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MANGALURU BRANCH
SIRC OF ICAI

E-SAMAACHAR

EDITION- AUGUST 2020

ICAI CELEBRATES 72nd

य एष सुप्तेषु जागर्ति

CA DAY

01 - JULY - 2020

MANGALURU BRANCH OF SIRC OF ICAI
ICAI BHAWAN , PADIL , MANGALURU - 575007

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Chairman's Message

My Dear Professional Colleagues,

Greetings of the Season.

Mangaluru Branch of SIRC of ICAI is celebrating its foundation day on 18-Aug-2020. In this Golden Jubilee year of Mangaluru Branch, the Committee invites you to participate in the virtual programmes that are being scheduled on 18th and 19th of August 2020

The programme will be inaugurated by ICAI National President Sri CA Atul Kumar Gupta and by Vice President Sri CA Nihar N Jambusaria. Eminent and distinguished members of CA fraternity will be speaking on contemporary issues in various sessions. Sri T V Mohandas Pai (Chairman, Manipal Global Education), a celebrated speaker, has consented to take a session on the topic of 'New Avenues for Chartered Accountants'. CA Dr. Girish Ahuja, CA Dayaniwas Sharma (Central Council Member) and CA P R Ramesh will also be participating in other sessions. The Golden Jubilee celebrations of the branch will be held with the joint participation of Udupi Branch of ICAI and Shimoga CPE Chapter. The Managing Committee requests your wholehearted participation in the programmes.

The Committee for Members in Practise has taken several steps for the benefit of the members which include tally software solutions, papilio Software for Practitioners, Practise Management software, Insurance schemes etc. I urge members to take benefit of the above initiatives. The office automation software and other packages will help us to keep a track of the various professional assignment on hand and ensure proper work distribution amongst our staff and students particularly when some of them would be working from remote locations. Quality has value only when it is delivered in time. The use of office automation software ensures that we deliver on the professional commitments within the assured time frame.

This year, due to the ongoing situation arising out of the pandemic Covid - 19, Government has been relaxing the due dates for certain statutory compliances. We need to spread this awareness amongst our clientele and others so that they can plan their finances and efforts accordingly. Apart from this, several other financial measures like Covid Emergency Credit line etc have been introduced by Banks for the benefit of MSME's, We may need to assist businesses in this matter by giving them knowledge of these schemes as they need funds to revitalise the business. The economy of the nation is built by contribution of efforts of the citizens, business and industry. MSME's form the backbone of growth providing goods and services to the society, providing employment to millions of people and making value additions/innovations. We can help the MSME's by educating them about the various incentives and schemes available from the Government so that they can tide over the current economic situation.

Past Chairman of the Branch Sri CA S S Kamath left for divine abode on 28th July 2020. Having been in active practice for about 5 decades, he was a guiding force for the members of the branch. He was also the past president of KCCI and was involved actively with educational institutions and Rotary Club. He gave an immense contribution to society and guided generation of younger CA's. The void left by him can never be filled. He will remain in our memory for his contributions and outstanding achievements.

On August 15th 2020, India will be celebrating 74th Independence Day. On this occasion we are reminded of the sacrifices made by our founding fathers to establish a self-sufficient, self-reliant nation where all citizens live with equal respect, equal opportunities and equal rights. These things are enshrined in our Constitution and we must resolve to uphold these values. From a small beginning our nation has now become the fifth largest economy in the world and the largest democracy. Our institutions, election process and legal forums are respected all around the world. It is a proud moment when we look at all these achievements as a nation. Let us celebrate the independence day with a desire to contribute more efforts in nation building.

Let us take a pledge to make our India a clean, green and prosperous nation.
Jai Hind

Regards
CA S S Nayak
Chairman

Branch Activities for the Month of July 2020

01.07.2020	**CA Day Celebration** Chief Guest : 1. His Grace Karunya Sagar Dasa President , The Akshaya Patra Foundation & Iscon Mangaluru 2. Mr. Jaganatha Shetty DGM & Regional Head – MLR Union Bank of India Activities: 1. Flag hoisting 2. Sapling 3. Distribution of Ration kit for needy people 4. Prize money distribution for Topper in CA Final and Intermediate Examination
21.07.2020	**Virtual CPE Meeting** Topic : Session on Company Audit FY 19 - 20 & Auditing Standards Speaker : CA Jomon K. George Chief Guest : CA. Dungar Chandu U.Jain Chairman ,SIRC of ICAI
22.07.2020	**Virtual CPE Meeting** Topic : New Code of Ethics for Chartered Accontants Speaker : CA. N. Nithyananda Past Chairman SIRC of ICAI Past Central Council Member , ICAI Chief Guest: CA Babu Abraham K. Central Council Member, ICAI
25.07.2020	49th Annual General Meeting

Branch Activity gallery for the month of July 2020

	
Flag hoisting at ICAI Bhawan Padil on CA Day	Members at the ICAI Bhawan, Padil
	
Chief Guest His Grace Karunya Sagar Dasa planting saplings	Planting of saplings by Chief Guest Mr. Jaganatha Shetty, DGM & Regional Head – MLR Union Bank of India
	
Group Photo on the Occasion of CA Day 2020	Maintaining social distance during the programme

Lighting of the lamp by His Grace Karunya Sagar Dasaji

Lighting of the lamp by Branch Chairman CA S S Nayak

Welcome Address by CA S S Nayak

Address by His Grace Karunya Sagar Dasaji

Address by Mr. Jaganatha Shetty

Felicitation to supporters of Mangalore Branch, Mr Leelaksha Karkera, Director Namma Kudla and Mr. Pretham Pai D, Student

Awarding scholarship to excelling students

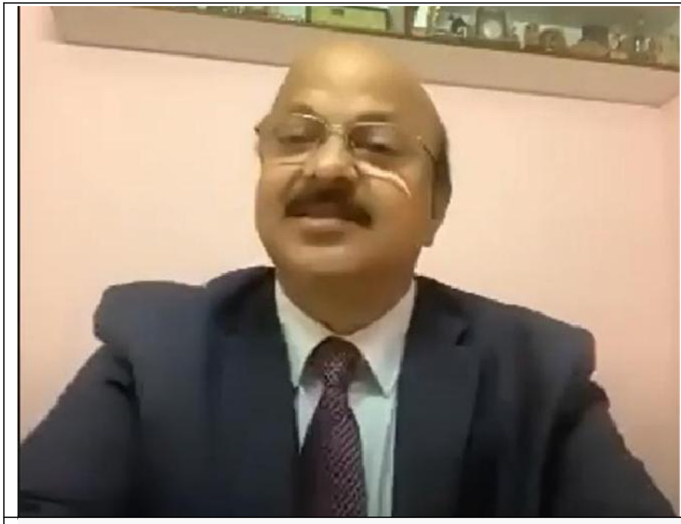
Distribution of rations kits to the needy in association with ISCKON

Virtual CPE Meeting 21.07.2020

Address by CA Dungar Chand U Jain, SIRC Chairman

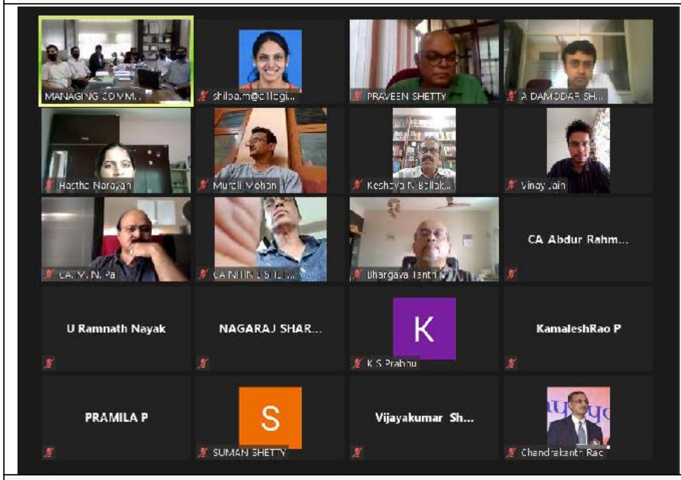
Session on Company Audit FY 19 - 20 & Auditing Standards by CA Jomon K George

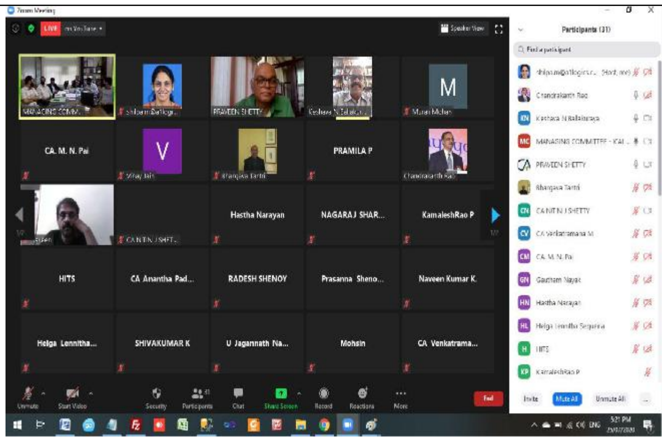
Address by CA Babu Abraham K, Central Council Member on 22-07-2020



CA N Nityananda, Past Chairman ICAI Addressing on New Code of Ethics for Chartered Accountants

49th AGM of Mangaluru Branch of ICAI on 25th July at 4:30 pm at ICAI Bhawan, Padil





CA members participating in the webinar via Zoom Portal

ACQUISITION OF IMMOVABLE PROPERTY IN INDIA BY PERSON RESIDENT OUTSIDE INDIA AS PER FOREIGN EXCHANGE MANAGEMENT ACT 1999

The procedure, regulation and rules for acquisition and transfer of immovable property in India by Person Resident outside India is governed by the Foreign Exchange Management Act, 1999 (FEMA). FEMA empowers the Central Government to frame regulations/rules to prohibit, restrict or regulate the acquisition or transfer of immovable property in India by persons resident outside India. Let us understand key terms used in the rules, before understanding the rules governing this.

• **Person resident in India as per FEMA** means the following:

A person residing in India for more than 182 days during the course of the preceding financial year.

However, it does not include a person

a) who has gone out of India or who stays outside India

i) For employment outside India, or

ii) Carrying on business or vocation outside India or

iiI) For any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period.

b) who has come to or stays in India, in either case, otherwise than

(i) For or taking employment in India, or

(ii) For carrying on business or vocation in India, or

(iii) For any other purpose, in such circumstances as would indicate his intention to stay in India for an uncertain period.

In other words, a person who leaves India for any of the purpose mentioned above will be considered as Person Resident outside India irrespective of the fact that whether he has been in India for more than 182 days in the preceding financial year or not (clause a).

Person who comes to India for any of the purposes mentioned above will be considered as Person Resident in India irrespective of the fact that whether he has been in India for less than 182 days in the preceding financial year (clause b). Person who comes to India for any purpose other than those mentioned above, will be considered as Person resident outside India even if he resides in India for more than 182 days in the preceding financial year.

• A '**Non Resident Indian (NRI)'** is a person resident outside India as per Foreign Exchange Management Act who is a citizen of India.

• An '**Overseas Citizen of India (OCI)**' is a person resident outside India who is registered as an Overseas Citizen of India Cardholder under Section 7(A) of the Citizenship Act, 1955.

ACQUIRING IMMOVABLE PROPERTY BY NRI OR OCI

BY WAY OF ANY MODE OTHER THAN GIFT/INHERITANCE:

• NRI/OCI can acquire any immovable property in India except agricultural property / plantation property / farm house.

• No approval from RBI is required. No declarations have to be filed.

• Payment for the acquisition of immovable property should be made out of funds received in India through banking channels by way of inward remittance from any place outside India or by debit to their NRE/ FCNR (B)/ NRO account.

• Acquisition can be from a person resident in India, NRI or OCI (Not from anyone else).

BY WAY OF GIFT:

An NRI or an OCI can acquire by way of gift any immovable property (other than agricultural land/ plantation property/ farm house) in India from person resident in India or from an NRI or an OCI, who in any case is a relative as defined in section 2(77) of the Companies Act, 2013 i.e spouse, parents, son, son's wife, daughter, daughter's husband, brother & sister.

BY WAY OF INHERITANCE:

An NRI or an OCI can acquire any immovable property (including agricultural land/ plantation property/ farm house) in India by way of inheritance from a

- Person resident in India.
- Person resident outside India who had acquired the property in accordance with the provisions of the foreign exchange law in force at the time of acquisition.

TRANSFER OF IMMOVABLE PROPERTY BY NRI OR OCI:

NRI/OCI can transfer immovable property without any approval as under:

• Non-Agricultural property can be sold or gifted to person resident in India, NRI & OCI.

• Agricultural Property can be sold or gifted, only to person resident in India.

• An NRI can bequeath property in his will to another Person resident outside India or to a person resident in India.

REPATRIATION OF SALE PROCEEDS BY NRI OR OCI:

Subject to guidelines, funds can be repatriated (net of tax) abroad without any approval.

Repatriable Investment:

NRI/OCI can repatriate the sales proceeds if the following conditions are satisfied

- Property was acquired in Foreign exchange received through banking channel or out of funds held in FCNR Account or NRE Account in accordance with provisions of Foreign Exchange law in force at the time of acquisition. (Earlier restriction of repatriation upto cost of the property has been removed)

- Property should not be agricultural property/farm house/plantation property.
- In the case of residential property, the repatriation of sale proceeds is restricted to not more than two such properties.

Non-Repatriable Investment:

- In the case of non-repatriable investment (i.e sale proceeds of any assets including agricultural property, plantation property and farm house acquired out of Rupee funds or sale proceeds of any assets acquired by way inheritance/ legacy/ deed of settlement made by either of his parents or a relative as defined in Companies Act, 2013 to be effected on the death of the settler etc), Authorised Dealers may allow the facility of repatriation of funds upto US$ 1 million per financial year without the approval of RBI subject to production of relevant documents, undertaking by remitter and a certificate from the Chartered Accountant. (However, this limit is all inclusive limits – not specifically for immovable property).

JOINT ACQUISITION BY THE SPOUSE OF AN NRI OR OCI:

A person resident outside India, not being a NRI or an OCI, who is a spouse of a NRI or an OCI, may acquire one immovable property (other than agricultural land/farm house/plantation property), jointly with his/her NRI/OCI spouse, subject to following conditions

- Payment should be in Foreign Exchange through banking channels by way of inward remittance from any place outside India or from a permitted account held in India.

- Marriage has been registered and subsisted for a continuous period of not less than two years immediately preceding the acquisition of such property.

- The Non-resident spouse (Non NRI/OCI) should not be a citizen of 11 countries - Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal, Bhutan, Macau, Hong Kong or Democratic People’s Republic of Korea).

Transfer:

Approval from RBI is not required for transfer of such property to a person Resident in India. However, such person who is Resident in India should not be a Citizen of above mentioned 11 Countries.

Repatriation:

Repatriation of funds will require prior approval of Reserve Bank of India.

ACQUISITION OF IMMOVABLE PROPERTY BY FOREIGN NATIONAL RESIDENT IN INDIA:.

Foreign nationals' who are person resident in India as per FEMA can acquire (including by way of inheritance) immovable property in India provided he is not a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal, Bhutan, Hong Kong or Macau or Democratic People's Republic of Korea (DPRK). But the person concerned would have to obtain the approvals, and fulfil the requirements if any, prescribed by other authorities, such as the concerned State Government, etc.

Foreign nationals' who are person resident outside India as per FEMA can acquire immovable property in India by way of inheritance from a person resident in India with the approval of RBI (including citizens of above mentioned 11 countries).

Transfer:

No approval is required from RBI for transfer of immovable property as long as such foreign nationals are person resident in India as per FEMA.

In the case of a person resident outside India or If there is change in residential status subsequently i.e the person who was person resident in India at the time of acquisition, becomes person resident outside India subsequently, RBI approval is not required for transfer to Person Resident in India. However the purchaser should not be a citizen of the above mentioned 11 countries.

Repatriation:

Foreign National can remit the funds as per Liberalised Remittance Scheme upto 2,50,000 USD per financial year as long as he is person resident in India as per FEMA.

If there is change in residential status subsequently i.e if he becomes person resident outside India, RBI approval is required for repatriation of funds.

A foreign national being person resident outside India who acquired immovable property by way inheritance from person resident in India (Section 6(5) of FEMA), can repatriate upto US $ 1 million per annum without approval of RBI.

However, these restrictions shall not apply to an OCI.

ACQUISITION BY FOREIGN NATIONAL BEING LONG TERM VISA HOLDER

A person being a citizen of Afghanistan, Bangladesh or Pakistan belonging to minority communities in those countries, namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians who is residing in India and has been granted a Long Term Visa (LTV) by the Central Government may purchase only one residential immovable property in India as dwelling unit for self-occupation and only one immovable property for carrying out self-employment subject to the following conditions:

- the property should not be located in and around restricted/ protected areas so notified by the Central Government and cantonment areas;
- the person submits a declaration to the Revenue Authority of the district where the property is located, specifying the source of funds and that he/ she is residing in India on LTV;
- the registration documents of the property should mention the nationality and the fact that such person is on LTV;
- the property of such person may be attached/ confiscated in the event of his/ her indulgence in anti-India activities;
- a copy of the documents of the purchased property shall be submitted to the Deputy Commissioner of Police (DCP)/ Foreigners Registration Office (FRO)/ Foreigners Regional Registration Office (FRRO) concerned and to the Ministry of Home Affairs (Foreigners Division);
- such person shall be eligible to sell the property only after acquiring Indian citizenship. However, transfer of the property before acquiring Indian citizenship shall require prior approval of DCP/FRO/FRRO concerned.

CHANGE OF RESIDENTIAL STATUS/CITIZENSHIP:

A person who was resident in India at the time of acquisition of immovable property, subsequently becomes “Resident outside India” – can continue to hold property in India. Agricultural activities cannot be conducted in case of agricultural properties [Section. 6(5) of FEMA].

People who acquire foreign citizenship can continue to hold property in India. However such person should acquire OCI card.

A person who was resident outside India at the time of acquisition of immovable property, subsequently becomes resident in India– can continue to hold property.

Foreign citizens who become Indian citizens can continue to hold property.

PENALTY:

As per Section 13 of FEMA, If any person contravenes any provision of this Act or any rule, regulation, notification, direction or order issued under the provisions of Foreign Exchange Management Act 1999, he shall be liable to a penalty up to thrice the sum involved in such contravention where such amount is quantifiable, or up to two lakh rupees where the amount is not quantifiable, and where such contravention is a continuing one, further penalty which may extend to five thousand rupees for every day after the first day during which the contravention continues. In addition to penalty, such property in respect of which contravention takes place can be confiscated.

CONCLUSION:

Owing to the above restrictions under FEMA regulations, it is critical that prior to entering into a transaction for acquisition/transfer of any immovable property, one must assess the residential status under FEMA to be able to comply with FEMA regulations. Any transaction involving acquisition or transfer of immovable property under these rules shall be undertaken through banking channels in India and subject to payment of applicable taxes and other duties or levies in India.

On a reading of this article, please bear in mind that there is a difference in the definition of Resident as per FEMA 1999 and as per Income Tax Act 1961.

CA DHANUSH D BOLAR,
M. Com, ACA

An overview of taxation of Compulsory Convertible Debentures (CCD's)

Debentures are a popular debt instruments that may or may not be secured against the assets of the issuing company. However, there are also hybrid varieties of debentures that are mandatorily converted into equity, which in general parlance are referred to as Compulsorily Convertible Debentures (CCDs) and also there are pure debt instruments which are referred to as Non-convertible debentures (NCD). In this article, I have tried to dwell into the taxation aspect of NCD and CCDs and the tax nuances around it.

NCDs are pure debt and fixed return instruments. NCDs are very much like a bank loan, except in the way NCDs can be redeemed. Funds invested through NCDs will be redeemed at a future point of time as per conditions provided for in the NCD. NCDs also carry a coupon rate, which is an annual interest payable on the NCD. Typically, NCDs come with a credit rating; the higher the rating, the lower are the coupons rate and vice-versa. The interest payable to NCDs is subject to withholding tax. If the NCD holder is from a foreign country, then the withholding tax is based on Double Taxation Avoidance Agreement (DTAA). Most NCDs provide the option of receiving interest payments monthly, quarterly or annually. However, many offer an added option of receiving interest on a cumulative basis. In the cumulative interest option, investors do not receive interest payments throughout the NCD's tenure but as a lump sum amount on maturity.

In the case of NCDs on which interest is payable on a cumulative basis, the amount received by the NCD owner at the time of redemption is equal to principal (the book value of NCD) plus interest. It is to be noted that on redemption of such NCDs the gains are to be between interest accrued and capital gain. The former gets taxed at your income tax rate and the latter gets taxed at capital gains tax rate.

So, the taxation of NCS under the Income Tax Act, 1961 (IT Act) seems fairly simple, and the only caution point as mentioned above is to split the gains on redemption into interest income and capital gain. However, the buzzing word among many foreign investors is the CCD. I have tried to highlight below some of the tax nuances around the issue and redemption of CCDs.

CCDs are debentures that are mandatorily converted into equity after a pre-agreed time and a pre-agreed price. In the pre-conversion stage, the CCD holder is considered as a debtor by the company and is required to be paid interest on its investment. Post-conversion, the debt becomes equity capital in the company, which results in such investor earning dividends from its holdings. This is also a reason why CCDs are so popular – the hybrid nature of CCDs has been vastly used by the foreign investors to dodge taxes.

For instance, a foreign investor from Poland invests in CCDs of a company in India, wherein India is the source country and Poland is the country of the residence for the foreign investor. As per the DTAA between India and Poland, subject to certain conditions, Dividend is taxable in Poland whereas interest is taxable in India. The foreign investors lure the taxman of Poland that CCDs are debt instrument and hence the receipt is 'interest' which is not taxable in Poland as per DTAA, while at the same time claiming before the taxman in India that CCDs are equity instruments and hence the receipt is 'dividend' and hence not taxable in India as per the DTAA (this is now more likely to be happening especially after abolishing DDT and taxing dividend in the hands of foreign shareholders).

Also, it is interesting to consider the tax implication of CCD on the issuing company. As per Section 36(iii) of the IT Act, any interest payable on capital that is borrowed to run a business is deductible from the taxable income of the person being taxed. The term “borrowed” in the section is important, because it means that if the company raises money through the sale of equity, it can’t claim deductions in its taxable income. However, if CCDs are considered to be debt instruments, then the money that is paid as interest on them can be deducted from the taxable income of the company.

Further, the point of conversion of CCD into share capital is interesting. There is a divided view among the professionals in this regard; some are of the opinion that as per Section 45 of IT Act, the conversion of debentures into shares is not a transfer. Hence no capital gain arises on the conversion. However, certain others have opined that CCD is not a pure debt instrument and hence the conversion of CCD into share capital is a ‘transaction of transfer’ and therefore there is implication of capital gain on conversion.

It is interesting to note that if the later argument i.e. capital gain arises on conversion is considered, then the provisions of section 56(2)(viia) are also applicable. This section states that if FMV of shares of an unlisted company received by an entity is more than the consideration paid, then the difference amount is deemed to be income from other sources of the receiver of shares. However, there are no reported judgements which have dealt the applicability of 56(2)(viia) on conversion of CCD, hence this still remains a grey area.

However, there can also be cases where CCD is sold at a premium just before the conversion. This issue was analysed by Delhi HC in the case of Zaheer Mauritius [TS-464-HC-2014(Delhi)-O], HC held that the profit from the transaction is capital gain. A CCD is not a purely debt instrument. The underlying value of a CCD is not merely the book value of loan forwarded. Because it will yield shares in the future as per a pre-agreement, its intrinsic value may be more than or less than the book value, depending on the issuing company’s performance. In this sense, it is like a bond. Sale or purchase of bonds is a transfer u/s. 45; hence the profit is capital gains.

So, as can be observed there are divergent views with regard to the matter of taxation of CCD and also only a few judicial precedence’s in this regard. In the Ind AS regime wherein the CCD are classified as Equity Instruments, it is of prime importance for the CBDT to give greater clarity with regard to the tax implication of CCD in the hands of the investor as well as the issuing company.

CA Venkatraman Kamath
Udupi Branch of SIRC of ICAI

Disclaimer: The opinions expressed within this article are the personal opinions of the author. The facts and opinions appearing in the article do not reflect the views of the Managing Committee and ICAI does not assume any responsibility or liability for the same.

ITC on employee expenses

Background

The GST law sets out that every registered taxable person who carries on any business at any place in India/in any State, shall be entitled to take credit of input tax admissible to him which shall be credited to the electronic credit ledger of such person. The credit is available to extent used in course of business to make taxable supply of goods/services or zero rated supplies including exports. The credit is available subject to specific restrictions set out in section 17(5) of GST law.

In course of the day to day activities done by any entity, various expenses are being incurred. Some of the expenses are towards telephone, mobile/internet charges, accommodation in hotel during business trip, business travel by air/motor vehicles, cab service for pick and drop of employees to and from office, uniforms and protective helmets for employees, food/drink, canteen facility, membership of clubs/trade or industrial associations, accident insurance, group insurance, life/health insurance.

Several of these expenses are incurred for employees in course of discharging their day to day official functions. The question which arises is whether all such expenses which are incurred for employees, could be said to be eligible as being used for the benefit of the business. We examine this and other aspects on availment of ITC on employee related expenses in this article.

In this backdrop, the paper writer has examined the eligibility to credit on the employee costs. The eligibility is examined in light of the amendments made in provisions related to blocked credit, which was inserted by GST Amendment Act 2018 dated 30.8.2018 and wef 1.2.2019.

List of relevant blocked credit in context of employee costs wef 1.2.2019

1. **Motor vehicle for transport of persons having approved seating capacity of not more than 13 persons[including driver]:** ITC on such motor vehicle would be admissible in following cases:

When used for the purpose specified- onward supply of vehicle/supply of transport of passengers/ training services on motor vehicle driving

ITC on leasing, renting or hiring of such motor vehicles for transport of persons is available as follows:

When used for the purpose specified- onward supply of such services of leasing, renting vehicle/supply of transport of passengers/ training services of motor vehicle driving

Where inward supply of such service is used by the registered person for making an outward taxable supply of same category / or as an element of a taxable composite or mixed supply

Where it is obligatory for an employer to provide such services to its employees under any law for time being in force

Credit on general insurance/repairs/maintenance in respect of such motor vehicles eligible as follows:

When used for specified purposes given above- onward supply of vehicle/supply of transport of passengers/ training services on motor vehicle driving

For motor vehicle for transport of persons with approved seating capacity of more than 13 persons, no restrictions on availing vehicle related credit. Consequently ITC on the leasing/renting/ maintenance/insurance of motor vehicles having passenger capacity of more than 13 persons, including driver is eligible and can be availed, when used in course of business by company.

2. The credit is restricted on food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, life insurance and health insurance: Input tax credit in respect of such goods or services or both shall be available where
    a. An inward supply is used for making an outward taxable supply of the same category or as an element of a taxable composite or mixed supply.
    b. When obligatory for an employer to provide same to its employees under any law time being in force

3. Membership of a club, health and fitness centre, travel benefits extended to employees on vacation such as leave or home travel concession. Input tax credit shall be available where It is obligatory for an employer to provide to its employees under any law for time being in force

   Comments-*The restriction on credit of membership of club is oppressive as networking which is essential for business growth happens in clubs*.

4. Goods disposed off as gifts.

   Comments- *Circular has also clarified credit cannot be availed on gifts Ref: Circular No. 92/11/2019-GST*.

5. The credit on goods/ services when used for personal consumption is restricted.

   Comments-*Such credit could be denied only when used for personal use and not for goods/services used by employees/others in course of discharge of business functions*.

ITC on Covid related expenses

1. **Credit on sanitiser, masks, PPE kits, temperature gun, sanitizer dispenser:** Credit on such expenses though incurred for use by employees, it is in course or furtherance of the business of entity. These may not be said to be for personal use/consumption of employees. The credit is eligible and cannot be denied.

2. **Credit on mediclaim insurance taken for Covid cover for employees:**

   a. Health insurance is covered in the blocked credit list. However it would be eligible when such insurance is obligatory for an employer to provide the same to its employee under any law for the time being in force.

   b. In specific context of Covid it maybe noted that Disaster Management Act (DMA) was enacted to tackle disasters at both Central and State Government levels. The Central Government has notified COVID as notified disaster under this Act.

   c. Consequently order No. 40-3/2020-DM-I (A) dated 15th April 2020 was issued by Ministry of Home Affairs[MHA] under DMA which provides for guidelines and relaxation for reopening of commercial and industrial activities w.e.f. 20.4.2020.

   d. MHA guidelines have been issued under DMA Act and it is mandatory to be followed by all the States. Section 72 of the Act provides that the provision of DMA shall have overriding effect over any other law for the time being in force. Hence, it could be said to be mandatory under any law for the time being in force.

   e. Para 21 (ii) of the said Guidelines sets out that all industrial and commercial establishments, work places office etc. shall put in place arrangements (SOP) for implementing SOP in Annexure II before starting their functioning. One of the major measures in the SOP is that the mediclaim insurance for the workers to be made mandatory.

   f. Guidelines issued by MHA under DMA requires compulsory mediclaim insurance for the workers. Consequently it could be said to be mandatory requirement under the law. Such credit would be eligible.

   g. Further when additional policy has been taken or additional premium has been paid for coverage of COVID in existing policy in complying with the MHA guidelines, it could be said to be obligatory for the employer and hence the ITC of the said should be eligible.

   h. It maybe noted where the policy has been taken in the name of individual employee, and not in the name of company, ITC may not be admissible to the entity.

3. **Credit on Life insurance:** The MHA guidelines do not have any conditions given for life insurance. Hence, the ITC of the same may not be admissible.

Eligibility to credit on commonly incurred expenses:

1. **Credit of tax paid on uniforms/safety shoes/protective head gear/helmets**: These are used by the employees of company, in course of business. The uniforms/shoes/helmets could be worn on shopfloor as protection for employees when engaged in different manufacturing activities or processes/ against heat/cold/dust particles etc. Eligible to such credit.

   In Steel Authority Of India Ltd vs. CCE (2014 (301) ELT 592 (CESTAT Delhi) credit on shoes used by workers in the Steel plant held eligible. Use of shoes is indispensable necessity for workers of iron and steel factory and requirement of welfare legislation.

2. **Telephone/mobile expense**: The credit is eligible when used in course of business. However dept may deny whole/part alleging personal use by employee. A reasonable portion maybe reversed for personal use [based on past experience] to ensure such objections to credit availed are not raised at time of dept audit.

   In Indian Rayon & Industries Ltd.vs. Commr of C. Ex., Bhavnagar (2006 (4) S.T.R. 79 (Tri. - Mumbai) held that the service tax paid on mobile phone is available as credit to eligible service providers of output service and manufacturers in absence of any express prohibition under Cenvat Credit Rules.

3. **Air travel by company directors/employees:** Expenditure incurred on air travel by employees/directors of the company for official purpose is eligible for credit subject to proper documentary evidence.

   Similarly held in CCE vs Fine Care Biosystems (2009 (244) ELT 372 (CESTAT) and Goodluck Steel Tubes Ltd. Vs C. C. Ex., Noida 2013 (32) S.T.R. 123 (Tri. - Del.) that credit on air ticket service charges is eligible when air travel performed for purpose of company business.

4. **Hotel accommodation:** The input tax credit on hotel rent for employees/executives for business and client meetings is directly relatable to assessee’s business. Therefore, credit could be admissible.

   Similarly held in One Advertising & Communication Services Ltd. vs C.S.T., Ahmedabad (2012 (27) S.T.R. 344 (Tri. - Ahmd.).

5. **Food/canteen facility to employees:** When canteen services are given for providing food to staff. Facility provided because of statutory obligation imposed under Section 46 of Factories Act, 1948 and it becoming condition of service as far as employees concerned.

   Expenses incurred considered in fixing price. Test whether service utilised for manufacture directly or indirectly or used in relation to activities relating to business. Accordingly held in Stanzen Toyotetsu India Pvt. Ltd. vs. C. C. Ex., Bangalore-III 2009 (14) S.T.R. 316 (Tri. - Bang.)Affirmed in 2011 (23) STR 444 (Karnataka High Court). Credit available.

   Paper writer comments:

   Credit could be available when food/drink facility is given in discharge of obligation under law, such as canteen mandated under Factories Act 1948. This maybe frivolously disputed by dept alleging it is for personal use of employees, but certainly defendable.

6. **Employee accident insurance**: As it is not health/life insurance the credit could be eligible. There is no policy for health and accident together. Accident insurance is necessary for the Company to provide to employees. It is in furtherance of business

In Milipore India Ltd Vs CCE Bangalore –II (2009 (236) ELT 145 (Tri-Bang). Affirmed in 2012 (26) STR 514 (Karnataka High Court) held there was no restriction on availment of such insurance credit.

Comments:

Dept may dispute accident insurance may be covered as per the Insurance Act within health. Risk is if denied then credit reversal could be subjected to 18% interest as well

When co takes call to avail such credit intimate dept by RPAD letter plan to avail and seek confirmation on eligibility to such credit. If objected, reverse under protest with a letter setting out why it is available.

The decisions referred above under erstwhile laws have persuasive value under GST as well.

Relevant Advance Rulings

In Prasar Bharti Broadcasting Corporation of India (GST AAR Himachal Pradesh) Advance Ruling No.HP-AAR-1/2020 where the applicant is a registered taxpayer and has entered into agreement for hiring commercially licensed vehicles for transportation of his employees. The question raised by the applicant is whether he is eligible to avail input tax credit of GST paid by the contractor on the services rendered to the applicant.

Held that if the facility provided by a taxpayer for transportation of employees is not obligatory under any law, for the time being in force then no ITC will be available to such a taxpayer.

In Posco India Pune Processing Center Pvt Ltd (2019-TIOL-25-AAR-GST) where there was recovery of Parents Health Insurance expenses from employee in respect of the insurance provided by the applicant. Since applicant is not rendering any service of health insurance to their employees, there is no supply of service u/s 7 of the CGST Act, 2017. Applicant cannot claim ITC of GST charged by the Insurance company to this extent

Comments: The department could dispute that the recovery of insurance premium from employee does not become a supply as the company is not permitted to provide the insurance services. It could be said that to the extent of recovery of premium from the employees, the services are not received by the company and hence ITC would be disputed.

In **Posco India Pune Processing Center Pvt Ltd**(**2019-TIOL-25-AAR-GST)** where issue was credit eligibility for hotel which is used as a residential accommodation by the MD/GM.

Held it implies that the same is used for their personal consumption. Providing residential accommodation in a hotel is not in furtherance of the applicant's business. Since the accommodation is being used for their personal comfort, in view of the provisions of s.17(5)(g) of the CGST Act, applicant is not eligible to claim the ITC for the same: AAR.

Paperwriter comments:

This ruling may not be in line with intention of the law which is to enable credit when the expense is incurred in course of discharge of official functions of the business entity.

Note: Advance rulings are applicable to the assessee who applies for it and to their set of facts. It is having merely persuasive value for others.

Conclusion:

In this article the paper writer have examine the provisions of credit on employee related expenses under GST regime briefly.

For further clarifications kindly mail at roopa@hiregange.com.

CA Roopa Nayak
Partner, M/s Hiregange and Associates,
Bangalore

Recent changes in GST amid COVID-19

The pandemic COVID-19 has severely impacted the economy of the country and has squeezed the liquidity out of the monetary market. Entire trade and industry are facing working capital and liquidity issues. To ease the burden of trade and industry, Government has announced various reforms and measures and one of them is related to Goods and Service Tax ('GST'). The Central Board of Indirect Taxes ('CBIC') has issued series of notifications on 03.04.2019 to give relaxations in respect of various indirect tax compliances to be made during and after the lockdown period. Further extensions were given vide notifications issued on 24.06.2020. In this article, we have attempted to summarize all the notifications regarding extension of various timelines in GST till 01.08.2020.

I. Relaxation in due dates relating to composition scheme:

Form	Relaxation for	Original due date	Extended due date
CMP-02	Opting composition scheme for FY 2020-21	31.05.2020	30.06.2020
ITC-03	Payment / reversal of input tax credit in respect of inputs held in stock, in semi-finished / finished goods when composition scheme is opted for FY 2020-21	31.05.2020	31.07.2020
CMP-08	Filing of Statement containing details of self-assessed tax for quarter ending March 2020	18.04.2020	07.07.2020
GSTR-4	Filing Return for FY 2019-20	30.04.2020	31.08.2020

Points to be noted:

- Notification no. **59/2020-CT dated 13.07.2020** has extended due date for form GSTR-4 from 15.07.2020 to 31.08.2020.
- No further extension is given for aforesaid due dates for filing form **CMP-02, form ITC-03 and CMP-08** (for quarter ending March 2020).
- Due date for filing **form CMP-08 for quarter April 2020 to June 2020** is also not extended and hence the due date for said quarter is **18.07.2020**.

  [Notifications no. 30/2020-CT and 34/2020-CT dated 03.03.2020 – effective from 31.03.2020]

I. Extension of due dates for filing form GSTR-9 and GSTR-9C for FY 2018-19 [Notification no. 41/2020-CT dated 05.05.2020]:

Form	Extended due date
GSTR-9	30.09.2020

GSTR-9C	30.09.2020

- If Aggregate turnover <= 2 crores – filing of form GSTR-9 is optional. If form GSTR-9 is not filed, it will be deemed to be filed as on 30.09.2020
- If Aggregate turnover > 2 crores - filing of form GSTR-9 is mandatory
- If Aggregate turnover <= 5 crores – Form GSTR-9C (GST audit) is not applicable
- If Aggregate turnover > 5 crores – Form GSTR-9C (GST audit) is applicable

I. Waiver of Late fees for filing form GSTR-1 after due date:

Tax period	Late fees	Condition - form GSTR 1 to be filed on or before
Monthly returns:		
March 2020	NIL	10.07.2020
April 2020	NIL	24.07.2020
May 2020	NIL	28.07.2020
June 2020	NIL	05.08.2020
Quarterly returns:		
January to March 2020	NIL	17.07.2020
April to June 2020	NIL	03.08.2020

Points to be noted:

- Due date for filing form GSTR-1 for aforesaid tax periods are not extended. Only waiver for late fees is given if form GSTR-1 is filed on or before the dates specified in above table.
- If GSTR-1 is not filed on or before the date as specified above, applicable late fees (Rs. 50 per day and maximum Rs. 10,000/-) will be levied.
- Due date for filing GSTR-1 for the monthly return for tax period February 2020 is not extended. [Notification no. 33/2020-Central Tax dated 03.03.2020 as amended by notification no. 53/2020 dated 24.06.2020]

'. Relaxation in levy of interest and waiver of late fees for filing form GSTR-3B after due-date for period February 2020 to July 2020:

- **Aggregate Turnover in the preceding financial year more than 5 crores**

Tax period	GSTR-3B filed	Rate of Interest	Late fees
February 2020 [Due date 20.03.2020]	Up to 04.04.2020	NIL	NIL
	Between 05.04.2020 to 24.06.2020	9%	NIL

	Between 25.06.2020 to 30.09.2020	18%	• Persons having Nil tax liability – fully waived • In other cases: Rs. 50 per day from the due date (25 CGST + 25 SGST) **- Maximum Rs. 500** (Rs. 250 CGST + Rs. 250 SGST)
	On or after 01.10.2020	18%	• Persons having Nil tax liability: Rs. 20 per day **from the due date** (10 CGST + 10 SGST) • In other cases: Rs. 50 per day **from the due date** (25 CGST + 25 SGST) - Maximum Rs. 10,000 [Rs 5000 CGST + Rs. 5000 SGST]
March 2020 [Due date 20.04.2020]	Up to 05.05.2020	NIL	NIL
	Between 06.05.2020 to 24.06.2020	9%	NIL
	Between 25.06.2020 to 30.09.2020	18%	• Persons having Nil tax liability – fully waived • In other cases: Rs. 50 per day from the due date (25 CGST + 25 SGST) **- Maximum Rs. 500** (Rs. 250 CGST + Rs. 250 SGST)
	On or after 01.10.2020	18%	• Persons having Nil tax liability: Rs. 20 per day **from the due date** (10 CGST + 10 SGST) • In other cases: Rs. 50 per day **from the due date** (25 CGST + 25 SGST) - Maximum Rs. 10,000 [Rs 5000 CGST + Rs. 5000 SGST]
April 2020 [Due date 20.05.2020]	Up to 04.06.2020	NIL	NIL
	Between 05.06.2020 to 24.06.2020	9%	NIL
	Between 25.06.2020 to 30.09.2020	18%	• Persons having Nil tax liability – fully waived • In other cases: Rs. 50 per day from the due date (25 CGST + 25 SGST) **- Maximum Rs. 500** (Rs. 250 CGST + Rs. 250 SGST)
	On or after 01.10.2020	18%	• Persons having Nil tax liability: Rs. 20 per day **from the due date** (10 CGST + 10 SGST) • In other cases:

			Rs. 50 per day **from the due date** (25 CGST + 25 SGST) - Maximum Rs. 10,000 [Rs 5000 CGST + Rs. 5000 SGST]
*May 2020 [Due date – 27.06.2020]	Up to 27.06.2020	NIL	NIL
	Between 28.06.2020 to 30.09.2020	18%	• Persons having Nil tax liability – fully waived • In other cases: Rs. 50 per day from the due date (25 CGST + 25 SGST) **- Maximum Rs. 500** (Rs. 250 CGST + Rs. 250 SGST)
	On or after 01.10.2020	18%	• Persons having Nil tax liability: Rs. 20 per day **from the due date** (10 CGST + 10 SGST) • In other cases: Rs. 50 per day **from the due date** (25 CGST + 25 SGST) - Maximum Rs. 10,000 [Rs 5000 CGST + Rs. 5000 SGST]
*June 2020 [Due date – 20.07.2020]	Up to 20.07.2020	NIL	NIL
	Between 21.07.2020 to 30.09.2020	18%	• Persons having Nil tax liability – fully waived • In other cases: Rs. 50 per day from the due date (25 CGST + 25 SGST) **- Maximum Rs. 500** (Rs. 250 CGST + Rs. 250 SGST))
	On or after 01.10.2020	18%	• Persons having Nil tax liability: Rs. 20 per day **from the due date** (10 CGST + 10 SGST) • In other cases: Rs. 50 per day **from the due date** (25 CGST + 25 SGST) - Maximum Rs. 10,000 [Rs 5000 CGST + Rs. 5000 SGST]
*July 2020 [Due date – 20.08.2020]	Up to 20.08.2020	NIL	NIL
	Between 21.08.2020 to 30.09.2020	18%	• Persons having Nil tax liability – fully waived • In other cases: Rs. 50 per day from the due date (25 CGST + 25 SGST) **- Maximum Rs. 500** (Rs. 250 CGST + Rs. 250 SGST)
	On or after 01.10.2020	18%	• Persons having Nil tax liability: Rs. 20 per day **from the due date** (10 CGST + 10 SGST) • In other cases: Rs. 50 per day **from the due date** (25 CGST +

			25 SGST) - Maximum Rs. 10,000 [Rs 5000 CGST + Rs. 5000 SGST]

* Due date for filing GSTR-3B for the month of **May 2020** was extended from 20.06.2020 to 27.06.2020 vide notification no. **36/2020-CT dated 03.04.2020**. Due dates for filing GSTR-3B for months of June 2020 and July 2020 continue to remain 20th of succeeding month.

Illustration for manner of calculation of interest in case of turnover more than 5 crores [Circular no. 141/11/2020-GST dated 24.06.2020]:

Sl. No.	Date of filing GSTR-3B	No. of days of delay	Interest
1	02.05.2020	12	Zero interest
2	20.05.2020	30	Zero interest for 15 days, thereafter interest rate @9% p.a. for 15 days
3	20.06.2020	61	Zero interest for 15 days, thereafter interest rate @9% p.a. for 46 days
4	24.06.2020	65	Zero interest for 15 days, thereafter interest rate @9% p.a. for 50 days
5	30.06.2020	71	**Zero interest for 15 days, thereafter interest rate @9% p.a. for 50 days and interest rate @18% p.a. for 6 days**

- **Aggregate Turnover in the preceding financial year – up to Rs. 5 crores**

  [States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep]

  Note- due dates for states other than above, please refer notification no. 51/2020-CT dated 24.06.2020 and notification no. 57/2020-CT dated 24.06.2020.

Tax period	GSTR-3B filed	Rate of Interest	Late fees
February 2020 [due date 22.03.2020]	Up to 22.03.2020	NIL	NIL
	Between 23.03.2020 to 30.06.2020	NIL	NIL
	Between 01.07.2020 to 30.09.2020	9%	• Persons having Nil tax liability – fully waived • In other cases: Rs. 50 per day from the due date (25 CGST + 25 SGST) **- Maximum Rs. 500** (Rs. 250 CGST + Rs. 250 SGST)

	On or after 01.10.2020	18%	• Persons having Nil tax liability: Rs. 20 per day **from the due date** (10 CGST + 10 SGST) • In other cases: Rs. 50 per day **from the due date** (25 CGST + 25 SGST) - Maximum Rs. 10,000 [Rs 5000 CGST + Rs. 5000 SGST]
March 2020 [due date 22.04.2020]	Up to 22.04.2020	NIL	NIL
	Between 23.04.2020 to 03.07.2020	NIL	NIL
	Between 04.07.2020 to 30.09.2020	9%	• Persons having Nil tax liability – fully waived • In other cases: Rs. 50 per day from the due date (25 CGST + 25 SGST) **- Maximum Rs. 500** (Rs. 250 CGST + Rs. 250 SGST))
	On or after 01.10.2020	18%	• Persons having Nil tax liability: Rs. 20 per day **from the due date** (10 CGST + 10 SGST) • In other cases: Rs. 50 per day **from the due date** (25 CGST + 25 SGST) - Maximum Rs. 10,000 [Rs 5000 CGST + Rs. 5000 SGST]
April 2020 [due date 22.05.2020]	Up to 22.05.2020	NIL	NIL
	Between 23.05.2020 to 06.07.2020	NIL	NIL
	Between 07.07.2020 to 30.09.2020	9%	• Persons having Nil tax liability – fully waived • In other cases: Rs. 50 per day from the due date (25 CGST + 25 SGST) **- Maximum Rs. 500** (Rs. 250 CGST + Rs. 250 SGST)
	On or after 01.10.2020	18%	• Persons having Nil tax liability: Rs. 20 per day **from the due date** (10 CGST + 10 SGST) • In other cases: Rs. 50 per day **from the due date** (25 CGST + 25 SGST) - Maximum Rs. 10,000 [Rs 5000 CGST + Rs. 5000 SGST]
*May 2020 [due date 12.07.2020]	Up to 12.07.2020	NIL	NIL
	Between	NIL	NIL

	13.07.2020 to 12.09.2020		
	Between 13.09.2020 to 30.09.2020	9%	• Persons having Nil tax liability – fully waived • In other cases: Rs. 50 per day from the due date (25 CGST + 25 SGST) **- Maximum Rs. 500** (Rs. 250 CGST + Rs. 250 SGST)
	On or after 01.10.2020	18%	• Persons having Nil tax liability: Rs. 20 per day **from the due date** (10 CGST + 10 SGST) • In other cases: Rs. 50 per day **from the due date** (25 CGST + 25 SGST) - Maximum Rs. 10,000 [Rs 5000 CGST + Rs. 5000 SGST]
June 2020 [due date 22.07.2020]	Up to 22.07.2020	NIL	NIL
	Between 23.07.2020 to 23.09.2020	NIL	NIL
	Between 24.09.2020 to 30.09.2020	9%	• Persons having Nil tax liability – fully waived • In other cases: Rs. 50 per day from the due date (25 CGST + 25 SGST) **- Maximum Rs. 500** (Rs. 250 CGST + Rs. 250 SGST)
	On or after 01.10.2020	18%	• Persons having Nil tax liability: Rs. 20 per day **from the due date** (10 CGST + 10 SGST) • In other cases: Rs. 50 per day **from the due date** (25 CGST + 25 SGST) - Maximum Rs. 10,000 [Rs 5000 CGST + Rs. 5000 SGST]
July 2020 [due date 22.08.2020]	Up to 22.08.2020	NIL	NIL
	Between 23.08.2020 to 27.09.2020	NIL	NIL
	Between 28.09.2020 to 30.09.2020	9%	• Persons having Nil tax liability – fully waived • In other cases: Rs. 50 per day from the due date (25 CGST + 25 SGST) **- Maximum Rs. 500** (Rs. 250 CGST + Rs. 250 SGST)
	On or after 01.10.2020	18%	• Persons having Nil tax liability: Rs. 20 per day **from the due date** (10 CGST + 10 SGST) • In other cases:

			Rs. 50 per day **from the due date** (25 CGST + 25 SGST) - Maximum Rs. 10,000 [Rs 5000 CGST + Rs. 5000 SGST]

* Due date for filing GSTR-3B for the month of **May 2020** was extended from 22.06.2020 to 12.07.2020 vide **notification no. 36/2020-CT dated 03.04.2020**. Due dates for filing GSTR-3B for months of June 2020 and July 2020 continue to remain 22nd of succeeding month.

Illustration for manner of calculation of interest in case of turnover upto Rs. 5 crores [Circular no. 141/11/2020-GST dated 24.06.2020]:

S.No.	Tax period	Applicable rate of interest	Date of filing GSTR-3B	No. of days of delay	Interest
1	March, 2020 [Due date 22.04.2020]	Nil till the 3rd day of July, 2020, and 9 per cent thereafter till the 30th day of September, 2020	22.06.2020	61	Zero interest
2			22.09.2020	153	Zero interest for 72 days, thereafter interest rate @9% p.a. for 81 days
3			22.10.2020	183	Zero interest for 72 days, thereafter interest rate @9% p.a.for89daysand interest rate @18% p.a. for 22 days
4	June, 2020 [Due date 22.07.2020]	Nil till the 23 day of September, 2020, and 9 per cent thereafter till the 30th thy of September, 2020	28.08.2020	37	Zero interest
5			28.09.2020	68	Zero interest for 63 days, thereafter interest rate @9% p.a. for 5 days
6			28.10.2020	98	Zero interest for 63 days, thereafter interest rate @9% p.a. for 7 days and interest rate @18% p.a. for 28 days

[Notification no. 31/2020-CT dated 03.04.2020 as amended by and 32/2020-CT dated 03.04.2020 as amended by Notification no. 51/2020–CT, 52/2020-CT and 57/2020-CT dated 24.06.2020.]

'. **Extension of due date for filing GSTR-3B for the month of August 2020** [Notification no. 54/2020-CT dated 24.06.2020]:

Turnover in previous financial year	Principal place of business in the State of	Original due date	Extended due date
Up to 5 crores	Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep	20.09.2020	01.10.2020
	Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi	20.09.2020	03.10.2020
More than 5 crores	**PAN India**	**20.09.2020**	**20.09.2020**

I. **One time amnesty by lowering/waiving of late fees for non furnishing of FORM GSTR-3B from July, 2017 to January, 2020** [Notification no. 52/2020-CT dated 24.06.2020]**:**

Late fees for failure to file form GSTR-3B within due dates for period **July 2017 to January 2020** are waived as under:

Category	Late fees	Condition
Amount of tax payable is Nil in form GSTR-3B	Fully waived	Returns are furnished between 01.07.2020 to 30.09.2020
In cases other than above	Maximum Rs. 500 (Rs. 250 CGST and Rs. 250 SGST)	

If taxpayer fails to file return up to 30.09.2020, then the late fees shall not be waived and will apply as per the provisions of the Act.

I. **One time amnesty for filing an application for revocation of cancellation of registration for specified taxpayers:**

- Large numbers of registrations were cancelled due to failure of taxpayers to file returns for a period of more than six consecutive months.

- In case of cancellation of registration, taxpayer is required to apply for revocation of cancellation within 30 days from the date of service of cancellation order or can file an appeal before Appellate Authority within 3 months from the date of receipt of cancellation order.
- Many taxpayers were unable to file application for revocation of cancellation of registration within time limit of 30 days and / or failed to file an appeal within due date and thus could not get their cancellation revoked.
- To solve the above hardship, CBIC vide **Removal of Difficulty Order no. 01/2020-Central tax dated 25.06.2020** has provided that in case where cancellation order was passed **up to 12.06.2020,** the period of 30 days for filing an application for revocation has to be calculated from later of the following dates:
  - Date of service of cancellation order; or
  - 31st August 2020

I. Relaxation for complying Rule 36(4) of CGST Rules 2017:

- Rule 36(4) of CGST Rules 2017 restricts claim of input tax credit in respect of invoices or debit notes not appearing in form GSTR-2A to the extent of 10% of the input tax credit reflected in form GSTR-2A. In other words, claim of ITC for a tax period cannot exceed 110% of the ITC appearing in form GSTR-2A for said tax period. Said condition is to be complied on monthly basis at the time of filing GSTR-3B.
- Condition of Rule 36(4) is relaxed by inserting proviso to Rule 36(4) to provide that said condition is to be applied cumulatively for the period February 2020, March 2020, April 2020, May 2020, June 2020, July2020 and August 2020. Form GSTR-3B for the month of September 2020 shall be furnished with cumulative adjustment of input tax credit for said months.
- In simple words, total claim of ITC for period March 2020 to August 2020 cannot exceed 110% of total ITC reflected in form GSTR-2A for the said period. Taxpayers can take full ITC on the basis of invoices / debit notes for the period March 2020 to August 2020. Condition of Rule 36(4) has to be seen cumulatively for said period at the time of filing form GSTR-3B for the month of September 2020.
- It is to be noted that aforesaid relaxation is not given for the month of September 2020. Cumulative adjustment can be done only for period March 2020 to August 2020.

  Above amendment is effective from 03.04.2020. [Notification no. 30/2020-Central Tax dated 03.03.2020].

. Relaxation in other compliances under GST :

Nature of compliance / action undertaken by any authority or any person	**Original time limit / expiry period falling within:**	**Time limit/ expiry period extended to:**	**Extension will not apply to following provisions and Rules made there under:**
Completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval by any authority, commission or tribunal	20.03.2020 to 30.08.2020	31.08.2020	• Time of supply and value of supply [chapter IV of the Act] • lapsing of composition scheme if T/O crosses the limit specified for composition scheme [sec 10(3)]; • Registration [sec 25] • Casual / non-resident taxable person [sec 27] • Tax invoice [sec 31] • Form GSTR-1 [sec 37] • Return in form GSTR-3B [sec 39] • Levy of late fee [sec 47] • Levy of Interest [sec 50] • Power to arrest [sec 69] • Liability of Partners of firm to pay tax [sec 90] • Penalty for certain offences [sec 122] • Detention, seizure and release of goods [sec 129] • E-way bill [sec 68]
Filing of any appeal, reply or application or furnishing of any report, document, return, statement or such other record [applicable for taxpayers who are required to deduct tax at source u/s 51, collect tax at source u/s 52, Input Service Distributors and Non-resident Taxable persons]	20.03.2020 to 30.08.2020	31.08.2020	
E-way bill validity (generated before 24.03.2020)	Validity expired on or after 20.03.2020	30.06.2020	-

[Notification no. 35/2020-CT dated 03.04.2020 as amended by notification no. 55/2020-CT dated 24.06.2020 – effective from 20.03.2020]

. Relaxation in time limits in case of issuance of order / notice accepting or rejecting refund application:

Particulars	Due date falls **between 20.03.2020 to 30.08.2020**	Extended date
Issue of refund order in form RFD-06	60 days from the date of receipt of application	31.08.2020
Reply in form RFD-09 to show cause notice for rejection of refund claim in form RFD-08	15 days from the date of receipt of notice	Later of following: • 31.08.2020 • 15 days from the date of receipt of notice

I. **Relaxation in time limits under indirect tax laws other than GST [The Taxation And Other Laws (Relaxation Of Certain Provisions) Ordinance, 2020**]:

Time limits under Central Excise Act 1944, the Customs Act 1962 (except sections 30, 30A, 41, 41A, 46 and 47), the Customs Tariff Act, 1975 and Chapter V of Finance Act 1994 i.e. service tax legislation are extended as under:

Nature of compliance / action undertaken by any authority or any person	**Original time limit / expiry period ending on**	**Time limit/ expiry period extended to:**
Completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval by any authority, commission or tribunal	29.09.2020	30.09.2020
Filing of any appeal, reply or application or furnishing of any report, document, return, statement or such other record	29.09.2020	30.09.2020

[Notification F. No. CBEC-20/06/08/2020-GST dated 27.06.2020]

By CA Keshava N Ballakuraya
Past Chairman of Mangalore Branch of SIRC of ICAI

By CA Shraddha Sanghvi B.Com, ACA

– M/s Ballakuraya & Associates, Mangalore
Authors can be reached at kballakuraya@gmail.com

Fond remembrance

CA S S Kamath (04-07-1939 to 28-07-2020)

A stalwart in our profession, a natural leader, a friend, philosopher and guide to many of us.

You will always be remembered in our hearts for all the guidance and support you have given us. The society remains indebted to your services.

'A great man is one who leaves others at loss after he is gone'.

We have lost a gentleman in our Fraternity.

May your noble soul rest in eternal peace.

Heartfelt condolences

From Members of Mangaluru Branch of SIRC of ICAI

Words of the Wise

- *Quality is never an accident; it is always the result of high intention, sincere effort, intelligent direction and skillful execution; it represents the wise choice of many alternatives*
- *Opportunities multiply when they are seized die when neglected*
- *If you change before the change, you will lead; if you change with the change , you will survive,; if you change after the change, you will struggle; if you don't change even after the change, you will collapse.*
- *If your life is free of failures, you are not taking enough rishks*
- *When we are no longer able to change a situation, we are challenged to change ourselves*

- Compiled by CA S S Nayak
Chairman,
Mangaluru Branch of ICAI

ICAI MANGALURU

1971 - 2021

Golden Jubilee

Founding Day

18 - 08 - 2020

MANGALURU BRANCH OF SIRC OF ICAI

VIRTUAL CPE MEETING

18th & 19th AUGUST 2020

3:00 P.M. - 7:00 P.M.

Organized by:

MANGALURU BRANCH OF SIRC OF ICAI

In association with

UDUPI BRANCH OF SIRC OF ICAI

&

SHIMOGA CPE CHAPTER OF SIRC OF ICAI

CPE CREDIT: 6 HOURS

LIVE ON:

zoom

Inauguration | Day 1

18 - 08 - 2020 | TUESDAY | 3:00 P.M. - 4:00 P.M.

Chief Guest

CA. ATUL KUMAR GUPTA

PRESIDENT - ICAI

Guest of Honour

CA. NIHAR N. JAMBUSARIA

VICE PRESIDENT - ICAI

Programme Director

CA. DAYANIWAS SHARMA

CENTRAL COUNCIL MEMBER - ICAI

Special Invitee

CA. DUNGAR CHAND U. JAIN

CHAIRMAN - SIRC OF ICAI

Sessions | Day 1

18 - 08 - 2020 | TUESDAY

Session 1  4:00 P.M. - 5:30 P.M.

CA. T. V. MOHANDAS PAI

CHAIRMAN - MANIPAL GLOBAL EDUCATION

" NEW AVENUES FOR CHARTERED ACCOUNTANTS "

Session 2  5:30 P.M. - 7:00 P.M.

CA. P. R. RAMESH

CHAIRMAN - DELOITTE INDIA

" FUTURE OF PROFESSION AND CA FIRMS "

Inauguration | Day 2

19 - 08 - 2020 | WEDNESDAY | 3:00 P.M. - 4:00 P.M.

Chief Guest

CA. K. ULLAS KAMATH

JOINT MD - JYOTHY LABS LTD.

Guest of Honour

CA. A. RAGHAVENDRA RAO

PAST SECRETARY - SIRC OF ICAI

Special Invitee

CA. DR. ABHISHEK MURALI

SECRETARY - SIRC OF ICAI

Sessions | Day 2

19 - 08 - 2020 | WEDNESDAY

Session 1

4:00 P.M. - 6:00 P.M.

CA. DR. GIRISH AHUJA

RENOWNED AUTHOR

" A - Z OF CAPITAL GAINS "

Session 2

6:00 P.M. - 7:00 P.M.

CA. DAYANIWAS SHARMA

CENTRAL COUNCIL MEMBER - ICAI

" REVISED PEER REVIEW GUIDELINES "

Office Bearers

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CA. K. S. KAMATH
VICE CHAIRMAN

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TREASURER

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ICAI MANGALURU

1971 - 2021

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

ICAI BHAWAN, PADIL, MANGALURU - 575007

Ph: 0824 - 2439722 / 2437122
E-mail: mangalore@icai.org
Website: www.mangalore-icai.org

Shubhashitha

ದಕ್ಷಃ ಶ್ರಿಯಮಧಿಗಚ್ಛತಿ

ಪಥ್ಯಾಶೀ ಕಲ್ಯತಾಂ ಸುಖಮರೋಗೀ ।

ಉದ್ಯುಕ್ತೋ ವಿದ್ಯಾಂತಂ

ಧರ್ಮಾರ್ಥಯಶಾಂಸಿ ಚ ವಿನೀತಃ ।।

ದಕ್ಷತೆಯನ್ನು ಹೊಂದಿರುವವರು ಐಶ್ವರ್ಯವನ್ನು ಹೊಂದುವರು, ಪಥ್ಯಾಹಾರವನ್ನು ಉಣ್ಣುವವರು ಆರೋಗ್ಯವನ್ನು ಹೊಂದುವರು, ಪರಿಶ್ರಮದಿಂದ ಅಭ್ಯಾಸ ಮಾಡುವವರು ವಿದ್ಯೆಯನ್ನು ಹೊಂದುವರು, ವಿನಯಶೀಲರಾದವರು ಧರ್ಮ, ಅರ್ಥ *(ಸಂಪತ್ತು)*, ಯಶಸ್ಸುಗಳೆಲ್ಲವನ್ನೂ ಹೊಂದುವರು.

ಪ್ರಜ್ಞಯಾ ಮಾನಸಂ ದುಃಖಂ

ಹನ್ಯಾಚ್ಛಾರೀರಮೌಷಧೈಃ ।

ಏತದ್ವಿಜ್ಞಾನಸಾಮರ್ಥ್ಯಂ

ನ ಬಾಲೈಃ ಸಮತಾಮಿಯಾತ್ ।।

ಪ್ರಜ್ಞೆಯೆಂಬ ಔಷಧದಿಂದ ಮಾನಸಿಕ ರೋಗವನ್ನು ಹೋಗಲಾಡಿಸಿಕೊಳ್ಳಬೇಕು, ಶರೀರ ಸಂಬಂಧವಾದ ರೋಗವನ್ನು ಚೂರ್ಣ-ಕಷಾಯಾದಿ ಔಷಧಗಳಿಂದ ಹೋಗಲಾಡಿಸಿಕೊಳ್ಳಬೇಕು, ಜ್ಞಾನಕ್ಕಿರುವ ಸಾಮರ್ಥ್ಯವೇ ಇದಾಗಿರುತ್ತದೆ, ಆದುದರಿಂದ ಜ್ಞಾನಿಯಾದವನು ಬಾಲಕರಂತೆ ಶೋಕ ವಿಲಾಪಗಳನ್ನು ಮಾಡಬಾರದು.

Compiled by CA S S Nayak and CA Shivakumar

MANGALURU BRANCH OF SIRC OF ICAI

ICAI BHAWAN | NEAR KANCHANA HYUNDAI SHOWROOM| PADIL

MANGALORE – 575007

Tel: 0824-2439722 Email: mangalore@icai.org

Website: www.mangalore-icai.org

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

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

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