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continuous progress



MANGALURU BRANCH OF
SOUTHERN INDIA REGIONAL COUNCIL OF
INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA



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CHAIRMAN'S MESSAGE

Dear Members & Students,

Greetings of the day.

We are stepping into the month of December being the last month of the calendar year and we are also approaching the most relaxing time of our professional calendar. Considering this, the branch wishes to organise many knowledge upgrading sessions for the members of the branch for the next three months.



The branch organised ICAI MSME Yatra and MSME Sethu programme on the 9th of November in association with prominent trade bodies of the region- KCCI, KIA, DSIA and CII Mangaluru. This programme created a bridge between the MSMEs and their stakeholders by creating awareness on the various initiatives by the Government of India for the promotion of the MSME sector as a whole. The branch also organised a half day seminar on Accounting Standards and Standards on Auditing on the 12th of November to refresh and upgrade the knowledge of members and also to comply with the mandatory CPE credit requirements in the specified topic for members of the Branch. The said session was handled by Past Chairman of SIRC, CA Jomon K. George. The branch co-hosted a one-day programme for family entrepreneurs of the region on the 19th of November, in association with the World Konkani Centre and KCCI which contributed to the entrepreneurs, who can scale up their capabilities and take their businesses to the next level. The branch successfully organised a one-day intensive workshop on GST on the 26th of November, wherein GST provisions relating to GST Assessment and Appellate proceedings were discussed and deliberated in detail by CA A. Jatin Christopher.

The Branch Managing Committee members participated in the one-of-a-kind event, the Olympics of accountants – “World Congress of Accountants” at the Jio Centre, BKC, Mumbai from 18th November to 22nd November. The theme of the conference was Building Trust and Enabling Sustainability.

The branch is planning to organise a cricket tournament, ICAI Friendship Cup 2022, which is a friendly tournament between various Government Tax Departments and Chartered Accountants from Mangaluru and Udupi. The branch is also planning to organise half day seminar on practical issues faced by members during the Tax Audit and



Company Audit during the recently concluded season. Further, a half day seminar on the topic handling the income tax notices and appeals is scheduled for the month of December.

The branch is also planning to host a GST certification course organised by the GST & Indirect taxes committee of ICAI in the month of Jan/ Feb 2023.

I request all the members and students to actively participate in the programmes organised by the branch and take benefit out of the quality sessions.

I would like to end my message with a quote by Swami Vivekananda:

“Arise! Awake! Stop not until the Goal is Achieved”

CA Prasanna Shenoy M

Chairman

On behalf of Managing Committee

Mangaluru Branch of SIRC of ICAI





BRANCH ACTIVITIES DURING NOVEMBER, 2022

S. NO.	DATE	ACTIVITY
1.	09.11.2022	<p align="center">ICAI MSME YATRA & MSME SETHU</p> <p>Yeyyadi Industrial Area: Inaugural address by: Mr. Gokuldas Nayak, <i>Joint Director – District Industries Centre, Mangaluru</i></p> <p>Session on “Empowering of MSMEs by Financial Institutions” by SBI, SIDBI, NSIC.</p> <p>Baikampady Industrial Area: Address on “Benefits for MSMEs & Govt. Initiatives” by Mr. Devaraj K., <i>Joint Director – MSME DFO, Mangaluru.</i></p> <p>Session on “Financial Planning – Entrepreneur Empowerment” by CA Vishranth B. L., <i>Bengaluru.</i></p>
2.	12.11.2022	<p align="center">Half Day Seminar on</p> <p>Topic: Accounting Standards & Standards on Auditing Overview, Practical Issues & Updates</p> <p>Speaker: CA Jomon K. George</p>
3.	26.11.2022	<p align="center">One Day GST Workshop</p> <p>Topic: Overview, Practical Issues on Adjudication Orders & Appellate remedy under GST</p> <p>Speaker: CA A. Jatin Christopher</p>

BRANCH ACTIVITY GALLERY

ICAI MSME Yatra & MSME Sethu







*Seminar on Accounting
& Auditing Standards*





One Day GST Workshop



WORDS OF WISDOM



Aristotle

Ancient Greek Philosopher

“It is the mark of an educated mind to be able to entertain a thought without accepting it.”

“No great mind has ever existed without a touch of madness.”

“Excellence is never an accident. It is always the result of high intention, sincere effort, and intelligent execution; it represents the wise choice of many alternatives - choice, not chance, determines your destiny.”

“The high-minded man must care more for the truth than for what people think.”

“Pleasure in the job puts perfection in the work.”



SECTIONS 194Q & 206C(1H)

Deduction & Collection of Tax at Source on Purchase / Sale of Goods

Section 206C originally contained provisions for collection of tax at source on sale of specified goods such as alcoholic liquor, timber, minerals, etc. Sub-section 1H to section 206C was introduced in the Finance Act, 2020, to bring large transactions of sale of goods previously outside the purview of 206C, into the tax net. The new provision was applicable from 1st October, 2020. Subsequently, section 194Q was introduced in Finance Act, 2021, as a way to cover those transactions that were outside the purview of 206C(1H). Section 194Q was applicable from 1st July, 2021. These sections pertain to the collection and deduction of tax on purchase / sale of goods. Since they apply to the same type of transactions, clarity on when to apply which section is required.

What comprises 'Goods'?

It is important to first consider the scope of the word 'goods', before going further into the applications of the provisions contained in sections 206C(1H) and 194Q. The term 'goods' is not defined in the Income Tax Act, 1961, therefore we must interpret the same from other related Acts such as the Sale of Goods Act, 1930, and the Central Goods and Services Act, 2017.

SECTION 206C(1H)- TCS ON SALE OF GOODS

Sale of Goods of Value Exceeding Rupee ₹ 50 Lakh

- (a) As per section 206C(1H), tax is required to be collected by a seller, who receives any amount as consideration for sale of goods of the value or aggregate of such value exceeding ₹ 50 lakhs in a previous year [other than exported goods or goods covered under sub-sections (1)/(1F)/(1G)].
- (b) Tax is to be collected at source @ 0.1% u/s 206C(1H) of the sale consideration exceeding ₹ 50 lakhs, at the time of receipt of consideration.
- (c) Tax is, however, not required to be collected if the buyer is liable to deduct tax at source under any other provision of the Act on the goods purchased by him from the seller and has deducted such tax.

Definition of Specific Terms:

A **Seller** is a person whose total sales, gross receipts or turnover from the business carried on by them exceed ₹ 10 crore during the financial year immediately preceding the financial year in which the sale of goods is carried out.



A **Buyer** is a person who purchases any goods, but does not include,

- (a) the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or
- (b) a local authority as defined in the Explanation to clause (20) of section 10; or
- (c) a person importing goods into India or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein;

Summary

The conditions that bring on the applicability of section 206C(1H) may be summarized as follows:

- **Eligible Transaction:** Sale of goods exceeding ₹ 50 lakhs, excluding exports, and imports into India, and those covered under sub-sections (1)/(1F)/(1G). The amount over and above ₹ 50 lakhs shall be liable to TCS u/s 206C(1H).
- **Seller:** A person whose turnover from their business exceeds ₹ 10 crores in the immediately preceding year. It has been clarified that the turnover excluding exports shall be considered for the determination of eligibility.
- **Buyer:** A person who is not a Government representative, local authority or an importer.

It can be interpreted that this section shall not apply to a foreign seller selling goods into India, as the same shall be considered imports into India, and importers are specifically excluded from the definition of buyer. This section applies to sellers selling goods within India. There is no clarity provided on the residential statuses of the buyer and the seller.

It may also be noted that where the buyer does not hold valid PAN or Aadhaar Number, the seller shall collect a higher rate of 1% instead of 0.1% of TCS (206CC).

Seller shall collect tax when the consideration for the sale of goods is received, on whatever amount is received, whenever it is received. Simply said, tax shall be collected on advance received as well, and shall be calculated on GST as well, if included in the amount received (Circular No.17/2020).

Explanation to the section 206C defines buyer as excluding “a buyer in the retail sale of such goods purchased by him for personal consumption;”, implying that a buyer who purchases goods for personal consumption is outside the purview of section 206C. However, this exception shall not apply to 206C(1H), as buyer is specifically defined for the sub-section.





SECTION 194Q- TDS ON PURCHASE OF GOODS

Purchase of Goods of Value Exceeding Rupee ₹ 50 Lakh

Section 194Q requires any person, being a buyer who is responsible for paying any sum to any resident-seller for purchase of goods of the value or aggregate of such value exceeding ₹ 50 lakhs in a previous year, to deduct tax at source @ 0.1% of such sum exceeding ₹ 50 lakhs.

The deduction is to be made at the time of credit of such sum to the account of the resident-seller or at the time of payment thereof by any mode, whichever is earlier.

Tax is not required to be deducted under this section in respect of a transaction on which-

- (a) Tax is deductible under any of the provisions of this Act; and
- (b) Tax is collectible under the provisions of section 206C, other than section 206C(1H).

A **Buyer** is a person whose total sales, gross receipts or turnover from the business carried on by him exceed ₹ 10 crores during the financial year immediately preceding the financial year in which the purchase of goods is carried out.

Summary

A buyer whose turnover in the preceding financial year exceeds ₹ 10 crores, shall deduct tax at source on the amount exceeding ₹ 50 lakhs on purchase of goods from a resident seller, at the point of credit to seller in the books of accounts or payment, whichever is earlier. Where tax is already deducted on such transaction under other sections such as 194O, this section shall not be applicable. This section shall also not be applicable where the seller has collected tax under section 206C, except 206C(1H).

Clarifications

- **Circular No. 13/2021 dated 30.06.2021:** This section shall not be applicable to transactions in securities and commodities traded through recognized stock exchanges or cleared through recognized clearing corporations. This section shall also not be applicable to transaction in electricity, renewable energy certificates and energy saving certificates traded through registered power exchanges.
- **Circular No. 23/2017 dated 19.07.2017:** Where the GST component is separately identifiable, the tax shall be deducted on the consideration excluding such GST component, i.e., TDS shall be calculated on taxable value and not





invoice value. In cases of advance payment where GST component is not identifiable due to lack of invoice, tax may be deducted on the entire amount paid. In the case of purchase return, where the money is refunded by the seller, the tax deducted may be adjusted by the buyer against the next purchase from the same seller.

194Q shall not be applicable to a non-resident buyer, where the purchase of goods is not effectively connected to a fixed place of business of such non-resident buyer.

Section 194Q prevails over 206C(1H):

206C(1H) is not applicable if tax has been deducted under any other section in the Act. However, 194Q is applicable even if tax is collected u/s 206C(1H). Since 194Q is to be applied during credit of amount or payment whichever is earlier, tax shall be deducted under 194Q before seller can even collect tax on receipt of consideration, at which point the transaction is out of the purview of 206C(1H). Therefore, where a transaction is eligible under both 194Q and 206C(1H), tax should be deducted under 194Q only.

However, a concession has been given in the case where tax has been collected by the seller before the buyer could deduct tax, the buyer need not subsequently deduct tax. This is given because the rates are the same in both the section i.e., 0.1%.

Residential Status

In 194Q, both the buyer and seller must be residents.

In 206C(1H), residential status is not expressly stated anywhere. However, imports and exports are outside the purview of this section. Both the buyer and seller must be operating from within India. 206C(1H) applies to sale of goods within India.

Relevant Dates

Tax deducted and tax collected in a particular month must be deposited by the 7th of the subsequent month. For example, tax collected or deducted in the month of December must be deposited by the 7th of January.

Return filing due dates:

QUARTER	PERIOD	TDS (26Q)	TCS (27EQ)
1	1 st April – 30 th June	31 st July	15 th July
2	1 st July – 30 th September	31 st October	15 th October
3	1 st October – 31 st December	31 st January	15 th January
4	1 st January – 31 st March	31 st May	15 th May





Consequences of Non-Compliance

	<u>TDS</u>	<u>TCS</u>
Interest levy on Failure to Deduct / collect tax or payment of tax	<p>201(1A) –</p> <p>(i) Failure to deduct TDS: Simple Interest @ 1% for every month or part of the month from the date on which such tax was deductible to the date on which such tax is deducted; and</p> <p>(ii) Failure to deposit TDS: Simple Interest @1.50% for every month or part of a month from the date on which such tax was deducted to the date on which such tax is actually paid.</p>	<p>206C(7)- Failure to collect TCS:</p> <p>Interest @ 1% for every month or part of the month from the date on which such tax was collectible to the date on which such tax is deducted</p>
Fee U/s 234E on delay in furnishing TDS / TCS statement (Late Fee)	₹ 200 per day subject to the amount of tax deductible / collectible.	
Penalty u/s 274H on Delay / Incorrect furnishing of TDS / TCS statement	₹ 10,000.00 - ₹ 1,00,000.00	
Penalty for Failure to Deduct / Collect Tax	Section 271C: a sum equal to the amount of tax which such person failed to deduct or pay.	Section 271CA: a sum equal to the amount of tax which such person failed to collect.
Prosecution on Failure to Pay Tax	Section 276B – Imprisonment of 3 months upto 7 years and with fine.	Section 276BB – Imprisonment of 3 months upto 7 years and with fine.



Disallowance of Expenditure	Non-Compliance of Section 194Q Section 40a(ia)– expenditure to the extent of 30% will be disallowed.	Not applicable
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Transition

Section 206C(1H) was applicable from 1st July, 2021, and section 194Q was applicable from 1st October, 2020. Since the respective previous years- 21-22 and 20-21 have already passed, clarifications regarding transitioning into these new sections shall not be discussed in this article.

Disclaimer: Every effort has been made to avoid errors or omissions in this material. In spite of this, errors may creep in. Any mistake, error or discrepancy noted may be brought to our notice, which shall be taken care of in the next edition. In no event shall the author or the Mangaluru branch be liable for any direct, indirect, special or incidental damage resulting from or arising out of or in connection with the use of this information.



*By Nidhi Shanbhag (CA Finalist)
under the guidance of CA Prashanth Pai K.*





INFO CAPSULE

INCOME TAX

Partial relaxation with respect to electronic submission of Form IOT by select category of taxpayers in accordance with the DGIT (Systems) Notification No. 3 Of 2022: Such category of non-resident taxpayers who are not having PAN and not required to have PAN as per relevant provisions of the Income-tax Act, 1961 read with Income-tax Rules, 1962, are exempted from mandatory electronic filing of Form IOT till **31st March 2023**.

GST

Notification No. 23/2022- Central Tax: The Central Government, on the recommendations of the Goods and Services Tax Council, hereby empowers the **Competition Commission of India** established under sub-section (1) of section 7 of the Competition Act, 2002 (12 of 2003), to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him. This notification shall come into force with effect from **1st day of December, 2022**.

CUSTOMS

Notification No. 104/2022- Customs (N.T.): Postal Export (Electronic Declaration and Processing) Regulations, 2022. These regulations shall apply to export of goods by any person, holding a valid Import-Export Code issued by the Director General of Foreign Trade, in furtherance of business through a foreign post office appointed by the Board under clause (e) of sub-section (1) of section 7 of the Customs Act, 1962.





DECEMBER SPECIAL

Christmas

Christmas is an annual festival commemorating the birth of Jesus Christ, observed primarily on December 25 as a religious and cultural celebration among billions of people around the world. Christmas Day is a public holiday in many countries, is celebrated religiously by a majority of Christians, as well as culturally by many non-Christians, and forms an integral part of the holiday season organized around it.

The traditional Christmas narrative recounted in the New Testament, known as the Nativity of Jesus, says that Jesus was born in Bethlehem, in accordance with messianic prophecies. When Joseph and Mary arrived in the city, the inn had no room and so they were offered a stable where the Christ Child was soon born, with angels proclaiming this news to shepherds who then spread the word.

There are different hypotheses regarding the date of Jesus' birth and in the early fourth century, the church fixed the date as December 25. This corresponds to the traditional date of the winter solstice on the Roman calendar. It is exactly nine months after Annunciation on March 25, also the date of the spring equinox. Most Christians celebrate on December 25 in the Gregorian calendar, which has been adopted almost universally in the civil calendars used in countries throughout the world. For Christians, believing that God came into the world in the form of man to atone for the sins of humanity, rather than knowing Jesus' exact birth date, is considered to be the primary purpose in celebrating Christmas.

The celebratory customs associated in various countries with Christmas have a mix of pre-Christian, Christian, and secular themes and origins. Popular modern customs of the holiday include gift giving; completing an Advent calendar or Advent wreath; Christmas music and carolling; viewing a Nativity play; an exchange of Christmas cards; church services; a special meal; and the display of various Christmas decorations, including Christmas trees, Christmas lights, nativity scenes, garlands, wreaths, mistletoe, and holly. In addition, several closely related and often interchangeable figures, known as Santa Claus, Father Christmas, Saint Nicholas, and Christkind, are associated with bringing gifts to children during the Christmas season and have their own body of traditions and lore. Because gift-giving and many other aspects of the Christmas festival involve heightened economic activity, the holiday has become a significant event and a key sales period for retailers and businesses. Over the past few centuries, Christmas has had a steadily growing economic effect in many regions of the world.



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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

Editorial Team

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Merry Christmas

