



# ICAI MANGALORE

INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

## The Bulletin Board

## e- Bulletin



Volume X | November 2018

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*Thought for the Month:*

*Self-belief and hard work will always earn you success.*

*-Virat Kohli*



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## Chairman's Message



**CA B Shivananda Pai**  
**Chairman**  
**Mangalore Branch of SIRC of ICAI**

30.11.2018



**Dear Professional Colleagues,**

Greetings of the season.

This November, the country celebrated the festival of lights i.e Deepavali. The festival of lights symbolises the spiritual "victory of light over darkness, good over evil and knowledge over ignorance." Light is a metaphor for knowledge and consciousness.

I hope our members have enjoyed the festival, after completion of a hectic season of corporate, and tax audit season. May be, by now , are busy with completion of the time barring assessments. It is said in Karma theory, that always one work completes, the other is waiting in a que. Important factor professional life is how passionately we handle our work, that determines our professional satisfaction. The hunger for knowledge and scaling up our capabilities will enrich our professional satisfaction.

In November Month we held One Day Seminar on GST annual returns and GST audit. The sessions were handled by CA Annapoorna Srikanth, Mysore and T.N Raghavendra, Bangalore. Another, Half Day Seminar on RERA Compliances , Audit And Certification was also held, where CA Ramesh S Prabhu, Mumbai has deliberated on the subject. Both the seminars were well attended.

AICITSS - Advanced MCS Course ,ICITSS - Orientation Course and Mock tests were conducted as part of student activities.

CA Students Conference in will be held on 6<sup>th</sup> and 7<sup>th</sup>of December, at K.R.Rao Town Hall Mangalore.

I request all the members to encourage your students to participate in the conference

**With Best Regards,**

**CA. Shivananda Pai B.**

## Branch Activities November 2018



Sl No	Date	Activities at Branch for Members	CPE Hours/ Number of Participants
1	17.11.2018	Half Day CPE Seminar on RERA Compliances , Audit And Certification Topic : RERA Compliance Speaker : CA Ramesh S Prabhu, Mumbai Topic : RERA, Audit and Certification Speaker : CA Ramesh s Prabhu, Mumbai	Members: 41 Staff : 1 Others: 2 CPE Credit: 3 Hours
2	26.11.2018	One Day CPE Seminar on GST Topic : GST Annual Returns Speaker : CA Annapoorna Srikanth, Mysore Topic : GST Audit Speaker : T.N Raghavendra, Bangalore	Members: 90 Staff : 3 Students : 48 Others: 15 CPE Credit: 6 Hours



# Branch Activities November 2018



Sl No	Date	Activities at Branch for the Students	Number of Participants
1	25.11.2018	Mock Test November 2018 Examination Subject: Fundamentals of Accounting, Mercantile Law, General Economics, Quantitative Aptitude.(All)	Students: 70
2	14.11.2018	22 <sup>nd</sup> Batch of ITT Course	Students: 27
3	19.11.2018	03 <sup>rd</sup> Batch Of AICITSS - Advanced MCS Course	Students: 40
4	21.11.2018	15 <sup>th</sup> Batch Of ICITSS - Orientation Course	Students: 39





## Professional Article

### My tryst with Indian Accounting Standards (Ind AS) and Minimum Alternate Tax (MAT)

-CA Pearl Sequeira

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Drawing inspiration from the fact that many writers share their experience of some real-life incident with the readers, I too decided to share my professional experience here. In this article I would like to draw the attention of readers to a recent change in the Companies Act which has a substantial impact on taxation. I am referring to the new Accounting Standards which a large number of companies in the country have been forced to adopt and how this impact the “book profit” for the purpose of payment of “MAT” under the Income-tax Act.

India aspires to be a global leader and attract substantial foreign investments into the country. Therefore, a step taken in this direction is to converge the existing accounting standards and bring them in line with the global accounting standards.

However, application of these new Accounting Standards has resulted in a huge increase in compliance burden on the affected companies. I know that given a chance, no entrepreneur would want to spend his precious time on compliances. The general perception is that it is something that gives you minimal return or may be no return. The only return could be the avoidance of penalties and interest. In this background, I would like to pen down my experience about these new Accounting Standards and how, in some cases, judgmental opinion may need to be taken and how this could substantially impact profits and therefore taxation.

The Ministry of Corporate Affairs vide its notification dated 16 February 2015 issued the Companies (Indian Accounting Standards (Ind AS)) Rules, 2015. This made Ind AS applicable in a phased manner. Voluntary application of Ind AS was made effective from 1<sup>st</sup> April 2015. Any company which went into voluntary application had to comply with Ind AS not only for itself but also for its holding, subsidiary, joint venture or associate company. The various stages of implementation of Ind AS are as follows:

#### *Phase I*

Mandatory applicability of Ind AS from 01 April 2016 to all the companies;

- whose net worth is rupees five hundred crores or more
- holding, subsidiary, joint venture or associate companies of companies of the above company.

#### *Phase II*

Mandatory applicability of Ind AS from 01 April 2017 to all the companies;

- whose net worth is rupees two hundred and fifty crores or more
- holding, subsidiary, joint venture or associate companies of companies of the above company.

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## Professional Write up

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Once a company starts following Ind AS mandatorily on the basis of criteria specified above, it will be required to follow the Ind AS for all the subsequent financial statements even if any of the criteria specified do not subsequently apply to it. Further, the net worth needs to be tested for the financial years 3 years before the end of the given financial year. Thus, for example, in case of year ending 31 March 2017 the financial years to be tested for the required net worth will be 2014-15, 2015-16 & 2016-17. On first time adoption of Ind AS 3 Balance Sheets, 2 Profit & Loss accounts and Cashflow statement need to be given as comparatives.

### Minimum Alternative Tax or MAT

MAT is a tax on book profits of the company under section 115JB of the Income tax Act 1961. MAT will be paid if the tax payable under normal income tax provisions is lesser than provisions under section 115JB. MAT is paid on the book profit of the company after giving effect to specific provisions stated in the section.

The reason I am writing this here is that 'Book Profit' will now change due to the implementation of Ind AS. Under Ind AS, certain principles of accounting are different from the ones followed under the previous GAAP. In the interests of the tax payers, the government has made efforts make the Ind AS tax neutral. I have penned down below a few instances I came across. Further, since Ind AS statements will be presented for 3 preceding years the transition effect arising out of the past years also will be added to MAT.

***Under MAT the transition amount should be offered to tax equally for 5 years beginning with the financial year in which Ind AS is first implemented. Transition amount equals to that amount that forms part of 'Other Equity' due to Ind AS changes other than Capital reserve and Securities Premium.***

I would like to share with readers the impact of Ind AS on a few specific items of the Balance Sheet & Profit & Loss Account which I had an occasion to recently study.

### Goodwill arising out of a business combination

Goodwill arising out of business combination is no longer covered under the Ind AS-Intangible assets. Unlike the previous GAAP where it was covered under the accounting standard dealing with intangible assets, the amortisation upto 5 years is no more available. Therefore, the goodwill now arising out of business combinations (eg: amalgamation, merger, demerger, reconstruction) will appear at its book value and no amortisation can be claimed.

Because of this, the book profit will be higher to that extent. The tax neutral effect arises in the year when the business will be shut or sold. In that year the value of goodwill is higher and not amortised over the years and thus the cost of the asset sold will be higher than under the previous principles. Also note that impairment of the goodwill can be claimed with sufficient reasons even under Ind AS principles.

...Contd



## Professional Write up

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### Accounting for Non-Convertible Redeemable Preference Shares (NCRPS)

A NCRPS is one whose nature can be compared to a borrowing expect that a fixed amount of return or interest or in this case dividend is not paid to the investors. These funds are borrowed from the investors and in return shares are been issued. They will be repaid either in instalments or lump sum as per the terms of the shares. The maximum period of redemption can go upto 20 years.

Ind AS speaks of substance over the form. In form, the NCRPS may be shares but the substance of the transaction is that it is equivalent to a borrowing. It contains the features of both equity and liability. The equity feature is that a dividend is paid and not interest while the liability feature is that it has to repaid within a curtain period of time. Therefore, Ind AS requires us to split the equity and liability portion and show them separately. This is done on the either by the Effective Interest Rate (EIR) method or the Fair Value method.

Now, the equity portion will form part of 'Other Equity' as there is no provision under Ind AS to disclose preference shares. Some professionals argue that it can form part of Capital Reserve while others claim that it becomes Capital Contribution. Different stands are taken by different companies on this. If it forms part of Capital Contribution then it should be offered to MAT under the transition amount provisions.

The yearly interest debited to the borrowing portion of the NCRPS will be claimed in the books. The amount of dividend portion will be disallowed. For eg; if the NCRPS is discounted at 12% under the EIR method and the fixed dividend rate is 1% then 1% of the expense will be disallowed and the balance 11% will be allowed as an expense under MAT. This is because dividend is an appropriation of profit and not a charge on the profits.

### Provision for warranty services and spares

Provisions for warranty services and spares will be discounted to their current value based on the time value of money. Thus, in the year of transition, the carrying value of the provisions is reduced. All the effects due to transition to Ind AS will be given to retained earnings in the year of transition. Thereafter the provisions needs to be valued at the end of every year and the amount of unwinding of discount will be debited to finance cost and charged to the profits.

In the first year of Ind AS implementation, the discount amount will form part of transition and thereafter the unwinding can be claimed every year as an expense in computing the book profit.

In addition to the above there are many other instances which will affect MAT due to Ind AS implementation. Efforts need to be put in to analyse the situation diligently in both the perspectives.

All in all, the implementation of Ind AS is a highly challenging task and will definitely cast a huge burden on the affected companies. It will also entail a higher cost in terms of professional fees since auditors will have to put in extra efforts in helping their client companies in converting their normal accounts into Ind AS compliant accounts.



## News and Updates

### CASE LAWS

#### I. Case Name: Union of India Vs. Mohit Minerals (Supreme Court) (Constitutional validity of GST Compensation Cess upheld by SC)

Brief of the case:

- The SC held that when Constitution provision empowers the Parliament to provide for Compensation to the States for loss of revenue by law, the expression “law” used therein is of wide import which includes levy of any cess - The Compensation to States Act, 2017 is not beyond the legislative competence of the Parliament -The Compensation to States Act, 2017 does not violate Constitution (One Hundred and First Amendment) Act, 2016 nor is against the objective of Constitution (One Hundred and First Amendment) Act, 2016. It also held that the Compensation to States Act is not a colourable legislation
- Principle is well settled that two taxes/imposts which are separate and distinct imposts and on two different aspects of a transaction are permissible as “in law there is no overlapping. Levy of Compensation to States Cess is an increment to goods and services tax which is permissible in law - Clean Energy Cess and States Compensation Cess are entirely different from each other, payment of Clean Energy Cess was for different purpose and has no bearing or connection with States Compensation Cess - giving credit or set off in the payment is legislative policy which had to be reflected in the legislative scheme - Compensation to States Act, 2017 or Rules framed thereunder does not indicate giving of any credit or set off of the Clean Energy Cess already paid till 30.06.2017 - The petitioner is, therefore, not entitled for any set off of payments made towards Clean Energy Cess in payment of Compensation to States Cess.

## News and Updates



### **II. Case Name: Willowood Chemicals Pvt Ltd. Vs Union of India (Gujrat High Court) (Time Limit contained in Rule 117 of CGST Rules not Ultra Vires)**

Brief of the case:

- Petitioners challenged second proviso to sub-section (1) of section 140 of the Gujarat Goods and Service Tax Act, 2017 under which certain restrictions have been imposed on a dealer for taking tax credit under then the VAT Act. Counsel for the petitioner submitted that the provision deprives a dealer to his vested right and thus, the statute acts retrospectively and also imposes an unreasonable restriction.
- The petitioners have also challenged the vires of Rule 117 of the Central Goods and Services Tax Rules, 2017.

Decision of High Court

- Merely because the rule in question prescribes a time frame for making a declaration, such provision cannot necessarily be held to be directory in nature - Time-limit provisions contained in sub-rule (1) of rule 117 of the CGST Rules is not ultra vires the Act or the powers of the rule making authority - time limit provisions cannot be seen as merely technical in nature - When the entire tax structure of the country is being shifted from earlier framework to a new one, there has to be a degree of finality on claims, credits, transfers of such credits and all issues related thereto - such prescription of time limit cannot be stated to be either unreasonable or arbitrary
- The HC further held that interpreting such powers as merely directory would give rise to unending claims of transfer of credit of tax on inputs and such other claims from old to the new regime - Doing away with the time limit for making declarations would give rise to multiple large-scale claims trickling in for years together, after the new tax structure is put in place and would, besides making the task of matching of the credits impractical, if not impossible, also impact the revenue collection estimates - annihilating time limit contained in rule 117 would have serious repercussions - Removing such time limit would have a potential to lead to utter economic chaos.

## News and Updates



### III. Calcutta High Court has upheld the constitutional validity of bringing lotteries under purview of GST

- Entry 6 of the Schedule III takes out actionable claims other than lottery, betting and gambling from the scope of GST. Thus, lotteries are generally speaking goods and come within the definition of actionable claims. Since, lotteries are kept out of the purview of actionable claims which do not attract CGST Act, 2017, lottery can therefore be charged to GST.

### IV. Gauhati High Court dismissed a number of appeals challenging the service tax demand after the GST rollout

- Section 6A of the General Clauses Act- Even if an enactment stands omitted by a subsequent amendment, a proceedings initiated under the omitted enactment on its own does not come to end upon omission and further continuance cannot be said to be impermissible under the law.



## News and Updates



### V. Case Name: M/s Jay Chemical Industries Ltd. Vs Union of India (Gujarat High Court) (Rectification of GST TRAN-1 already filed not allowed)

- By way of this petition, the petitioners herein in the present Writ petition under Article 226 of the Constitution of India, 1950 are challenging the constitutional validity and vires of the Rule 117 of the Central Goods and Services Tax Rules, 2017 and Form GST Tran-1 issued thereunder on the ground that the said provisions are ultra vires of the enabling provisions of Section 140(5) of the Central Goods and Services Tax Act, 2017 and are in excess of rule making powers vested in the Central Government under Section 164 of the said Act and also offends Article 14, Article 19(1) (g), Article 265 and Article 300A of the Constitution of India, 1950.
- The petitioners are also seeking direction on the respondents to allow them to rectify errors and omissions in filing of GST-TRAN-1, to enable credit of carry forward of Credit on eligible duties of goods and services in transit in electronic credit ledger in terms of Section 140(5) of the Central Goods and Services Tax Act, 2017, either by opening of GSTN Portal or to allow it to be rectified by manually filing modified GST-TRAN-1.
- High Court held that rectification of GST-TRAN-1 already filed not allowed.
- Limited extension has been granted to cover cases where genuine hardships were felt in uploading the said declarations due to technical glitches
- The time limit provisions contained in the transitional chapter cannot be lightly extended. The petition had time till 27.12.2017 to file and rectify a declaration.



## Managing Committee 2018-19



Managing Committee

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**CA Ananthapadmanabha, Vice-chairman**  
**CA Raviraj B, Secretary**  
**CA K Subramanya Kamath, Treasurer**  
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**CA Aravinda Krishna, Member**  
**CA Edyll D;silva, Member**  
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*from Left to Right- CA. Aravinda Krishna ( Member), CA. Abdur Rahman Musba ( chairman SICASA, Mangalore), CA. K. Subramanya Kamath ( Treasurer), CA. Ananthapadmanabha( Vice Chairman), CA. Shivanand Pai ( Chairman), CA. Keshava Ballakuraya ( Past chairman), CA. Raviraj B ( Secretary), CA. Edyll D'Silva( Member) , CA. Bhargava Tantri ( Immediate Past Chairman)*

*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 2,000- 4,000 words typed double space on A4 size paper with 1 inch margin all around. Soft copy of the article may be sent to [icaiebulletin@gmail.com](mailto:icaiebulletin@gmail.com) / [mangalore@icai.org](mailto:mangalore@icai.org).*

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