



TAXtribune

NEWS & VIEWS

Pay Taxes ● Not Less ● Not More

(For Members Only)

● Year 2019-2020 ● November 2019 ● Issue No. : 2

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Editor



**GST,
Income Tax,
Profession Tax,
RERA,
FEMA,
Customs Act,
Companies Act...**

The Western Maharashtra Tax Practitioners' Association

Glimpse of Laxmi Poojan at Association



Diwali Faral Program

Diwali Faral Program



Program by Shri Makarand Tillu in Diwali Faral

Diwali Faral Program

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(Note : GST applicable as per prevailing rate)



Editorial

NARENDRA SONAWANE

One Nation - One Tax- One Profession ie Tax Professionals.

After implementation of GST in July, 2017 many changes took place in Industry, Trade, Commerce and Business. For professionals, we are divided in two parts one is practice in Law and other is practice in system. Number of old tax professionals and Advocates lost their practice being illiterate towards computer knowledge. Number of accountants left the job and moved them to another business. Number of tax professionals gave up who were masters in VAT regime. GST is playing havoc in our life. Due to everyday changes in law, hundreds of notifications, circulars, press notes and interesting decisions in Advance rulings. Number of Accountants, Advocates, GSTP's and Tax Professionals are confused. What about family after GST. No one is able to give time for family as most of us are always busy in compliance. No excuse for Sundays and public holidays. Most of Tax Professionals were celebrated Diwali in office due to tax audit. Many of us are worried about mental, physical and health problems. I think this is high time to come together rethink about our problems, be united and find our solutions like One nation-One Tax, we tax professionals have only One profession ie Tax profession.

"Everyone thinks of changing the world, but no one thinks of changing himself."
- Leo Tolstoy

Friends, now every tax professional that's practice in GST is very much familiar with changes. But in Direct TAXES like Income Tax, the law is not very frequently changes. One of the very important decisions taken by CBDT is of FACELESS Income Tax assessment system. This is very bold and effective step taken but this step is not welcomed by many of us and even some of departmental officers. I think we all should insist for faceless assessments as it will enable better dignity of the professionals and the assesses. Our practice will really become knowledge based and will enhance professionalism. It will help in increasing confidence between professionals and assesses.

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

The whole Nation is celebrating the 150th birth anniversary of the Father of the Nation Mahatma Gandhi. The values laid down by Mahatma Gandhi are still honoured and followed in today's modern world.

Mahatma Gandhi has given clear message on our materialist belongings and our health. He believes in the principle of simple living and high thinking. He himself strongly followed this principle and encouraged others. In today's modern world each one wants to have only fun and frolic in their life and just behind it. Due to the wrong life style their health is in danger. If we want to have a happy and satisfied life we will have to come out of these wrong life style.

Today's world is facing many problems. The environment is getting affected. People are leaving the way they feel like. Due to this environment is getting badly affected at present. We have badly suffered the effects of heavy rain falls and now extreme winters and summers will be coming.

We can only overcome the present environmental problems if we follow honestly and put into practice the value of Mahatma Gandhi

GST act come into force from 1st July 2017. Till today GST council has taken 37 meetings, after taking in to consideration the problems of tax payers and have made change in the rates from time to time

They have made lots of changes in rates, especially in Schedule IV. The tax rate of 28% has been lowered to 18% on many commodities. Considering slack of automobiles business the tax payers of this sector had great hopes from the GST council, that they will take decision to lower down GST rates from 28% to 18% on automobiles commodities in their 37 meeting. It was highly necessary to lower down the tax rates on automobiles commodities due to slack business. But no changes were made on commodities in automobiles industries

The GST rates of 28% was lowered down to 18% and then again from 18% to 12% for hotel industries. This concession is given from 1st October 2019. GST rates on other few commodities were also lower on 1st October 2019. This changes is appreciable and we congratulate the government for the same.

GST rates came in to existences since last 27 months, but till today the returns forms are not made simpler to be understood to tax payers. The whole country is facing the problems and they are continuously requesting the council to make the returns forms in easy simple format. But after 37 council meetings, they have not acted upon the request. AT present GST council has taken a decision to produced new return forms with effect from 1st April 2020 which was to come in to existence from 1st January 2020

Before I conclude I would like to quote a Sanskrit Subhashitam.

विद्या विवादाय धनं मदाय
शक्ति परेषां: परिपीडनाय।
खलस्य साधोर्विपरीतमेतत्
ज्ञानाय दानाय च रक्षणाय ॥

To attain knowledge for wrongful arguments, acquire wealth to become arrogant, gain power to persecute others, this is what wicked do. But for those virtuous, knowledge is for knowing the truth, wealth is for charity and power is for protection of weak.

Sharad Suryawanshi
President



Shripad Bedarkar
Secretary

ASSOCIATION NEWS



Sanket Amate
Joint Secretary

1) Diwali Faral :

Program of Diwali Faral was arranged at our Association Hall on 9th November, 2019. Nearly 90+ members were enjoyed a program of Shri MakrandTillu 'JaganyasathiHasa..Hasanyasathi Jaga". CMA Brijmohan Sharma, CA Swapnil Munot & CMA Shripad Bedarkar shared experience of meeting on 23rd October, 2019 with Hon. Finance Minister Smt.NirmalaSitaraman ji at North Block, Delhi. Program concluded with delicious dinner.

2) Future Events :

- a) GST Crash Course is arranged from 20th November, 2019 to 22nd November, 2019 with Full Day Seminar on 23rd November, 2019. Fees for complete crash course with full day seminar is Rs.5,000/- (including GST) and Rs.1,500/- only for Full Day Seminar (including GST). Details are given separately in this issue.
- b) 13th Certificate Course in Taxation Laws (GST Special) will be started from 1st December, 2019 to 25th January, 2020. Eminent speakers will be delivering lecture in the same on various topics like GST, Income Tax, Accountancy, Profession Tax, Partnership Act, Professional Ethics etc. Fees for the course is Rs.8,500/- (including GST). Details are given separately in this issue.
- c) International RRC will be arranged in the month of May, 2019 & the details will be informed to members shortly.

Shripad Bedarkar (Secretary)

Sanket Amate (Joint Secretary)



Detailed notes on New GST Returns under Scheme Normal, Sahaj and Sugam.

B. S. SEETHAPATHI RAO,
Chairman AIFTP (South Zone),
Mobile : 098480 99490

To improve and simply, GST Council approved concept of new simplified format of GST returns in its 28th GST Council meeting held on 21st JULY,2018.

Revised Formats are proposed to implement with effect from 1st April,2019 on trial basis and if it operates well then such formats will become mandatory with effect from 1st July,2019, as decided in 31st GST Council meeting. However, due to lack of technical support only GSTR-1, GSTR-3B (Summary return) are continue till March,2020..

The GST Council officially unveiled three new GST returns forms names GST RET-1 "NORMAL Form", GST RET-2 "SAHAJ Form" and GST RT-03 "SUGAM" Form . The new GST returns forms will be introduce on trial basis from Nov,2019 to Mar,2020 along with existing returns i.e. GSTR-1,GSTR-2 AND GSTR-3B etc.,

Now, we see how New GST Returns Scheme

Normal, Sahaj and Sugam Forms are prepare and upload in the GSTN Site. What are the procedures we have to follow to prepare New GST Return Forms i.e. Normal, Sahaj and Sugam.

Dear colleagues, firstly we have to refer what are the conditions to choose each form of your client. The conditions are as below:

- A) Aggregate turnover of the last Finance Year i.e 2018-19 as per definition of 'AGGREGATE TURNOVER" under GST Law,2017,
- B) Whether your client is having E-Commerce transactions or not
- C) Your client cannot make supplies through E-Commerce Operators on which tax is required to be collected U/s. 52.

The Following table will help you to understand what are the options available to you on the basis of aggregate turnover :

Turnover	New Return Form	Frequency of Filling of Form	Description
Turnover Above Rs.5 Cr.	Form GST RET-1	Normal (Monthly)	If your client is new registered taxpayer turnover will be decided on the basis of self-declaration made by them on estimated turnover.
Turnover Up to Rs.5 Cr..	Form GST RET-1	Normal (Monthly)	If your client already registered tax payer it will be decided on the basis of last year turnover.
Turnover Up to Rs.5 Cr.	Form GST RET-1	Normal (Quarterly)	If your client already registered tax payer it will be decided on the basis of last year turnover.

Turnover Up to Rs.5 Cr.	Form GST RET-2	SAHAJ (Quarterly)	If your client already registered tax payer it will be decided on the basis of last year turnover.
Turnover Up to Rs.5 Cr.	Form GST RET-3	SUGAM (Quarterly)	If your client already registered tax payer it will be decided on the basis of last year turnover.

Note:

- 1) Aggregate Turnover above Rs.5 Cr. Form GST RET-1 is applicable. No option to choose Form GST RET-1 (Normal-Quarterly) (GST RET-2 SAHAJ) and GST RET-3 SUGAM) . so, If your client is having aggregate turnover more than of Rs.5 Cr.as per GST Law, for the last Financial Year he would be File Form GST RET-1 monthly is mandatory.**
- 2) Change in periodicity of the return filling (from quarterly to monthly and vice versa) would be allowed only once at the time of filling the first return by a taxpayer.**
- 3) Periodicity of return filing will remain unchanged during the next Financial Year , unless changed before filling the first return of that year.**

If your client's aggregate turnover up to Rs.5 Cr. there are an options to switch over from one return to other return. The following table will help you for better under -stand:

Return	Switch over to	Conditions
Normal (Quarterly)	SUGAM or SAHAJ	Only once in a Financial Year at the beginning of any quarter.
Sugam	Sahaj	Only once in a Financial Year at the beginning of any quarter.
Sahaj	Sugam or Quarterly (Normal)	More than once in a Financial Year at the beginning of any quarter.
Sugam	Quarterly (Normal)	More than once in a Financial Year at the beginning of any quarter.

As per GST Council and Central Government says that under new system you will be filling single return only. But practically this single return is divided into following three forms.

1. GST ANX-1,
 2. GST ANX-2
 3. Form GST RET ; (1/2/3).
1. GST Annexure-1 , you have to fill up Outward Supplies and also Inward Supplies i.e. liable to pay RCM.
 2. GST Annexure-2 , you have to fill up Inward Supplies (Auto Populated through your suppliers GST Annexure-1).

3. 3. Form GST RET-(1,2,3) Main Return with summary of liability and Input Tax Credit

- In existing return system i.e. GSTR-1 and GSTR-3B taxpayer cannot enter negative figures but this new system you have been fixed negative figures.
- Option of filling NIL returns through SMS will be there. (There is no necessity further processes of return)
- If you file NIL returns through GST Portal will take directly to signature tab. So, irrelevant activity will not be required.
- All supplies relating to Schedule III shall be reported under "NO SUPPLY" in the main return. It will include HIGH SEA SALE AND BONDED WAREHOUSE SALES also.
- HSN code for services shall be reported at six digit level or more irrespective of the turnover during the preceding financial year .
- Outward supplies liable to RCM will be reported only by recipient and not by supplier.
- Invoices of any preceding period not uploaded earlier can also be uploaded during the current month. The liability on such invoices will be paid during the current month but these invoices will be clubbed with the respective tax period after filing return of the current month.

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S.NO.	NAME	DESCRIPTION
		PROFILE UPDATION
1.	Profile Option	Intimation of option for return periodicity and type of quarter return
		FORM GST RET-01 (Regular/Quarterly/Normal)
2.	FORM GST ANX-1	Annexure of outward supplies, imports and inward supplies attracting RCM.
3.	FORM GST ANX-2	Annexure of inward supplies
4.	FORM GST RET-1	Monthly/Quarterly (Normal) return
5.	FORM GST ANX-1A	Amendment to FORM GST ANX -1
6.	FORM GST RET-1A	Amendment to FORM GST RET -1
		FORM GST PMT -08
7.	FORM GST PMT-08	Payment of self-assessed Tax

Profile Updation:

Intimation of option for return periodicity and type of quarterly return .

Sr. No. 1	Description 2	Option	
		3	4
1	Was your aggregate turnover during the preceding financial year upto Rs. 5.00Cr.?	<input type="radio"/> Yes	<input type="radio"/> No
2.	If reply is 'Yes' at Sr. No. 1, do you intend to file return on quarterly basis?	<input type="radio"/> Yes	<input type="radio"/> No
3.	If reply is 'Yes' at Sr. No. 2, choose your return-		
	(i) Sahaj	<input type="radio"/> Yes	<input type="radio"/> No
	(ii) Sugam	<input type="radio"/> Yes	<input type="radio"/> No
	(iii) Quarterly (Normal)	<input type="radio"/> Yes	<input type="radio"/> No

Note : Before filling FORM GST RET-1, these following Important Points to be remember.

1. Periodicity of filing return will be deemed to be monthly for all taxpayers unless quarterly filing of the return is opted for.
2. For newly registered taxpayers, turnover will be considered as zero and hence they will have the option to file monthly, Sahaj, Sugam or Quarterly (Normal) return.
3. Change in periodicity of the return filing (from quarterly to monthly and vice versa) would be allowed only once at the time of filing the first return by a taxpayer.
4. The periodicity of the return filing will remain unchanged during the next financial year unless changed before filing the first return of that year.
5. The taxpayers opting to file quarterly return can choose to file any of the quarterly return namely Sahaj, Sugam or Quarterly (Normal).
6. Taxpayers filing return as Quarterly (Normal) can switch over to Sugam or Sahaj return and taxpayers filing return as Sugam can switch over to Sahaj return only once in a financial year at the beginning of any quarter.
7. Taxpayers filing return as Sahaj can switch over to Sugam or Quarterly (Normal) return and taxpayers filing return as Sugam can switch over to Quarterly (Normal) return more than once in a financial year at the beginning of any quarter.
8. Taxpayers opting to file quarterly return as 'Sahaj' shall be allowed to declare outward supply under B2C category and inward supplies attracting reverse charge only. Such taxpayers cannot make supplies through e-commerce operators on which tax is required to be collected under section 52. Such tax payers shall not take credit on missing invoices and shall not be allowed to make any other type of inward or outward supplies. However, such taxpayers may make Nil rated, exempted or Non-GST supplies which need not be declared in the said return.
9. Taxpayers opting to file quarterly return as 'Sugam' shall be allowed to declare outward supply under B2C and B2B category and inward supplies attracting reverse charge only. Such taxpayers cannot make supplies through e-commerce operators on which tax is required to be collected under section 52. Such tax payers shall not take credit on missing invoices and shall not be

allowed to make any other type of inward or outward supplies. However, such taxpayers may make Nil rated, exempted or Non-GST supplies which need not be declared in said return.

10. Taxpayers opting to file monthly return or Quarterly (Normal) return shall be able to declare all types of outward supplies, inward supplies and take credit on missing invoices.

Dear Friends now you have to choose and uploading information in FORM GST ANX-1 you have to give answers to the following questioner in Part-A and Part-B after that FORM GST ANX-1 will be open for fill the data..

Part-A: Brief questions about relating the option given in previous tax period.

Sr. No. 1	Description 2	Option	
		3	4
1.	I understand that the amount of tax specified in the outward supplies for which the details are being uploaded by me in this annexure shall be deemed to be the tax payable by me under the provisions of the Act.	<input type="radio"/> Yes	<input type="radio"/> No
2.	Would you like to change the reply to the questions regarding nature of supplies as filled in the questionnaire of the return of the last tax period, if already filled in?	<input type="radio"/> Yes	<input type="radio"/> No

NOTE: In case the reply to question as S.No.2 is "YES" the following questionnaire will be opened for exercising the option. In the first tax period, it would be open for all taxpayers.

Part-B: Detailed Questionnaire:

Sr. No. 1	Description 2	Option	
		3	4
1	Have you made B2C supply (table 3A)?	<input type="radio"/> Yes	<input type="radio"/> No
2.	Have you made B2B supply (table 3A)?	<input type="radio"/> Yes	<input type="radio"/> No
3.	Have you made exports with payment of tax (table 3C)?	<input type="radio"/> Yes	<input type="radio"/> No
4.	Have you made exports without payment of tax (table 3D)?	<input type="radio"/> Yes	<input type="radio"/> No
5.	Have you made supply to SEZ units / developers with payment of tax (table 3E)?	<input type="radio"/> Yes	<input type="radio"/> No
6.	Have you made supply to SEZ units / developers without payment of tax (table 3F)?	<input type="radio"/> Yes	<input type="radio"/> No
7.	Have you made any supply which is treated as deemed exports (table 3G) ?	<input type="radio"/> Yes	<input type="radio"/> No
8.	Have you received inward supplies attracting reverse charge (table 3H) ?	<input type="radio"/> Yes	<input type="radio"/> No
9.	Have you made import of services (table 3I)?	<input type="radio"/> Yes	<input type="radio"/> No
10.	Have you made import of goods (table 3J)?	<input type="radio"/> Yes	<input type="radio"/> No
11.	Have you imported goods from SEZ units/developer on Bill of Entry (table 3K)?	<input type="radio"/> Yes	<input type="radio"/> No

Sr. No. 1	Description 2	Option	
		3	4
12.	Has your supplier not uploaded invoices on which you have claimed input tax credit (i.e. credit in missing invoices) two tax periods ago (for monthly) or previous tax period (for quarterly) (table 3L)?	<input type="radio"/> Yes	<input type="radio"/> No
13.	Have you made supply through e-commerce operators on which tax was required to be collected under section 52?	<input type="radio"/> Yes	<input type="radio"/> No

Note - Option against all questions will be 'No' by default. User can select 'Yes' as per his requirement.

FORM GST ANX-1

[See rule.....]

Details of outward supplies, imports and inward supplies attracting reverse charge

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 filing	<Auto(after filing)>																	

3. Details of outward supplies, inward supplies attracting reverse charge and import of goods and services

GSTN/ UIN	Place of Supply (Name of State/UT)	Document details				HSN code	Tax rate (%)	Tax- able value	Tax amount				Shipping Bill/Bill of Export details	
		Type	No.	Date	Value				Integrat ed tax	Central tax	State UT/tax	Cess	No.	Date
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
3A. Supplies made to consumers and un-registered persons (Net of debit/credit notes)														
3B. Supplies made to registered persons(other than those attracting reverse charge)(including edit/amendment)														
3C. Exports with payment of tax														
3D. Exports without payment of tax														

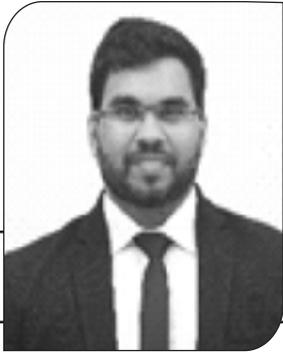
3E. Supplies to SEZ units/developers with payment of tax (including edit/amendment)														
3E. Supplies to SEZ units/developers without payment of tax (including edit/amendment)														
3G. Deemed exports (including edit/amendment)														

3L. Missing documents on which credit had been claimed in T-2/T-1 (for quarter) tax period and supplier has not reported the same till the filling of return for the current tax period														

4. Details of the supplies made through E -Commerce operators liable to collect tax under section 52 (out of any outward supplies declared in table 3)

Sr. No.	GSTIN of e-commerce operator	Value of supplies made	Value of supplies returned	Net value of supplies	Tax amount			
					Integrat ed tax	Central tax	State UT/tax	Cess
1	2	3	4	5	6	7	8	9





RERA | REAL ESTATE AGENT | PART I

Adv. Sanket Suhas Bora

A. Definitions:

Real Estate Agent

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

“**real estate agent** means any person, who negotiates or acts on behalf of one person in a transaction of transfer of his plot, apartment or building, as the case may be, in **areal estate project**, by way of sale, with another person or transfer of plot, apartment or building, as the case may be, of any other person to him and receives remuneration or fees or any other charges for his services whether as commission or otherwise and includes a person who introduces, through any medium, prospective buyers and sellers to each other for negotiation for sale or purchase of plot, apartment or building, as the case may be, and includes property dealers, brokers, middlemen by whatever name called”

Analysis

The Real Estate (Regulation and Development) Act, 2016 has exhaustively defined the Real Estate Agent and accordingly includes the generally defined property dealers, brokers, etc.

B. Registration

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

“9. (1) No real estate agent shall facilitate the sale or purchase of or act on behalf of any person to facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it, being the part of the real estate project registered under section 3, being sold by the promoter in any planning area, without obtaining registration under this section.

(2) Every real estate agent shall make an application to the Authority for registration in such form, manner, within such time and accompanied by such fee and documents as may be prescribed.

(3) The Authority shall, within such period, in such manner and upon satisfying itself of the fulfillment of such conditions, as may be prescribed

(a) grant a single registration to the real estate agent for the entire State of Union territory, as the case may be;

(b) reject the application for reasons to be recorded in writing, if such application does not conform to the provisions of the Act or the rules or regulations made thereunder:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard in the matter.

(4) Where on the completion of the period specified under sub-section (3), if the applicant does not receive any

communication about the deficiencies in his application or the rejection of his application, he shall be deemed to have been registered.

(5) Every real estate agent who is registered as per the provisions of this Act or the rules and regulations made thereunder, shall be granted a registration number by the Authority, which shall be quoted by the real estate agent in every sale facilitated by him under this Act.

(6) Every registration shall be valid for such period as may be prescribed, and shall be renewable for a period in such manner and on payment of such fee as may be prescribed.

(7) Where any real estate agent who has been granted registration under this Act commits breach of any of the conditions thereof or any other terms and conditions specified under this Act or any rules or regulations made thereunder, or where the Authority is satisfied that such registration has been secured by the real estate agent through misrepresentation or fraud, the Authority may, without prejudice to any other provisions under this Act, revoke the registration or suspend the same for such period as it thinks fit:

Provided that no such revocation or suspension shall be made by the Authority unless an opportunity of being heard has been given to the real estate agent."

Analysis

Only those Real Estate Agents are required to be registered under the Real Estate (Regulation and Development) Act, 2016 who are facilitating sale or purchase in a real estate project sold by the promoter.

Accordingly, facilitating sale or purchase on behalf of a person other than a promoter in a real estate project would not require

registration under the Real Estate (Regulation and Development) Act, 2016.

C. Checklist for Registration of Real Estate Agent

1. General Info:

a. Business Constitution:

- 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. Address Details:
 - 1. Latest Electricity Bill
 - 2. Passport Copy or Driving

License

- vi. Mobile Number
- vii. Email id
- viii. Passport Size Photo

2. Past Experience Details

- a. Project Name
- b. Promoter Name
- c. Project Type
 - i. Residential
 - ii. Commercial
 - iii. Mixed (Plots & Buildings)
 - iv. Plot
 - v. Industrial
 - vi. Others

3. Branch Details (if any):

- a. Branch Office Name
- b. Branch Office Address
- c. Land Line No.
- d. Email ID
- e. Address Proof:
 - i. Latest Electricity Bill
 - ii. Latest Property Tax Challan

4. Litigation Status (if any)

- a. Name of Court
- b. Type of Case
 - i. Criminal
 - ii. Civil
 - iii. Other
- c. Petition
 - i. Writ
 - ii. Suit
 - iii. Appeal
 - iv. Arbitration Petition
- d. Case No.

- e. Year
- f. Whether any Preventive/Injunction/ Interim Order is Passed?
 - i. Yes/No
- g. Present Status

5. Documents Required (Scanned Copies)

- a. PAN Card
- b. Particulars of Registration including Bye-Laws
- c. MOA/AOA/Partnership Deed
- d. Self-Certified Copies of all Letter-Heads
- e. Self-Certified Copies of all Letter-Head Rubber Stamped
- f. Self-Certified Copies of Acknowledgement receipts proposed to be used
- g. Income tax returns of last 3 years or declaration
- h. Any pending criminal or civil cases details

D. MahaRERA Fees for Registration

Constitution of Real Estate Agent	Fees (In. Rupees)
Individual (Proprietor)	Rs. 10,000/-
Other than Individual (Partnership, LLP, Company, AOP, etc)	Rs. 1,00,000/-

E. Validity of the Registration

As per Section 9(6) r.w.r 12(4) of the 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 shall be **5 Years**.

F. Application for Registration

Application for registration shall be made in online on www.maharera.mahaonline.gov.in

in Form 'G'.

FORM 'G'
[See rule 11(2)]
APPLICATION FOR REGISTRATION OF REAL ESTATE AGENT

To
 The Maharashtra Real Estate Regulatory Authority

Sir,

I/We apply for the grant of registration as a real estate agent to facilitate the sale or purchase of any plot, apartment or building, as the case may be, in real estate projects registered in the _____ State of Maharashtra in terms and the rules and regulations made there under,

1. (in the case of an individual) Mr./Ms. _____ son
 of Mr./Ms. _____ Tehsil _____ District _____
 State _____;

OR

(in the case of a firm / society / company) _____ firm / society /
 company _____ having its registered office / principal place of business
 at _____.

2. The requisite particulars are as under:-

(i) Status of the applicant, whether individual / company / proprietorship firm / societies / partnership firm / limited liability partnership;

(ii) In case of individual

(a) Name

(b) Father's Name

(c) Occupancy

(d) Permanent address

(e) Photograph

OR

In case of firm / societies / companies -

(a) Name

(b) Address

(c) Copy of registration certificate

(d) Major activities

- (e) Name, photograph and address of partners / directors etc.
- (iii) particulars of registration including the bye-laws, memorandum of association, articles of association etc. as the case may be;
- (iv) authenticated copy of the address proof of the place of business, number of branch office if any along with contact details including Telephone Numbers, Fax numbers and e-mail address;
- (v) Details of registration in any other State or Union territory;
- (vi) particulars of registration obtained under other laws, and rules and regulations, as the case may be, along with the authenticated copies of partnership deeds, memorandum of association, article of association etc.
- (vii) colour photographs of the real estate agent, if an individual and of all the partners, directors, trustees, etc including persons in service or assigned work expected on the real estate agent, in case of other entities;
- (viii) income tax returns for last three financial years preceding the application or in case the applicant was exempted from filing returns in any of the three year preceding the application, a declaration to such effect;
- (ix) details (if any) of all real estate projects and their promoters on whose behalf he has acted as real estate agent in preceding 5 years;
- (x) details of civil and criminal cases pending against him if an individual or any of the partners, directors, trustees etc. in case of other entities;
- (xi) self-certified copies of all letter heads, rubber stamp images, acknowledgement receipts proposed to be used by the real estate agent;
- (xii) such other information as may be specified by through regulations of the Authority
- (xiii) whether the registration of the applicant has, at any time been revoked or suspended by the Authority? If so, the details thereof. In case the applicant was a director or manager of a body corporate- State whether the registration of such body corporate has been revoked or suspended at any time.
- (xiv) any other information the applicant may like to furnish.
3. I/we enclose the following documents along with, namely:-
- (i) Rs. _____ as registration fee as per sub-rule (3) of rule 11;
- (ii) authenticated copy of the PAN card of the real estate agent; and
- (iii) authenticated copy of the registration as a real estate agent in any other State or Union territory, if applicable;
4. I/we solemnly affirm and declare that the particulars given in herein are correct to my / our knowledge and belief.

Dated:

Place:

Yours Faithfully,

Signature and seal (if any) of the applicant(s)

G. Registration Certificate

The registration certificate shall be issued by the Maharashtra Real Estate Regulatory Authority in Form 'H'

FORM 'H'
[See rule 12(1)(b)]
REGISTRATION CERTIFICATE OF REAL ESTATE AGENT

1. This registration is granted under section 9 with registration certificate bearing No. _____ to -
 (in the case of an individual) Mr./Ms. _____ son of

Mr./Ms. _____ Tehsil _____ District _____
 State _____;

OR

(in the case of a firm / society / company) _____ firm / society /
 company _____ having its registered office / principal place of business
 at _____. to act as a real estate agent to facilitate the sale or purchase of any
 plot, apartment or building, as the case may be, in real estate projects registered in the
 _____ State of Maharashtra in terms and the rules and regulations made there under,

2. This registration is granted subject to the following conditions, namely:-

- (i) The real estate agent shall not facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it, being sold by the promoter which is required but not registered with the regulatory authority;
- (ii) The real estate agent shall maintain and preserve such books of account, records and documents as provided under rule 16;
- (iii) The real estate agent shall not involve himself in any unfair trade practices as specified under clause (c) of section 10 read with Rule 17;
- (iv) The real estate agent shall provide assistance to enable the allottee and promoter to exercise their respective rights and fulfil their respective obligations at the time of booking and sale of any plot, apartment or building, as the case may be.
- (v) The real estate agent shall comply with the provisions and the rules and regulations made there under;
- (vi) The real estate agent shall discharge such other functions as may be specified by the regulatory authority by regulations;

3. The registration is valid for a period of five years commencing from _____ and ending with _____ unless renewed by the regulatory authority in accordance with the provisions or the rules and regulations made there under.

4. If the above mentioned conditions are not fulfilled by the real estate agent, the regulatory authority may take necessary action against the real estate agent including revoking the registration granted herein, as per the Act and the rules and regulations made there under.

Dated:

Place:

Signature and seal of the Authorized Officer
 Maharashtra Real Estate Regulatory Authority

CIRCULARS / ORDERS

1. **Circular No. 25 of 2019 dated 11th October, 2019**

The MahaRERA vide this circular provided clarity apropos the impugned GR issued by the Revenue and Forest Department, Govt. of Maharashtra regarding registration of Agreement for Sale/ Sale Deed of Real Estate Projects in Maharashtra. The MahaRERA provided the clarifications regarding the projects that do not require registration in RERA and also the projects duly completed and uploaded their Form 4 do not require extension in their certificate.

2. **Order No. 10 of 2019 dated 11th October, 2019**

In order to ensure greater professionalism among promoters, bring a certain level of consistency in the practices of promoters, enforcement of code of conduct and to discourage fraudulent promoters, the

MahaRERA proposed to introduce the Self-Regulatory Organization (SROS) in the Real Estate Sector in Maharashtra and register them with MahaRERA.

3. **Order No. 11 of 2019 dated 23rd October, 2019**

The MahaRERA provided directions with respect to filing of Complaints with the MahaRERA.

4. **Order No. 12 of 2019 dated 23rd October, 2019**

To facilitate the resolution of disputes amicably, the 'MahaRERA Conciliation and Dispute Resolution Forum' was formed, however to further strengthen the forum, the MahaRERA has issued order to convert certain applications under the Forum to Suo-Moto Complaints by MahaRERA, inclusion of Forum in the Model Form of Agreement and directed the SRO to communicate with their member apropos the same.

Case Law

Esha Ekta Apartments CHS Ltd.v/s Municipal Corporation of Mumbai

Corum: G.S. Singhvi J,

2017 SCC OnLine Bom 902

(Campa Cola Society Case)

SYNOPSIS

1. The said plot was leased out by the Municipal Corporation of Mumbai to M/s Pure Drinks (lessee) under "General Industry" category (1962).

2. The lessee started using the plot for manufacturing cold drinks under the popular brandname "Campa Cola" and made an application to convert the plot for constructing residential society. This application was, however, rejected in 1980.

3. The lessee made an application to change the nature of land use from General Industrial to "Residential" and obtained approval for construction of six buildings including basement, ground and five floors (1981).

4. The lessee received permission from the State's Chief Minister to increase the building's height and modify the construction (1983).
5. However, the revised modification and construction plan was rejected by the Planning Authority (1984).
6. The construction continued despite the rejection of the revised plan and consequently, a stop-work notice was issued by the Executive Engineer of the Municipal Corporation to the builders; the notice indicated that if the construction were not stopped, it would be forcibly stopped and demolished/removed.
7. During the sale of the buildings, it was mentioned in the agreement that the revised plans have been submitted for approval and sanction, which implied that the buyers were aware of the absence of approval and sanction.
8. The Esha Ekta Apartments CHS (hereinafter CHS) formed by the residents filed a writ petition in the Bombay High Court seeking directions to be given to the Municipal Corporation to supply municipal water to the occupied residential buildings.
9. Interestingly, it was only when the writ was filed that the absence of approvals, sanctions, etc. came to the notice of the authorities.
10. The Bombay High Court heard the case and observed that even though the construction was in violation of the sanctioned plans, the Municipal Corporation had not taken any action, and, in this respect, the Commissioner of the Municipal Corporation was asked to appear before the Bombay High Court.
11. On appearing before the High Court, the Commissioner gave assurance that action would be taken and therefore, issued notices during November-December, 2005 for the demolition of the "illegal structures".
12. The replies of the CHS were rejected by the Municipal Corporation, and therefore, the CHS approached the trial court seeking relief.
13. The trial court stayed the demolition order initially but eventually dismissed the petition of the CHS, and observed that the architect had informed the builders about the sanctioned plans being illegal and that the members of the CHS were also aware of it.
14. When the CHS filed an appeal to the Bombay High Court, the same was dismissed.
15. Ultimately, the CHS filed a special leave petition (SLP) in the Supreme Court to challenge the demolition order. The Supreme Court observed that the said petition could be dismissed but the demolition would adversely affect the buyers and residents, and the writ petition pending before the Bombay High Court to regularise the disputed construction was transferred to the Supreme Court on 29 December 2012.

The Hon'ble Supreme Court observed:

'the Courts are also expected to refrain from exercising equitable jurisdiction for regularization of illegal and unauthorised constructions else it would encourage violators of the planning laws and destroy the very idea and concept of planned development of urban as well as rural areas.

In the result, the appeals and the transferred case are dismissed and it is declared that there is no impediment in the implementation of notices issued by the Corporation under Section 351 of the 1888 Act and order passed by the competent authority. The Corporation is expected to take action in the matter at the earliest.

We also direct that the State Government and its functionaries/ officers as also the officers/employees of the Corporation shall not put any hurdle or obstacle in the implementation of notices under Section 351 of the 1888 Act.'

16. Another petition was filed in the Supreme Court seeking relief by bringing in new facts; however, the Supreme Court did not allow this and dismissed the special leave petition.
17. Next, the petitioners informed the Supreme Court that 75 per cent occupants had vacated the buildings and requested for four weeks' time for the remaining occupants to vacate upto November 2013.

The Hon'ble Supreme Court granted the four weeks' time and observed:

'this would be subject to the condition that they shall not file any litigation in any court in the State of Maharashtra including the Bombay High Court except for recovery of the amount paid to the developers/builders. At the same time, it is clarified that this liberty shall not entitle the petitioners or anyone else to file any case and seek injunction against demolition of the illegally constructed portions of the building.'

Comments

The Hon'ble Supreme Court has rightly refrained from exercising equitable jurisdiction for regularization of illegal and unauthorized construction; otherwise, it would encourage violators of the planning laws and destroy the very idea and concept of planned development of urban as well as rural areas. It has re-emphasized on the legal principle of **Ignorantia juris non excusat or ignorantia legis neminem excusat** i.e. Ignorance of Law is No Excuse.



Obituary

We are sorry to inform you that Shri Sharad Pilajirao Chitalikar, Father of our Past Vice President **Shri Manoj Sharad Chitalikar** has passed away to heavenly abode. Heartfelt condolences to her family members and we pray that the departed soul rest in eternal peace".



Capital Gain in case of Joint Development Agreement

CA Anup Shaha

Capital Gain in case of Joint Development Agreement

Time of Taxation of Joint Development Agreements in the hands of the land-owner had always been a most debatable issue in the past. The same generated many hardships to the landowners who had to endure various litigations over the same. Avowing the same, the Central Government, introduced various provisions in the Income-tax Act, 1961 ('the Act') through Finance Act, 2017 detailed analysis of which is as under:

"Under the existing provisions of section 45, capital gain is chargeable to tax in the year in which transfer takes place except in certain cases. The definition of 'transfer', inter alia, includes any arrangement or transaction where any rights are handed over in execution of part performance of contract, even though the legal title has not been transferred. In such a scenario, execution of Joint Development Agreement between the owner of immovable property and the developer triggers the capital gains tax liability in the hands of the owner in the year in which the possession of immovable property is handed over to the developer for development of a project.

With a view to minimise the genuine hardship which the owner of land may face in paying capital gains tax in the year of transfer, it is proposed to insert a new sub-section (5A) in section 45 so as to provide that in case of an assessee being individual or Hindu undivided family, who enters into a specified agreement for development of a project, the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority."

This is the extract of memorandum of Finance Act, 2017 benevolently avowing the hardships faced by the taxpayers making its ground for the introduction of section 45(5A) of the Act. It was acknowledged that the land-owners entering into the joint development agreement had to pay taxes on such transfer of land or without any receiving any tangible benefits from the developer.

Bare Text

*"[(5A) Notwithstanding anything contained in sub-section (1), where the capital gain arises to an assessee, being an **individual or a Hindu undivided family**, from the transfer of a capital asset, being **land or building or both**, under a **specified agreement**, the capital gains shall be chargeable to income-tax as **income of the previous year in which the certificate of completion for the whole or part** of the project is issued by the competent authority; and for the purposes of section 48, **the stamp duty value, on the date of issue of the said certificate, of his share, being land or building or both** in the project, as increased by the consideration received in cash, if any, shall be **deemed to be the full value of the consideration** received or accruing as a result of the transfer of the capital asset:*

Provided that the provisions of this sub-section shall not apply where the assessee transfers his share in the project on or before the date of issue of the said certificate of completion, and the capital gains shall be deemed to be the income of the previous year in which such transfer takes place and the provisions of this Act, other than the provisions of this sub-section, shall apply for the purpose of determination of full value of

consideration received or accruing as a result of such transfer.

Explanation. For the purposes of this sub-section, the expression

- (i) "competent authority" means the authority empowered to approve the building plan by or under any law for the time being in force;
- (ii) "specified agreement" means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, **in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash;**
- (iii) "stamp duty value" means the value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of an immovable property being land or building or both.]"

By insertion of this new subsection, an attempt to resolve timing difference between the accrual of tax liability and receipt of consideration from the developer to the assessee has been made.

Analysis

Eligibility

1. An Assessee has to be either an individual or a HUF
2. **There has to be a Specified Agreement** - Considering the explanation given to subsection 45(5A) of the Act it can be clearly interpreted that the consideration must include a component in kind being land or building or both and inclusion of cash component may or may not be necessary. In view of the aforementioned, we can conclude that, agreements made in the basis of pure revenue sharing basis cannot come under the purview of Section 45(5A) and thus needs to be dealt as per normal provisions of Income Tax Act.

Time of accrual of tax liability

The sub-section provides the benefit only for the Individuals and HUF's wherein even though the transfer as per section 45 of the Act takes place at

an earlier date, the tax liability on such transfer arises only in the year of receipt of the completion certificate. However, it doesn't matter whether whole of the project is complete or a part is complete and even if certificate for a part is issued, the taxability for the whole of the transaction would get triggered.

Consideration for the purpose of computation of Capital Gains

Consideration would include:

1. Stamp duty value of the share of the assessee being land or building or both as on the date of issue of completion certificate.
2. Cash consideration, if any, received by the assessee.

Violations

Question arises as to what will be the complications if the assessee sales his share before completion of the project. The sub-section has provides that when the assessee sells his share before the completion of the project, tax liability shall accrue in the previous year when such sale is affected.

However, this insertion has minute take-aways which are pertinent to pay heed which are whether this section can be applied retrospectively as it is an amendment aimed at removing the hardship of the taxpayers. However, it shall be pertinent to note that this section has significant tax implications and is nowhere aligned to erstwhile provisions and is not in nature of any explanatory amendment clarifying the then existing provisions. Taking these facts into consideration, there is high possibility that any litigation on retrospective applicability of this section could be turned down by the court of law.

TDS Implications

Section 194IC has also been inserted vide Finance Act, 2017 to address the TDS related issue of the specified agreement which necessities deduction of tax at the rate of 10 percent, only on the monetary consideration (i.e. other than kind). This section doesnot apply to non-resident assessee and normal provisions of section 195 would get attracted in case of non-resident assessee.





Article on Stress Management : In GST Stress Management is : G : Get Help from Others, S : Send a Letter, T : Take a Break

Sukrut Deo



Dear all,

Since July 2017, we are doing Compliance work under Goods and Service Tax (GST), I remember that when GST **was introduced** in 2017, according to few sayings, it was termed as a Draconian Law. All the Tax Practitioners from all over the Country took efforts and hard work in understanding the GST Laws, its compliance (forms), GST System , Migration work from VAT , Service Tax etc. which started from beginning of 2017 itself and it was finally completed **in due course**. We have faced various hurdles and problems from the inception of GST till now; still the GST Compliance System is not up to the mark. I have heard many cases of Tax Consultants were

in **huge** Stress because of work load, overtime work, **tension**, etc. due to **which** health issues of **them** also increased as to complete work **before or on dead line** (i.e till last date) is many times a herculean task. As Tax Consultants we have to mould ourselves to the whims and caprices of clients, government etc. which is a important job of a Consultant, while doing so we have to check our Health, Mental Stability, Calmness and Stress Level. Now a days Tax Practice is full of challenges, high expectations, and demands.,**To** cope up with these Challenges and to handle the Stress we need to be very strong. Stress Management is a very important part and parcel of a life of an individual.

Definition of Stress “**Stress:** In a medical or biological context stress is a physical, mental, or emotional factor that causes bodily or mental tension. Stresses can be external (from the environment, psychological, or social situations) or internal (illness, or from a medical procedure)”.

Key Points to do Stress Management are :

- Keep a positive attitude.
- Accept that there are events that you cannot control.
- Be assertive instead of aggressive. Assert your feelings, opinions, or beliefs instead of becoming angry, defensive, or passive.
- Learn and practice relaxation techniques; try meditation, yoga or tai-chi for stress management.
- Exercise regularly. Your body can fight stress better when it is fit.
- Eat healthy, well-balanced meals.
- Learn to manage your time more effectively.
- Set limits appropriately and learn to say no to requests that would create excessive stress in your life.
- Make time for hobbies, interests, and relaxation.
- Get enough rest and sleep. Your body needs time to recover from stressful events.
- Don't rely on alcohol, drugs, or compulsive behaviors to reduce stress.
- Seek out social support. Spend enough time with those you enjoy.
- Seek treatment with a psychologist or other mental health, professional trained in stress management or bio feedback techniques to learn healthy ways of dealing with the stress in your life.

WORKPLACE FACTORS CAUSING STRESS

The workplace is an important source of both demands and pressures causing stress, and structural and social resources to counteract stress. The workplace factors that have been found to be associated with stress and health risks can be categorised as those to do with the content of work and those to do with the social and organisational context of work.

Unclear work or conflicting roles and boundaries can cause stress, as can having responsibility for people. The possibilities for job development are important buffers against current stress, with under promotion, lack of training, and job insecurity being stressful. There are two other sources of stress, or buffers against stress: relationships at work, and the organisational culture. Managers who are critical, demanding, unsupportive or bullying create stress, whereas a positive social dimension of work and good team working reduces it.

Empirical review

A systematic review of the evidence for work factors associated with psychological ill health and associated absenteeism (Michie and Williams 2001, unpublished data) found the key factors to be:

- long hours worked, work overload and pressure
- the effects of these on personal lives
- lack of control over work and lack of participation in decision making
- poor social support
- unclear management and work role and poor management style.

Stress Management does play a very important role in persons day to day life in today's world of Stress, Hectic Routines, Tensions etc.

Health is Wealth





Important judgements

Shri Vilas Aherkar

[01] Conveyance can't be detained if no discrepancies found in E-Way bill or tax invoice: HC Gujrat

Facts: M/S Insha Trading Company ("the Petitioner") is engaged in the business of metal. Ramgarhia Trading Company, which is located in New Delhi, placed an order for brass electrical parts.

The Petitioner dispatched the order from Jamnagar to Delhi. The driver of the truck was carrying an invoice, e-way bill and lorry receipt while transporting brass electrical parts from Jamnagar to Delhi. The truck was intercepted by the state tax Officer ("Respondent") on January 14, 2019. The driver had produced the documents relating to the goods which were transported, however, the Respondent detained the truck on the ground that the genuineness of the goods in transit (its quantity, etc.) and / or tender documents requires further verification. Accordingly, on January 14, 2019, the Respondent issued an order in Form GST MOV-01 recording the statement of the driver as well as an order for physical verification / inspection of the conveyance & goods & the documents in Form GST MOV-02.

Thereafter, by an order dated January 14, 2019, passed under Section 129(1) of the Central Goods & Service Tax Act, 2017 ("CGST Act") the

truck as well as the goods contained therein was ordered to be detained. The ground stated in the order of detention as translated into English reads: "On a perusal of the details in bilty No. 15615, it prima facie being disproportionate, the vehicle has been detained for verification of the same"

Thereafter, by an order dated January 29, 2019, passed in Form GST MOV-09 calling upon the Petitioner to pay the taxes & penalty as computed therein. Thereafter, a notice was issued in Form GST MOV-10 under Section 130 of the CGST Act for confiscation of the conveyance & goods for verification; & that upon primary examination of the dealer online, it was found that in December 2018, he had generated 42 e-way bills wherein IGST of Rs. 3,64,30,800/- is seen, and it appears that either the dealer has not paid such amount or the purchases are not genuine. Thereafter, by the order ("Impugned Order") dated April 8, 2019 the goods & conveyance are ordered to be confiscated in the exercise of powers under section 130 of the CGST Act.

Issue Involved: The Petitioner challenged the impugned Order dated April 8, 2019, passed by the Respondent & taxes & penalty / fine levied in Form GST MOV-09.

Held : The Hon'ble HC Gujarat vide R/Special Civil Application No. 16901 of 2019 dtd October 10, 2019, held as under The Court noted that

nothing was pointed out by the Respondents to show that there was any discrepancy in the e-way bill or the tax Invoice.

As per the instructions issued by the Board in the Circular dated April 13, 2018, since, upon verification of the documents no discrepancies were found, the conveyance should have been allowed to move further.

Further, the Respondent was required to record, on the common portal, the report and final report of the inspection in Part A and B of Form GST EWB-03 within the specified time.

However, no such reports in the part A of Form GST EWB-03, Form GST MOV-04 or Part B of Form EWB-03 had been prepared. Thus, the Court concluded that though the vehicle was detained for the purpose of carrying out an inspection, no such inspection was carried out or that upon physical verification, no discrepancy was found in the conveyance/goods or documents.

Further, in the affidavit-in-reply, there was not even a whisper regarding any discrepancy having been found in bill No. 15615 after verification, even though the conveyance has been detained for that purpose. Thus, it appeared that there was no valid ground for the detention of the vehicle in question on the part of the Respondents.

Therefore, the question of calling upon the Petitioner to pay the taxes, penalty and fine, as computed by the Respondent in the order of demand of tax and penalty in Form GST MOV-09 does not arise hence, quashed.

The Impugned order of confiscation passed by the Respondent under section 130 of the CGST Act can't be sustained as the reason recorded for

passing the Impugned order has nothing to do with the reason for which the goods & conveyance were initially detained and the driver was carrying all the documents.

[02] HC quashes the order of detention of goods for being a non speaking order.

Facts: M/S India Logistics & Cargo Movers ("the Petitioner") is engaged in the business of transport, procured about 61 different customers. On May 16, 2019, while, the goods were in transit, the State Tax Officer ("the Respondent") intercepted the vehicle & found that the e-waybills of three parties were not generated. The statement of the driver in charge of the vehicle was recorded in Form GST MOV-1. The goods in respect of 58 customers wherein there were valid e-way bills were released; however, the vehicle with the goods in respect of the above three parties were detained on the spot on May 16, 2019, by issuing a notice in Form GST MOV-10 under Section 130 of the CGST Act, 2017 ("CGST Act").

The Petitioner provided justification for not generating the above mentioned e-way bills; however, there was no response from the Respondents. The Petitioner agreed to pay the tax and penalty as calculated on the basis of transaction value in the invoice as envisaged under Section 129 of the CGST Act/ GGST Act. However, the Respondent passed an order dated May 28, 2019, increasing the value of goods by 20% and confiscating the goods under Section 130 of the CGST Act / GGST Act.

Issue Involved: Whether the order passed by the Respondent is valid in the eyes of law?

Held: The Hon'ble High Court Gujarat in R/Special Civil Application No 15178 of 2019

decided on September 24, 2019 as under:

The Court observed that because 14 invoices are not properly signed, the authorities have exercised powers under Section 130 of CGST Act/ GGST Act and calculated tax penalty & fine there under. If that be so, since none of the 14 invoices relate to the parties whose goods are confiscated, under the circumstances, the goods belonging to them could not have been confiscated by the Respondents.

It is an admitted position that in this case no detention order under Section 129 of the CGST Act / GGST Act has been made and the Respondents have directly reported to the Provisions of confiscation under Section 130 of the said CGST Act / GGST Act.

On reading the order of confiscation in its entirety, it is manifest that the Respondent has not assigned any reason whatsoever as to why the goods & conveyance were required to be confiscated. Despite the fact that the Petitioner and Anjani Synthetics Limited had submitted explanations in respect of the discrepancies noticed by the Respondent, there is no reference to the same in the impugned order. Thus the Respondent without applying his mind to the facts of the case appears to have mechanically passed the impugned order without assigning any reasons worth the name for confiscating the goods & conveyance. ----- **Comments [AS1]**

Despite the fact that out of 61 consignments, the Respondent has noticed deficiencies only in respect of three consignments, the conveyance of the Petitioner is also sought to be confiscated, that too without assigning any reasons as to how the Petitioner has sought to evade payment of tax. It was incumbent upon the Respondent to give

reasons in support of his conclusion that the goods in question and the conveyance are required to be confiscated. However, the order is totally bereft of any reasons, in the absence of which the order stands vitiated due to non application of mind on the part of the maker of the order. The impugned order dated May 18, 2019, therefore, can't be sustained.

[03] SC upholds inclusion of value of software / related services as a part of imported apparatus / machine

Facts: Indusind Media & Communications Ltd. ("the Appellant") imported certain goods at air cargo complex, New Delhi and filed Bill of Entry 2660085 dated June 26, 2003. They declared the goods as Multiplex or Satellite Receivers, test and measurement equipment etc. & attached six invoices covering 19 items imported. They indicated individual classification for the various items under Chapter 84/85 of the Customs Tariff. The bill of Entry was assessed as per declaration and applicable Customs Duty was paid.

Investigation was conducted which revealed:

"The importer had placed the order at UK for purchase of equipments one set for Mumbai and another set for Delhi. Each set of equipment, taken together constituted 'Head End' for cable TV operations. The 'Head End' was an equipment at a local TV office that originates the cable TV services and cable TV modem services to subscriber through Conditional Access System (CAS). All imported equipments taken together contributes towards a clearly refined function i.e. 'Head End' for cable TV operations. The complete set of equipment together merits classification under Customs Tariff Heading (CTH) 8543 8999,

in the light of Note 4 to Section XVI. Thus, it appeared that individual classification indicated for 19 imported items amounts to mis-declaration. The search operation carried by SIIB, ACC, Mumbai at the premises of importer further revealed that the importer had also mis-declared the value of the imported consignments at Delhi and Mumbai. They had suppressed the value of embedded software as well as value of services payable to the foreign supplier for carrying out integration of the system prior to shipment and provide complete commission and installation services at the customers premises. Further, it was noticed that the purchase order placed by the importer was revised to show as CIF instead of FOB.

Issue Involved: Whether valuation of the imported goods was correct?

Held: The Hon'ble Supreme Court in Civil Appeal No. 2498 of 2018 decided on September 27, 2019 held as under:

The Court observed that apart from supply of equipment, necessary software had to be embedded in the equipment before the supply was effected. The facts also disclose that out of 19 items indicated in the Bill of Entry, only 8 items were physically presented while the rest were already embedded in the main unit. These facts are not only reflective that the individual components were intended to contribute together and attain a clearly defined function as dealt with in Note 4 of Section XVI of the First Schedule of the Central Excise Tariff Act, 1975 ("Central Excise Tariff Act"), but also indicate that software that was embedded though cards in the main unit, was not any post-importation activity. The value of the software and the concerned

services were therefore rightly included and taken as part of importation.

Court accepted the Revenue's argument that though the invoices in the case did mention individual items, the dominant intent had to be seen whether the intended user was of individual items or they were supposed to be used collectively as part of one apparatus, in which event Note 4 to Section XVI of the First Schedule of the Central Excise Tariff Act would provide guidance.

Rule 9(1)(b) of Customs Valuation (Determination of Price of Imported Goods) Rules, 1988 (' 1998 Rules ") in Commissioner of Customs (Port), Chennai v. Toyota Kirloskar Motors P. Ltd. 2007 [(213) ELT4 (SC)] case shows that the value in respect of " materials, components, parts and similar items incorporated in the imported goods" has to be added while determining the transaction value. Said Rule 9 is almost identical to Rule 10 of Customs Valuation (Determination of Price of Imported Goods) Rules, 2007. Thus, even if the governing rule is taken to be Rule 9 of 1988 Rules, there would be no difference in the ultimate analysis.





TIPS TO IMPROVE YOUR PUBLIC SPEAKING SKILLS

Amol N. Shaha
Tax Consultant - Advocate

“The quality of your life depends upon the quality of your communication.”

Over a period of time, I have realised that the best public speakers in this world have a few things in common. People who are interested in mastering the art of public speaking can adopt the following traits.

1) Personality of the Speaker : Accept it or reject it, a public speaker is always judged by his or her audience not only on the basis of the content but also on the basis of the personality. The way you dress and the way you carry yourself on stage will have a huge impact on the quality of your presentation.

2) Content & knowledge: You cannot speak that you do not know. There are a lot of people who speak a lot more than they actually know. Read as much as possible about the topic and from as many sources as possible. This will widen your perspective and will help in taking an intelligent stand.

3) Audience profile: As a public speaker you should be well aware of your audience- their background, profession, expectations and priorities. This exercise will provide you with valuable insights about how to structure the talk.

4) Passion: People may forget what you say, but they rarely forget your emotions about the topic. After spending years in professional public speaking business, I can say one thing without any doubt that it is possible to increase or

decrease your emotional intensity about any topic. How much you believe or do not believe in the topic will be sensed by the audience to great extent.

5) Non-verbal communication: It is said that about 60% of any communication is done non-verbally. The best public speakers pay a lot of attention to their non-verbal communication- tonal quality and body language. A simple message can be amplified by variation in tone and appropriate usage of body-movement.

6) Fun & emotional quotient: It has been proven that the audience will remember a message only if it has one or more of the following two elements- humour and emotional appeal. The best presentations have both of these components.

7) Medium: Once you have done your research about the topic and the audience profile, think about the best medium to convey the message of your presentation. Do you really need a power-point or there is a better way of communicating your ideas about the topic?

8) Practice: Repetition is the mother of all skills. More you practice on your presentation, better are your chances of perfecting it. Stand in front of a mirror and speak for few minutes on a different topic every day. If possible record yourself on a phone camera. Public speaking is a learnable skill and anybody can master this skill if they decide to.





MONTHLY TAX PANCHANG NOVEMBER 2019

Amol N. Shaha
Tax Consultant - Advocate

DATE	SUBJECT	NATURE OF COMPLIANCE
07-NOV-2019	INCOME TAX	PAYMENT OF TDS/TCS FOR THE MONTH OF OCTOBER 2019.
11-NOV-2019	GST	DUE DATE FOR FILING RETURN IN FORM GSTR-1 FOR THE MONTH OCTOBER 2019, FOR TAXPAYERS WITH AGGREGATE TURNOVER IN A STATE EXCEEDS RS.1.5 CRORE.
14-NOV-2019	INCOME TAX	DUE DATE FOR ISSUE OF TDS CERTIFICATE IN FORM NO.16B FOR TAX DEDUCTED U/S 194-IA IN THE MONTH OF SEPTEMBER 2019.
14-NOV-2019	INCOME TAX	DUE DATE FOR ISSUE OF TDS CERTIFICATE IN FORM NO.16C FOR TAX DEDUCTED U/S 194-IB IN THE MONTH OF SEPTEMBER 2019.
15-NOV-2019	INCOME TAX	DUE DATE FOR ISSUE OF QUARTERLY TDS CERTIFICATE I.R.O.TAX DEDUCTED FOR PAYMENTS OTHER THAN SALARY FOR THE QUARTER JULY 2019 TO SEPTEMBER 2019.
15-NOV-2019	INCOME TAX	DUE DATE FOR FURNISHING OF FORM 24G BY AN OFFICE OF THE GOVERNMENT WHERE TDS FOR THE MONTH OF OCTOBER 2019 HAS BEEN PAID WITHOUT THE PRODUCTION OF A CHALLAN.
15-NOV-2019	PROVIDENT FUND	DUE DATE FOR MONTHLY PROVIDENT FUND (PF) PAYMENT FOR OCTOBER 2019.
15-NOV-2019	ESIC	DUE DATE FOR MONTHLY EMPLOYEES`S STATE INSURANCE CORPORATION (ESIC) PAYMENT FOR OCTOBER 2019.
20-NOV-2019	GST	DUE DATE FOR PAYMENT OF GST FOR THE MONTH OF OCTOBER 2019 AND TO UPLOAD RETURN IN FORM NO.GSTR-3B FOR THE MONTH OF OCTOBER 2019.
25-NOV-2019	PROVIDENT FUND	DUE DATE FOR FILING PROVIDENT FUND (PF) RETURN FOR OCTOBER 2019.
30-NOV-2019	INCOME TAX	DUE DATE FOR FURNISHING OF CHALLAN-CUM-STATEMENT I.R.O.TAX DEDUCTED U/S 194-IA AND U/S 194-IB IN THE MONTH OF OCTOBER 2019.
30-NOV-2019	GST	EXTENDED DUE DATE FOR GST ANNUAL RETURN AND AUDIT REPORT IN FORMS GSTR 9/9A/9C FOR F.Y.2017 /2018.
30-NOV-2019	PROFESSION TAX	MONTHLY E-PAYMENT AND E-FILING OF RETURN FOR NOVEMBER 2019.

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 04TH NOVEMBER 2019.ANY AMENDMENTS/CHANGES IN DATES, ETC.,IF ANY, DONE BY THE GOVERNMENT AFTER 04TH NOVEMBER 2019,WILL BE APPLICABLE ACCORDINGLY.



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THE WESTERN MAHARASHTRA TAX PRACTITIONERS' ASSOCIATION

13th CERTIFICATE COURSE IN TAXATION LAWS

1st December 2019 to 25th January 2020



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For Practitioners, DTL, Law Graduates, Accountants, Staff member of Practitioners,
Commerce Students, Retired Persons & Housewives.

About Association

- Esteemed Association formed in 1950 having more than 1200 members from the Western region of Maharashtra.
- Tax consultants, Advocates, Chartered Accountants, Cost Accountants & Company Secretaries are the members of the Association.
- It publishes "Tax Tribune" monthly magazine.
- Conducting academic programs such as study circle meetings, Service cell meetings with tax authorities, Seminars, Workshops, Residential refresher course etc.

COURSE FEATURES

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- It is beneficial for the people working in the field of accounts, taxations Banking & Insurance etc.
- A booklet, specially designed for students from eminent speaker's-writup covering all subjects, will be distributed.
- Conducting examination at the end and distribution of Prizes to the first three rank holders.

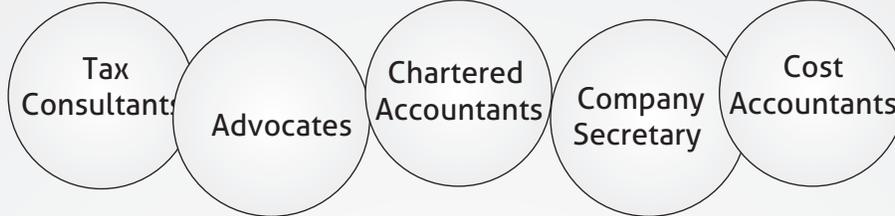
COURSE DURATION 2 MONTHS

Every Saturday & Sunday 9 A.M. to 1 P.M.

Starting from 1st December 2019 to 25th January 2020

Course Fees - Rs. 8,500 (including GST) (Including Study material, Snacks, Tea & Coffee)

Gallery of Speakers



Subjects

GST

- Important Definitions
- Registration
- Returns
- Composition Scheme
- Tax Invoice, Bill of Supply Debit Note, Credit Note, RCM, Input Tax Credit (ITC) Time & Place of Supply, Job Work, HSN/ASC Code, E-Way Bill, E-Filing of GST Returns, Payment - Tax, Interest & Penalty
- Accountancy
- Income Tax
- Goods and Service Tax
- Audit
- Professional Tax
- Partnership Act
- Professional Ethics
- GST - Trust & Co-operative Society

VENUE

The WMTPA Hall, 4th Floor, Yadav Vyapar Bhavan, Near Mamledar kacheri, Shivaji Road, 602, Shukrawar Peth, Pune 411002. Tel: (020) 24470237
Email : thewmtpa@gmail.com Website : www.thewmtpa.org.

CERTIFICATE COURSE COMMITTEE 2019-20

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DNYAN-SANGAM, 2019

(GST Crash Course with Full Day Seminar)



Organised by

THE WESTERN MAHARASHTRA TAX PRACTITIONERS' ASSOCIATION, PUNE

Jointly with

GOODS AND SERVICES TAX PRACTITIONERS' ASSOCIATION OF MAHARASHTRA, MUMBAI

Crash Course From 20th November to 22nd November 2019 at Association Hall, Pune - 411002

Full Day Seminar on 23rd November 2019 at 3D Hall, Mukundnagar, Pune - 411037

DNYAN SANGAM 2019 : GST CRASH COURSE

Date & Time	Subject	Faculty
20/11/2019 Wednesday (@Association Hall)		
2.30 pm to 4.30 pm	Concept of Supply in GST, Taxable Person in GST	Adv. Milind Bhonde
4.30 pm to 6.30 pm	Valuation & Classification in GST	Adv. Abhay Bora
21/11/2019 Thursday (@Association Hall)		
2.30 pm to 4.30 pm	E-way Bill & Recent Advance Rulings	CA Manoj Malpani
4.30 pm to 6.30 pm	Place of Supply (Goods & Services)	Adv. Vidyadhar Apte
22/11/2019 Friday (@Association Hall)		
2.30 pm to 4.30 pm	Time of Supply & RCM under GST	CA Ravi Somani
4.30 pm to 6.30 pm	Job Work, TDS/TCS in GST	CA Yogesh Ingale
23/11/2019 Saturday (Full Day Seminar) @ 3D Hall Mukundnagar, Pune 411009		
8.30 am to 9.00 am	Opening Ceremony	
9.00 am to 10.00 am	Future of GST Practice	CA Pritam Mahure
10.00 am to 10.15 am	Tea Break	
10.15 am to 1.15 pm	ITC & Recent Advance Ruling	CA Bimal Jain
1.15 pm to 1.45 pm	Lunch Break	
1.45 pm to 3.15 pm	Practical Issues in GSTR-9 & 9C	Adv. Aditya Surate
3.15 pm to 3.30 pm	High Tea	
3.15 pm to 4.45 pm	New Return System & E-Invoicing	CMA Rahul Chincholkar
4.45 pm to 5.00 pm	Valedictory Session & High Tea	

FEES STRUCTURE

Crash Course with Full Day Seminar : Rs. 5,000/- (Including GST) (1st 100 Participants)

Full Day Seminar : Rs. 1,500/- (Including GST) (1st 200 Participants)

ADDITIONAL 25% FEES AFTER STIPULATED PARTICIPANTS
(Fees Includes Breakfast, Lunch, High Tea & GST)

GST CRASH COURSE COMMITTEE 2019-20

Mr. Sharad Suryawanshi
President, WMTPA

Mr. Vilas Aherkar
Vice President, WMTPA

CA Swapnil Munot
Convener

Adv. Dinesh Tambde
President, GSTPAM, Mumbai

Adv. Sunil Khushalani
Secretary, GSTPAM, Mumbai

Mr. Navneetlal Bora
IPP, WMTPA

Adv. Milind Bhonde
Chairman

CMA Shripad Bedarkar
Secretary, WMTPA

Mr. Narendra Sonawane
Chief Co-ordinator

☎ 9881361392 / 9822601617 / 9890672049 / 8830750055

FULL DAY SEMINAR SCHEDULE

On Saturday, 23rd November, 2019

Registration & Breakfast : 8.00 am to 8.30 am

Inaugural Session 8.30 am to 9.00 am



1st
Technical
Session

09.00 am to 10.00am
Future of GST Practice
CA Pritam Mahure

Tea Break : 10.00 am to 10.15 am



2nd
Technical
Session

10.15 am to 01.15 pm
Input Tax Credit & Recent Advance Ruling
CA Bimal Jain

Lunch Time : 01.15 pm to 1.45 pm



3rd
Technical
Session

01.45pm to 3.15 pm
Practical Issues in GSTR-9 & 9C
CA Aditya Surte

High Tea : 3.15 pm to 3.30 pm



4th
Technical
Session

03.30pm to 04.45pm
New Return System & E-invoicing under GST
CMA Rahul Chincholkar

Valedictory Session : 04.45pm to 05.00pm



Felicitation of CMA B.M.Sharma for representation to Hon. FM @ Delhi



Felicitation of CA Swapnil Munot for representation to Hon. FM @ Delhi



Felicitation of CMA Shripad Bedarkar for representation to Hon.FM @ Delhi



Diwali Faral Program



1st Prize in Rangoli Competition in Diwali Faral Program



2nd Prize in Rangoli Competition in Diwali Faral Program



3rd Prize in Rangoli Competition in Diwali Faral Program



Prize in Rangoli Competition in Diwali Faral Program

Message :

"The representation prepared by The WMPA, Pune submitted by hand to Hon.Finance Minister, Smt.Nirmala Sitaraman ji @ North Block, Delhi, each point was well explained to her with its benefits and changes required to be made in GST Act and Rules. Hon.FM has given patience hearing and raised her doubts wherever necessary. The point of levy of penalty more than tax amount in multiples, she was surprised and tried to understand from official present there. The team lead by Past President of WMPA CMA Brijmohan Sharma, Secretary CMA Shripad Bedarkar and CA Swapnil Munot".



We have celebrated 77th Birthday of our Past President Shri V.N.Joshi sir on 18th Oct.2019. On this occasion sir has given donation of Rs.5,000/- to our association.

We have celebrated 45th Birthday of our Secretary CMA Shripad Bedarkar on 22nd Oct.2019. On this occasion he has given donation of Rs.5,000/- to our association.



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The Western Maharashtra Tax Practitioners' Association

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