E-SAMAACHAR

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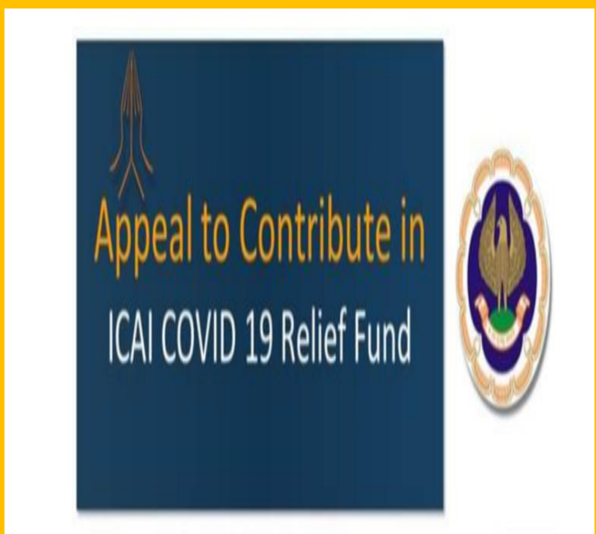
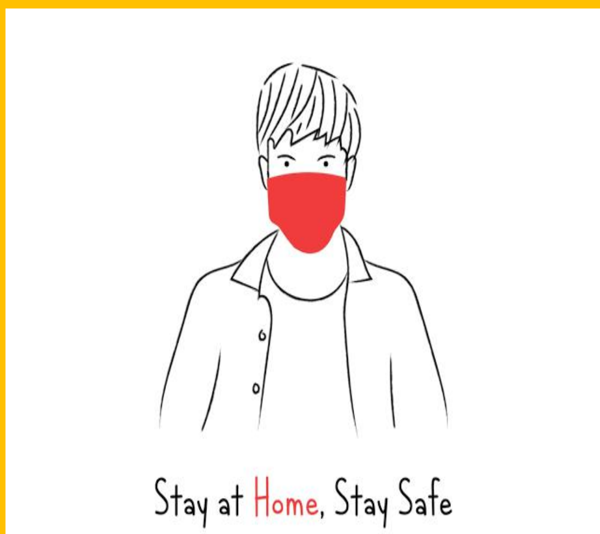
Monthly Newsletter

Edition-April 2020

Mangaluru Branch of SIRC OF ICAI





Mangaluru Branch of SIRC of ICAI | ICAI Bhawan | Padil | Mangalore – 575007

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The Colour of this edition is Green dedicating it to the Health care workers who are working tirelessly to protect us.

Chairman's Message

Dear Members,

Wish you all happy & Successful financial Year 2020-21. I wish all the lady members Happy International Women's Day. We are proud to celebrate International Women's Day in "ICAI Bhawan", Mahendra Arcade on 8th March,2020. Dr.(Mrs) Seema Shenoy, Director, SDM Institute of management Studies & Mrs. Giselle Mehta, (Ex-IRS), a leading lady CEO and Entrepreneur of Mangalore city were the Chief Guests. On this occassion, CA Smt. Shyamala Shenoy , our Past Chairperson and CA Smt. Srividya, Industry member from Infosys were also on the dais. Kum. Vrinda Konnar, CA student was honoured for her accomplishments in the field of arts. The day was memorable due to the active involvement of Lady Members.

As the old financial year ends and a new one begins, perhaps for the first time in our professional experience, we are away from office and managing things from home. Usually this being a very hectic time, this year due to the effects of the pandemic – Covid 19, we will have to use our professional skills, technology and analytical review procedures much more than what we would have used earlier in our professional work. Several year end activities like physical stock verification, cash checking for corporate and large clients etc are being lined up at the end of the year. However, this has been disrupted in the current year and we will have to apply other techniques in current year to obtain reasonable satisfaction while discharging our attest functions.

ICAI through its electronic platform and webinars has been sharing knowledge widely for the members. At this time, we can make the maximum use of various webcasts and other information that has been made available to us to keep our knowledge and information updated. We can also use the resources that are available online at the ICAI website for our reference from time to time. In this way we can all make best use of the time that we have now

Another fall out of this pandemic is the economic crisis that may emerge at the end. As of now, it is unclear as to how long the effect of pandemic may last and this has resulted in economic losses for many sectors like tourism, hospitality, export and import, MSME and other businesses . Human life and health always has higher priority over economic costs.

So the regulatory authorities have enforced certain measures like lockdown and we may expect certain other measures also even after lifting of the lockdown . To minimize the economic adversities, Government Of India and RBI have announced several measures like deferment/moratorium of bank loans, extension of due dates, relaxation in date of payment for taxes etc. Businesses may require our assistance to make informed decisions on these matters. Professionals will have to provide their skill and expertise in helping businesses tide over the crisis but care should be taken to see that we do not overstep the limits of our professional assignment nor should we be involved in any decisions or consultations that come in the way of discharging our duties as statutory auditors for various enterprises.

The Direct taxes dispute resolution scheme – Vivad Se Vishwas has been launched by the Government in the right earnest. Our clients may have several doubts and may need information to make the right choice about the scheme. I am sure that my professional colleagues will give the right information to the clients in this regard. Mangalore Branch of ICAI has also held a seminar on this matter where the Honourable Principal Commissioner of Income Tax, Mangalore/Panaji and several other senior officials of the Income Tax Department from Mangalore and Udupi were present and have explained the scheme in detail.

Technology has been changing the way we do work or business in a big way. It has even proliferated into our day to day lives in the form of various apps of e-commerce, messaging platforms like whatsapp etc. It has made some of the things much easier for us and has also been source of information and knowledge sharing. As noticed during this period of lockdown, we now need the use of technology more than before as we are working from home. We may also have to use newer aspects of technology like cloud computing and teleconferencing as it would make the resources available irrespective of the place from where we would be working. Of course we will require some amount of training at the beginning but this may provide a lot of new opportunities for us to even provide services in future to a cross section of clients located across different geographies. The confidentiality of data is also our responsibility. While we migrate to use of new technologies and working methods we need to ensure that confidentiality of data is not comprised at all.

As this new financial year begins with bank audit we need to keep ourselves updated about the IRAC norms and other aspects related to advances and general aspects of audit. There may be areas which call for lot of professional judgments. Our profession is coming under more public scrutiny as citizens expect us to give early warning signs and bring out the correct aspects in our reports. We have to be watchful and discharge our duties to the best of our abilities so that the respect for our profession remains high in the minds of all stakeholders. We have to honour our commitments with integrity.

As I end this session on professional matters I also take this opportunity to request all of you to contribute to the ICAI Covid Relief fund set up by the ICAI for the poor and weaker section of the society who need most help during this period of lockdown. We can also contribute in our way to the persons needing help around us by associating ourselves as volunteers or being part of any charitable institution which is engaged in providing help to the society.

|| जान है तो जहान है ||

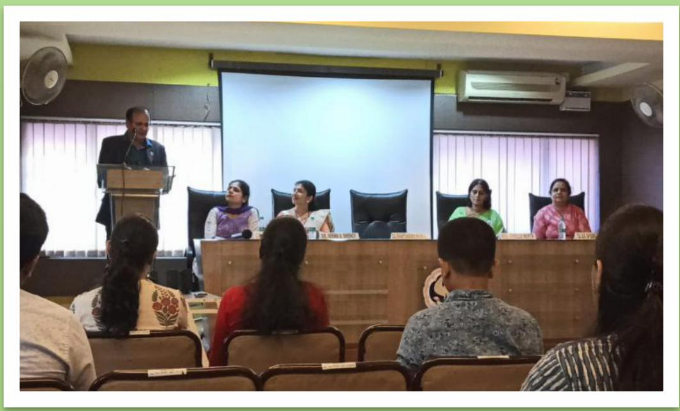
"Stay Home, Stay Safe, Stay Enriched"

With best regards
CA S S Nayak
Chairman

Branch Activities March 2020

Sl No	Date	Activities at Branch for Members	CPE Hours
1	08.03.2020	Women's Day Celebration Topic: **Towards Gender Equality – Sustainable development Goal 5** Resource Person: Mrs Giselle Mehta, Ex-IRS Topic: **Leadership during Complexity and Change** Resource Person: CA Srividya, SAP Finance & Controlling Lead, Infosys Ltd, Mangalore	CPE Credit: 3 Hours
2	13.03.2020	One Day Seminar On Recent Developments in Companies Act and Income Tax Technical sessions: Topic: **Companies Audit Report (CARO) -2020** Speaker : CA. K Gururaj Acharya, Bengaluru Topic: **Latest Changes in Union Budget pertaining to various provisions under the Income Tax Act including Charitable Trusts** Speaker : CA Naveen Khariwal, Bengaluru Topic: **"Vivad Se Vishwas - 2020"** Inaugural Session by Smt Amrapalli Das, IRS , Principal Commissioner Of Income Tax, Mangaluru & Panaji Speaker: Sri Nithan Raj T N,IRS, Asst. Commissioner of Income Tax, Mangaluru Panel Discussion: **"Vivad Se Vishwas - 2020"** Panelists: 1. Dr. S Palani Kumar, IRS, Addl. Commissioner of Income Tax, Range -2, Mangaluru 2. Sri S Srinivas, IRS, Deputy Commissioner of Income Tax, Udupi 3.Sri Vincent Peter Colaco, IRS, Asst. Commissioner of Income Tax, Mangalore 4. Sri Nithan Raj T N,IRS, Asst. Commissioner of Income Tax, Mangaluru 5. CA Naveen Khariwal, Bengaluru Moderator: CA Pradeep Jogi Chairman, ICAI, Udupi	CPE Credit : 6 Hours (Confirmation Awaited)

Branch Activities Gallery March 2020



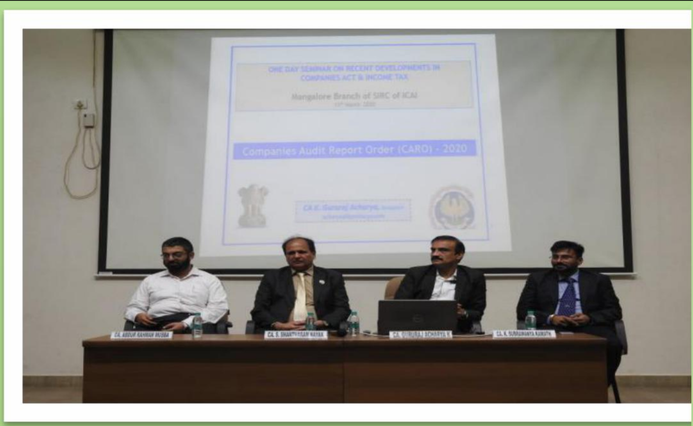
International Women's Day Celebrations at ICAI Bhawan, Mahendra Arcade on March 8th, 2020

Felicitation of Ms. Vrinda Konnar,CA Student for exemplary achievements in the field of arts

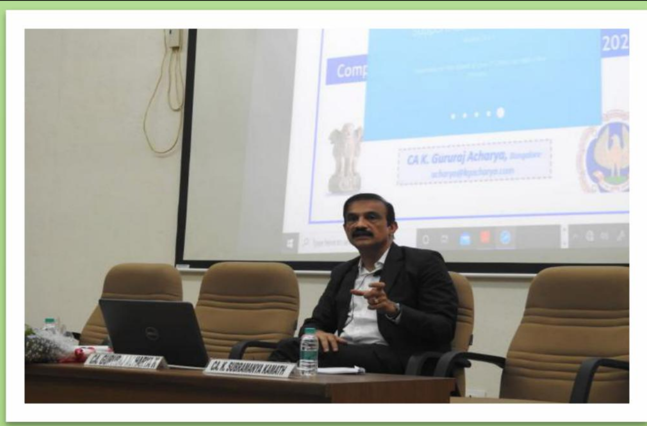
Mrs Giselle Mehta (Ex IRS) addressing on Towards Gender Equality – Sustainable development Goal 5

CA Srividya, SAP Finance & Controlling Lead, Infosys Ltd, Mangalore addressing on Leadership during Complexity and Change.

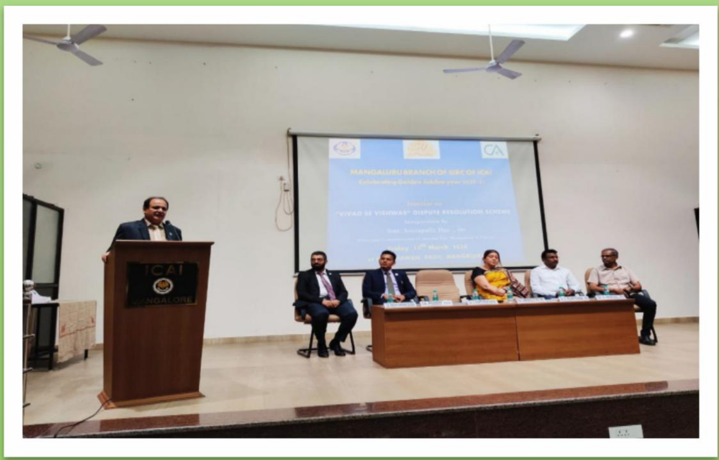
Inaugural Address by Dr Seema S Shenoy, Dorector, SDM Pg Centre, Mangalore



Seminar on CARO by CA K Gururaj Acharya Bengaluru



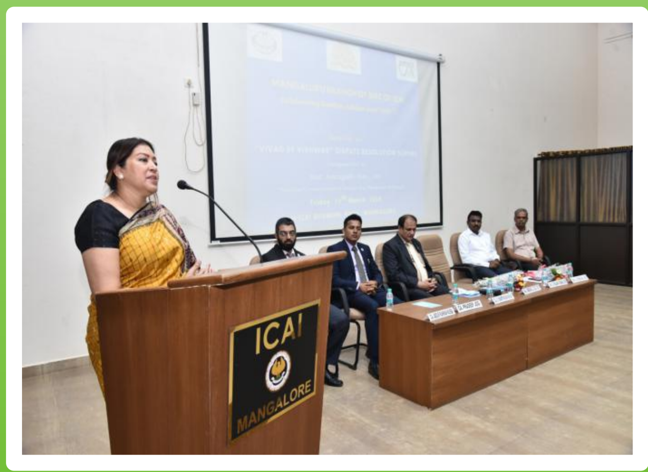
CA K Gururaj Acharya addressing the gathering on CARO 2020



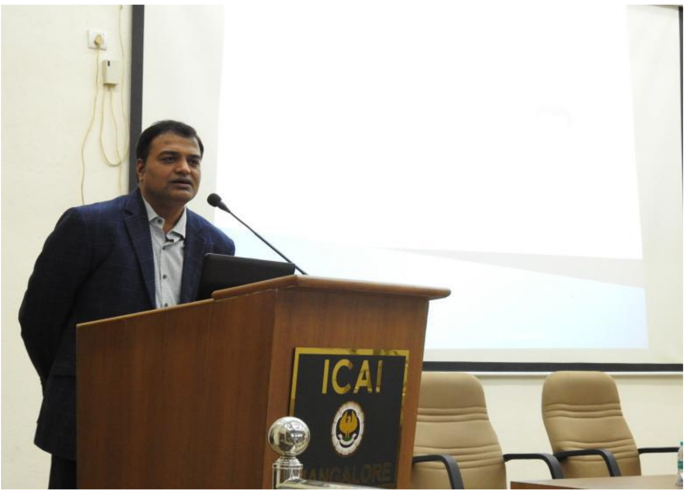
Chairman Address in Inaugural session of Vivad Se Vishwas Dispute Resolution Scheme

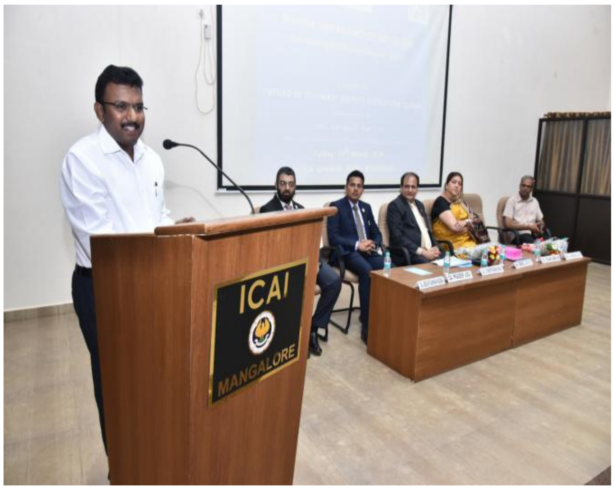
Audience at the Seminar

Lighting the Lamp by Smt Amrapalli Das, PCIT, Mangalore/Panaji



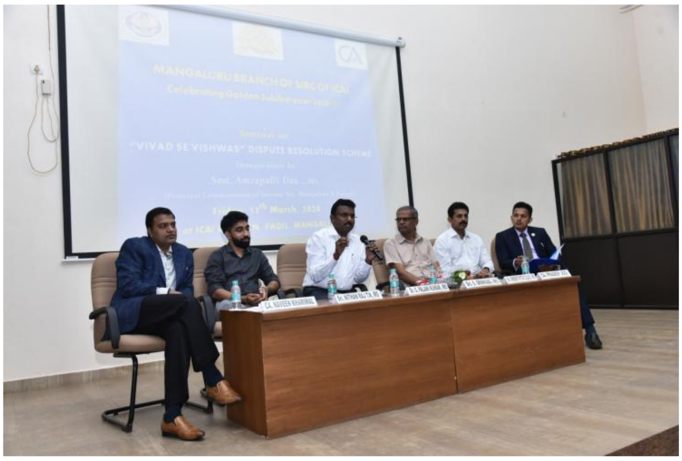
Smt Amrapalli Das, PCIT, Mangalore/Panaji addressing the elite audience at Vivad Se Vishwas Seminar





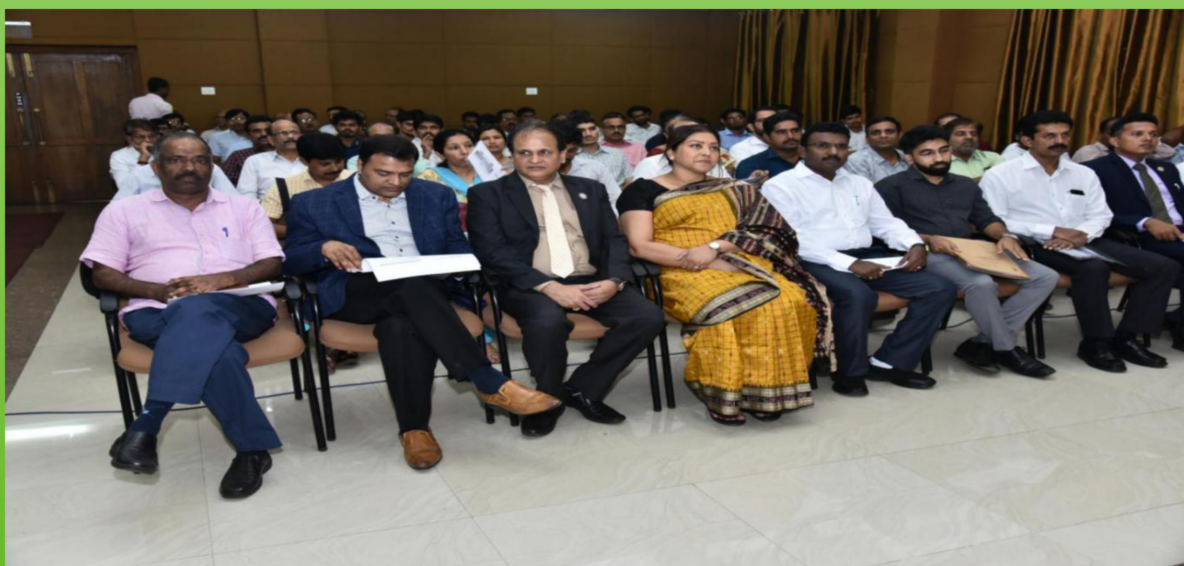
Session by CA Naveen Khariwal on Latest Changes in Union Budget pertaining to various provisions under the Income Tax Act including Charitable Trusts

Address by Dr. S Palani Kumar, IRS, Addl. Commissioner of Income Tax, Range -2, Mangaluru



Panel Discussion on Vivad Se Vishwas Scheme

Audience at the Vivad Se Vishwas Scheme Session



Dignitaries from the Income Tax Department along with Mangaluru Branch Chairman, C A S S Nayak

ARTIFICIAL INTELLIGENCE IN FINANCE AND BANKING

Artificial Intelligence – An Overview

"Artificial Intelligence" was a continued topic of discussion from late 1950's however until recently it could never make its foray into real life applications. With the advent of new generation technologies such as Big data analytics, Cloud Computing, Speech & Image recognition; we are witnessing a higher adoption and integration of AI in new emerging business models.

Artificial Intelligence can be explained as an area of computer science that emphasizes the creation of intelligent machines that sense, comprehend, reason and act to emulate human behavior.

Factors Driving increased AI Adoption in Finance & Banking Industry

- A Generation of Consumers currently using electronic modes of banking services.
- Open Banking enables the bank to securely access financial information of the consumers.
- Digital transformation through E- Commerce (Amazon; Flipkart) Payment service providers (PayPal, Paytm).
- Industry needs for extensive automation with intelligent processes to stay competitive and profitable.

AI – Foundation – Data Analytics

Machines are more competent at processing and deducing patterns from big data, including text, images and speech, from various sources hence it is more applicable for Banking and Finance industry which is both data and process-heavy.

Illustrations;

- Banks can now access several millions of transactions from varied data sources to identify suspicious activity and fraud.
- In addition to Financial information banks are augmenting this with consumer's behavior to personalize customer communication and offers.
- Expansion of data sources to assess customers' creditworthiness based on varied data, including past behavior.

AI – Building Blocks

The following 6 key technologies are the building blocks for AI powered solutions;

Machine Learning	Deep Learning	Natural Language Processing	Speech Recoginition	Natural Language Generation	Robotics

Illustrations

Machine Learning has improved the accuracy of Fraud detection in Customers spanning from Anti Money Laundering (AML), Know Your Client (KYC), fraud detection to regulatory compliance.

Banks are using ***Natural Language Processing*** and ***Speech Recognition*** which can understand language the way humans speak and is endowed with learning ability to reply thousands of customer queries, and provide assistance to customers to fulfil banking transactions in real-time

Visual Recognition is used under the new RBI rules for KYC thereby banks can carry out a seamless, secure, real-time and consent based audio-visual interaction with the customer. During the recording the Bank authenticates the PAN card through Customer display, captures the photograph and performs Geo tagging to identify the location.

Leading Private bank in India is currently using ***Robotics*** to perform more than 1 million banking transactions per working day; They use robotics to perform varied activities such as data entry, data validation, automated formatting, multi-format message creation, reconciliations and currency exchange rate processing

Key Challenges for AI Adoption in Banking & Finance Industry

- Lack of adequate Infrastructure and In house skills to implement and manage AI
- Safety and Data privacy concerns
- Resistance from Management over fear of job loss and dilution of control

By
CA Sri Vidya
Senior Consultant
Infosys Ltd

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.

GST… Interest, Payment!

One of the many sought after recommendations made in the 39th GST Council meeting at New Delhi held on the 14th of March, 2020 as a measure for trade facilitation is as follows:

"Interest for delay in payment of GST to be charged on the ***net cash tax liability*** *w.e.f. 01.07.2017 (Law to be amended retrospectively)."*

In the recent days, GST taxpayers are issued with letters seeking recovery of interest under Section 50 of the CGST Act, 2017 (hereinafter referred to as the 'Act'). Although the matter appears to be sorted to a certain extent with respect to – **No charge of interest on the amount of Input Tax Credit availed and utilized by assessees**, a question still remains unanswered – **'What is net cash liability?'**

Let us take an instance where the assessee has an aggregate output tax liability of Rs. 2,00,000/- and an aggregate input tax credit of Rs. 25,000/- thereby arriving at a net tax liability of Rs. 1,75,000/- after availing and utilising input tax credit. The assessee remits the balance amount onto the Electronic Cash Ledger on the 15th of the month i.e. 5 days ahead of due date of filing Form GSTR 3B, but delays filing Form GSTR 3B by 10 days i.e. on the 30th of the month.

On what value should the assessee remit interest? Is it on –

1. Rs 2,00,000 output tax liability that was settled on filing GSTR3B?
2. Rs 1,75,000 (or 1,25,000?) net cash liability that was settled on filing GSTR 3B?
3. Rs NIL being Net cash liability alreadysettled on the 15th of the month through remittance made to Electronic Cash Ledger ahead of due date of filing GSTR 3B?

The letter served by the Department provides an 'easy' computation mechanism for interest for a period of 10 days assuming date of filing of Form GSTR3B as 'date of payment' ignoring the fact that credit has been made to the Electronic Cash Ledger prior to the due date in the form of Bank remittances to the respective Central & State Government.

Section 50(1) of the CGST Act prior to insertion of the proviso vide ***Finance Act (No. 2) 2019*** read as follows:

SECTION 50. Interest on delayed payment of tax. — (1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.

Section 50(1) of the Act which came into force from 01st July 2017 vide Notification 9/2017-Central Tax dt. 28.06.2017provides for payment of interest on the failure of a person to pay the tax within the due date prescribed for filing the return under section 39(7) of the said Act. The rate of interest in terms of Section 50(1) was notified by Notification 13/2017-Central Tax dt. 28.06.2017. The parallel notifications under the KGST Act are Notification 9/2017 dt. 29.06.2017 and Notification 13/2017-State Tax (Karnataka) dt. 29.06.2017 respectively.

A proviso was inserted vide Finance Act (No. 2) 2019 stating that interest would be applicable only on that portion of the tax that is paid by debiting the electronic cash ledger of the taxable person. **The said insertion is yet come into force since the Central Government has not yet issued the notification in this regard**:

Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.

The newly inserted proviso explicitly states that the interest would be computed only on that portion of the tax which is paid by debiting the electronic cash ledger of the taxable person i.e. only to the extent the taxable person was liable to make payment by Cash (or Bank) for the corresponding tax period i.e., **Net Cash Liability** and would not impose interest on the portion of credit utilised by the taxable person while filing the GST returns.

Let us now read Section 49 of the Act the extract of which is provided below:

"CHAPTER 10 - PAYMENT OF TAX

49. (1) Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed.

….

(3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

The electronic ledgers maintained on the common portal are as follows:

(i) Electronic Liability ledger (Rule 85(1) of CGST Rules) : This is a ledger (in Form PMT-01) recording the liabilities due to the Government with primary heads corresponding to CGST, KGST & IGST Act and sub-heads for each of these types of taxes containing 'tax', 'interest' 'penalty', 'fee' and 'others'.

(ii) Electronic Credit Ledger (Rule 86(1) of CGST Rules) : This is a ledger (in Form PMT-02) recording the credit of input tax due to the taxable persons with brought forward balances and similar heads such as those applicable to the electronic liability ledger.

(iii) Electronic Cash Ledger (Rule 87(1) of CGST Rules) : This is a ledger (in Form PMT-05) recording the cash payments made to the Government with brought forward balances and similar heads such as those applicable to the electronic liability ledger.

When as assessee remits an amount onto the Electronic Cash Ledger, it is done with an intention to avoid delay in payment of taxes due to the Government. Also, there is no possibility other than by way of submitting a refund application to re-credit the amount into the bank account of the assessee. If such a possibility existed, then the contention of the Department that the interest is liable to be paid on the cash portion until the GST return is filed would have been valid. When a refund application is necessary to be filed, it implies that the amount is in the credit of the Government.

The debit/ credit entries which are passed in the Electronic Cash/ Credit ledgers are merely manner of recording the adjustment for the taxes and should not be construed as the date of 'payment'. The date of payment would in fact be construed as the date on which the bank payment via a bank remittance takes place into the electronic cash ledger.

Going by the above arguments, the interest to be charged in the above example is NIL since Alternative 3 would be correctly reflecting the spirit of law.

When the provisions of interest in any tax statute are compensatory in nature, should the Government levy interest only on the portion of tax that remains unpaid? Or should interest be levied on tax already availed, utilised and paid but remaining pending appropriation in a return that was filed beyond a due date?

By CA Daphny Stella D'souza

Practicing CA , Mangaluru

RESIDENTIAL STATUS OF AN INDIVIDUAL – POST AMENDEMENT TO FINANCE ACT, 2020 – AN OVERVIEW

After the amendments in Budget 2020 and clarificatory post budget press meet by the Finance Ministry, Non-Resident Indian Citizens were worried about their liability to income tax in India on their global income, as there were certain modifications in residential status of individuals. After numerous representations received from various stake holders, The Finance Act has been passed in The Gazette of India as on 27th March 2020. Broadly speaking, the said amendments will be effective from FY 2020-2021, and affects only those individuals who is a Citizen of India or a Person of Indian Origin (PIO) whose total taxable income in India from Indian sources will exceed Rs 15 lakhs during a year.

At this juncture, it is important to understand certain concepts, which will have a bearing on understanding of residential status and taxation of incomes in their hands.

Concepts of Nature of Incomes

1. **Income from Indian Sources** – Income earned in India will include Salary income from employment in India, Rental income from property in India, business/profession income earned in India, Capital Gains from sale of properties in India, Interest/Dividend and other incomes earned in India
2. **Income from Indian business/profession earned outside India –** It will include, Income earned outside India from business controlled from India or profession set-up in India
3. **Income from foreign sources –** Income earned outside India includes, Salary income from employment outside India, rental income from property held outside India, Income earned outside India from business controlled from outside India or profession set-up outside India, Capital Gains from sale of properties held outside India, Interest/Dividend and other incomes earned outside India.

Concepts of Taxation of income in the hands of Individuals in India

In India, there are primarily three types of taxable Individuals and in their hands the following nature of incomes will be taxable.

1. **Residents and Ordinarily Residents (ROR) –** In the hands of ROR, all these types of income as stated above will be taxable in India, i.e. Income from Indian Sources, Income from Indian business/profession earned outside India and Income from foreign sources.
2. **Residents but Not Ordinarily Resident (RNOR) –** In the hands of RNOR only two types of income i.e. Income from Indian Sources and Income from Indian business/profession earned outside India, will be taxable in India.

3. **Non-Residents in India (NRI) –** In the hands of NRI only income from Indian sources will be taxable.

Before going ahead with illustrations to understand the residential status and amended provisions thereon, it is better to make clear certain facts.

- The basic condition of determination of residentials status in India will remain the same as it was for the earlier years, i.e. one who stays in India for 182 days or more during a year, will become resident in India. Otherwise he will be a NRI.
- The amended provisions will be applicable only to those individuals who are Indian Citizens or PIO's and have total taxable income in India in excess of Rs 15 lakhs per year, which has been earned from Indian Sources and/or Income from Indian business/profession earned outside India.
- Hence, those Indian Citizens or PIO's, who do not have aggregate taxable income in India in excess of 15 lakhs, earned from Indian sources and/or income from Indian business/profession earned outside India, need not be bothered about the amendments that have taken place by The Finance Act, 2020, effective from FY 2020-2021.
- Further, it is to be noted that, all the NRI's are liable to tax on their Income from Indian Sources, even when their total taxable income does not exceed Rs 15 lakhs per year. They will have to file their return of income in India as they would have been normally complying in the earlier years.

As stated above, the amendments in Finance Act, 2020 will have effect only on two categories of Individuals, whose aggregate income from Indian sources and income from Indian business/profession earned outside India, exceeds Rs 15 lakhs per year. The two categories are as follows

1. Indian Citizen or PIO, who, being outside India, comes on a visit to India and has stayed in India during the FY for 120 days or more but less than 182 days + has stayed in India for 365 days or more during 4 previous FY.
2. Indian Citizen, who is a NRI as per normal provision and he is also not a tax resident in any other country/jurisdiction during that FY. (Concept of deemed resident)

Furthermore, even when the above mentioned two categories of people become resident in India, they will only be RNOR and they will be liable to pay tax in India only on incomes from Indian Sources and income from Indian business/profession earned outside India. They need not pay tax on income earned by them from foreign sources as explained above. Necessary amendments in this respect also has been made in The Finance Act, 2020.

Illustrations to understand the concept of Residential Status and Taxation of Income

Illustration 1

Q 1: An Indian Citizen leaves India for the purpose of employment/as a member of crew of Indian ship, after a stay in India of 180 days during the previous year 2020-21. He has a total income of Rs 20 lakhs from Indian sources, Rs 10 lakhs income from Indian business/profession earned outside India and Rs 40 lakhs income from foreign sources.

Ans 1a: If, the said person is a **tax resident** of a foreign country as per the law prevailing in that country for FY 2020-21, he will be **NRI.** His taxable income in India will be Rs 20 lakhs earned from Indian sources.

Reason: He has stayed in India for a period less than 182 days. Further, as he is a tax resident of a foreign country, the deemed resident provision will also be not applicable.

Ans 1b: If, the said person is **not a tax resident** of a foreign country as per the law prevailing in that country for FY 2020-21, he will be **RNOR.** His taxable income in India will be Rs 30 lakhs earned from Indian sources and income from Indian business/profession earned outside India.

Reason: As the said person is not a tax resident in any foreign country, he will be covered by the amended deemed resident concept. As his income from Indian sources and income from Indian business/profession earned outside India exceeds Rs 15 lakhs, he will be a deemed resident and **RNOR.**

Note: It has to be noted that, there is a significant difference between the words "for the purpose of employment" and "in continuation of employment". If a person is leaving India with a fresh appointment letter to join a new job, then it will be considered as "for the purpose of employment" and only to those persons the said clause will be applicable.

Illustration 2

Q 2: An Indian Citizen leaves India for the purpose of employment/as a member of crew of Indian ship, after a stay in India of 180 days during the previous year 2020-21. He is not a tax resident of a foreign country as per the law prevailing in that country. He has a total income of Rs 10 lakhs from Indian sources, Rs 2 lakhs income from Indian business/profession earned outside India and Rs 40 lakhs income from foreign sources.

Ans: He will be a **NRI.** His taxable income in India will be Rs 10 lakhs earned from Indian sources.

Reason: He has stayed in India for a period less than 182 days. Further, even though he is not a tax resident of a foreign country, as his income from Indian sources and income from Indian business/profession earned outside India is only Rs 12 lakhs (does not exceed 15 lakhs), he will not be covered by deemed resident provision also.

Illustration 3

Q: An Indian Citizen or PIO, who, being outside India, comes on visit and stays in India for 180 days during the previous year 2020-21. He has stayed in India for a total period of 350 days during the four immediately preceding previous year (i.e 2019-20, 2018-19, 2017-18, 2016-17). He has a total income of Rs 10 lakhs from Indian sources, Rs 2 lakhs income from Indian business/profession earned outside India and Rs 40 lakhs income from foreign sources.

Ans 3a: Indian Citizen will be a **NRI.** His taxable income in India will be Rs 10 lakhs earned from Indian sources.

Reason: He has stayed in India for a period less than 182 days. The amended provisions including the deemed resident provision will not be applicable to him as his total taxable income from Indian sources and income from Indian business/profession earned outside India is only Rs 12 lakhs, which is less than 15 lakhs.

Ans 3b: PIO will be a **NRI.** His taxable income in India will be Rs 10 lakhs earned from Indian sources.

Reason: He has stayed in India for a period less than 182 days. The amended provisions including the deemed resident provision will not be applicable to him as his total taxable income from Indian sources and income from Indian business/profession earned outside India is only Rs 12 lakhs, which is less than 15 lakhs. Further, the amendment regarding deemed resident will not be applicable to PIO irrespective of his total taxable income in India and residential status in foreign country.

Illustration 4

Q 4: An Indian Citizen or PIO, who, being outside India, comes on visit and stays in India for 110 days during the previous year 2020-21. He has stayed in India for a total period of 450 days during the four immediately preceding previous year (i.e 2019-20, 2018-19, 2017-18, 2016-17). He has a total income of Rs 10 lakhs from Indian sources, Rs 7 lakhs income from Indian business/profession earned outside India and Rs 40 lakhs income from foreign sources.

Ans 4a: PIO will be **NRI.** His taxable income in India will be Rs 10 lakhs earned from Indian sources.

Ans 4b: If, the said Indian Citizen is a **tax resident** of a foreign country as per the law prevailing in that country for FY 2020-21, he will be a **NRI.** His taxable income in India will be Rs 10 lakhs earned from Indian sources.

Reason: The amended provisions will be applicable to Indian Citizen or PIO, as his total taxable income from Indian sources and income from Indian business/profession earned outside India is Rs 17 lakhs, which is in excess of Rs 15 lakhs. However, it has to be noted that, as he has stayed in India for less than 120 days during FY 2020-21, he will be a **NRI.** His stay in India in excess of 365 days during 4 previous years will not make any difference as in the relevant financial year his stay is less than 120 days. Further, as he is a tax resident of a foreign country, the deemed resident provision will also be not applicable. Furthermore, the amendment regarding deemed resident will not be applicable to PIO irrespective of his total taxable income in India and residential status in foreign country.

Ans 4c: If, the said Indian Citizen is **not a tax resident** of a foreign country as per the law prevailing in that country for FY 2020-21, he will be a **RNOR.** His taxable income in India will be Rs 17 lakhs earned from Indian sources and income from Indian business/profession earned outside India.

Reason: The amended provisions will be applicable to him as his total taxable income from Indian sources and income from Indian business/profession earned outside India is Rs 17 lakhs, which is in excess of Rs 15 lakhs. As he is **not a tax resident** of a foreign country, the deemed resident provision will be applicable, even though his stay in India is for less than 120 days during the FY 2020-21.

Illustration 5

Q: An Indian Citizen or PIO, who, being outside India, comes on visit and stays in India for 180 days during the previous year 2020-21. He has stayed in India for a total period of 350 days during the four immediately preceding previous year (i.e 2019-20, 2018-19, 2017-18, 2016-17).He has a total income of Rs 10 lakhs from Indian sources, Rs 7 lakhs income from Indian business/profession earned outside India and Rs 40 lakhs income from foreign sources.

Ans 5a: PIO will be **NRI.** His taxable income in India will be Rs 10 lakhs earned from Indian sources.

Ans 5b: If, the Indian Citizen is a **tax resident** of a foreign country as per the law prevailing in that country for FY 2020-21, he will be a **NRI.** His taxable income in India will be Rs 10 lakhs earned from Indian sources.

Reason: The amended provisions will be applicable to him as his total taxable income from Indian sources and income from Indian business/profession earned outside India is Rs 17 lakhs, which is in excess of Rs 15 lakhs. However, it has to be noted that, even though he has stayed in India for a period more than 120 days during the FY 2020-21, his stay in India during previous 4 years was only for 350 days, i.e. less than 365 days as prescribed. Therefore, as one of the additional condition of stay of 365 days during previous 4 years is not satisfied, he will be a **NRI.** Further, as he is a tax resident of a foreign country, the deemed resident provision will also be not applicable. Furthermore, the amendment regarding deemed resident will not be applicable to PIO irrespective of his total taxable income in India and residential status in foreign country.

Ans 5c: If, the Indian Citizen is **not a tax resident** of a foreign country as per the law prevailing in that country for FY 2020-21, he will be a **RNOR.** His taxable income in India will be Rs 17 lakhs earned from Indian sources and income from Indian business/profession earned outside India.

Reason: The amended provisions will be applicable to Indian Citizen as his total taxable income from Indian sources and income from Indian business/profession earned outside India is Rs 17 lakhs, which is in excess of Rs 15 lakhs. As he is **not a tax resident** of a foreign country, the deemed resident provision will be applicable, even though his stay in India is for less than 365 days during the 4 previous years.

Illustration 6

Q: An Indian Citizen or PIO, who, being outside India, comes on visit and stays in India for 125 days during the previous year 2020-21. He has stayed in India for a total period of 450 days during the four immediately preceding previous year (i.e 2019-20, 2018-19, 2017-18, 2016-17).He has a total income of Rs 10 lakhs from Indian sources, Rs 7 lakhs income from Indian business/profession earned outside India and Rs 40 lakhs income from foreign sources.

Ans: He will be a **RNOR.** His taxable income in India will be Rs 17 lakhs earned from Indian sources and income from Indian business/profession earned outside India.

Reason: The amended provisions will be applicable to him as his total taxable income from Indian sources and income from Indian business/profession earned outside India is Rs 17 lakhs, which is in excess of Rs 15 lakhs and his stay in India during the FY 2020-21 is not less than 120 days + his stay in India during previous 4 years is also not less than 365 days, as prescribed. Therefore, he will be a **RNOR.** Even, in a case, where the Indian Citizen is not a tax resident in foreign country, his status will remain the same as of **RNOR.**

Illustration 7

Q: An Indian Citizen or PIO, who, being outside India, comes on visit and stays in India for 182 days during the previous year 2020-21.He has a total income of Rs 10 lakhs from Indian sources, Rs 2 lakhs income from Indian business/profession earned outside India and Rs 40 lakhs income from foreign sources.

Ans: He will be a **RNOR** or **ROR.** His taxable income in India will either be Rs 12 lakhs earned from Indian sources and income from Indian business/profession earned outside India as **RNOR** or Rs 52 lakhs including his foreign source of income, if he is **ROR**.

Reason: As the said individual stay in India for a period of 182 days, he will not be attracted by the amended provisions by Finance Act, 2020. As his stay in India is 182 days as prescribed in normal provision, he will automatically be a Resident in India and to determine his **ROR** or **RNOR** status, one need to verify the normal provisions of The Income Tax Act, 1961. The provisions of deemed resident will not be applicable in this case, as the person is a resident under the normal provisions of The Income Tax Act, 1961.

Illustration 8

Q: An Indian Citizen or PIO, who stayed in India for a period of 55 days during FY 2020-21.He has a total income of Rs 10 lakhs from Indian sources, Rs 2 lakhs income from Indian business/profession earned outside India and Rs 40 lakhs income from foreign sources.

Ans: He will be **NRI.** His taxable income will be Rs 10 lakhs earned from Indian Sources.

Reason: As his stay in India is less than 60 days as prescribed in normal provisions, he will be NRI. The provisions of deemed resident will not be applicable in this case, as his total taxable income from Indian sources and income from Indian business/profession earned outside India is only Rs 12 lakhs (less than 15 lakhs). Furthermore, the amendment regarding deemed resident will not be applicable to PIO irrespective of his total taxable income in India and residential status in foreign country.

Illustration 9

Q 9: An Indian Citizen or PIO, who stayed in India for a period of 55 days during FY 2020-21.He has a total income of Rs 10 lakhs from Indian sources, Rs 7 lakhs income from Indian business/profession earned outside India and Rs 40 lakhs income from foreign sources.

Ans 9a: PIO will be a **NRI.** His taxable income in India will be Rs 10 lakhs earned from Indian sources.

Reason: As his stay in India is less than 60 days as prescribed in normal provisions, he will be NRI. The provisions of deemed resident will not be applicable in the case of PIO irrespective of his total taxable income and residential status in foreign country.

Ans 9b: If, the said Indian Citizen is a **tax resident** of a foreign country as per the law prevailing in that country for FY 2020-21, he will be a **NRI.** His taxable income in India will be Rs 10 lakhs earned from Indian sources.

Reason: As his stay in India is less than 60 days as prescribed in normal provisions, he will be NRI. The provisions of deemed resident will not be applicable in this case, as he is tax resident in a foreign country.

Ans 9c: If, the said Indian Citizen is **not a tax resident** of a foreign country as per the law prevailing in that country for FY 2020-21, he will be a **RNOR.** His taxable income in India will be Rs 17 lakhs earned from Indian sources and income from Indian business/profession earned outside India.

Reason: Even though the said person is not a resident as per normal provisions, as his total taxable income from Indian sources and income from Indian business/profession earned outside India is Rs 17 lakhs, which is in excess of Rs 15 lakhs and as he is **not a tax resident** of a foreign country, the deemed resident provision will be applicable, he will be covered by deemed resident concept and will be a RNOR.

Illustration 10

Q : An Individual (who is not an Indian Citizen or PIO), who stayed in India for a period of 55 days during FY 2020-21.He has a total income of Rs 10 lakhs from Indian sources, Rs 7 lakhs income from Indian business/profession earned outside India and Rs 40 lakhs income from foreign sources.

Ans 10: He will be a **NRI.** His taxable income in India will be Rs 10 lakhs earned from Indian sources.

Reason: As his stay in India is less than 60 days as prescribed in normal provisions, he will be NRI. The provisions of deemed resident will not be applicable in this case, as he is not an Indian Citizen or POI, irrespective of the fact that, he has total income of Rs 17 lakhs from Indian sources and whether or not he is tax resident of any other foreign county.

To conclude, the residential status of an individual as amended by The Finance Act, 2020, which is applicable from financial year 2020-2021, i.e. from assessment year 2021-2022, will affect only those high net-worth individuals who have income taxable in India from Indian sources in excess of Rs.15 lakhs per year. Those NRI's who have income less than 15 lakhs in India can take a sigh of relief as the prescribed amendment in the Finance Bill has been modified to a greater extent in the Finance Act. However, all the NRI's will have to continue to comply with the filing of return of income and pay applicable taxes in the same manner as they have been doing in the earlier years, as income from Indian Sources will always be taxable in India. It is also important for all tax residents of foreign country to obtain and keep with themselves a proper proof/evidence of them being tax resident, such as Tax Residency Certificate (TRC) from appropriate tax authorities or residency permit etc.

Further, it is also very important to mention that interest income earned from NRE deposits will be taxable in India as pre residential status applicable for an individual under FEMA Regulations. Hence, the amendments that have taken place in Income Tax Act, through Finance Act, 2020, will not make interest earned from NRE deposits taxable in India, unless such person becomes resident under FEMA regulations.

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Coronavirus: RBI's monetary statement, impact on business, households

(*This article was first published in Daijiworld.com on March 30, 2020)*

Business enterprises devise their strategy based on optimism and economic conditions. Although these decisions and actions have to be pragmatic, there is always a hope for achieving more. In pursuit of these goals, many enterprises would have committed to make large investments, recruited workforce, spent on automation and offered attractive buying terms to its customers. Under normal conditions these are appreciated as aggressive strategies. However, today world is faced with two significant challenges, a health concern and economic downturn. The scale of health concern is an un-precedent one. Coronavirus (COVID–19) presents an extremely challenging situation to Governments around the world. In order to contain the spread of disease, the first phase would be a lockdown which most Governments have already implemented. The spread of disease can be contained only through contact tracing, testing, isolation and enabling recovery of effected patients. These are steps that will follow the lockdown.

The lockdown has resulted in nearly one-third of the global population being in some way or other being confined to their homes. This includes the 1.3 billion persons in India as well. All business enterprises are under closure except for very essential goods and services. In such case, it is imperative that some economic decisions including changes in monetary policy have to be taken to reduce the economic costs and to mitigate hardship to business and citizens.

Indian businesses have traditionally relied on bank borrowings. Irrespective of scale of business operations – small MSMEs to Listed Enterprises have found it easy to go with bank finance rather than to raise money from other sources. Therefore, the Reserve Bank of India issued a monetary statement on 27-3-2020 to ease the situation arising out of this global health crisis that has led to a lockdown.

Here are some of the highlights of the statement:

1. RBI will also do a repo operation to Infuse Rs 1 lac crore (Repo is the rate at which RBI lends money to Commercial Banks). The rate has been also slashed by 75 basis points making it cheaper for banks to borrow.
2. Reverse Repo rate has been cut by 90 basis points – this makes it unattractive for banks to deposit excess funds with RBI. So banks will have more funds with them which can be used for lending to commercial borrowers rather than parking it with RBI.

3. The Cash Reserve Ratio – which is a certain percentage of bank deposits which banks are required to keep with RBI in the form of balance – is also reduced to 3%. This is expected to release Rs 1.37 lac crore rupees into the system.
4. The GDP forecast of 5%, as per RBI, is already at risk and therefore to overcome the challenge, the liquidity in financial system is being increased to infuse at least Rs 3.74 lac crore.

However, there is some upside that is also going to be complementary to ease the situation that is arising out of the current economic scenario.

- The crude oil prices have been reducing and this is an upside for the country which imports more than 80% of its oil requirement.
- Food prices are expected to soften in the backdrop of record food grain production.

These things alone would not help the ordinary citizens or businesses from the immediate cash flow crunch arising from unexpected slowdown of economic activity. Businesses have to pay for the salary, the employee benefit schemes like EPF/ESI, pay the taxes, rent and also to pay their creditors. The most important of all being salary. When businesses have loans coupled with these payments, it becomes nearly impossible to satisfy all the things at once. So, the RBI has announced that there will be a 3-month moratorium on payment of instalments of term loans and deferring of interest on working capital.

These steps have the dual advantage of – bank loans not being classified as NPA due to non-payment of interest or instalments and businesses having sufficient liquidity to pay the priority outflows like salary and vendor payments to keep the supply channel open.

Relaxation on term loan instalments and interest

All term loans, including agricultural term loans, retail and crop loans will be having a 3 month moratorium period. Working capital interest will also have a moratorium period. Banks will have the discretion in deciding limits the limits on working capital. Any miss in payments will not be considered as a default and not reported to credit information companies. This will be a relief to all sections of society, public and businesses. This applies to banks and NBFC's as well as all-India Financial Institutions. This will provide relief to all borrowers who have instalments falling between 1-March-2020 and 31-May-2020.
It is also important to note that RBI has specifically clarified that the repayment schedule and residual tenor of such loans will be shifted across the board by three months after the moratorium period.
Further, it is also to be noted that this is an option that will be given to borrowers who have genuine financial difficulties and they will have to approach bank with a request for the moratorium period.

This concession would be most required for businesses operating in the hospitality, tourism and other sectors like service providers where the business lost during this period of lockdown will not be recouped after the end of lockdown. Manufacturing and export entities may also face loss of orders/sales but the hit on service sector, transport including cabs and buses and entertainment sector could be large as these businesses have time utility factor.

Personal and housing loan repayment, credit card dues

The RBI has clarified that the moratorium benefits are available for personal and housing loans, car loans etc. It is applicable for instalments or interest, credit card dues, EMI's and bullet repayments (one time repayment or large single payment)

Working capital loan interest condition

For working capital loans sanctioned in the form of overdraft or cash credit, lenders are permitted to defer the recovery of interest applied on such loans. The accumulated interest accrued interest shall be recovered immediately after completion of this period.

Economic package announced by the government

The central government has also announced earlier in the week economic package of Rs 1.7 lac crore for relief of the poor. This includes both cash and non-cash benefit transfer. Some of these measures are strengthening of existing schemes and some are additional schemes. This is likely to address some of problems that arise from both demand and supply factors. Cash benefit transfer will give the benefit for demand side of economy and the supply will be taken care of Public Distribution System thus minimizing the effect of the poor section of society.

The road ahead

The events of the last few days are some of most challenging and taking us to certain uncharted future. A global action coupled with economic package will help a quicker recovery. It is time to think of new action and decisions in business. A careful and thoughtful act is the need of the hour.

-CA S S Nayak

Chairman, Mangaluru Branch of ICAI

Words of the Wise

- *Friendship is like honey, do not compare it with money. Friendship is not a collection of hearts, it is a selection of hearts.*
- *Desire changes nothing, decision changes something, but dedication changes everything.*
- *A leader is one who knows the way, goes the way and shows the way.*
- *No candle loses its light when lighting another candle. So never stop sharing your knowledge with others.*
- *Natural resources get depleted when they are used. But human resources get depleted when they are not used*

-Compiled by CA S S Nayak

Business tonic is a popular show telecasted in Namma Kudla 24*7 channel where many of our CA members have taken part as resource persons for various topics such Income Tax, GST, Companies Act, RERA etc. The show is telecasted every Sunday from 10:00 a.m to 11:30 am and re-telecasted every Wednesday from 09:30 p.m. to 11:00 p.m

Business Tonic episode links

1. Corona Virus Precautions and Prevention: https://youtu.be/J2uHWWtStX4

2. Credit Cards, Debit Cards and Prepaid Cards- Do's and don't's:

https://youtu.be/4rDzdoUoaAc

3. Gains From Vegan living : https://youtu.be/vCJfSJghpNs

4. Challenging Face of Banking : https://youtu.be/Uub1ZuZlQOs

Shubhashitha

ವಿದ್ಯಾ ದದಾತಿ ವಿನಯಂ
ವಿನಯಾದ್ ಯಾತಿ ಪಾತ್ರತಾಮ್।
ಪಾತ್ರತ್ವಾದ್ ಧನಮಾಪ್ನೋತಿ
ಧನಾದ್ ಧರ್ಮಂ ತತಃ ಸುಖಮ್॥

ವಿದ್ಯೆಯು ವಿನಯುವನ್ನು ಕೊಡುತ್ತದೆ, ವಿನಯದಿಂದ ವಿದ್ಯಾವಂತನು ಪಾತ್ರತ್ವವನ್ನು ಹೊಂದುತ್ತಾನೆ, ಯೋಗ್ಯತೆಯಿಂದ ಧನವನ್ನು ಹೊಂದುತ್ತಾನೆ; ಧನದಿಂದ ಧರ್ಮವನ್ನೂ, ಧರ್ಮದಿಂದ ಸುಖವನ್ನೂ ಹೊಂದುತ್ತಾನೆ.

-CA S S Nayak, Chairman, Mangaluru Branch

ಅರ್ಥನಾಶಂ ಮನಸ್ತಾಪಂ ಗೃಹೇ ದುಶ್ಚರಿತಾನಿ ಚ।
ವಂಚನಂ ಚಾಪಮಾನಂ ಚ ಮತಿಮಾನ್ ನ ಪ್ರಕಾಶಯೇತ್॥

ಹಣ ಕಳೆದುಕೊಂಡದ್ದು, ಮನಸ್ಸಿನಲ್ಲಿರುವ ದುಃಖ, ಮನೆಯಲ್ಲಿ ನಡೆದು ಹೋದ ಅಹಿತ ಘಟನೆಗಳು, ತನಗೆ ಆದ ಮೋಸ ಮತ್ತು ತನಗಾಗಿರುವ ಅಪಮಾನ—ಈ ಐದನ್ನೂ ಬುದ್ಧಿವಂತನು ಇತರರಿಗೆ ಹೇಳಬಾರದು.

-CA Shivanand Pai, Past Chairman, Mangaluru Branch

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The Managing Committee of Mangalore Branch of SIRC of ICAI invites articles, write ups and other similar materials in the areas of Accounting, Taxation or any other subject of professional interest for publishing in its E-Bulletin. The articles submitted for consideration of publication should be of 2000-4000 words typed. Soft copy of the article may be sent to icaiebulletin@gmail.com

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