

# TAX Bulletin

December, 2017 Volume-6



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**

(Statutory Body under an Act of Parliament)

[www.icmai.in](http://www.icmai.in)

Headquarters: CMA Bhawan, 12 Sudder Street, Kolkata - 700016

Ph: 091-33-2252 1031/34/35/1602/1492

Delhi Office: CMA Bhawan, 3 Institutional Area, Lodhi Road, New Delhi - 110003

Ph: 091-11-24666100

### MISSION STATEMENT

“The CMA Professionals would ethically drive enterprises globally by creating value to stakeholders in the socio-economic context through competencies drawn from the integration of strategy, management and accounting.”

### VISION STATEMENT

“The Institute of Cost Accountants of India would be the preferred source of resources and professionals for the financial leadership of enterprises globally.”

### Objectives of Taxation Committee:

1. Preparation of Guidance Note and Analysis of various Tax matters for best Management Accounting Practices for the professional development of the members of the Institute in the field of Taxation.
2. Conducting webinars, seminars and conferences etc. on various taxation related matters as per relevance to the profession and use by various stakeholders.
3. Submit suggestions to the Ministry from time to time for the betterment of Economic growth of the Country.
4. Evaluating opportunities for CMAs to make effective value addition to the tax-economy.

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## FROM THE DESK OF THE CHAIRMAN

**Dear Colleagues**

Namaskar and Best wishes.

It is a matter of great pleasure to pen down the message for the 6<sup>th</sup> and the last Tax Bulletin of 2017. My heart fills with immense joy as I perceive the progress being made by Tax Research Department with the incessant support, knowledge contribution and valuable feedback from our authors, members and Key Resource people.

So far the Taxation Committee has presented 11 webinars with more than 3750 participations on various issues on GST through its' eminent resource persons and those are getting response by way of increasing in number of participants and feedback from the members. The Taxation committee also plans to conduct webinars on Direct Tax.

Taxation committee has launched Certificate Course on GST and preparedness i.e Study materials, faculty selection and other related issues are going on. We are very much hopeful to start the Course through Board of Advanced Studies of the Institute. The course is open for Members, other professionals, GST Practitioners, Industry representatives and the classes shall be off line on Saturdays and Sundays at all state Capitals and other locations where the Minimum Batch size is 20. The Course is of 72 hours and online assessment after which Certificate will be awarded by the Institute. The details of Course can be viewed in the Taxation Portal of the Institute website under the head Course.

To create awareness and to give the handholding support to the traders, Taxation Committee plans

to conduct Seminars and workshops on implementation challenges starting from registration to Audit.

The IT based GST helpdesk of the Institute is ready to serve the members queries. That will be managed by eminent Indirect Tax experts of the Country. I request all the members and other stake holder to send their queries and also queries of trading houses.

The issues raised by the stake holders in different forums have been compiled and submitted to GST Council and other Government Agencies.

Hope, with recent Tax Judgements, notifications, press release, circulars and articles of the eminent Tax experts, this Bulletin will definitely act as a reckoner for the members, Industry and other stakeholders.

We are proud of our past and passionate about our future and look forward to continuing our success alongside each of our partners.

I would like to end on a happy note wishing all a 'Merry Christmas' and a 'Happy and Prosperous 2018'.

**CMA Niranjan Mishra**

Chairman -Taxation Committee  
16<sup>th</sup> December 2017

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# DEDUCTION OF TAX AT SOURCE ON TRANSFER OF CERTAIN IMMOVABLE PROPERTY – PROVISIONS AND OBLIGATIONS UNDER INCOME TAX ACT

## CMA NIRANJANA SWAIN

Senior General Manager (Finance), Odisha Power Generation Corporation Ltd

**A**cquisition of immovable property in particular the Flats/Buildings are the basic needs of all citizens. In my professional experience, many queries have been raised to me by friends regarding statutory obligations and compliance provisions under Income-tax act 1961 while making payment in due course of acquisition of any immovable property as a buyer or transfer of such property by the seller/developers. In view of above this article contributes the background of introduction of section 194IA, the related provisions and compliances as provided under income tax act & rules framed there under.

### Back Ground of introduction of Section 194 IA

A new section 194-IA was inserted in the Income-tax Act, 1961 as a result of an amendment by the Finance Bill, 2013 which provides provisions for Tax Deduction at Source (TDS) on transfer of certain immovable properties (other than agricultural land). The objective of introduction is not only widening of tax base but also as an anti-tax avoidance measures. While introducing this section in the Finance Bill 2013, the substance of this provisions has provided were as follows.

*“There is a statutory requirement under section 139A of the Income-tax Act read with rule 114B of the Income-tax Rules, 1962 to quote Permanent Account Number (PAN) in documents pertaining to purchase or sale of immovable property for value of ₹ 5 lakh or more. However, the information furnished to the department in Annual Information Returns by the Registrar or Sub Registrar indicate that a majority of the purchasers or sellers of immovable properties, valued at ₹ 30 lakh or more, during the financial year 2011-12 did not quote or quoted invalid PAN in the documents relating to transfer of the property. Under the existing provisions of the Income-tax Act, tax is required to be deducted at source on certain specified payments made to residents by way of salary, interest, commission, brokerage,*

*professional services, etc. On transfer of immovable property by a non-resident, tax is required to be deducted at source by the transferee. However, there is no such requirement on transfer of immovable property by a resident except in the case of compulsory acquisition of certain immovable properties. In order to have a reporting mechanism of transactions in the real estate sector and also to collect tax at the earliest point of time, it is proposed to insert a new section 194-IA to provide that every transferee, at the time of making payment or crediting of any sum as consideration for transfer of immovable property (other than agricultural land) to a resident transferor, shall deduct tax, at the rate of 1% of such sum. In order to reduce the compliance burden on the small taxpayers, it is further proposed that no deduction of tax under this provision shall be made where the total amount of consideration for the transfer of an immovable property is less than fifty lakh rupees”.*

Finally section 194IA has effected from 1st June, 2013 which casted greater obligation on all persons who are purchasing immovable property having value ₹ 50 Lakhs or more. The payer/purchaser has following obligations under the provisions of this section.

- (i) To deduct income tax at source at the prescribe rate on payment related to transferor of immovable property.
- (ii) Deposit of such TDS, furnishing of the Challan-cum-statement in Form No. 26QB under Rule 31A of income tax rules and issue of certificate of deduction of tax at source in Form No. 16B to the payee within 30 days fifteen days from the due date of furnishing of return/Form 26QB.

Provisions and the obligations are provided below for better understanding



**(1) Who is responsible for tax deduction at Source (TDS)**

- Any person, being a transferee, responsible for paying (other than the person referred to in section 194LA) to a resident transferor any sum by way of consideration for transfer of any immovable property (other than agricultural land), shall liable to deduct tax at source.
- "Immovable property" means any land (other than agricultural land) or any building or part of a building.

➤ Agricultural land means agricultural lands in India, not being a land situated in any area referred to in section 2(14)(iii)(a)/(b) of income tax act. A land shall not be treated as Agriculture Land, if:

- (i) It is situated within jurisdiction of Municipality or Cantonment Board which has a population of not less than 10,000; or
- (ii) It is situated in any area within below given distance measured aerially:

Population of the Municipality	Distance from Municipal limit or Cantonment Board
More than 10,000 but does not exceed 1,00,000	Within 2 KM
More than 1,00,000 but does not exceed 10,00,000	Within 6 KM
Exceeding 10,00,000	Within 8 KM

The section provides for deduction of tax at source where any sum is paid by way of consideration for transfer of any immovable property. On strict interpretation it can be said that tax is deductible only when payment of a sum is made either by way of cash, cheque or draft or by any other mode and the provision will not apply in case of exchange or payment of consideration in kind. An issue came before ITAT, Bangalore in case of Chief Accounts Officer Bruhat Bangalore MahanagarPalike v. ITO (2015) 113 DTR 209(Bang)(Trib) in the context of Section 194LA on deduction of tax at source in case of payment of compensation non-monetary terms. Hon'ble ITAT held that "where neither there is quantification of the sum payable in terms of money nor actual payment in monetary terms, it would be unfair to burden a person with the obligation of deducting tax at source and exposing him to the consequences of such default." This decision also equally applicable to section 194IA.

However there may be contrary view may come as exchange of capital asset is subject to capital gain and for computation of capital gain, the consideration is determined under provisions of income tax act. Besides above provision of section 194IA is also includes payment of consideration in any other mode.

The provisions of section 206AA is given below for reference.

- Every person whose receipts are subject to deduction of tax at source (i.e., the deductee) shall furnish his PAN to the deductor.
- If such person does not furnish PAN to the deductor, the deductor will deduct tax at source at higher of the following rates:
  - the rate prescribed in the Act;
  - at the rate in force, i.e., the rate mentioned in the Finance Act; or
  - at the rate of 20 per cent.
- Where the PAN provided to the deductor is invalid or does not belong to the deductee, it shall be deemed that the deductee has not furnished his PAN to the deductor and above provisions shall apply accordingly.

**(2) Who is the Payee and Payer**

- The payee is resident transferor of any immovable property (other than agricultural land). The payer is any person (being a transferee) who is responsible for paying (other than the person referred to in section 194-LA) to a resident transferor any sum by way of consideration for transfer of any immovable property (other than agricultural land).
- It may be noted that section 194 LA is applicable for deduction of tax at source while any payment of compensation or enhanced compensation or consideration or enhanced consideration made to a person for compulsory acquisition of any immovable property (other than agricultural land).
- The Section will apply when the transferor as well as transferee are residents. Therefore, tax is to be deducted even in respect of transfer of property located outside India. Tax is to be deducted also for the reason that income of the transferor will be chargeable in India, being resident.

**(3) Time of deduction of tax at Source**

- Income tax at the prescribed rate of 1% of the amount shall be deducted in the earlier of the following situations
  - (i) at the time of payment (maybe in cash, cheque, demand draft, bank transfer such as RTGS /NEFT or any other mode) or
  - (ii) at the time of credit to books of accounts of the transferor

**(4) Rate of TDS applicable on payments/credits**

- Tax needs to be deducted at source @ one per cent (1%) of the amount credited to the account of the transferor or payment made to such transferor.
- The transferor of the immovable property is required to produce the PAN to the transferee/payee/purchaser of such property. When PAN is not furnished, the provisions of Section 206AA of income tax is applicable which will result in deduction of tax at source @ 20% of payment/credit instead of 1% as prescribed.

- The Buyer is required to quote his or her PAN and sellers PAN in the challan cum Form 26QB9 (discussed latter). So the Buyer or Purchaser of the property is not required to procure Tax Deduction Account Number (TAN).

**(5) Threshold limit for deduction of tax at source**

Any sum paid by way of consideration for transfer of any immovable property (other than agricultural land in rural area) is covered under section 194-IA, provided the consideration for transfer of an immovable property is not less than ₹ 50 lakhs.

(i) Tax needs to be deducted on the entire amount of credit or payment as the case may be once it is ₹ 50 lakhs or more. There is no basic exemption for deduction of tax at source. If the amount of immovable property which is subject matter of transfer is ₹ 65 Lakhs, then buyer is required to deduct tax at source on ₹ 65 lakhs and not on ₹ 15 lakhs. TDS is also required to be made at the time of payment of each instalment even if any instalment is less than ₹ 50 lakhs.

(ii) Section 194-IA is applicable on total value of the immovable property and, not on the respective share of buyer and seller. If an immovable property purchased by two buyers or transfer by two sellers and property value is ₹ 90 Lakhs, then sale consideration of respective share of buyer / seller is ₹ 45 Lakhs each (below ₹ 50 Lakhs) but as per rule total value of the property will be considered for deduction of tax at source.

**Example:** Mr A & B are jointly buying a flat. Payment of consideration is ₹ 60 lacs. Which is to be paid by Mr A ₹ 30 lakh and Mr B is to be paid ₹ 30 lakhs. Whether TDS is applicable to payment of Mr A and Mr B u/s 194 IA?

**Answer:** As the consideration of the immovable property is more than the threshold limit of ₹ 50 lakhs the TDS provisions u/s 194 IA is applicable. So Mr A and Mr B are required to deduct tax at source @ 1% on payment of ₹ 30 lakhs.

(iii) In case the immovable property is partly financed by bank/lender then TDS will be required to be deducted by the transferee on the entire amount of consideration irrespective of the amount of financing. As per section 194IA "any person, being a transferee..." is liable to deduct tax at source. When any loan availed from bank, the Bank can't be said to be transferee even if it is providing funds to the buyer. Therefore, the whole TDS will be deducted by the buyer from the amount paid by him to seller and the bank will not be held responsible to deduct TDS on payment made by him on buyer's behalf.

**Example:** If A purchased an immovable property of ₹ 60 lakh which is financed by bank for ₹ 45 lakhs and he has contributed ₹ 15.00 lakh. The TDS is to be deducted and deposited by Mr A is ₹ 60 lakhs @ 1% = ₹ 60,000/-. So Bank will pay to the transferor ₹ 45 lakhs and Mr A will pay ₹ 14.40 lakhs (₹ 15 lakhs – ₹ 0.60 lakhs). If the payment is made in instalments then the amount shall be deductible in proportionate to the installment paid.

**(6) Non applicability of Provisions for deductions of tax at source**

Deductions of tax at source is not applicable in the following circumstances

- Where the consideration for the transfer of an immovable property is less than fifty lakh rupees.
- Where consideration is related to transfer of immovable property is agricultural land (in rural area as stated at 1 above)

**(7) Few specific issues are discussed after making various provisions of income tax act which are given below**

Sl. No.	Particulars of situation/ Issues	Applicability of TDS/ applicable of relevant provisions of section 194IA
1.	Whether provision of section 194IA will apply on transfer of booking/right in the builder's project?	Section 194IA provides for TDS on payment of consideration/credit for transfer of immovable property. Since the booking rights in any builder's project cannot be treated as immovable property, then such payment is not subject to TDS.
2.	Whether the Service tax and VAT/GST (from 1 <sup>st</sup> July 2017) are to be included in determination of threshold limit of ₹.50 lakhs for deduction of tax at source/or the TDS to be made on such on such Service Tax & VAT/ GST as the case may be.	In our view the Service Tax & VAT / GST should not be considered as part of consideration and tax thereon should not be deducted.
3.	While the builder allotted a Flat, the consideration includes payment for Car Parking, Permanent Membership of Club, Electricity metre & line laying charges and other incidental charges. Whether the consideration includes above payment for TDS.	In our view the TDS is applicable on these payments, since these payments are part of consideration and condition for transfer of immovable property. However if any refundable deposit is made for maintenance of Flat / club and other facilities, the same cannot be considered for TDS.
4.	Whether provision will apply in case of transfer of Share in a society resulting in transfer of rights in the property?	On reasonable interpretation of the provision, it should apply on transfer of Transfer of share in the society is effectively result in transfer of immovable property and such transfer for a consideration shall be interpreted and all the provisions of section 194IA is applicable.
5.	Whether provisions will apply to development	Usually in a case of development contracts, the

	contracts with the developer?	developer transfers a part of built up area to the land owner in exchange of transfer of proportionate land rights. Accordingly, land owner and also developer are the buyers as well as sellers and therefore, both are required to deduct tax at source under the section. If there is further sale made by developer/buyers will deduct tax on consideration paid to developer.
6.	Whether purchase of property in auction by a bank or financial institution pursuant to default in payment of loan by the owner of the property will be subject to TDS under Section 194IA?	This is a situation where, the sale of immovable property by the bank or financial institutions will be on behalf of the defaulter and the defaulter is the transferor. Under provisions of income tax act, such auction sale, the defaulter borrower shall be liable to pay capital gain tax on sale of the property. Therefore the provisions of section 194IA for deduction of tax at source shall be applicable.

## (8) Obligations & Compliances under the act by Payer

### (i) Obligations of the Payer under Income-tax act

#### (a) Deposit of tax to the credit of the Central Government:

- Any sum deducted under section 194-IA of Income-tax act by the payer shall be paid to the credit of the Central Government (by remitting it electronically to the Reserve Bank of India or the State Bank of India or to any authorised bank).
- After successfully providing details of transaction deductor can:
  - Either make the payment online (through e-tax payment option) immediately;
  - Or make the payment subsequently through e-tax payment option (net-banking account) or by visiting any of the authorized Bank branches. However, such bank branches will make e-payment without digitization of any challan. The bank will get the challan details from the online form filled on TIN website ([www.tin-nsdl.com](http://www.tin-nsdl.com))
- The amount to be deposited within a period of 7 (seven) days from the end of the month in which the deduction is made and shall be accompanied by a challan-cum-statement in Form No. 26QB. As per the CBDT notification no. 30/2016 dated April 29, 2016, the due date of payment of

TDS on transfer of immovable property has been extended to thirty days from earlier seven days from the end of the month in which the deduction is made.

- Provision to enter Tax amount (comprising of basic tax, interest and fee) in Form 26QB is given in TIN website and Bank's site.

**Example:** *If a taxpayer has made payment of sale consideration in the month of February, then corresponding TDS should be deposited on or before (thirty days) March 30th.*

- The Buyer of the property (deductor of tax) has to furnish information regarding the transaction online on the TIN website i.e. [www.tin-nsdl.com](http://www.tin-nsdl.com). Online statement cum challan Form/Form 26QB is to be filled in by each buyer for unique buyer-seller combination for respective share. If more than One Buyer or Seller for an immovable property which attract TDS under section 194IA, then the Challan and Form 26QB will be filled in by all the buyers for respective sellers for their respective share.

#### Example

➤ *in case of one buyer and two sellers, two challan and Form 26QB have to be filled in and*

➤ *in case two buyers and two sellers, four challan and Form 26QB have to be filled in for the respective property shares*

- E-payment of taxes at subsequent date will be linked to the FORM 26QB based on Acknowledgement number generated at the time of filing of Form 26QB. If the acknowledgement number generated at the time of filing of Form 26QB is forgot to save then
  - *Acknowledgment number for the Form 26QB furnished is available in the Form 26AS (Annual Tax Statement) of the Deductor (i.e. Purchaser/Buyer of property). The same can be viewed from the **TRACES website** ([www.tdscpc.gov.in](http://www.tdscpc.gov.in)) or*
  - *Taxpayer can also click the option 'View Acknowledgment' hosted on the TIN website. Taxpayer needs to enter PAN of the Buyer and Seller, Total Payment and Assessment Year (as mentioned at the time of filing the Form 26QB) to retrieve the Acknowledgment Number.*
- In case the payer filled the Form 26QB but forgot to print, the he may access the link "**E-tax on subsequent date**" on the TIN website. On entering the details as per the acknowledgment slip, will be provided options to Print the Form 26QB.
- If any problem is encountered at the NSDL e-Gov website while entering details in the online form,

then contact the TIN Call Center at 020 - 27218080 or write to us at [tininfo@nsdl.co.in](mailto:tininfo@nsdl.co.in) (Please indicate the subject of the mail as Online Payment of Direct Tax\_ TDS on sale of property).

**(b) Certificate/statement for tax deducted at source**

- Every person/Payer responsible for deduction of tax under section 194-IA shall furnish the certificate of deduction of tax at source in Form No.16B to the payee within fifteen days from the due date for furnishing the Challan-cum-statement in Form No. 26QB under Rule 31A of income tax rules. Form 16B will be available for download from the website of Centralized Processing Cell of TDS (CPC-TDS) [www.tdscpc.gov.in](http://www.tdscpc.gov.in).
- For generating certificate of deduction of tax at source in Form No.16B in the TRACES Website, The TDS amount as per Form 26QB should be entered in the field 'Basic Tax' (Income Tax) on the Bank's web-portal as TDS certificate (Form 16B) will be based on 'Basic Tax' (Income Tax) only.

**(c) Furnishing of Challan cum Statement (Form No. 26QB) statements by tax deductor to department**

Every person responsible for deduction of tax under section 194-IA shall furnish to the Director General of Income-tax (System) or the person authorized by him a challan-cum-statement in Form No. 26QB electronically within thirty days from the end of the month in which the deduction is made. CPC-TDS has also enabled the online functionality for correction in Form 26QB.

**Procedures to be followed for payment of e-tax payment option, the readers are advised to refer the link "<https://www.tin-nsdl.com/faqs/tds-on-sale-of-property/TDS-FAQ.html>"**

**(ii) Consequences for noncompliance by the payer of immovable property**

**(a) Applicability of penalties or interest if there is a non-deduction or late deposit after deduction of tax**

Section 201 of Income Tax Act provides for payment of interest if TDS is not paid to the credit of the Central Government within a period of seven days from the end of the month in which the deduction is made. It is clearly specified that any person liable to deduct TDS on the income distributed, makes default in deduction and/or payment of TDS shall be treated "assessee in default". Such interest shall be paid before furnishing the Form 26QB as prescribed under income tax rules

In case, where the TDS is not paid to the Govt. account by the due date then under section 201

of IT Act 1961 interest will be levied and the deductor (buyer of the immovable property) is to be deemed as an assessee in default for failure to pay or for late payment of any TDS including TDS on immovable property.

There are two scenarios:

Scenario	Consequences
(a) If tax deducted is not deposited by the 7th of next month of the month of deduction, but is paid at a later date	Interest is payable @ 1.5% for every month or part of a month on the amount of such tax, from the date on which such tax was deducted to the date on which such tax is actually paid.
(b) If tax is not deducted at all and not paid.	Interest is payable @ 1% for every month or part of a month on the amount of such tax, from the date on which such tax was deductible to the date on which such tax is deducted. In addition to interest the payer will be treated as assessee in default and liable to pay TDS that not deducted

**Example:** Payment made by purchaser of an immovable property is ₹ 55.00 lakhs to the Developer of such property. TDS @ 1% on ₹ 55 lakhs that is ₹ 55,000 was deducted on June 25, 2017, which required to be deposited with the government account by July 7, 2017, but if the same is paid on August 7, 2017 then interest calculations will be as follows:

In the present case the default period is 3 (three) months (part of June will be counted as one month, full July month as one month & part of August is one month)

Interest Rate:  $1.5\% \times 3 = 4.5\%$  then Amount of Interest:  $₹ 55,000 \times (3 \times 1.5\%) = ₹ 2,475$

**However the payer who is in default in deduction of tax at source may take shelter of the amended provisions of section 201 of Income tax act which is applicable with effect from 1<sup>st</sup> July 2012 which is given below for reference.**

As per section 201, a payer who fails to deduct whole or any part of the tax at source is treated as an assessee-in-default. However, by virtue of proviso inserted to section 201 by the Finance Act, 2012 with effect from 1-7-2012, the payer who fails to deduct the whole or any part of the tax on the payment made to a resident payee shall not be deemed to be an assessee-in-default in respect of tax not deducted by him, if the following conditions are satisfied:

- The resident recipient has furnished his return of income under section 139.
- The resident recipient has taken into account the above income in its return of income.
- The resident recipient has paid the taxes due on the income declared in such return of income.
- The resident payee furnishes a certificate to this effect from an accountant in Form No. 26A.

However, even if the payer is not treated as an assessee-in-default, he will be liable to pay interest under section 201(1A) of income tax act. In this case, interest shall be payable from the date on which such tax was deductible to the date of furnishing of return of income by such resident payee. Interest in such a case will be levied at 1% for every month or part of the month as stated in above table.

**(b) Late Fee Applicable under section 234E**

As per section 234E of the income tax act 1961 read with Rule 31A (4A) of IT rules, 1962, failure on the part of taxpayer to furnish challan-cum-statement in Form No. 26QB electronically within 30 days from the end of the month in which the tax deduction is made will attract levy of fee to be paid by the buyer/transferee/payer. This penalty is in addition to interests applicable under section 201 of income tax act. The late fee of ₹.200 per day under section 234E will be levied subject to the amount of tax (that is the maximum) is to be levied for late filing of TDS statement i.e. form 26QB. Since form 26QB is treated as a statement (which generates TDS certificate as form 16B) prescribed under section 200(3) of income tax act, therefore late filing of the same will attract late fee of ₹. 200/-per day.

**Example:** Referring to the example taken for calculation of interest as above at (a), the late fee amount is arrived as follows:

₹ 55,000 tax was deducted on June 25, 2017, which requires to be deposited on or before July 7, 2017. But the same was paid on August 7, 2017 then, late fee will be calculated as follows:

No. of days from July 8, 2017 to August 7, 2017 = 31 days.

Late fee= ₹ 200 per day × 31 days = ₹ 6,200 or ₹ 55,000 (that is the amount of TDS) whichever is lower i.e. ₹ 6,200

**(c) Penalty for default in furnishing statement of TDS (26QB) under section 271H**

As per section 271H, failure to submit or furnishing incorrect statement as required will attract penalty which will be levied by the Assessing Officer at his discretion. This section is applicable when a statement as required by the tax laws is not submitted timely. Minimum and maximum penalty under this section is ₹. 1 lakh. However, if TDS is deposited with fee & interest and statement is submitted within one year of the time prescribed, no penalty shall be levied.

**Analysis of Case laws**

An issue was came up for hearing before Hon'ble High Court of Kerala in case of M.C. Thomasv. District Collector reported in (2014) 49 Taxmann.Com 109 (Keral)/(2014) 264 CTR 437 (Keral), Whether, tax would liable to be deducted on sale consideration under section 194-IA or 194 LA, where assessee transferred its land to Government at agreed/negotiated price exceeding ₹ 50 lakh?

**Hon'ble High Court held that**

*"Section 194-IA, read with section 194LA, of the Income-tax Act, 1961 contains provision regarding deduction of tax at source on Payment on transfer of certain immovable property other than agricultural land. The Petitioner transferred his land to Government and received agreed/negotiated sale consideration. He filed writ petition for a direction to disburse whole of sale consideration without deduction of tax under section 194LA or 194-IA. The issue was whether, since there was no land acquisition, tax at rate of 10 per cent was not liable to be deducted on sale consideration under section 194LA. The petitioner concedes that he has agreed to receive sale consideration at the rate of ₹.17 lakhs per cent and the total sale consideration for 3.98 cents comes to about ₹.67, 66,000/-. The petitioner is fully justified in his contention that tax is not liable to be deducted at the rate of 10% of the sum as consideration under Section 194-IA of the Act since there is no land acquisition. But tax is certainly liable to be deducted from the sale consideration payable to the petitioner at 1% of the sum under Section 194-IA of the Act since the total sale consideration exceeds ₹.50 lakhs. The obligation to deduct tax under Section 194-IA of the Act arises when consideration is payable to a resident transferor on the transfer of immovable property otherwise than by land acquisition. It is upto the petitioner to submit his return before the jurisdictional assessing officer and take the proceedings to a logical end in the determination of his tax liability. The dictum in Infopark Kerala v. Asst. CIT reported in [2010] 187 Taxman 1 (Ker.) case reported W.A.No.2243 of 2008 is clearly distinguishable in as much as the same dealt with the deduction of tax under Section 194 LA of the Act in the absence of a compulsory acquisition. The District Collector and the Special Tahsildar (Land Acquisition) are therefore directed to disburse the sale consideration to the petitioner after deducting income tax at 1% of the sum under section 194 IA of the Act".*

**Conclusion**

After introduction of this provisions, has increased in transparency in real estate transactions leads to proper track on all high value property transactions in the country and will give the taxing authorities the details in a systematic way. However, the buyers of immovable property are under obligation to comply the provisions which will put more additional burden with them. It is a fact that many buyers/ transferees are not acquainted with provisions of Income Tax Act and the procedural compliances and therefore, compliance of the provisions results in undue burden and botheration to them.





# ANTI PROFITEERING MECHANISM UNDER GST

## CMA Dr. SANJAY R. BHARGAVE

Practicing Cost & Management Accountant

The GST law contains a unique provision on anti profiteering measure to curb the practice of enjoying unjust enrichment in terms of profit arising out of implementation of GST in India. The Government wants that GST should not lead to general inflation, as feared by the common man and for this it was necessary to set up a mechanism to ensure that benefits arising out of GST implementation are passed on to the customer.

Section 171 of the Central Goods and Services Tax Act, 2017 provides for Anti Profiteering measure. As per Sub Section 1 of Sec 171 of CGST ACT, 2017, ***“Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.”***

Thus it makes mandatory for every taxpayer to pass on the benefits arising out of following to the recipient of the goods or services or goods and services.

- Reduction of rate of tax on any supply of goods or services.
- Benefit of input tax credit.

The increase or decrease in cost on account of other than tax rate and input tax credit is not to be considered for the purpose of anti profiteering.

The Government has approved constitution of a National Anti Profiteering Authority (NAA) under GST to ensure that the benefits of the reduction in GST Rates and the various benefits arising out of GST implementation are passed on to the ultimate consumers by way of reduction in prices.

The Union Cabinet chaired by Hon. Prime Minister has given approval for the appointment of a Chairman and Technical Members of National Anti Profiteering Authority (NAA) under GST. The NAA will be headed by a senior officer of the level of Secretary to Government of India with four Technical Members from the Centre and / or States. The institutional

frameworks for anti profiteering measures comprises of the National Anti Profiteering Authority, a Standing Committee, Screening Committees in every state and Directorate General of Safeguards in the Central Board of Excise and Customs.

An person (consumer) who feel that the benefit of reduction in prices on account of GST is not being passed on to him when he purchases any goods or services may apply for relief to Screening Committees in the particular state. In case the incident of profiteering relates to an item of mass impact all over India, the application may be directly made to the Standing Committee. After forming a prima facie view that there is an element of profiteering, the standing committee shall refer the matter for detailed investigation to Director General of Safeguards, CBEC, which shall report its findings to NAA.

Anti Profiteering Application Form (APAF-1), to be filed before Standing Committee / State level Screening Committee in terms of Rule 128 of CGST Rules 2017 has been issued. The application can be made by recipient of the goods or services, Commissioner of GST or any other person.

The application form is divided into four parts.

1. In part A of the application, the applicant has to provide general information about the applicant such as name of the applicant, address, GST registration number, proof of identity, contact details etc.
2. In part B, the general information about the supplier who has not passed on the benefit is to be provided. This includes name of the supplier, category i.e manufacturer, service provider, trader or other, Address of the supplier, GST Registration number, Contact details etc.

3. Part C is about the details of goods and services. Description of the goods or services, HSN or SAC, Actual Price / value charged per unit – pre GST and Post GST. In case goods are covered under MRP, then pre GST and post GST MRP and comparative price / value pre GST and post GST after considering any discount / rebate given by other supplier. It is pertinent to note that this comparison is to be given by the applicant only.
4. Part D consists of the details of reduction in Tax rate / benefit of input tax credit. The applicant has to provide details of pre GST tax structure, post GST tax structure, Pre GST total tax per unit and post unit. Post GST tax reduction in amount of tax per unit, benefit of input tax credit i.e details of input tax credit which was not available pre GST and available now, transitional credit and post GST per unit value to be reduced.

The instructions for filling Anti profiteering application form are also annexed to the form. It is specified that following information is to be provided by the applicant

- Rate of Pre-GST Indirect Taxes (Such as Excise Duty, Value Added Tax, Central Sales Tax, Luxury Tax, Service Tax etc.) or earlier Goods & Service Tax (Including compensation cess) applicable on the goods/ services and the assessable/ taxable/ base amount per unit to the extent possible on which such rate of Indirect Taxes were applied in arriving at effective Pre-GST amount of Tax per unit or earlier GST (Including compensation cess) amount of Tax per unit.
- GST Rates viz. CGST, SGST/UTGST, IGST, Compensation Cess and other indirect taxes effective after change in Rates, if any by Central Government on recommendation of Goods & Services Tax Council after GST implementation applicable on the goods/services and the assessable /taxable/base amount per unit on which such rate of Indirect Taxes are applied in arriving effective Post-GST/ later GST amount of Tax per unit.
- Post GST reduction in Tax per unit by deducting Post-GST tax amount per unit from Pre-GST tax amount per unit as calculated above.
- Attach working sheets for computation of the Input Taxes/Duties Pre-GST per unit, credit of which was not available to the supplier before implementation of GST (out of the Taxes/Duties subsumed in GST, Illustrative list is given below):
  - a. Central Excise duty
  - b. Duties of Excise (Medicinal and Toilet Preparations)
  - c. Additional Duties of Excise (Goods of Special Importance)
  - d. Additional Duties of Excise (Textiles and Textile Products)
  - e. Additional Duties of Customs (commonly known as CVD)
  - f. Special Additional Duty of Customs (SAD)
  - g. Service Tax
  - h. Central Surcharges and Cesses so far as they relate to supply of goods and services
  - h. State VAT
  - i. Central Sales Tax
  - j. Luxury Tax

- k. Entry Tax (all forms)
- l. Entertainment and Amusement Tax (except when levied by the local bodies)
- m. Taxes on advertisements
- n. Purchase Tax
- o. Taxes on lotteries, betting and gambling
- p. State Surcharges and Cesses so far as they relate to supply of goods and services.

- It has been specified not to include details of Taxes/Duties, credit of which was available prior to GST and provide information only in respect of Input Taxes/Duties, credit of which was not available to the supplier before implementation of GST.
- Transitional Input Tax Credit availed in terms of Section 140(3) of CGST Act, 2017 read with Rule 117 of CGST Rules, 2017 which is not passed on to the recipient.
- The change in actual price/value charged per unit by deducting Actual price/value charged per unit Pre-GST from Actual price/value charged per unit Post-GST.
- The total amount of benefit not passed on by adding Post-GST reduction in amount of Tax per unit + Post-GST benefit of Input Tax Credit per unit on inputs + Difference (+/-) between Post-GST and Pre-GST actual price/value charged per unit.
- The GST on amount of benefit not passed on by multiplying amount of benefit not passed on as calculated in and total GST rate (in percentage) calculated in.
- The Post-GST per unit price/value to be reduced from actual price/value charged per unit Post-GST.

(On perusal of the application and the instructions, it can be seen that for any applicant, it will be impossible to collect and specify the information sought in part D of the application form. The said information is neither available in invoice nor in the published annual accounts. The taxes and their quantum will vary state-wise, plant-wise. In most of the cases the benefits cannot be worked out product-wise as it is common for the entire organization. Even the Commissioner also will not be in a position to compile and specify the information sought in the application form.)

After detailed scrutiny of the application, in the event the NAA finds that there is a necessity to apply anti profiteering measures, it has the authority to order the following

- Order the supplier to reduce the prices or return the undue benefit availed by the supplier, with interest to the recipient of the goods or services.
- If the benefit cannot be passed on to the recipient, it can be ordered to be deposited in the Consumer Welfare Fund.

Impose a penalty on the defaulting business entity or even order the cancellation of its registration under GST.

### Anti-Profitteering Application Form (APAF - 1)

[To be filed before Standing Committee/State level Screening Committee in terms of Rule 128 of CGST Rules, 2017]  
Please follow the accompanying instructions for filling up the form. Fields marked with asterisk (\*) are mandatory.

A. General information about the Applicant			
A.1*	Name		
A.2*	Category (Provide code)		
A.3	GST Registration No. (GSTIN)		
A.4*	Address		
A.5*	Contact Number		
A.6	E-mail ID		
A.7*	Proof of identity (Provide code)		
B. General information about the Supplier who has not passed on the benefit			
B.1*	Name		
B.2*	Category (Provide code)		
B.3*	Address		
B.4*	GST Registration No. (GSTIN)		
B.5	Contact Number		
B.6	Email ID		
B.7	Website address		
C. Particulars of Goods/Services			
C.1*	Description		
C.2	HSN/SAC		
C.3*	Actual Price/Value charged per unit Pre-GST	₹	
C.4*	Actual Price/Value charged per unit Post-GST	₹	
C.5	If Goods are covered under MRP Provisions		
C.5a	MRP Pre-GST	₹	
C.5b	MRP Post-GST	₹	
C.6	Comparative per unit actual Price/Value of like Goods/Services charged by other supplier	Name GSTIN	
C.6a	Pre-GST	₹	
C.6b	Post-GST	₹	
D. Details of reduction in Tax rate/ benefit of Input Tax Credit			
D.1	Particulars of Taxes on output Goods/ Services	Rate of Tax (%) [1]	Per Unit value for Tax (in ₹) [2]
D.2*	Taxes - Pre GST/Earlier Rate		Per unit amount of Tax (in ₹) [3 = (1*2)]
D.2a	Excise Duty		
D.2b	Value Added Tax (VAT)/Central Sales Tax (CST)		
D.2c	Service Tax		
D.2d	Luxury Tax		
D.2e	Others including Cesses (Specify)		
D.2f	Earlier GST Rate (Including compensation cess)		
D.3*	Total Tax per unit [Total of D.2a to D.2e] or [D.2f]		₹
D.4*	Taxes - Post GST/Later Rate		
D.4a	CGST		
D.4b	SGST/UTGST		
D.4c	IGST		
D.4d	Compensation Cess		
D.4e	Others including Cesses (Specify)		
D.5*	Total Tax per unit [Total of D.4a to D.4e]		₹
D.6*	Post-GST reduction in amount of Tax per unit (D.3 - D.5)		₹
<b>Benefit of Input Tax Credit</b>			
D.7	Input Taxes/Duties Pre-GST per unit, credit of which was not available (out of the Taxes/Duties subsumed in GST) and Transitional Input Tax Credit, if any. Attach working sheets.		₹
D.8	Difference (+/-) between Post-GST and Pre-GST actual price/value charged per unit [C.4 - C.3]		₹
D.9	Amount of benefit not passed on after adjusting difference between Post-GST and Pre-GST actual price/value [D.6 + D.7 + D.8]		₹
D.10	GST on amount of benefit not passed on [D.9 x Rate of GST (including compensation cess, if any)]		₹
D.11	Post-GST per unit price/value to be reduced by [D.9+D.10]		₹
D.12	Additional information, if any		

**Note-1:** Self-attested copies of all documentary evidences like proof of identity, invoice, Price List, detailed working sheet etc. are to be attached.

**Note-2:** Pre-GST includes earlier GST Rates and Post-GST includes later GST Rates after implementation of Goods & Services Tax.

**Declaration:**

I hereby declare that the information furnished above is true to the best of my knowledge and that I have exercised due diligence in submitting such information. I understand that providing incomplete or incorrect information in this application form will make the application invalid.

Date:

Signature of the Applicant

Place:



**Instruction for filling Anti-Profitteering application form**

The table below provides row-wise detailed instruction for filling up the application form. The fields marked with asterisk (\*) are mandatory.

S. No. of Form	Field name	Instruction
<b>General Instruction</b>		
1		Fill up the application form legibly in <b>BLOCK LETTERS</b> only.
2	Terms used in application form:	
	GSTIN	Goods and Services Tax Identification Number
	CGST	Central Goods and Services Tax
	SGST	State Goods and Services Tax
	UTGST	Union Territory Goods and Services Tax
	IGST	Integrated Goods and Services Tax
	HSN	Harmonized System Nomenclature
	SAC	Services Accounting Code
3		This application form is with reference to a single Good/Service. In case of application for multiple Goods/Services, please make separate application for each Good/Service.
4		After admitting the application, applicant may be asked to furnish any additional details as deemed necessary.
5		Application filled without attaching required documents/working sheets will not be treated as a valid application.
6		Filled application form must be send to State level Screening Committee (in case issues is of local nature) or to Standing Committee.
7	<b>Contact details of Central Standing Committee on Anti-profitteering:</b> 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110 001. Tel No.: 011-23741537 Fax. No.: 23741542, E-mail: <a href="mailto:anti-profitteering@gov.in">anti-profitteering@gov.in</a>	
	<b>Contact details of State Screening Committee on Anti-profitteering:</b> Contact details of State Screening Committee on Anti-profitteering are available at URL: <a href="http://goo.gl/eYJXnK">goo.gl/eYJXnK</a>	
<b>A</b>	<b>General information about the Applicant</b>	
A.1*	Name	Enter name as recorded on proof of identity submitted with this application form.
A.2*	Code of Applicant	01 Interested party*
		02 Commissioner
		03 Any other person
*Interested Party includes suppliers or recipients of goods or services under this application.		
A.3	GST Registration No.	Enter the 15 digit alphanumeric GSTIN of the applicant. Eg. 07ABCPM1234R1ZF.
A.7*	Proof of identity	Attach a copy of any one proof of identity listed below:
		<b>Code</b>   <b>Proof of Identity</b>
		01   Aadhaar Card issued by the Unique Identification Authority of India
		02   Voter ID
		03   Permanent Account Number (PAN) card
		04   Driving Licence
		05   Passport
		06   Ration card having photograph of the applicant
07   Any other proof of Identity (Specify)		
<b>B</b>	<b>General information about the Supplier who has not passed on the benefit</b>	
B.1*	Name	Enter name of supplier as mentioned on the supporting documents like Invoice etc.
B.2*	Code of Supplier	01   Manufacturer
		02   Service Provider
		03   Trader
		04   Others (Specify)
<b>C</b>	<b>Particulars of Goods/Services</b>	
C.1*	Description	Specify the nature of goods/services as mentioned in invoice/price list etc.
C.2	HSN/SAC	Specify HSN/SAC of goods/services as mentioned in invoice/price list/GST rate list etc.
C.3*	Actual Price/Value charged per unit Pre-GST	Provide Pre-GST actual price/value and Post-GST (current) actual price/value charged per unit of the goods/service (of the same quantity) after considering any discount/rebate given by the supplier.
C.4*	Actual Price/Value charged per unit Post-GST	
C.5	If Goods are covered under MRP Provisions	Provide Pre-GST MRP and Post-GST (current) MRP of the goods printed on the pack of the goods of the same quantity.
C.5a	MRP Pre-GST	
C.5b	MRP Post-GST	
C.6	Comparative per unit actual Price/Value of like Goods/Services charged by other supplier	Mention name and GSTIN of other supplier.
		Provide Pre-GST and Post-GST (current) actual price/value charged per unit of the like goods/service after considering any discount/rebate given by other supplier.
C.6a	Pre-GST	
C.6b	Post-GST	

D		
Details of reduction in Tax rate/ benefit of Input Tax Credit		
D.2*	Taxes - Pre GST/Earlier GST Rate	Specify the Rate of Pre-GST Indirect Taxes (Such as Excise Duty, Value Added Tax, Central Sales Tax, Luxury Tax, Service Tax etc.) or earlier Goods & Service Tax (Including compensation cess) applicable on the goods/services and the assessable/taxable/base amount per unit to the extent possible on which such rate of Indirect Taxes were applied in arriving at effective Pre-GST amount of Tax per unit or earlier GST (Including compensation cess) amount of Tax per unit.
D.4*	Taxes - Post GST/Later GST Rate	Specify the GST Rates viz. CGST, SGST/UTGST, IGST, Compensation Cess and other indirect taxes effective after change in Rates, if any by Central Government on recommendation of Goods & Services Tax Council after GST implementation applicable on the goods/services and the assessable/taxable/base amount per unit on which such rate of Indirect Taxes are applied in arriving effective Post-GST/after GST amount of Tax per unit.
D.6*	Post-GST reduction in amount of Tax per unit.	Specify the Post GST reduction in Tax per unit by deducting Post-GST tax amount per unit from Pre-GST tax amount per unit as calculated above.
D.7	Input Taxes/Duties Pre-GST per unit, credit of which was not available (out of the Taxes/Duties subsumed in GST). Attach working sheets.	<p>Specify and attach working sheets for computation of the Input Taxes/Duties Pre-GST per unit, credit of which was not available to the supplier before implementation of GST (out of the Taxes/Duties subsumed in GST, Illustrative list is given below):</p> <ol style="list-style-type: none"> <li>Central Excise duty</li> <li>Duties of Excise (Medicinal and Toilet Preparations)</li> <li>Additional Duties of Excise (Goods of Special Importance)</li> <li>Additional Duties of Excise (Textiles and Textile Products)</li> <li>Additional Duties of Customs (commonly known as CVD)</li> <li>Special Additional Duty of Customs (SAD)</li> <li>Service Tax</li> <li>Central Surcharges and Cesses so far as they relate to supply of goods and services</li> <li>State VAT</li> <li>Central Sales Tax</li> <li>Luxury Tax</li> <li>Entry Tax (all forms)</li> <li>Entertainment and Amusement Tax (except when levied by the local bodies)</li> <li>Taxes on advertisements</li> <li>Purchase Tax</li> <li>Taxes on lotteries, betting and gambling</li> <li>State Surcharges and Cesses so far as they relate to supply of goods and services.</li> </ol> <p>Do not include details of Taxes/Duties, credit of which was available prior to GST and provide information only in respect of Input Taxes/Duties, credit of which was not available to the supplier before implementation of GST.</p> <p>Also specify Transitional Input Tax Credit availed in terms of Section 140(3) of CGST Act, 2017 read with Rule 117 of CGST Rules, 2017 which is not passed on to the recipient.</p>
D.8	Difference (+/-) between Post-GST and Pre-GST actual price/value charged per unit	Specify the change in actual price/value charged per unit by deducting Actual price/value charged per unit Pre-GST (C.3) from Actual price/value charged per unit Post-GST (C.4).
D.9	Amount of benefit not passed on after adjusting difference between Post-GST and Pre-GST actual price/value	Specify the total amount of benefit not passed on by adding Post-GST reduction in amount of Tax per unit (D.6) + Post-GST benefit of Input Tax Credit per unit on inputs (D.7) + Difference (+/-) between Post-GST and Pre-GST actual price/value charged per unit (D.8).
D.10	GST on amount of benefit not passed on	Specify the 'GST on amount of benefit not passed on' by multiplying amount of benefit not passed on as calculated in D.9 and total GST rate (in percentage) calculated in D.5.
D.11	Post-GST per unit price/value to be reduced by	Specify the Post-GST per unit price/value to be reduced from actual price/value charged per unit Post-GST by adding D.9 & D.10 as calculated above.



## MATCHING OF INPUT TAX CREDIT (ITC) UNDER GST

### CMA SANJEEV MOTIYANI

Executive Director - Finance & Logistics, India Armstrong World Industries (India) Pvt Ltd

Input credit means at the time of paying tax on output, you can reduce the tax you have already paid on inputs and pay the balance amount.

Here's how-

When you buy a product/service from a registered dealer you pay taxes on the purchase. On selling, you collect the tax. You adjust the taxes paid at the time of purchase with the amount of output tax (tax on sales) and balance liability of tax (tax on sales *minus* tax on purchase) has to be paid to the government. This mechanism is called utilization of input tax credit.

Invoice matching is a mechanism under which all the taxable supplies made under GST will be matched against all the taxable supplies received by the buyer.

Invoice matching is relevant because, under the Goods and Services Tax law, input tax credit of purchase of goods and/or services will only be available if the details of inward supply filed under GSTR-2 return of buyer matches with the details of outward supplies filed in GSTR-1 of the supplier. This interlinking has been done by way of auto-population of data filed in GSTR-1 of supplier into GSTR-2 of the buyer.

Unless this matching reconciles the buyer will not be able to claim the input tax credit of taxes paid on purchase of input goods and/or services or both. Thus it becomes highly critical for businesses to be highly compliant under the GST regime. Compliance rating has been devised to tempt all the businesses for timely return filing and related compliance.

The concept of matching of ITC may not be new to the taxpayers, especially for the dealers who are currently operating under the Value Added Tax (VAT) regime. However, the same is alien or relatively new to non-VAT taxpayers and hence there is a need to understand the

concepts of ITC matching, ITC reversals and re-claim of ITC in GST regime.

Under GST regime, in order to claim input tax credit paid on purchases, there has to be corresponding outward supply entry from a registered taxable person. It means every input tax credit should be matched with the output tax liability. This may create a lot of burden both on the receiver and supplier for matching the transactions.

For all transactions between registered persons, invoice wise details shall be uploaded while filing GST returns and the same shall be matched. In case of any discrepancy found by the system, the said invoice will be treated as mismatched invoice which should be rectified either by supplier or receiver. The system shall match following items in every tax invoice uploaded in GST Network in order to pass on the input tax credit:

- GSTIN of Supplier or Receiver
- Invoice or Debit Note Number & Date
- Taxable Value & Tax Amount

All the invoices issued or received between taxable persons shall be matched for all the above parameters and the receiver would be able to claim the input tax credit. For all unmatched invoices, receiver and supplier shall get one month time to rectify the mistake while uploading the details of invoices. If details are corrected in following month then the receiver shall get the tax credit otherwise it will not be allowed. This may lead to cash loss to the receiver which will need more working capital to manage tax payments.

The quintessential requirement for carrying out matching of ITC is that the supplier must have filed his valid returns for the corresponding or preceding tax period and/or the IGST has been paid by the recipient in case of import of goods. Failure to file valid return by the Supplier (or failure to pay appropriate IGST by the recipient in case of import of goods)

may lead to denial of ITC in the hands of the recipient. The matching of ITC may be better understood in the following steps (filing & acceptance of returns before due dates)

Form of Returns	Person required to furnish	Details required to be furnished	Due date of filing
GSTR-1	Supplier (Other than Composition taxpayer & ISD)	Prescribed particulars in respect of outward supplies	10 <sup>th</sup> of the next month
GSTR-2A	Auto-populated for the recipient	Basis the Form GSTR-1 of supplier, the particulars of inward supply would be auto-populated	
GSTR-2	Recipient (Other than Composition taxpayer & ISD)	Recipient shall modify, delete or include the details of inward supply basis the auto-populated Form GSTR-2A and furnish the final details of his inward supply	15 <sup>th</sup> of the next month
GSTR-1A	Auto-populated for the supplier	Basis the Form GSTR-2 of recipient, the particulars of outward supply as validated by the recipient would be made available for the supplier, which he may accept to update and finalize his earlier submitted Form GSTR-1	
GSTR-3	Supplier and recipient	Matching of ITC would be done only after the due date for furnishing the monthly return	20 <sup>th</sup> of the next month

If the Taxable supply from Supplier to Buyer is on **05.11.2017** then following are the due dates for filling returns:

Form of Returns	Person required to furnish	Due date of filing
GSTR-1 : Details of Outward Supply (Sales Invoice)	Supplier (Other than Composition taxpayer & ISD)	10.12.2017
GSTR-2 : Details	Recipient (Other)	15.12.2017

of Inward Supply (Purchase Invoice)	than Composition taxpayer & ISD)	
GSTR-3 : Monthly Return of GST	Supplier and recipient	20.12.2017

For better understanding of the above points please go through Section 42 & Section 43 of CGST Act which are described below from bare act :-

**Section 42 of CGST Act: Matching, reversal and reclaim of input tax credit**

- (1) The details of every inward supply furnished by a registered person (hereafter in this section referred to as the "recipient") for a tax period shall, in such manner and within such time as may be prescribed, be matched—
  - (a) With the corresponding details of outward supply furnished by the corresponding registered person (hereafter in this section referred to as the "supplier") in his valid return for the same tax period or any preceding tax period;
  - (b) With the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him; and
  - (c) For duplication of claims of input tax credit.
- (2) The claim of input tax credit in respect of invoices or debit notes relating to inward supply that match with the details of corresponding outward supply or with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him shall be finally accepted and such acceptance shall be communicated, in such manner as may be prescribed, to the recipient.
- (3) Where the input tax credit claimed by a recipient in respect of an inward supply is in excess of the tax declared by the supplier for the same supply or the outward supply is not declared by the supplier in his valid returns, the discrepancy shall be communicated to both such persons in such manner as may be prescribed.
- (4) The duplication of claims of input tax credit shall be communicated to the recipient in such manner as may be prescribed.
- (5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the recipient, in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.



- (6) The amount claimed as input tax credit that is found to be in excess on account of duplication of claims shall be added to the output tax liability of the recipient in his return for the month in which the duplication is communicated.
- (7) The recipient shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5), if the supplier declares the details of the invoice or debit note in his valid return within the time specified in sub-section (9) of section 39.
- (8) A recipient in whose output tax liability any amount has been added under sub-section (5) or sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 50 on the amount so added from the date of availing of credit till the corresponding additions are made under the said sub-sections.
- (9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the recipient by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed:
- Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the supplier.
- (10) The amount reduced from the output tax liability in contravention of the provisions of sub-section (7) shall be added to the output tax liability of the recipient in his return for the month in which such contravention takes place and such recipient shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 50.

**Section 43 of CGST Act: Matching, reversal and reclaim of reduction in output tax liability**

- (1) The details of every credit note relating to outward supply furnished by a registered person (hereafter in this section referred to as the "supplier") for a tax period shall, in such manner and within such time as may be prescribed, be matched—
- (a) with the corresponding reduction in the claim for input tax credit by the corresponding registered person (hereafter in this section referred to as the "recipient") in his valid return for the same tax period or any subsequent tax period; and
- (b) for duplication of claims for reduction in output tax liability.
- (2) The claim for reduction in output tax liability by the supplier that matches with the corresponding reduction in the claim for input tax credit by the recipient shall be finally accepted and communicated, in such manner as may be prescribed, to the supplier.

- (3) Where the reduction of output tax liability in respect of outward supplies exceeds the corresponding reduction in the claim for input tax credit or the corresponding credit note is not declared by the recipient in his valid returns, the discrepancy shall be communicated to both such persons in such manner as may be prescribed.
- (4) The duplication of claims for reduction in output tax liability shall be communicated to the supplier in such manner as may be prescribed.
- (5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the recipient in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the supplier, in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.
- (6) The amount in respect of any reduction in output tax liability that is found to be on account of duplication of claims shall be added to the output tax liability of the supplier in his return for the month in which such duplication is communicated.
- (7) The supplier shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5) if the recipient declares the details of the credit note in his valid return within the time specified in sub-section (9) of section 39.
- (8) A supplier in whose output tax liability any amount has been added under sub-section (5) or sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 50 in respect of the amount so added from the date of such claim for reduction in the output tax liability till the corresponding additions are made under the said sub-sections.
- (9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the supplier by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed:

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the recipient.

- (10) The amount reduced from output tax liability in contravention of the provisions of sub-section (7) shall be added to the output tax liability of the supplier in his return for the month in which such contravention takes place and such supplier shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 50.



## AN INSIGHT OF SECTION 35(1) AND RULE 56 OF GOODS AND SERVICES TAX

### CMA UTPAL KUMAR SAHA

Cost Accountant

**G**ST shall be levied on supply of goods or services or both on the transaction value as defined in section 15 of GST Act read with the valuation rules. The taxable person shall maintain their own records and shall pay tax on monthly/ quarterly basis based on their value of the supply. All records are basically private records. The taxing authorities at the time of assessment shall call for the submission of such private records to verify and assess the tax liability as discharged by the taxable person on monthly basis or quarterly basis. Sub section 1 of Section 35 stipulates that every registered person shall *keep and maintain*, at his principal place of business, true and correct account of -

- (a) Production or manufacture of goods
- (b) Inward and outward supply of goods or services or both
- (c) Stock of goods
- (d) Input tax credit availed
- (e) Output tax payable and paid
- (f) Such other particulars as may be prescribed

An attempt has been made to analyze the section 35(1) of CGST Act, 2017.

**Applicability of section 35(1):** Section 35(1) is applicable to all persons registered under GST Act and such person shall not only keep but also maintain true and correct books of accounts. There are two ways of getting registration under GST. One is compulsory registration and other is voluntary registration. The former is applicable where a supplier is making taxable supplies and his aggregate turnover in a financial year exceed rupees twenty lakh.

**(a) Production or manufacturing of goods:**

The word production and manufacturing are synonymous to each other. Section 2(72) has defined the term manufacture means processing of raw material or inputs in any manner

that results in emergence of a new product having a distinct name, character. Manufacturers have to maintain a true and correct account of their production or manufacturing records. The records should be in quantitative as well as value based as the section has not specified that only quantitative records will be maintained. All registered persons engaged in manufacturing of goods have to maintain the quantitative as well as value based manufacturing records. However, rule 56(12) has specified that every registered person manufacturing the goods has to maintain monthly quantitative records of raw materials or services used in manufacturing of goods and quantitative details of goods so manufactured including the waste and by products thereof.

We may say based on section 35(1) read with rule 56(12) that every registered person engaged in manufacturing of goods has to maintain on monthly basis the quantitative records of raw materials or services used in manufacturing and also records of goods so manufactured including the waste and scrap thereof. These records are not limited only to quantitative but extends to value base also. How the value of goods so manufactured is to be determined is not defined in the act. The principles of determination of value of goods manufactured are governed by GACAP and CAS as issued by the Institute of Cost Accountants of India.

**(b) Inward and outward supply of goods or services or both:**

Registered person shall maintain the records of all inward supply of goods and services. Inwards supply includes the supplies on which registered person is liable to pay tax on reverse charge. In addition to inward supply the registered person shall maintain outward supply details of goods or services. Rule 56(1) also mandated that every person shall maintain true and correct account of supplies attracting payment of tax on reverse charge along with the relevant documents including vouchers, bills of supply, delivery

challan, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers.

**(c) Stock of goods:**

As per section 35(1) every registered person shall maintain stock of goods. It is also prescribed in rule 56(2) that every registered person, **other than a person paying tax under section 10**, shall maintain the accounts of stock in respect of **goods received and supplied by him**, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof. Here the phrase “goods received and supplied” is used. Rule 56(12) has mandated for every taxable person engaged in manufacturing of goods shall maintain the stock of goods.

It may be concluded that rule 56(2) is applicable for registered person engaged in purchase and sale (trading activity only) of goods only. However, this is applicable for all registered person except person registered under composition scheme.

As per section 35(1) it is mandated for every registered taxable person to maintain stock of goods. Person under composition scheme under section 10 is also a registered person. However rule 56(2) has restricted the stock maintenance only to registered person under normal scheme. Here a doubt arises. Can a rule override the provision of the act? Here is a gap between section 35(1) and rule 56(2) which needs to be at harmonized.

**(d) Input tax credit availed, output tax payable and paid:**

Definition of input tax and input tax credit and output tax are as follows:

**Section 2(62) - input tax** in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes –

- (a) the integrated goods and services tax charged on import of goods;
- (b) the tax payable under the provisions of sub-sections (3) and (4) of section 9;
- (c) the tax payable under the provisions of sub-sections (3) and (4) of section 5 of the Integrated Goods and Services Tax Act;
- (d) the tax payable under the provisions of sub-sections (3) and (4) of section 9 of the respective State Goods and Services Tax Act;
- or
- (e) the tax payable under the provisions of sub-sections (3) and (4) of section 7 of the Union Territory Goods and Services Tax Act,

but does not include the tax paid under the composition levy.

**Section 2(63) input tax credit** means the credit of input tax

**Section 2(82) output tax** in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but

excludes tax payable by him on reverse charge basis. Tax payable under reverse charge is not output tax as per section 2(82) of CGST Act 2017.

As per section 35(1), every taxable person shall maintain the details records of input tax credit availed and output tax payable and paid. However rule 56(4) has limited this scope only to taxable person other than the person opted for composition scheme. As per rule 56(4) every registered person **other than a person paying tax under section 10** shall keep and maintain:

- Details of tax payable (including tax payable in accordance with the provisions of sub-section (3) and sub-section (4) of section 9)
- Tax collected and paid
- Input tax, input tax credit claimed
- Register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.

Person under composition scheme shall pay tax at the fixed rate on his turnover as mentioned in section 10 subject to some conditions and restrictions. However, such person shall pay tax under reverse charge also at the applicable on such goods or services so procured, based on their HSN or SAC code. So there is also a gap between section 35(1) and rule 56(4). The responsibility of maintaining the proper records by all taxable persons regarding supplies attracting payment of tax under reverse charge is also supported by rule 56(1). Rule 56(1) states that “*every registered person shall keep and maintain, in addition to the particulars mentioned in sub section (1) of section 35, a true and correct account of ..... supplies attracting payment of tax on reverse charge along with the relevant documents.....”*

**(e) Such other particulars as may be prescribed:**

1. Every registered person shall maintain records of advances received, paid and adjusted made thereto. [Rule 56(3)]
2. Every registered person shall maintain debtors and creditors list, complete address of all godowns. [Rule 56(5)]
3. Works contractors shall maintain the details of description, value and quantity (wherever applicable) of goods or services received, utilized in execution of works contract, details of payment received in respect of each works contract. [Rule 56(14)]
4. Every agent shall maintain records for authorization received from each principal to receive or supply goods or services on behalf of principal, details of goods or services received and supplied on behalf of every principal, tax paid on receipts or on supply of goods or services effected on behalf of principal.

# TAX UPDATES, NOTIFICATIONS AND CIRCULARS

## Updated Notifications - 14.12.2017

### CUSTOMS

#### NON-TARIFF

**Notification No. 112/2017-CUSTOMS (N.T.)**  
Dated: 30<sup>th</sup> November, 2017

This notification is regarding exemption to some of the goods when imported into India from so much of Custom Duty paid in excess of the Standard Rate. Below mentioned is the table of some of them.

SL. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	703
2	1511 90 10	RBD Palm Oil	742
3	1511 90 90	Others – Palm Oil	723
4	1511 10 00	Crude Palmolein	743
5	1207 91 00	Poppy seeds	2576

For the entire list, please visit [file:///C:/Users/user1/Desktop/ICMAI%20WORK%20FOLDER/TA%20BULLETIN/6th%20Tax%20Bulletin%20\(16.12.2017\)/csnt112-2017.pdf](file:///C:/Users/user1/Desktop/ICMAI%20WORK%20FOLDER/TA%20BULLETIN/6th%20Tax%20Bulletin%20(16.12.2017)/csnt112-2017.pdf)

**Notification No. 113/2017-CUSTOMS (N.T.)**  
Dated: 7<sup>th</sup> December, 2017

This Notification is a further amendment in the Notification No. 110/2017-CUSTOMS (N.T.), dated 16th November, 2017. Here, the Central Board of Excise and Customs determines the rate of exchange of conversion of each of the foreign currencies into Indian currency or vice versa, which shall come into effect from 8th December, 2017.

#### SCHEDULE - I

Sl.No	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(For Imported Goods)	(For Export Goods)
1	Australian Dollar	49.70	47.80
2	Bahrain Dinar	176.85	165.50
3	Canadian Dollar	51.30	49.55
4	Chinese Yuan	9.90	9.60
5	Danish Kroner	10.45	10.05
6	EURO	77.50	74.85
7	Hong Kong Dollar	8.35	8.15

The entire list is available at <http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfn-2017/cs-nt2017/csnt113-2017.pdf>

### CIRCULARS

**Circular No. - 48/2017-Customs**  
Dated: 8th December, 2017

This Circular is related to Notification No.68/2017 dated 30.06.2017 notifying Customs (Import of Goods at Concessional Rate of Duty). An importer is required to submit security to avail exemption. But submission of security increases the transaction cost of domestic industries, particularly electronic hardware manufacturers. In this regard, CBEC has decided to ease the norms for taking security along with the Bond to simplify the business procedures and to reduce the burden of compliance cost.

In view of the above, Bank Guarantee/cash security/ surety shall be taken as per the following norms:-

Category of Importer	Quantum of Bank Guarantee/ cash security and requirement of Surety
<b>A)</b> All importers who are either a department of Central Government or a State Government or a Union Territory or a Public Sector Undertaking or an autonomous institute under the said governments.	Bank Guarantee/ Cash Security- Nil Surety- Not required.
<b>B)</b> All importers who are Authorized Economic Operators.	
<b>C)</b> All importers who are manufacturers or service providers registered under GST and have been filing prescribed GST returns without fail and whose annual turnover in the preceding year is above Rs. 1 crore.	Importers shall give surety for the amount of duty foregone. However, where the importer is not able to provide the surety, a Bank Guarantee/ Cash Security equivalent to not more than 5% of duty foregone shall be furnished.
<b>D)</b> Importers. not covered under (A), (B) & (C) above.	Bank Guarantee/ Cash Security- Not more than 25% of the duty foregone amount.

For details, please visit <http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2017/circ48-2017cs.pdf>



**Circular No. 49/2017**  
**Dated: 12th December, 2017**

This Circular is related to Circular Nos. 106/95-Cus dated 11.10.1995 and 23/2015 - Cus dated 29.9.2015 regarding refund/claim of Anti-Dumping Duty and Safeguard Duties as Duty Drawback respectively.

Drawback shall be admissible under section 75 of the Customs Act, where the inputs that suffered Countervailing Duties under section 9 of the Customs Tariff Act, were actually used in the goods exported as confirmed by the verification conducted for fixation of Brand Rate.

Where imported goods subject to Countervailing Duties are exported, then the Drawback payable under Section 74 of the Customs Act, 1962 would also include the incidence of Countervailing Duties as part of total duties paid.

## CENTRAL EXCISE

### CIRCULARS

**Notification No. 1060/10/2017-CX**  
**Dated: 27th November, 2017**

Earlier under the Central Excise regime Area Based Exemptions were allowed to the units located in States of Jammu & Kashmir, Uttarakhand, Himachal Pradesh and North East including Sikkim. Now, under GST such exemptions are not available, however, Central Govt. has decided to provide Budgetary support to the eligible units.

- Budgetary support shall be worked out on Quarterly Basis.
- The amount of Budgetary support shall be as follows:
  - 58% of the Central Tax paid
  - 29% of the Integrated Tax paid
- The budgetary support shall be disbursed from DIPP and will be allocated to CBEC, PAO for disposal.
- One time registrations needs to done by the eligible unit.
- The claim for the Quarter ending September, 2017 has already become due. For the Sept Quarter the units shall get them registered manually will deposal of budgetary support will also be undertaken manually. The sanctioned amount shall be credited to the bank accounts of the beneficiary.

**Notification No. 1061/10/2017-CX**  
**Dated: 30th November, 2017**

This Circular is related to Circular No. 1060/10/2017-CX. After the registration of the eligible units, detail mentioned on the application form shall be validated by the Asstt. / Deputy Commissioner and unique vendor ID will be created. This process needs to be completed within 3 days of registration.

Steps for disposal of Budgetary support:

- **Transfer of Budget by DIPP to DDOs.**
  - The Asstt Commissioner / Deputy Commissioner of CGST Division after receipt of application for budgetary support determines the tentative amount of budget allocation for disposal.
  - The requirement in respect of all divisions of their jurisdiction shall be forwarded to ADG, DG Audit, New Delhi.
  - The ADG, DG Audit would compile the requirement and forward it to the concerned scheme division of the DIPP.
  - Scheme Division of DIPP on the basis of requirement received from ADG, DG Audit would issue a letter of Budget Authorisation through the Pr. Accounts office in favour of Pr. Accounts Office, CBEC on PFMS
  - The entire process of Budget authorization is available at <http://cga.nic.in/writereaddata/file/final/MODIFIEDLOAUSERMANUAL25092017.pdf>
- **Sanction and payment of budgetary support.**
  - After the sanction of the budgetary support, a sanction order addressed to concerned Pay and Accounts Officer shall be issued by the jurisdictional Asstt/Deputy Commissioner of CGST Division.
  - Asstt/Deputy Commissioner shall forward it to the DDO. It should be insured that the sufficient budget is available.
  - DDO on the basis on sanction order shall prepare the bill and forward to the mapped Pay and Accounts office.
  - The standard procedure shall be applicable for payment and the funds shall be transferred in to the bank account of the beneficiaries by the PAO.



## GOODS AND SERVICES TAX



# Clarification about applicability of GST on Under Construction and Ready-To-Move-In Property

As per GST law, construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier, is a supply of service and liable to GST.

1. Sale of building is an activity or consideration which is neither a supply of goods nor a supply of services (Para 5 of schedule III of the CGST Act, 2017).
2. It flows from the above facts that, **sale of ready-to-move-in or completed property does not attract GST.** GST is payable only on under construction property as discussed below.

Property for which completion certificate has been issued	Under Construction Property	
	Entire consideration has been paid to the builder before 1 <sup>st</sup> July, 2017	Part consideration has been paid to the builder before 1 <sup>st</sup> July, 2017
No GST is applicable on ready-to-move-in or completed property as per para 5(b) of Schedule II of CGST Act, 2017.	There is no GST payable on such property even if the construction is completed after 1 <sup>st</sup> July, 2017. This transaction will attract Service Tax at the rate of 4.5% because as for the Point of Taxation Rules, 2011 applicable to Service Tax, where the invoice was raised or payment made prior to the appointed date under GST, the point of taxation arose before the appointed day and thus such transaction attracts Service Tax and not GST.	4.5% of Service Tax is applicable on the invoices raised or consideration paid before the 1 <sup>st</sup> July, 2017. However, payment, made by the buyer to the builder on or after 1 <sup>st</sup> July, 2017 against invoices issued on or after 1 <sup>st</sup> July, 2017 shall attract GST @12%.

### RATE OF GST

Effective rate of GST payable on purchase of under construction residence or commercial properties from a builder involving transfer of interest in land or individual share of land to the buyer, is 12% with full Input Tax Credit (ITC). [GST payable @ 18% on 2/3rd of the amount for the property; 1/3rd of the amount having been deemed as value of land or undivided share of land supplied to the buyer.]

Consideration which doesn't constitute transfer in land or undivided share of land as part of consideration, such as construction services provided by a sub-contractor to the builder, attracts GST at the standard rate of 18% with full ITC.

GST - A Good & Simple Tax



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Central Board of Excise and Customs  
& Commercial Taxes Departments  
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# PRESS RELEASE

## GST PRESS RELEASE

Press Information Bureau  
Government of India  
Ministry of Finance

### PRESS RELEASE

New Delhi, 12<sup>th</sup> December, 2017

#### On filing of Form TRAN-1 to avail Input Tax Credit

1. Transition to GST provided for trust based transition of input tax credit of the existing taxpayers. A tax payer could file Form TRAN-1 and avail input tax credit on the basis of closing balance of the input tax credit declared in the last return under the pre GST regime. The last date for filing of Form TRAN-1 is 27th December, 2017. In keeping with the philosophy of voluntary compliance, revision of Form TRAN-1 has also been provided. The last date for revision of TRAN-1 is also 27th December, 2017.
2. It has been noted that some taxpayers have availed extraordinarily high transitional credit of CGST which is neither commensurate with the trend of input tax credit of the industry nor as maintained by the taxpayer himself in the past. Some of these high transitional credits may have a bonafide explanation or may be a case of bonafide mistake. However, it has been noted that high transitional credit has been claimed in many cases for which perhaps no bonafide explanation exists. Analysis to identify such units is underway. Such behaviour leads to breach of trust between the taxpayer and the tax-administration, which is the bed-rock of self-assessment regime in GST.
3. Taxpayers who have claimed transitional credit erroneously are advised to avail of the opportunity to revise Form TRAN-1 by 27th December, 2017 and ensure that only correct and bonafide credit is availed in transition, failing which the tax administration would be constrained to initiate audit and enforcement action against the identified units.

Press Information Bureau  
Government of India  
Ministry of Finance

### PRESS RELEASE

New Delhi, 12<sup>th</sup> December, 2017

#### Export of IT / IES Services

1. It was reported in certain sections of the Press that tax officials had raised tax demand in respect of export of IT/IT enabled services provided to clients abroad and that this had been done on the basis of place of supply

rules in respect of these services which were apparently provided in India and therefore were liable to be taxed.

2. In a subsequent development, the Commissioner (Appeals) set aside the orders of the lower adjudicating authority where refund was disallowed and has also upheld the orders where refund had been granted. Thus, the apprehensions expressed in those sections of the Press about the negative effects on the software industry are without basis.

## INCOME TAX PRESS RELEASE

Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Direct Taxes

### PRESS RELEASE

New Delhi, 27<sup>th</sup> November, 2017

#### Clarification of India's position on the acceptance of MAP and bilateral APA in cases of countries where Article 9(2) of OECD Model Tax Commentary is absent

A number of references have been received from time to time regarding the acceptance of applications pertaining to Transfer Pricing MAP cases and bilateral Advance Pricing Agreements (APAs) where the Associated Enterprise (AE) of the Indian entity is resident of a country with which India has entered into a Double Taxation Avoidance Agreement (DTAA) but the Agreement does not contain Paragraph 2 of Article 9 (or its relevant equivalent Article) relating to 'Corresponding Adjustment'.

The matter has been examined by the Central Board of Direct Taxes (CBDT) and it has been decided to accept Transfer Pricing MAP and bilateral APA applications regardless of the presence or otherwise of Paragraph 2 of Article 9 (or its relevant equivalent Article) in the DTAA's.

Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Direct Taxes

### PRESS RELEASE

New Delhi, 1<sup>st</sup> December, 2017

#### Indian Advance Pricing Agreement regime moves forward with signing of two APAs by CBDT in November, 2017

The Central Board of Direct Taxes (CBDT) has entered into 2 Bilateral Advance Pricing Agreements (APAs) during the

month of November, 2017. These Agreements are the first ever Bilateral APAs with The Netherlands. With the signing of these Agreements, the total number of APAs entered into by the CBDT has gone up to 186. This includes 171 Unilateral APAs and 15 Bilateral APAs.

These two APAs pertain to the Electronics and Technology sectors of the economy. The international transactions covered in these agreements include Distribution, Provision of Marketing Support Services, Provision of Business Support Services, etc:

The APA provisions were introduced in the Income-tax Act in 2012 and the "Rollback" provisions were introduced in 2014. The APA Scheme endeavours to provide certainty to taxpayers in the domain of transfer pricing by specifying the methods of pricing and setting the prices of international transactions in advance. Since its inception, the APA Scheme has been well-accepted by taxpayers.

The progress of the APA Scheme strengthens the Government's resolve of fostering a non-adversarial tax regime. The Indian APA programme has been appreciated nationally and internationally for being able to address complex transfer pricing issues in a fair and transparent manner.

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**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Direct Taxes**

**PRESS RELEASE**

**New Delhi, 8<sup>th</sup> December, 2017**

**CBDT extends date for linking of Aadhaar with PAN**

Under the provisions of recently introduced section 139AA of the Income-tax Act, 1961 (the Act), with effect from 01.07.2017, all taxpayers having Aadhaar Number or Enrolment Number are required to link the same with Permanent Account Number (PAN). In view of the difficulties faced by some of the taxpayers in the process, the date for linking of Aadhaar with PAN was initially extended till 31<sup>st</sup> August, 2017 which was further extended upto 31<sup>st</sup> December, 2017.

It has come to notice that some of the taxpayers have not yet completed the linking of PAN with Aadhaar. Therefore, to facilitate the process of linking, it has been decided to further extend the time for linking of Aadhaar with PAN till **31.03.2018**.

(Surabhi Ahluwalia)  
Commissioner of Income Tax (Media & Technical Policy)  
Official Spokesperson, CBDT

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**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Direct Taxes**

**PRESS RELEASE**

**New Delhi, 9<sup>th</sup> December, 2017**

**Direct Tax Collections for F.Y. 2017-2018 show growth of 14.4% up to November, 2017**

The provisional figures of Direct Tax collections up to November, 2017 show that net collections are at Rs. 4.8 lakh crore which is 14.4% higher than the net collections for the corresponding period of last year. The Net Direct Tax collections represent 49% of the total Budget Estimates of Direct Taxes for F.Y. 2017-18 (Rs. 9.8 lakh crore). Gross collections (before adjusting for refunds) have increased by 10.7% to Rs.5.82 lakh crore during April-November, 2017. Refunds amounting to Rs. 1.02 lakh crore have been issued during April, 2017 to November, 2017.

(Surabhi Ahluwalia)  
Commissioner of Income Tax (Media & Technical Policy)  
Official Spokesperson, CBDT

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# JUDGEMENTS

## 1. Incentives for small scale industry under section 80IB is not applicable to other than small scale industry even if, previously it was small scale industry in previous year

**DCIT vs. Ace Multi Axes Systems Ltd (Supreme Court)**

Date of pronouncement - December 5, 2017

### FACT OF THE CASE

The observations in the impugned order are that the object of legislature is to encourage industrial expansion which implies that incentive should remain applicable even where on account of industrial expansion, small scale industrial undertakings cease to be small scale industrial undertakings. On this logic, Incentive must be given irrespective of any condition as the incentive certainly helps further expansion by reducing the tax burden. The concept of vertical equity is well known under which all the assessee need not be uniformly taxed. Progressive taxation is a well-known element of tax policy. Higher slabs of tax or higher tax burden on an assessee having higher income or higher capacity cannot in any manner, be considered unreasonable.

### DECISION OF THE CASE

Under section 80IB, it is not permitted to avail the incentive for small scale industrial undertakings by those undertakings which cease to be small scale industrial undertakings during the relevant period because each assessment year is a different assessment year. The fact is that the eligibility criteria should be satisfied in every year to avail the incentive.

## 2. Taxability of mesne profits

**CIT vs. Goodwill Theatres Pvt. Ltd (Supreme Court)**

Date of pronouncement - November 29, 2017

### FACT OF THE CASE

High Court has dismissed the appeal referred by the appellant herein only on the ground that the decision relied upon by the Tribunal i.e. in the case of Narang Overseas Pvt. Ltd. v. ACIT, Mumbai – (2008) 111 ITD 1 (Mum) (SB)], the appeal was preferred before the High Court and for non-removal of the defects the appeal has been dismissed. It may be considered that this opinion was not a correct approach of the High Court for the simple reason that merely because one authority has followed its own decision in another case and that matter in appeal has been dismissed on technical grounds still the High Court has to decide the question on merits.

### DECISION OF THE CASE

Taxability of mesne profits: High Court's approach of dismissing the Dept's appeal only because the Tribunal relied on Narang Overseas Pvt. Ltd. v. ACIT, , Mumbai – (2008) 111 ITD 1 (Mum) (SB)], and the appeal against which had been dismissed for non-removal of defects is not correct. The High Court ought to decide the question on merits.

## 3. Revision inquiry into taxability of share capital receipts under section 68

**Daniel Merchants Private Limited vs. ITO (Supreme Court)**

Date of pronouncement - November 29, 2017

### FACT OF THE CASE

Mere fact that payment was received by cheque or that the applicants were companies borne on the file of the Registrar of Companies does not prove that the transaction was genuine. Even under the unamended section 68, the onus is on the assessee prove the creditworthiness of the subscribers. Argument that the amendment to section 68 is not retrospective is not required to be considered.

Even if the AO has conducted an inquiry into the taxability of share capital receipts u/s 68, the CIT is entitled to revise u/s 263 if the AO has not applied his mind to important aspects. Law in Lovely Exports 299 ITR 268, Sophia Finance 205 ITR 98 etc does not apply as they are prior to the Money Laundering Act 2002. Hence question arises whether receipt towards share capital is taxable per section 56(2) (viib) & whether proviso to section 68 is retrospective are left open.

### DECISION OF THE CASE

Law laid down in Subhlakshmi Vanijya Pvt. Ltd vs. CIT 155 ITD 171 (Kol), Rajmandir Estates 386 ITR 162 (Cal) etc that the CIT is entitled to revise the assessment order u/s 263 on the ground that the AO did not make any proper inquiry while accepting the explanation of the assessee insofar as receipt of share application money is concerned cannot be interfered with.

## 4. Whether retrospective operation is to be given to low tax effect circular,

**DIT vs. S.R.M.B. Dairy Farming (P) Ltd (Supreme Court)**

Date of pronouncement - November 23, 2017

### FACT OF THE CASE

Clarity is to be obtained in view of the impact of the issue on pending cases before the High Court's as well as the cases which have been disposed of by various High Courts by applying the Circular of 2011 to pending litigations. The matter has been squarely put to rest taking further care of the interest of the Revenue by the order passed by the three Judges Bench of this Court in Surya Herbal Ltd. case (supra), which had put two caveats even to the retrospective application of the Circular. The subsequent orders have been passed by the two Judges Bench without those orders being brought to the notice of the Court, a duty which was cast on the Department to have done so to avoid the ambiguity which has arisen. Thus, the said view of the three Judges Bench would hold good and the Circular would apply even to pending matters but subject to the two caveats provided in Surya Herbal Ltd. case (supra).

## DECISION OF THE CASE

The view of the two-judge bench in Suman Dhamija & Gemini Distilleries that CBDT's low tax Circular dated 09.02.2011 cannot be given retrospective effect and cannot be followed as it is contrary to the three-judge bench verdict in Surya Herbal. A beneficial circular has to be applied retrospectively while an oppressive circular has to be applied prospectively. Circular dated 9.2.2011 has retrospective operation except for two caveats: (i) The Circular should not be applied ipso facto when the matter has cascading effect and/or (ii) where common principles are involved in subsequent group of matters or a large number of matters.

### 5. Applicability of E-Way Bill in respect of transactions coming from out of the State into the respective States of Andhra Pradesh and Telangana

Writ Petitions filed by M/s.Kaveri Enterprises, Kurnool, & Others – belonging to the State of Andhra Pradesh and dealers residing in the State of Telangana

#### W.P. No.41430 of 2017 & Others

### FACT OF THE PETITION

The Hon'ble High Court, prima facie observed that Rule 138 of the CGST Rules 2017, has not been notified as of today, and therefore, the concept of Advance e-way bill in respect of transactions coming from out of the State into the respective States of Andhra Pradesh and Telangana cannot be pressed into service by the respective State Governments. The provisions contained in the Government Order.'s vide G.O.Ms.No.446 and G.O.Ms.No.180 for Telangana, are therefore applicable only to intra-State movement of the goods. The Court opined that unless Rule 138 of the CGST Rules, 2017, is notified, the concept of prescription of Advance e-way bill by the respective State Governments is not permissible.

### ORDER OF THE PETITION - GIST

As an interim arrangement for interstate transactions, the following guidelines have been framed by the Hon'ble High Court, which are set out here under:-

1. Where goods are coming into the State of Andhra Pradesh / Telangana from outside the State, the goods should be accompanied by Tax Invoice and State e-way bill, applicable, if any, of the origin State. If goods are not accompanied by Tax Invoice or state e-way Bill, then:
  - I. Issue a notice and,
  - II. Obtain a Bond  
Being executed from the custodian of the goods namely the driver or any person incharge of the goods, intimate the same to the officer concerned of the respective origin State as well as to the respective officer of the destination State pointing out the above infirmities.
2. No tax and penalty is leviable by the detention

officers hence forth for non-accompaniment of Advance e-way bill, and if any detention is made subsequent to the orders passed by the Hon'ble Court today, such matter would be viewed seriously.

3. The above guidelines are applicable only in respect of goods which are not covered by either e-way bill of the origin State or Tax Invoice of the origin State. If there is any variation in the stocks, with reference to the invoice and the physical movement of the goods, the above guidelines are not applicable.
4. The above interim orders are subject to Rule 138 of the CGST Rules, 2017, is notified, or 1st January, 2018, whichever is earlier as the cases are posted for hearing on 01.01.2018, by which time, counters are to be filed in all the matters.

# TAX COMPLIANCE CALENDAR AT A GLANCE

## DIRECT TAX CALENDER – DECEMBER, 2017

### 07. 12. 2017:

- Due date for deposit of Tax deducted/collected for the month of November, 2017. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan.

### 15. 12. 2017:

- Due date for furnishing of Form 24G by an office of the Government where TDS for the month of November, 2017 has been paid without the production of a challan.
- Third installment of advance tax for the assessment year 2018-19
- Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of October, 2017

### 30. 12. 2017:

- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA in the month of November, 2017.

## DIRECT TAX CALENDER – JANUARY, 2018

### 07. 01. 2018:

- Due date for deposit of Tax deducted/collected at source for the month of December, 2017. However, all sum of Tax deducted / collected at source by an office of the Government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan.
- Deposit of Tax on Perquisites paid to employees when opted to be deposited by the employer.
- Due date for deposit of TDS for the quarter ending Dec 31, 2017 (October 2017 to December 2017) when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H.

### 14. 01. 2018:

- Due date for issue of TDS Certificate for tax deducted at source under section 194-IA in the month of November, 2017.

### 15. 01. 2018:

- Due date for furnishing of Form 24G by an office of the Government where TDS for the month of December, 2017 has been paid without the production of a challan.
- Filling of Quarterly statement of TDS for the quarter ending December 31, 2017 in Form 27EQ
- 3<sup>rd</sup> installment deposit of Advance income tax except an assessee who has declare his business /professional income in accordance with the provisions of Sec 44AD(1) or Sec 44ADA(1) of income tax act.
- Uploading of declarations received from recipient claiming income without deduction of tax at source in form 15G/15H during the quarter ending December 31, 2017.
- Uploading quarterly statement under Rule 37BB (7) by an authorised dealer in respect of foreign remittances made during the quarter ending December 31, 2017 in Form 15CC.

### 30.01. 2018:

- Quarterly TCS certificate in respect of tax collected for the quarter ending December 31, 2017
- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA (TDS on sale of immovable property) in the month of December, 2017

**31. 01. 2018:**

- Filing of Quarterly return of TDS deposited for the quarter ending December 31, 2017 in the prescribed format. (TDS - Salary in Form 24Q, TDS – Others in Form 26Q, TDS – Non-residential in Form 27Q)
- Quarterly return of non-deduction at source by a banking company from interest on time deposit in respect of the quarter ending December 31, 2017, in the prescribed format Form 26QAA under section 206A.

**GST CALENDER**

Date	Return Type
20 <sup>th</sup> December, 2017	GSTR 3B for November, 2017
24 <sup>th</sup> December, 2017	GSTR-4 for the quarter July-September, 2017
27 <sup>th</sup> December, 2017	TRAN-1
30 <sup>th</sup> December, 2017	GST ITC-04 for the quarter July-September, 2017
31 <sup>st</sup> December, 2017	GSTR-6 for July, 2017
31 <sup>st</sup> December, 2017	GSTR 1 From July 2017-Sept 2017 (for persons with Turnover below ₹1.5 Crore)
31 <sup>st</sup> December, 2017	GSTR 1 From July 2017-Oct 2017 (for persons with Turnover above ₹1.5 Crore)
10 <sup>th</sup> January, 2018	GSTR 1 for the month of Nov, 2017 (for persons with Turnover above ₹1.5 Crore)
20 <sup>th</sup> January, 2018	GSTR 3B for December, 2017

**WEBINAR CALENDAR UPTO 31<sup>st</sup> DECEMBER 2017**

Sl. no	Date	Time	Topic of the Webinar	Name of the Faculty
1.	19.12.17 (Tuesday)	4:00 – 5:00 P.M.	GST - Valuation Rules & Invoice Rules	CMA Ashish Bhavsar
2.	22.12.17 (Friday)	11:00 – 12:00 P.M.	TDS is not tedious	CMA Viswanath Bhat
3.	28.12.17 (Thursday)	4:00 – 5:00 P.M.	Anti - Profiteering	CMA Dr. Sanjay Bhargave

Please note: One CEP hour awarded for attending each webinar

**WEBINARS CONDUCTED BETWEEN 1.10.2017 TO 14.12.2017**

Sl. no	Date	Topics	Faculty name
1.	12.10.17	Hassle free filing of GSTRs	CMA Vishwanth Bhat
2.	16.10.17	GST Co-operative Housing Societies	CMA (Dr.) Ashish P Thatte
3.	25.10.17	Composition Scheme	CMA Prena Mall
4.	27.10.17	GST - Impact on Real Estate Sector	CMA B M Gupta
5.	09.11.17	GST - Impact on Manufacturing Sector	CMA. Ashish Bhavsar
6.	14.11.17	Opportunities for Cost Accountants under GST	CMA. Vivek Laddha
7.	21.11.17	Recent Amendments under GST - Impact and implications	CMA Chiranjib Das
8.	23.11.17	Input Tax Credit	CMA.S.P.Padhi
9.	28.11.17	Books of Accounts under GST scenario	CMA Vishwanth Bhat
10.	01.12.17	GST Impact on ERP & Accounting Packages	CMA B Mallikarjuna Gupta
11.	06.12.17	GST and Cost Audit: A step towards Tax Governance	CMA Navneet Kumar Jain



# KNOW YOUR RESOURCE PERSON



**CMA SHIBA PRASAD PADHI**  
Practicing Cost Accountant

He has done his Masters in Commerce as well as Masters in Business Management in Finance Area. He was admitted as a Fellow Member of The Institute of Cost Accountants of India in 2005. He is also a Fellow Member of Insurance Institute of India and an Associate Member of Indian Institute of Insurance Surveyors and Loss Assessors.

CMA Padhi started working in a manufacturing company at middle level management and then spent six years in full time academics before starting his full time practice as a Cost & Management Accountant in the year 2013. He is the former Dean (Academics) of IMIS, Bhubaneswar and offered papers as a visiting faculty at XIMB, IMIS, Xavier University, Ravenshaw University, KIIT University and few other B-Schools. He has taken sessions at XLRI, Jamshedpur on different subjects.

CMA Padhi was the Chairman of Institute of Cost Accountants of India – Eastern India Regional Council for the year 2015-16.



**CMA CHIRANJIB DAS**  
GST Consultant

He is a Fellow Member of the Institute of Cost Accountants of India, an Associate Member of the Institute of Chartered Accountants of India and a Post-Graduate in Commerce from the Calcutta University. He is also pursuing his Ph.D in the area of “Impact of IFRS/ Ind-AS on Cost Structure & Taxation”. He strongly believes and propagates that relevant ‘Cost-information is a major tool to facilitate tax-stakeholders for mitigating litigations under Tax Laws in India’.

CMA Das, had served the Institute of Cost Accountants of India as a Joint Director & Head, Tax Research Department, Secretary, GST Advisory Board (2015-16) and Secretary, Taxation Committee of the Institute of Cost Accountants of India for the period (2009-Sep.2016). He had been instrumental in contributing and making of various technical papers, highlighting the specialised role of CMAs in the areas of – Anti-Dumping, Service Tax, Central Excise, Foreign Trade Policy, Goods and Services Tax (GST), Transfer Pricing & Direct Taxation. He was nominated as a member of various technical representations / delegations, from the Institute, before the CBE&C and CBDT officials.

Shri Das is enriched with an experience of about 20 years in various structured organisations. He is an empanelled GST Trainer, Indirect Taxation Committee, the Institute of Chartered Accountants of India and is a practicing Chartered Accountant.

On Goods and Services Tax (GST) in India, he has conducted over 400 seminars including about 150 seminars, workshops & hands-on-training on GST for Professionals, Revenue Officials and Corporates. He is on a Mission to create awareness amongst the mass, impart tax-literacy through both technical & digital skills-to-scale employability of the desirous, enabling them to contribute in Making India – a tax compliant economy.

# CERTIFICATE COURSE ON GST



## Course Objective



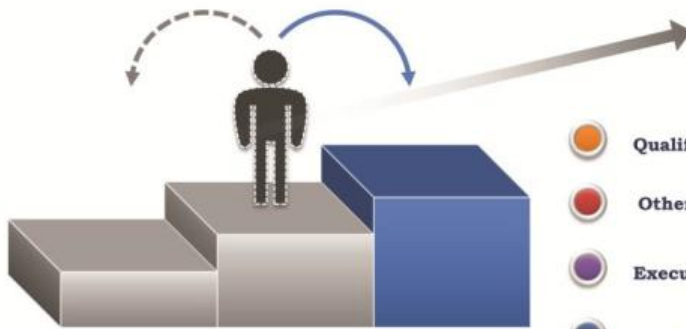
GST (Goods & Services Tax) is a major tax reform in the Country and is a game changer. There has been a paradigm shift in the Indirect Tax structure with the GST rollout w.e.f 01st July 2017. As a professional, it is imperative to understand and assimilate the new taxation structure, associated compliances and the changes in business processes emanating there from.

With this intention in the backdrop, a course module on GST has been planned so as to upgrade the knowledge level of our members & professionals in a structured and practical oriented manner.

Institute has two fold expectations from this course, first the GST concepts and implementation has to be understood in a simple way by professional colleagues, so that the same can be passed on to the business houses, traders and other such concerns having GST impact in their respective locations.

# CERTIFICATE COURSE ON GST

## Course Eligibility



- Qualified Cost & Management Accountants.
- Other Professionals
- Executives from Industries
- GST Practitioners

## Course Duration, Fees, Examination and other Modalities



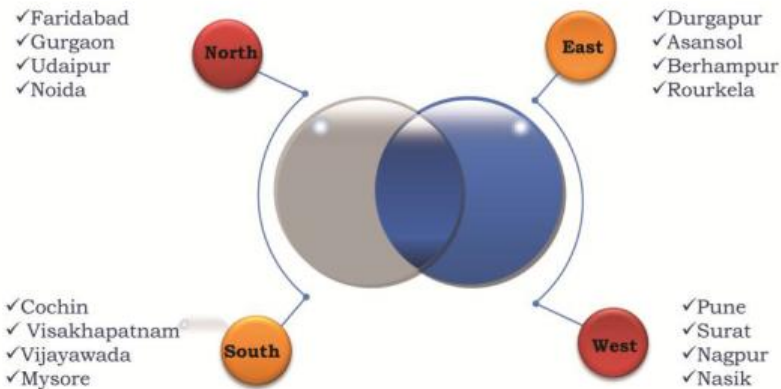
- Course Duration: 12 weeks (to be conducted on Quarterly basis)
- Live classes on Saturday - 2 Hrs & Sunday - 4 Hrs
- Assessment: Online mode (Assessment to be conducted in the last week of the following month of every quarter)
- Course Fee: Rs. 10,000 + GST (20% Discount for CMAs) and Examination Fee Rs. 1000 + GST.
- Award of Certificate: Candidates with at least 70% attendance in the classes and also passing the online examination will be awarded a Certificate by the Institute
- Study Materials & Model Question Bank to be provided to all participants
- Experienced faculties from Industry and practice

# CERTIFICATE COURSE ON GST

## Place



Classes will be held on Saturday & Sundays at all State Capital and at the following locations also -



\* Batch size of all locations shall be minimum 20 & maximum 40  
 \*\* Location may be extended based on demand

## Detailed Course Contents



Chapt.	Topic	Contents
1	Constitutional Background of GST, Concepts of GST & Definitions in GST.	<ul style="list-style-type: none"> <li>Existing Indirect tax subsumed in GST</li> <li>Goods outside the purview of GST</li> <li>Dual model of GST</li> <li>Fundamentals regarding SGST, CGST, IGST, UTGST</li> <li>Definitions under CGST, IGST with cases.</li> </ul>
2	Taxable event, Time of Supply and Place of Supply, Composite & mixed supply, non-taxable supply, exempt supply, works contract, exempted supply.	<ul style="list-style-type: none"> <li>Meaning of Supply</li> <li>Scope of supply under Schedule-I, II, III</li> <li>Composite Supply, Mixed Supply</li> <li>Power of Govt. to grant exemption.</li> <li>Composition Levy, Composition Rule, Persons not eligible for Composition Scheme.</li> <li>Time of supply of Goods and Services.</li> </ul>
3	Classification, HSN, SAC	<ul style="list-style-type: none"> <li>Classification of Goods and Services (HSN).</li> <li>Service Accounting Code (SAC)</li> </ul>
4	Valuation under GST, Valuation rule	<ul style="list-style-type: none"> <li>Interstate Supply, Intra State Supply, (i.e. Sec-7 up to Sec-12 of IGST Act).</li> <li>Transaction value (Sec-15).</li> <li>Exclusion and inclusion in transaction value.</li> <li>Valuation Rules.</li> <li>Valuation w.r.t. free supply, captive consumption etc.</li> </ul>

# CERTIFICATE COURSE ON GST

## Detailed Course Contents



Chapt.	Topic	Contents
5	Input Tax Credit	<ul style="list-style-type: none"> <li>o Eligibility and condition for availing Input tax credit.</li> <li>o Apportionment of credit.</li> <li>o Reversal of credit (Different situations)</li> <li>o Adjustment of Credit.</li> <li>o Credit in case of Job work.</li> <li>o Manner of recovery of credit.</li> <li>o Special circumstances of availing credit</li> </ul>
6	Basic Procedures- Registration, Invoice, Bill of supply, E way Bills etc.	<ul style="list-style-type: none"> <li>o Persons liable for registration.</li> <li>o Persons not liable for registration.</li> <li>o Deemed registration.</li> <li>o Casual taxable person.</li> <li>o Amendment of registration.</li> <li>o Cancellation of registration.</li> <li>o Revocation of registration.</li> </ul>
7	Records and Returns	<p>A. Records:</p> <ul style="list-style-type: none"> <li>o Tax Invoice, Bill of supply, Debit note, Credit note.</li> <li>o CGST rules on invoice.</li> </ul> <p>B. Accounts and accounting entries:</p> <ul style="list-style-type: none"> <li>o Sample list of accounting entries.</li> </ul> <p>C. Returns:</p> <ul style="list-style-type: none"> <li>o Types of return on the basis of CGST return rule.</li> <li>o Annual return u/s - 44.</li> <li>o Final return u/s - 45.</li> <li>o Return related rules.</li> </ul>

## Detailed Course Contents



Chapt.	Topic	Contents
8	Zero Rated Supplies , Imports and Exports	<ul style="list-style-type: none"> <li>o Zero rated Supply.</li> <li>o GST w.r.t Import i.e. CVD, SAD.</li> <li>o GST w.r.t Export.</li> </ul>
9	Payment and Refunds	<ul style="list-style-type: none"> <li>o List of Forms.</li> <li>o Procedures.</li> <li>o Payment of Tax.</li> <li>o Payment of Interest and Penalty.</li> <li>o TDS, TCS etc.</li> <li>o Refund of GST u/s- 54.</li> </ul>
10	Assessment	<ul style="list-style-type: none"> <li>o Self Assessment u/s- 59</li> <li>o Scrutiny of Return u/s- 61</li> <li>o Provisional Assessment u/s- 60</li> <li>o Assessment of non registered person u/s- 63</li> <li>o Summary Assessment u/s- 64</li> </ul>
11	Audit	<ul style="list-style-type: none"> <li>o Audit by tax authorities u/s- 65.</li> <li>o Special Audit u/s- 66.</li> <li>o CGST rules on Audit.</li> <li>o Role of Cost and Management Accountants.</li> </ul>



# CERTIFICATE COURSE ON GST

## Detailed Course Contents



Chapt.	Topic	Contents
12	Demands	<ul style="list-style-type: none"><li>○ Tax paid in excess / less.</li><li>○ Tax paid erroneously.</li><li>○ Tax collected and not paid to Govt.</li><li>○ Recovery of tax.</li><li>○ Demand and recovery rules.</li></ul>
13	Adjudication and appeal	<ul style="list-style-type: none"><li>○ Appeal to Appellate Authority under different situations ( U/S- 107 to 118)</li><li>○ Revisional Authority.</li><li>○ Appellate Tribunal.</li><li>○ Appeal to High court / Supreme Court</li></ul>
14	Penalties and Prosecutions	<ul style="list-style-type: none"><li>○ Penalty provision u/s- 122 to 138 along with Cognizance upto compounding of offence.</li></ul>
15	Advance Ruling	<ul style="list-style-type: none"><li>○ Authority of Advance Ruling.</li><li>○ Procedures u/s- 96 up to 106.</li></ul>

## Detailed Course Contents



Chapt.	Topic	Contents
16	Job Work	<ul style="list-style-type: none"><li>○ Job work procedure u/s- 143 along with Cases.</li></ul>
17	Anti profiteering	<ul style="list-style-type: none"><li>○ Detail provisions u/s- 171 with cases.</li></ul>
18	Miscellaneous Provisions	<ul style="list-style-type: none"><li>○ Reverse charge.</li><li>○ Electronic Commerce Operator.</li></ul>
19	Case studies on specific Chapters involving real life scenarios	<ul style="list-style-type: none"><li>○ Compliance procedure.</li><li>○ Other miscellaneous topics u/s- 144 up to 170</li></ul>

## TAXATION COMMITTEE - PLAN OF ACTION

### Proposed Action Plan:

1. Train the trainers' program- capacity building of the practicing members of the Institute and others on PAN India basis to equip them on Registration, record maintenance, Filing of different returns and other matters.
2. Carry out webinars for the Capacity Building of Members of the Institute - Trainers in the locality to facilitate the traders/ registered dealers on various practical aspects.
3. Conducting Seminars in association with the Trade associations/ Traders/ Chambers of Commerce at different locations on practical issues/aspects associated with GST.
4. Conducting workshop on industry specific issues with Chambers of Commerce, CREDAI, Jewellers Association, Hotel and Restaurant Association, Bankers' Association and other agencies to resolve their issues instantly.
5. Forwarding suggestions and issues on GST to the Government after getting feedback from various stake holders.
6. Advanced Online/offline Course on Taxation for Members/Students.

### Disclaimer:

The Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, users should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin. The information provided in these documents does not cover every situation and is not intended to replace the law or change its meaning.

The opinion expressed in Article is fully based on the views of the experts. This information is provided for public services only and is neither an advertisement nor to be considered as legal and professional advice and in no way constitutes an attorney-client relationship between the Institute and the User. Institute is not responsible or liable in any way for the consequences of using the information given.

## Contact Details:

**Tax Research Department**  
12, Sudder Street, Kolkata - 700016

Phone: +91 33 40364777/22521031/1034/1035/1492  
+91 33 22521602/1619/7373/7143/2204  
+91 33 22520141/0191 [Extn: 111, 322, 305 and 214]

E-mail: [trd@icmai.in](mailto:trd@icmai.in)



# THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

[www.icmai.in](http://www.icmai.in)

**Headquarters:** CMA Bhawan, 12 Sudder Street, Kolkata - 700016

Ph: 091-33-2252 1031/34/35/1602/1492

**Delhi Office:** CMA Bhawan, 3 Institutional Area, Lodhi Road, New Delhi - 110003

Ph: 091-11-24666100

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