

MANGALURU BRANCH (SIRC) E-NEWSLETTER

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From the desk of the Chairman

CA. Gautham Pai D.
Chairman – ICAI Mangaluru



Dear Member

Greetings of the day

The busy month of September is now over & also the heavy audit season too comes to an end. I am certain the Tax Audit season must have been an experience like all the past years & its now time to look forward & upgrade oneself to the cope up with areas of other professional interest. With the onset of the month of October, the month of festival is here, with Navratri being celebrated across the country with all devotion & fervor.

The Branch organized a Half Day Seminar on September 3rd on the subject of Company Audit Essentials & Accounting Standards & we had CA. Jomon K. George with us to engage the session. Further, the month was quite dry owing to professional occupation of all the Members. The Branch launched the International Study Tour to Nepal which is scheduled from Nov 16th to 22nd, a Tour beyond the borders of the country after a very long time. Also, a Certificate Course on AI in ICAI was launched & within a span of couple of days all the slots got booked, signifying the importance of technology & AI in the minds of the Members as well as to get trained on the most trending subject of AI so as to equip with the knowhow to make use in the regular practice. The ensuing months will be all about knowledge updation & gearing up for the newer practice avenues. The Members will have a lot of exposure in this direction & regular session will be scheduled for Members to join & update.

The ICAI Elections for Regional Council & Central Council too is declared & Mangaluru shall vote on December 7th, Saturday. I request all the members to make note of this date & caste their franchise responsibly, so that the best candidates represent us both at the SIRC & at the ICAI. Further, the national Conference too is planned for the month of December & tentatively December 12th & 13th are the dates that have been shortlisted. This being a flagship event, we would want all the members associated with Mangaluru Branch to join us on these two days & make it an eventful Conference.

I once again request Members to make the best use of the coming months & a lot of activities & events are lined up keeping the interest of members in mind.

As always, if there's anything that the Managing Committee can do for its members & Students, we are open to suggestions & guidance.

Corporate Social Responsibility



CA. Ankush Shetty

Though Corporate Social Responsibility or 'CSR' as it is popularly known, formally paved its way into the Companies Act of 2013, and was made mandatorily applicable to certain categories of Companies

w.e.f. 1st April 2014, the idea of mainstreaming responsible business conduct originated much earlier. The Ministry of Corporate affairs had earlier issued the Voluntary Guidelines on Corporate Social Responsibility, 2009 which was later modified in the year 2011, into the National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business, 2011, laying down a set of principles and a broad framework for Corporates, to grow in an inclusive manner, while addressing the concerns of the stakeholders. These principles, inter alia, included:

- Conduct of business in a manner that is ethical, transparent, and accountable.
- Provision of goods and services in a manner that is sustainable and safe.
- Promotion of the well-being of those employed in the business.
- Safeguard of the interests of all stakeholders.
- Promotion and respect of Human rights.
- Efforts to restore the environment.
- Promotion of inclusive growth and equitable development.
- Engaging in influencing public and regulatory policy in a manner that is responsible and transparent.
- Provision of value to consumers in a responsible manner.

The credit for including the provisions of CSR within the statute is primarily attributable to the 21st Report of the Parliamentary Standing Committee on Finance, which observed that the enforcement of annual statutory disclosures on CSR through the statute would be a sufficient check on non-compliance.

Applicability:

Section 135 of the Companies Act, 2013 extends the applicability of CSR to every Company having (Criteria to be checked for the immediately preceding financial year):

- a. Networth of Rs. 500 Crores or more or,
- b. Turnover of Rs. 1000 crores or more or,
- c. Net profit of Rs. 5 Crores or more.

Constitution of the CSR Committee:

- Every Company falling under the purview of CSR by virtue of Section 135 is required to constitute a CSR committee of the Board, consisting of a minimum of 3 directors of which at least 1 must be an independent director. Those companies which are not required to appoint an independent director under section 149(4), shall have a minimum of 2 directors in its CSR Committee. The Board of Director's report under Section 134(3) must contain a disclosure on the composition of the CSR committee. It is pertinent to note that Companies which are not required to spend more than Rs. 50 lakhs on their CSR activities need not constitute this committee and the functions of such Committee shall, in such cases, be discharged by the Board itself.

The CSR committee is entrusted with the following responsibilities:

- Formulating and recommending to the Board, a CSR Policy which shall indicate the activities to be undertaken by the company in areas or subjects, specified in Schedule VII.
- Recommending the amount of expenditure to be incurred on the activities referred above.
- Monitoring the Corporate Social Responsibility Policy of the Company from time to time.

Responsibilities of the Board:

After considering the recommendations made by the CSR Committee, the Board shall approve the CSR Policy and disclose the contents of such Policy in its report. It must also make disclosures on the company's website, if any, as per the Annexure to the Companies (Corporate Social Responsibility policy) Rules, 2014. The Board should ensure that the activities included in the CSR Policy are undertaken by the company. The Board should further ensure that the company spends, in every financial year, at least 2% of the average net profits of the company made during the three immediately preceding financial years in pursuance of its CSR policy. If the Company has not been in existence for a period of 3 years since its incorporation, then the amount shall be computed at 2% of the average net profits of such immediately preceding financial years. The Company shall prefer areas around its location for spending the amount earmarked for CSR activities.

If the company fails to spend the earmarked amounts, the Board shall specify reasons for not spending the amount in its report and unless the unspent amount relates to any ongoing project referred to in Section 135(6) of the Companies Act, transfer such unspent amount to a Fund specified in Schedule VII, within a period of 6 months of the expiry of the financial year.

Section 135(6) states that any amount remaining unspent under Section 135(5), pursuant to any ongoing project undertaken by a company in pursuance of its CSR Policy, shall be transferred by the Company within a period of 30 days from the end of the financial year to a special account to be opened by the Company for that financial year in any scheduled bank called the 'Unspent Corporate Social Responsibility Account'. Such amount shall be spent by the company in pursuance of its obligation towards the CSR Policy within a period of 3 financial years from the date of such transfer, failing which, the company shall transfer the same to a Fund specified in Schedule VII, within a period of 30 days from the date of completion of the 3rd financial year. It is also important to note that if the Company spends an amount in excess of the requirements, then it can set off such excess against the requirement to spend for the subsequent financial years, in the prescribed manner.

Penal consequences on violation:

If a company defaults in complying with the provisions of Section 135(5) or 135(6), then it shall be liable to a penalty which may extend to the least of the following:

- Twice the amount required to be transferred by the company to the Fund specified in Schedule VII or the Unspent CSR Account, as the case may be, or
- Rs. 1 Crore

Further, every officer of the company who is in default shall be liable to a penalty which may extend to the least of the following:

- 10% of the amount required to be transferred by the company to such Fund specified in Schedule VII, or the Unspent CSR Account, as the case may be, or
- Rs. 2 lakhs.

Treatment of CSR under the Income tax Act, 1961:

It was through the Finance Bill of 2014 that Explanation 2 to Section 37(1) was inserted, clarifying that the expenditure incurred by an Assessee on activities relating to CSR referred to in Section 135 of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee for the purposes of business or profession. Prior to this insertion, one might have contended that the expenditure incurred on CSR activities is deductible under the broad purview of Section 37 of the Income tax Act. The Memorandum explaining the provisions of the Finance Bill of 2014 explicitly acknowledges CSR expenditure to be in the nature of an application of income, thereby not warranting a deduction as an expense incurred wholly and exclusively for the purposes of carrying on business. The Memorandum further explains that the objective of CSR is to 'share the burden of the Government in providing social services by companies having net worth/turnover/profit above a threshold' and that allowance of such expenditure would result in subsidizing around 1/3rd of such expenses by the Government by way of tax expenditure.

The bright side, however, is that though there is a specific restriction on claiming CSR expenditure as an expense incurred for business under Section 37, CSR expenditure of the nature described in sections 30 to 36 of the Act shall be allowed under those respective sections, subject to the fulfilment of conditions specified therein. Companies can also examine the possibility of claiming deduction under section 80G.

INVEST IN MANGALURU'S **iT** DESTINATION

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Invoice Management System (IMS)



CA. Akshay Hiregange

Queries or Feedback on this informative article can be shared to akshay@hnaindia.com

IMS will allow the recipient taxpayers to either accept or reject an inward invoice or to keep it pending in the system, which can be availed later.

This facility will be available from 1st Oct 2024 onwards.

Only the accepted or deemed accepted invoices will appear in GSTR 2B.

Impact from supplier:

1. The outward invoices saved by supplier in GSTR-1/IFF/GSTR- 1A/GSTR-5/GSTR-6 will be auto-populated in IMS of recipient
2. The changes made by the supplier to his saved invoices before filing GSTR-1/IFF will automatically reflect in the IMS of the recipient.
3. The changes made in GSTR-1A will be available in IMS immediately but reflects in GSTR-2B next month on acceptance.

Impact on Recipient:

A. Before generation of GSTR-2B:

- No action taken: When no action is taken the invoices in IMS will be considered as deemed accepted at the time of GSTR-2B generation.
- Accepted invoices: Will be part of GSTR-2B generation and move out of IMS.
- Rejected invoices: Will not be considered for GSTR-2B generation and move out of IMS.
- Pending invoices: Will not be considered for GSTR-2B generation for the month, same will be carried forward in IMS itself for further action in subsequent months.

'Pending' action shall not be allowed in the following scenarios:

1. Original Credit note (CRN)
2. Upward amendment of the CRN irrespective of the action taken by the recipient on the original CRN.
3. Downward amendment of the CRN if original CRN was rejected by recipient
4. Downward amendment of Invoice/Debit note where original Invoice/ Debit note was accepted by the recipient and respective GSTR 3B has also been filed.

B. After generation of GSTR-2B:

- Recipient can take actions of accept/reject or keep pending even after generation of GSTR-2B till the filing of GSTR-3B.
- If any action is taken after 14th of the month, then GSTR 2B has to be recomputed accordingly.
- After the filing of GSTR-3B, no action can be taken by the recipient.

C. Following supplies will not go to IMS:

- Inward RCM supplies where the supplier has reported in the Table 4B of IFF/GSTR1
- Supplies where ITC is not eligible due to section 16(4) or POS rule

Process flow:

- Download default 2B available on the system
- Reconcile with the books data (current month + pending reco of previous months)
- Accept the matched invoices only. These would flow to 3B as accepted. Balance could be kept "pending". Do not reject as there seems to be no reversal of such rejection. This could be a periodic activity at EOY.
- Pending becomes "portal only". 4A(5) and 4B(2) of portal only not needed anymore. Nothing goes in ITC reclaim statement.

Dealing with credit notes appearing in 2B

- If a CN issued by supplier matches with books – accept it.
 - If CN issued for cancellation of invoice issued earlier (tax amt on invoice same as tax amt on CN):
 - ITC was claimed on such invoice i.e. accepted – reject this CN
 - ITC was not claimed on such invoice i.e. pending – accept this invoice and accept this credit note. Effectively, net ITC on such invoice and CN for the month becomes zero.
- Legal issue – neither invoice nor CN becomes part of books of accounts, however, acceptance shows ITC claimed/reversed. Huge issue. However, needs to be done as there is no possibility of keeping the CN as "pending"
- If CN issued but not appearing in books and not appearing in "pending" invoices – discuss immediately with vendor. This cannot be directly rejected as it would add into the liability of the supplier in next month, leading to practical disputes.

Dealing with credit notes appearing in books only

- Legally, reversal for such credit notes is to be made in the month in which such credit notes are recorded in the books of accounts.
- Reversal should be done in Table 4B(2).
- In case such credit notes appear on the portal at a later stage –
 - o Accept the credit notes. This would reduce the amount in Table 4A(5)
 - o As ITC has already been reversed, add the amount in Table 4A(5), resulting in net amount in table 4A(5) as zero
 - o Disclose this amount in Table 4D(1).
- In case such credit notes never appear on portal at a later stage, nothing to be done. Call may be taken to take these to permanent reversal at a later stage (ideally after timeline of Section 16(4)).

Amount mismatched (Portal > Books) – Where invoice is matching, but there is amount difference (amount recorded in books is less than amount reported by vendor), following to be done

- Accept this invoice in the IMS. Differential amount to be reversed in Table 4B(2) i.e. temporary reversal
- If this amount is booked on a later date –
 - o Claim in 4A(5) and disclose in 4D(1)
- If vendor subsequently issues a credit note for same amount –
 - o Accept this credit note (tracking menace).
 - o Such amount would be reduced in Table 4A(5). Add this back - resulting in net impact in Table 4A(5) as 0
 - o Disclose the same in Table 4D(1).

- If vendor amends the invoice (downward amendment) – these would have to be mandatorily accepted or rejected. In case it is accepted, these need to be crossed off (separately in records) with the amount lying in Portal only 4B(2).

- If vendor does not do anything and amount is not recorded in the books as well – nothing to be done. Such amount would continue to be in the 4B(2) bucket, which can be written off after timeline of 16(4) i.e. permanent reversal may be done.

Amount mismatched (Books > Portal) - Ideally, such cases should not arise. However, in case such scenarios are witnessed, following could be approach

- Claim ITC only to the extent of amount available in the portal
- Balance amount could be kept as “books only”.
- If such invoices are amended in subsequent period, check the amount and accept / reject accordingly.
- At year end, total amount of ITC reflected in 2B pending entries could be compared with the books only portion and ITC may be claimed accordingly.
- If there is no amount in “pending” category, discuss with vendor or recheck the books of accounts.

Authors View:

There is no specific provision in GST Law for introducing invoice system management & as on date utilization of such mechanisms is optional.

However, in terms of circular 212/6/2024-GST in para 2.3 provides for introducing a facility on the common portal to enable the supplier or tax officer to verify whether the recipient has reserved the ITC on credit note issued for post-sale discounts. This mechanism could reasonably provide the supplier or tax officer, with reversal of such ITC once such credit notes are accepted by the recipient and in such situations whether certification as specified in said circular is required.

Disclaimer:

The views expressed in this article are personal to the authors and are an attempt to interpret the nascent GST law. We recommend professional assistance where required.

Decoding Mutual Funds: An Investor's Guide to selecting the right funds.



Mr. Prabhakar Kudva, Director, Samvitti Capital

- A Computer Science Engineer and a Business Management Graduate
- Astute active Investor and Trader since 15 years.
- One among 40 under 40 Investment managers by AIWMI (Association of International Wealth Management of India).
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Investing in mutual funds has become increasingly popular in India as more people seek to grow their wealth and achieve their financial goals. However, with thousands of mutual funds available in the market, selecting the right ones can be a daunting task. This guide will walk you through the process of choosing mutual funds in India, helping you make informed investment decisions.

Understanding Mutual Funds

Before diving into the selection process, it's crucial to understand what mutual funds are. A mutual fund is a pool of money collected from many investors to invest in securities like stocks, bonds, money market instruments, and other assets. Professional fund managers manage these funds, aiming to produce capital gains or income for the investors.

Types of Mutual Funds in India

1. Equity Funds: Invest primarily in stocks
2. Debt Funds: Invest in fixed-income securities
3. Hybrid Funds: Invest in both equity and debt instruments
4. Index Funds: Track a specific market index
5. Sector Funds: Focus on a particular industry or sector
6. Tax-saving Funds (ELSS): Offer tax benefits under Section 80C

Steps to Select Mutual Funds in India

1. Define Your Financial Goals

The first step in selecting mutual funds is to clearly define your financial goals. Are you saving for retirement, a down payment on a house, or your child's education? Your goals will determine your investment horizon and risk tolerance, which are crucial factors in fund selection.

2. Assess Your Risk Tolerance

Risk tolerance varies from person to person and depends on factors like age, income, financial responsibilities, and personal preferences. Generally, younger investors can afford to take more risks, while those nearing retirement might prefer more conservative investments.

3. Understand Fund Categories

Based on your goals and risk tolerance, you can narrow down the type of funds you should consider:

- For long-term goals (>7 years): Consider equity funds
- For medium-term goals (3-7 years): Look at hybrid funds or balanced funds
- For short-term goals (<3 years): Debt funds or liquid funds may be more suitable

4. Research Fund Performance

While past performance doesn't guarantee future results, it can provide insights into a fund's consistency and risk-adjusted returns. Look at the fund's performance over different time periods (1-year, 3-year, 5-year, and since inception) and compare it with its benchmark index and peer funds. Try to select funds which have been in the top one or two quartiles consistently over 3 and 5 year periods. Please note you should avoid the best performing fund over 1/3/5 years but rather look for consistency over the years.

5. Evaluate the Fund Manager and AMC

The expertise of the fund manager and the reputation of the Asset Management Company (AMC) are crucial factors. Look for fund managers with a good track record and AMCs known for their robust research capabilities and ethical practices. For a new investor its best to stick to the top 15 AMCs and especially in case of debt funds one should prefer to stick to AMCs where the sponsor in a large bank.

6. Check Fund Size and Age

While not definitive indicators, a fund's size and age can provide some insights:

- Larger funds may have more resources but could face challenges in maintaining high returns
- Older funds with consistent performance may indicate stability, but newer funds shouldn't be automatically discounted if they show promise.

When in doubt and if you prefer to be conservative, stick to larger and older funds.

7. Examine the Portfolio

Review the fund's portfolio to understand its holdings and sector allocation. This will give you an idea of the fund's diversification and alignment with your investment strategy. Study the portfolio to check the investing style and if it aligns with your own philosophy of investments. This is not an easy job and often it is here where you may need help of a professional SEBI registered advisor to guide you.

8. Consider Tax Implications

Different mutual funds have different tax treatments in India. For instance, equity-oriented funds held for more than one year are subject to long-term capital gains tax of 12.5% on gains exceeding ₹1 lakh. Understanding the tax implications can help you make more tax-efficient investment choices. These taxation numbers keep changing every budget so it's a good idea to review the tax treatment after the budget every year to check if anything has changed.

9. Use Online Tools and Ratings

Many financial websites and apps offer tools to compare and rate mutual funds. While these can be helpful, don't rely solely on ratings or star-based systems. Use them as a starting point for your research and to collect the data. Avoid using the rating for decision making.

10. Start with SIP, Monitor, and Rebalance

Consider starting your investment through Systematic Investment Plans (SIPs) to benefit from rupee cost averaging. Regularly monitor your investments and rebalance your portfolio as needed to maintain your desired asset allocation. If a fund is not doing well over one or two years don't be in a hurry to switch. Once selected after proper due diligence give a fund atleast 3 years to show their performance.

Common Mistakes to Avoid

1. Chasing past performance: High returns in the past don't guarantee future performance. Look for consistency rather than recency.
2. Ignoring costs: High expense ratios can significantly impact long-term returns. Look for lower cost funds but let it not prevent you from investing if another fund which has higher expense ratio but is more consistent.
3. Over-diversification: Investing in too many similar funds can dilute returns. The ideal number of funds is 5-6. Each fund owns on an average 50-60 stocks so 5-6 funds should provide ample diversification.
4. Frequent switching: Changing funds too often can lead to higher costs and missed opportunities. As mentioned above give each fund atleast 3 years.
5. Neglecting asset allocation: Your overall asset allocation should align with your risk tolerance and goals. The biggest mistake is picking the wrong category. For eg. If you need money in one year never pick an equity fund and if you don't need the money for ten years its not ideal to pick a debt fund.

Conclusion

Mutual funds are a great starting point for any new investor and a very well-regulated product.

Selecting the right mutual fund requires careful consideration of various factors, including your financial goals, risk tolerance, fund performance, and costs. By following this comprehensive guide and avoiding common pitfalls, you can build a robust mutual fund portfolio that aligns with your investment objectives.

Remember, investing in mutual funds involves market risks. It's always advisable to read all scheme-related documents carefully and consult with a financial advisor if needed. Regular review and rebalancing of your portfolio are key to successful long-term investing.

Key Features of e-Adjudication platform introduced by MCA under Companies Act



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The provisions relating to Adjudication of penalties is provided in section 454 of the Companies Act, 2013 and the Companies (Adjudication of Penalties) Rules, 2014. This article also covers the analysis of the recent amendment introduced by Ministry of Corporate Affairs (MCA) relating to e-adjudication of penalties.

Section 454 of the Companies Act, 2013 ('the Companies Act') relates to 'Adjudication of Penalties'. According to the said provisions, the adjudicating officer may, by an order:

- (1) Impose the penalty on the company, the officer who is in default, or any other person, as the case may be, stating therein any non-compliance or default under the relevant provisions of this Act; and
- (2) Direct such company, or officer who is in default, or any other person, as the case may be, to rectify the default, wherever he considers fit.

Reasonable opportunity of being heard:

The adjudicating officer shall, before imposing any penalty, give a reasonable opportunity of being heard to:

- (1) Such company,
- (2) Officer who is in default or
- (3) Any other person.

Before adjudging penalty, the adjudicating officer shall issue a written notice in the specified manner, to the company, the officer who is in default or any other person, as the case may be, to show cause, within such period as may be specified in the notice (not being less than 15 days and more than 30 days from the date of service thereon), why the penalty should not be imposed on it or him.

Every notice issued by the Adjudicating Officer shall clearly indicate nature of non-compliance or default under Companies Act alleged to have been committed or made by such company, officer in default, or any other person, as the case may be and also draw attention to the relevant penal provisions of Companies Act and the maximum penalty which can be imposed on the company, and each of the officers in default, or the other person.

Reply to the Notice:

The reply to the notice of the Adjudicating Officer shall be filed in electronic mode only within the period as specified in the notice.

However, the adjudicating officer may, for reasons to be recorded in writing, extend the period by a further period not exceeding 15 days, if the company or officer in default or any person as the case may be, satisfies the Adjudicating Officer that it or he has sufficient cause for not responding to the notice within the stipulated period or Adjudicating Officer has reason to believe that the company or the officer or the person has received a shorter notice and did not have reasonable time to give reply.

Adjudication Platform.

According to the amendment introduced (i.e. Companies (Adjudication of Penalties) Amendment Rules, 2024), all proceedings shall take place in electronic mode only through the e-adjudication platform developed by the Central Government for this purpose. Such proceedings include:

- (1) Issue of notices,
- (2) Filing replies or documents, evidences,
- (3) Holding of hearing,
- (4) Attendance of witnesses,
- (5) Passing of orders
- (6) Payment of penalty (of adjudicating officer and Regional Director under these rules).

This amendment was introduced with effect from September 16, 2024 .

The amendment further provides that in case the e-mail address of any person to whom a notice or summons is required to be issued is not available, the Adjudicating Officer shall send the notice by post at the last intimated address or address available in the records and the officer shall preserve a copy of such notice in the electronic record in the e-adjudication platform. In case no address of the person concerned is available, the notice shall be placed on the e-adjudication platform.

Appeal against the order passed by Adjudicating Officer:

Any person aggrieved by an order made by the Adjudicating Officer may prefer an appeal to the Regional Director having jurisdiction in the matter. Such appeal shall be filed within 60 days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person and shall be in such form, manner and be accompanied by such fees as may be prescribed.

The Regional Director may, after giving the parties to the appeal an opportunity of being heard, pass such order as he thinks fit:

- (1) Confirming the order appealed against,
- (2) Modifying the order appealed against or
- (3) Setting aside the order appealed against.

Every appeal against the order of the adjudicating officer shall be filed in writing with the Regional Director having jurisdiction in the matter within a period of 60 days from the date of receipt of the order of adjudicating officer by the aggrieved party, in Form ADJ setting forth the grounds of appeal.

The Form shall be accompanied by a certified copy of the order against which the appeal is sought.

Where the party is represented by an authorised representative, a copy of such authorisation in favour of the representative and the written consent thereto by such Authorised Representative shall also be appended to the appeal. An appeal in Form ADJ shall not seek relief(s) therein against more than one order unless the reliefs prayed for are consequential. Every appeal filed shall be accompanied by such fee as provided in the Companies (Registration Offices and Fees) Rules, 2014.

E – Adjudication:

The Adjudication platform has been introduced by MCA w.e.f. September 16, 2024 wherein all the proceedings before the Adjudication Officer and Regional Director (on appeal) shall take place in electronic mode only. Such e-adjudication process shall be through the platform developed by the Central Government for this purpose. In this significant development, the MCA has also notified the Form ADJ, which is a Memorandum of Appeal before the Regional Director. The party shall mention the following in the Form ADJ:

- (1) Order ID number of the adjudication order,
- (2) Details of the company,
- (3) Details of individual appellant, if any,
- (4) Details of Respondent,
- (5) Details of Adjudication Order,
- (6) Penalty details,
- (7) Appeal details, which includes Synopsis of the case, grounds of appeal, relief sought, interim relief sought, if any, date of issuing certified copy of the order, due date by which appeal shall be filed, whether any delay in filing the appeal along with reasons (if any), jurisdiction of Regional Director, Details of Authorised Representatives, etc.

The amendments or the said changes are significant as the proceedings of adjudication of penalties move towards the faceless regime, wherein the parties can communicate with each other only through adjudication platform. By this step the Government has been further empowered to issue notices and seek replies on the non-compliances under the Companies Act, 2013. The Government seems to be taking significant steps for ensuring timely and adequate compliance of the provisions of the Companies Act, 2013 and the Rules made thereunder. All this has been part of decriminalising the offences under the Companies Act, 2013.

GST on Rent

GST on Rent updated with Notification - CA. Chintamani Mahadeo Kale, Ratnagiri

Under GST Law, renting of immovable property is treated as a service. [Schedule II Clause 5(a)] There have been some amendments with respect of charging of GST on renting of immovable property.

Normally service by way of renting of residential property which is used as residence is exempt from tax as per Item No. 12 of Notification No. 12/2017 – Central Tax (Rate) dated 28 June 2017. However, service by way of renting of commercial property is liable to tax.

Generally GST is paid under Forward Charge with means that the supplier of service (owner in case of rent) will collect the tax from the recipient of the service (tenant).

However, as per Notification No. 05/2022 dated 13 July 2022, Service by way of renting of residential dwelling to a registered person is brought under Reverse Charge Mechanism with effect from 18 July 2022. In other words, a registered person (tenant) paying rent for residential dwelling will have to pay GST tax

In recent GST Council Meeting dated 09th September 2024, it was proposed to bring renting of commercial property by unregistered person to a registered person under Reverse Charge Mechanism. Notification No. 09/2024 Central Tax (Rate) dated 08th October 2024 has been issued to give effect to this change with effect from 10th October 2024.

Renting of commercial property is a service liable to tax. If the supplier (owner) is registered, he will collect tax from the tenant. But if he is unregistered and the tenant is registered, the tenant will have to pay tax under reverse charge. Effect of these is summarized as follows :-

Sr. No.	Nature of Property	Supplier (owner)	Recipient (tenant)	Whether taxable or exempt	How tax is collected	Condition
1	Residential	Registered	Unregistered	Exempt	----	Used for residence by the tenant
2	Residential	Registered or Unregistered	Registered	Taxable Exempt	Reverse Charge (tenant will pay tax) -----	---- It is used for residential use by a GST Registered proprietor
3	Residential	Unregistered	Unregistered	Exempt	Tax is not applicable as both the parties not covered by GST	----
4	Commercial	Registered	Registered or Unregistered	Taxable	Forward Charge (owner will pay tax)	-
5	Commercial	Unregistered	Registered	Taxable	Reverse Charge (tenant will pay tax)	----
6	Commercial	Unregistered	Unregistered	Exempt	Tax is not applicable as both the parties not covered by GST	----
7	Rooms, shops etc located in the precincts of a religious place	Registered person (being charitable trust or religious trust owning and managing a religious place meant for public)	Registered or Unregistered	Exempt	----	Rent of rooms is less than Rs. 1000 per day Rent of shops is less than Rs. 10000 per month Rent of community hall or any open area is less than Rs. 10000 per day

Practical Issues

1. It is important to note that when tax is to be paid under reverse charge mechanism, the recipient has to issue self invoice. When payment is made, payment voucher is required to be issued. Details of these documents are to be furnished in Table 13 of Form GSTR-1.

2. If the premises from which the business is carried on are not owned by the registered person, following situations will arise –

a) The owner / landlord is registered under GST and collects GST on rent (issues tax invoice for rent) – The tenant is paying tax to the supplier. Therefore no further action required.

b) The owner / landlord is not registered under GST and does not collect GST on rent (he does not issue tax invoice) – the tenant will have to pay tax under reverse charge.

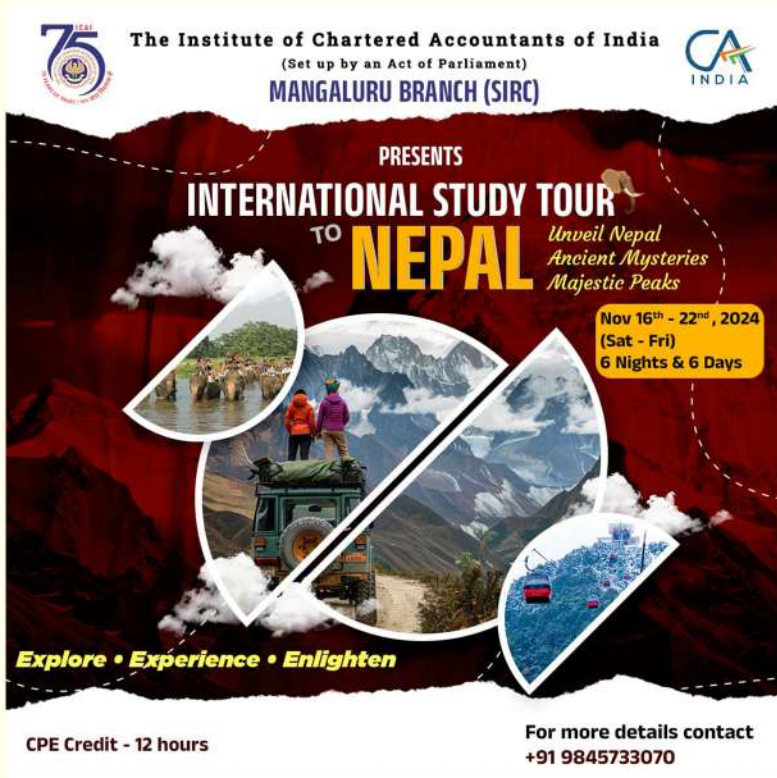
c) The premises that are rented are residential dwellings – the tenant will have to pay tax under reverse charge (from 18 July 2022) irrespective of the fact that the owner/landlord is registered under GST or not.

d) If the premises are commercial premises and owned by a related person of the tenant, this will be covered by Schedule I and even if no rent is paid to such related person, tax liability will arise under reverse charge, if the owner is not registered under GST.

3. Renting of property is treated as a continuous service. Time of supply for services covered by Reverse Charge is earliest of 1) date of payment as per books of account or date of debit in bank account, whichever is earlier and 2) date immediately following sixty days from the date of issue of invoice or similar other document.

4. Input Credit for tax paid on rent will be available subject to eligibility. In my opinion, restaurants, banks and financial institutions, persons having major part of outward supply in the form of exempt goods / services, will be affected.

5. Registered persons opting for composition scheme are not eligible to claim Input Tax Credit.



The month gone by – September 2024

Half Day Seminar

The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
MANGALURU BRANCH (SIRC)
is organizing

HALF DAY SEMINAR

Resource Person

CA. Jomon K. George
Past Chairman - SIRC of ICAI
Managing Partner - JVN Associates
Chartered Accountants

TUESDAY
3rd SEPTEMBER 2024
4.00 p.m. - 7.00 p.m.
ICAI Bhawan
Mahendra Arcade
Mangaluru

Topic: Company Audit Essentials & Accounting Standards

Delegate Fees
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