

रािखडि

continuous progress



Centre approves MoU between ICAI and Institute of Professional Accountants of Russia

ICAI would be able to help strengthen the partnership with Russia by providing the Export of Services in Accountancy profession.



India's economy grew by 20.1% during the April-June quarter of this financial year, as against a 24.4% contraction seen during the same period last year



CA Exams 2021 - Direct ICAI to conduct Back-Up Exam for those who opted out: Plea in Supreme Court



India puts checks in place for LIC, foreign holding may be capped at 20%



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CHAIRMAN'S MESSAGE

Dear colleagues and students,

Warm wishes to all the members and students on occasion of various festivals which are to come this month. I wish God shower his blessings with lot of happiness and good health.

I would like to show my gratitude and acknowledge the hard work put by all the members who joined hands and willingly co-operated towards the successful completion of the National Conference. We have completed 50 years of our founding branch in Mangaluru.



This achievement is purely the time and efforts put in by many of our senior members, whose contribution cannot be overlooked. I hope their sincerity and hard work becomes a motivation and aspire all the members to continue to give in their all, towards the betterment of the Mangaluru branch. I hope we can unitedly work towards achieving another milestone and picture the name and fame of this branch nationwide. Following this commemoration, was the Students Conference which was held successfully with a participation of more than 700 students. The quest for knowledge and the insights received were of immense aid. Once again, this achievement is also the result of the inputs by all the Student Council members which cannot be unnoticed.

I realise that we are totally troubled after the revamp of the Income tax portal. This makes us to be very calculative on how the work has to be done, both with the completion of audit as well as uploading of the Income Tax Returns. I, therefore advise all the members to plan your work properly. Presently, we can focus on timely completion of audit and when the website is made available, we can upload the returns.

I believe all the students are eagerly waiting for their exam results. I wish them all the very best and hope their hard work bears a fruit. We will be there in support of the students to advise, encourage and motivate them in their future endeavours. The Mangaluru branch conducts various activities for the CA fraternity and I request all the students to actively participate in the same by registering themselves. This could be a chance to showcase your talent and/or identify your hidden abilities. You can be the future leaders who could contribute towards the development of Mangaluru branch. So, take this opportunity and mould yourselves for a better tomorrow.

Best wishes

CA K S Kamath

Chairman

Mangaluru Branch of SIRC of ICAI

BRANCH ACTIVITIES FOR THE MONTH OF AUGUST 2021

No.	Date	Activities
01	18.08.2021	<p>Three Days National Conference</p> <p>“SWARN PARV”</p>
	18.08.2021	<p>Inauguration by Inaugurator: CA Arun Singh (Honourable MP, GoI)</p> <p>Chief Guests:</p> <ul style="list-style-type: none"> CA Nihar N Jambusaria (President - ICAI) CA Viswanath P S (MD & CEO Randstand India) Guest of Honour: CA(Dr).Debashis Mitra (Vice President – ICAI) <p>In the Presence of:</p> <ul style="list-style-type: none"> CA (Dr). Sanjeev Kumar Singhal (CCM, Chairman – CMP – ICAI) CA Prasanna Kumar D (CCM, Vice Chairman – CMP ICAI) CA Jalapathi K (Chairman – SIRC) <p>Technical Session 1</p> <p>Topic : Welfare Schmes Introduced by CMP of ICAI & Networking of firms</p> <p>Resourse Person : CA Prasanna Kumar D</p> <p>Technical Session 2</p> <p>Topic : Tax planning under Income Tax Provisions</p> <p>Resource Person : CA (Dr).Girish Ahuja</p> <p>Cultural Programmes</p>
	19.08.2021	<p>Felicitatation Ceremony</p> <p>Technical Session 3</p> <p>Topic : Lankmark Judicial Pronouncements under Direct Tax</p> <p>Resource Person : CA (Dr).Kapil Goel</p> <p>Technical Session 4</p> <p>Topic : CA’s Role in Buliding National Economy</p> <p>Resource Person : CA S Gurumuruthy</p>
	20.08.2021	<p>Technical Session 5</p> <p>Topic : Accounting Standard for Non Corporate Entifities</p> <p>Resource Person : CA M P Vijay Kumar</p> <p>Technical Session 6</p> <p>Topic : Challenges in GST on Real Estate Sector</p> <p>Resource Person : CA Ashok Batra</p>

02	30.08.2021	<p style="text-align: center;">Webinar on</p> <p>Topic : Latest Changes in ITR Forms & New Developments Solutions for the Income Tax Portal</p> <p>Resource Person:</p> <p>CA (Dr). Abhishek Murali (Past Secretary – SIRC of ICAI Chennai)</p>
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OTHER ACTIVITIES

01	15.08.2021	<p>Flag Hosting on account of 75th Independence Day</p> <p>Chief Guest :</p> <p>Dr (Major).Rajesh S M</p> <p>MBBS , MD (Pediatrics)</p> <p>Professor & Unit Head Dept of Pediatrics)</p> <p>Kasturba Medical College (MAHE)</p> <p>Mangaluru</p>
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BRANCH ACTIVITY GALLERY FOR THE MONTH OF AUGUST 2021





BLOCKING OF INPUT TAX CREDIT

The government introduced Rule 86A to block the use of fraudulently availed ITC and thereby protect the interests of the revenue.

Rule 86A under GST

1. Rule 86A was introduced by the government vide Notification no. 75/2019 dated 26.12.2019 to block fraudulently availed ITC without amendment made in the main statute. The main purpose of introduction of this Rule is to block the use of fraudulently availed ITC. As per this Rule, a Commissioner or any officer authorized by him can block the ITC available in the electronic credit ledger of the taxpayer if he has 'reasons to believe' that registered person has fraudulently availed ITC. The Commissioner shall record the reason in writing for blocking ITC.

2. Input tax credit plays a pivotal role in GST which removes the cascading tax effect and thereby reduce the cost of goods and services. The rules have given a drastic power in the hands of department which may impact on the business heavily.

3. **ITC in the electronic credit ledger can be blocked-** The commissioner or any officer authorised by him, not below the rank of an Assistant Commissioner, can block a taxpayer's ITC provided he has reasons to believe that the ITC is claimed fraudulently or the ITC is ineligible as follows-
 - a) The tax invoices basis that ITC is being claimed has been issued by a registered person who is found to be non-existent or is not conducting business from the place for which the registration has been obtained. The ITC is available on an invoice for which supply has not been received.
 - b) ITC is availed on an invoice on which tax has not been paid to the government.
 - c) ITC is availed by a registered person who is found to be non-existent or is not conducting business from the place for which the registration has been obtained.
 - d) The registered person does not have the invoice or debit note basis which he is claiming ITC.
 - e) It is stated that **Rule 36(4)** of CGST Rules, 2017 is regarding availment of ITC restriction whereas conditions and restriction on use of amount available in Electronic Ledger is covered under Rule 86A & 86B of CGST Rules, 2017.
 - f) The Commissioner may allow the use of credit if he finds that the conditions for disallowing the credit no longer exist.

4. **Blocking of ITC by the GST officer is it legal?** As per section 16(1) of the CGST Act, all registered taxpayers who have paid tax on their inward supplies used to further their business can claim ITC on such taxes paid. Certain conditions for availing of ITC and restrictions on claiming ITC are mentioned under sub-section (2), (3) and (4) of Section 16 and Section 17 of the CGST Act. A taxpayer shall claim ITC after considering such conditions and restrictions. Taxpayer has a legal right to avail ITC and use the same for discharging his output tax liability.
5. None of the provisions under Section 16 or Section 17 of the CGST Act empowers the government to block ITC. Section 164 of the CGST Act empowers the government to make rules for carrying out the provisions of the CGST Act. Government has introduced Rule 86A by using this provision, which has given the powers to the Commissioner to block ITC. The invocation of Rule 86A requires the existence of reasons to believe that the ITC has been wrongly availed, along with supporting documents. In the absence of proper reasons to believe, the invocation of Rule 86A would be mala fide.
6. **When Rule is Ultra Vires** -Rule can be held to be ultra vires if it is repugnant to or inconsistent with the general purpose of the Act. But till such time it is held so, it must be construed as being mandatory. In **Commissioner of Income-Tax, Ap Vs Taj Mahal Hotel [1971 (8) TMI 2 – Supreme Court** it was held by the Supreme Court that, **“the Rules were meant only for the purpose of carrying out the provisions of the Act and they could not take away what was conferred by the Act or whittle down its effect”**. Further in the case of **Bimal Chandra Banerjee v. State of M.P. and Ors., 1970 (8) TMI 30 – Supreme Court**. The legislature levied excise duty only on those articles which came within the scope of Section 25 of the M.P. Excise Act, 1915 that Act, it was observed that *“No tax can be imposed by any bye-law or rule or regulation unless the statute under which the subordinate legislation is made specially authorizes the imposition even if it is assumed that the power to tax can be delegated to the executive. The basis of the statutory power conferred by the statute cannot be transgressed by the rule making authority. A rule making authority has no plenary power. It has to act within the limits of the power granted to it. It has to act within the limits of the power granted to it. We are of the opinion that the impugned rule as well as the demands are not authorised by law. Hence we allow these appeals as well as the writ petitions from which these appeals arise and quash the impugned notification as well as the demand notices*
7. For the purpose of blocking the input tax credit under Rule 86A **Gujarat High Court in the case of S.S. Industries vs UOI** held as follows
 - a) The invocation of Rule 86A of the Rules for the purpose of blocking the input tax credit may be justified if the concerned authority or any other authority, empowered in law, is of the prima facie opinion based on some cogent materials that the input tax credit is sought to be availed based on fraudulent transactions like fake/bogus invoices etc. However, the subjective satisfaction should be based on some credible materials or information and also should be supported by supervening factor.

It is not any and every material, howsoever vague and indefinite or distant remote or far-fetching, which would warrant the formation of the belief.
 - b) The power conferred upon the authority under Rule 86A of the Rules for blocking the ITC could be termed as a very drastic and far-reaching power. Such power should be used sparingly and only on subjective weighty grounds and reasons.

- c) The power under Rule 86A of the Rules should neither be used as a tool to harass the assessee nor should it be used in a manner which may have an irreversible detrimental effect on the business of the assessee.
- d) The aspect of availing the credit and utilization of credit are two different stages. The utilization of credit is a vested right. No vested right accrues before taking credit.
- e) The Government needs to apply its mind for the purpose of laying down some guidelines or procedure for the purpose of invoking Rule 86A of the Rules. In the absence of the same, Rule 86A could be misused and may have an irreversible and detrimental effect on the business of the person concerned. In this regard, the Government needs to act promptly.

8. **When does the blocking of ITC under GST cease?** This restriction will cease only after the expiry of one year from the date of imposing such restrictions.

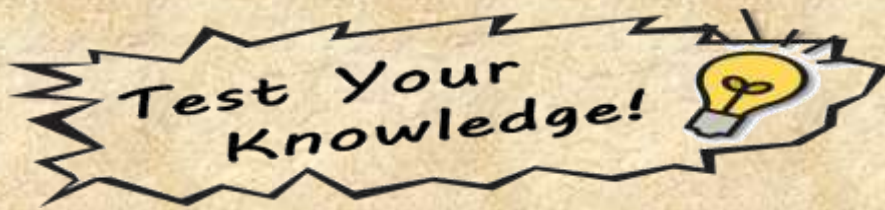
Conclusion - Input tax credit is the backbone of the business and by blocking the legitimate credit the business suffers and growth of the nation is grossly affected. We can only hope that the government will prescribe some guidelines on urgent basis considering the wide ramification of the misuse of rule 86A of the Goods and Service Tax Rules.



CA. Keshava N Ballakuraya



CA. Sabana



- + Every Nidhi shall maintain members not less than
(A) 500
(B) 200
(C) 100
(D) 50

- + The power of appointing additional director can be exercised by the
(A) Annual General Meeting
(B) Board Meeting
(C) Statutory Meeting
(D) None of the above

- + Minimum Paid-up equity capital for any Health Insurance company to register in India is:
(A) ₹100 Crore
(B) ₹200 Crore
(C) ₹300 Crore
(D) ₹500 Crore

- + The quality of something which enables one to understand the truth easily. In this context of Corporate Governance, it implies an accurate, adequate and timely disclosure of relevant information about the operating result etc., of the corporate enterprise to the stakeholders. This principle is known as
(A) Transparency
(B) Accountability
(C) Independence
(D) Clarity

- + Which of the following is not the benefits of CSR Programme?
(A) Mutual trust
(B) Attracting and retaining employees
(C) Communities as suppliers
(D) Enhancing corporate reputation

ANSWERS

FOR THE PREVIOUS EDITION

- (1) (C) Both (A) and (B)
- (2) (C) Best Practices
- (3) (C) Organising
- (4) (C) Paris 1900
- (5) (C) FDI in HUF
- (6) (B) Accountability

Answers may be sent to icaiebulletin@gmail.com

Correct answers will be out in the next edition.

The names of the first five persons who give correct answers to all the questions, will also be published

WORDS OF WISDOM

- ❖ You cannot believe in God until you believe in yourself.
- ❖ We are what our thoughts have made us; so take care about what you think. Words are secondary. Thoughts live; they travel far.
- ❖ The whole secret of existence is to have no fear. Never fear what will become of you, depend on no one. Only the moment you reject all help are you freed.
- ❖ All the powers in the universe are already ours. It is we who have put our hands before our eyes and cry that it is dark.
- ❖ The more we come out and do good to others, the more our hearts will be purified, and God will be in them.
- ❖ If money help a man to do good to others, it is of some value; but if not, it is simply a mass of evil, and the sooner it is got rid of, the better.
- ❖ If faith in ourselves had been more extensively taught and practiced, I am sure a very large portion of the evils and miseries that we have would have vanished.
- ❖ Take up one idea. Make that one idea your life - think of it, dream of it, live on that idea. Let the brain, muscles, nerves, every part of your body, be full of that idea, and just leave every other idea alone. This is the way to success.



WORDS FROM THE HOLY BOOK



Psalm 18:30

“As for God, his way is perfect: The Lord's word is flawless; he shields all who take refuge in him” (Ps. 18:30).

Nothing is beyond the reach or the knowledge of God; his way is perfect. Even though this pandemic and its effects are painful and hard for so many people, God doesn't change. It is not going to last; it is not the end. All we see and experience in this life is but a vapour. Nothing and no one can thwart the outworking of God's providence. He proves true and will effect what he intends to accomplish in our lives and in the world.

Bhagavad Gita 2.38

सुखदुःखे समे कृत्वा लाभालाभौ जयाजयौ ।
ततो युद्धाय युज्यस्व नैवं पापमवाप्स्यसि ॥ २-३८

sukhaduḥkhe same kṛtvā lābhālābhau jayājayau ।
tato yuddhāya yujyasva naivaṃ pāpamavāpsyasi ॥ 2-38

Holding pleasure and pain, gain and loss, victory and defeat as alike,
gird yourself up for the battle.

Thus, you shall not incur any sin.





WHY LORD GANESHA IS CALLED THE GOD OF WIT AND WISDOM?

Once, Shiva and Parvati were having 'the fruit of knowledge', which both Kartikeya and Ganesha wanted to have. So, Lord Shiva threw a challenge to both his sons asking them to take three rounds of the world and come back. The one who would return first would get the fruit. Kartikeya flew away on his peacock but Ganesha only had the little mice as his vehicle. So he circled around his parents and told them that his whole world lies in their feet. Shiva and Parvati were impressed with their son's answer and Ganesha ended up getting the fruit!

HOW GANESHA CAME TO BE KNOWN AS THE GOD OF BEGINNINGS?

Once, Ganesha was guarding the *swargalok* while everyone had left to attend Lord Vishnu's wedding. When *Narad Muni* saw Ganesha alone, he told him that he was not invited because he was fat and eats too much. This made Ganesha angry, who sent his mouse and asked them to dig the soil from inside and make it hollow on the way from where the marriage procession was going to pass. The army of mice dug the soil and the wheels of the chariots got stuck.

None of the gods were able to pull out the wheel so they asked for help from a man passing by. He came and took Lord Ganesha's name and there came the wheels out! When the gods asked why he prayed to Lord Ganesha, the farmer told them that he's the god of beginnings who removes all the hurdles. On hearing this, the gods went back to Lord Ganesha and apologised for their behaviour.



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The Managing Committee of Mangalore Branch of SIRC of ICAI invites articles, write ups and other similar materials in the areas of Accounting, Taxation or any other subject of professional interest for publishing in its E-Bulletin. The articles submitted for consideration of publication should be of 2000-4000 words typed. Soft copy of the article, along with the author's photograph may be sent to icaiebulletin@gmail.com.

Feedback on this e-bulletin can be sent to the editorial team at icaiebulletin@gmail.com

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