



TAXtribune

NEWS & VIEWS

Pay Taxes ● Not Less ● Not More

(For Members Only)

● Year 2019-2020 ● January-February 2020 ● Issue No. : 4 & 5

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Editor



₹
UNION
BUDGET
2020-21



The Western Maharashtra Tax Practitioners' Association



New Office Opening by Shri Vilas Indalkar (Addl.Comm., SGST) on 25th Jan. 2020



Chief Guest Shri Vilas Indalkar (Addl.Commissioner, SGST) & Guest of Honour CA C V Chitale (CCM - ICAI) with Committee Members.



Chairman & Past President Adv.V.G.Saha addressing in Certificate Course Concluding Ceremony.



President Shri Sharad Suryawanshi addressing in Certificate Course Concluding Ceremony



Committee Member Shri Dnyaneshwar Narawade introducing guest in Concluding Ceremony of Certificate Course



Felicitation of Shri Vilas Indalkar (Addl.Comm. SGST) - Chief Guest for 13th Certificate Course Concluding Ceremony



Felicitation of CA C. V. Chitale (CCM-ICAI) - Guest of Honor for 13th Certificate Course Concluding Ceremony



Members Present for Certificate Course Concluding Ceremony

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<p>Editor Shri. Narendra Sonawane</p>	<p>Co-Editor CMA Shripad Bedarkar</p>	<p>Editorial Board Adv.G. Y. Patwardhan, Adv.Milind Bhonde, CMA Rahul Pore, CA Swapnil Munot, Adv.Sukrut Deo & CA Anup Shah</p>
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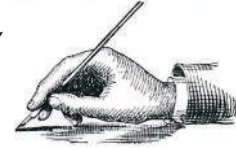
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(Note : GST applicable as per prevailing rate)



Editorial



NARENDRA SONAWANE

Union Budget 2020, ITC and I see

Our **Union Finance Minister Mrs Nirmala Sitaraman** presented Budget, 2020 in Parliament on February 1st 2020 against the backdrop of a slowing economy at home and globally. It was indeed a tough balancing act for the government amid high expectations from all stakeholders. Keeping the multiple demands in mind, the budget is woven around the three key themes of an “aspirational India, “economic development” and a caring society, with an aim to stimulate growth, simplify tax structure and bring ease of compliance and doing business in India.

More than 100 changes that will impact taxpayers across various segments, especially individual taxpayers. First time introduced new scheme of personal tax rates, Major changes in TDS, DDT, Tax audit limit, change in residency rule, Corporate taxation, Capital Gain. Very interesting scheme of direct tax amnesty called as 'Vivad Se Vishwas' is introduced in this budget after the success of Sabka Vishwas Scheme.

There are many major changes also introduced in Indirect tax specially in GST. Introduction of New simplified GST returns from April 1st and e-invoicing in phased manner, Aadhar based verification of tax payers. Why again new system of returns introduced when GSTR 1, 2 and 3B are just familiar to tax payers and we all are used to file this returns , Govt now introducing as they called simplified returns is million dollar question in minds of all stakeholders.

Central Government has taken a stand to welcome all types of instructions and suggestions in making the GST system simpler and easier to work. The Finance Minister has mentioned that they are working on the suggestions received by them till now. Earthpreneures are still facing problems in paying GST. For this the Central Government is taking the opinions of experts and help of the officers of more than 12 countries to make the GST process easier to operate. Also to facilitate the process of “Aadhar” Refunds & Returns has been made easier. This is definitely a good thing.

It is necessary to give relief to the tax payers by removing the obligations on INPUT TAX CREDIT CLAIMS, sub rule 4 is included in GST rule 36 from 9th October 2019. The supplier has not uploaded the outward supply of online invoice or details of debit notes as per

section 37(1), for this the forms GSTR-2A shown in INPUT TAX CREDIT CLAIMS to the tax payers are limited to 20%. This 20% INPUT TAX CREDIT will be revised to 10% with effect from 1st January 2020 (Notification No 75 (2019) Central Tax 26 December 2019), as per this notification of INPUT TAX CREDIT, the traders will have to keep constant watch and follow up on Invoice or Debit Notes whether they are uploaded or not, for Example if the tax payer has shown Rs. 80/- as INPUT TAX CREDIT for one month of GSTR-2A, out of if he is not liable for Rs. 20/- INPUT TAX CREDIT (Which the Seller not uploaded) and is liable for Rs. 60/-, then in that event Rs. 60/- + Rs. 6/- (10% of liable INPUT TAX CREDIT) i.e. Rs. 66/- INPUT TAX CREDIT will be obtained.

In this way each month working should be done. The GSTN portal has not yet made the availability of invoice auto matching facility. Due to this the traders himself will have to do all the transactions of all the notifications of INPUT TAX CREDIT, this is the biggest and continuous hurdle being faced by the Traders with respect to this notification.

Regarding this there is a discussion among Traders that why there is restrictions on the traders INPUT TAX CREDIT if he has purchased from the sellers who has not paid GST on outward supply in Government account within the given period, even if there is the notification in the law to claim from him? Why the Government himself su-moto should not take action against such seller who has not uploaded the Invoice? It will not be correct to hold the trader liable for the supplier default and deprive the trader of his right of Tax Credit in spite of having such big Government machinery working on it. It is predicated that the tax payers will be given heavy responsibility of giving such information on tax return from 1st April 2020 onwards, now the questions comes before the tax payers that whether they should do their business or keep on fulfilling the responsibilities of GST levied on them. It only means to take action of reducing the INPUT TAX CREDIT of the buyer tax payer if the seller has not deposited the tax.

The restriction on INPUT TAX CREDIT is as per the notification in the above rule. The notification is done as per the section 43 A notification, but section 43 A is not put into force till now. It will not be lawful to take action as per the above rule till section 43A does not come into force. Therefore, it is necessary to withdraw the notification of rule 36 (4). It is necessary for the Government to take some positive steps in this regards.

Friends, this is time to be mould according to changes, face new challenges and update yourself with everyday's changes in law, system and life.

NARENDRA SONAWANE

EDITOR



President's Message

Sharad Suryawanshi

BEST WISHES FOR NEW YEAR

Let us say good buy to the year 2019 and welcome 2020 with excitement, joy, happiness, and inspiration of new ideas.

May lord grant good health, peace and prosperity to all entrepreneurs, traders, farmers, customer, well wishers, writers, friends and families

There is definitely a need to produces more and more goods in the country rather than imports. To accelerate **MAKE IN INDIA** which will bring about changes in international goods, there are changes done to company taxes rates. However it is not so that this state will not slow down in near future. This cycle will continues forever and there is nothing wrong with it. The land cost of residential area at affordable rate is a long term need. There is also a cycle of growth. There is a need for every industrialist to have a plan to be prepared for this cycle to adopt to that cycle and must be devised to over come it. Every entrepreneur has to consider the probability that a drop in rates can accure and also should give up a lame mentality that government should do something for it

Individual income tax rates should be reduced. Finance Minister has talked about the possibility of reducing personal income tax of individual, HUF and salaried tax payers. The partnership, LLP tax rates should be kept as company In this hypothesis the individual and HUF income tax rates are likely to rebond .

SHARAD SURYAWANSHI

PRESIDENT, THEWMTA



Shripad Bedarkar
Joint Secretary

ASSOCIATION NEWS



Sanket Amate
Joint Secretary

- 1) **13th Certificate Course in Taxation Laws (GST Special)** :Certificate Course was commenced from 1st December, 2019 to 25th January, 2020. Eminent speakers delivered thelectures in this course on various topics like GST, Income Tax, Accountancy, Profession Tax, Partnership Act, Professional Ethics etc. Our association successfully conducting this unique course continuously from last 12 years and this was 13th year of the course. Overwhelming response was received for this course. Concluding ceremony of the course wasorganised on 25th January, 2020. Shri Vilas Indalkar (Addl. Commissioner, SGST) was the Chief Guest for the same & CA Chandrashekhar Chitale (CCM, ICAI) was Guest of Honor.
- 2) **TilgulSamarabha** :TilgulSamarabh was arranged on 15th, 16th& 17th January at various government offices (SGST, CGST, Income Tax, Partnership Firm etc) at Pune, PCMC, Indapur, Satara, and Mumbai.
- 3) **Broadcasting of Webinar** : The broadcasting of the Series of 15 Webinars on GST by GSTPAM is arranged in our Association Hall from 15th January, 2020. Fees for the same is Rs.1000 + 18% GST.
- 4) Live Telecast of Union Budget was arranged on 1st February, 2020 @10.30 am in our Association Hall, nearly 50+ members attended the same.
- 5) **Workshop on Union Budget 2020**: Workshop on Union Budget was arranged on 15th February, 2020. Speakers for the said workshop was CA Pritam Mahure& CA Subhodh Shah. More than 100 members attended the same.
- 6) **New Membership** :Following new members admitted during the previous months.
 - a. Mr.Pitre Aniruddha Gajanan (LM-698)
 - b. Mr.Mantri Nilesh Ramesh (LM-699)
 - c. Mr.PatilSumit Sharad (GM-818)
 - d. Mr.GandhiSumitHarakchand (GM-819)
 - e. Mr.ShahSuhasRatilal (LM-700)
 - f. Mr.AttalRatikantNandkishor (GM-820)
 - g. Mr.Ghaisas Rajesh Upendra (LM-701)
- 7) **Future Events** :
 - a. Full Day Seminar on New Return System & E-invoicing will be arranged shortly. National Level speakers & Government Officers will be delivering the lecture in this seminar.
 - b. National Tax Conference will be arranged in the month of April-2020 at Mahabaleshwar, details will be informed shortly.

Shripad Bedarkar
Joint Secretary

Sanket Amate
Joint Secretary



Important Advance Rulings Under GST

Adv. Govind Patwardhan

Spaeclance office solutions P ltd (Kerala/55/2019 dated 15/07/2019)

Facts of case

The company is engaged in the providing office facilities on space share basis. (popularly also known as Office clubs) company provides space, furniture such as table, chairs, telephone, internet connection, receptionist, water, pantry etc. Company offers office spaces with above mentioned facilities called co-working space. Thus multiple tax payers operate their business from one and same premises. Each company maintains its records separately. No stock is maintained at such co-working spaces

Registration of one client company was rejected for the reason that another registration already exists at the place of business.

Question for advance ruling :

Whether Registration under GST can be obtained for multiple tax payers from same address showing principal place of business?

View of applicant

It was argued by applicant that in metropolitan cities space is very costly and new entrants in business do not afford independent office. It is infeasible to conduct the business due to cost constraints. Applicant Company addresses this need by providing dedicated space with various necessary facilities. Clients are service providers

and do not store any goods, each client of applicant maintains his own records and accounts.

In the fast changing business environment and modern communication mediums co-working space is need of the hour and helps many start-up enterprises. Traditional office culture is being over shadowed by co working space.

The landlord has leased the premises and company is entitled to sublet it. The Applicant enters into written agreement for providing coworking space with common facilities. The GST registration is granted upon Valid PAN and identification of tax payers. There is nothing in law to suggest that multiple registrations cannot be given at same address.

From the ruling it appears that the department did not offer any objection for the same.

RULING

The clients sharing co-working spaces can upload copy of agreement for sharing of space as proof of place of business specifying suit number or desk number alongwith monthly utility bill for electricity, water and other common services. Separate registration is allowed for multiple companies functioning from co-working spaces from same address.

From the reasoning given the question will arise that whether multiple companies storing goods at same address will be allowed to obtain registration showing same principle place of business. Is there any provision which prevents

multiple registrations at same principal place of business in case of goods.

Manasmarine Cargo International LLP

GST-ARA- 04/2019-20/B-97, dated 23/08/2019 (Maharashtra AAR)

Facts of the case : The applicant is offered an outsourcing work of managing the shipping operations of Hong Kong based shipping company MSS Marine Ltd, which is involved in worldwide shipping consultancy and logistics arrangement of cargoes. Primarily their ships trade between several ports in middle east countries of Saudi Arabia, UAE & other Asian countries including India, Thailand, China, Korea, Taiwan. Singapore. A few of their vessels also trade into Europe.

MSS Marine will outsource the following job to the applicant:-

- Handling all communications between vessel Owners, shippers, consignees, various port agents. Passing information to all parties with regards to vessel schedule and her operations.
- Drafting contracts of shipments and sending the same to ship owners and shippers or charterers as the case maybe.
- Preparing reports on time used per voyage and presenting to shippers reports on additional time used per shipment.
- Preparing invoices on behalf of clients as per contract and presenting them to charterers as per approval from principals.
- Reconciling accounts for our principal.
- As required travel to various countries at principals cost to meet with port agents, shippers, charterers to discuss operational efficiency.

Applicant would be incurring the following expenses to carry out the above jobs for

which applicant will be reimbursed on actual cost basis

1. Salary to employees
2. Office rent & the rent would be reimbursed on actual basis from MSS Marine Ltd
3. Office expenses such as telephone expenses, electricity, purchasing computers, internet, office furniture, staff welfare, etc.
4. Travel costs such as tickets, lodging boarding
The Applicant will charge management fees from MSS Marine Ltd for managing the above job.

Questions for advance ruling:-

1. Whether GST is applicable on the reimbursement of expenses such as salaries, rent, office expenses, travelling cost etc.?
2. Whether GST will be applicable on the management fees charged by us to the Company for managing the job outsourced to us?

View of Applicant

The **applicant** is not arranging or facilitating the supply of goods or services or both to MSS Marine Ltd but they are **providing ITes services as defined in Section IOTA of Income Tax Rules, 1962 to the MSS Marine Ltd on his own account.**

Value of supply of services in case of pure agent.-Notwithstanding anything contained in the provisions of this Chapter, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be **excluded front the value of supply,**

The Management services shall include general consultancy in relation to the transactions stated in brief facts.

Management fees charged would qualify as export of services and no GST is payable:

As per legal understanding, the aforesaid services rendered by applicant would qualify as "Zero Rated Supply" in terms of Section 16 of the Integrated Goods & Service Tax Act, 2017

RULING

It is evident that the applicant is arranging or facilitating the business of its foreign client by liaising with their customers for the purpose of commercial relationships between the service recipient and vessel Owners, shippers, consignees, various port agents. From their submissions, it is seen that certain activities are undertaken by the applicant on behalf of their foreign client, and they are seen as fulfilling the criteria of the Agent as defined under Section 2(5) of the CGST Act, 2017. It is also seen that the nature of the supply in this case does not show that the supply is being undertaken by the applicant on their own account, for example, when the applicant's personnel travel to various countries to meet with port agents, shippers, charterers to discuss operational efficiency they would be actually facilitating the supply of services between such persons. The travel to the various port agents, shippers, charterers would be on behalf of their client namely MSS Marine Ltd, Hong Kong and would report back the concerns, ideas, etc of port agents, shippers, charterers to MSS Marine Ltd, Hong Kong. These services are not rendered on their own account. Further, handling communications between Vessel Owners, shippers, consignees, various port agents, passing information to all parties with regards to vessel schedule, etc is nothing but facilitating the supply between such persons. We do not agree with the applicant's submission that they are not arranging or facilitating the supply of goods or services or both to MSS Marine Ltd. We are of the view that the applicant is an intermediary in the subject transaction.

Our conclusion that the applicant is an

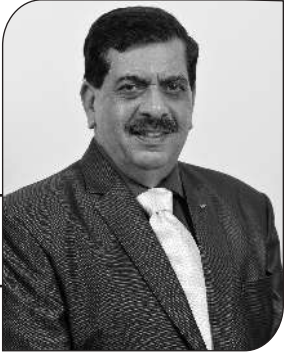
intermediary, is fortified by the decision of the Appellate Authority for Advance Ruling, Maharashtra issued vide **Order No. MAH/AAAR/SS-RJ/01/2019-20, Dated- 19th June, 2019** in the case of Asahi Kasei India Pvt. Ltd.

Since we find that the applicant is an intermediary, as per the provisions of Section 13 (8)(b) of IGST Act, the place of provision of the service in the subject case is the location of the supplier of services i.e. the applicant and since the place of supply is in taxable territory, we hold that they will be liable to discharge GST on such services provided by them. Therefore we hold that GST will be applicable on the management fees charged by the applicant.

The reimbursement received by the applicant pertains to establishment costs which would be incurred by them for running their office in India. In any normal business such expenses are borne by the supplier of service and it is but natural that they would include such costs in the value to be received from the recipient of their services. In the subject case the said costs, are termed as reimbursements and are recovered in addition to management fees from their clients and therefore it is nothing but additional consideration charged for the supply in this case. The provisions of Section 15 of the CGST Act, which deals with the transaction value are very clear and as per the said provisions the valuation of supply will include all costs, including the employee cost provided by one distinct entity to the other distinct entities.

Reimbursement of costs will be taxable under GST.





SOMETHING ABOUT ADVANCE RULING

Adv. Milind Bhonde

GST law has brought sea changes in indirect tax administration. Earlier enacted laws i.e. Act and rules made thereunder used to define and determine the rights, duties and responsibilities of the tax payers. The provisions of the act and rules used to undergo the amendments to meet the contemporary needs of administration and the tax payers.

But under GST regime, the system implemented by the Governments have become prominent and overshadowed the Act & Rules. On top of it law developed through advance rulings has dominated the administration of GST law.

Advance Ruling was not new to state administered sales tax laws nor to service tax administration. But access to the remedy of A.R. was restricted and limited subject to the circumstances stated in relevant section, whereas under GST regime, in order to secure the certainty in future the registered persons liable to pay GST prefer to seek confirmation by way of AR.

Referring to number of AAR (Authority for Advance Ruling) as on date one can notice that the taxable persons prominently sought AAR on the subjects relating to export of services, supply relating to SEZ units, Deemed export, classification of goods with reference to chapter Heading, chapter Sub Heading and Tariff items and so on. Thus analytical study of subject wise

AAR has become need of the time. Before proceeding further for subject wise analysis of AAR, it would be important to understand about the primary and basic things about Advance Ruling of GST Act.

Section 95 to sec. 98 deals with the provisions of Advance Ruling and Rule which is / are the off shoot of enacted sections. As on date eventhough AAR has been an order of the day, still it would be necessary to state few important points relating to AR. Those are as under :-

1. The Authority on AR can be sought by any one including unregistered person.
2. Application for AAR to be made in prescribed form ARA- 01 and fees to be paid Rs. 5000/- both under CGST and SGST. And in case of appeal against AAR to be made in the prescribed form ARA-02 and fees to be deposited Rs.10000/- both under CGST and SGST Act.

Thus availing the remedy of AR is a costly affair, can not be availed casually.

3. AAR are given in person and not to the world at large. Thus, the AAR is binding on applicant only and not on another registered person supplying goods or services or both of similar nature.

One risk is involved in applying for AR is once AAR is given in particular issue then the nodal or proper authority can not apply his own mind eventhough such application favours to the applicant.

4. Any question other than relating to place of supply can be referred for AAR before or after undertaking the supply of goods or service or both

But in case , any issue related to AR is pending or decided under any statutory proceedings of the applicant then such issue can not be referred for AR.

5. AAR becomes ruling law in case of the applicant and any transaction made by the applicant would be taxed according to the AAR and nodal or proper officer will not have option to deviate from authority of advance ruling.

But statutory amendment has been made in respect of subject matter of AAR and new provisions have been made overriding the effect of AAR or jurisdictional High Court or Supreme Court decided otherwise then decision of AR will not have binding force.

Thus AR is also not free from the uncertainty.

6. The sequence of AR is the applicant who desires to find any answer on the query needs to frame the facts and circumstances and legal position on which applicant relied while applying for AR.

Representative of revenue receives notice from AR authority to frame reply relating to the issue involved . Need less to say, revenue authority represents the fact and figures against the relief sought by the applicant.

AR authorities comprising one authority under

CGST Act and another one under SGST Act evaluates the argument made by applicant and department authorities and add their views referring to the subject matter of AR and decide the issue before them. And their decision becomes authority on Advance Ruling.

Here it would not be out of to place to state that the AR authorities whether under CGST or SGST belong to the department and therefore without being impartial tend to protect the revenue of particular Government unless the facts and law argued are in favour of the applicant beyond doubts.

After focusing on the issue of AR, it would be an attempt to enlist AAR on particular topic of common interest . First one is relating to “ export of service”.

All of us are well aware that export of goods and services have been covered under zero rated supply and not liable to GST. As far as export of goods complexity of determining export does not, normally, exist but export of services has invited application for AR from inception of GST. In order to claim export of service the conditions narrated u/s 2 () of CGST Act needs to be satisfied. Important condition is the services should be provided out of India. Here it would be worthwhile to state latest AAR on export of goods and services.

1. Export of Goods :-

Allahabad High Court decided that supply of goods from duty free shop would amount to goods (2019) 75 GST 272 while deciding the relevant issue the Allahabad High Court has relied on Apex Court finding in the case of DFS India Pvt.Ltd. v/s Commissioner of Customs where the apex court opined even in GST regime, duty free shops at international airports are

considered non taxable area and their sales whether at arrival or departure lounge are considered as export.

2. Export of Services :-

While deciding on advance ruling application referred by Nes Global Specialist Engineering Services (P) Ltd., the authority opined that where applicant located in India and client situated in Abu Dhabi, have proposed to enter into a service agreement through which applicant will provide support service in respect of foreign business carried on by client as per Master Services Agreement (MSA) , transaction covered under MSA between applicant and client is a zero rated supply and is export of service.

While deciding the issue the authority for advance ruling focused on the fact that the relations between applicant and the recipient of services were on principal to principal basis, services were related to administrative and support services and not in the nature of locating customer in India and negotiating price structure where services rendered are intermediary services in nature. The place of supply of services has been considered out of India even though services were rendered from India.

3. Export of Services or Intermediary Services :-

While deciding in the case Vserveglobal (P) Ltd., (2019) 73 GST 808, the appellate authority for advance ruling in Maharashtra State stated that where appellant provided services of locating or identifying potential buyers in India for foreign client and further finalization of sale order would be intermediary service and place of supply is location of appellant in India and therefore services provided by appellant are not zero rated supply.

While deciding this appeal the appellate authority established the relationship between appellant and foreign client as agent and principal and place of supply determined in India because the ultimate destination of service is India only.

4. Warranty services provided on behalf of foreign counter part:-

In the case of M/s Volvo Eicher Commercial Vehicle Ltd., authority on advance ruling ruled that sale support services including warranty services provided by the applicant in addition to selling Volvo branded trucks will not amount to export of service but amount to composite supply of goods and services eventhough the applicant has received the consideration in convertible foreign currency. The reason for this ruling is that the sale support services including warranty have been rendered in India and availed in India only. (Source Karnataka AAR order No. KAR-ADRG 32/2019 dt. 12th Sept 2019)

Eventhough the A R have binding force on the applicant of A R and A R given by the AAR of one state is not binding on AAR of other state, still detail study of contents of A R should be part of one's regular study as it would assist to enhance your knowledge while delivering advise to the client.



GSTIN of Supplier, if applicable	Trade Name	Table of FORM GST ANX-1 (3B, 3E, 3F and 3G)	Place of supply (Name of State/UT)	Document details						HS N code	Tax rate (%)	Taxable value	Amount of tax				Action** (A/R/P)
				Type	No.	Date	Value	Date of uploading	Return status* (F/NF)				Integr ated tax	Centr al tax	State/ UT tax	Cess	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
3A. Supplies received from registered persons including services received from SEZ units (other than those attracting reverse charge)																	
3B. Import of goods from SEZ units / developers on Bill of Entry																	
3C. Import of goods from overseas on Bill of Entry																	

* 'F' stands for return filed and 'NF' stands for return not filed.

** 'A' stands for Accepted, 'R' stands for rejected and 'P' stands for pending.

4. Summary of the input tax credit:

Sr. No.	Description	Value	Amount of input tax credit involved			
			Integr ated tax	Central tax	State/ UT tax	Cess
1	2	3	4	5	6	7
1.	Credit on all documents which have been rejected (net of debit /credit notes)					
2.	Credit on all documents which have been kept pending (net of debit /credit notes)					
3.	Credit on all documents which have been accepted (including deemed accepted) (net of debit/credit notes)					

1. ISD credits received (eligible credit only)

GSTIN of ISD	ISD document details			Amount of input tax credit involved			
	Type	No.	Date	Integr ated tax	Central tax	State/UT tax	Cess
1	2	3	4	5	6	7	8

Instructions (FORM GST ANX-2)

1. Details of documents uploaded by the corresponding supplier(s) [irrespective of the fact whether the supplier files his return on monthly or quarterly (Normal, Sahaj or Sugam) basis] will be auto-populated in this annexure on near real time basis and can be accepted or reset / unlocked by the recipient upto the 10th of the month following the month in which such documents have been uploaded. After that the procedure as outlined in Sr. No. 2 below will be applicable.
2. Recipient can take action on the auto-populated documents to Accept, Reject or to keep pending on continuous basis after 10th of the month following the month in which such documents have been uploaded. However, in case of quarterly return filers communication of such rejected documents and any further action on such rejected documents shall be done only in the return for the next quarter.
3. Accepted documents will mean that supplies reported in such document have been received before filing of return by the recipient and the details given in the documents reported in FORM GST ANX-1 are correct.
4. Accepted documents would not be available for amendment at the corresponding supplier's end. However, a separate facility to handle such cases will be provided.
5. For the purposes of the return process, any invoice with an error that cannot be corrected through a financial debit / credit note shall be rejected. For example-
 - (i) the recipient does not agree with some of the details such as HSN Code, tax rate, value etc. These are certain errors which cannot be corrected through debit/credit notes.
 - (ii) GSTIN of the recipient is erroneous and therefore, it is visible in the FORM GST ANX-2 of a registered person who is not concerned with the supply. These are certain errors which cannot be corrected through debit/credit notes.
6. Supplier can make corrections in the rejected documents through FORM GST ANX-1 as the rejected documents would be shown to the supplier.
7. Pending action will mean that the recipient has deferred the decision of accepting or rejecting the details of the invoices. There may be multiple reasons for the same such as supplies are yet to be received or the recipient decides that ITC is not to be taken for the time being etc.
8. The input tax credit in respect of pending invoices shall not be accounted for in table 4A of the main return (FORM GST RET-1) of the recipient and such invoices would be rolled over to FORM GST ANX-2 of the next tax period.
9. Pending invoices will not be available for amendment by the supplier until rejected by the recipient.
10. Any document, on which an affirmative action of either accepting the document or keeping the document pending or rejecting the document is not taken by the recipient in his FORM GST ANX-2, shall be deemed to be accepted upon filing of the return by him. Input tax credit on such deemed accepted documents shall be reflected / shown in table 4A of the main return (FORM GST RET-1).

11. Status of return filing (not filed, filed) by the supplier will also be made known to the recipient in FORM GST ANX-2 of the tax period after the due date of return filing is over. Recipients would be able to check the return filing status of the suppliers. This status, however, does not affect the eligibility or otherwise of input tax credit which will be decided as per the Act read with the rules made thereunder.
12. Trade name of the supplier will also be shown along with GSTIN. Legal name will be shown where trade name is not available.
13. Separate functionality would be provided to search and reject an accepted document on which credit has already been availed. Input tax credit availed on such document shall be shown for reversal in table 4B(1) of FORM GST RET-1 which may be adjusted in table 4A(11) of FORM GST RET-1 to arrive at the amount of input tax credit availed. However, such reversal of credit for the recipient will be with interest as per the provisions of the Act read with the rules made thereunder.
14. FORM GST ANX-2 will be treated as deemed filed upon filing of the main return (FORM GST RET-1) relating to the tax period.
15. The documents uploaded in FORM GST ANX-1 for month 'M' by a supplier who did not file his return for the previous two consecutive tax periods (M-1 and M-2 months) shall be made available to the recipient in FORM GST ANX-2 with an indication that the credit shall not be available on such documents. In other words, such documents will be visible to the recipient but the recipient cannot claim ITC on such inward supplies. However, the recipient can reject or keep such documents pending until filing of return by the supplier. For suppliers filing return on quarterly basis, this period will be one quarter i.e. if return of one quarter has not been filed, then recipient will not be able to claim credit on the invoices uploaded during next quarter.

Note Table 3B and 3C shall be used after the data from the ICEGATE and SEZ (through ICEGATE) starts flowing to the GST system online. Thereafter, table 3J & 3K of FORM GST ANX-1 shall be discontinued. Data will be shown to the taxpayer as received from the ICEGATE.

Option to file 'Nil' return -

Description	Option	
Do you intend to file Nil return?	<input type="radio"/> Yes	<input type="radio"/> No
Note – Nil return can be filed if you have not uploaded FORM GST ANX-1 and no inward supplies (purchases) have been auto-populated in FORM GST ANX-2 and no other information is required to be reported in the main return i.e. FORM GST RET-1.		

Detailed notes on FOR GST RET-1 (Monthly/Quarterly (Normal) Return .

FORM GST RET-1

[See rule ----]

Monthly / Quarterly (Normal) Return

Financial Year				
Tax period	From --- To --			

1.	GSTIN																
2.	(a)	Legal name of the registered person	<Auto>														
	(b)	Trade name, if any	<Auto>														
	(c)	ARN	<Auto (after filing)>														
	(d)	Date of ARN	<Auto (after filing)>														

3. Summary of outward supplies, inward supplies attracting reverse charge, debit / credit notes, etc. and tax liability.

Sr. No.	Type of supply	Value	Tax amount			
			Integrated tax	Central tax	State/ UT tax	Cess
1	2	3	4	5	6	7
A. Details of outward supplies						
1.	Taxable supplies made to consumers and unregistered persons (B2C) [table 3A of FORM GST ANX-1]	<Auto>				
2.	Taxable supplies made to registered persons (other than those attracting reverse charge) (B2B) [table 3B of FORM GST ANX-1]	<Auto>				
3.	Exports with payment of tax [table 3C of FORM GST ANX-1]	<Auto>				
4.	Exports without payment of tax [table 3D of FORM GST ANX-1]	<Auto>				
5.	Supplies to SEZ units/developers with payment of tax [table 3E of FORM GST ANX-1]	<Auto>				
6.	Supplies to SEZ units / developers without payment of tax [table 3F of FORM GST ANX-1]	<Auto>				

7.	Deemed exports [table 3G of FORM GST ANX-1]	<Auto>				
8.	Liabilities relating to the period prior to the	<User input>				

Sr. No.	Type of supply	Value	Tax amount			
			Integrated tax	Central tax	State/ UT tax	Cess
1	2	3	4	5	6	7
	introduction of current return filing system and any other liability to be paid					
9.	Sub-total (A) [sum of 1 to 8]	<Auto>				

B. Details of inward supplies attracting reverse charge

1.	Inward supplies attracting reverse charge (net of debit / credit notes and advances paid, if any) [table 3H of FORM GST ANX-1]	<Auto>				
2.	Import of services (net of debit / credit notes and advances paid, if any) [table 3I of FORM GST ANX-1]	<Auto>				
3.	Sub-total (B) [sum of 1 & 2]	<Auto>				

C. Details of debit / credit notes issued, advances received / adjusted and other reduction in liabilities

1.	Debit notes issued (FORM GST ANX-1) (Other than those attracting reverse charge)	<Auto>				
2.	Credit notes issued (FORM GST ANX-1) (Other than those attracting reverse charge)	<Auto>				
3.	Advances received (net of refund vouchers and including adjustments on account of wrong reporting of advances earlier)	<User input>				
4.	Advances adjusted	<User input>				
5.	Reduction in output tax liability on account of transition from composition levy to normal levy, if any or any other reduction in liability	<User input>				
6.	Sub-total (C) [1-2+3-4-5]	<Auto>				

D. Details of supplies having no liability

1.	Exempt and Nil rated supplies	<User input>				
2.	Non-GST supplies (including No Supply / Schedule III supplies)	<User input>				
3.	Outward supplies attracting reverse charge (net of debit/ credit notes)	<User input>				
4.	Supply of goods by a SEZ unit / developer to DTA on a Bill of Entry	<User input>				
5.	Sub-total (D) [sum of 1 to 4]	<Auto>				
E. Total value and tax liability (A+B+C+D)		<Auto>				

4. Summary of inward supplies for claiming input tax credit (ITC)

Sr. No.	Description	Value	Input Tax Credit (ITC)			
			Integrated tax	Central tax	State/ UT tax	Cess
1	2	3	4	5	6	7
A. Details of ITC based on auto-population from FORM GST ANX-1, action taken in FORM GST ANX-2 and other claims						

Sr. No.	Description	Value	Input Tax Credit (ITC)			
			Integrated tax	Central tax	State/ UT tax	Cess
1	2	3	4	5	6	7
1.	Credit on all documents which have been rejected in FORM GST ANX-2 (net of debit /credit notes)	<Auto>				
2.	Credit on all documents which have been kept pending in FORM GST ANX-2 (net of debit /credit notes)	<Auto>				
3.	Credit on all documents which have been accepted (including deemed accepted) in FORM GST ANX-2 (net of debit/credit notes)	<Auto>				
4.	Eligible credit (after 1 st July, 2017) not availed prior to the introduction of this return but admissible as per Law (transition to new return system)	<User Entry>				
5.	Inward supplies attracting reverse charge (net of debit/credit notes and advances paid, if any) [table 3H of FORM GST ANX-1]	<Auto>				
6.	Import of services (net of debit /credit notes and advances paid, if any and excluding services received from SEZ units) [table 3I of FORM GST ANX-1]	<Auto>				
7.	Import of goods [table 3J of FORM GST ANX-1]	<Auto>				
8.	Import of goods from SEZ units / developers [table 3K of FORM GST ANX-1]	<Auto >				
9.	ISD Credit (net of ISD credit notes) [table 5 of FORM GST ANX-2]	<Auto>				
10.	Provisional input tax credit on documents not uploaded by the suppliers [net of ineligible credit]	<User input>				
11.	Upward adjustment in input tax credit due to receipt of credit notes and all other adjustments and reclaims	<User input>				

Sr. No.	Description	Value	Input Tax Credit (ITC)			
			Integrated tax	Central tax	State/ UT tax	Cess
1	2	3	4	5	6	7
	but documents have been uploaded by the supplier in the current tax period (net of ineligible credit)					
4.	Reversal of input tax credit as per law (Rule 37, 39, 42 & 43)	<User input>				
5.	Other reversals including downward adjustment of ITC on account of transition from composition levy to normal levy. If any	<User input>				
6.	Sub-total (B) [sum of 1 to 5]	<Auto>				
C. ITC available (net of reversals) (A- B)		<Auto>				

B. Details of reversals of credit						
1.	Credit on documents which have been accepted in previous returns but rejected in current tax period (net of debit/ credit notes)	<Auto>				
2.	Supplies not eligible for credit (including ISD credit) [out of net credit available in table 4A above]	<User input>				
3.	Reversal of credit in respect of supplies on which provisional credit has already been claimed in the previous tax periods	<User input>				

D. ITC declared during first two months of the quarter (Only for quarterly return filers)						
1.	First month	<Auto>				
2.	Second month	<Auto>				
Sub-total (D) [sum of 1& 2]		<Auto>				
E. Net ITC available (C-D)		<Auto>				
Input tax credit on capital goods (out of C)		<User input>				
Input tax credit on services (out of C)		<User input>				

5. Amount of TDS and TCS credit received in electronic cash ledger

Sr. No.	Type of tax	Integrated tax	Central tax	State /UT tax
1	2	3	4	5
1.	TDS			
2.	TCS			
3.	Total			

6. Interest and late fee liability details.

Sr. No.	Description	Interest				Late fee	
		Integrated tax	Central tax	State/ UT tax	Cess	Central tax	State/ UT tax
1	2	3	4	5	6	7	8
1.	Interest and late fee due to late filing of return (including late reporting of invoices of previous tax periods, rejection of accepted documents by the recipient) <i>(to be computed by the system)</i>						
2.	Interest on account of reversal of input tax credit <i>(to be calculated by the taxpayer)</i>						
3.	Interest on account of late reporting of supplies attracting reverse charge <i>(to be calculated by the taxpayer)</i>						
4.	Other interest liability <i>(to be specified)</i> <i>(to be calculated by the taxpayer)</i>						
5.	Total						

7. Payment of tax.

Sr. No.	Description	Tax payable		Tax already paid, if any (Only for quarterly filers)		Adjustment of negative liability of previous tax period		Paid through ITC				Paid in cash		
		Reverse charge	Other than reverse charge	Reverse charge	Other than reverse charge	Reverse charge	Other than reverse charge	Integrated tax	Central tax	State / UT tax	Cesses	Tax/Cess	Interest	Late Fee
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1.	Integrated tax													
2.	Central tax													
3.	State/UT tax													
4.	Cess													
5.	Total													

8. Refund claimed from electronic cash ledger.

Sr. No.	Description	Tax	Interest	Penalty	Fee	Other	Total
1	2	3	4	5	6	7	8
1.	Integrated tax						
2.	Central tax						
3.	State/UT tax						
4.	Cess						
	Total						

9. Verification

I hereby solemnly affirm and declare that the information given herein ANX-1 and FORM GST ANX-2 is true and correct to the best of my knowledge nothing has been concealed therefrom.

Place -

Date -

Signature

Name of Authorized Signatory

Designation /Status

A. General Instructions:-

1. Facility to file Nil return through SMS will also be available if no supplies have been made or received.
2. After uploading details of supplies in FORM GST ANX-1 and taking action on the documents auto-populated in FORM GST ANX-2, the tax payer shall file the main return in FORM GST RET-1.
3. Information declared through FORM GST ANX-1 and FORM GST ANX-2 shall be auto-populated in the main return (FORM GST RET-1).
4. The supplier can report excess tax collected from the recipients, if any, in the main return (FORM GST RET-1) under any other liability in Sr.No.8 of table 3A.
5. Rejection of the details of documents wrongly uploaded by supplier, pendency of supplies not received but available in the auto-populated details of documents, reversals, adjustments etc., shall be auto-populated in table 4.
6. Amount of TDS/TCS shall be credited in the electronic cash ledger which will be based on return filled in FORM GSTR-7 and FORM GSTR-8 by deductors under section 51 and persons required to collect tax under section 52 respectively.
7. Interest and late fee to the extent of late filling of return, making late payment of taxes, uploading preceding tax periods, and invoices shall be computed by the system. Other interest due to reversals etc, shall be entered by the taxpayer on self-assessment basis.
8. Payment of tax can be made by utilizing ITC under the same head or cross-utilizing from other heads in accordance with the provisions of the Act read with the rules made thereunder. Balance payment of tax can be made in cash.
9. Suggested utilization of ITC will be made available in the payment table. However, taxpayer can make changes in the suggested ITC utilization as long as such changes are as per provisions of the Act read with the rules made thereunder.
10. Payment of tax on account of supplies attracting reverse charge, interest, fee, penalty and others shall be made in cash only.
11. Adjustment of negative liability of the previous tax period shall be allowed to be made along with the current tax period's liability.
12. Viewing of the balance amount available in electronic cash and electronic credit ledger will be made available before making payment.
13. Value of inward supplies attracting reverse charge and import of services mentioned in table 3B will not be added to the turnover. Only the tax amount will be added to the computation of tax liability.
14. Facility of creating a challan for making payment will be made available if the balance in the electronic cash ledger is insufficient to discharge the liabilities.
15. Adjustment to liabilities or input tax credit relating to the period prior to the introduction of current system of return filing shall be reported in table 3 (tax liabilities) or table 4 (input tax credit), as the case may be.

B. Table specific instructions:-

Table No	Part of the Table	Instructions
3.	Summary	Of outward supplies, inward supplies attracting RCM, Debit/Credit notes etc., and tax liability.
	A.	Details of outward supplies
	1.	Taxable supplies made to consumers and un-registered persons will be auto-populated from table 3A of FORM GST ANX-1. The values will be net of debit/credit notes.
	2.	Taxable supplies made to registered persons (other than those attracting RCM will be auto-populated from table 3B of FORM GST ANX-1. It includes all supplies made to persons having GSTIN or UIN.
	3.	Exports made with payments of tax will be auto-populated from table 3C FORM GST ANX-1.
	4.	Exports made without payment of tax will be auto-populated from table 3C of FORM GST ANX-1.
	5.	Supplies made SEZ units/ developers with payment of tax will be auto-populated from table 3D of FORM GST ANX-1.
	6.	Supplies made to SEZ units/developers without payment of tax will be auto-populated from table 3F of FORM GST ANX-1.
	7.	Supplies made to registered persons which are treated as deemed exports will be auto-populated from 3G of FORM GST ANX-1.
	8.	Liabilities relating to the period prior to the introduction of current return filing system and any other liabilities (including excess tax collected from the recipient, if any) to be paid shall be reported here by the taxpayer.
	B	Details of inward supplies attracting reverse charge.
	1.	Inward supplies attracting reverse charge will be auto-populated from table 3H of FORM GST ANX-1. The values will be net of debit /credit notes and advances on which tax has already been paid at the time of payment, if any.
	2.	Import of services made during the tax period will be auto-populated from table 3-I of FORM GST ANX-1. The values will be net of debit / credit notes and advances on which tax has already been paid at the time of payment, if any.
	C	Details Of debit/credit notes issued, advances received/ adjusted and other reductions in liabilities.
	1.	Debit notes issued during the period in respect of supplies other than those attracting reverse charge will be auto-populated from the respective tables of FORM GST ANX-1.
	2.	Credit notes issued during the period in respect of supplies other than those attracting reverse charge will be auto-populated from the respective tables of FORM GST ANX-1.

3.	Advances received on account of supplies of services during the period shall be reported by the taxpayer after giving effect to refund vouchers. The same may be used to adjust any advances reported wrongly earlier.
4.	Adjustment made out of advances reported earlier will be reported by the tax payer. Excess adjustment if any , made shall be accounted for in the next tax period's return.
5.	Reduction in output tax liability on account of transition from composition levy to normal levy or any other reduction in liability shall be reported here by the taxpayer.
DDetails	of supplies having no liability .
1.	Supplies covered under GST but exempted from payment of tax or NIL rated shall be reported here. (For example, goods exempted under notification No.2/2017-Central Tax (ate) dated.28 th June,2017, services exempted under notification No.12/2017-Central Tax (Rate) dated.28 th June,2017 etc.).
2.	This is a residual entry for supplies not reported in any other column. Non-GST supplies and o supply specified in Schedule III shall be reported here. Supplies other than taxable and exempted /Nil rated supplies shall be reported here. However , it will exclude outward supplies attracting reverse charge. For the purpose of reporting here, non-GST supplies shall include supply of alcoholic liquor for human consumption, motor spirit (Commonly known, as petrol), high sped diesel, aviation turbine fuel, petroleum crude and natural gas.
3.	Outward supplies attracting reverse charge on which tax is to be paid by the recipient shall be reported here. The values will be net of debit/credit notes.
4.	Supply of goods by SEZ units/developers to DTA on a Bill of Entry shall be reported here. This column is to be filled by SEZ units or developers only.
E Total	Value and tax liability.
1.	Sum of part A,B,C and D will be the total value of supplies and that of liability and will be auto-computed.
A Details	of ITC based on auto-populated from FORM GST ANX-1 and action taken in FORM GST ANX-2 and other claims.
1.	Amount of credit involved in the rejected documents in FORM GST ANX-2 before filing the return will be auto-populated here and will be net of debit/credit notes.
2.	Amount of credit involved in the documents which have been kept pending in FORM GST ANX-2 will be auto-populated here and will be net of debit/credit notes.
3.	Amount of credit on all documents accepted (including deemed accepted)in FORM GST ANX-2 will be auto-populated here and will be net of debit/credit notes.

4.	4. If any eligible credit has not been claimed in FORM GST -3B due to non-receipt of supplies etc., the same can be claimed here.
4.	5. Credit on inward supplies attracting reverse charge as reported in table 3H of FORM GST ANX-1 will be auto-populated here and will be net of debit /credit notes and advances on which tax has already been paid at the time of payment, if any.
	6. Credit on import of services as reported in table 3-I of FORM GST ANX-1 will be auto-populated here. It will not include services received from SEZ units and will be net of debit/credit notes and advances on which tax has already been paid at the time of payment, if any.
	7. Credit on import of goods from overseas as reported in table 3 J of FORM GST ANX-1 will be auto-populated. It will not include goods received from SEZ units/developers.
	8. Credit on import of goods from SEZ units/ developers as reported in table 3K of FORM GST ANX-1 will be auto-populated.
	9. Credit distributed by ISD and reported in FORM GSTR-6 of the ISD as auto-populated in table 5 of FORM GST ANX-2 will be auto-populated here.
	10. Provisional credit on documents not uploaded by supplier(s) can be reported by the recipient for availing ITC to the extent provided in the Act red with the rules made thereunder. This ITC is other than that auto-populated in FORM GST ANX-2.
	11. i) There may be situations where a credit note was issued by the supplier against an invoice but the recipient had taken nil or partial credit on such invoice. Since acceptance of credit note will lead to reversal of credit, there may be instances where there will be a double reversal of credit for the recipient. In order to address the same, a facility has been provided for recipients to self-adjust any such loss of credit arising from issuance of credit notes by the supplier. Illustrations: a) A supplier issues an invoice for Rs. 1000/- to the recipient in the month of May. The recipient accepts the invoice in his FORM GST ANX-2 and the credit involved in the said invoice gets auto-populated in his FORM GST RET-1. In the month of June, the supplier gives a credit note to the recipient who accepts the same in his FORM GST ANX-2. Upon acceptance of the said credit note, the credit involved therein is reversed and this gets reflected in FORM GST RET-1. No adjustment needs to be made in such a case.

	<p>b) A supplier issues an invoice for Rs. 1000/- to the recipient in the month of May. The recipient accepts the invoice in his FORM GST ANX-2 but takes 50% credit on the said invoice in his FORM GST RET-1. In the month of June, the supplier gives a credit note to the recipient who accepts the same in his FORM GST ANX-2. Upon acceptance of the said credit note, the credit involved therein is reversed and this gets reflected in FORM GST RET-1. In such a case, the recipient may make an upward adjustment of 50% credit in this row as he had initially taken only 50% credit on the original invoice.</p> <p>c) A supplier issues an invoice for Rs. 1000/- to the recipient in the month of May. The recipient accepts the invoice in his FORM GST ANX-2 but takes no credit on the said invoice in his FORM GST RET-1. In the month of June, the supplier gives a credit note to the recipient who accepts the same in his FORM GST ANX-2. Upon acceptance of the said credit note, the credit involved therein is reversed and this gets reflected in FORM GST RET-1. In such a case, the recipient may make an upward adjustment of 100% credit in this row as initially he had not taken any credit on the original invoice.</p> <p>ii) Any other reclaim of ITC can also be reported here.</p>
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RERA | REAL ESTATE PROJECT | PART I

Adv. Sanket Suhas Bora

A. Definitions:

Real Estate Project

Section 2(zn) of the Real Estate (Regulation and Development) Act, 2016 defines Real Estate Project:

“**real estate project** means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartment, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto”

Analysis

The Real Estate (Regulation and Development) Act, 2016 has exhaustively defined the Real Estate Project and accordingly includes re-development projects, development of plotted projects.

B. Registration

Section 9 of the Real Estate (Regulation and Development) Act, 2016 deals with registration of a real estate agent.

“3. (1) No promoter shall advertise, market, book, sell or offer for sale, or invite personsto purchase in any manner any plot, apartment or building, as the case may be, in any realestate project or part of it, in any planning area, without registering the real estate projectwith the Real Estate Regulatory Authority established under this Act:

Provided that projects that are ongoing on the date of commencement of this Act andfor which the completion certificate has not been issued, the promoter shall make an applicationto the Authority for registration of the said project within a period of three months from thedate of commencement of this Act:

Provided further that if the Authority thinks necessary, in the interest of allottees, forprojects which are developed beyond the planning area but with the requisite permission ofthe local authority, it may, by order, direct the promoter of such project to register with theAuthority, and the provisions of this Act or the rules and regulations made thereunder, shall apply to such projects from that stage of registration.

(2) Notwithstanding anything contained in sub-section (1), no registration of the realestate project shall be required

(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases:

Provided that, if the appropriate Government considers it necessary, it may, reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act;

(b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act;

(c) for the purpose of renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project.

Explanation. For the purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered a stand alone real estate project, and the promoter shall obtain registration under this Act for each phase separately."

Analysis

Ongoing projects are the real estate projects that had not received the Completion/Occupation Certificate as on 1st May, 2017. Such Ongoing projects had to be registered under RERA within 3 months from the commencement of the Act i.e. by 31st July 2017.

New real estate projects have to be

registered only when the promoter wants to advertise, market, book, sell or offer for sale, or invite persons to purchase in their real estate project. Hence, the real estate project can be developed without registration. Real Estate Projects fulfilling any of the following need not register under RERA:

1. Plot Area less than 500 sqmtrs.
2. Number of Units less than 8 units.

However, if the project is to be developed in phases the cumulative area or units are to be considered to avail above exemption.

C. Checklist for Registration of Real Estate Agent

1. General Info:

- a. Business Constitution: Tick One
 - i. Proprietorship
 - ii. Partnership
 - iii. Company
 - iv. LLP
 - v. AOP
 - vi. Co-op Society
 - vii. Trust
- b. Full Name of Organisation /Proprietor
- c. Fathers Full Name (Proprietor Only)
- d. Copy of PAN
- e. Copy of Aadhar Card (Proprietor Only)
- f. Contact Details of Organisation:
 - i. Name of Contact Person
 - ii. Designation of Contact Person
 - iii. Company Mobile Number
 - iv. Secondary Mobile Number

- v. Landline Number
- vi. Email id
- vii. Website URL
- g. Business Address Details:
 - i. Copy of Latest Electricity Bill
 - ii. Copy of Latest Property Tax Challan
- h. Passport Size Photograph of Proprietor
 - i. Partner/Director/Authorised Signatory Details
 - i. Full Name
 - ii. Fathers Full Name
 - iii. Copy of PAN
 - iv. Copy of Aadhar
 - v. Mobile Number
 - vi. Email id
 - vii. Passport Size Photo

2. Past Experience Details

- a. Project Name
- b. Project Type
 - i. Residential
 - ii. Commercial
 - iii. Mixed (Plots & Buildings)
 - iv. Plot
 - v. Industrial
 - vi. Others
- c. Land Area (Sq. Mts.)
- d. Address of Project
- e. Number of Buildings/Plots
- f. Number of Apartments
- g. Total Cost

- h. CTS No./ Survey No/ Final Plot No.
- i. Original Proposed Date of Completion
- j. Actual Date of Completion

3. Membership Details of Self Regulatory Organisations:

CREDAI MAHARASHTRA	Membership Number
CREDAI MCHI	
NAREDCO	
MARATHI BANDHKAM VYAVSAHIK ASSOCIATION	
OTHERS	

4. Project Details

- a. Project Status
 - i. On-Going
 - ii. New
- b. Project Name
- c. Project Type
 - i. Residential
 - ii. Commercial
 - iii. Mixed (Plots & Buildings)
 - iv. Plot
 - v. Industrial
 - vi. Others
- d. Proposed Date of Completion
- e. Revised Proposed Date of Completion
- f. Address Details of Project
- g. Whether Litigation related to project?
 - i. Yes
 - 1. Project Name
 - 2. Name of Court

3. Type of Case Criminal, Civil or Others
4. Petition Writ, Suit, Appeal or Arbitration Appeal
5. Case Number
6. Year
7. Copy of Preventive/Interim /Injunction Order Passed if any
8. Present Status

OR

ii. No.

h. Whether any Co-promoter involved?

i. Yes Co-promoter Details as per point 1

OR

ii. No.

i. Land Details

i. CTS No./Survey No.

ii. Area SqMts

iii. Aggregate Area of Recreational Open Space (SqMts)

iv. Total Building Count

v. Sanctioned Building Count

vi. Proposed but not sanctioned building count

vii. Boundaries

1. East

2. West

3. South

4. North

j. FSI Details

i. Built Up area as per approved FSI (SqMts)

ii. Built Up Area as per proposed FS (Sq.Mt)

iii. Total FSI

k. Details of Separate Bank Account

i. Bank Name

ii. Branch Name

iii. IFSC Code

iv. Bank Account No

v. Bank Address

5. Building Details (Each Building Wise)

a. General Info

i. Name

ii. Number of Basement

iii. Number of Plinth

iv. Number of Podium

v. Number of Slab of super structure

vi. Number of Stilts

vii. Number of Open Parking

viii. Number of Closed Parking

ix. Date of Completion

b. Apartment Type Details

i. Apartment Type (1BK, 2BK, etc)

ii. Carpet Area (SqMts)

iii. Proposed No. of Apartments

iv. Number of Apartments booked / sold / allotted

c. Common Areas and Facility Details

Particulars	Proposed	Percentage of Completion	Details
No. of Garages	(in Numbers)	If No, then do not fill this column	If No, then do not fill this column
Covered Parking	(in Numbers)	If No, then do not fill this column	If No, then do not fill this column
Internal Roads & Footpaths	Yes/No	If No, then do not fill this column	If No, then do not fill this column
Water Supply	Yes/No	If No, then do not fill this column	If No, then do not fill this column
Sewerage (Chamber, Lines, Septic Tank , STP)	Yes/No	If No, then do not fill this column	If No, then do not fill this column
Storm Water Drains	Yes/No	If No, then do not fill this column	If No, then do not fill this column
Landscaping & Tree Planting	Yes/No	If No, then do not fill this column	If No, then do not fill this column
Street Lighting	Yes/No	If No, then do not fill this column	If No, then do not fill this column
Electrical Meter Room, Sub-Station, Receiving Station	Yes/No	If No, then do not fill this column	If No, then do not fill this column
Aggregate area of recreational Open Space	Yes/No	If No, then do not fill this column	If No, then do not fill this column
Open Parking	Yes/No	If No, then do not fill this column	If No, then do not fill this column
Community Buildings	Yes/No	If No, then do not fill this column	If No, then do not fill this column
Treatment And Disposal Of Sewage And Sullage Water	Yes/No	If No, then do not fill this column	If No, then do not fill this column
Solid Waste Management And Disposal	Yes/No	If No, then do not fill this column	If No, then do not fill this column
Water Conservation, Rain water Harvesting	Yes/No	If No, then do not fill this column	If No, then do not fill this column
Energy management	Yes/No	If No, then do not fill this column	If No, then do not fill this column
Fire Protection And Fire Safety Requirements	Yes/No	If No, then do not fill this column	If No, then do not fill this column
Specify other amenity if any	Yes/No	If No, then do not fill this column	If No, then do not fill this column

- d. Project Professional Details
 - i. Real Estate Agent
 - 1. Reg. No.
 - 2. Full Name
 - 3. Address
 - 4. Aadhar No
 - 5. Contact No
 - 6. E-mail Address
 - ii. Contractor (All Contractor Details, RCC, Electrical, Plumbing, Etc.)
 - 1. Full Name
 - 2. Address
 - 3. Aadhar No.
 - 4. Contact No.
 - 5. E-mail Address
 - iii. Architect (Who issues Form 1)
 - 1. Full Name
 - 2. Address
 - 3. Aadhar No.
 - 4. Contact No.
 - 5. E-mail Address
 - iv. Structural Engineer (Who issues Form 2)
 - 1. Full Name
 - 2. Address
 - 3. Aadhar No.
 - 4. Contact No.
 - 5. E-mail Address
 - v. Chartered Accountant (Who issues Form 3)
 - 1. Full Name
 - 2. Address
 - 3. Aadhar No.
 - 4. Contact No.
 - 5. E-mail Address
 - vi. Chartered Accountant (Who issues Form 5)
 - 1. Full Name
 - 2. Address
 - 3. Aadhar No.
 - 4. Contact No.
 - 5. E-mail Address
 - vii. Any Other Project Professional with their designation

6. Project Cost Details

Sr No.		Particulars	Estimated Total Amount	Actual Total Amount
1		Land Cost		
	A	Acquisition Cost of Land or Development Rights, lease Premium, lease rent, interest cost incurred or payable on Land Cost and legal cost		
	B	Amount of Premium payable to obtain development rights, FSI, additional FSI, fungible area, and any other incentive under DCR from Local Authority		

		or State Government or any Statutory Authority development rights, FSI, additional FSI, fungible area, and any other incentive under DCR from Local Authority or State Government or any Statutory Authority		
	C	Acquisition cost of TDR (if any)		
	D	Amounts payable to State Government or competent authority or any other statutory authority of the State or Central Government, towards stamp duty, transfer charges, registration fees etc; and		
	E	Land Premium payable as per annual statement of rates (ASR) for redevelopment of land owned by public authorities		
	F	i Estimated construction cost of rehab building including site development and infrastructure for the same as certified by Engineer Actual Cost of construction of rehab building incurred as per the books of accounts as verified by the CA		
		ii Cost towards clearance of land of all or any encumbrances including cost of removal of legal/illegal occupants, cost for providing temporary transit accommodation or rent in lieu of Transit Accommodation, overhead costncumbrances including cost of removal of legal/illegal occupants, cost for providing temporary transit accommodation or rent in lieu of Transit Accommodation, overhead cost		
		iii Cost of ASR linked premium, fees, charges and security deposits or maintenance deposit, or any amount whatsoever payable to any authorities towards and in project of rehabilitation		

2			Development Cost/ Cost of Construction		
	A	i	Estimated Cost of Construction as certified by Engineer and Actual Cost of construction incurred as per the books of accounts as verified by the CA		
		ii	On-site expenditure for development of entire project excluding cost of construction as per (ii) above, i.e. salaries, consultants fees, site overheads, cost of services (including water, electricity, sewerage), cost of machineries and equipment including its hire and maintenance costs, consumables etc. All costs directly incurred to complete the construction of the buildings /wings of the project registered		
	b		Payment of Taxes, cess, fees, charges, premiums, interest etc to any statutory Authority		
	c		Interest payable to financial institutions, scheduled banks, non-banking financial institution (NBFC) or money lenders on construction funding or money borrowed for construction. Principal Amount: _____		
3			Total Estimated Cost of the Real Estate Project		

7. Project Completion Details:

Sr. No.	Task/Activity	Percentage of Work
1	Excavation	
2	X number of Basement(s) and Plinth	
3	X number of Podiums	
4	Stilt Floor	
5	X number of Slabs of Super Structure	
6	Internal walls, Internal Plaster, Floorings within Flats/Premises, Doors and Windows to each of the Flat/Premises	
7	Sanitary Fittings within the Flat/Premises, Electrical Fittings within the Flat/Premises	

8	Staircases, Lifts Wells and Lobbies at each Floor level connecting Staircases and Lifts, Overhead and Underground Water Tanks	
9	The external plumbing and external plaster, elevation, completion of terraces with waterproofing of the Building/Wing	
10	Installation of lifts, water pumps, Fire Fighting Fittings and Equipment as per CFO NOC, electrical fittings to Common Areas, electro, mechanical equipment, Compliance to conditions of environment /CRZ NOC, Finishing to entrance lobby/s, plinth protection, paving of areas appurtenant to Building/Wing, Compound Wall and all other requirements as may be required to Obtain Occupation /Completion Certificate	

Documents Required (Scanned Copies)

- a. Copy of the legal title report
- b. Details of encumbrances (If No Encumbrance then letter of self-certification by promoter stating no encumbrances)
- c. Copy of Layout Approval (in case of layout)
- d. Proforma of the allotment letter and agreement for sale
- e. Declaration in FORM B
- f. Certificates of Architect (Form 1)
- g. Certificates of CA (Form 3)
- h. Certificates of Engineer (Form 2)
- i. Commencement Certificates.
- j. Building Plan Approval (IOD)

D. MahaRERA Fees for Registration

As per Rule 3(5)(i) of the Maharashtra Real Estate (Regulation and Development) (Registration of real estate projects,

Registration of real estate agents, rates of interest and disclosures on website) Rules, 2017, the Registration Fee shall be calculated on the area of the land proposed to be developed at the rate of Rs. 10 per sq. mts., subject to minimum of Rs. 10,000 and maximum of Rs. 10,00,000/-

E. Validity of the Registration

The validity of the Registration Certificate shall be till the date of completion mentioned in the RERA Registration Application.





BUDGET 2020 GST PERSPECTIVE

CA Swapnil Munot

BACKGROUND

On 1st Feb 2020, Hon'ble Finance Minister has announced Budget for 2020. Finance Bill 2020 contains provisions with respect to Direct Tax, Central GST, Custom Act etc. Budget speech of 2020, was one of the historic, since it was one of the longest budget speech which continued for around 2 hr 42 min. In Budget Speech hon'ble Finance Minister has given emphasis on new development under GST which is going to be applicable from 1st April 2020, that is

- E Invoice and
- New GST Return

After from it, some amendments are carried out in provisions of CGST Act 2017. Some of important amendments which industry were expecting - 'Retrospective effect of Net Interest provisions, time limitation for ITC, Relaxation of Heavy e way bill penalties, relaxation of 16(4) for late return filer, filing of return without payment of tax etc have not been addressed by Finance Bill 2020.



Highlights of Budget Speech from GST Perspective

- ☞ In the last two years we have added more than **60 lakh new taxpayers**,
- ☞ Total of about **40 crore returns** were filed,
- ☞ **800 crore invoices** were uploaded,
- ☞ **105 crore e-way bills** were generated.

- ☞ **A simplified new return system is being introduced from April 1, 2020.** This is under pilot run. It will make return filing simple with features like SMS based filing for nil return, return pre-filing, improved input tax credit flow and overall simplification.

- ☞ It has resulted in the efficiency gains in **logistic and transport sectors**. The turnaround time for trucks has witnessed a substantial reduction, to the tune of **20% due to abolition of check posts in GST**.
- ☞ **Refund process has been simplified** and has been made fully automated **with no human interface**.
- ☞ Through several rate reductions, an **annual benefit of Rs one lakh crore has been extended to consumers**. It amounts to 10% reduction in overall tax incidence. **An average household now saves about 4%** on its monthly spends on account of reduced GST rates
- ☞ **Electronic invoice** is another innovation wherein critical information shall be captured electronically in a centralized system. It will be implemented in a phased manner starting from this month itself on optional basis. It will facilitate compliance and return filing
- ☞ **Dynamic QR-code** is proposed for consumer invoices.
- ☞ A system of **cash reward is envisaged** to incentivise customers to seek invoice.
- ☞ Deep data analytics and **AI tools are being used for crackdown on GST frauds**. Invoice and input tax credit matching is being done wherein returns having mismatch more than 10 percent or above a threshold are identified and pursued



Now, we will be discussing on some of the important amendment carried out by Finance Bill 2020.

- a) Inclusion of Ladakh in definition of Union Territory [Sec 2(114)]** The definition of Union Territory now includes 'Ladakh' as Union Territory in the CGST Act 2017.

Also 'Dadra and Nagar Haveli' and 'Daman and Diu' have been combined in the definition of Union Territory as they are now considered as part of the same Union Territory.

This amendment is done due to recent historic changes done in Article 370 of constitution. Jammu and Kashmir, since it will

have legislative assembly, will be recognised as State for the purpose of GST

b) Exclusion of some service providers from Composition category [Sec 10(2)]

- Below ineligible categories are now amended in Sec 10(2) composition scheme, so as to exclude some of the services as well.

- he is not engaged in making any supply of goods or services which are not leviable to tax under this Act;
- he is not engaged in making any inter-State outward supplies of goods or services;
- he is not engaged in making any supply of goods or services through an electroniccommerce operator who is required to collect tax at source under section 52

The above category of persons were already excluded in respect of 'supply of goods'. Now exclusion for 'supply of services' has also now been provided.

c) Time limit for availment of ITC w.r.t Debit Notes [Sec 16(4)]

- This amendment is big relief for availment of ITC in respect of Debit Note. Now with respect to maximum time allowed for ITC of debit note is linked with date of debit note (Before amendement same was linked with date of original invoice pertaining to said debit note) Earlier maximum time limit for availment of ITC w.r.t Debit note was linked with original invoice date. Meaning thereby, For exmaple - if invoice is of April 2018, and debit note for the same is raised in Aug 2019, then ITC for said debit note can be availed maximum by Sep 2019 return due

date. This was very hard provision and causing disallowance of ITC for receiptent.

However, post amendment, said ITC can be availed till Sep 2020 return due date, since now date of debit note is to be considered for maximum time allowed for availment of ITC. It's a welcome and trade friendly amendment.

d) Voluntary Cancellation of GST Registration [Sec 29(1)(c)]

Even though practically, officer were accepting the registration cancellation application in case, where such registration was obtained under voluntary category, but there was no legal provision in CGST act for the same.

Now provision is provided for allowing cancellation of GST Registration, in case, such registration was obtained under voluntary category.

e) Exentation of Time limitation for GST Registration Revokation [Sec 30(1)]

Earlier, a person is allowed to revoke their cancellation of registration by making an application within 30 days from the date of service of cancellation order. After this amendment, upon 'sufficient cause being shown' and 'for reasons recorded in writing', the time period can be extended as follows:

- a) Upto 30 days by Additional Commissioner or Joint Commissioner
- b) Further period of 30 days after (a) above - by Commissioner

It's a welcome amendment.

f) Penalty on the beneficiary of the transaction in case of fake invoicing[Sec 122(1A)]

- In case of fake invoicing/ creating chain of dummy firms 'Case of invoice without supply, supply without

invoice, taking ITC without the actual receipt of supply', the beneficiary of the transaction is usually found to be relatives/employee of 'directors', 'promoters', 'partners' etc. of the entity involved in such activity. It may happen that the name of the actual beneficiary does not appear anywhere in the entire fraud chain.

However, now the Government has now been given the power to penalize the beneficiary in such fraudulent transactions to the extent of the tax evaded or input tax credit availed, in case such transaction is carried at instance of such beneficiary.

Also amendment is made in Sec 132, to cover below offences in category of non-bailable

o The offence of fraudulent avilment of input tax credit without invoice or bill cognizable and non-bailable

Also, the prosecution has been extended to the person who retains the benefit of the transactions and at whose instance such transactions are conducted.

g) Amendment in Transitional provision to empower the government [Sec 140] -

The transitional provisions under the CGST Act did not empower the Government to specify the time limit within the said credit could be taken.

It has only been provided by means of the CGST Rules 2017. To counter the litigation wherein this aspect had been challenged, a retrospective amendment has been carried out in the transitional provisions to provide for the time limit. This means that the statute

after the amendment allows the Government to specify the time and manner of avilment of input tax credit

h) Time period for issuance of removal of difficulties order (ROD) [Sec 172]

Since GST law is not yet stable and there may arise in future to make changes in GST Act, therefore time limit of issuing of ROD is increased . Earlier The time period for issuance of removal of difficulties order was only prescribed upto three years from the commencement of the Act. Now, its has now been extended upto 5 years that is upto 2022. Thereby, the Government has the power to issue Removal of Difficulties order upto 30th June 2022 (earlier it was upto 30th June 2020 only).

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Taxation of capital gains arising from listed equities

By CA Anup Bipin Shaha
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'Madam Speaker, currently, long term capital gains arising from transfer of listed equity shares, units of equity oriented fund and unit of a business trust are exempt from tax. With the reforms introduced by the Government and incentives given so far, the equity market has become buoyant. The total amount of exempted capital gains from listed shares and units is around Rs. 3,67,000 crores as per returns filed for A.Y.17-18. Major part of this gain has accrued to corporates and LLPs. This has also created a bias against manufacturing, leading to more business surpluses being invested in financial assets. The return on investment in equity is already quite attractive even without tax exemption. There is therefore a strong case for bringing long term capital gains from listed equities in the tax net.

However, recognizing the fact that vibrant equity market is essential for economic growth, I propose only a modest change in the present regime. I propose to tax such long term capital gains exceeding `1 lakh at the rate of 10% without allowing the benefit of any indexation. However, all gains up to 31st January, 2018 will be grandfathered.'

This are the words spoken in the Parliament on 1st February by our Finance Minister Mr. Arun Jaitley while bringing into tax net the gains from vibrant equity market of India. However, he was kind

enough to grandfather all the gains earned till the previous day i.e. till 31st January, 2018. In this article, we shall travel through all the applicable provisions of the Income Tax Act ('the Act') and also other Acts as and where applicable.

We all are aware of section 10(38) which exempts any income arising from the transfer of a long term capital asset being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust ('specified asset'). However Finance Act 2018, has provided a sunset clause for this much adored section and has stated that no provision of this clause shall apply for any transaction of transfer of long-term capital asset being specified asset made on or after 01.04.2018. In brief, exemption provided for such transfers has been given up and now such transactions shall be taxed.

However, it shall be pertinent to mention in detail which transfers were exempt vide under section 10(38).

1. Any transaction of sale of specified assets entered into on or after 1st October 2004 and is chargeable to Security Transaction Tax ('STT').
2. Thus, for equity shares or equity oriented units, any share or units which are listed on recognized stock exchange whether on delivery/ non-delivery basis.
3. For unlisted equity oriented units, when there is any sale of units to the mutual funds.

4. Units of business trust

Tax rate for such transfers has been specified in section 112A which has been inserted vide Finance Act, 2018 which overrules section 112. It provides for 10% tax on such long term capital gains. However gains upto Rs. 1,00,000/- shall not be taxed. Also for individual/ HUF where his total income except long term capital gains is below the basic exemption limit, such difference between total income and exemption limit shall be reduced from such long term capital gains

Example

Mr X has earned an income of Rs. 1,50,000/- and long-term capital gains of Rs. 4,00,000/-. Thus, difference between Mr. X's income other than capital gain and basic exemption (Rs. 2,50,000) is Rs. 1,00,000/-. Thus such difference of Rs. 1,00,000/- has to be reduced from capital gains of Rs. 4,00,000/- and net capital gains to be taxed is Rs. 3,00,000/-.

Further, manner to compute tax has been given in section 55(2)(ac) which states that any equity

oriented unit or a share of a mutual fund or a unit of a business trust is acquired before 1st February 2018, cost of acquisition shall be higher of :

1. The cost of acquisition of such asset and
2. Lower of
3. The fair market value of such asset and
4. The full value of consideration received or accruing as a result of the transfer of the capital asset.

Now, the question that arises is what the fair value of specified asset is. As per question 6 of FAQs released by CBDT vide circular dated 04th February 2018, the FMV of listed specified assets shall be taken as highest price of such asset on a recognized stock exchange on 31st January, 2018. However, if there is no trading on 31st January, 2018, the FMV will be the highest price quoted on a date immediately preceding 31st January, 2018. However, if the units are unlisted then FMV shall be considered as NAV of such units as on 31st January, 2018.



*your
success
depends
on your
actions*

*Life
doesn't have to be
perfect
to be
wonderful*



Finance Bill

By CA Anup Bipin Shaha

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Finance Bill, 2020 was introduced in Lok Sabha on 1st February, 2020 which has proposed many amendments to the existing Income-tax Act. In this article we will quickly sail through the salient amendments which promise to have a major impact in planning, advisory, compliance related work.

AMENDMENT IN TAX RATES

There are no changes in the existing tax rates and tax structure pertaining to the individual, HUF, firm, LLP, corporates, AOP, BOI.

However, optional tax regime for individual/ HUF has been proposed vide introduction of section 115BAC.

OPTIONAL TAX REGIME FOR INDIVIDUAL AND HUF

A new scheme for individual and HUF has been introduced wherein these persons have to pay taxes at lower rates by foregoing certain exemptions/ deductions

Further, the new scheme is optional and the assessee must have to choose between the regular tax regime and the new tax regime subject to the following conditions:

- (i) If the assessee is having a business income, the option once exercised shall apply to all the subsequent assessment years and once such option is exercised, the assessee can withdraw his selection only once for a previous year other than the year in which it was exercised. However, once such withdrawal is opted for, the assessee shall not be eligible for the new scheme thereafter with an exception i.e. if he ceases to have business income.
- (ii) If the assessee is not in receipt of any business income, he has to choose between the aforementioned two options along with the return of income to be furnished under sub-section (1) of section 139.

The aforementioned concessional tax regime can be opted for by the assessee only after foregoing the exemptions/ deductions as mentioned hereunder:

1. Leave Travel Concession Section 10(5)
2. House Rent Allowance Section 10(13A)
3. Specified allowances exempt under section 10(14)
4. Allowances to Mps or MLAs Section 10(17)
5. Clubbed Income of Minor Section 10(32)
6. Exemption for unit in SEZ Section 10AA
7. Deductions w.r.t salary as per section 16
8. Interest in respect of Self Occupied Property Section 24(b)

Total Income	Tax rate under the new regime
Up to Rs. 2,50,000	Nil
Rs. 2,50,001 to Rs. 5,00,000	5%
Rs. 5,00,001 to Rs. 7,50,000	10%
Rs. 7,50,001 to Rs. 10,00,00	15%
Rs. 10,00,001 to Rs.12,50,000	20%
Rs. 12,50,001 to Rs.15,00,000	25%
Above 15,00,001	30%

9. Additional depreciation Section 32(1)(iia)
10. Deduction under section 32AD, 33AB or 33ABA
11. Deduction under section 35AD or 35CCC
12. Deduction for donations or expenditure on scientific research Section 35(1)(ii)/(iia)/(iii) or section 35(2AA)
13. Standard deduction for family pension Section 57(iia)
14. Deductions under chapter VI-A of the Act other than the following:
 - a. 80CCD(2)
 - b. 80JJAA
 - c. 80LA
15. Set-off of any loss, which is carried forward or depreciation which is attributable to any of the aforementioned deductions as mentioned in points (1) to (14).
16. Set-off of any loss under the head "Income from house property" with any other head of income.
17. Any exemption or deduction for allowances or perquisites provided under any other law.

No provisions pertaining to Alternate Minimum Tax shall apply to a person who has opted for the new tax regime.

OPTION OF CONCESSIONAL TAX SCHEME TO RESIDENT CO-OPERATIVE SOCIETIES

Section 115BAD has been introduced vide Finance Act, 2020 providing for concessional tax rates for resident Co-operative Societies.

Current tax rates for a co-operative society are as under:

Total Income	Tax rates
10,000 or below	10%
10,001 to 20,000	20%
20,001 or above	30%

For such co-operative societies who are resident of India, a new flat tax rate of 22% is proposed subject to foregoing of certain exemptions or deductions.

The aforementioned concessional tax rate can be opted for by such society only after foregoing the exemptions/ deductions as mentioned hereunder:

1. Exemption for unit in SEZ Section 10AA
2. Additional depreciation Section 32(1)(iia)
3. Deduction under section 32AD, 33AB or 33ABA
4. Deduction under section 35AD or 35CCC
5. Deduction for donations or expenditure on scientific research Section 35(1)(ii)/(iia)/(iii) or section 35(2AA)
6. Deductions under chapter VI-A of the Act other than the following:
 - a. 80JJAA
 - b. 80LA
7. Set-off of any loss, which is carried forward or depreciation which is attributable to any of the aforementioned deductions as mentioned in points (1) to (6).

However, it is pertinent to note that once such option is exercised for any previous year, such option shall apply to subsequent assessment years and such option cannot be withdrawn for any subsequent assessment year.

AMENDMENT TO SECTION 6 I.E CHANGES IN NORMS FOR DETERMINING RESIDENTIAL STATUS OF A PERSON

For the purpose of the Income-tax Act, a person is said to be the resident of India if he:

- a. Is in India for a period of 182 days or more in the previous year; or
- b. If he is in India for a period of 60 days or more in any previous year and more than 365 days in 4 previous years prior to such previous year.

However, in case of a citizen of India or a person of Indian origin, who comes on to visit India for any previous year, such limit of 60 days as mentioned in earlier paragraphs, was relaxed to 182 days.

But, the finance Act, 2020 seeks to reduce such relaxation of 182 days to 120 days. So now a person who is a citizen of India or is a person of Indian Origin, shall be a resident of India, if he

resides in India for 120 days or more in any previous year and 365 days or more in 4 previous years prior to such previous year.

Nevertheless, the relaxation w.r.t. 182 days or more has not been altered in case of a person who leaves India as member of the crew of the ship.

Additionally, a person is said to be "not ordinarily resident" in India in any previous year provided that such person:

- a. Is an individual who has been a non-resident in India out of 9 of the ten preceding previous year; or
- b. Has been in India for a period not exceeding 729 days in 7 preceding previous years.

However, vide the Finance Act, 2020, a relaxation in respect of 9 years has been given i.e. an individual who has been a non-resident out of 7 of the ten preceding previous years shall be said to "not ordinarily citizen".

Further, condition as stipulated in point "b" above i.e. w.r.t. stay not exceeding 729 days in 7 preceding previous years has been deleted.

Similar relaxation is now available for the manager of an HUF in determining the status for the HUF.

Another important insertion that is proposed through this Finance Act pertains to Indian Citizen who are non-residents in India but are not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature shall be deemed to be the residents of India and their global income shall come under tax bracket. However, suitable clarification regarding this matter are awaited.

PROVISIONS W.R.T REGISTRATIONS OF NEW TRUST AND EXISTING TRUSTS

A new sub-clause (ac) to section 12A(1) of the Act is proposed to be inserted w.e.f. 1st June, 2020.

The said newly inserted sub-clause provides for a new process of registration to the new as well as existing charitable trust or institutions. Such trusts

or institutions now have to make an application to the Principal Commissioner or Commissioner, in the prescribed form and manner for registration under section 12AB:

- a. Where such trust or institution is registered u/s 12A or 12AA, within three months from the date on which such clause shall come into force i.e. within three months from 1st June, 2020.
- b. Where such registration u/s 12AB is due to expire, at least 6 months prior to the expiry of the said period.
- c. Where such trust or institution has been provisionally registered under section 12AB, at least 6 months prior to the expiry of the period of the provisional registration or within 6 months from the commencement of its activities, whichever is earlier.
- d. Where registration has become inoperative due to the 1st proviso to section 11(7) of the Act, at least 6 months prior to the commencement of such assessment year from which the said registration is sought to be made operative.
- e. Where the trust or institution has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, within 30 days from the date of the said adoption or modification.
- f. In any other case, at least one month prior to the commencement of the previous year relevant to the assessment year from which the said registration is sought.

Further, necessary amendments to section 11(7) have been proposed wherein it is proposed to make registration under section 12AB inoperative from the date on which the trust or institution is approved under clause (23C) of section 10 or is notified under clause (46) of the said section.

Consequently, a sunset clause for section 12AA has been introduced wherein such section shall cease to exist on 1st June, 2020 i.e. on the day on

which section 12AB shall come into force.

The proposed section 12AB states that the Principal Commissioner or Commissioner, on receipt of application made under clause 12A(1)(ac) i.e. under the newly inserted clause shall pass an order registering a trust for the period of 5 years after making necessary inquiries as he deems fit.

Further, if the activities of trust or institution are being carried out in a manner that the provisions of section 11 or 12 do not apply to exclude either whole or any part of the income of such trust due to operation of section 13(1) or if such trust or institution has not complied with the requirement of any other law, the Principal Commissioner may, take necessary steps to cancel the registration of such trust.

AMENDMENT W.R.T. INCOME UNDER THE HEAD SALARY

Section 17(2)(vii) quantified the value of perquisites arising out of any contribution made by the employer to an approved superannuation fund to the extent it exceeds Rs. 1,50,000/-.

Further, the contribution by employer to the account of an employee in a recognised provident fund exceeding 12% is taxable in the hands of the taxpayer.

Also, contribution by the employer to the National Pension Scheme is fully taxable in the hands of the employee subject to deduction under section 80CCD(2).

However, there is no combined upper limit for the purpose of deduction on the amount of contribution made by the employer,

Now, section 17(2)(vii) has been amended to insert a cap of Rs. 7,50,000/- of such 3 contributions mentioned above i.e.

- a. In a recognised provident fund
- b. In a National Pension Scheme
- c. In an approved Superannuation Fund

Further, any annual accretion by way of interest, dividend or any other amount of similar nature to

the balance of such fund or scheme as aforementioned, shall be considered as perquisites to the extent the same relates to the contribution of the employer as aforementioned and which is included in the return of income.

AMENDMENT W.R.T. PROFITS AND GAINS FROM BUSINESS AND PROFESSION

AMENDMENT IN SECTION 35AD

Section 35 provides for 100% deduction in respect of capital expenditure (other than expenditure on land, goodwill, and financial assets) incurred by the assessee on specified business. Further, section 4 of the said section provides that no deduction is allowable under any other section in respect to the capital expenditure.

At present the assessee doesn't have any option to not to avail such incentive.

Further, with the introduction of section 115BAA and 115BAB, the tax for the domestic companies could be computed at the rate of 22% or 15% respectively if the necessary conditions. However, while computing income, no deduction pertaining to section 35AD is allowable to the assessee.

But, still due to applicability of section 35AD(4), there arose a legal interpretation issue to such domestic companies availing concessional rates of tax would have been denied depreciation for such capital assets under section 32 of the Act.

To remove such issues, section 35AD has been amended to make deduction under such section optional.

It is also further proposed to amend section 35AD(4) to provide that no deduction will be allowed in respect of expenditure incurred under sub-section (1) in any other section in any previous year or under this section in any other previous year, if the deduction has been claimed by the assessee and allowed to him under this section.

AMENDMENT W.R.T. TOLERANCE LIMIT SECTION 43CA, 50C & 56(2)(x)

If the amount of consideration received or

accruing as a result of transfer of land or building or both, held as capital asset, is less than the stamp duty value, then section 50C provides that stamp duty value shall be deemed to be the consideration received for such transaction.

Similarly, if the amount of consideration received or accruing as a result of transfer of land or building or both, held as a stock-in-trade, is less than the stamp duty value, then section 43CA provides that stamp duty value shall be deemed to be the consideration received for such transaction.

Also, upon receipt of land or building or both, for a consideration less the stamp duty value, the difference between the stamp duty value and the consideration is taxable in the hands of the recipient of such land or building or both under section 56(2)(x) of the Act.

Presently, a tolerance limit of 5% was provided for the aforementioned sections i.e. if the difference between the actual consideration received or accrued and the stamp duty value doesn't exceeds 5% of the amount of consideration, then the actual consideration shall be value adopted for the purpose of computation of capital gain and not the stamp duty value.

The Finance Act, 2020 proposes that such tolerance limit of 5% shall be extended to 10%.

AMENDMENT W.R.T. TO COST OF ACQUISITION SECTION 55

Section 55 provides that where the capital asset became the property of the assessee before 01.04.2001, the assessee has an option to adopt the Fair Market Value as on 01.04.2001 as cost of acquisition.

Similarly, where capital asset has become the property of the assessee by way as specified in section 49(1) i.e. by way of gift, will, inheritance etc. before 01.04.2001, the assessee has the option to adopt the Fair Market Value as on 01.04.2001 as cost of acquisition.

However, section 55 has been amended to

provide that such Fair Market Value as on 01.04.2001 in both the cases as mentioned above cannot exceed the Stamp duty Value as on 01.04.2001.

AMENDMENTS W.R.T. TURNOVER LIMIT FOR GETTING THE BOOKS OF ACCOUNTS AUDITED UNDER SECTION 44AB

Section 44AB has been amended to include a proviso which states that:

1. If the aggregate amounts received including amount received for sales, turnover or gross receipts during the previous year in cash, doesn't exceed 5% of the said amount

AND

2. Aggregate of all payments made including amount incurred for expenditure, in cash, during the previous year does not exceed 5% of the said payment,

The limit of Rs. 1 crore for getting the books of accounts audited by the Chartered Accountant shall be increased to Rs. 5 crore.

Further, TDS provision wherein reference to turnover as prescribed in section 44AB was given have been amended to substitute such reference with the words "one crore rupees in case of business or fifty lakh rupees in case of profession"

AMENDMENTS W.R.T. DUE DATES FOR FURNISHING RETURN UNDER SECTION 139(1) AND AUDIT REPORTS UNDER VARIOUS SECTIONS OF THE ACT

Section 139(1) has been amended to make due date for filing returns for the:

- a. Companies
- b. A person (other than companies) whose accounts are required to get audited under the Income-tax Act or any other Act.
- c. A ~~working~~ (the work "working" is proposed to be deleted vide Finance Act, 2020) partner of a firm whose accounts are required to be audited under this Act or any other Act.

Other than in case of an assessee wherein he has

to furnish a report referred to in section 92E; The due date of filing returns has been amended from 30th September to 31st October.

However, for every audit report or other reports to be furnished under this Act be it under section 44AB, 10A, 12A, 32AB, 33AB, 33ABA, 35D, 35E, 44DA, 50B, 80-IA, 80-IB, 80-JJA, 92F, 115JB, 115JC, 115VW, an amendment to the effect that such report is required to be submitted one month prior to the due date for filing return under section 139(1) has been made.

Thus the audit report under section 44AB has to be submitted one month prior to the due date as prescribed in section 139(1) of the Act i.e. one month prior to 31st October i.e. on or before 30th September.

Further, due date for furnishing Transfer Pricing Reports has been amended from 30th November to 31st October.

PROPOSED PROVISION W.R.T. DIVIDEND DISTRIBUTION TAX

Presently, domestic companies and mutual funds were liable to pay DDT on the amount of dividend or income declared, distributed or paid by them.

Such dividend were thus exempt in the hands of the shareholders/ unit holders in pursuant to section 10(34) / 10(35).

However, such DDT is proposed to be abolished vide Finance Act, 2020 and section 115-O or section 115-R is amended to provide for such abolishment.

In consequent to such amendment, dividend thus distributed shall now be taxable in the hands of individuals or unit holders.

Consequently section 115 BBDA shall cease to exist from 31st March, 2020 and section 10(34) and section 10(35) shall cease to exempt any dividends or income from shares or units and such income shall be taxed in the hands of the shareholder or unit holder.

Further, sections 115AC, 115ACA & 115AD have been amended to remove the reference of

dividend mentioned in section 115-O to make such dividend taxable in accordance with these provisions.

AMENDMENT TO SECTION 57

Section 57 of the Act is amended to restrict deduction pertaining to expenditure by way of interest to the extent of 20% of dividend or income from units.

Further, it is also provided that no other deduction shall be allowed from such income.

INSERTION OF SECTION 80M

Section 80M has been introduced to provide deduction to a domestic company whose gross income includes dividend from any other domestic company to the extent of distribution of income by way of dividend by such company.

AMENDMENT W.R.T PROVISIONS PERTAINING TO TAX COLLECTED AT SOURCE AND TAX DEDUCTED AT SOURCE

SECTION 192

ESOPs have been a significant component of the compensation for the employees of start-ups, as it allows the founders and start-ups to employ highly talented employees at a relatively low salary amount with balance being made up via ESOPs.

Currently ESOPs are taxed as perquisites under section 17(2) of the Act read with Rule 3(8)(iii) of the Rules. The taxation of ESOPs is split into two components:

- i. Tax on perquisite as income from salary at the time of exercise.
- ii. Tax on income from capital gain at the time of sale.

The tax on perquisite is required to be paid at the time of exercising of option which may lead to cash flow problem as this benefit of ESOP is in kind.

In order to ease the burden of payment of taxes by the employees of the eligible start-ups or TDS by the start-up employer, it is proposed to amend section 192 of the Act, and insert sub-section

(1C) therein to clarify that for the purpose of deducting or paying tax under sub-sections (1) or (1A) thereof, as the case may be, a person, being an eligible start-up preferred to in section 80-IAC, responsible for paying any income to the assessee being perquisite of the nature specified in clause (vi) of sub-section (2) of section 17 of the Act, in any previous year relevant to the assessment year 2021-22 or subsequent assessment year, deduct or pay, as the case may be, tax on such income within fourteen days

- I. after the expiry of forty eight months from the end of the relevant assessment year; or
- II. from the date of the sale of such specified security or sweat equity share by the assessee; or
- III. from the date of which the assessee ceases to be the employee of the person;

whichever is the earliest on the basis of rates in force of the financial year in which the said specified security or sweat equity share is allotted or transferred.

Similar amendments have been carried out in section 191 (for assessee to pay the tax direct in case of no TDS) and in section 156 (for notice of demand) and in section 140A (for calculating self-assessment).

SECTION 194, 194K AND 194LBA

Section 194 is proposed to be amended to make a domestic company liable to deduct tax at source in respect of dividend declared in excess of Rs. 5,000/- to a resident person.

However, if such dividend is payable cash, no such threshold of Rs. 5,000/- is available.

Further, Section 194K is proposed to be introduced to make a mutual fund liable to deduct tax at source when it distributed income to resident unit-holders subject to threshold of Rs. 5,000/-

Also, section 194LBA is amended to provide TDS at 10% in respect of income distributed by a business trust to a resident unit holder being

dividend received or receivable from a SPV.

SECTION 195 and 196A

Proviso to section 195 granting exemption from TDS in case of dividend referred to in section 115-O has been proposed to be deleted.

Thus, now such declaration of dividend by a domestic company to a non-resident shareholder shall attract TDS under section 195 at the rates in force.

Also, section 196A providing TDS from income in respect of mutual funds to non-resident unit holder is amended to provide TDS on such income at the rate of 20%.

SECTION 194A

Section 194A is amended to include the income paid or credited by co-operative society as an amount on which tax is required to be debited under the said section.

Thus, income paid or credited by a co-operative society (other than a co-operative bank) to a member or to income credited or paid by a co-operative society to any other co-operative society shall attract TDS.

Clause (v) provides circumstance to be the income credited or paid by a co-operative society (other than a co-operative bank) to a member or to income credited or paid by a co-operative society to any other co-operative society.

Clause (vii) provides circumstance to be the income credited or paid in respect of deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank and deposits (other than time deposits) with a co-operative bank other than a co-operative society or bank engaged in carrying on the business of banking.

In order to extend the scope of this section to interest paid by large co-operative society, it is proposed to amend sub-section (3) and insert proviso to provide that a co-operative society referred to in clause (v) or clause (vii) of said sub-

section (3) shall be liable to deduct income-tax in accordance with the provisions of sub-section (1), if-

- a. the total sales, gross receipts or turnover of the co-operative society exceeds fifty crore rupees during the financial year immediately preceding the financial year in which the interest referred to in sub-section (1) is credited or paid; and
- b. the amount of interest, or the aggregate of the amount of such interest, credited or paid, or is likely to be credited or paid, during the financial year is more than fifty thousand rupees in case of payee being a senior citizen and forty thousand rupees, in any other case.

SECTION 194J

The rate of deduction of tax at source has been reduced to 2% from 10% in respect for fees for technical services (other than professional service).

SECTION 194C

Clause (iv)(e) of the explanation to section 194C which defines the word "work" has been amended to include the purchase of material from the associate of customer, being a person places similarly in relation to customer as is the person associated with the assessee under the provisions contained in section 40A(2)(b) i.e. related party.

SECTION 206C

Section 206C is proposed to be amended to attract the TCS provisions in the following cases:

1. for a person who is an authorised dealer and who receives amount or an aggregate of amount of 7 lakh rupees or more in a financial year for remittance out of India from a buyer, being a person remitting such amount out of India under the Liberalised Remittance Scheme of the RBI shall collect TCS at the rate of from the buyer of sum equal to 5%.
2. A person who is a seller of overseas tour program package and who receives any

amount from a buyer, being a person who purchases such package shall collect TCS at the rate of from the buyer of sum equal to 5%.

DEDUCTION UNDER CHAPTER VI-A

SECTION 80EEA

Section 80EEA provides to an individual assessee a deduction of interest paid upto Rs. 1,50,000/- on loan availed by him from any financial institution for the purpose of acquiring certain residential house property.

The deduction was allowed only if such loan was sanctioned by the financial institution from 1st April, 2019 to 31st March, 2020.

In order to incentivise such purchase, such period has been extended from 31st March, 2020 to 31st March, 2021.

SECTION 80IBA

The time limit for the project to be approved from the competent authority has been extended from 31st March, 2020 to 31st March, 2021.

SECTION 80 IAC

The existing provisions of section 80-IAC of the Act provide for a deduction of an amount equal to 100% of the profits and gains derived from an eligible business by an eligible start-up for three consecutive assessment years out of 11 seven years, at the option of the assessee, subject to the condition that the eligible start-up is incorporated on or after 1st April, 2016 but before 1st April, 2021 and the total turnover of its business does not exceed 25 crore rupees.

In order to further rationalise the provisions relating to start-ups, it is proposed to amend section 80-IAC of the Act so as to provide that-

- I. the deduction under the said section 80-IAC shall be available to an eligible start-up for a period of three consecutive assessment years out of ten years beginning from the year in which it is incorporated;
- II. the deduction under the said section shall be available to an eligible start-up, if the total turnover of its business does not exceed 1000

crore rupees in any of the previous years beginning from the year in which it is incorporated.

RESTRICTION TO INITIATE ACTION UNDER SECTION 133A

The proviso to section 133A mentioned the restrictions as to the action shall not being taken without the prior approval of Joint Director or the Joint Commissioner as the case may be.

The said proviso is substituted to restrict the powers as under:

- a. in a case where the information has been received from the prescribed authority, no income-tax authority below the rank of Joint Director or Joint Commissioner, shall conduct any survey under the said section without prior approval of the Joint Director or the Joint Commissioner, as the case may be; and
- b. in any other case, no income-tax authority below the rank of Commissioner or Director, shall conduct any survey under the said section without prior approval of the Commissioner or the Director, as the case may be.

PENALTY FOR FALSE ENTRY IN BOOKS

Section 271AAD has been introduced to provide that during any proceeding under the Act, it is found that in the books of account maintained by any person there is:

1. a false entry; or
2. an omission of any entry which is relevant to the computation of income of such person, to evade tax liability,

the Assessing Officer may impose a penalty equal to such sum of false or omitted entry.

The definition of false entry is as under:

- a. forged or falsified documents such as a false invoice or, in general, a false piece of documentary evidence; or
- b. invoice in respect of supply or receipt of goods

or services or both issued by the person or any other person without actual supply or receipt of such goods or services or both; or

- c. invoice in respect of supply or receipt of goods or services or both to or from a person who do not exist.

AMENDMENT W.R.T VERIFICATION OF RETURN OF INCOME

Section 140 has been amended to provide for verification of return of Income of a company or a firm by any person other than any director thereof or any partner thereof respectively, by a person who is so authorised by such company or such firm to do so.

VIVAD SE VISHWAS SCHEME

A scheme to end the pending litigations has been proposed vide this Finance Act, 2020. Further, a draft proposal of such scheme is pending for approval by the Parliament.

Under this scheme, a taxpayer shall have to pay only disputed tax and shall get a waiver w.r.t penalty and interest if such disputed tax is paid by 31st March, 2020.

However, a certain of additional amount shall have to be paid by the taxpayer who shall deposit such disputed amount after 31st March, 2020.

The scheme is proposed to be remain open upto 30th June, 2020.

TAXPAYERS CHARTER

Currently there is no provision in the Act to empower the Board to adopt and declare a Taxpayer's Charter.

In view of this it is proposed to insert a new section 119A in the Act to empower the Board to adopt and declare a Taxpayer's Charter and issue such orders, instructions, directions or guidelines to other income-tax authorities as it may deem fit for the administration of Charter.





E-INVOICING

**-Adv. Sukrut Deo
Advocate & Tax Consultant**

'E-invoicing' or 'electronic invoicing' is a generation of Invoice by Electronic System. The GST Council has proposed E-Invoicing System in a phased manner for reporting of business to business (B2B) invoices to GST System. Now as per **Notification No 70/2019 Central Tax dated 13th December 2019**, notifies that registered person, whose aggregate turnover in a financial year exceeds one hundred crore rupees, as a class of registered person who shall prepare invoice in terms of sub rule (4) of rule 48 in respect of supply of goods or services or both to a registered person, from **01st April 2020**. Since there was no standard for e-invoice existing in the country, standard for the same has been finalized after consultation with trade/industry bodies as well as ICAI after keeping the draft in public place. Having a standard is a must to ensure complete inter-operability of e-invoices across the entire GST eco-system so that e-invoices generated by one software can be read by any other software, thereby eliminating the need of fresh data entry which is a norm and standard expectation today. The machine readability and uniform interpretation, eliminate data entry errors is the key objective. The e-invoice system being implemented by tax departments across the globe consists of two important parts namely,

- a) Generation of invoice in a standard format so that invoice generated on one system can be read by another system.
- b) Reporting of e-invoice to a central system.

The basic aim behind adoption of e-invoice system by tax departments is ability to pre-populate the return and to reduce the reconciliation problems. Huge increase in technology sophistication, increased penetration

of Internet along with availability of computer systems at reasonable cost has made this journey possible and hence more than 60 countries are in the process of adopting the E-invoice.

A. What is e-invoice?

If an invoice is generated by a software on the Computer or Point of Sales (PoS) machine then does it become an e-invoice? Is e-invoice as a system where taxpayers can generate the invoices centrally? Many such questions are raised when e-invoice gets discussed.

E-invoice does not mean generation of invoices from a central portal of tax department, as any such centralization will bring unnecessary restriction on the way trade is conducted. In fact, taxpayers have different requirements and expectation, which can't be met from one software generating e-invoices from a portal for the whole country. Invoice generated by each software may look more or less same, however, they can't be understood by another computer system even though business users understand them fully. For example, an Invoice generated by SAP system **cannot** be read by a machine which is using 'Tally' system. Likewise there are hundreds of accounting/billing software which generate invoices but they all use their own formats to store information electronically and data on such invoices can't be understood by the GST System if reported in their respective formats. Hence a need was felt to standardize the format in which electronic data of an Invoice will be shared with others to ensure there is interoperability of the data. The adoption of standards will in no way impact the way user would see the physical (printed) invoice or electronic (ex pdf version) invoice. All these software would adopt the new e-

Invoice standard wherein they would re-align their data access and retrieval in the standard format. However, users of the software would not find any change since they would continue to see the physical or electronic (PDF/Excel) output of the invoices in the same manner as it existed before incorporation of e-Invoice standard in the software. Thus the taxpayer would continue to use his accounting system/ERP or excel based tools or any such tool for creating the electronic invoice as s/he is using today.

To help small taxpayers adopt e-invoice system,

GSTN has empaneled eight accounting & billing software which provide basic accounting and billing system free of cost to small taxpayers. Those small taxpayers who do not have accounting software today, can use one of the empaneled software products, which come in both flavors, online (cloud based) as well as offline (installed on the computer system of the user).

Adoption of e-invoice by GST System is not only part of Tax reform but also a Business reform as it make the e-invoices completely inter-operable eliminating transcription and other errors.

B. Other derived benefits of introduction of e-invoice from GST perspective

Objectives	Outcome
Better taxpayer services	<ul style="list-style-type: none"> • One time reporting on B2B invoice data in the form it is generated to reduce reporting in multiple formats (one for GSTR-1 and the other for e-way bill). • To generate Sales and purchase register (ANX-1 and ANX-2) from this data to keep the Return (RET-1 etc.) ready for filing under New Return. e-Way bill can also be generated using e-Invoice data • It will become part of the business process of the taxpayer • Substantial reduction in input credit verification issues as same data will get reported to tax department as well to buyer in his inward supply (purchase) register. • On receipt of info thru GST System as buyer can do reconciliation with his Purchase Order and accept/reject in time under New Return
Reduction of tax evasion	<ul style="list-style-type: none"> • Complete trail of B2B invoices • System level matching of input credit and output tax
Efficiency in tax administration	<ul style="list-style-type: none"> • Elimination of fake invoices

Generation of e-invoice will be the responsibility of the taxpayer who will be required to report the same to Invoice Registration Portal (IRP) of GST, which in turn will generate a unique Invoice Reference Number (IRN) and digitally sign the e-invoice and also generate a QR code. The QR Code will contain vital parameters of the e-invoice and return the same to the taxpayer who generated the document in first place. The IRP will also send the signed e-invoice to the recipient of the document on the email provided

in the e-invoice.

Note: To begin with, there will be only one IRP, but more IRPs will be added to provide higher availability, redundancy, speed and a diversified and distributed service to tax payers with a choice.

C. What type of documents are to be reported to GST System?

While the word invoice is used in the name of e-invoice, it covers other documents that will be

required to be reported to IRP by the creator of the document:

- i. Invoice by Supplier
- ii. Credit Note by Supplier
- iii. Debit Note by Supplier
- iv. Any other document as required by law to be reported by the creator of the document

D. What will be the workflow involved?

The flow of the e-invoice generation, registration and receipt of confirmation can be logically divided into two major parts.

FIRST PART: It is the interaction between the business (supplier in case of invoice) and the Invoice Registration Portal (IRP).

SECOND PART: It is the interaction between the IRP and the GST/E-Way Bill Systems and the Buyer.

E. Direct Invoice Generation on IRP (Invoice Registration Portal)

Many people think that e-invoice will be generated from government's tax portal. This is a myth and invoices will continue to be generated using an Accounting or a billing software, keeping in view the varied need of item master, buyer master, UQC etc. along with sub-second response from IR Portal (IRP). Thus, direct creation/generation of e-invoice from GST portal or any other government portal is not envisaged/planned.

Small taxpayers can use one of the eight free accounting/billing software currently listed by GSTN. Also, GSTN will provide Offline Tool where data of an invoice, generated on paper can be entered which in turn will create JSON file for uploading on the IRP. Taxpayers can also use one of the commercially available accounting/billing software for this purpose. All accounting and billing software companies are being separately asked to adopt the e-invoice standard so that their users can generate the JSON from the software and upload the same on the IRP.

F. Features of E-invoice System :

- a) The Format of Unique Invoice Reference Number (IRN)
- b) Digital Signing by e-Invoice Registration Portal
- c) QR Code
- d) Multiple Registrar for IRN System
- e) Standardization of Invoice

G. CREATION OF E-INVOICE

Modes for getting invoice registered:

Multiple modes will be made available so that taxpayer can use the best mode based on his/her need. The modes given below are envisaged at this stage under the proposed system for e-invoice, through the IRP (Invoice Registration Portal):

- a. Web based,
- b. API based,
- c. SMS based,
- d. mobile app based,
- e. offline tool based and
- f. GSP based.

API mode: Using API mode, the big tax payers and accounting software providers can interface their systems and pull the IRN after passing the relevant invoice information in JSON format. API request will handle one invoice request at time to generate the IRN. This mode will also be used for bulk requirement (user can pass the request one after the other and get the IRN response within fraction of second) as well. The e-way bill system provides the same methodology.

Printing of Invoice

The taxpayer can continue to print his paper invoice as he is doing today including logo and other information. E-invoice schema only mandates what will be reported in electronic format to IRP.





क्लबना जीएसटी लागणार नाही.

अॅड. किशोर लुल्ला

एखादा क्लब आणि त्या क्लबचे सदस्य यांच्या मधील व्यवहार, विक्री अगर सेवा यामध्ये बसतो की नाही या बाबतीत अनेक प्रकारचे उलटसुलट निर्णय आणि मतमतांतरे आहेत. भारतीय घटनेच्या आर्टिकल ३६६(२९A) प्रमाणे एखाद्या क्लबने त्यांच्या सदस्यांना खाणेपिणे, खेळणे, सांस्कृतिक कार्यक्रम करणे इ.साठी पैशाची आकारणी केली तर ते विक्रीच्या संज्ञेत बसत नाही. नुकतेच दिनांक ०३/१०/२०१९ रोजी सर्वोच्च न्यायालयाच्या लार्जर बॅचने सेव्हरल मॅम्बर्स क्लब (कोलकत्ता क्लब लिमिटेड आणि रांची क्लब लिमिटेड) या केसमध्ये असा निकाल दिला की, क्लब आणि त्यांचे सदस्य यांच्यातील नात्यांमध्ये परस्परतेचा सिंधदात असतो. म्हणजेच या दोघांचा अंतर्गत संबंध असून त्यांचे अस्तित्व वेगवेगळे मानण्याचे कारण नाही आणि म्हणून जर एखाद्या क्लबने वर नमूद केलेल्या आणि तत्सम कोणत्याही सेवा, सदर क्लबच्या कायमस्वरूपी सदस्यांना दिल्या आणि जरी बिल तयार करून महिन्यातून एकदा पैसे घेतले तरी देखील या व्यवहारावर विक्रीकर अगर सेवाकर लागू शकत नाही. क्लब ही कायमस्वरूपी सदस्यांची एजन्ट असून त्या सदस्यांच्या वतीने खर्च करणे आणि ते पैसे सदस्यांकडून पुनर्भरणा करून घेणे यामध्ये कोणताही विक्री व्यवहार होत नाही. यापूर्वी सी.टी.ओ. विरुद्ध यंग मॅन्स इंडियन असोसिएशन (२६ एस.टी.सी.२४१) या केसमध्ये सर्वोच्च न्यायालयाने दिलेला निकाल आजही ग्राह्य मानला पाहिजे. या केसमध्ये वर नमूद केलेली ४६ वी घटना दुरुस्ती विरुद्ध आक्षेप घेतलेला होता.

सर्वोच्च न्यायालयाच्या मते बहुतांशी क्लब हे कंपनी कायद्याच्या कलम २५ प्रमाणे किंवा सहकारी कायद्या अंतर्गत नोदीत असतात. त्यामुळे त्या कॉर्पोरेट बॉडी असतात. झारखंड आणि गुजरात उच्च न्यायालयांनी दिलेल्या निर्णयाप्रमाणे क्लबने सदस्यांना दिलेल्या सेवांना सेवा कर लागत नाही. इंडियन कॉन्ट्रॅक्ट अॅक्ट प्रमाणे व्यवहारापोटी ठरलेले पैसे (Consideration) याच्या व्याख्येमध्ये काल्पनिक विक्री (Deemed Sale) चा अर्थ पहावयाचा असेल तर तेथे दोन व्यक्तींमध्ये व्यापार, व्यवहार झाला पाहिजे. क्लबच्या बाबतीत सदस्य आणि क्लब हे एकच असल्याने स्वतःची स्वतःलाच विक्री अगर सेवा कधीही होऊ शकत नाही. नॉर्दन इंडिया कॅन्टर्स या केसमध्ये म्हटल्याप्रमाणे हॉटेल मध्ये

फक्त वस्तू व्यवहाराचा समावेश होत नाही. तर तेथे खाद्यपदार्थ आणि शीतपेयांच्या सेवेचा देखील अंतर्भाव होतो. क्लबच्या बाबतीत मात्र खाद्यपेयांव्यतिरिक्त साबण, सौंदर्यप्रसाधने आणि घरगुती लागणाऱ्या वस्तूंचा देखील समावेश होतो आणि या सर्व वस्तू स्वतःच्या सदस्यांनाच दिल्या जातात.

असंघटीत संघटना (Unincorporated Association) किंवा व्यक्तींचा समूह (Body of Person) आणि त्याचे सदस्य हे कायद्याने देखील वेगवेगळे मानले आहेत. परंतु आपल्या केसचा संदर्भ हा कॉर्पोरेट क्लबच्या बाबतीत आहे. सर्वोच्च न्यायालयाच्या मते क्लबने त्यांच्या कायमस्वरूपी सदस्यांना दिलेल्या सेवेचा कर लावण्याचा अधिकार केंद्र आणि राज्यसरकार ह्या दोघांनाही येत नाही. जर अशा प्रकारचा कर लावण्याचा अगर वसूल करण्याचा प्रयत्न केला असेल तर तो घटनेच्या आर्टिकल २६५ चा भंग केला आहे असे होईल. त्यामुळे जर एखाद्या क्लबने असा विक्री कर आणि सेवाकर वसूल करून सरकारकडे भरलेला असेल तर तो यंग मॅन्स इंडियन असोसिएशन मद्रास आणि इतर (२६एस.टी.सी.२४१)या सुप्रीम कोर्टाच्या निर्णयापासून ३/१०/१०१२ पर्यंतचा कर परत केला पाहिजे.

नव्याने रुजू झालेला वस्तू आणि सेवा कर यामध्ये पूर्वीचा विक्रीकर आणि सेवाकर समाविष्ट असल्याने वर नमूद केलेला लार्जर बॅचने सर्वोच्च न्यायालयाचा निर्णय या कायद्यास देखील लागू होतो. याचे कारण जी.एस.टी. कायद्या अंतर्गत देखील कलम ७,९,१५ प्रमाणे दोन व्यक्तींमध्ये व्यापार, व्यवसाय आणि व्यवहार करण्यासाठी पैशाचे देणे-घेणे झाले असेल तरच त्या व्यवहारावर वस्तू व सेवा कायद्या अंतर्गत कर आकारणी करता येते. क्लबच्या बाबतीत मात्र असे घडू शकत नाही. इतकेच नाहीतर सी.जी.एस.टी. कायद्यांच्या कलम १५(५) प्रमाणे रिलेटेड पर्सन्स अंतर्गत संबंधित व्यक्ती या संज्ञेमध्ये ज्या आठ बाबींचा समावेश केलेला आहे त्यात देखील इनकॉर्पोरेट क्लबचा समावेश होऊ शकत नाही. निरनिराळ्या कर सल्लागार संघटना, वकिलांचे बार असोसिएशन यांना देखील त्यांनी सदस्यांना दिलेल्या सेवेपुरता जी.एस.टी. लागू होणार नाही. त्यामुळे सर्वोच्च न्यायालयाच्या या निर्णयाचा तपशीलवार अभ्यास करून सर्व क्लबनी फायदा करून घेतला पाहिजे.





MONTHLY TAX PANCHANG JANUARY 2020

Amol N. Shaha
Tax Consultant - Advocate

DATE	SUBJECT	NATURE OF COMPLIANCE
07-JAN-2020	INCOME TAX	PAYMENT OF TDS/TCS FOR THE MONTH OF DECEMBER 2019.
11-JAN-2020	GST	DUE DATE FOR FILING RETURN IN FORM GSTR-1 FOR THE MONTH DECEMBER 2019 , FOR REGISTERED PERSONS WITH AGGREGATE TURNOVER IN A STATE EXCEEDING RS.1.5 CRORES OR OPTED TO FILE MONTHLY RETURN.
14-JAN-2020	INCOME TAX	DUE DATE FOR ISSUE OF TDS CERTIFICATE IN FORM NO.16B FOR TAX DEDUCTED U/S 194-IA IN THE MONTH OF NOVEMBER 2019 .
14-JAN-2020	INCOME TAX	DUE DATE FOR ISSUE OF TDS CERTIFICATE IN FORM NO.16C FOR TAX DEDUCTED U/S 194-IB IN THE MONTH OF NOVEMBER 2019 .
15-JAN-2020	INCOME TAX	DUE DATE FOR FURNISHING OF FORM 24G BY AN OFFICE OF THE GOVERNMENT WHERE TDS FOR THE MONTH OF DECEMBER 2019 HAS BEEN PAID WITHOUT THE PRODUCTION OF A CHALLAN.
15-JAN-2020	INCOME TAX	DUE DATE FOR QUARTERLY STATEMENT OF TCS DEPOSITED FOR THE QUARTER OCTOBER 2019 TO DECEMBER 2019 IN FORM NO.27EQ .
15-JAN-2020	PROVIDENT FUND	DUE DATE FOR MONTHLY PROVIDENT FUND (PF) PAYMENT FOR DECEMBER 2019 .
15-JAN-2020	ESIC	DUE DATE FOR MONTHLY EMPLOYEES `S STATE INSURANCE CORPORATION (ESIC) PAYMENT FOR DECEMBER 2019 .
18-JAN-2020	GST	DUE DATE FOR FILING GST QUARTERLY RETURN STATEMENT IN FORM GST-CMP-08 FOR THE PERIOD OCTOBER 2019 TO DECEMBER 2019 BY COMPOSITION TAXABLE PERSONS .
20-JAN-2020	GST	DUE DATE FOR PAYMENT OF GST FOR THE MONTH OF DECEMBER 2019 AND TO FILE SUMMARY RETURN IN FORM NO. GSTR-3B FOR THE MONTH OF DECEMBER 2019 .
25-JAN-2020	PROVIDENT FUND	DUE DATE FOR FILING PROVIDENT FUND (PF) RETURN FOR DECEMBER 2019 .
30-JAN-2020	INCOME TAX	DUE DATE FOR FURNISHING OF CHALLAN-CUM-STATEMENT IN FORM 26QB AND 26QC I.R.O.TAX DEDUCTED U/S 194-IA AND U/S 194-IB IN THE MONTH OF DECEMBER 2019 .
30-JAN-2020	INCOME TAX	DUE DATE FOR ISSUE OF QUARTERLY TCS CERTIFICATE IN FORM NO.27D IN RESPECT OF TAX COLLECTED FOR THE QUARTER ENDING DECEMBER 2019 .
31-JAN-2020	INCOME TAX	DUE DATE FOR FILING QUARTERLY STATEMENT OF TDS DEPOSITED FOR THE QUARTER OCTOBER 2019 TO DECEMBER 2019 IN FORM NO.24Q AND 26Q .
31-JAN-2020	GST	DUE DATE FOR FILING RETURN IN FORM GSTR-1 FOR THE QUARTER- OCTOBER 2019 TO DECEMBER 2019 FOR REGISTERED PERSONS WITH AGGREGATE TURNOVER IN A STATE UPTO RS.1.5 CRORES .
31-JAN-2020	GST	EXTENDED DUE DATE FOR THOSE WHO ARE LIABLE TO FILE GST ANNUAL RETURN AND AUDIT REPORT IN FORMS GSTR 9/9A/9C FOR F.Y. 2017/2018 .
31-JAN-2020	PROFESSION TAX	MONTHLY E-PAYMENT AND E-FILING OF RETURN FOR JANUARY 2020 .

NOTE:-- 1] PLEASE NOTE THAT,BANKS REMAIN CLOSED ON 2ND AND 4TH SATURDAY OF EVERY MONTH,HENCE MAKE ALL THE STATUTORY PAYMENTS ACCORDINGLY.

2] THE ABOVE INFORMATION IS PREPARED ON 31ST DECEMBER 2019.ANY AMENDMENTS/CHANGES IN DATES,ETC., IF ANY,DONE BY THE GOVERNMENT AFTER 31ST DECEMBER 2019,WILL BE APPLICABLE ACCORDINGLY



MONTHLY TAX PANCHANG FEBRUARY 2020

Amol N. Shaha
Tax Consultant - Advocate

DATE	SUBJECT	NATURE OF COMPLIANCE
07-FEB-2020	INCOME TAX	PAYMENT OF TDS/TCS FOR THE MONTH OF JANUARY 2020 .
07-FEB-2020	GST	EXTENDED DUE DATE FOR THOSE WHO ARE LIABLE TO FILE GST ANNUAL RETURN AND AUDIT REPORT IN FORMS GSTR-9//9C FOR F.Y.2017 /2018 .
11-FEB-2020	GST	DUE DATE FOR FILING RETURN IN FORM GSTR-1 FOR THE MONTH JANUARY 2020 , FOR REGISTERED PERSONS WITH AGRREGATE TURNOVER IN A STATE EXCEEDING RS.1.5 CRORES OR OPTED TO FILE MONTHLY RETURN.
14-FEB-2020	INCOME TAX	DUE DATE FOR ISSUE OF TDS CERTIFICATE IN FORM NO.16B FOR TAX DEDUCTED U/S 194-IA IN THE MONTH OF DECEMBER 2019 .
14-FEB-2020	INCOME TAX	DUE DATE FOR ISSUE OF TDS CERTIFICATE IN FORM NO.16C FOR TAX DEDUCTED U/S 194-IB IN THE MONTH OF DECEMBER 2019 .
15-FEB-2020	INCOME TAX	DUE DATE FOR FURNISHING OF FORM 24G BY AN OFFICE OF THE GOVERNMENT WHERE TDS FOR THE MONTH OF JANUARY 2020 HAS BEEN PAID WITHOUT THE PRODUCTION OF A CHALLAN.
15-FEB-2020	INCOME TAX	DUE DATE FOR ISSUE OF QUARTERLY TDS CERTIFICATE I.R.O.TAX DEDUCTED FOR PAYMENTS OTHER THAN SALARY FOR THE QUARTER OCTOBER 2019 TO DECEMBER 2019 .
15-FEB-2020	PROVIDENT FUND	DUE DATE FOR MONTHLY PROVIDENT FUND (PF) PAYMENT FOR JANUARY 2020 .
15-FEB-2020	ESIC	DUE DATE FOR MONTHLY EMPLOYEES`S STATE INSURANCE CORPORATION (ESIC) PAYMENT FOR JANUARY 2020 .
20-FEB-2020	GST	DUE DATE FOR PAYMENT OF GST FOR JANUARY 2020 AND TO FILE SUMMARY RETURN IN FORM NO.GSTR-3B FOR JANUARY 2020 FOR TAXPAYERS HAVING AN AGGREGATE TURNOVER OF MORE THAN RUPEES FIVE CRORE IN THE PREVIOUS FINANCIAL YEAR.
22-FEB-2020	GST	DUE DATE FOR PAYMENT OF GST FOR JANUARY 2020 AND TO FILE SUMMARY RETURN IN FORM NO.GSTR-3B FOR JANUARY 2020 FOR TAXPAYERS HAVING AN AGGREGATE TURNOVER OF UP TO RUPEES FIVE CRORE IN THE PREVIOUS FINANCIAL YEAR.
25-FEB-2020	PROVIDENT FUND	DUE DATE FOR FILING PROVIDENT FUND (PF) RETURN FOR JANUARY 2020 .
28-FEB-2020	PROFESSION TAX	MONTHLY E-PAYMENT AND E-FILING OF RETURN FOR FEBRUARY 2020 .

NOTE:--

- 1] PLEASE NOTE THAT,BANKS REMAIN CLOSED ON 2ND AND 4TH SATURDAY OF EVERY MONTH,HENCE MAKE ALL THE STATUTORY PAYMENTS ACCORDINGLY.
- 2] THE ABOVE INFORMATION IS PREPARED ON 16TH FEBRUARY 2020.ANY AMENDMENDS/CHANGES IN DATES, ETC., IF ANY, DONE GOVERNMENT AFTER 16TH FEBRUARY 2020,WILL BE APPLICABLE ACCORDINGLY.



Members Present for Certificate Course Concluding Ceremony



Participants for 13th Certificate Course with Committee Members



Participants for 13th Certificate Course with Committee Members



Commissioner Shri Rajeev Jalota (SGST) Tilgul Samarambh at SGST office Mazgaon (Mumbai). Adv.DineshTambde President GSTPAM & Jt. Secretary Adv.Khushlani were also present.



President Shri Sharad Suryawanshi offering Tilgul to Addl.Commissioner Shri Vilas Indalkar (SGST) in Tilgul Samarambh at SGST Office Pune



Addl.Commissioner Shri Vilas Indalkar (SGST) with Committee Members in Tilgul Samarambh at SGST Office Pune



Tilgul Samarambh at SGST Office Pune



Commissioner Shri Rajeev Kapoor (CGST) Tilgul Samarambh at CGST Office Pune



Principal Chief Commissioner Mrs. Krishna Mishra (CGST)
Tilgul Samarambh at CGST Office Pune



Tilgul Samarambha at Indapur



Felicitation of CA Pritam Mahure - Speaker for
Union Budget Changes in GST



CA Pritam Mahure delivering the lecture on
Union Budget Changes in GST



Felicitation of CA Subodh Shah - Speaker for Union Budget
Changes in Income Tax



CA Subodh Shah delivering the lecture on Union Budget
Changes in Income Tax



Pay Taxes ● Not Less ● Not More

The Western Maharashtra Tax Practitioners' Association

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