payers to file their pending returns.

E-Invoices are introduced from 1<sup>st</sup> Oct. 2020. Under this, registered person must upload every invoice on portal before issuance. Its applicability has increased from 100 Cr. To 500 Cr.

This is the first newsletter since the start of Golden Jubilee celebration year. I look forward to the support & guidance from members on an on-going basis as it gives us direction to put our right foot forward for serving the fraternity. We also understand that Sept. is a hectic month for members with so many due dates. Consequently, to equip our members and article staff, we are planning to organize workshops on Tax/ Statutory & GST audits. I would appreciate participation of members in such programmes. Also, in the coming months, we will celebrate the Golden Jubilee year in unique styles. So, let us gear up for the year filled with celebration. If you have any unique ideas to celebrate please do write me at [chairman\\_indore@icai.org](mailto:chairman_indore@icai.org).



### MANAGING COMMITTEE

**CA. Kirti Joshi** (Vice-Chairman) **CA. Gaurav Maheshwari** (Secretary) **CA. Ankush Jain** (Treasurer)  
**CA. Samkit Bhandari** (CICASA Chairman) **CA. Pankaj G. Shah** (Imm. Past Chairman), **CA. Anand Jain** (Media & Digital Comm. Chairman)  
Ex. Officio Member : **CA. Kemisha Soni** (CCM), **CA. Nilesh Gupta** (RCM), **CA. Churchill Jain** (RCM)



## SECRETARY DESK

**CA Gaurav Maheshwari**

Secretary- Indore Branch

I take this opportunity to congratulate all the Members of the Branch as we are entering into the 50<sup>th</sup> Glorious year of establishment. We are celebrating the year as Golden Jubilee Anniversary and have decided to organise various programs so as to strengthen the knowledge as well as to create awareness towards health and social responsibilities. I urge all the members to participate in the activities.

**WEBINARS** : Our vision is to serve the members and students with our best efforts and in line, to the same we are arranging various Virtual Webinars and also getting an overwhelming response to it. In upcoming month we will be organising various VCMs on Clause by Clause Discussion on Tax Audit, Finalisation of Audit with GST Perspectives, Use of IT in Office Management, Drafting replies as our draft is our face in the new regime, ROC Filing, FEMA, GST etc. any suggestion on topics can be sent at secretary\_indore@icai.org

**COVID** : I would refrain from quoting the words "COVID 19" "Pandemic" and other such terms given to the crisis since we have to move beyond the crisis. We have to learn to work on networks and enhance the capabilities of our team, adoption of an accelerated approach of transitions into digitization and automation. Finally, As Partner in Nation Building, we have to develop a thought process for how to remain relevant in the NEXT NORMAL with the thought

***"Growth needs transformation. Transformation needs change. Change needs Transition. And Transitions are never comfortable. This derivative simply means, there is nothing called comfortable growth."***

I shall endeavor to make my communications a mode of sharing new thoughts and ideas to make our professional journey enjoyable for us, at the same time delivering value to our esteemed clients. I am grateful to all the Members for their valuable suggestions and support for the functioning of the Branch.



**ACTIVITIES:** In light of the ongoing spurt of the COVID-19 all across the country, to facilitate the members in discharging their duties on the professional updates, Indore Branch has organized the Virtual CPE Meetings/Programme in the Month of August as per the CPE Guidelines.

Dt.	Program/ Seminar	Speaker/Dignitaries	Members Regd. *
31 <sup>st</sup> July	50 <sup>th</sup> AGM of Indore Br. by Virtual Mode		51
1 <sup>st</sup> Aug.	How to Prepare & Present before IT Authority	<b>CA Anoop Bhatia</b> , (Jaipur) Chief Guest : <b>Shri S.S. Mantri</b> , Commissioner IT- (Appeal), Indore	482
5 <sup>th</sup> Aug.	New Rules in Co. Formation Embracing Robotic Process Automation in CA Profession	<b>CA Vanita Rathi</b> , Indore <b>CA Mudit Kothari</b> , Ahmedabad	457
8 <sup>th</sup> Aug.	Programme with Committee for Members In Practice- ICAI	<b>CA Satish Gupta</b> , Chairman - CMP ICAI <b>CA Prasanna Kumar</b> , Vice Chairman - CMP ICAI	562
11 <sup>th</sup> Aug.	Symposium on RERA	<b>CA Vishnu Agrawal</b> , Indore Chief Guest : <b>Shri Anthony De Sa</b> , Chairman - RERA, M.P.	464
14 <sup>th</sup> Aug.	Global Professional Opportunities & Networking Areas for CA's	<b>CA Hansraj Chug</b> , (Chairman - Comm. for Export of CA Services & WTO, ICAI) <b>Shri Pankaj S Parihar</b> , Director- Skill Maestro	464
15 <sup>th</sup> Aug.	Independence Day Celebration	Chief Guest : <b>Shri G.S. Raghav Ji</b> , Assistant Commissioner IT, Kolkata	—
18 <sup>th</sup> Aug.	Celebration of Entering into 50 <sup>th</sup> Year of Foundation of ICAI Indore Br.	Branch MCM and Ex-officio start symbolic celebration which will celebrate whole year	682
19 <sup>th</sup> Aug.	Discussion on Basics of Tax Audit	<b>CA Pramod Jain</b> , (Chairman, VSB & Vice Chairman, DTC-ICAI )	373
22 <sup>nd</sup> Aug.	Issues in Digital World, Security Aspect of Data & Technology	<b>CA Manu Agrawal</b> , (Chairman, DAAB) <b>CA Dayaniwas Sharma</b> , ( Vice Chairman, DAAB - ICAI)	514
25 <sup>nd</sup> Aug.	GST Colloquium	<b>CA Priyank Mohta</b> , Mumbai <b>CA. Ankit Somani</b> , Ajmer <b>CA Navneet Garg</b> , Bhopal	815

\*Subject to max 300 members CPE allowed

### Upcoming Virtual CPE Meeting

**29<sup>th</sup> Aug., 2020 (Internal Audit and Assurance)**

**Speaker : CA Anil Bhandari** ( Chairman, Committee on IBC - ICAI )

**31<sup>st</sup> August, 2020 (Challenges & Opportunities in IBC)**

**Speaker : CA Naveen Khandelwal**, Indore





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# FACELESS ASSESSMENTS – A PARADIGM SHIFT



CA Aayush Garg

## 'T' FOR TAX, 'T' FOR TAXPAYER, 'T' FOR TRUST

Historically, the present Government would always be accredited for its revolutionary reforms, be it Constitutional, Socio-Economical, Political, Religious, Banking, Financial or for that matter, Taxation. It has always been this Government's endeavor to create a seamless, transparent and honest tax system, both from the view of the taxman and the taxpayer. In this direction, for the Direct Tax Laws, the Government took the first step by inserting sub-sections (3A) to (3C) to section 143 of the Income-Tax Act, 1961, for empowering Central Government to make a scheme, by Notification in the Official Gazette, for eliminating the interface between the assessing officer and the assessee. In exercise of the powers delegated by the aforesaid sub-sections, the Central Board of Direct Taxes [CBDT] notified E-Assessment Scheme, 2019.

Now, taking a great leap towards 'Transparent Taxation-Honoring the Honest' initiative, our Prime Minister while addressing the Nation on 13th August 2020, introduced Taxpayers' Charter and also announced Faceless Assessment Scheme. The Taxpayers' Charter chiefly encompasses the commitment of the Income-Tax Department to treat every taxpayer as honest and at the same time, expects the taxpayers to be honest and compliant. The Faceless Assessment Scheme has been notified by the CBDT vide Notification Nos. 60 & 61, both dated 13.08.2020, modifying the earlier 'E-Assessment Scheme, 2019'. The Faceless Assessment Scheme aims to eliminate the human interaction between the taxpayer and the Income-Tax Department. Faceless Assessment along with Taxpayers' Charter has been made applicable from 13.08.2020.

### KEY FEATURES OF THE SCHEME

With dynamic jurisdiction and team based assessment, the Faceless Assessment Scheme is one of the measures to enhance trust between the

taxpayer and the IT Department. Faceless Assessment Scheme focuses on constructing a seamless and painless tax administration system for the taxpayers with the following key features: (i) selection of a taxpayer only through computer system using data analytics and artificial intelligence; (ii) abolition of territorial jurisdiction; (iii) automated random allocation of cases; (iv) central issuance of notice with Document Identification Number (DIN); (v) no physical interface between the taxpayer and IT officer; (vi) team based assessment & team based review and (vii) drafting of assessment order in one city, review in other city and finalization in yet another city.

### WHO WILL CONDUCT THE ASSESSMENT?

For undertaking the Faceless Assessment, multiple tax authorities with well-defined roles & responsibilities have been designated at various centers across the country. Under the scheme, it has been provided that the faceless assessment shall be conducted with the coordination amongst various centres & units setup by the CBDT viz. (i) National e-Assessment Centre (NeAC) at New Delhi to facilitate and centrally control the e-assessment process; (ii) Regional e-Assessment Centres (ReAC) in various states to facilitate conduct of e-Assessment proceedings; (iii) Assessment units (AU) for obtaining information/document/evidences, etc. from the assessee & determination of liabilities/refunds; (iv) Verification units for making an enquiry, cross verification, examination of accounts books, etc.; (v) Technical Units for providing technical assistance and (vi) Review Units for reviewing the draft assessment order. All the communications between all the centres/units mentioned above would take place through the NeAC only.

### CASES COVERED UNDER THE SCHEME

In order to ensure that all the assessment orders are passed through the Faceless Assessment Scheme, 2019, the CBDT vide an Order issued under s. 119 of



the Act on 13.8.2020, has directed that, with the immediate effect, all the assessment orders shall be passed by NeAC through Faceless Assessment Scheme 2019, except for (i) assessment orders in cases assigned to Central Charges; and (ii) assessment orders in cases assigned to International Tax Charges. It has been explicitly cautioned that any assessment order which is not in conformity with the scheme shall be deemed to have never been passed. In the light of such direction, now, in the future, we cannot expect any assessment under the old regime.

### HOW WILL THE ASSESSMENT BE CONDUCTED?

The CBDT has made an attempt to frame the Faceless Assessment Scheme in such a manner so as to ensure that, on one hand a fair assessment is made, in accordance with the law, after giving sufficient opportunities to the assessee without requiring his physical presence and on the other hand, to ensure that the assessments are framed after making necessary enquiries, verifications and obtaining technical assistance, followed by review thereof, so that the assessment orders are not prejudicial to the interest of the Revenue.

As per the scheme, a notice under section 143(2) would be served to an assessee by the National e-Assessment Centre by specifying therein the issues for selection of his case. Upon receipt of the Notice, the assessee may file his response within a period of fifteen days from the date of receipt of the Notice to the NeAC. The NeAC shall then assign the case of the assessee to a specific Assessment Unit (AU) in any one ReAC through an automated allocation system. Thereafter, the AU may make a request to the NeAC (i) for obtaining further information, documents or evidence from the assessee; or (ii) for conducting of certain enquiry or verification by the Verification Unit; or (iii) for seeking technical assistance from the Technical Unit. Upon receipt of a specific request from the AU, the NeAC, may obtain necessary information, documents, evidences from the assessee by issuing a Notice or assign verification request to the Verification Unit or assign technical assistance request to the Technical Unit in any one ReAC through automated allocation system. Thereafter, the verification unit and the technical units, as the case may be, would forward their report to the NeAC, which shall be re-forwarded to the AU. The AU after receiving the NeAC's response and after taking into account all the relevant material

available on the record shall pass a draft assessment order either accepting the returned income or modifying the returned income and shall send a copy of such order to the NeAC. The NeAC upon receipt of the draft assessment order may finalize the assessment as it is if no modification is proposed and serve a copy of the order to the assessee, along with demand notice and notice for initiating penalty proceedings (if any). However, in a case where modification in the return has been proposed by the AU, the NeAC may decide to provide an opportunity to the assessee by issuing a show cause notice. The NeAC may also choose to assign the draft assessment order to a Review Unit in any one ReAC, who may either concur with the draft assessment order or suggest any modifications. After taking into account the response furnished by the assessee and AU'S revised draft assessment order, the NeAC may then finalize the assessment. The NeAC shall, after completion of assessment, transfer all the electronic records of the case to the Assessing Officer having territorial jurisdiction over the case of the assessee.

All communications between NeAC and the assessee/units/centres are to be exchanged using Digital Signatures or EVCs only. The assessee or his authorized representative, only in a case where a show cause notice for framing the assessment as per the draft assessment order is issued to him, can request for a personal hearing or make oral submissions before income tax authority in any unit. Such personal hearing, if permitted, will take place through video conferencing using video telephony software. An income tax authority shall have the power to examine a taxpayer or record the statement of any taxpayer (other than statement recorded in the course of survey under s. 133 of the Act) through video conferencing using video telephony software.



**Faceless Assessment Scheme focuses on constructing a seamless and painless tax administration system for the taxpayers**



## CONCLUSION

Faceless assessments, intended to curb cases of corruption and harassment of honest tax payers by the quintessential officers, is a laudable initiative, but, at the same time, it is also being apprehended that it may result in the framing of high-pitched and arbitrary assessments due to multiple reasons. The reasons may, inter alia, include limitations of the technology substituting personal hearings for effective communication, particularly for explaining the contents of books, records, documents and other evidences; lack of AO's awareness towards local businesses and complex business structures situated in certain areas only, lack of informal awareness of the assessing officer regarding the assessee or his business operations. The faceless assessments will come with numerous benefits such as greater transparency, time and resources efficiency, shift towards cloud storage and paperless office, cost effectiveness for the Government etc., but, on the other hand, the taxpayers or their authorized representatives may face some challenges such as difficulty in uploading voluminous written submissions/documents/evidences, technical glitches leading to delay submission process etc. For the success of this Faceless Assessments Scheme, it is very important that all the units/centres proposed to be setup by the CBDT should work fluently, meticulously and flawlessly like an orchestra.

The new scheme has also mandated, we professionals, to move towards more punctuality in compliance, preciseness in communication and technological up-gradation at all levels. With such a paradigm shift on the cards, it is high time for us, being partners in nation- building, to gear up and pull up our socks, so as to lend our hand to the Government in implementing its initiative of 'Honoring the Honest'.

**SWACHH  
SURVEKSHAN  
2020**



**Indore  
retained  
once again  
No. 1  
Position  
amongst  
4000+ cities  
of India and  
4th time  
in a row in  
Swachh  
Bharat  
Abhiyaan**

**PROUD  
TO BE**



**PROUD  
TO BE  
INDORIAN**

**Entire CA Fraternity &  
ICAI Indore Branch Parivaar  
Congratulate all Indorian's**



"The more you praise and celebrate your life, the more there is in life to celebrate"





# An Insight of Refunds under GST

CA Yash Khandelwal



- Refunds under GST are governed by Sec 54 to 58 of the CGST Act 2017 and Rules 89 to 97A of the CGST Rules 2017.
- The government in the past 3 years has issued various notifications and circulars to make the process simpler and clarify the issues raised from time to time.
- Common GST portal has also updated the process of Refunds like from manual filing of documentations to online filing of documents, allowing smooth processing for refund, etc. However, some changes are not in favour of the applicant. We can say that law has moved from fewer data requirements to more data requirements. The law is getting more strict and restrictive in providing refunds.
- While filing refund claim a registered person should be more careful and check all documents required under law are attached with the application, if all documents are not attached it might result in the issuance of RFD 03 (Deficiency memo), in such case applicant registered person have to file a fresh application. You can refer Annexure-A of Circular No. 125/2019-CGST dt.18-11-2019 for detailed requirement list.
- In this article, I have tried to summarise the issues and clarifications given by the Council from time to time and some points of which the applicant must take care of while filing a refund application on the common portal.

Issue	Provision / Clarification	Reference
<b>DIRECT EXPORT</b>		
Whether refund claims for unutilized input tax credit can be filed, if Zero rated supplies have been made before filing of LUT?	<ul style="list-style-type: none"> <li>The substantive benefits of zero rating may not be denied where it has been established that exports in terms of the relevant provisions have been made.</li> <li>The delay in furnishing of LUT in such cases may be condoned and the facility for export under LUT may be allowed on <b>ex post facto</b> basis taking into account the facts and circumstances of each case.</li> </ul>	Circular No. 37/2018-CGST dt. 15-03-2018
Whether bond or LUT is required in the case of zero rated supply of exempted or non - GST goods and whether refund can be claimed by the exporter of exempted or non - GST goods?	<ul style="list-style-type: none"> <li>In respect of refund claims on account of export of non-GST and exempted goods without payment of integrated tax; LUT/bond is not required.</li> <li>The exporter would be eligible for refund of unutilized input tax credit of CGST/ SGST/ IGST/ compensation cess in such cases.</li> </ul>	Circular No. 45/2018 - CGST dt. 30-05-2018
Is submission of BRC/FIRC compulsory for refund claims relating the export of goods?	<ul style="list-style-type: none"> <li>No</li> <li>It was clarified that insistence on proof of realization of export proceeds for processing of refund claims related to the export of goods has <b>not been envisaged in the law and should not be insisted upon.</b></li> </ul>	Circular No. 125/2019- CGST dt. 18-11-2019
<b>DEEMED EXPORT/ MERCHANT EXPORT/OTHER EXPORT</b>		
What are the evidences required to be produced by the supplier of deemed export supplies for claiming refund under Rule 89(2)(g) of the CGST rules, 2017	<ul style="list-style-type: none"> <li>Acknowledgment of the said deemed export supplies have been received, issued by the jurisdictional Tax officer of AA/EPCG authorisation holder or copy of tax invoice acknowledged by 100% EOU for receipt of goods, as the case may be.</li> <li>An undertaking by the recipient that no input tax credit on such supplies has been availed by him.</li> <li>An undertaking by the recipient that he shall not claim the refund in respect of such supplies and the supplier may claim the refund.</li> </ul>	Central Tax Not. No. 49/2017dt. 18-10-2017



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Issue	Provision / Clarification	Reference
What is the impact on Refund under GST on availment of drawback?	<ul style="list-style-type: none"> <li>• A supplier availing of drawback <b>only with respect to basic customs duty</b> shall be eligible for refund of unutilized input tax credit of CGST/ SGST/ IGST/ compensation cess under sec. 54(3).</li> <li>• It was further clarified that refund of eligible credit on account of State tax shall be available even if the supplier of goods or services or both has availed of drawback in respect of central tax</li> </ul>	Circular No. 37/2018-CGST dt. 15-03-2018
Refund in case of supplying goods to Merchant Exporter claiming benefit under Not. No 40/2017 Central Tax (Rate) dt. 23/10/2017	<ul style="list-style-type: none"> <li>• The supplier who supplies goods at the concessional rate is eligible for refund on account of inverted tax structure as per 54(3) (ii).</li> </ul>	Circular No. 37/2018-CGST dt. 15-03-2018
Refund in case of Merchant Exporter receiving goods with benefit under Not. No 40/2017 Central Tax (Rate) dt. 23/10/2017	<ul style="list-style-type: none"> <li>• Merchant Exporter is eligible to take credit of such concessional rate supplies.</li> <li>• Merchant Exporter may claim refund under Refund of unutilized ITC on account of exports without payment of tax</li> </ul>	Cir. No. 37/2018-CGST dt. 15-03-2018 and No. 125/2019- CGST dt. 18-11-2019
<b>SPECIAL ECONOMIC ZONE (SEZ)</b>		
Whether services of short-term accommodation, conferencing, banqueting etc. provided to a SEZ developer or a SEZ unit should be treated as an inter-State supply (under sec.7(5)(b) of the IGST Act, 2017) or an intra-State supply (under sec.12(3)(c) of the IGST Act, 2017) ?	<ul style="list-style-type: none"> <li>• It is an established principle of interpretation of statutes that in case of an apparent conflict between two provisions, the specific provision shall prevail over the general provision.</li> <li>• In the instant case, section 7(5)(b) of the IGST Act is a specific provision relating to supplies of goods or services or both made to a SEZ developer or a SEZ unit, which states that such supplies shall be treated as inter-State supplies.</li> <li>• It is therefore, clarified that <b>services of short term accommodation, conferencing, banqueting etc., provided to a SEZ developer or a SEZ unit shall be treated as an inter-State supply.</b></li> </ul>	Circular No. 48/2018 -CGST dt. 14-06-2018
Whether the benefit of zero rated supply can be allowed to all procurements by a SEZ developer or a SEZ unit such as event mgmt. services, hotel and accommodation services, consumables, etc.?	<ul style="list-style-type: none"> <li>• Subject to the provisions of section 17(5) of the CGST Act, if event management services, hotel, accommodation services, consumables etc. are received by a SEZ developer or a SEZ unit for <b>authorised operations, as endorsed by the specified officer of the Zone, the benefit of zero rated supply shall be available in such cases to the supplier.</b></li> </ul>	Circular No. 48/2018 -CGST dt. 14-06-2018
What remedy is available if registered persons committed errors in declaring the export of services on payment of integrated tax or zero-rated supplies made to a SEZ developer/ unit on payment of integrated tax is shown under table 3.1(a) of GSTR 3B instead of table 3.1(b)	<ul style="list-style-type: none"> <li>• For the tax periods commencing from 01.07.2017 to 30.06.2019, such registered persons shall be allowed to file the refund application in FORM GST RFD-01 on the common portal subject to the condition that The amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/cess mentioned in the Table under columns 3.1(a), 3.1(b) and 3.1(c) of FORM GSTR-3B filed for the corresponding tax period.</li> </ul>	Circular No. 125/2019 - CGST dt. 18-11-2019



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Issue	Provision / Clarification	Reference
<b>REFUND OF INVERTED TAX STRUCTURE</b>		
Which goods are restricted for refund of unutilized ITC on account of accumulation due to <b>inverted tax structure</b> ?	<ul style="list-style-type: none"> <li>Woven Fabrics, Knitted or crocheted fabrics, Corduroy fabrics                             <ul style="list-style-type: none"> <li><b>The restriction of fabrics was removed prospectively from 01.08.2018</b></li> <li>The procedure for refund of lapsed ITC till August 2018 - one time option to file such refund under the category of “any other” was given</li> <li>Railways</li> </ul> </li> </ul>	Central Tax (Rate) not. Nos. 05/2017, 29/2017, 20/2018 Cir. Nos. 56/2018 - CGST & 94/2019-CGST
Whether independent fabric processors (job workers) in the textile sector supplying job work services are eligible for refund of unutilized ITC credit on account of inverted duty structure under section 54(3) of the CGST Act, 2017, even if the goods (fabrics) supplied are covered under Noti. No. 5/2017-Central Tax (Rate) dt. 28.06.2017?	<ul style="list-style-type: none"> <li>It is clarified that the fabric processors shall be eligible for refund of unutilized ITC on account of inverted duty structure under section 54(3) of the CGST Act even if the goods (fabrics) supplied to them are covered under notification No. 5/2017-Central Tax (Rate) dt. 28.06.2017.</li> </ul>	Circular No. 48/2018 - CGST dt. 14-06-2018
Can refund of accumulated ITC of input services and capital goods arising on account of inverted duty structure be claimed?	<ul style="list-style-type: none"> <li>No</li> <li>Both the Sections (u/s 54(3), 2(59)) and the related rules (u/r 89(5)) clearly prevent the refund of tax paid on input services and capital goods as part of refund of input tax credit accumulated on account of inverted duty structure.</li> </ul>	Cir. No. 79/2018 - CGST dt. 31-12-2018 & Central Tax Not. No. 26/2018 - dt. 13-06-2018
<b>REFUND OF UNUTILISED ITC</b>		
On which services refund of unutilised ITC u/s 54(3) of CGST Act is not allowed?	<ul style="list-style-type: none"> <li>No refund shall be allowed in case of supply of <b>Construction of a complex, building services</b> (specified under Schedule II, item 5(b))</li> </ul>	Central Tax (Rate) Not. No. 15/2017- dt. 28-06-2017
Can refund of unutilized ITC of compensation cess availed on inputs be taken?	<ul style="list-style-type: none"> <li>As per section 11(2) of the Cess Act, section 16 of the IGST Act is <i>mutatis mutandis</i> made applicable to inter-State supplies of all such goods and services.</li> <li>A registered person making zero rated supply without payment of IGST, may claim refund of unutilized credit including that of compensation cess paid on inputs.</li> <li>In case of zero rated supply with payment of IGST, no refund of Cess can be claimed as proviso to section 11(2) of the Cess Act, which allows the utilization of the input tax credit of cess, only for the payment of cess on the outward supplies.</li> </ul>	Circular No. 45/2018-CGST dt. 30-05-2018
What are the guidelines for refunds of unutilized ITC?	<ul style="list-style-type: none"> <li>Registered person should upload                             <ul style="list-style-type: none"> <li><b>Annexure B</b> (Statement of invoices to be submitted with application for refund of unutilized ITC) <b>along with HSN/SAC</b></li> <li><b>GSTR 2A</b> of the relevant period <b>with HSN/SAC</b></li> </ul> </li> <li>The proper officer should rely on GSTR 2A</li> </ul>	Cir. 125/2019- CGST dt. 18/11/2019; No.135/2020 - CGST dt. 31-03-2020; & No.139/2020 - CGST dt. 10-06-2020



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Issue	Provision / Clarification	Reference
	<ul style="list-style-type: none"> <li>▶ The refund of accumulated ITC shall be restricted to the ITC as per those invoices which are reflected in the <b>FORM GSTR-2A</b> of the applicant. <ul style="list-style-type: none"> <li>○ The above restriction is not applicable on – <ul style="list-style-type: none"> <li>▪ ITC availed on the invoices / documents relating to imports</li> <li>▪ ITC from ISD</li> <li>▪ ITC of RCM</li> </ul> </li> </ul> </li> </ul>	
<b>REFUND OF TRANSITIONAL CREDIT</b>		
Can a refund of transitional credit be claimed?	<ul style="list-style-type: none"> <li>▶ No, refund of transitional credit cannot be claimed.</li> <li>▶ Refund of unutilised ITC is allowed under two categories – <ol style="list-style-type: none"> <li>Zero rated supplies made without payment of tax</li> <li>Inverted duty structure</li> </ol> </li> <li>▶ Under both the category it is clarified that <b>transition credit cannot be treated as a part of Net ITC for calculation of above refunds</b></li> </ul>	Cir. No. 37/2018-CGST dt. 15-03-2018 & No. 125/2019- CGST dt. 18-11-2019
<b>DEFICIENCY MEMO</b>		
Can Deficiency memo be issued after issuance of Acknowledgement (RFD 02)?	<ul style="list-style-type: none"> <li>▶ <b>No</b>, once an acknowledgement has been issued in relation to a refund application, <b>no deficiency memo</b>, on any grounds, may be subsequently issued for the said application.</li> </ul>	Cir. No. 125/2019- CGST dt. 18-11-2019
What is the effect of issuance of Deficiency memo (RFD 03)?	<ul style="list-style-type: none"> <li>▶ Where deficiencies are noticed in the Refund application, Rule 90(3) provides for <b>communication of deficiencies</b> in FORM GST RFD-03.</li> <li>▶ Deficiency memo should be issued within the period of 15 days starting from the date of generation of ARN.</li> <li>▶ After a deficiency memo has been issued, the refund application <b>would not be further processed</b> and a <b>fresh application would have to be filed</b>.</li> <li>▶ Any amount of input tax credit/cash debited from electronic credit/ cash ledger would be <b>re-credited automatically</b> once the deficiency memo has been issued.</li> <li>▶ The fresh refund application, submitted after correction of deficiencies, to be submitted <b>within 2 yrs. from the relevant date</b>.</li> </ul>	Circular No. 125/2019- CGST dt. 18-11-2019
<b>GENERAL ISSUES</b>		
Is there any requirement to attach any declaration with the Refund application?	<ul style="list-style-type: none"> <li>▶ Self-declaration of Non-Prosecuted for any offence under CGST Act or under any existing law where the amount of tax evaded exceeds Rs 250 lacs, is require to attach.</li> </ul>	Circular No. 125/2019 - CGST dt. 18-11-2019
Can ISD, Composition dealer and Non-resident taxable person claim refund?	<ul style="list-style-type: none"> <li>▶ They are eligible to file Refund of balance in the electronic cash ledger, if they have filed all– <ul style="list-style-type: none"> <li>○ ISD – GSTR 6</li> <li>○ Composition Person – GSTR 4</li> <li>○ Non-resident taxable person – GSTR 5</li> </ul> </li> </ul>	Circular No. 45/2018-CGST dt. 30-05-2018



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What is the procedure of Re-credit of electronic credit ledger in case of rejection of refund claim?	<ul style="list-style-type: none"> <li>Only after the <b>receipt of an undertaking</b> from the applicant to the effect that he shall not file an appeal or in case he has filed an appeal, the same is finally decided against the applicant.</li> <li>The proper officer shall pass the order for the rejected amount to be re-credited to the electronic credit ledger of the applicant using <b>FORM GST PMT-03</b></li> <li>It is applicable even for the refunds which were filed and was sanctioned during manual filing of refund.</li> </ul>	Circular No. 125/2019 - CGST dt. 18-11-2019.
Can ITC of GST paid on invoices of earlier tax period availed in subsequent tax period be considered while sanctioning the refund?	<ul style="list-style-type: none"> <li>“Net ITC” as defined in rule 89(4) of the CGST Rules means input tax credit availed on inputs &amp; input services during the relevant period.</li> <li>Relevant period means the period for which the refund claim has been filed. Input tax credit can be said to have been “availed” when it is entered into the electronic credit ledger of the registered person.</li> <li>Further, section 16(4) of the CGST Act, stipulates that ITC may be claimed on or before the due date of filing of the return for the month of <b>September following the financial year</b> to which the invoice pertains or the date of filing of annual return, whichever is earlier.</li> <li>Hence, ITC of GST paid on invoices of earlier tax period availed in subsequent tax period <b>cannot be excluded from the calculation of the refund amount.</b></li> </ul>	Circular No. 79/2018- CGST dt. 31-12-2018
What is the procedure to claim refund in FORM GST RFD-01 subsequent to favourable order in appeal or any other forum?	<ul style="list-style-type: none"> <li>A fresh refund application under the category “Refund on account of assessment/ provisional assessment/appeal/any other order” claiming refund of the amount allowed in appeal or any other forum, be filed..</li> </ul>	Circular No. 111/2019 -CGST dt. 03-10-2019
Can interest claim on refund amount sanctioned, in case of delayed sanction of Refund?	<ul style="list-style-type: none"> <li>Sec. 56 of the CGST Act clearly states that if any tax ordered to be refunded is not refunded within 60 days from the date of receipt of application, <ul style="list-style-type: none"> <li>Interest @ 6%</li> <li>on the refund amount</li> <li>starting from the date immediately after the expiry of 60 days from the date of receipt of application (ARN)</li> <li>Till the date of refund of such tax shall have to be paid to the applicant.</li> </ul> </li> <li>It may be noted that any tax shall be considered as refunded <b>only when the amount has been credited</b> to the bank account of the applicant.</li> </ul>	Circular No. 125/2019- CGST dt. 18-11-2019
Can a TDS/TCS deductor or deductee claim a refund under GST?	<ul style="list-style-type: none"> <li>Yes</li> <li>If the <b>deductor</b> makes payment under wrong head, then excess balance may be claimed by the tax deductor as the <i>excess balance in electronic cash ledger</i>.</li> <li>The <b>deductee</b> can adjust the same while discharging his output liability or he can claim refund of the same under the category “<i>refund of excess balance in the electronic cash ledger</i>”</li> </ul>	Circular No. 125/2019- CGST dt. 18-11-2019



# RBI MPC August 2020 Meeting: Will New Steps Create Silver Lining in Dark Cloud?

CA Vinay Manchanda



The RBI in the previous MPC meeting of March took a gigantic step to combat the Covid-19 pandemic along with the government. The MPC meet outcome had fired from all the possible fronts, giving a much needed motivation to steady the economy. In that meeting the RBI reduced the repo rate and the reverse repo rate to a historic low of 4.4% and 4% respectively in order to boost the financial system and curtail the borrowing cost which shall benefit all sections of the society.

And the RBI also declared that the repayment schedule for loans will be shifted across the board by three months after the moratorium period, while the interest shall be accrued on the outstanding portion of the term loans during the 3 month window. Meanwhile, for working capital facilities, lending institutions were permitted to defer the recovery of interest applied during the period from 1st March 2020 up to 31st May, 2020.

However, the MPC meeting in August had a different resulting fate from the earlier ones. The MPC meet back at the start of the pandemic focussed more on direct liquidity enhancement tools such as lowering of repo rates, open market operations etc.

The Economy Is Probably in Recession Already. Banks are lending more to the Government and not to the Private Sector. Despite This, the RBI Is Forecasting in Its Base Case Bank NPLs Rising to 12.5%, the Highest Since 1999.

The Covid-19 pandemic furies are increasing in India. At the end of March 2020, the country had only handful around 1,000 cases. As of today i.e. 25<sup>th</sup> August, the number stands at close to 3 million and over 55,000 people have lost

their lives to Covid-19. And yet there is no relief in scene. The country is still very much in the stage where new cases are rising exponentially, by 65,000 per day.

The Indian economy is in dejected shape right now. GDP growth, which has been decelerating since 2018, took another leg down in 1Q20, growing only 3% YoY compared with a peak of 8% YoY in 1Q18. India is between a rock and a hard place. The country's weak health infrastructure and the sheer size of its population meant that the government had no choice but to impose a full lockdown in March even though the decision was ill-thought through and preparations were weak to non-existent.

During 2020-21 (up to July 31), through open market operation purchases, INR 1,241.5bn was injected. Furthermore, the RBI conducted auctions involving a side by side sale and purchase of securities worth INR 100 bn on July 2nd.

The purpose of the numerous emergency credit & special liquidity schemes, policy interest rate cuts, the relaxation of insolvency thresholds and holidays on loan repayments is to get banks to lend to keep companies and households afloat. The RBI is furiously pumping liquidity into the financial system through open market operations (to the tune of 4.7% of GDP) and has cut the repo rate by 115bp since January 2020 (and by 250bp since January 2019).

This month the central bank left interest rates on hold but introduced additional measures to increase liquidity and ease financial stress. NABARD (National Bank for Agriculture and Rural Development) and the National Housing Bank, the two-umbrella organisations that lend to





agriculture and finance mortgage lenders and housing finance companies, were extended additional special liquidity worth Rs100bn. Similarly, even NABARD has received ASLF worth INR 50 bn over and above INR 250 bn which were allocated in April. The period for this facility stands at one year at RBI's repo rate. A special window was announced to allow borrowers to restructure corporate and personal loans. In contrast, stressed micro, small & medium-sized enterprise borrowers would be eligible to restructure loans through to 31 March 2021. Meanwhile, for households, the permissible loan to value ratio has been raised from 75% to 90% with banks now allowed to lend against pledges of gold ornaments and jewellery.

### RESTRUCTURING PLAN

Unlike other meets, the MPC meeting in August had its onus on asset restructuring. The RBI had announced a Prudential Framework on Resolution of stressed assets in June'19 which highlighted the framework for dealing with borrower defaults in general. However, considering the COVID impact on the overall economy, the central bank has allowed a one-time debt restructuring plan for the corporates, details of which are highlighted below:

1. Only those borrower accounts shall be eligible for the resolution which were classified as standard but did not default for more than 30 days as on March 1, 2020. Further, the accounts should continue to remain standard till the date of invocation. The plan may be invoked any day before Dec 31, 2020, and must be implemented within 180 days from the time of invocation.
2. Lenders shall have to keep additional provisions of 10 per cent on the post-resolution debt. Those lending institutions not signing the inter-creditor agreement (ICA) within 30 days from the date of invocation shall attract higher provisions of 20 per cent should.
3. Post implementation, the asset classification of the account shall be retained as standard, or if the account had slipped into NPA after invocation but before implementation, the asset classification shall be restored upon implementation.

4. The lending institutions may allow extension of the residual tenor of the loan, with or without payment moratorium, by a period not more than two years.

5. Wherever the resolution plans involve the conversion of a portion of debt into equity and other debt instruments, the debt instruments with terms similar to the loan shall be counted as part of the post-resolution debt. In contrast, the portion converted into other non-equity instruments shall be entirely written down.

It is imperative to note that the one-time restructuring does not apply to the financial sector and government-owned entities.

### MSME RESTRUCTURING

If there were one particular Segment where there was most damage due to the pandemic, it would have to be MSMEs. Accordingly, the RBI has decided to include MSMEs as well in its existing restructuring plan. Now, lenders may restructure the MSME debt, provided the borrower's account was classified as standard with the lender as on March 1, 2020. This restructuring shall be implemented by March 31, 2021. According to the media, the aggregate exposure, in this case, shall not exceed INR 250 mn as on Mar 1, 2020.

RBI is applying all efforts to get the borrower confidence back on track. The resolution will bring some comfort level for those borrowers having a suitable standard asset quality before the lock-down. The risk of getting classified as an 'NPA' because of these miserable three-four months has substantially come down. Another standout aspect was with the allowance of the moratorium to be extended for such loans to a maximum of two years, which would save a lot of bloodshed in the balance sheets. On the contrary, the lenders must impose additional provision of 10% of the post-resolution debt, which means significant friction to the net-worth.

Though there is no silver lining as of now to the dark cloud over the Indian economy, we expect 2Q20 GDP, due to be published on 31 August, may show some breather for the economy.





# GST ON DIRECTOR'S REMUNERATION

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**Introduction** : Can you imagine receiving a notice from the GST dept. asking you to pay GST on payment made to the directors? If one goes by the Advance Rulings then the GST is payable by the Company on all payments made to directors under reverse charge mechanism. These advance rulings have forced us to look at the issue with a fresh perspective as in the future you would end up paying GST along with interest and penalty on such payments.

## Reason of confusion

Not. No.13/2017-CT(Rate) dated 28<sup>th</sup> June 2017 states the supplies on which reverse charge mechanism ("RCM") is applicable. Sr. No.6 of the notification prescribes that the services supplied by a director to the company shall be liable for reverse charge.

The definition of supply is also important to be referred with special emphasis on Entry No. 1 of Sch. III of CGST Act, 2017. Sec. 7(2)(a) provides the activities or transactions would be treated neither as supply of goods nor services and the same are listed in Schedule-III. The Sr. No.1 of Schedule-III list down "Services by an employee to the employer in the course of or in relation to his employment". Hence services provided under the employer-employee relationship will not be covered under the ambit of supply. So, in light of the supply definition and Notification for RCM overlapping each other, the confusion comes whether GST is payable on all types of director's remuneration.

## Advance Rulings available on the matter

The Authority of Advance Ruling ("AAR") is constituted under the GST Law aims to help taxpayers to avoid litigation and plan their transactions accordingly. The various AARs have tried to answer the GST applicability on the above categories of directors but have ended up giving contradictory decisions on the said matter.

The first AAR in this list is from Karnataka in the case of **M/s Alcon Consulting Engineers (India) Pvt. Ltd. (KAR/AAR/83/2019-20 dated 25<sup>th</sup> Sept2019)** wherein it

has been held that the remuneration to the director paid by the applicant are not covered under clause 1 of the Schedule III to the CGST Act, 2017, as the director is not the employee of the company. Hence the company is liable to pay GST under RCM even on the remuneration of Executive Directors ("EDs").

The second advance ruling from Rajasthan was given in the case of **M/s Clay Crafts India Pvt. Ltd. (RAJ/AAR/2019-20/33 dated 20th Feb 2020)**. In the said case, the company is giving remuneration in the form of salary & commission to its directors. It was ruled that the RCM notification has given a distinct identity to the services provided by the director & specifically included in the category of service covered under RCM. Hence, the consideration paid to the directors will attract GST under RCM.

The third and the latest advance ruling which is contrary to the above AARs and in line with the legal provisions has come from Karnataka in the case of Anil Kumar Agrawal(**KAR/ADRG/30/2020 dated 4<sup>th</sup> May 2020**). In this case, Anil Kumar Agrawal was an unregistered person and had asked the GST implication on various sources of income. One source out of the gamut was remuneration received from a company in which he was ED's. It is ruled that the GST cannot be levied when the director is an employee in the company however in the case of a Non-Executive Director("NEDs") who is providing services to the company then the salary will attract GST.

So, we have in our kitty conflicting decisions and it is worth mentioning that out of the 3 AARs, 2 are out of Karnataka which are conflicting to each other.

## Legal Analysis

To determine the applicability of GST on the remuneration of director, first will refer to sec. 7(2) of CGST Act, 2017. Section 7(2) is a non-obstante clause starting with "Notwithstanding". Further sec. 7(2)(a) provides the activities or transactions would be treated neither as supply of goods nor services which





are specified in Schedule-III. Hence even if an activity or a transaction is covered under the scope of supply u/s 7(1), it would not be a supply if it falls under Sch.-III. The Sr. No.1 of Sch.-III list down "Services by an employee to the employer in the course of or in relation to his employment". Hence services provided under the employer-employee relationship will not be covered under the ambit of supply and hence no GST shall be payable on such service.

In this context it is important to analyze whether the service of the director to the co. are in the nature of employer-employee relationship as GST shall not be levied on the services of director to the extent it is in the nature of employer-employee relationship.

### **To determine the employer-employee relationship, following is referred:**

**Companies Act Provisions :** To determine whether a director is an employee of the co., the definition of employee is referred as defined under Rule 12 of The Companies (Share Capital & Debentures) Rules, 2014.

**"Employee" means-** (b) a director of the company, whether a whole-time director or not but excluding an independent director; or..... (Relevant Part)

The clause (b) of the definition of employee clearly excludes independent directors from the definition. So, in light of the above definition, EDs are employees of the company whereas NEDs are not employees of the company in light of the above definition.

### **Income Tax Provisions**

Distinction has also been drawn under the IT Law between the remuneration of EDs & NEDs, wherein the payments made to EDs is generally taxable under the head 'salary' whereas the payments made to NEDs is generally taxable under the head 'Income from Other Sources'. Further, the tax is also deductible at source on any remuneration/fees/commission payable to a director, other than salary (on which tax is deductible u/s 192) u/s 194J, which sec., *inter alia*, deals TDS on 'fees for professional services. Thus, even under the said Act, services rendered by NEDs have been considered to be different as juxtapose against services rendered by ED's.

### **Judicial Pronouncements in Other Laws**

Attention is drawn to the judgement of Hon'ble SC in

the case of **Employee's State Insurance Corporation V. Venus Alloy Pvt. Ltd. [Civil Appeal No. 1464 of 2019 arising out of SLP (Civil) No. 12812 of 2015]** dated 5th Feb, 2019 wherein it is ruled that if a director of a co. is receiving remuneration for discharge of any duty then the director will come under the definition of "employee" under Section 2(9) of the ESI Act, 1948.

### **Clarification by Government**

To give rest to this debate, the Government at last clarified vide Cir.No.140/10/2020-GST dtd. 10<sup>th</sup> June, 2020. In the said circular the transactions between directors & co. are divided into 2 different categories:

**a.** Remuneration paid by companies to the independent directors or those directors who are not the employees of the said company. It is clarified that the remuneration paid to such independent directors, or those directors, by whatever name called, who are not employees of the said company, is taxable in hands of the company, on reverse charge basis.

**b.** Remuneration paid by companies to the whole-time directors including managing director who are employees of the company.

In this category it would be pertinent to examine whether all activities performed by the director are in the course of employer-employee relation or not. In identification & classification of the transaction, TDS under IT Act, 1961 plays an important role.

It is clarified that the part of Director's remuneration which is declared as 'Salaries' in the books of a co. & subjected to TDS under Sec. 192 of the IT Act are not taxable being consideration for services by an employee to the employer.

It is further clarified that the part of employee Director's remuneration which is declared separately other than 'salaries' in the Co.'s accounts and subjected to TDS under Sec. 194J of the IT Act shall be liable for tax under RCM.

**Conclusion :** Thus, the payment made to employee-directors covered under the employment contract, would not be covered within the ambit of GST. Further, GST shall be levied only on the services not covered by the employment contract of Directors. Further, it is suggested to clearly draft the letter of appointment/contract to determine the relationship of director and the company.



## KNOW YOUR INDORE BRANCH CREW

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# COMPLIANCE CHART SEPTEMBER 2020 GST/INCOME TAX



Purpose	Period	Due/ Ext. Dt.	Remark
GSTR- 3B	Aug.-20	20 Sept. 2020	RP having ATO > Rs 5CR
GSTR- 1	Aug.-20	11 Sept. 2020	
GSTR -3B	May / June/ July-20	12 Sept. 2020/ 23 Sept. 2020/ 27 Sept. 2020	RP having ATO < Rs 5CR (Exemption given for filing GSTR 3B without interest and Late fees)
GSTR -3B (RP having ATO < Rs 5CR)	Aug.-20	01 Oct. 2020	For State of MP and South of MP
		03 Oct. 2020	For States North of MP
GSTR -4	2019-20	31 Aug. 2020	Annual Return Composition scheme
GSTR- 5/6/7/8	July-20	31 Aug. 2020	Not. No 55/2020-Central Tax dated 27.06.2020
GSTR -5	Aug.-20	20 Sept. 2020	Non-Resident taxable person
GSTR -6	Aug.-20	13 Sept. 2020	ISD return
GSTR -7	Aug.-20	10 Sept. 2020	TDS return
GSTR -8	Aug.-20	10 Sept. 2020	TCS return
GSTR -9	2018-19	30 Sept. 2020	Annual Return
GSTR- 9C	2018-19	30 Sept. 2020	GST Audit (RP having ATO > Rs 5Crores)
GSTR -9A	2018-19	30 Sept. 2020	Annual Return Composition scheme
GSTR 3B	July 17- 20	30 Sept. 2020	Late Fees Exemp. (Max .250 CGST & 250 SGST) (Nil late fees for NIL retruns)
TDS /TCS Liability Dep.	Aug-20	07 Sept. 2020	Depositing TDS/ TCS liability
TDS Certificate (Form 16B)	July-20	14 Sept. 2020	Issuance of TDS certificate for Tax deducted under sec. 194-IA**
	July-20	14 Sept. 2020	Issuance of TDS certificate for Tax deducted under sec. 194-IB***
	July-20	14 Sept. 2020	Issuance of TDS certificate for Tax deducted under sec. 194-M***
Form- 3BB	Aug.-20	15 Sept. 2020	By a stock exchange w.r.t. transactions in which client codes been modified after registering in system
Form 24G	Aug.-20	15 Sept. 2020	Furnishing of the from by an office of the govt. where TDS/TCS paid without production of challan
PF/ESIC	Aug-20	15 Sept. 2020	Depositing contribution towards PF/ESIC
Adv. Tax Payment	Jul-Sep 20	15 Sept. 2020	Second instalment for AY 2021-22
Sec. 54 to 54GB	AY 20-21	30 Sept. 2020	Investment/Construction/Purchase for claiming roll over benefit/deduction in respect of capital gains
SEZ units	Approval by March 31, 20	30 Sept. 2020	Commencement of Operations for claiming deduction under section 10AA
Return Filling	AY 19-20	30 Sept. 2020	Filling of Return of Income for all Assesseees
TDS (Challan cum Stamt.)	Aug.-20	30 Sept. 2020	Furnishing of challan-cum-statement under Sec.194IA, 194IB and 194-M

! \*Above due dates are subject to any changes notified by the dept. based on the recommendations & situations. ! \*\* 194-IA- TDS on payment made by the person transferring Immovable property valuing more than 50 lakh Rs. ! \*\*\* 194-IB- TDS on Rent paid by Individual /HUF to any resident exceeding 50000 Rs. P.M 194-M – TDS on contractual payments made by Individual/HUF to any resident exceeding 50 lakh Rs.

## Companies Act, 2013 and SEBI Compliance in response COVID

SEBI LODR Regulation 44(5)	FY 19-20 or Yr. Jan.19-Dec.19	30 Sept. 2020	AGM by Top 100 Listed Entities by Market Capitalization
Internal Audit Report by DP's	Oct. 19 - Mar 20	30 Sept. 2020	Submission of Internal Audit Report
Systems Audit	FY 2019-20	30 Sept. 2020	Systems Audit on Annual Basis
DPT-3 in case of companies	Moratorium Period/CFSS	30 Sept. 2020	Return of deposits that companies must file to furnish information about deposits &/or outstanding receipt of loan or money other than deposits.



Welcoming Chief Guest **Shri Shankar Lalwani**, MP Indore, on the occasion of CA Day Celebration



Flag Hoisting on CA Day by **Shri Shankar Lalwani**, (MP-Indore), **CA Manoj Fadnis** ( Past President- ICAI), **CA Kemisha Soni** (CCM), **CA Harsh Firoda**, (Br. Chairman) with MCM, Sr. Members & Students.



Plantation by Chief Guest **Shri Shankar Lalwaniji** at CA Garden with Branch Members



Felicitation of **Shri Shankar Lalwani** by Managing Committee Members



Plantation by Past office bearers in CA Garden



Felicitation of Corona Warriors



# Independence Day Celebration



Flag Hoisting at ICAI Bhawan by **Shri G. S. Raghav**, with RCM & Br. Managing Committee Members.



Presented memento to Chief Guest **Shri G.S. Raghav**, (Asst. Commissioner, IT) on Independence Day Celebration.



## 50<sup>th</sup>

**ANNUAL GENERAL  
MEETING  
OF INDORE BRANCH  
OF CIRC OF ICAI  
ON 31<sup>st</sup> JULY, 2020  
THROUGH  
VIRTUAL MODE.**

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