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VOLUME 7; JULY 2021

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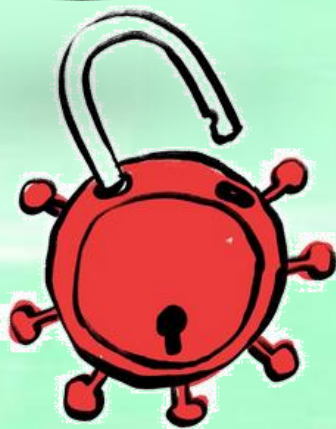
CA DAY IS A CELEBRATION OF ALL THE HARD WORK AND COMMITMENT
CHARTERED ACCOUNTANTS PUT INTO THEIR WORK AND HELP THE COUNTRY TO PROSPER



Supreme Court grants permission for conduct
of CA Exams as per schedule



A measure that reformed the tax
system in our country...



COVID-19 Unlock 1.0



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

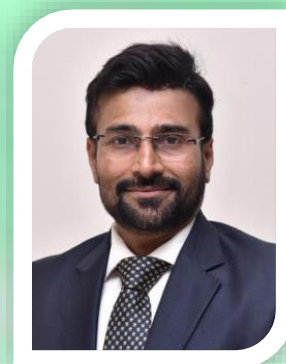
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FROM THE CHAIRMAN'S DESK

Dear readers,

I would like to start by wishing and complimenting all the CAs and CA aspirants on account of CA Day. Let us continue to strengthen our economy and be an inspiration to many. Hoping for everyone to have a good and successful year.



The lockdown has been extending with a rise in the number of cases. Once again, I would like to remind everyone of you to continue the precautions you have been taking and step out of your home only when necessary. It has become a hard task to control the rising cases so let us keep ourselves safe by taking measures and keeping our family safe. Further, after the revamp of Income Tax website, there has been glitches of many kinds which, I believe is being rectified. During this hour, I suggest that we don't waste time and start with audit remotely, as far as possible. Considering the current situation and to keep our health, I advise you all to work from home. Avoid going to your client's work space and continue auditing using the latest technologies. Speeding up the work is equally important as we cannot rely on the extension of due dates, as seen previously. Therefore, whenever possible, use digital methods to speed up and complete all the work.

I would like to inform you with great happiness that the Golden Jubilee of our fraternity will be celebrated this year. The brochure for the same has been launched on 1st July, 2021. I wish you all keep yourself available on August 18th and 19th so that you can enjoy, learn and benefit from the seminars that shall be conducted by national level speakers.

To the students - the exams are approaching and the admit cards are provided to you all. With a strong belief that the exams will be conducted in the dates mentioned and the lockdown will be released by then, study well and the fruits of your hard work will not be in vain. Wishing you all the very best.

Thank you and take care.

Regards

CA K S Kamath

Chairman

Mangaluru Branch of SIRC of ICAI

BRANCH ACTIVITIES FOR THE MONTH OF JUNE 2021

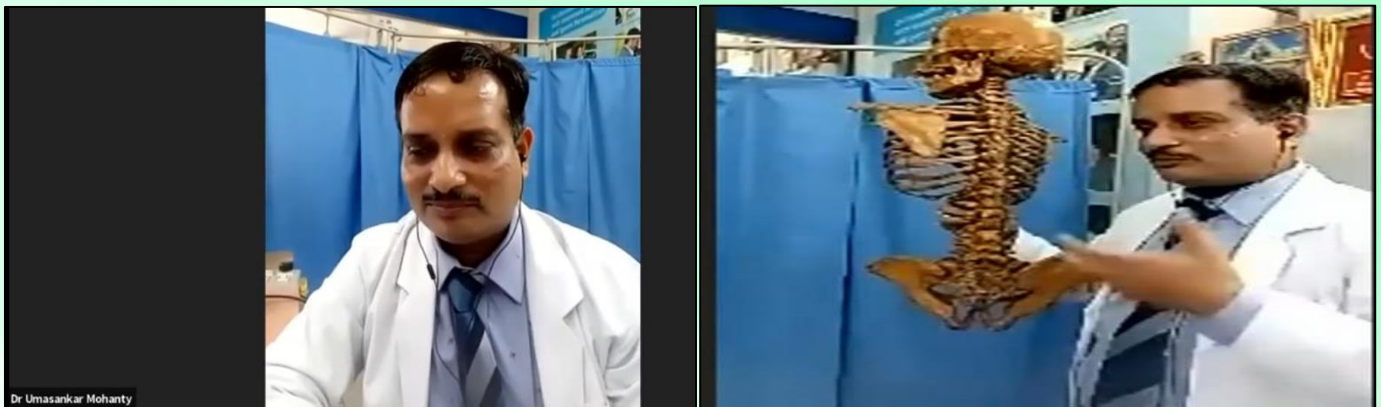
Sl. No	Date	Webinars & Workshops
1	04.06.2021	<p>Webinar on Ergonomics, Posture & Pain Management in Covid Time</p> <p>Resource Person : Prof. Dr. Umasankar Mohanty BPT(Hons), MPT (Manual Therapy), PHD, MIASP(USA) President, Manual Therapy Foundation of India Former President, The Indian Association of Physiotherapists Mangaluru</p>
2	09.06.2021	<p>Webinar on CA Office Management using Technology</p> <p>Resource Person : CA. Anwesh Shetty, Mangaluru</p>
3	27.06.2021	<p>Webinar on INTERNATIONAL MSME DAY 2021</p> <p>Chief Guest: Mr. Yogish Acharya General Manager –Canara Bank Mangalore Circle</p> <p>Topic: Funding options & Schemes & Incentives for MSME's Start ups</p> <p>Resource Persons: 1) CA. Ullas Kamath Chairman – FICCI Karnataka State council Joint MD- Jyothi Labs Limited 2) CA. S. S. Nayak Immediate Past Chairman- ICAI Mangaluru</p> <p>Panelists: Dr. Ananthapadmanabha Achar CEO, AIC Nitte, Incubation Centre Mr. Issac Vas President –KCCI Mangalore</p>
4	05.06.2021	<p>Workshop on Exports, Imports And Foreign Trade Policy</p> <p>Resource Persons: Mr. N N Menon</p> <p>Workshop on Handling E-Commerce Imports and Exports</p> <p>Resource Persons: CA Manas Chugh</p>

5	12.06.2021	<p>Workshop on GST provision relating to Import and Export of goods and services Resource Person: Mihir Shah</p> <p>Workshop on Foreign Trade Policy – Introduction Resource Person: Sudhakar Kasture</p>
6	19.06.2021	<p>Workshop on Advance Authorization Scheme under FTP Resource Person: CA Gaurav Shah</p> <p>Workshop on Export Promotion Capital Goods Scheme under FTP Resource Person: Mihir Shah</p>
7	26.06.2021	<p>Workshop on Planning for Setting up business unit under Indirect Tax law Resource Person: CA Rajesh Kumar</p>

SOCIAL SERVICES & OTHER ACTIVITIES

1	01.06.2021	Covid 19 Mega Vaccination Drive
2	21.06.2021	<p>International Yoga Day Yoga for Health, Happiness & Wellbeing</p> <p>Resource Person: Dr. M. Jagadish Shetty Yoga Guru, Mangalore</p>

BRANCH ACTIVITY GALLERY FOR THE MONTH OF JUNE 2021



Webinar on Ergonomics, Posture & Pain Management in Covid Time by Prof. Dr. Umasankar Mohanty



Webinar on CA Office Management using Technology by CA. Anwesh Shetty, Mangaluru



Webinar on INTERNATIONAL MSME DAY 2021



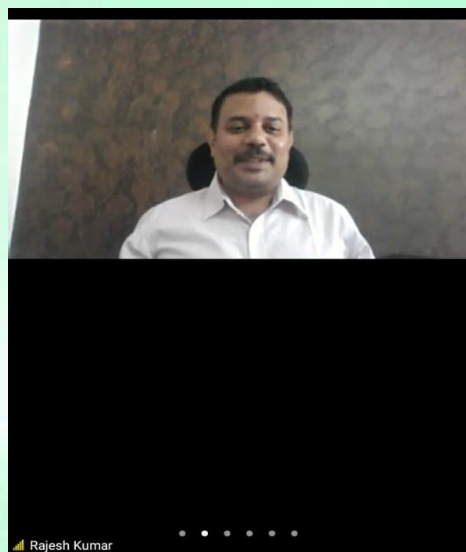
Workshop on Handling E-Commerce Imports and Exports by CA Manas Chugh



Workshop on Exports, Imports And Foreign Trade Policy by Mr. N N Menon



Workshop on Export Promotion Capital Goods Scheme under FTP by Mr. Mihir Shah



Workshop on Planning for Setting up business unit under Indirect Tax law by CA Rajesh Kumar



Workshop on Advance Authorization Scheme under FTP by CA Gaurav Shah



Workshop on FTP- Introduction by Mr. Sudhakar Kasture



Covid 19 Mega Vaccination Drive organized for members & students of CA fraternity, Mangaluru





A free flow of input tax credit is a backbone of GST Law for eliminating cascading effects of taxes. Input tax credit is admissible u/s 16 with reference to any supply of goods or services in the course or furtherance of business. However, as per Section 17(5) of the **CGST Act, 2017** input tax credit is not available in respect of certain inward supply of goods or services even though you have already paid the taxes for it when you made your purchases or expenses. Those GST you can't claim is called **Blocked Input Tax Credit**.

Sec 17(5)– Notwithstanding anything contained in sub-section (1) of section 16 and sub- section (1) of section 18, input tax credit shall not be available in respect of the following:-

1. **Motor Vehicle – 17(5) (a) of CGST Act** – Input Tax Credit (ITC) is not eligible in respect of motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:
 - (A) Further supply of such motor vehicles; or
 - (B) Transportation of passengers; or
 - (C) Imparting training on driving such motor vehicles;
- 1.1. **Vessels and Aircraft-17(5) (aa) of CGST Act:** - ITC is not eligible in respect of vessels and aircraft except when they are used—(i) for making the following taxable supplies, namely:
 - (A) Further supply of such vessels or aircraft; or
 - (B) Transportation of passengers; or
 - (C) Imparting training on navigating such vessels; or
 - (D) Imparting training on flying such aircraft;
 - (E) For transportation of goods;
- 1.2. **Services related to Motor Vehicle, Vessels and Aircraft – 17(5) (ab) of CGST Act:** ITC is not eligible in respect of services of **general insurance, servicing, repair and maintenance** in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa).

Exception:

- (a) The motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein.
- (b) Such services are used in the **manufacture of** motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa).
- (c) Supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him.(manufacturer of such motor vehicle is eligible to take ITC on insurance premium).

1.3. Advance Ruling:

- *Mohana Ghosh, In re (AAR-WEST BENGAL)* -Where applicant supplies cabs on rental basis to institutes like West Bengal Postal Circle, GST paid on purchase of motor vehicles for supplying rent-a-cab service is not admissible for credit
- *Chowgule Industries Pvt. Ltd. (Mah. AAR)* -ITC is admissible for motor vehicle purchased as demo vehicles for promotion of sale by providing trial run to customer and capitalised in books of account as they are for purposes of business. Similar view A.M. Motors Ker AAR
- *Khatwani Sales And Services L.L.P., Madhya Pradesh* – Contrary view to the above decision-Where applicant, an authorized dealer of KIA for sales and services of their motor vehicles, purchases demo vehicles from supplier against tax invoices after paying tax and capitalizes said demo vehicles in its books of account, applicant is not eligible for Input Tax Credit on demo vehicles purchased for furtherance of business, in view of barring provisions of section 17(5)(a), as they are not covered by any of exceptions given in sub-clause (A), (B) or (C) of section 17(5)(a) –similar view in Platinum Motocorp LLP, Har AAR
- *CMS Info Systems Ltd. In re (AAAR) 2018* Input Tax Credit is not available on purchase of motor vehicles i.e. cash carry vans, which are purchased and used for cash management business and supplied post usage as scrap.
- Purewal Stone Crusher (GST AAR Uttarakhand)- GST charged on purchase of earth moving machinery including tippers, dumpers used for transportation of goods by a mining company will be allowed as input credit
- The Director General of Excise & Customs, CBEC has issued a **GST FAQ** on Mining Sector and has responded the question of Input Tax Credit on purchases of all earth moving machinery in the following words:-

Q. No. 21:- Will GST charged on purchase of all earth moving machinery including JCB, tippers, dumpers by a mining company be allowed as input credit?

Answer: – The provision of Sec. 17(5) (a) of the CGST Act, 2017 restricts credit on motor vehicle for specified purposes listed therein. Further, in terms of the provision of Section 2(76) of the CGST Act, 2017 the expression 'motor vehicle' shall have the same meaning as assigned to it in **Clause (28) of Section 2 of the Motor Vehicle Act, 1988, which does not include the mining equipment, viz., tippers, dumpers.** Thus, as per present provisions, the GST charged on purchase of earth moving machinery including tippers, dumpers used for transportation of goods by a mining company will be allowed as input credit."

2. Sec 17(5)(b)

- 2.1 17(5)(b) (i) of CGST Act 2017 – Input Tax Credit (ITC) shall not be available in respect of following supply of Goods or/and services :-** Food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance.

Exception: where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of **the same category** of goods or services or both.

- 2.2 17(5)(b)(ii) of CGST Act 2017 –** Membership of a club, health and fitness centre is not eligible for ITC .
- 2.3 17(5)(b)(iii) of CGST Act 2017 –** Travel benefits extended to employees on vacation such as leave or home travel concession is not eligible for ITC.
- 2.4 Exceptions to 17(5)(b)(i), 17(5)(b)(ii) and 17(5)(b)(iii):** Input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide to its employees under any law for the time being in force (**proviso to section 17(5)(b) of CGST Act inserted w.e.f. 1-2-2019.**)

- 2.5** Input Tax Credit of canteen services provided to employees shall be available in view of proviso to section 17(5)(b) of CGST Act as according to section 46 of Factories Act, provision of canteen facility is mandatory if number of workers employed in the factory are 250 or more (proviso to section 17(5)(b) applicable w.e.f. 1-2-2019.)]

3. Work Contract and construction service- 17(5) (c) of CGST Act –

(5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:—

(a) to (b)**

(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Explanation.— For the purposes of clauses (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;

Works contract services when supplied for construction of an immovable property (other than plant and machinery) is not eligible, except where it is an input service for further supply of works contract service.

- 3.1** As per Section 2(119) of GST Act, Works Contract means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract. The expression 'works contract' is limited to contracts to do with immovable property. A contract will amount to a 'works contract' only where the resultant which is immovable property
- 3.2** Input tax credit shall be available to builder or contractor who himself is undertaking works contract service, as he is using these services for further supply of works contract service.
- 3.3** Input tax credit on procurement of plant and machinery shall be available.
- 3.4** Thus, from the above definition it can be seen that the term works contract has been restricted to contract for building construction, fabrication etc of any immovable property only. Any composite supply undertaken on goods say for e.g. a fabrication or paint job done in automotive body shop will not fall within the definition of term works contract per se under GST. Such contracts would continue to remain composite supplies, but will not be treated as a Works Contract for the purposes of GST.
- 3.5** Also, Para 6 (a) of Schedule II to the CGST Act, 2017 states that works contracts as defined in section 2(119) of the CGST Act, 2017 shall be treated as a supply of services.
- 3.6** *Explanation for this chapter - Plant and Machinery means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes— (i) land, building or any other civil structures; (ii) telecommunication towers; and (iii) pipelines laid outside the factory premises.*

3.7 Explanation two clauses (c) and (d) further on excludes from the ambit of input tax credit certain amounts of expenditure and in this regard limit such blocking to the extent amount of expenditure capitalized in the books of account. In other words any expenditure that is not capitalized but charged to revenue in the books will not be subject to credit blocking. Thus any expenditure within the scope of the two clauses (c) and (d) as well as under the Explanation which when capitalized will be subject to credit blocking. However regarding capitalisation of expenditure we should follow General principles of accounting and Accounting Standard issued by the ICAI.

3.8 FAQ series by the Central Board of Indirect Taxes (CBIT):

Q. 11. Where the registered taxable person has claimed depreciation on the tax component of the cost of capital goods under the provisions of the Income-tax Act, 1961, will ITC be allowed in such cases?

Ans.-The input tax credit shall not be allowed on the said tax component in respect of which depreciation has been claimed.

3.9 Advance Ruling:

- **Tewari Warehousing P Ltd. In re [2019] 102 taxmann.com 295 (AAR-WB).** Warehouse constructed using pre-fabricated structure is immovable property and ITC of inputs used in such construction is not eligible.
- **Maruti Ispat and Energy P Ltd. In re (AAR-AP).2018.** Input tax credit is not available for Shed to protect plant and machinery as it is civil structure.
- **Jabalpur Entertainment Complexes P Ltd. In re (2018) (AAR-MP)** Whether works contract service for civil work, etc., for repair/renovation/maintenance of Mall building is fully consumed at end of applicant and it is not an input service for further provision of output service as Works Contract, and, thus, ITC of GST paid on Works Contract Service received by applicant for maintenance contract of building shall not be available to them in terms of clause (d) of section 17(5) - Held, yes [Paras 7.6 and 8.4] [Against assessee]
- **Tarun Realtors P. Ltd. (2020) – AAR Karnataka** - Transformers, DG set, lift, air handling unit, electrical wiring and fixtures, sewage treatment plant etc. for construction of shopping mall are not eligible for ITC as these cannot be considered separate from building or civil structure.
- **We work India Management Private Limited (GST AAR Karnataka) (30.09.19)** GST Input would be allowed on (a) "Detachable 14mm Engineered Wood with Oak top Wooden Flooring" which is movable in nature and capitalized as "furniture and fixture". No GST input on (b) "The detachable sliding and stacking glass partition" which is movable in nature and capitalized as furniture and fixture, as the fixing of sliding and stacking glass partitions amounts to addition or alteration to an immovable property and hence are used for the construction of an immovable property and hence input tax credit shall not be available.
- **M/s BAHF Paper Mills LTD. (GST AAR Uttarakhand) (04.05.18)-** As per the explanation to Section 17 of the CGST Act, availment of credit was not admissible in respect of land, building or any civil structure; therefore, sanitary fittings being the integral part of the Building or any civil structure, credit was not admissible. However, credit of GST will be available on office furniture & fixtures, A.C. plant.

- Maharashtra Authority for Advance ruling in the case of **M/S. Ashish Arvind Hansoti [2020 (7) TMI 82]** held that where the applicant has himself built an immovable property for which he has received various goods or services or both and is using the said property for giving the same on rent to his customers, no ITC is available on any goods or services received by him for such construction being specifically restricted and same cannot be claimed by him.

High Court

- **Safari Retreats Private Limited Vs Chief Commissioner of Central Goods & Service tax (Orissa High Court)** If the assessee is required to pay GST on the rental income arising out of the investment on which he has paid GST, it is required to have the input credit on the GST, which is required to pay under Section 17(5)(d) of the CGST Act. However the department has filed the appeal before Supreme Court against this decision.

Movable Vs immovable

- **Solid and Correct Engineering Works v. CCE - (2010) 5 SCC 122 = 2010 (252) E.L.T. 481 (S.C.)** chattel is imbedded in the earth so as to become immovable property is to be decided on the principles of annexation to the land. The twin tests are the degree or mode of annexation, and the object of annexation. From a combined reading of the definition of immovable property, in section 3 of the transfer of property act and section 3(26) of the general clauses act, it is evident that, in an immovable property, there is no mobility. The test of permanency is whether the chattel is movable to another place of use in the same position, or is liable to be dismantled and re-erected at the latter place? If the answer is yes to the former it must be a movable property and, thereby, it must be held that it is not attached to the earth. If the answer is yes to the latter, it is attached to the earth. While dealing with the issue as to whether the Asphalt Drum/Hot Mix Plant when assembled, installed and commissioned become **immovable property or not, held that a machine when installed with nuts and bolts to a foundation, without an intention to attach it to the earth and can be dismantled and moved, doesn't form an immovable property.**
- **Sirpur Paper Mills Ltd. v. The Collector of Central Excise (1998 (1) SCC 400)**, held that the machine attached to earth for a more efficient working and operation does not *per se* become immovable property.
- **Vodafone Mobile Services Ltd. v. Commissioner of Service Tax, 2018-TIOL-2409-HC-DEL-ST**, the Hon'ble High Court while dealing with the issue of admissibility of credit on telecommunication tower and pre-fabricated shelters, held that the telecommunication tower and pre-fabricated shelters are not *per se* immovable property and cannot be termed as "attached to earth" as they are fixed to a foundation with nuts and bolts for wobble free functioning and does not form a permanent structure.
- **J.C. Decaux Advertising India Private Ltd. v. C.C.E. (Adj.), New Delhi, 2018 (13) G.S.T.L. 330 (Tri. - Del.)**, the Hon'ble CESTAT held that BQS machine which are made of stainless steel tube materials, angles etc. are erected at a place and can be relocated cannot be termed as immovable property even though they are embedded to earth for providing advertising service.
- **T.T.G. Industries Ltd. v. CCE - (2004) 4 SCC 751 (DB) = 2004 (167) E.L.T. 501 (S.C.); Ad Age Outdoor Advertising Private Limited, Hyderabad v. The Government of Andhra Pradesh** - Judgment of APHC DB in W.P. No. 23811 of 2009 dated 11-2-2011]. The 90 metre huge tower can only be erected at another place after it is completely dismantled at the existing site, and cannot be moved to another place of use in the same position. The telecommunication tower is, therefore, immovable property and not goods liable to tax under the Act.

4. **Section 17(5)(e) of CGST Act –GST paid under composition scheme** - Goods or services or both on which tax has been paid under section 10 (composition scheme) are not eligible.
5. **Section 17(5)(f) of CGST Act- Goods or services or both received by a non-resident taxable person** – Goods or services or both received by a non-resident taxable person are not eligible for input tax credit, except on goods imported by him-

Exception: Non Resident taxable person is eligible for ITC on import of goods

6. **Section 17(5)(g) of CGST Act -Goods and services used for personal consumption** – Goods or services or both used for personal consumption are not eligible for input tax credit –. Personal consumption means for non-business consumption by partners or directors or proprietor
7. **Section 17(5)(h) of CGST Act -Lost, stolen or destroyed goods and free samples** – Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples are not eligible for input tax credit – Some of the case laws under old regime

- *Exide Industries Ltd. v. CCGST* [2019] 105 taxmann.com 192 (SC) Where High Court upheld Tribunal's order that raw material allegedly purchased by assessee never reached its factory and, thus, assessee's claim for CENVAT credit was bogus, SLP filed against said order was dismissed.
- *Rane TRW Steering Systems Ltd. v. Commissioner of Central Excise, Chennai* 2003 taxmann.com 1732 (CEGAT- Chennai) Stolen goods - not lost due to unavoidable cause for purpose of remission of duty under Rule 49 - duty payable on stolen goods which are manufactured and marketable.
- In the case of **Ram Printing Mills Vs. Collector of Central Excise, Chandigarh** fabrics were stolen from the factory, which was the final product of the manufacturer. In that case the Tribunal allowed the remission of duty in respect of the final product.
- Hon'ble Madras High Court in the case of **Golden Hills Estates Vs. Collector of Central Excise, Madras, reported in 1997 (90) ELT 301 (Mad.)**. Held that loss of by way of theft duty paid goods is neither an 'accident' nor is it 'unavoidable' as the owner should have taken proper steps to protect the goods and rejected the request for remission of duty.
- **Asian Paints (I) Ltd. Vs. Commissioner of Central Excise, Mumbai-II, reported in 2004 (65) RLT 534 (CESTAT-Mum.)=2004 (173) ELT 187 (Tri.-Mumbai)** held that on which credit has been taken inputs, which are destroyed in fire, the assessee has to reverse the credit as these are not used in the manufacture of final product
- **Gifts to customers/distributors** – Input Tax Credit is not available on gold coins distributed among customers as gift based on target based sales - **(Biostadt India Ltd. In re [2019] (AAR-Maharashtra)**.
- **Free Samples** – Free samples to unrelated persons will *not* be subject to GST but input tax credit will have to be reversed. However, ITC is available on free samples given to related persons as it will be subject to GST **(CBI&C circular No. 92/11/2019-GST dated 7-3-2019.)**
- **Free supplies under CSR** – Input Tax Credit is not available for free supply against CSR policy **In Polycab Wires (P.) Ltd., In re [2019] (AAR – KERALA)**
- **Essel Propack Ltd. v. Commissioner of CGST, Bhiwand[2020] 117 taxmann.com 409 (Mumbai - CESTAT)** Corporate Social Responsibility (CSR) can be considered as Input service and be included within definition of 'activities relating to business' for availing Cenvat Credit.

- **Dwarikesh Sugar Industries Ltd., In re [2021] 125 taxmann.com 329 (AAR- UTTAR PRADESH)** Expenses incurred by company in order to comply with requirements of Corporate Social Responsibility (CSR) under Companies Act, 2013 ('CSR Expenses') qualify as being incurred in course of business and eligible for input tax credit in terms of the section 16. Free supply of goods as a part of CSR activities do not qualify as 'gifts' and therefore, its credit is not restricted under section 17 (5) (h)
- **ITC on goods supplied free for brand promotion or sales promotion – Sanofi India Ltd., In re [2019] (AAR – Maharashtra).** Input Tax Credit is not available on GST paid on expenses incurred towards promotional schemes (like foreign trip or gifts for achieving targeted sales) and goods given as brand reminders, as promotional products are not given to customers under any contractual obligation and are voluntarily given on certain conditions achieved by customers-.

8. **Section 17(5)(i) of CGST Act 129- GST paid after detection of fraud or suppression or goods removed in contravention of GST Act** – Any tax paid in terms of sections 74, 129 and 130 of CGST Act are not eligible for input tax credit. This covers GST paid after detection of fraud or suppression or goods removed in contravention of GST Act – (tax paid after detention of goods in transit for violations of provisions of e-way bill) and 130 (penalty paid after confiscation of goods).

NOTE: The advance ruling will be binding only – (a) On the applicant (b) On the jurisdictional tax authorities in respect of the applicant. If the law, facts of the original advance ruling change then the advance ruling will not apply



CA Keshava N Ballakuraya



CA Sabana

Explore The Concept Of **Place Of Supply Under GST**



Place of Supply is one of the basic pillars to determine whether the supply is interstate or intrastate. The basic principle of GST is that it is a **Destination Based Tax** i.e goods or services will be taxed at the place where they are consumed and not at the place of their origin like erstwhile regime of taxes. Place of Supply provisions determines the place i.e Taxable Jurisdiction where the Tax should ultimately reach. To determine whether any transactions falls within the definition of “Intra-State Supply (Sec. 8 of IGST Act)” or “Inter-State Supply (Sec. 7 of IGST Act)” we need to first be aware of place of supply provisions. If place of supply is not determined properly it is possible that inter-state transaction is treated as intra-state or vice versa where by IGST is paid instead of CGST+SGST/UTGST or vice versa. In such cases only available remedy will be to pay correct tax and claim the refund of wrongly paid tax subject to refund provisions. Though no interest will be levied on late payment of correct tax but there will be increase in procedural compliances as well working capital blockage. So it is very essential that we correctly determine the place of supply.

Chapter V of the IGST Act (Sections 10 to 13) prescribes the provisions relating to place of supply of goods and services.

- 1. Place of Supply of Goods (Section 10 & Section 11)** -Goods being tangible in nature it is easy to determine their place of consumption. Provisions remains same for both B2B and B2C transactions. If the recipient does not provide the location where the goods will be ultimately consumed then the location of the supplier itself will be presumed to be place of supply.

1.1 Section 10 of IGST Act - Place of Supply of goods other than supply of goods imported into or exported from India i.e Domestic Supply of Goods

Section	Nature of Transaction	Place of Supply (POS)	Example
10(1)(a)	Supply Involving Movement of Goods where movement may be caused by Supplier, Recipient or any other person	Location of goods at the time when movement of goods terminates for delivery to recipient	AB Ltd. dealer of Refrigerators registered in Delhi sells 5 Refrigerators to XY Ltd. registered in Mumbai. Movement of Refrigerators from Delhi to Mumbai is undertaken by XY Ltd POS :- Mumbai, Maharashtra
10(1)(b)	Supply Involving Movement of Goods Bill to Ship to Supply (Goods are delivered by Supplier to the recipient or any other person on the direction of a third person)	Principal Place of Business of Third Person. It is deemed that third person has received the goods	Mr. X of Bangalore instructs Mr. A of Gujarat to send goods to Mr. Z of Delhi. As per the instruction Mr. A supplier delivers the goods to the location of Mr. Z recipient i.e Delhi POS:- Bangalore, Karnataka (Location of Mr. X Third Person)
10(1)(c)	Supply not Involving Movement of Goods	Location of goods at the time of delivery to the recipient	Furniture is given on lease rent by Mr.A of Bangalore to Mr.Z of Mumbai. After a period of year Mr. Z requests Mr.A that he wants to buy that furniture. POS:- Mumbai, Maharashtra (Location of goods at time of delivery)
10(1)(d)	Supply Involving installation or	Place of such	AB Ltd. a Maharashtra based company buys a machine from Bangalore based company which

	assembly of Goods	installation or assembly	needs to be installed in its factory located in Chennai. POS :- Chennai, Tamil Nadu (Place where Machinery is installed).
10(1)(e)	Goods Supplied on board a conveyance like Aircraft, Train, Vessel or a Motor Vehicle	Location at which such goods are taken on board	Mr. A boards Mangalore – Chennai Express train from Mangalore to sell his books. He sold a book to Mr. Y a passenger in the train when the train reached Kannur (Kerala). POS:- Mangalore, Karnataka (Location where Mr. A boarded train).
10(2)	Where place of supply of goods cannot be determined	Shall be determined in a manner as may be prescribed	Residual Cases not covered under any of clauses of Sec. 10(1). No Rules has been notified as on 01.06.2021

1.2 Section 11 of IGST Act - Place of Supply of goods imported into or exported from India i.e Cross Border Supply of Goods - Import and Export of goods will be always deemed to be **Inter State Supply (IGST) irrespective of Place of Supply and Location of Supplier as per Section 7 of IGST Act.**

Section	Nature of Transaction	Place of Supply (POS)	Example
11(a)	Import of Goods 2(10) of IGST Act defines Import of Goods as bringing goods into India from a place outside India	Location of Importer	ABC Ltd. registered in Pune imports Mobile Phones from XYZ Inc. of Korea. POS:- Pune, Maharashtra (Location of Importer ABC Ltd).
11(b)	Export of Goods 2(5) of IGST Act defines Export of Goods as taking	Place where goods have been exported i.e	MC Ltd. a firm registered in Kerala exports Spices from Kerala to London, UK.

	goods out of India to a place outside India	the Location outside India	POS :- London, UK (Location where goods are exported).
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2. Place of Supply of Services (Section 12 & Section 13) Services being intangible in nature poses significant problem in identifying the accurate location where they are being consumed. So while determining Place of Supply in case of Services one has to consider various proxies involved in a service transaction such as Location of service receiver, Location of service provider, Place where activity takes place, Place where service is consumed and place or person to which actual benefit flows.

2.1 Section 12 of IGST Act - Place of Supply of Services where Location of Supplier of Service and the Location of Recipient of Service is in India i.e Domestic Supply of Services -This section needs to be applied only when both the Location of the Supplier **and** Location of Recipient are in India Section 12(1). It is very important to note that in case of services getting covered under section **12(2), 12(5), 12(7), 12(8), 12(9) and 12(13)** place of supply will differ depending on whether the supply is made to registered or unregistered person.

Section	Nature of Transaction	Place of Supply (POS)	Example
12(2)	General Rule applicable where supply doesn't get covered in 12(3) to 12(14)	Registered Recipient:- Location of Recipient Unregistered Recipient:- If Address is available then that location Other cases, Location of Supplier	Mr. A, Chartered Accountant registered in Mangalore, Karnataka provides service to Mr.Z who is resident of Panaji, Goa. a) If Mr. Z is registered in Goa POS will be Panaji, Goa. b) If Mr. Z is unregistered POS will be Panaji, Goa if address is available with Mr. A. c) If Mr. Z is unregistered and no address of Mr. Z is available with Mr. A POS will be Mangalore, Karnataka.
12(3)	Services in relation to Immovable Property (IMP) like architect service, real estate agents	Immovable Property if, <u>Located in India</u> – Location of Property	a) Devi Builders registered in Bangalore is constructing Factory Building for ABC Ltd., Goa in Mumbai POS:-Mumbai, Maharashtra

	service, Lodging / accommodation service, Construction work, right to use IMP, Accommodation in halls for marriage or other functions etc.	<p><u>Located Outside India</u></p> <p>– Location of Recipient</p> <p>Note:- If IMP is located in more than one state or UT then POS will include each of such states and value will be determined as per contract or Rule 4 of IGST Rules</p>	<p>(Location of IMP)</p> <p>b) Mr. X a engineer registered in Mumbai provides architectural service in respect of IMP owned by Mr. Y (Bangalore) The said property is located in Australia.</p> <p>POS:- Bangalore, Karnataka (location of recipient)</p>
12(4)	Performance Based Services like Restaurant and catering, Personal Grooming, Health Service, Catering Service, Fitness, Beauty Treatment, Cosmetic & Plastic Surgery	Location where services are actually performed	<p>Mr. C a Chartered Accountant registered in Mangalore, Karnataka during his bank audit in Chennai visits a restaurant in Chennai for lunch.</p> <p>POS for Restaurant service will be Chennai, Tamil Nadu location where service is performed.</p>
12(5)	Training & Performance Appraisal Service	<p>Registered Recipient:-</p> <p>Location of Recipient</p> <p>Unregistered Recipient:-</p> <p>Location where services are actually performed</p>	<p>Ms. B unregistered in Mumbai signs up with Excellent Speaking Centre (Hyderabad) for training on English Speaking. Training Centre is located at Hyderabad.</p> <p>POS:- Hyderabad (Location of Training Centre where coaching is provided)</p>
12(6)	Admission to Events/ Parks/ Other Places like Cultural event, Sporting Event,	Place Where the event is actually held or where the park or such	Mr. A resident of Mysore buys a ticket for Amusement Park located at Nasik, Maharashtra.

	Scientific Event, Entertainment Event, Amusement Parks, Artistic Event, Educational Event and its Ancillary Services	other place is located	POS:- Nasik, Maharashtra (Location of amusement park)
12(7)	Organization of Events like cultural, artistic, sporting, scientific, educational or entertainment, conference, fair, exhibitions, celebrations Ancillary Services Assigning Sponsorship to such Events	Registered Recipient:- Location of Recipient Unregistered Recipient:- <u>Event Held in India</u> Location where event is held <u>Event Held outside India</u> Location of Recipient Note:- In case of Unregistered Recipient if Event is held in more than one State or UT then POS will include each of such States/UT and value will be determined as per contract or Rule 5 of IGST Rules.	1. Wedding Planners registered in Mumbai is hired by Ms. Roopa based in Bangalore to plan and organize her wedding function. a) If wedding is held in Delhi POS will be Delhi (Location of Event) b) If wedding is held in Paris, France. POS will be Bangalore, Karnataka (Location of Recipient) 2. Mega Events registered in Mumbai organizes a business conference function for ABC Ltd. registered in Mumbai. Conference is held in Delhi. POS:- Mumbai (Location of recipient as he is registered)
12(8)	Transportation of Goods including	Destination of Goods in India	1. XYZ Ltd. registered in New Delhi sends courier

	by Mail or Courier	<p><u>Registered Recipient</u></p> <p>Location of such person</p> <p><u>Unregistered Recipient</u></p> <p>Location at which such goods are handed over for transportation</p> <p>Destination of Goods is Outside India</p> <p>Place of Destination of such goods for both registered as well unregistered recipient</p>	<p>through M/s. Global Air Courier, Delhi.</p> <p>a) If courier is to be sent to Pune POS will be New Delhi (Location of Recipient)</p> <p>b) If courier is to be sent to London, UK POS will be London (Destination of Goods)</p> <p>2. Mr. A (unregistered), Goa hires a GTA to transport his household goods from Bangalore to Karnataka. GTA is registered in Karnataka.</p> <p>POS will be Bangalore, Karnataka (Location where goods are handed over)</p>
12(9)	<p>Passenger Transportation</p> <p>Service (Return Journey will be considered as Separate Journey)</p>	<p>Registered Recipient:-</p> <p>Location of Recipient</p> <p>Unregistered Recipient:-</p> <p>Place where Passenger embarks on Conveyance for a continuous journey</p> <p>Note:- Right to Passage for future use like Delhi Metro Card POS will be determined as</p>	<p>1. Amar registered person in Delhi travels from Mumbai to Bangalore in flight. POS will be Delhi (Location of Recipient)</p> <p>2. Mr. A an unregistered person books two-way air journey ticket from Mangalore to Chennai.</p> <p>For Onward Journey from Mangalore to Chennai POS will be Mangalore (Location where passenger embarks)</p> <p>For Return Journey from Chennai to Mangalore POS will be Chennai (Location where passenger embarks)</p>

		per 12(2) general rule	
12(10)	Services on a board conveyance	Location of the first scheduled point of departure of that conveyance for the journey	Mr. X travelling in Bangalore to Dubai Flight boarded the Plane from Delhi. During journey he ordered a Movie on Demand. POS for Movie on Demand service will be Bangalore (First Scheduled Point of Departure)
12(11)	Telecommunication Service :		
	Fixed / Installed devices like Cable, dish etc	Location of installation	Mr.X gets DTH installed in his home at Kolkata. POS will be Kolkata (Location of DTH installed)
	Post-paid Mobile & Internet Services	Location of Billing Address	Mr. B takes post paid mobile connection from Airtel and gives his residential address of Mangalore as billing Address. Currently he is working in Delhi. POS will be Mangalore, Karnataka (Location of billing address)
	Pre-paid Mobile, DTH services through distributor or agents	Address of Distributor at the time of supply	Mr. C of Pune purchases a pre-paid mobile card from a selling agent in Bangalore. POS will be address of selling agent i.e Bangalore, Karnataka
	Pre-paid Mobile, DTH services to final subscriber	Location where payment is received or Voucher Sold	Mr. F of Kochi gets his mobile recharged from a grocery shop in Chennai. POS will be Chennai (Location where payment is received)
	Pre-paid services payment made through online banking	Location of recipient of service in record of supplier	Mr. F recharges his mother mobile number who is residing in Bangalore from Dubai. POS will be Bangalore

			(Location of recipient in records)
	Other Cases	Location of recipient of service in record of supplier Not available then Location of Supplier	
12(12)	Financial & Stock Broking Services	Location of the recipient of service in the records of Supplier If Not available, Location of Supplier of Service	Mr. C from Bangalore visits a Bank in Chennai for getting a Demand Draft made. Mr. C does not have any bank account with the said bank. POS will be Chennai (Location of supplier as recipient address not available in records)
12(13)	Insurance Services	Registered Recipient:- Location of Recipient Unregistered Recipient:- Location of Recipient of service in the records of supplier of service	Mr. A an unregistered person located at Jaipur takes an insurance policy from a company based in Mumbai. POS will be Jaipur (Location of Mr.A)
12(14)	Advertisement Service to Central Government/ State Government/ Statutory Body/ Local Authority identified in Contract or Agreement	Each of such State/UT where advertisement is broadcasted/ run/ played/ disseminated	A Ltd. registered in Bangalore has been appointed as an Advertisement Agency by Government of Karnataka for Advertisement of Fisheries Project in Southern States of India i.e Karnataka, Kerala and Tamil Nadu. POS will be Karnataka, Kerala and Tamil Nadu.

2.2 Section 13 of IGST Act - Place of Supply of Services where Location of Supplier or Location of Recipient is outside India i.e Cross Border Supply of Services : This section needs to be applied only when either the Location of the Supplier **or** Location of Recipient is outside India- Section 13(1). This section plays a very important role in determining whether any service provided to a person outside India falls within the definition of Export of Service as per section 2(6) of IGST Act.

Section	Nature of Transaction	Place of Supply (POS)	Example
13(2)	General Rule applicable where supply doesn't get covered in 13(3) to 13(13)	If Location of Recipient available then such location. If not available Location of Supplier of Service	Mr. A, Chartered Accountant registered in Mangalore, Karnataka provides service to Mr. Z who is residing in London, UK. POS will be London (Location of Recipient)
13(3)	Performance Based Services		
	Services which require physical presence of goods	Location where service is performed	XY Ltd of Delhi imports a machinery from Germany. For its installation service engineer from Germany comes to India. POS of Installation service will be Delhi (Location where Installation performed)
	Services which require physical presence of recipient	Location where service is performed	Hair Stylist registered in Delhi travels to Dubai to provide her service. POS will be Dubai where service performed
	Services require physical presence of goods but provided from remote location by electronic means	Location where goods are situated at time of supply	XY Ltd a foreign company in Korea purchased a software from AX Ltd of India. Installation of software in the systems of XY Ltd. is done through electronic means from AX Ltd office in Delhi. POS will be Korea, where the systems are located.

	Goods Temporarily imported for repairs. And Diamonds Imported for Cutting & Polishing activity	General Rule 13(2) If Location of Recipient available then such location. If not available Location of Supplier of Service	ABC Ltd. of Hyderabad exported a Machine to a company in Australia. Machine stops functioning and thus imported for free repairs in terms of contract. Machine is exported after repairs without being put to use in India. POS will be Australia (Location of Recipient as per General Rule)
13(4)	Service in relation to Immovable Property (as specified in section 12(3) above)	Location of Immovable Property	Mr. X an engineer registered in Mumbai provides architectural service in respect of IMP owned by Mr. Y residing currently in Dubai. The said property is located in Pune. POS will be Pune, Maharashtra (Location of Property)
13(5)	Admission / Organization of Events, Celebrations, Conference, Fair, Exhibition and Ancillary Services	Place where event is actually held	A Circus team from Russia organizes a Circus in Delhi. POS will be Delhi where Circus is held.
13(8)	Banking, Intermediary & Hiring of Means of Transport excl Aircraft & Vessel upto 1 month	Location of the Supplier of Service	1. Mr. A, non-resident has an NRE Account with Canara Bank in Pune. POS will be Pune (Location of Supplier) 2. ABC Ltd. registered in Delhi provides support services to foreign unit for procuring goods from India. POS for service provided by ABC Ltd. as an Intermediary will be

			Delhi (Location of Supplier)
13(9)	Transportation of Goods Other than by mail or Courier	Destination of Such Goods	JK Shipping Line registered in Gujarat transports flower from Gujarat to UK for the order placed by VK Planners from UK. POS will be UK (Destination of Goods)
13(10)	Passenger Transportation Service	Place where the passenger embarks on the conveyance for continuous journey	A Foreign tourist booked ticket for New Delhi to Sri Lanka from Airlines registered in New Delhi for continuous journey. POS will be New Delhi (Place where the passenger embarks on the conveyance)
13(11)	Services On board a Conveyance	First Scheduled point of departure of that conveyance for the journey	A Foreign tourist booked ticket for New Delhi to Sri Lanka from Airlines registered in New Delhi. He booked Movie on Demand service during journey. POS will be New Delhi
13(12)	Online Information & Database Access or Retrieval Services (OIDAR) includes Online Gaming, Cloud Service, E-books, music through internet, Advertising on Internet etc	Location of the recipient of Service	Mr. A an unregistered person in Delhi downloads E-book from a Foreign website for payment. POS :- Delhi (Location of recipient)
13(13)	Notified Services		
	Research & Development	Location of recipient of	

	services related to Pharmaceutical Sector	service subject to fulfilment of specified conditions	
	B2B Maintenance, repair and Overhaul services of aircrafts or aircraft engines or components or parts	Location of the recipient of Service	

With regard to Performance based Services **13(3)**, Services in relation to Immovable property **13(4)** and Admission/Organization of Events **13(5)** if:-

- Services supplied at more than one location including location in taxable territory POS will be location in taxable territory.
- Services supplied at more than one State or UT POS will be each of such State/UT.

Sections 12 and 13 govern the place of supply of service provision in GST and provide that place of supply, in general shall be the location of recipient of service. However, in certain cases it shall be location of supplier of service. One such case is an Intermediary. If a person falls under an Intermediary, the place of supply for service provided by him shall be India and, accordingly, shall not be treated as exports. That is why there is continuous litigation regarding the nature of service as export service or intermediary service.

During any transactions under taken by the registered person it is important to apply the relevant provisions of section 10,11,12 or 13 respectively and determine the place of supply. And utmost care to be taken while determining the Place of supply in case of services as they are intangible in nature.



CA Keshava N Ballakuraya



CA Raksha Kini M

COMMUNICATION IN THE CORPORATE WORLD



“To effectively communicate, we must realize that we are all different in the way we perceive the world and use this understanding as a guide to our communication with others.”

According to me, communication and effective leadership go hand in hand. In order to be a good leader in the corporate world, one must essentially understand how to deal with various situations and be able to communicate with confidence and sincerity.

In any form of business, communication is an internal as well as an external affair. The success of the business rests upon communication. To be a good communicator, one must to be a good speaker and a patient listener too.

The factors that play a vital role in effective oral communication skills are-voice, body language, appearance and gestures made by the communicator. Not only the content but also the way the content is transferred is very important.

On the other hand, written communication also needs to be very accurate to make sure that message is understood correctly. The factors that should be considered in written communication are completeness, conciseness, choice of words and clarity of thoughts to make the message easy to understand.

Effective communication skills enable a person to understand the mind-set of others and grasp the situation easily. It helps an individual get desired results even in an unfamiliar situation.

Good communication skills in the corporate world is about communicating information, helping to build greater rapport with one's bosses, colleagues, sub-ordinates, clients and customers and getting more business and revenue for one's company.

It is said that, “Effective communication is 20% what you know and 80% how you feel about what you know. “Our communication is not just a combination of facts and figures, but also a large proportion of our feelings and emotions towards a particular subject.

The benefits of effective communication in the corporate world are:-

To have a Better Rapport

Rapport building is the key motive of any corporate communication strategy; this can be internal and external, as well. When there is a constant rapport with employees and customers, the business image of the company will also get higher.

To Highlight the Performance

Nothing other than frequent communication like newsletters and posters can effectively highlight the performances of the company. This will again have a positive impact on the business image of the company.

To Advertise New Products & Services

Regular means of communication will help in easy reach of new products and services to the consumers. So, corporate communication becomes highly essential for advertising new products and services of the company.

Be it new product launch, news update or any other message; it promotes the business image of the company when it is communicated via proper channel.

Clears Up Misunderstandings

Effective communication can clear up misunderstandings and foster straightforward business negotiations.

In this sense, communication is a very vital tool in the corporate world. I strongly feel that the Institute of Chartered Accountants of India has drafted and implemented highly beneficial courses in the curriculum in the form of the Orientation course and the General Management and Communication Skills course (GMCS). It truly gives CA students and newly qualified Chartered Accountants an opportunity to gain an understanding of how to communicate in the business world and participate in group discussions to facilitate healthy negotiations.

One of the most important and valuable suggestions given by one of my teachers in school is that we should **inculcate the habit of reading**. It has a double purpose; we gain knowledge and it also builds on our vocabulary. Individuals need to take part in more group activities and there should be more socializing with each other. It contributes to an overall improvement in our communication skills.



CA Srikala Prabhu

Producer Companies under Company Law – what we must know



Ministry of Corporate Affairs (MCA) through introduction of **the Companies (Amendment) Act, 2020** vide gazette notification id CG-DL-E-28092020-222070 dated 28.09.2020 has inserted a new Chapter XXIA which deals with the provisions regarding **PRODUCER COMPANIES** the Companies Act, 2013 and the same has been notified on 11.02.2021 by the Central Government, MCA, through a separate gazette notification id CG-DL-E-11022021-225115 ([click here](#)) dated 11th February, 2021.

❑ Define Producer Company under the Company Law:

As per the Provisions: "Producer Company" means a body corporate having objects or activities specified in section 378B and registered as Producer Company under this Act or under the Companies Act, 1956;

In general, Producer Company can be defined a legal Body Corporate, registered under the Companies Act 2013 or under applicable provisions of the Companies Act 1956, as the case may be, and which includes farmers / agriculturists and is working with a vision / object to improve the standard of their living and ensure a good status of their available support, incomes and profitability.

Further "**producer**" means any person engaged in any activity connected with or relatable to any primary produce

❑ List of Activities/objects to be carried out by Producer Company:

A Producer Company can be established / registered for the lawful objects, related to improving the standard of living of those involved in the agricultural sector, specified under the provisions of Section 378B of the Companies Act, 2013, which includes the followings:

- a) production, harvesting, procurement, grading, pooling, handling, marketing, selling, export of primary produce of the Members or import of goods or services for their benefit, either by itself or through other institution;
- b) Processing including preserving, drying, distilling, brewing, vinting, canning and packaging of produce of its Members;
- c) Manufacture, sale or supply of machinery, equipment or consumables mainly to its Members;
- d) Providing education on the mutual assistance principles to its Members and others;
- e) Rendering technical services, consultancy services, training, research and development and all other activities for the promotion of the interests of its Members;
- f) Generation, transmission and distribution of power, revitalization of land and water resources, their use, conservation and communications relatable to primary produce;
- g) Insurance of producers or their primary produce;
- h) or other activities which may promote the principles of mutuality and mutual assistance amongst the Members in any other manner;

❑ **Key Points to be kept in mind while doing Incorporation of Producer Company:**

1. Who can form a Producer Company?

- i) Any 10 or more **individuals**, each of them being a producer or/
- ii) two or more **Producer Institutions** or/
- iii) a combination of ten or more individuals and Producer Institutions)

2. Objects:

As mentioned above and can refer section 378B of the Companies Act, 2013.

3. Board Composition:

Every Producer Company shall have at least 5 and not more than 15 directors

4. Type of Capital:

The share capital of a producer company consists only of equity shares.

5. Name Style:

The name of a producer company must end with the words '**Producer Company Limited**'.

❑ **Registration Timeline:**

After successful submission of all the required documents and information with Ministry of Corporate Affairs (MCA), the authority will do a check. If satisfied that all requirements regarding registration have been complied with, the Concerned Registrar of Companies will register the memorandum, articles and other documents, if any, and issue a certificate of incorporation under the Companies Act 2013 **within 30 days of receipt of the requisite documents.**

❑ **Provisions related to Board Meeting of Producer Company**

Provisions	Details
Minimum no. of Meetings in a Financial Year	At least 4 meetings
Maximum gap between two Board Meeting	3 months
Notice of Board Meeting	Shall be given in writing to every director at his usual address in India at least 7 days prior the date of meeting.
Quorum of the Board Meeting	Shall be one-third (1/3 rd) of the total strength of directors, subject to a minimum of three directors.

❑ **Provisions related to Annual General Meeting (AGM)**

1. First AGM: Within a period of 90 days from the date of its incorporation, wherein the company must adopt its articles of association and appoint the directors of its board.
2. A producer company must hold an annual general meeting of its members every year.
3. Gap between two AGM's: not more than 15 months shall elapse between the date of one annual general meeting of a Producer Company and that of the next.
4. The quorum for a general meeting of a producer company is one-fourth of the total members, unless the articles of the Producer Company provide for a larger number
5. A general meeting of the Producer Company shall be called by giving not less than 14 days prior notice in writing.

☐ **Annual Compliance related to Producer Company**

Sl .	Particulars	Due Date	E- Form
1	Appointment of Auditor	Within 15 days from the conclusion of AGM (ratification at every annual general meeting is not mandatory)	ADT-1
2	Filing of financial statement and other documents with the ROC	Within 60 days from the conclusion of the AGM	AOC-4
3	Filing of annual return by a company.	Within 60 days from the conclusion of AGM	MGT-7
4.	Director's KYC	For FY 2020-21 – 30.09.2021 DIN KYC through DIR 3 KYC Form is an Annual Exercise. Last date for filing DIR-3 KYC for Financial year 2020-21 is 30th September, 2021 Annual Exercise. Penalty after due date is Rs. 5000/-(one time)	E-Form DIR – 3 KYC (Web Based and E-form)

☐ **Some Important Provisions:**

Sl.	Provisions	Particulars
1.	Appointment of CEO	Every producer company must appoint a full-time CEO, to be chosen by the board from persons other than the members.
2.	Internal Audit	Every Producer Company shall have internal audit of its accounts carried out, at such interval and in such manner as may be specified in articles, by a chartered accountant as defined in section 2 (1) (b) of the Chartered Accountants Act, 1949.
3.	Liability of Members	The liability of its members are limited to the amount unpaid on the shares, if any.
4.	Company Secretary of Producer Company	Every Producer Company having an average annual turnover exceeding Rs. 500 Cr. or such other amount as may be prescribed in each of three consecutive financial years shall have a whole-time secretary, who possesses membership of the ICSI.

5.	No. of Directors more than 15	If an inter-State co-operative society incorporated as a Producer Company, such company may have more than fifteen directors for a period of one year from the date of its incorporation as a Producer Company.
6.	General Reserves	Producer companies must maintain a general reserve each financial year.

The Producer Companies Rules, 2021

Ministry of Corporate Affairs (MCA) vide Gazette ID No. CG-DL-E-11022021-225116 and F. No. 5 /1 /2020-CLl dated 11th day of February, 2021 has released **the Producer Companies Rules, 2021** in section 378H (4) and section 378ZL (1) read with section 469 (1) & (2) of the Companies Act, 2013, and **in supersession of the Producer Companies (General Reserve) Rules, 2003, except as respects things done or omitted to be done before such supersession.**

☐ **Applicability:**

They shall come into force on the date of *their publication in the Official Gazette* **i.e. w.e.f. 11.02.2021.**

☐ **To whom Applicable:**

These rules shall apply to a Producer Company as referred in clause (l) of section 378A.

☐ **Key Highlights:**

Key definition clause:

Rule 3 (1) (c) “co-operative society” means a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State.

Rule 3 (2) Words and expressions used in these rules but not defined and defined in the Act or in the Companies (Specification of Definitions Details) Rules, 2014, shall have the same meanings respectively assigned to them in the Act or in the said rules.

Rule 4. Change of place of registered office from one State to another.-

The rules 27, 30 and 31 of the Companies (Incorporation) Rules, 2014, including the forms stated therein shall be applied for the purpose of change of place of registered office of a Producer Company from one State to another.

Analysis:

Rule(s) under the Companies (Incorporation) Rules, 2014	Relevant Provisions Gist
27 Notice and Verification of Change of Situation of the Registered Office.-	The notice of change of the situation of the registered office and verification thereof shall be filed in <u>Form No.INC.22</u> along with the fee and shall be attached to the said form, the similar documents and manner of verification as are specified for verification of Registered office on incorporation in terms of sub-section (2) of <u>section 12</u> .
30. Shifting of Registered office from one State or Union Territory to another state	<p>(1) An application under sub-section (4) of section 13, for the purpose of seeking approval for alteration of memorandum with regard to the change of place of the registered office from one State Government or Union territory to another, shall be filed with the Central Government in Form No. INC.23 along with the fee and shall be accompanied by the following documents required under this sub – rule.</p> <p>.....</p> <p>.....</p> <p>.....(read full read at http://ebook.mca.gov.in/Default.aspx?page=rules)</p>
31 Certified Copy of Central Government's Order	The certified copy of the order of the Central Government, approving the alteration of the memorandum for transfer of registered office of the company from one State to another, shall be filed in <u>Form No.INC.28</u> along with the fee as with the Registrar of the State within thirty days from the date of receipt of certified copy of the order.

Rule: 5. Investment of general reserves.-

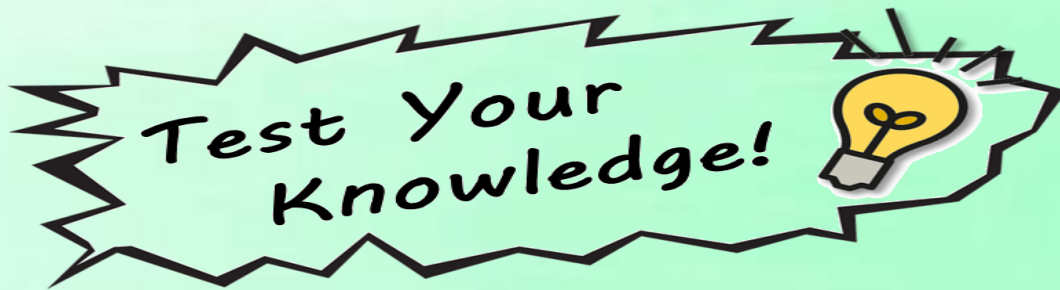
A Producer Company shall make investments from and out of its general reserves in any one or in combination of the following, namely:-

- a) in approved securities, fixed deposits, units and bonds issued by the Central Government or State Governments or co-operative societies or scheduled bank; or
- b) in a co-operative bank, State co-operative bank, co-operative land development bank or Central co-operative bank; or
- c) with any other scheduled bank; or
- d) in any of the securities specified in section 20 of the Indian Trusts Act, 1882 (20 of 1882); or
- e) in the shares or securities of any other inter-State co-operative society or any co-operative society; or
- f) in the shares, securities or assets of public financial institutions specified under clause (72) of section 2 of the Act.

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CS Lalit Rajput



1. Which of the following Committee was formed by SEBI for improving standards of Corporate Governance of Listed Companies in India?
(A) Naresh Chandra Committee
(B) N.R. Narayan Murthy Committee
(C) Kotak Committee
(D) Kumar Mangalam Birla Committee
2. SEBI has three functions rolled into one body. Which of the following is not the function of SEBI?
(A) Quasi-legislative
(B) Quasi-judicial
(C) Quasi-executive
(D) Quasi-official
3. Out of following which item cannot be exercised by the Board of Directors of ABC Ltd.?
(A) To diversify the business of the company
(B) To take over a company
(C) To approve amalgamation, merger or the reconstruction
(D) To sell of the whole or substantially the whole of the undertaking of the company
4. Notice u/s 143(2) (i.e. notice of scrutiny assessment) should be served within a period of _____ from the end of the financial year in which the return is filed.
(A) 6 months
(B) 12 months
(C) 24 months
(D) 18 months
5. Income of disabled (physically) minor child is:
(A) Clubbed with parents total income
(B) Taxed in the hands of minor child
(C) Exempted
(D) None of above
6. Appeal to High court is possible if:
(A) Question of fact is involved
(B) Question of law is involved
(C) Substantial question of law is involved
(D) None of above



ANSWERS

FOR THE PREVIOUS EDITION

1. Abdulla Shahid
2. **(A) Interest rate risk** (B) Liquidity risk (C) Default risk (D) Purchasing power risk
3. **(A) Passed** (B) Invalid (C) Cancelled (D) Accepted
4. (A) 25% or more **(B) 26% or more** (C) 50% or more (D) 51% or more
5. (A) are abandoned by the owner in an emergency with a hope of recovering it later
(B) Owner has no intention to abandon but get sunk and drift to the shore
(C) Owner has no intention to abandon but float and drift to the shore
(D) Are abandoned by owner of goods without any hope of recovery

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



- ❖ Just as a mirror reflects a man's face, his personality is reflected in his choice of friends.
- ❖ No one can defeat a powerful mind.
- ❖ Once you start working on something, don't be afraid of failure and don't abandon it. People who work sincerely are the happiest.
- ❖ God is not present in idols. Your feelings are your God. The soul is your temple.
- ❖ Never make friends with people who are above or below you in status. Such friendships will never give you any happiness.
- ❖ One whose knowledge is confined to books and whose wealth is in the possession of others can use neither knowledge nor wealth when the need for them arises.
- ❖ Till the enemy's weakness is known, he should be kept on friendly terms.
- ❖ Never settle for anything less than what you deserve. It's not pride, it's self respect.
- ❖ There are only two ways of dealing with the evil persons or thorns. Crush them under your boot or stay far away from them.
- ❖ It is the mind of man alone that is the cause of his bondage or freedom.



WORDS FROM THE HOLY BOOK

वेदाहं समतीतानि वर्तमानानि चार्जुन ।
भविष्याणि च भूतानि मां तु वेद न कश्चन ॥ २६ ॥

*vedāhaṁ samatītāni vartamānāni cārjuna
bhaviṣyāṇi ca bhūtāni mām tu veda na kaścana*

When we pray for help amidst problems but our prayer isn't answered, we ask: "Why is Krishna not helping?"

Krishna does help, but his help doesn't always match our expectation. Why not? Because he sees things differently from us. We see the present and plan the future, whereas he sees the future and plans the present. The Bhagavad-gita (07.26) states that he knows past, present and future. He knows what present actions will lead to what complications and treats us accordingly.

Suppose a child who has some pain seeks medical help. The doctor recognizes that the pain symptomizes a potentially serious infection and focuses on treating that infection, not its symptom. When the doctor gives a series of injections, the child feels that the doctor has aggravated the pain, not mitigated it. But if the child takes the treatment patiently, he will become healthier and feel better.

The same dynamic applies to Krishna's help. He knows what future dangers may befall us, dangers for which our present problems are precursors or symptoms. Accordingly, he may focus not just on solving our specific problems, but on treating the impurities or karmic imbalances that make us vulnerable to those dangers.

Instead of worrying why our prayer hasn't been answered, we can strive for understanding and service attitude: understanding to make better sense of the way things are unfolding, and service attitude to stay fixed in our attempts to serve our Lord.

When we thus submit to Krishna's will with patience, we grow spiritually, finding shelter and strength through absorption in him. In due course, we discover that he has expertly brought good out of the bad. Thereafter, we become empowered with the conviction that even if it seems Krishna isn't helping, he is always helping.



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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 may be sent to icaiebulletin@gmail.com

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