



**45 Nos. Oxygen  
Concentrators  
dedicated to  
society by  
Indore CA Branch**

**INDORE BRANCH OF CIRC OF ICAI**



**NEWSLETTER**

# Chairman's Communique



## Respected Members,

Every day is a new beginning, Take a deep breath and start again. Forget what might have been and look at what can be. These difficult times have taught us to live in present and work for a better tomorrow. It's time to stand together and fight this pandemic because "Together We can".

Indore branch is always standing with its members and students by carrying out initiatives like Constitution of Covid task force for any help or for any requirement regarding Covid-19, Yoga sessions at home, help and assistance from CA Benevolent fund and appeal to make contribution to CA Benevolent fund (CABF).

Indore branch is also fulfilling its social responsibilities by dedicating 45 Oxygen cylinders to the society and offering Pro-bono service of verification of rates charged to Covid patients in accordance with administrative guidelines to ensure that nobody is over-charged for any facility/service.

Indore branch through its efforts is giving an assurance that "मुश्किल घड़ी में हम हैं साथ".

The current situation has caused a lot of disruption in the way of doing our work, hence we need to adapt because if we fail to adapt, we fail to move forward. Hence to help you all adapt with changes Indore branch had organised various virtual courses and seminars in the past month, namely –

1. 4 Days Refresher Course on Goods & Service Tax
2. Series of Seminar on Direct Taxes
3. Virtual Course on Drafting of Deeds & Documents When we are no longer able to change a situation, we are challenged to change ourselves. Let's change for a better tomorrow.

**CA Kirti Joshi**  
(Chairman)



## MANAGING COMMITTEE

**CA Samkit Bhandari**  
(Vice-Chairman)

**CA Ankush Jain**  
(Secretary)

**CA Anand Jain**  
(Treasurer)

**CA Gaurav Maheshwari**  
(CICASA Chairman)

**CA Harsh Firoda**  
(Imm. Past Chairman)

**CA Pankaj G. Shah**  
(Past Chairman)

Ex. Officio Member :  
**CA Kemisha Soni**  
(Central Council Member)

**CA Nilesh Gupta**  
(Chairman, CIRC of ICAI)

**CA Churchill Jain**  
(Regional Council Member)

## EDITORIAL TEAM

**CA Pankaj G. Shah**  
**CA Yash Khandewal**  
**CA Amitesh Jain**  
**CA Priyanshi Sikchi**



# *Down the Memory Lane*

*(Some MEMORIES never fade)*

**CA Hitesh J. Mehta**  
(Past Chairman - Indore Branch 2006-07)

It was indeed a matter of proud privilege for me to serve CA Indore Branch actively during my managing committee term for the period from 2004-07 and I am pleased to share my experiences on the occasion of this Golden Jubilee Year.

At that time the branch was operating from office at Urvarshi Complex, Jaora Compound with membership of around 1100 and in addition to successfully managing branch's routine activities to the utmost satisfaction of all concerned, our main herculean task was the construction of branch's own building on the land acquired at Scheme No. 78 by our predecessors.

And in order to generate adequate funds for the said noble cause, we approached each & every member of the branch, more focused on profitable students' activities like GMCS etc. and decided to use the formula of cost – cutting by completely changing the methodology adopted in organizing the seminars & conferences in such a way so that the remarkable huge surplus can be generated without diluting the quality of the programs.

Finally we succeeded in our planning & could gather substantial funds to get matching grant from the Institute with the support of our own CA. Manoj Fadnis, then CCM. Friends, I was fortunate to work very closely with the Branch Building Comm. and could witness the completion of almost 99 % work of building by the end of my term.

I must appreciate here the dedication and untiring efforts done by CA. R.S. Bansal, Chairman Building Committee and CA. M.P. Agrawal, Secretary, Building Committee in the construction of this new branch building & auditorium with world-class infrastructure and amenities.

I am happy to remind that in my tenure Decentralized office of the Institute was also opened to cater the needs of members as well as students and now Indore Branch is achieving newer heights day by day and is the most ideal branch of Country with membership of around 3500 and best branch building & auditorium to whom we all are witnesses. My best wishes are always with our branch and the fraternity.



**CA Abhishek Gang**  
(Past Chairman-  
Indore Branch 2007-08)

First of all let me congratulate each and every member of Indore CA branch for completing glorious 50 years of establishment. It is really a proud moment for all of us.

Indore CA branch carries same reputation in ICAI as Indore carries in India. Indore CA branch is also famous for its liveliness, unity amongst members, unparalleled infrastructure and hospitality. I always feel proud to be a member of Indore CA branch.

I have been serving Indore branch since 2004 when I was elected at branch managing committee member. Then branch was situated at Urvashi complex. But my predecessors saw a dream of our own building, auditorium and excellent infrastructure facilities. Since then I have been witnessing hardworking of various Indore branch members to achieve this dream.

I recall those golden and memorable days, when our branch premises was shifted from Urvashi Complex to new branch building and that area was under development. I remember that I used to keep 2-3 drinking water can in my car for staff and committee members. There was no phone line so we took reliance wireless phone for communication. There was no table or chair in chairman cabin. Thus we started our branch at new premises. Now we are equipped with almost all amenities and infrastructure facilities.

Our central and regional council members and managing committee members are taking every step to help members and increase glory of Indore CA Branch in India.

I once again congratulate members of Indore branch for achieving this milestone.



# Startup and it's Valuation Journey



CA Aditya Chokhra

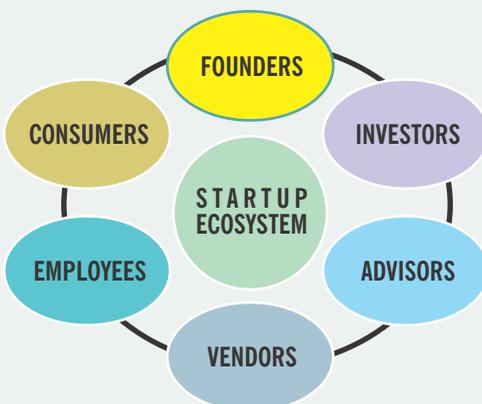
## Startup Ecosystem

The world today belongs to the Startups, and every one of us would like to be part of the journey. And as it stands, almost everyone, in one way or the other, are a part of this ecosystem, in the role of entrepreneurs, investors, financier/ banker, vendor, employee, consumer etc.

Founding a Startup is complicated, as one is committed to generate value not just for their business but an entire ecosystem, and yet it's very satisfying.

One of the important differences between running a startup and a traditional company, is the commitment towards fast growth, fueled by market disruption and innovative solutions. Being a disruptor comes in at a high cost and needs right funding at a proper time for the founders to run the businesses with sole focus on business growth and market capitalization.

And that's where Startup valuation becomes a key factor, providing a monetary measure for founders and investors to get to a mutually beneficial deal and grow the business and thus, the ecosystem.



## Valuation of Startup – Guideline and Best Practices

Valuation of Startup is tricky as compared to normal businesses, as Startups initially have little or no revenue and are either loss making or generate little profit. As such, startups are valued based on certain specific parameters, like Multiples of Revenue or EBITDA and Future Cash Flow based valuation.

There would be always be fair bit of discussion around valuations, amongst founders and investors, as founders would tend to over value their business while investors would want to claim higher equity holding.

So how do you get to fair and equitable value? Assuming that the investors are already bought into the business idea and subscribe to the founder's vision, the value should be at a point that allows founders to get enough money to achieve the financial projections agreed with the investors, at a dilution of equity stake which gives reasonable control to investors for the risk taken by them, so that enough equity is saved for the future rounds of investments. And this is beneficial for both Startup as well as the investors.

## Four Stages of Startup & Valuation



### a. Seed Round Valuation :

Seed round or angel round or early-stage valuation are very tricky one, as the there are several factors which

create hurdle in finding out the true value of the Startups, e.g. lack of historical operating and financial metrics, high risk of failure, founders' capabilities & experience etc. Because of these factors, it becomes very difficult to value early-stage startups as per popular methods like Discounted Cash Flow or Market Multiple.

In Seed round, the valuation is carried out as per Scorecard Valuation Method or Venture Capital Method, which we will discuss in details a bit later. In some of the cases where the founders are able to provide fair Cash Flow projections, DCF & market multiple methods could also be used, but it's very rare.

### b. Growth Series Valuation :

During this phase of the Startup, it has built the market & team, scalability can be visualized, historical numbers are measurable and future funding requirement is forecasted well ahead. This is best fit for VC firms as broadly the product or services of the Startups are market fit and scalability can be seen viz-a-viz burn rate.

Here Series A, Series B, Series C and so on funding are secured to scale up the top line. DCF and Market Multiple methods are mostly used in this stage for the valuation. The investors look for many other intangible factors before moving ahead, some of them being:

- ▶ Market / Opportunity Size
- ▶ Founder and Rest of the team
- ▶ CAC / Burn Rate ▶ MOAT
- ▶ Competition ▶ Governance

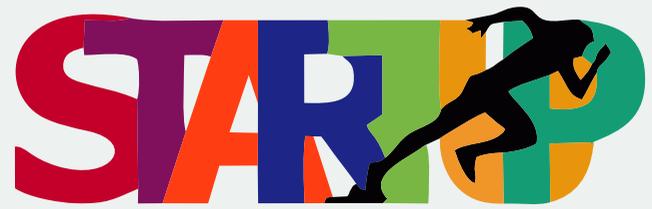
### c. Mature Phase Valuation :

This is the phase where very few Startups are able to reach. In this stage the founders try to minimize the dilution of equity and maximize the control. They try to use funding sources where equity is saved which includes Mezzanine Debt, Venture Debt, Working Capital Debt etc. In this stage the existing investors clearly see the path of their investment exit and convert their patience in multi fold return. This is the phase where founders should try to maximize the big corporate tie ups, PR events and keep on interacting with public at large so that they can also get the sense of market which may define their exit. The valuation is mostly done on DCF and Market Multiple methods.

### d. IPO / Strategic Exit Valuation:

This is the final stage of the Startup, where investors look to exit and founders also try to cash out their hard work.

Here mostly valuation is being carried out as per Market Multiple methods and precedent transaction methods.



## Valuation Methods

There are many valuation methods available in the market, but each method is applied based on proper assumptions, judgement and experience. It is said that the valuation is not an exact science but it is an art, and it may differ person to person. Hence choosing the correct method with correct assumptions are keys to get the accurate valuation which can be justified for both investors and founders.

**a. Discounted Cash Flow (DCF) Method:** In DCF method future cash flows are estimated based on market segment & industry trends. Then these cash flows are discounted back to present value based on rate of Cost of Equity or Weighted Average Cost of Capital. This rate is generally calculated based on required rate of return expectation by investors. Here terminal value is also calculated and added in the present value of the cash flows for the projected years.

**b. Multiple Method:** In this method various market multiples are used to value the Startup. The most common multiples are Revenue Multiple and EBITDA Multiple. These multiples are taken based on the similar industry players traded in the market or precedent transactions happened in the similar industry. Average multiples are applied to the revenue and EBITDA numbers of the Startup being valued. Here taking the correct market players and the correct stage precedent transaction multiple is important.

**c. Scorecard Valuation Method:** This method generally used in early-stage startups. In this method, average valuation is calculated for the recently angel funded startups in the same region, same industry and same stage of the startup. Now this value is adjusted for some important factors like Management team, Size of opportunity, Technology, Competitive environment, Marketing / Sales channels and partnerships and others.

**d. Venture Capital Method:** VC Method of valuation runs on a simple calculation of required rate of return which is the expected return on investment by investors and

exit multiples. This method is mostly used for early stage startups. In this method, the founder first provides their fund requirements and future cash flow projections for 5 years. Exit value is calculated based on market multiple like PE or EBITDA on the terminal year cash flows. Then the same is discounted back to present day based on the required rate of return. This valuation method is simple and can be done with basic calculation.

## Maximizing the Value – Key Factors

Every startup thinks that it has billion-dollar valuation or it will soon reach that awesome mark and that is a legit human tendency – to always think about growth. That

zeal to achieve some pre-defined goal or mark is a very important factor in the growth of the Startup. But thinking of a high value goal and making it a reality, is very different. A Startup founder should take certain factors in mind while developing the business model so that the high valuation can be achieved. There are many such factors, but the majority revolve around the below mentioned ones:

- ▶ Solving a Genuine Problem
- ▶ Founding Team
- ▶ True Value to Consumer
- ▶ Scalability
- ▶ Fast Pace Growth
- ▶ Emerging Trends



## Compliance Chart June 2021

Return / Forms	Month/Year	Due / Ext. Date	Remark
GSTR 3B	May-21	4 June-21	RP having ATO > Rs 5 cr and have opted monthly filing of return
		19 June-21	RP having ATO < Rs 5 cr and have not opted for QRMP
GSTR 1	May-21	11 June 2021	RP having monthly filing of return
GSTR 3B	May-21	20 June 2021	RP having ATO > Rs 5CR
GSTR 5	May-21	20 June 2021	Non-Resident taxable person
GSTR 6	May-21	13 June 2021	ISD return
GSTR 7	May-21	10 June 2021	TDS return
GSTR 8	May-21	10 June 2021	TCS return
GSTR 2B	May-21	14 June 2021	Auto-populate data for Rule 36(4)
Challan under QRMP sch. (PMT 06)	May-21	25 June 2021	Taxpayer opting QRMP scheme
Invoice Furnishing Facility	May-21	13 June 2021	
B2CS E-Invoicing applicability	21-22	01 July 2021	Registered person having aggregate turnover more than 500 crores
Depositing of TDS/TCS	May-21	07 June 2021	
Depositing Equalization levy	May-21	07 June 2021	
Payment of PF Contribution	May-21	15 June 2021	
Payment of ESI Contribution	May-21	15 June 2021	

# अपने लिए जिये तो क्या जिये



The coronavirus pandemic is upending life on a global level as we know it. While on one hand people across India and around the globe are largely confined to their homes with businesses and educational institutions all shut down in an attempt to contain the virus, and on the other hand there are many corona warriors who are providing their services and support in the Fight against corona virus.

We are happy to inform you Indore branch has stand tall in exercising its duty to contribute to the society by various initiatives like donating 45 oxygen concentrators, encouraging contribution to CA Benevolent Fund, Encouraging fitness through live Yoga sessions etc.

We through this article want to share you some of the inspiring stories of our members and students who are doing their part for the society and showing us the way to live life on the motto of “अपने लिए जिये तो क्या जिये”



## COVID TASKFORCE OF INDORE BRANCH

To help CA members & their relatives, who are suffering or having any problem regarding Covid-19 and require any help, a Covid task force was established.

### COVID-19 TASKFORCE



#### Members of the Task Force

- ▶ CA Kemisha Soni (Central Council Member)
- ▶ CA Nitesh Gupta (Chairman - CIRC of ICAI)
- ▶ CA Churchill Jain (Regional Council Member)
- ▶ CA Narendera Bhandari (Past Chairman - Indore Br.)
- ▶ CA Garjana Rathore Past Chairman - Indore Br.)
  - ▶ CA Nitin Agrawal
  - ▶ CA Harshal Jain
  - ▶ CA Aayush Garg

## Participation in Indore Citizen's Forum For Covid Response (ICFCR)

ICFCR has been an active forum in this difficult times of Pandemic. They have taken various initiatives such as Vaccination drives, seminars to spread the awareness, organising Yoga sessions etc. They have also raised funds for a 1200 Bed centre for COVID patients in the name of **Maa Ahilya Covid Care Centre**.



### Team Members from CA Fraternity

- ▶ CA Aseem Trivedi ▶ CA Anand Saklecha
- ▶ CA Vinod Runwal ▶ CA Sachin Bhajji

## Participation in Samvedna Lok Parmarthik Sanstha (SLPS)

SLPS is an active social work organisation. It has been contributing to the society with its various contributions and social events.

During this pandemic also the organisation stepped up for its duty and is contributing through activities like distribution of food/medicines, arrangement of blood, donation of oxygen concentrators etc.

**CA Pramod Garg** is an active member of SLPS who also actively contributed in donation of oxygen concentrators by Indore branch.



## Participants In Shri Guruji Seva Nyas

In this corona pandemic time, a well-equipped medical centre has been established to provide services of dialysis, physiotherapy, yoga, diagnosis, OPD, PM Jan Ayusadhi, and PM Aayshman Card etc at very nominal price.

Also started RTPCR test and Covid Vaccination. Recently, a Covid Wellness Centre of 108 beds (48 oxygen, 48 non oxygen and 12 day care) has been started with all requisite medical services except ICU (ventilator) to non-critical Covid patients on No Profit basis at very reasonable price, Including food and medicine.



### Team Members from CA Fraternity

- ▶ **CA Sunil G. Khandelwal**  
(Past Chairman - Indore Branch of ICAI)
- ▶ **CA Abhay Sharma**  
(Past Chairman - Indore Branch of ICAI)

## CA COVID ARMY

An initiative started by Young CA's to help those who need for food, or ration. Group of 15 members (CA's and to be CA's), With a motive "**Each one feeds one**" to ensure that no one sleeps hungry.

We are an independent organisation not affiliated with any NGO but with support of organisation such as **Saath se Saans**, we are there for those who need us.

Our motto is सेवा परमो धर्म to ensure that we continue to serve them till they need us.



### Name of Team Members

- ▶ CA Hitanshu Gandhi
  - ▶ CA Shubham Agrawal
  - ▶ CA Sayyam Jain
  - ▶ CA Tribhuvan Kanungo
  - ▶ CA Tanay Maheshwari
- and Team of total of 15 members and students.



CA Rajat Dhanuka

# GST ON SLUMP SALE

India is en-route to turn itself into a 21st-century super-economy fuelled by the unprecedented growth of its business enterprises. The business may grow in two ways – either in an organic way or inorganic. The former refers to the internal forces of the enterprises which are re-organised to bring in development and growth into the business, whereas, in case of inorganic growth, the company goes into corporate restructuring to re-align its external facade to fuel the planned development and growth. In today's fast moving corporate environment, corporate restructuring happens to be the most ideal tool to win an advantage in this pursuit. Business restructuring is a comprehensive process, be it financial or technological or market or organisational. Business can be re-arranged by way of mergers, demergers, disinvestments, takeovers, strategic alliance or slump sale.

To determine whether the GST is applicable on Slump Sale or not we need to answer to the following questions first:

1. What is the meaning of Slump Sale under GST?
2. Does Slump Sale fall under the definition of Supply or not?
3. Whether Slump Sale is Supply of Goods or Supply of Services?
4. At what value the Slump Sale be Charged to Tax?
5. What will the rate of tax in case of Slump Sale?
6. Whether the transferee can take the Input Tax Credit lying in the credit ledger of the transfer or GSTIN?

Once we answer all these questions, we will come to a conclusion whether GST should be charged on Slump Sale or Not?

## What is the meaning of Slump Sale under GST?

The CGST Act didn't provide the definition of Slump-Sale, hence we need to move towards Income tax Act, 1961 for to determine the definition of Slump-Sale.

The IT Act, in section 2(42C) defines “slump sale” as – *“slump sale” means the transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales.”*

Therefore, slump sale contains the following conditions:

- Sale of one or more undertaking,
- No individual value should be assigned to assets and liabilities, and the same to be sold for a lump sum consideration, and
- All assets and liabilities of the undertaking must be transferee.

## Going Concern Concept

The term “going concern” has no place in the GST Act. However, one can refer to the pronouncement of the Advance Authority Ruling in case of Rajashri Foods Pvt. Ltd. for the same as mentioned below:

*“A going concern is a concept of accounting and applies to the business of the company as a whole. Transfer of a going concern means transfer of a running business which is capable of being carried on by the purchaser as an independent business. Such transfer of business as a whole will comprise comprehensive transfer of immovable property, goods and transfer of unexecuted orders, employees, goodwill etc.”*

The concept of transfer of going concern comes handy when the business as a whole is transferred, however case laws and analysis do suggest the likelihood of transfer of assets as a going concern.

## Does Slump Sale fall under the definition of Supply or not?

We shall now refer the scope of supply as mentioned in Section 7 of the (Central Goods and Services Tax Act 2017 (CGST Act) which is as follows:

*“(1) For the purposes of this Act, the expression “supply” includes—*

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

Supply includes activities such as sale, transfer, barter etc for a consideration in the course or furtherance of business. From this we can infer that the activities shall take place in the course or furtherance of business. Coming to slump sale, the transaction is neither during the course of business nor in persistence of business. However, since the word “includes” has been used in the definition in Section 7 (1) of the CGST Act, the scope of supply goes beyond the course or furtherance of business. **Therefore, the transfer as a going concern shall also be treated as “supply” under GST.**

## Whether Slump Sale is Supply of Goods or Supply of Services?

As slump sale is considered to be a supply under GST, we should now understand if the same constitutes to be goods or services.

**The term goods has been defined under section 2(52) of the CGST Act as:**

*“goods” means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;”*

**Further definition of “Service” as per section 2(102) of the CGST Act defines the term service as:**

*“services” means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.”*

Schedule II of the CGST Act talks about activities to be treated as a supply of good or supply of service wherein Clause 4, transfer of business assets has been considered as supply of goods.

Clause 4(c) of Schedule II of CGST Act states that *“(c) where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—*

- (i) the business is transferred as a going concern to another person; or*
- (ii) the business is carried on by a personal representative who is deemed to be a taxable person.”*

In Clause 4(c) transfer of business as a going concern does not constitute as supply of goods.

As per the definition of services, anything other than goods is called a service. Business transferred as a going concern is excluded from the list of supply of goods. **Since the schedule specifically excludes this activity, it becomes very obvious that transfer of business as a going concern is considered to be a supply of service.**

## At what value the Slump Sale be Charged to Tax?

Once it is clear that the activity of transfer of a going concern constitutes a supply of service & GST will be levied on it we must to identify the valuation for such sale as per Section 15 of CGST Act, 2017 read with rule 28 of CGST rule 2017.

Rule 28 of CGST Act, 2017 provide three base for valuation in case of consideration is in form in form of Money:

- Be the open market value of such supply.
- If the open market value is not available, be the

value of supply of goods or services of like kind and quality.

- If the value is not determinable under clause (a) or (b), be the value as determined by the application of rule 30 (Value of supply of goods or services or both based on cost) or rule 31 (Residual method for determination of value of supply of goods or services or both), in that order.

From the above three base of Valuation, it can note that:

(1) Slump sale is not an open market sale, since it is not normally made available in the market.

(2) Each slump sale is unique and there cannot be any services of a like kind and quality.

Thus, in the light of the above analysis it is clear that Rule 28 is not applicable.

Now move towards the Rule 30 (Value of supply of goods or services or both based on cost)

Cost of acquisition is not applicable as the supply is one of service of business as going concern, so we have to rule out the Rule 30.

Now move towards the Rule 31 (Residual method for determination of value of supply of goods or services or both)

The option we have left is only the transaction value, **Hence, we may conclude that the "Transaction value" will be the net consideration agreed between the parties.**

## What will the rate of tax in case of Slump Sale?

GST has provided many exemptions for supply of services i.e. supply of such service will attract NIL rate of GST wide Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, one of the such service is as under, as per serial No. 2 of such notification "Services by way of transfer of a going concern, as a whole or an independent part thereof" will be NIL Rated.

Sl. No. 2 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 is reproduced herewith:

No.	Chapter Heading or Service Code (Tariff)	Section Group or Service	Description of Services	Rate (%)	Condition
1.	Chapter 99		Services By..	Nil	Nil
2.	Chapter 99		Services by way of transfer of a going concern, as a whole or an independent part thereof	Nil	Nil

**Hence supply of Slump sales is exempted from GST without any conditions.**

## Transfer of ITC lying in electronic credit ledger in the books of transferor

Section 18(3) of CGST Act, 2017 state that "Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilized in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed."

As per Section 18(3) of CGST Act 2017 read with Rule 41 of CGST Rules 2017 it is clear that the registered person shall be allowed to transfer the input tax credit which remains unutilized in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business. The transfer of ITC can be made by filing the FORM GST ISTC-02 by the transferor on GSTIN Portal. Also, transferor shall submit a copy of a certificate issued by a practicing CA or Cost Accountant.

**Conclusion :** The transaction of slump sale is treated as Supply of service when the transfer of business is as a whole and as a going concern. The transaction is fully exempt under GST. The value of supply of service is the net consideration payable as agreed between the parties. Further, the transferee will be entitled for the ITC lying as credit balance of the transferor entity.

# RECENT JUDICIAL DECISIONS



1. **Recovery of interest on GST by way of adjustment of amount of rebate claims against the interest on delayed payment of goods and service tax by the appellant** - Initially the appellant applied two rebate claims before the adjudicating authority which were initially denied but on appeal before the Ld. Commissioner (Appeals), the rebate claims were sanctioned. Against those orders, revenue preferred appeals before the revisionary authority, who dismiss the appeals filed by the Revenue. Therefore, the amount was recoverable from the department by the appellant. Instead of giving the said amount to the appellant, the revenue adjusted the same and a letter was issued to the appellant to pay interest for the period September 2017 for GST paid lately by the appellant. The appellant replied thereof saying that the interest is not payable by the appellant. Therefore, the said amount was adjusted against the interest. It was held that the appellant has disputed the interest liability and the same has not been adjudicated, in that circumstances, the recovery of interest from the appellant is not in terms of law and the said recovery cannot be made - there are no merit in the impugned orders, the same are set-aside. Appeal allowed - decided in favour of appellant. - **CMI LTD. Vs. CCE & ST- FARIDABAD-I {E/61290-61291/2019}**

2. **No hearing granted to Petitioner in case of refund of unutilised input tax credit** - There is a clear legal mandate that if an application for refund is to be rejected, the same can only be done after giving the applicant an opportunity of being heard. The impugned orders were set aside and the case was remanded back to lower authorities.-**BA CONTINUUM INDIA PVT. LTD. Vs. UNION OF INDIA AND OTHERS [Bombay High Court]WRIT PETITION (L) NO.3264 OF 2020**

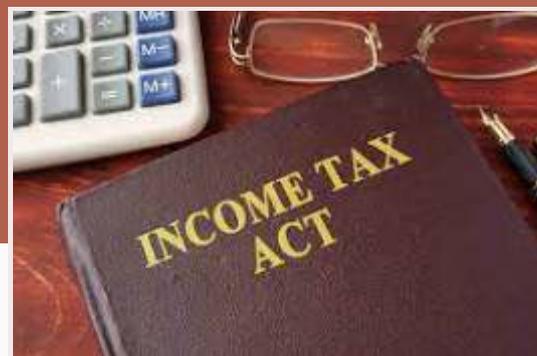
3. **Petitioner was not afforded reasonable opportunity of presenting his case before the said authority which is a violation of principles of natural justice** - It was pronounced that in plain terms the order passed by the said authority suffers from grossest possible violation of principles of natural justice. Having issued notice calling upon the petitioner why certain demand of tax with penalty not be confirmed he passed the final order confirming the demand on the same date as the notice and long before the time he had granted the

petitioner to respond to the notice. Without permitting the petitioner to appear and file reply and oppose the demands the Inspector confirmed the demand by passing separate orders. This was wholly impermissible. - **M/S. RIMI SALES AGENCY Vs. UNION OF INDIA{WP(C) No.1185 of 2018}**

4. **Denial of ITC on the ground that the assessee has not received the goods and that the sellers have not paid tax to the government** - When the assessee is denied ITC on the ground that the assessee has not received the goods and that the sellers have not paid tax to the government, the demand of ITC cannot be confirmed against the ITC automatically and the defaulting sellers need to be examined as a witness and be subjected to recovery proceedings if the circumstances so require, without which demand confirmed against such assessee is flawed and liable to be set aside. - **M/s DY Beathel Enterprises Vs. State Tax Officer (Data Cell) - 2021-TIOL-890-HC-MAD-GST, 24/02/2021**

5. **When Tribunal confirmed the order of first appellate authority without citing the reason or case laws cited by the Appellant having bearing on the issue before Tribunal, High Court remitted the matter to the Tribunal for consideration afresh** - On perusal of the order of the Tribunal, Hon'ble High Court held that the said order is cryptic and suffers from the vice of non-application of mind. The Tribunal has not assigned any reasons in respect of its finding and has merely recorded the conclusions. It further held that the decision of CCE vs. ECOF Industries Pvt. Ltd., 2011 (271) ELT 58 (Kar) = 2011-TIOL-770-HC-KAR-ST which has a bearing on the controversy involved in the appeal has also not been considered by the Tribunal. The Appeal was therefore allowed and the matter was remitted to the Tribunal for decision afresh and in accordance with law. - **M/s Fosroc Chemicals India Pvt. Ltd. Vs. Commissioner of Central Tax GST Bangalore, [2021-TIOL-900-HC-KAR-CX], 01/04/2021**

# RECENT JUDICIAL DECISIONS



1. Assessee is an agriculturist and has been carrying out agricultural operation on land for many years. In revenue records, said land is an agricultural land. Assessee pays land revenue every year to Government for such agricultural land. Further, from certificate of collector it is evident that till date of sale, assessee's land was an agricultural land and said land was being used for agricultural purposes. Thus, it is abundantly clear that till date of sale, land was an agricultural land. Besides, population of village where land is situated is less than 10,000, at that point of time, therefore, one of conditions of section 2(14) has failed and hence such land is not a Capital Asset, consequently capital gains provisions are not attracted. Therefore, based on above factual position, it is viewed that assessee has sold an agricultural land which is not a capital asset hence, Assessing Officer is directed to treat said land as an agricultural land.- **IN THE ITAT SURAT BENCH -Suresh Dhulabhai Patel v. Income-tax Officer, Ward-2(2)(4), Surat-[2021] 127 taxmann.com 147 (Surat-Trib.)(30.04.2021)**

2. INCOME TAX : Where investor company was a public company listed with BSE and having sufficient earnings and reserves to justify investment in share capital of assessee-company and alleged accommodation entry provider was not managing and controlling investor company for purpose of providing accommodation entries, such share capital/premium from investor company could not be added to income of assessee under section 68 -[2021] 127 taxmann.com 156 (Delhi - Trib.) **Ancon Chemplast (P.) Ltd. v. Income Tax Officer, Ward-2(4), New Delhi (30.04.2021)**

3. INCOME TAX : There is no requirement for a notice to be issued under section 143(2) for completion of an assessment under section 153C and thus, question of adhering to time limit prescribed under proviso to section 143(2) does not arise [2021] 126 taxmann.com 107 (Madras)[09-04-2021] **HIGH COURT OF MADRAS, B.Kubendran v. Deputy**

**Commissioner of Income Tax, Central Circle 2(1), Chennai**

4. Scope of sub-section (5) of section 80-IA is limited to determination of quantum of deduction under sub-section (1) of section 80-IA by treating 'eligible business' as 'only source of income'. Sub-section (5) cannot be pressed into service for reading a limitation of deduction under sub-section (1) only to 'business income'-**SUPREME COURT OF INDIA-Commissioner of Income-tax-I v. Reliance Energy Ltd. [2021] 127 taxmann.com 69 (SC) (28.04.2021)**

5. As per section 3 of DTDSV Act where assessment is made on basis of search ,amount payable by assessee would be 125% of disputed tax declared by assessee and where declarant files a declaration in accordance with section 4 in respect of tax arrears , amount payable shall be 100% of disputed tax declared- **HIGH COURT OF BOMBAY - BhupendraHarilal Mehta v. Principal Commissioner of Income-tax, Mumbai -[2021] 127 taxmann.com 109 (Bombay) (27.04.2021)**

6. INCOME -TAX : When the assessee trust applies 85% of its income received by way of voluntary contributions other than the voluntary contributions received with specific directions and the income derived from property held under Trust, then such income shall not be included in the total income of the Trust. Further, the balance 15% of such income even if accumulated or set apart shall also not be included in the total income of the Trust-**HIGH COURT OF MADRAS- Anjuman-E-Himayat-E-Islam v. Assistant Director of Income-tax, Exemptions-IV, Chennai-[2021] 127 taxmann.com 78 (Madras) (26.04.2021)**

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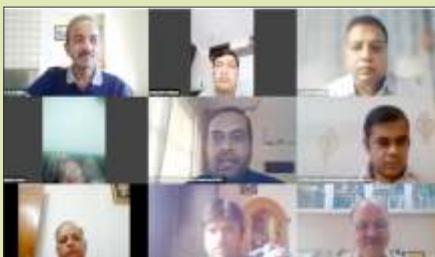
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