



House Journal

ACAIE

ASSOCIATION OF CORPORATE ADVISERS & EXECUTIVES

SPECIAL ISSUE ON

GOODS & SERVICES TAX CONCLAVE

GST 2.0 - THE NEXT LEAP



Highlights

22 Centralized mode of operations of transport industry — Pramod Gupta

17 Why GST is known as complex law — J.K. Mittal

24 IBC and GST - Cross Connection! — CA Tarun Kumar Gupta

20 GST has imparted competitiveness to exports but yet long way to go — Mahesh Keyal

28 Taxpayer's Actions, Incompatible with plea of Innocence — CA A Jatin Christopher

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The Association does not own any responsibility for the information and view published in the journal which are of the contributors.

Editorial

Dear Professional Colleagues,

I would like to begin with this beautiful Sanskrit verse which talks about the uniqueness of **Knowledge** :

न चौर हार्यम न च राज हार्यम ।
न भ्रात्रभाज्यम न च भारकारी ॥
व्यये कृते वर्धते नित्यं ।
विद्या धनं सर्वे धनं प्रधानम् ॥

It says, **Knowledge** which can neither be stolen by a thief, nor snatched by a king. It is indivisible unlike ancestral property, it never burdens the bearer. It multiplies manifold when offered to others. Knowledge is the supreme form of wealth. I would take this opportunity to express my gratitude to the article writers for sharing their unique knowledge for the benefit of the readers.

We present to you this special issue on **Goods & Services Tax Conclave** with immense pleasure. We have tried to make a blend of various intricacies of GST having relevance in various compliances. We sincerely hope it would meet the expectations of the users and you would enjoy reading this conclave as much as we enjoyed compiling it.

The introduction of “One Nation, One Tax” has simplified the Indirect Taxation structure on one side while on the other side it has hit a hammer of compliances on assesses with detailed implications of the provisions vide notifications to curb various malpractices. The intricate provisions of GST under different cases with respect to invoicing, filing of forms, transition from previous indirect tax laws, determination of place of supply and others should be taken care of while working on the same. Also, the various interconnections of GST with IBC, cryptocurrencies, etc. are important while working on the latter.

We convey our sincere thanks to the President, Association of Corporate Advisers & Executives; Chairman, Conclave committee, for giving us this responsibility for coming out with the this special edition. For any queries relating to the same kindly contact on the E-mail ID given below.

Thanking you,

Niraj Harodia
nharodia@gmail.com

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CA Tarun Kumar Gupta

Conclave Chairman



Dear Friends,

It gives us immense pleasure to welcome you all to the GST Conclave 2.0 - The Next Leap, organized by Eastern India's premier professionals' body, ACAIE Study Circle. It has been a constant endeavor at ACAIE to organize such programs on the latest issues and updates. This Conclave has been organized to take our approach to the next leap in context to the GST Law. The Conclave will take you through the Issue relating to the **Input Tax Credit, Recent legal issues related to GST and Issues in Real Estate.**

We have invited Government officials from CGST, SGST and GSTN and pioneers from trade and industry to have a **panel discussion** on the recent developments made in the GST law. The Conclave will be addressed by our learned speakers who have come from New Delhi, Mumbai and other part of the Country.

The Conclave also has a focused session for question-answer so as to provide an opportunity to our members to ask specific questions on the subject.

The House Journal has also been focused on the theme **GST - Input Tax Credit, Recent legal issues related to GST and Issues in Real Estate.** The Journal has articles dedicated on GST and also has regular updations on other corporate laws and ACAIE's activities.

We hope that this Conclave will provide all the members a platform for great learning experience and knowledge enrichment.

Best Regards,

CA. Pramod Dayal Rungta
Chairman - GST Conclave Sub-Committee

President Speaks



Dear Members,

Let the old year end and the New Year begin with the warmest of aspirations.

Happy New Year 2020!

We are pleased to inform you that your Association has taken following initiatives and conducted programmes during the last 3 months:

- We have published three E-Bulletins. Through this new initiative, we are providing latest updates across various subjects, background materials of our past sessions, forthcoming events etc. all at one place at a click. We are having thousands of hits to our dedicated HTML E-Bulletin page and we are hopeful that more and more of our members would be benefited through this initiative.
- We have had a very successful, IT Summit on 23rd November- The Digital Accountants and an interactive session with Hon'ble Union Agriculture Minister on 24th November.
- Complimentary copy of Comprehensive commentary on Section 148 of the Income Tax Act, 1961 published by research & publication wing, has been distributed.
- Bijoya and Deepawali Meet was attended by many members on 8th November at Ideal Banquets & Gardens and Picnic was organised with a unique theme on 5th January 2020 at Rashbari.
- Interior work of our New Office has commenced.
- So far 24 programmes were held and 30 plus New Members added.

Our association is recognised as a leading professionals' organisation, dedicated towards the study of all contemporary issues related to fiscal and monetary policies i.e. Direct Tax, GST or any other related legislation, Banking, NBFCs, Capital Market, Corporate Laws and IBC. This involves taxpayers, their advisors, industry, Government Officials and academicians. ACAE is a unique forum for discussion on all National and International Tax issues as well. Toward our continuous endeavour to enable our members in updating themselves and to work upon widening their knowledge, we have organised this GST Conclave. From the stroke of midnight of July 1, 2017, The GST Era had begun which brought in a new landscape of indirect taxation. Now after almost two and half year, its time to take next leap under GST regime. It's now time for our professionals to gain expertise over various aspect of GST Law and practice. Initial confusion and challenges has somewhat now eased due to active role of the Central Government and GST Council on one hand and professional/ businesses getting used to the filing systems on the other hand. ACAE has continuously been playing a very active role in educating and updating its members regarding the latest amendments flowing in on a daily basis. GST Conclave with the theme **"GST 2.0 – The Next Leap"** have been organised with the topics such as Issues in Input Tax Credit, Recent Legal Issues and Issues in Real Estate sector, which requires in-depth discussion. We have invited a number of learned speakers from all around the country to enlighten us upon these subjects. We would also be having panel discussion on the theme of the Conclave, wherein senior officials from department, GSTN and ICAI would be sharing their views alongside illuminaries from Business and Industries.

I am very thankful to the Editorial Board under the Chairmanship of CA Niraj Harodia for the first journal in the year 2019-20 under my tenure as President. I congratulate all the members of the Editorial Board and thank them again for their sincere and active role in coming out with this Journal in such a short notice. With support of ACAE Members and collective efforts by all our Executive Committee & Sub-Committee Members, there is lot more to come. **Our Association would soon be completing its Sixtieth Year, which is really a long journey for any association.** Let us all pledge to usher our Association to the next level of excellence this **Diamond Jubilee Year.**

With warm regards,

CA Jitendra Lohia

Executive Committee 2019-2020



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Madan Mohan Maroti



Netai Bandyopadhyay



Nitesh More



Sanjib Sanghi

Member at the Helm



CA Madhav Sureka - Past President of ACAE has become President of Calcutta Chamber of Commerce

GOODS & SERVICES TAX (GST) CONCLAVE

PROGRAMME

Theme: GST 2.0 – THE NEXT LEAP

Saturday, the 11th January, 2020

Venue: Williamson Magor Hall,
The Bengal Chamber of Commerce & Industry
Royal Exchange, 6, Netaji Subhas Road, Kolkata 700001, West Bengal

Time: 2 PM – 8 PM



Session	Topic	Speaker
Inaugural Session (14:00 – 14:30)	Chief Guest Hon'ble Shri P.K.Choudhary Member (Judicial) CESTAT, Kolkata Bench Guest of Honour CA. Sushil Kr Goyal Chairman, Indirect Tax Committee, ICAI, New Delhi	
1st Technical Session (14:30 – 17:00)	ISSUES IN INPUT TAX CREDIT <ul style="list-style-type: none"> • Transitional Credit – Recent Judgements • ITC of 2017-18 and 2018-19 missed out in GSTR 3B • Reconciliation of GSTR 2A and 3B • Restriction on availment of ITC to 20%/10% on invoices not showing in GSTR 2A • Issue of Fake invoices • ITC in cases of mismatch in Invoices and e Way bill • Other issues 	CA. Jayesh Gogri Director, GSC Intime Service Pvt. Ltd., Mumbai
	RECENT LEGAL ISSUES RELATED TO GST <ul style="list-style-type: none"> • Returns – Manual filing of returns especially TRAN forms, Revision of returns • Interest on Gross Liability • E way Bill related cases • How to deal with conflicting judgements in Advance Rulings • How to deal with Notices under GST • Relevance of Service Tax/ Excise Audits in GST Era • Other important cases 	Adv. J K Mittal Sr. Advocate Supreme Court of India New Delhi
Break (17:00 – 17:30)	HIGH TEA	

GOODS & SERVICES TAX CONCLAVE



Session	Topic	Speaker
2nd Technical Session (17:30 – 20:00)	ISSUES IN REAL ESTATE <ul style="list-style-type: none"> • Reversal of TRAN credits in under construction property • GST on Development Rights, sale of FAR, etc. • GST on cancellation of bookings • Other issues related to real estate 	CA. Arun Kr Agarwal Practicing Chartered Accountant Kolkata
	PANEL DISCUSSION Topic : RECENT CHANGES IN GST REGIME – GST 2.0 – THE NEXT LEAP <ul style="list-style-type: none"> • New Return System • E-Invoicing • Blocking/ Unblocking of e Way Bills • Constraints in GSTN • Complex Annual Return formats • Cash flow issues and cost of compliance for MSMEs • Court cases in favour of assesseees to claim their right for transitional credit and ITC • Multiple rates • Sea of Notifications, Circulars • Overdrive of GST officials in some cases for recovery • Overall – How to make GST 2.0 better? 	Moderator CA Tarun Kr. Gupta Practicing Chartered Accountant Kolkata Panelists (1) Ms. Nandini Ghosh Sr. Joint Commissioner West Bengal SGST <i>Representative of Government</i> (2) CA. Prabin Dokania CFO, GSTN, New Delhi <i>Representative of GSTN</i> (3) CA. Sushil Kr. Goyal Chairman Indirect Tax Committee ICAI, New Delhi <i>Representative of Professionals</i> (4) Mr. Mahesh Keyal VP, FIEO <i>Representative of Industry/ Exporters</i> (5) Mr. Pramod Gupta Chairman, CGTA Logistics Hub <i>Representative from Transport/ Logistics Industry</i> (6) Mr. Sanjib Kothari Co-Chairman, GST, MCC <i>Representative from MSME</i>

Sub-Committees for the year 2019-2020

S.No	SUB-COMMITTEES	CHAIRPERSON	CO-CHAIRPERSON
1	Direct Tax	CA Ramesh Kr Patodia	CA Anup Kr Sanghai
2	GST/ Indirect Tax	CA Shivani Shah	CA Vikash Kr Banka
3	Corporate Laws	CA Sumantra Guha	CS Arun Kr Khandelua
4	Accounts & Audit	CA (Dr.) Debashis Mitra	CA Chhitiz Jaiswal
5	ACAE Chartered Accountants' Study Circle-EIRC	CA Tarun Kr Gupta (Convenor)	CA Beena Jajodia (Dy. Convenor)
6	ACAE Company Secretaries Study Circle	CS S M Gupta	CS Arun Kr Khandelua
7	GROUP Discussions	CA Pramod Kr Mundra	CA Navin Kr Gopalika
8	Theme Conclave [Real Estate]	CA Arun Kr Agarwal	CA Madhav Prasad Sureka
9	Theme Conclave [Capital Market]	CA Vasudeo Agarwal	CA Vijay Kr Sarawagi
10	Theme Conclave [GST]	CA Pramod Dayal Rungta	CA Shubham Khaitan
11	Theme Conclave [IBC]	CA Sumit Binani	CA Kamal Nayan Jain
12	Annual Conference	CA R S Jhwar	Adv Arvind Agrawal
13	Memorial Lecture	CA S S Gupta	CA Vivek Agarwal
14	ET Bengal Corporate Awards	CA Jinesh S Vanzara	(1) CA Anand Chopra (2) CA Kamal Nayan Jain (3) Mr. Arvind Agrawal
15	Insolvency & Bankruptcy Study Group	CA Sumit Binani	CA Mahesh Chand Gupta
16	Students Development	CA Niraj Harodia	CA Shivank Chhaparia
17	Fellowship	CA Samya Sengupta	Adv Nishant Kr Saraf
18	Sports	CA Pramod Kr Mundra	(1) CA Priyank Singhi (2) CA Harsh Satish Udeshi
19	Residential Seminar	CA Indu Chatrath	CA Vasudeo Agarwal
20	Ladies Wing	CA Beena Jajodia	(1) CA Shivani Shah (2) CA Vijayant Agrawal (3) CA Mridula Agarwal
21	Membership Growth	CA Santosh K Roongtaa	CA Pramod Dayal Rungta
22	Information Technology	CA Sanjib Sanghi	(1) CA Niraj Agrawal (2) CA Pushp Deep Rungta
23	Legal Compliances	CA Sanjay Bhattacharya	CA Arun Kr Agarwal
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25	Finance	CA Kamal Nayan Jain	CA Jinesh S Vanzara
26	Library	CA Netai Bandyopadhyay	CA Mukesh Kr Jhwar
27	House Journal	CA Niraj Harodia	CA Anup Kr Banka
28	Research & Publications Indirect Tax/GST Direct Tax Corporate Laws	CA Arun Kr. Agarwal CA Ram Ratan Modi CA Mohit Bhuteria	(1) CA Ramesh Kr Patodia (2) CA S S Gupta (3) CA Anup Kr Sanghai (4) CA Sumit Binani (5) CA H K Agrawal
29	Diamond Jubilee Celebration	CA Anand Chopra	CA Jinesh S Vanzara
30	E-Journal and Updates	CA Anup Kr. Banka	CA Priyank Singhi
31	Public Relations	CA Ranjeet Kr Agarwal	CA Nitesh Kr More
32	Press & Media	CA Ravi Kr Patwa	CA Anup Kr Sanghai
33	Vision Development	CA Jinesh S Vanzara	
34	Members- Co-ordination & Service	CA Ketan Satnalia	CA Sushil Kumar Pransukhka
35	Education Promotion Committee	CA Rakesh Jain	CA Ratan Lal Sethia
36	Department Co-ordination Committee : Direct Tax Indirect Tax/GST SEBI, NCLT, MCA-ROC	CA Madhav Prasad Sureka CA Arun Kr Agarwal CA Madan Kr Maroti	CA Anup Kr Sanghai CA Rajeev Kr Agarwal CA Arun Kr Gupta
37	Nomination	CA Vasudeo Agarwal	(1) CA Jitendra Lohia (2) CA S S Gupta

PROFILE

Pradeep Kumar Choudhary



1. NAME : PRADEEP KUMAR CHOUDHARY
2. ACADEMIC QUALIFICATION : B.COM(H), L.L.B.
3. PRESENT POSITION : MEMBER(JUDICIAL), CESTAT, KOLKATA
4. ADVOCATE ENROLLED AS AN ADVOCATE WITH BIHAR STATE BAR COUNCIL IN THE YEAR 1990.
5. SPECIALIZATION INCOME TAX, SERVICE TAX, HINDU LAW, CHARITABLE & RELIGIOUS TRUSTS

PROFILE

CA Sushil Kumar Goyal



CA Sushil Kumar Goyal is a Fellow Member of the Institute of Chartered Accountants of India (ICAI). He is a commerce graduate from Tinsukia College of Dibrugarh University, Assam.

He is based in Kolkata (City of Joy) and is regularly providing services in the field of Indirect Taxes since 1997. Presently, he is partner in G S A P & Co. (Chartered Accountants), heading the GST and Indirect Tax Division of the Firm. Regularly handling matter before different authorities upto the level of the Central Excise Service Tax Appellate Tribunal.

He is a regular speaker on the subject of 'Service Tax' and 'Goods and Services Tax' in the programmes organised by professional and business organisations. He has also worked as a visiting faculty in St. Xaviers College, Kolkata and NACIN Zonal Training Institute, Kolkata (Institute for training Central Excise, Customs and Service Tax officer). He has spoken on the subject Service Tax/GST in more than 500 seminars, conferences, workshop and training programs.

Presently he is relected to Central Council of ICAI for the term 2nd term i.e. 2019-22. This year i.e.2019-20, he is serving as Chairman of GST & Indirect Taxes Committee and also serving as Vice Chairman of Committee for Members in Public Services.

He is also convener of GMCS Coordination Group of ICAI. He also serving as Presiding officer of Board of Discipline Bench - I of ICAI for the year 2019-20.

PROFILE

CA Jayesh Morarji Gogri



- Jayesh Gogri has been practising for more than 2 decades
- He is a leading consultant in India in the areas of :

Taxes Finance Business consulting

- Currently practising as Director of GSC Intime Services Pvt. Ltd. His company has served various national as well as international clients
- Providing services to various Corporates in:

Consultancy Litigation Reviews End to end support

- **Professional contribution:**

Written

Author: My E-book on GST (www.thebooklounge.in)
 Book on anti-profiteering (BCAS)

Co-author: Background Material on GST (ICAI- Indirect tax committee)

Co-author: Study Material on GST for students (ICAI- Board of studies)

Delivered lectures to more than **1 lac persons** across India at 100+ forums
 Including : IIM, ICAI, CBIC, ICSI, NACIN, PHD chamber, Trade, industry and professional associations

He is also a NACIN (Government) accredited trainer

PROFILE

J.K. Mittal (Jai Kumar Mittal)



Mr. Mittal is a Chartered Accountant turned Advocate, young Age 48 years. Well establish practice, clean image,vocal, self-made, recognition throughout the country. Alsoworking passionately for public causes.Mr. Mittal started his career as a Chartered Accountant in the year 1992 but later on joined the law profession in the year 2005.

Mr. J.K. Mittal is a Law Graduate from Delhi University and a practising Advocate particularly in indirect taxes in High Court and Supreme Court. Mr. Mittal is a Member of Supreme Court Bar Association and Delhi High Court Bar Association. He is also a Fellow Member of the Institute of Chartered Accountants of India and Fellow Member of the Institute of Company Secretaries of India. He has also cleared Post Qualification Course of the Institute of Chartered Accountants of India in Management Accountancy.

PROFILE

CA. Arun Kumar Agarwal



- A regular speaker** on his subjects- VAT, Service Tax, Central Excise, GST.
- A member in the **Indirect Taxes Standing Committee** of **ICAI Central Council**, New Delhi.
 - A **faculty** in the Board of Studies of ICAI, and an empanelled resource person in its Technical Directorate.
 - **Chairman** of the Indirect Taxes Committee of **Merchants Chamber of Commerce and Industry**, Kolkata.
 - **President** of **Association of Corporate Advisers & Executives**, Kolkata for 2017-18.
 - A member of National Executive Committee of **AIFTP**.
 - A visiting faculty in various **Institutes & Universities**.
 - Prepared the basic draft of the **'Technical Guide on West Bengal VAT'** as also **"Background Material on Seamless Credit"** and also contributed in the **"Handbook for Accounting for GST"** and various other GST publications by ICAI.
 - Regularly appearing in print and electronic media, including DD News, ABP Ananda, E-tv, Sahara Samay etc.
 - Authored first book on WBVAT titled "Commentary on West Bengal VAT" and "Practical Guide to WBVAT Audit".
 - Past President of **Lions Club of Calcutta**, and DC- CSR in Distt. 322B1 of LCI (2016-17).

PROFILE

CA Tarun Kr. Gupta



CA Tarun Kr. Gupta is a Fellow Chartered Accountant (FCA), Fellow Company Secretary (FCS) and MBA with major in Business Management. He has over 19 years of professional experience in the field of finance, financial management and taxation. He started his career with PricewaterhouseCoopers (PwC) in the Advisory practice and is presently practicing as a Chartered Accountant, specializing in Indirect Taxes. He is a Master Trainer on GST with the Institute of Chartered Accountants of India (ICAI) and also a regular faculty at The Institute of Company Secretaries of India (ICSI). He has been advising many State Governments and corporates on their indirect tax matters including GST. CA. Tarun is a regular speaker on various forums and has contributed articles for leading professional magazines. He is member of Indirect Tax Committee of various Chambers of Commerce and Study Circles in Kolkata.

PROFILE

Nandini Ghosh



- 1 Name : NANDINI GHOSH
- 2 Designation : Senior Joint Commissioner Commercial Taxes Would be joining Indian Administrative Service from WB Cadre soon.
- 3 Department : Directorate of Commercial Taxes, FR, Govt of WB
- 4 Educational Qualification : M.Sc, Economics
- 5 Special degree/ diploma / skill :
 - Master Trainer on different TOT Modules, DoPT, Govt of India
 - Master Trainer & State Nodal Officer for GST & GSTN Portal Training for WB & for Eastern & North Eastern States.
 - Member of Standing Committee on Facilitation & Capacity Building of GST Council
 - State Representative in the Committee Constituted for GSTP Exam & other related matter.
 - Nodal Officer on e-Grievance Module, Dte. Of Commercial Taxes.
 - Nodal Officer in the Committee Constituted for Citizens' Charter.
 - Guest Faculty of all the Leading Training Institutes both Direct & Indirect Taxes, All Leading Chambers of Commerce, NUJS etc

PROFILE

Prabin Dokania, Chief Financial Officer



Prabin is the Chief Financial officer of Goods & Service Tax Network (GSTN), the technology backbone of India's biggest tax reform.

He is an award winner CFO, seasoned professional equipped with India's best financial qualifications i.e. CA, ICWA, CS and DISA. He is an active member of various Industry chambers and bodies, and contributor in various policies frameworks mainly in Finance and strategy. He is a thought leader and speaks in various forum in future of finance, digital economy and other related topic of finance, strategy and innovation.

He carries a rich experience of 22 years of Fortune 500 Company /Big 4 Management Consulting firm/Public Private Partnership (PPP) start up with specialization in driving the entire gamut of business, Strategy.

Prabin is a mentor for startups and ATL lab set up Niti Ayog.

He has been awarded CFO of the year in 2017 by The Institute of Chartered Accountant of India, awarded CFO Power list of 2019 in Technology by google cloud, recognized as top 100 CFO by CFO India.

PROFILE

Mahesh Chandra Keyal



MAHESH CHANDRA KEYAL, aged 59 years is a Commerce Graduate from Calcutta University and hails from a very old and established business family of Kolkata. He joined the family business at a very early age and carries with him vast Business Experience spanning over 39 years.

He has been instrumental in establishing MORTEX (INDIA) and is the key partner. Mortex is a Three Star Export House and is the largest exporter of Ferro Alloys from India exporting to over 60 countries in 6 continents. Mortex is the largest Merchant Exporter of Engineering Goods from India and has been awarded Top Exporter Gold Trophy for Three consecutive years 2015/16, 16/17 & 17/18 and many other awards from EEPC AND FIEO on All India and Eastern Region level.

He has represented FIEO at The 2019 South and Southeast Asia Commodity Expo and Investment Fair (SSACEIF) at Kunming in June 2019 and presented paper before the delegates from several Countries and locals from China

He is actively associated with Export Promotion Bodies and Chamber of Commerce:

- FEDERATION OF INDIAN EXPORT ORGANISATIONS (FIEO)
Vice President
- EEPC INDIA (ENGINEERING EXPORT PROMOTION COUNCIL)
 - National Working Committee Member
 - Convenor : Ferro Alloys Panel
 - Chairman : Drawback & Taxation incl Gst Committee
 - Chairman : Export Strategy Committee : EEPC INDIA – Eastern Region
- MERCHANT CHAMBER OF COMMERCE & INDUSTRY
Chairman : Standing Committee on Foreign Trade

PROFILE

Pramod Kumar Gupta



Pramod Kumar Gupta - a leading name in the Logistics Industry in India today, is a personality par excellence. A Commerce graduate from St. Xavier's College, Kolkata, Mr. Gupta has an experience of more than 40 years in the industry. His Company, EFC Logistics India Pvt Ltd has a pan-India network with a fleet strength of more than 500 diverse vehicles and a clientele that includes India's top multinational companies. His visionary ideas, pragmatic approach towards work and exemplary problem solving skills has taken EFC to greater heights. He has also brought about a number of revolutionary changes in the logistics sector and is currently the Chairman of the CGTA Nagar Logistics Hub. He also holds prestigious positions as the Vice President (East) of the All India Transport Welfare Association and is also a Managing Committee Member of the All India Motor Transport Congress.

His solid business acumen combined with his charming personality- makes him an inspiration for everyone around.

PROFILE

Sanjib Kr. Kothari



Name : SANJIB KR KOTHARI

Qualifications : B.Sc (Hons in Chemistry)
Diploma in Export-Import Management

Profession : Engaged in Manufacturing, Import & Export, Indenting of Chemicals

Company : M/s KING CHEMICALS
44C, Indian Mirror Street, Kolkata – 700 013.

Other Post Held
Past President : Indian Chemical Merchants & Manufacturers Association

Past Vice President : Confederation of W.B Trade Associations

Member : National Indirect Tax Committee of Indian Chamber of Commerce; Co-Chairman : Indirect Tax & GST Committee of Merchant’s Chamber Of Commerce & Industry

Chairman : ICMMA Chemical Industry Cluster

Member Committee : Murshidabad Heritage Development Society, Social Activities Deeply involved in social organizations like Jain Kalyan Sangha, Purwanchal Nagarik Samity, Murshidabad Sangha, Murshidabad Charitable Trust etc.



Shailesh Sheth
Advocate
Mumbai

3 Poems reflecting the anguish and wishes of a GST Taxpayer on the Eve of New Year 2020...!!

1 “Wishes of a GST Taxpayer !”

“ May we break the age-old procedural chain,
May any technical glitches not remain;
May the ‘tax’ not become the taxpayer’s pain,
May not he look at it with utter disdain!

May the law be clear, simple and plain,
So the poor taxpayer need not ‘tax’ his brain !
May we hear when they curse and complain;
Ain’t the blocked refunds causing them strain?

May the E-way Bill never be exploited to detain,
May the taxpayer not be forced to run and explain!
May the ‘reverse charge’ not haunt him again,
And force his energy to go down the drain !

May the ‘ Good and Simple Tax’ rule the domain,
May ‘ Freedom’ from ‘TaxTerror’ we all attain!
May all our efforts not go in vain,
May the economy blossom with GST GAIN ..!”

2 “Oh! My beloved GST...”

Taxpayers almost everyday
Stare at new complication;
Oh! My beloved GST!
You need a course correction!

You were born premature,
There was no strength in you;
You couldn’t have run longer
But still all believed in you!
It’s time to take a pause
And time for some reflection!
Oh! My beloved GST....
You need a course correction!

Your structure was very weak
 And there were birth defects;
 Exemptions and bad drafting
 Multiple and high rates!
 This policy will never work
 That is now realization!
 Oh! My beloved GST....
 You need a course correction!

Due dates for filing returns,
 Who can meet but a lucky few?
 Will they ever be able to file?
 Taxpayers don't have a clue!
 It is the system that has failed
 forcing an extension!
 Oh! My beloved GST....
 You need a course correction!

You had vowed to mitigate
 The cascading effect of tax;
 But chains of restricted credit
 Bound your arms and legs!
 Unshackle yourself now and
 Let the free flow of credit run!
 Oh! My beloved GST....
 You need a course correction!

You dreamed to create truly
 A borderless national market;
 No supplies will be stopped
 By check naka and toll gate!
 Has e-way Bill really fulfilled
 The promise of 'One Nation'?
 Oh! My beloved GST....
 You need a course correction!

For Authority for Advance Rulings
 Naturally did the hopes abound;
 With 'backwardness' of rulings,
 All hopes were dashed to ground!
 Taxpayers remained entangled
 In the disputes over taxation!
 Oh! My beloved GST....
 You need a course correction!

"Invoice match" and "Reverse charge"
 Announced with much fanfare;
 They couldn't really take off
 And were abandoned in despair!
 Economy is now left facing
 Limping revenue and tax evasion!
 Oh! My beloved GST....
 You need a course correction!

Many more issues are there
 Which I can't possibly list;
 I have still touched upon
 A few of them at least!
 At this critical juncture
 They deserve serious attention!
 Oh! My beloved GST!
 You need a course correction!

3 "Wishes For a GST Taxpayer ..!"

May GST Network never play
 with you 'shy' ..
 And GST Council always hear
 your 'cry'..!
 May all your returns go well
 in time
 Your nights are not spent
 in 'try and sigh'...!
 May E-way Bill never block
 your way ...!
 And reverse charge finally
 say 'Goodbye'...!
 May anti profiteering officer
 remain at bay ...
 And you are not accused of
 eating whole 'pie' ..!
 May TDS , TCS not cause
 you headache ...
 And 'late fee' never dance
 before your 'eye'..!
 May 'Good and Simple Tax'
 bless your life
 And the 'terror of tax' remain
 a distant cry...!

* * * * *



J.K. Mittal
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“Why GST is known as complex law”

C&AG report point out various deficiencies in GST rolled out:

As per C&AG Report No. 11 of 2019 (Indirect Taxes – Goods and Services Tax), Executive Summary, (Paragraph 1.6), GST was rolled out with effect from 1 July 2017 with the objectives of reducing tax cascading, ushering in a common market for goods and services and bringing in a simplified, self-regulating and non-intrusive tax compliance regime. It further refers to (Paragraph 1.6.3) and state that the complexity of return mechanism and the technical glitches resulted in roll back of invoice-matching, rendering the system prone to ITC frauds. Thus, on the whole, the envisaged GST tax compliance system is non-functional. The deficiencies in the GST system also point to a serious lack of coordination between the Executive and the developers.

It further refers to (Paragraph 2.1.3) and state that during 2017-18, Government of India (GoI) resorted to devolution of IGST year-end balance to the States as per Finance Commission formula, which is in contravention of the provisions of the Constitution of India and the IGST Act. This also has the impact of distribution of funds to the States on a completely different basis instead of ‘Place of Supply’ concept as envisaged in the IGST Act. C&AG Report also pointed out several other deficiencies such as in 16 cases, the key validations / functionalities as existing in the rolled out modules were not found aligned to the applicable provisions. The Software Requirement Specification (SRS)

provision included a condition not prescribed in the Act in one case. Registration Module - System validations were not aligned to the provisions of the GST Acts and Rules. Payment Module - The payment module, despite being in operation since 1 July 2017, was fraught with operational deficiencies like delay in updating the Electronic Cash Ledger (ECL) even after successful payment of tax by the taxpayer.

Taxpayers thought the GST will result and ease out the difficulties from the old taxation system, however it appears that it proved to be otherwise in many respects:

It is not like that the India has first-time impose the indirect taxes there have been indirect taxes in the past but the GST has introduced various way to collect tax, interest, penalties etc. which has never been there in the earlier taxation system. In fact, no taxation system could ever have wishes the manner in which the provision have been introduced or understood by the tax collectors under the GST regime. No government in a civilised society could justify such provisions in any manner, which made the GST law not only a complex law but also a litigation prone legislation. Some of such provisions are discussed hereunder:

(a) **Collection of interest on the gross amount including the input tax credit merely on delay of filing of GST return:** It has been understood by the tax collector that if a person is failed to file its

GST return within the time prescribed in law, in that case said taxpayer has to pay the interest on the gross amount, it means the interest to be computed under section 50 even on the input tax credit. The question is two folds – (i) whether any law can envisage to levy of interest on the input tax credit merely because the taxpayers did not file the return on time? (ii) How this notice idea was conceived by the tax collectors when since independence no such kind of provision ever existed? It is also moot question - whether GST was introduced with the intent to have such novel ideas to put taxpayers on hardship – or bringing in a simplified, self-regulating and non-intrusive tax compliance regime, as stated in C&AG Report No. 11 of 2019? Such kind of provisions and think-tank of the government officers' not only put a lot of hardship on the taxpayers but also make the GST totally unpopular among the taxpayers. It is also surprising that no government officer is giving any explanation, justification and the basis to levy interest on the input tax credit merely filing of late GST return by the taxpayer. Close scrutiny of section 50 of the CGST Act and the other provisions and the rules, it was found that there is no way one can demand interest on the input tax credit on late filing of GST return, however the taxpayers has to litigate once in such cases, the tax collectors demanding interest on the input tax credit. It is also interested to note that as per **Agenda for the 31st Council meeting held on 22nd December 2018, Page 227 of volume 1**, *“Thus, although the law permits part payment of tax but no such facility has been yet made available on the common portal.”* Therefore, it is clear that the problem arises as common portal (GSTN) does not align with the provision of the law, then the question arises why the taxpayers should suffer and dragged into the litigations by the tax collectors. Instead of correcting the common portal and taking remedial steps that the legislature appears to have influenced with the tax collector decisions and that is why a proviso have been inserted in the section 50 which is not only unnecessary but will create further problem in future.

(b) **Levy of GST on related party transaction:** GST has been levied on the supply of goods and services. The supply has been defined under section 7 of the CGST Act, which includes the activities specified in Schedule I, made or agreed to be made without a consideration. As per Schedule I, Supply of

goods or services or both between related persons, even if made without a consideration is treated as supply, hence subject to GST. As per explanation to section 15 of the Act, for the purpose of CGST Act, persons shall be deemed to be “related persons” if *inter alia*— such persons are employer and employee, they are members of the same family. There have been indirect taxes in India since independence even the service tax was levied since 1994 but there has never been any such provisions which envisages even to levy taxes by treating the transaction between the employer and employee or the members of the same family as a taxable supply even if there has been no consideration in such transaction. This is completely a novel idea of the draftsmen. However such kind of provisions appears to have been made on sly. The officer of the Department has never given any publicity of such kind of provisions because the officer is also unaware of the consequence of it and nor the taxpayer have understood the consequence of such kind of provisions which definitely will create never ending and uncontrollable litigation in the tax regime. It appears that such kind of provisions not only make the GST unpopular but litigation prone law. This has happened when law is implemented without proper vetting and taking feedbacks from the stakeholders. These are ill thought provisions need to be thoroughly examined for its fall out and as such it is fit case for its abolition.

(c) **New way of defining “suppression”:** As per explanation 2 to Section 74, merely, “failure to furnish any information on being asked for, in writing, by the proper officer” is amount to “suppression”, which is against law settled by the Supreme Court in catena of decision. We have seen how the officers act in this country. With the recent personal experience it has been seen the officer demanded copies of the electronic cash ledger, electronic credit ledger, copies of all bills, return, etc. It has also been seen in some public sector company, the officers even demanded the copies of all bank statement for the last five years when such company has as many as almost hundred bank accounts. It was also seen that another public sector company the officer demanded all contract copies of last five years which may run into millions of pages. If such information is not provided it will be amounting to suppression. Therefore the question is not whether

such information is justified or not whether it is relevant or not, as merely because it was demanded in writing and if the taxpayer failed to provide the same it will become suppression. The officer can write any letter and for any purpose without any basis and if you fail to furnish such information it will be amounting to 'suppression'. Nobody will question the officers - why the copy of electronic credit ledger or electronic cash ledger was demanded when such records are electronics and available on the common portal. It will be interesting to know how such a novel idea was invested by the lawmaker, which need full justification how and on what basis such kind of provisions have been introduced. Such type of provisions only will encourage tax terrorism and need to be abolished.

GST has created a myth of self-assessment whereas it has created a web of provisions, which is shackle for the taxpayers: Very concept of self-assessment is based upon that the assessee is tax compliant and the governments possess greater trust on the taxpayers. Consequently, in such tax regimes, there are minimal provisions empowering the tax collector for the verifications of the taxpayers records in one way or other. However, contrary to normal belief, in the GST law, it is found that despite it has created an electronic tax system as well as self-assessment based tax system, it has created web of provisions, which is shackle for the taxpayers, from where the taxpayer will hardly be able to come out. It is surprising that whatever tax checking system was there in place in the earlier tax regime in addition to that several other provisions have been made empowering the tax officers for the verification of the taxpayer records in one way or the other way without giving any justification. In such an electronic tax system – one should ponder over - what is the need of such large number of provisions for the verification of the records of the taxpayers in one way or the other? We have seen the government has introduced e-way bill system and now also going to introduce e-bill system for select category of taxpayers. There has been in place the e-payment of taxes as well as the electronic filing of returns. There are several mechanism have been made to deny the input tax credit for instance if the vendor does not make the payment of tax in the government account or did not file his GST return. Over and above, the GST is also introduced system

of audit by chartered accountants if the turnover of the taxpayer exceed certain limits. However despite all this, there is no respite for the taxpayer to escape from the officers notices under various provisions of the law. One will surprised that if the electronic tax system cannot have a self-checking system then why such system is introduced? What is the benefit for taxpayers for such electronic tax system if the government officer will remain have all the powers for the verification of records of the taxpayer in one name or the others? In addition to the power already existed in old tax regime, another power has been introduced in the GST regime for the scrutiny of return under section 61 of the Act, to verify the correctness of the return, there is no reason and the basis has been spelt out in the provision why the GST return is required to be scrutinized by the officers. Moreover when entire web of electronic tax system has been created in such cases whether anybody can justify having such kind of provisions. It appears that the government does not feel that the electronic tax base system has any check and balances at all. The provision of summary assessment has been created under section 64 of the Act, where the assessment could be made by the officer without even giving an opportunity of being heard to taxpayers and after such assessment is made the taxpayer may make an application to the senior officer that such an order is erroneous and in that case senior officer will proceed to proceed as per section 73 or section 74 of the Act. We have seen large number of people have been arrested on the alleged fake billing etc., but there has never been any assessment in such cases either under section 64 or under section 73 or 74 of the Act. Over and above the officers kept the power to conduct audits of the records of the assessee, despite that audit done by the Chartered Accountants under GST law. The question remain why the officers themselves wants to empowered in such electronic tax system which in fact is given no benefit to the taxpayers and the tax collector remain elusive to drive the benefit of such electronic system.

After having more than two years of experience with the GST law now one can fairly assess whether the GST law is a complex law or it is a simplified, self-regulating and non-intrusive tax compliance regime, as it was envisaged when the GST law was introduced.

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Mahesh Keyal
Kolkata

GST has imparted competitiveness to exports but yet long way to go

Goods and Services Tax (GST) has been a game changer for Indian economy. It has made India a single market and facilitated movement of goods across states seamlessly. GST is all set to reduce the logistics cost in India which is one of the highest in the world. The subsuming of major Central and State taxes in GST, complete and comprehensive set-off of input goods and services and phasing out of Central Sales Tax (CST) has reduced the cost of locally manufactured goods and services. This has increased the competitiveness of Indian goods and services in the international market and given much needed boost to Indian exports. The uniformity in tax rates and procedures across the country has lessened the compliance cost. With almost complete rebating of all State Taxes and CST, exports are much better off in the GST regime.

However, since central excise and VAT on petroleum and electricity duty has not been subsumed in the GST, the burden of the same will continue on exports which will substantially impact those export sectors which have energy as one of the key inputs. Government should either bring them under GST or provide a refund of them for zero rebating of our exports. Looking into the enormity of challenges to bring Petroleum under GST, Central Government is keen to provide refund of them in the newly announced scheme of Remission of Duties or Taxes on Export Product.

(RoDTEP).

GST envisages refund/rebate of taxes on the inputs used in exports. Such a mechanism involves payment of taxes upfront which is refunded once the goods are produced and exported. Depending upon the production cycle and time taken in exports, exporter money is blocked in payment of taxes which affects his liquidity and competitiveness. In pre-GST regime, exporters were given a facility for procurement of inputs without payment of taxes. To impart competitiveness to exports, Government should introduce E-wallet which has already been recommended by the GST Council. Such a wallet may be credited with provisional amount based on previous year's exports and average GST rate of the products exported by the exporters. The E-wallet may be used while taking any inputs/ finished goods which will be debited while procuring inputs or finished goods for exports. Such wallet should be credited once proof of exports flows from ICEGATE to GSTN. No cash withdrawal to be permitted so that the provisional amount remains in GSTN. The E-wallet would address the liquidity concern of the exporter while dispensing with the need for applying for the refund which entails transaction time and cost.

Merchant exporters are suffering duties on exports of exempted goods. Earlier, in Excise Regime manufacturer used to get rebate of excise duties suffered on the inputs,

if exempted goods were supplied to the merchant exporters for exports. Such supplies were under CT-1 Bond and ARE-1. Now, in GST Regime there is no such provision and the supplier add the duties suffered on inputs in the prices of the goods supplied to merchant exporters which makes the exports of exempted goods costlier and uncompetitive in international markets. There is need that benefit of Notification Nos. 40/2017-Centrax Tax (Rate) and 41/2017-Integrated Tax (Rate) both dated 23.10.2017 may be extended to exempted goods also.

An exporter has to do the shipments under LUT to claim refund of Cess amount and he needs to apply for refund of GST. Many exporters are doing shipments on payment of IGST, as the refund of GST is quicker through IGST route. Customs should provide a column for showing Cess amount also in the shipping bill so that exporters can claim refund of Cess along with IGST amount for exports on payment of IGST.

There was no tax on the Job Work in the pre-GST regime. In post GST regime, Job Work for Textile sector (Chapter-50 to Chapter-63) attracts 5% GST rate while most of the job works are subject to 18% GST. The GST rate on the Job Work basically allows transfer of credit between job worker and principal (exporter) with not much gain to exchequer. A uniform GST rate of 5% will not only reduce the burden of taxation but will also avoid classification dispute.

The utilization of scrips like MEIS, SEIS remains a challenge for users. The premium has declined substantially as the utilization of the scrip is confined only to basic customs duty. Moreover, the incidence of basic customs duty being much lower than GST rate, the purchaser requires a longer period to utilize the same blocking his money and thus reducing the premium. The utilization of the scrip should be permitted for payment of IGST on imports. Since imports are charged on RCM basis, the scrip can be used for payment of IGST easily.

Tax Refund for Tourists has been provided for by the GST under Section 15 of the IGST Act 2017, but remains inoperative for more than two years after the introduction of the GST regime in India. Several countries around the world, including competing retail markets in the countries such as Singapore, China, Thailand and Dubai have already introduced similar

VAT/GST refund schemes for tourists and benefitting from increased sales and exports of local goods to international visitors due to the added incentive of tax refunds. The merchants in many of these markets compete directly with Indian retailers across a broad cross-section of goods offered, such as handicrafts, handlooms, semi-precious jewellery, textiles and lifestyle products. Shopping for local goods currently only accounts for an estimated mere 20% of tourist expenditure in India as compared to 46% in Japan, 40% across the EU and 36% in Singapore; in spite of the relatively higher cost of accommodation and other miscellaneous services in these other markets. An efficient refund mechanism will not only give fillip to inbound tourism but will be beneficial for exports of labour intensive life style products.

There is urgent need to operationalise the decision of the GST Council for an "online refund module of ITC" which will save transaction time and cost for exporters besides ensuring accountability. Exporters are facing considerable delay and transaction cost in getting ITC Refunds as field functionaries are raising objections time and again and return the applications on one pretext or the other, resulting blockage of exporters working funds and affecting exports.

The Icegate provides information with regard to pending drawback at each port and daily clearance of drawback. Such facility should be provided for the IGST refund also. This will help in better monitoring of IGST refund at each port by the Chief Commissioners as well as by the CBEC. Trade & Industry would also come to know about the daily refund and if the same is not happening, they can flag the matter to the higher authorities. CGST and SGST authorities may also be asked to put such information in public domain for transparency and accountability.

Despite operational hiccups, GST has immensely benefitted the manufacturing and services sectors and thereby exports. However, its complete potential in exports has not been realized owing to various issues, some of which have been captured by me. Any reform of the magnitude of GST takes time to unfold its true gain to economy. Give GST 5 years to evaluate its impact on exports, manufacturing and economy and rest assured that you will see quantum improvement in each segment of economy and Indian economy itself.

* * * * *



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Centralized mode of operations of transport industry

The nature of business of the transport industry is different from many other businesses which are covered under GST. We transport goods all over the country, even to destinations where we do not have offices. Transporters operate across the country and we often face serious issues regarding GST, which sometimes require multiple registration in each of the states to take input credit for expenses incurred in that state. This would also require filing of multiple periodic tax returns in each of these States i.e. for registration under 29 States we would have to file 58 returns in a month.

The solution to this problem would perhaps be if the transporters be allowed to obtain central registration under the GST preferably at the location of their registered office/head office.

Division of Customers

Prior to GST regime a transporter was free to select his customers but not anymore- due to faulty dual policy. As per the current policy, a transport company can operate either in RCM or in FCM and not both. A company which was enjoying a wide customer base prior to GST have now to choose one such mode. Companies requiring GST credit will not deal with a RCM transporter in comparison to any another company which is not getting any GST credit. For example Oil Companies, alcohol companies, power generation companies etc. Do not want to pay 12% GST when they can manage with 5% GST. A transporter has been forced not to do business with either type

of customers because of unfair enforcement of GST.

Seizure of vehicle and goods in case of part load

Most of the transporters take part load/booking for optimum utilisation of their truck capacity. However when the vehicle is detained in case of part load material and mismatch is found in one or some invoice/goods, the entire vehicle and all the goods loaded in the truck are seized resulting in unnecessary delay in delivery of other goods (which are having valid documents) and harassment to the transporter who also suffer huge financial loss.

In case of part load material in a vehicle and if there is valid reasons for believing that there is evasion in one or some goods, then the vehicle shall be allowed to continue its journey after seizure and unloading the material suspected of evasion, within 24 hrs at the stoppage point or nearby GST office/godown, then the vehicle shall not be detained. Alternatively the transporter may be allowed to carry the material and store in his own godown and not deliver the material without getting required clearance from GST authorities.

Sale of Second Hand Goods by GST should be exempted

There are many transporters (GTA) who have opted for Reverse Charge Mechanism and have not taken any registration under the GST.

Now if they sell their Fixed Assets like Furniture, Old Computers, Scraps, Old tyres, Old vehicles they are required to pay GST on such disposal. For this they would be

required to take the GST registration and ensure all the compliances related to GST. In such case benefit of Notification No 5/2017 granting exemption from registration to GTA's is nullified.

Therefore there should be exemption from GST on sale of such assets, scraps, old tyres, old vehicles etc for transporters who have not taken registration under GST vide Notification No. 5/2017, more particularly the assets on which ITC has not been availed.

Liability of Reverse Charge Mechanism

There are services like the services of lawyer, security services, rent-a-cab services which are chargeable under the Reverse Charge Mechanism. If the GTA takes such services then it would be required to take registration under the GST and thereby making the benefit of Notification No 5/2017 null and void.

Therefore, the services covered under Section 9 (3) should be exempted for GTA's who are themselves covered under section 9(3).

New Input Tax Credit rules which restricts the input to only 110% of invoice uploaded by the supplier.

With the recent changes being made in claiming of Input tax credit which allows Input Tax Credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed 110% of the eligible credit available in respect of invoices or debit notes, the details of which have been uploaded by the suppliers.

There are vendors who do not file their return within the due date and in spite of repeated reminders they do not file their return. Also many vendors have opted for quarterly filing of GST-1 Return.

Therefore why should we suffer due to fault of the vendors and what should be done towards purchase from vendors who have opted for quarterly return.

Termination of E-way Bill after delivery of goods

At present once an e-way bill is created there is no option to terminate the e-way bill after the delivery of goods to the consignee.

There are chances of misuse the e-way bill if the validity of the e-way bill is still remaining.

Therefore an option to terminate the e-way bill should be mandated wherein the consignee/consignor has to terminate the e-way bill after delivery of materials.

If the consignee terminates the e-way bill, then it shall also be treated as Proof of Delivery (POD) so that

the transport office can immediately raise the invoice without waiting for the original copy of POD which usually takes a lot of time to reach the office of the transporter.

E-Way Bill Extension

The window given for extension of validity of e-way bill is not sufficient.

Most of the drivers are illiterate and do not understand the complexity involved in the e-way bill. Many a times they do not inform their respective managers/office about any breakdown/accident/traffic jam they are stuck in.

Also the transporter has to apply for online extension only at mid night, during which no staff is available. Once the e-way bill expires, there is no option to regenerate the e-way bill again with the same invoice/document number or to approach some senior officers for revalidation.

It is suggested that the extension of validity should be allowed within minimum 48 hours (one day prior and one day after the expiry).

In the GST website, a report should be made available to show the detail of all expiring E-Way Bills. This will help the transporter to check the detail of all expiring E-Way Bill for a selected period and can manage extension effectively.

Refund of penalties charged against minor errors in EWB.

Huge penalties has been charged / collected by GST Department since the introduction of EWB towards minor/clerical errors in EWB.

All penalties charged wrongly/unlawful by GST Department since the introduction of EWB towards minor technical errors, should be refunded to the transporters/tax payers as the same errors are being adopted later with the fact that there were no intention of evasion of GST.

The material lying in warehouse of transporter need not require any valid part B of e-way bill.

When material moves from origin and covers the full distance and reaches the destination city but is not collected by Consignee for several days, the material lies in the transporters godown and the EWB could have expired.

In such cases, the materials should not be seized or no penalty should be levied to the transporter. Even in the Vat regime the valid invoice and State entry form (EWB part A) was sufficient.

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IBC and GST – Cross Connection!

Introduction

The Insolvency and Bankruptcy Code, 2016 (IBC) is considered as one of the biggest success stories in the government’s efforts to de-clog the economic system from ill-effects of stressed assets. Similarly the Goods & Services Tax (GST) is also a game changer and has transformed the indirect taxation structure in the country. Both these legislations came almost at the same time and both the legislations are presently evolving.

As per IBC laws, tax authorities are treated on a par with operational creditors and eligible to receive payments with others. However, GST framework currently doesn’t allow a firm to file current tax dues if it has past dues pending. Penal action has been initiated for non-compliance even in cases where the insolvency resolution process has been initiated or GST registration has been cancelled. This comes in the way of efforts to revive a company under the IBC process. Industry organisations have lobbied with the government on the issue, requesting it to accept current GST dues while giving a moratorium on past ones.

IBC overrides GST law

The Chennai Bench of National Company Law Tribunal (NCLT) recently inter-alia directed Revenue Authorities to allow Corporate Debtors to access the GST portal to file taxes after the commencement of insolvency proceedings. In *T. R. Ravichandran, RP Vs The Asst.*

Commissioner (ST) (NCLT), (in the matter of *Kiran Global Chem Ltd.*; 2019-TIOLCORP-12-NCLT) the Court observed that, “As to provisions of GST Act, since Section 238 of the Insolvency and Bankruptcy Code having categorically mentioned that IBC will have overriding effect on all other laws which are in contravention to the provisions of the IBC, RP cannot raise an objection saying since no provision has been made in GST or in its software to accept such accounts, the business happening in the market after initiation of CIRP through debtor company will come to stand still and in such situation no company under CIRP can function as a going concern. In view thereof, we hereby direct all the Respondents including the 13th Respondent to allow the Corporate Debtor to have access to its GST Net Portal Account, permit the applicant to file GST Returns of the Corporate Debtor generated after commencement of CIRP **without insisting upon payment of past dues of GST during the pre-admission period and accept net GST liability after availing eligible ITC from the date of commencement of CIRP and adjust such GST payment so remitted by the Corporate Debtor towards discharge of GST during the CIRP period.**” (*emphasis supplied*)

In respect of liquidation, as per the waterfall mechanism provided under Section 53 of IBC (‘Distribution of assets’), among all creditors, government stands fifth in the queue.

This means that only after settlement of workmen's dues, dues of other operational creditors, etc., claim of tax authorities will be considered. However, in respect of resolution, the endeavour is to transfer the entity as a going concern and, therefore, as NCLT has observed, GST authorities can claim tax dues like any other operational creditor. If the corporate debtor is barred from accessing his cash ledger or credit ledger and if payment for past period is insisted, the objective of resolution of stressed asset as a going concern gets totally defeated. The Resolution Professional is also desisted from managing the affairs of the Corporate Debtor as a going concern.

Statutory Dues Are 'Operational Debt' under IBC

The judiciary has upheld the view that statutory dues are included within the definition of 'operational debts'. In a recent judgment passed on March 20, 2019 in the case of *Pr. Director General of Income Tax (Admn). & TPS vs M/s. Synergies Dooray Automotive Ltd. & Ors.* (clubbed with certain other company appeals), Hon'ble NCLAT held that statutory dues such as income tax, sales tax, value added tax and various other taxes fall within the definition of 'operational debt' under section 5(21) of the Code and the statutory authorities claiming the aforesaid dues will be treated as operational creditors under the Code.

The GST Authorities however face problems in getting information that Corporate Insolvency Resolution Process (CIRP) has initiated against a company and then quantifying the claim since there is default in filing of returns by the company. In this context, the Resolution Professional may send specific information to the Jurisdictional Officer informing of the initiation of CIRP and seeking claim w.r.t GST.

Duties of an Resolution Professional w.r.t. compliance of law including GST:

As per the **Charter of Responsibilities of IRP / RP and CoC in a CIRP issued by IBBI in March 2019**, an Insolvency Professional, when acting as an Interim Resolution Professional or Resolution Professional, is vested with an array of statutory and legal duties and powers. He exercises the powers of the board of directors of the corporate debtor undergoing resolution. He manages operations of the corporate debtor as a going concern, protects the value of its property and **complies with applicable laws on**

its behalf. In fact, he conducts the entire CIRP. The stakeholders are required to co-operate with him in discharge of his functions. In its order dated 16th January, 2019 in the matter of Asset Reconstruction Company (India) Pvt. Ltd. Vs. Shivam Water Treaters Pvt. Ltd., the Hon'ble Adjudicating Authority held: "... RP (Resolution Professional) is acting as an officer of the Court and any hindrance in the working of the CIRP will amount to contempt of court." In its order dated 18th February, 2019 in the same matter, the Hon'ble Adjudicating Authority held: "It is to be clarified that RP is discharging duties as Court Officer and any non-compliance of the Court Officer will be deemed as Contempt of Court." However the present situation is far from being in RP's favour. The Interim Resolution Professional (IRP)/ Resolution Professional and the Resolution Applicant (RA) face many issues while complying with the GST laws.

Accessing user id and password:

Companies under the IBC process face hostile erstwhile promoters who do not share the user id and password of the GST portal. This is the first problem faced by the Interim Resolution Professional (IRP)/ Resolution Professional and the Resolution Applicant (RA). The GST portal does not allow change of user id and password without the help of the digital signature of current signatories. In a case, the Hon'ble Kolkata Bench of National Company Law Tribunal (NCLT) had to appoint a Special Officer who had to physically go to the erstwhile promoters, take his digital signature and in his presence ensure that the user id and password is changed. This happened after almost one year of efforts by the Resolution Professional and the Resolution Applicant, when finally after series of applications and letters, they had to approach the Hon'ble NCLT. The reason why I am mentioning this point is that even for a simple thing like user id and password, the Resolution Professional and the Resolution Applicant had to knock the doors of the Hon'ble NCLT. The GST Act, must allow the Resolution Professional and the Resolution Applicant to take a new registration after the company has gone into insolvency resolution process so that all the past baggage stays with the old promoters and the Resolution Professional and the Resolution Applicant start afresh with GST compliance.

Payment of tax and filing of returns:

The GST software doesn't allow companies to pay

current or future taxes without clearing dues from earlier years. But under IBC, the tax department has to wait until all creditors get their dues before beginning recovery. This leads to a problem for payment of tax by the Resolution Professional and the Resolution Applicant, even for liabilities on reverse charge mechanism. In many cases, the erstwhile promoters have not cleared their past liabilities and have not filed the returns. Now the Resolution Professional and the Resolution Applicant are not able to pay simple liabilities like GST on advocate fees under reverse charge mechanism as past liabilities and past returns are pending. Thus the Resolution Professional and the Resolution Applicant even when they would like to comply with present laws or pay the current liabilities, are not able to do so. This problem can also be resolved if the GST Act, allows the Resolution Professional and the Resolution Applicant to take a new registration after the company has gone into insolvency resolution process so that all the past baggage stays with the old promoters and the Resolution Professional and the Resolution Applicant start afresh with GST compliance. The GST law should also allow companies in CIRP to transfer the balance in their Input Tax Credit ledger to the new registration through the filing of TRAN forms.

Blocking of e-way bill :

As per the **Charter of Responsibilities of IRP / RP and CoC in a CIRP issued by IBBI in March 2019** (supra), the RP manages operations of the corporate debtor as a going concern and protects the value of its property. This means that if the company's operations are going on, at whatever the rate of utilization of the plant, it is the duty of the Resolution Professional to ensure that he manages the affairs of the company as a going concern and protects the value of the property of the company. Now because of non-payment of past liabilities and non-submission of past returns, in cases where it exceeds 2 months, generation of the e-way bill is blocked. Thus, in transactions where e-way bills are mandatory, generation of e-way bill is not allowed by the portal and all deliveries/ business operations will come to a standstill.

Cancellation of registration

As per provisions of GST, in case returns for the past 6 periods are not filed, the GST registration is liable to be cancelled. The same can only be revoked if all the past

returns are filed and past liability is paid. This has come as a big problem for the Resolution Professional and the Resolution Applicant. On the one hand when the GST dues are treated as operational debt and suffers the same haircut as all other operational creditors and on the other hand, the GST registration is liable to be cancelled if the past liability is not paid in full. In case past dues are not paid, the GST registration gets cancelled and the operations of the company come to a standstill.

Sale invoices are not showing in form GSTR 2A

The Resolution Professional and the Resolution Applicant are also facing the issue with B2B customers wherein because of non-filing of form GSTR 1 by the company, the invoices are not showing in the form GSTR 2A of the customer/buyer. This has resulted in the mis-match of input tax credit availed by the customer/ buyer in form GSTR 3B and the invoices as shown in form GSTR 2A. In fact many assesseees have received notices from the GST Department about such mismatch and now they are facing problems after they have bought goods from companies which are undergoing insolvency resolution process.

Changes done in IBC Ordinance, 2019

As per the recent IBC Ordinance (promulgated on Dec 28, 2019), as per the Explanation inserted to section 14(1) Moratorium, "it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, **registration**, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall **not** be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period."

This is a welcome amendment in IBC laws as it can be interpreted that till the time "current dues" of GST is paid during the moratorium period by the Resolution Professional, GST authorities cannot cancel the GST registration or suspend the right to generate e way bill. Changes in the GST laws and GSTN is however still awaited.

Conclusion

The lawmakers are required urgently to address the issue of alignment of the IBC process with the GST process especially payment of tax and return filing. Despite the Code providing a clear moratorium for the Buyers from paying dues (including GST) for the past period, the above restriction is forcing the Buyer not to file current GST returns as well. The Buyers have been left with no option except to challenge this restriction in the Courts being contrary to the Code. This issue will not only result into blockage of working capital of the Buyers but also defeats the entire purpose of insolvency resolution concept in India. Ultimately, it would add to difficulties in doing business as opposed to promoting ease of doing

business. This very issue (if not addressed soon) is capable of derailing the unbeatable development of the Code and reforms under GST.

The Government should immediately introduce an exception in the GST laws to enable the Buyers to file present and future GST returns irrespective of payment of past GST dues in case of companies under IBC. Similarly, the Government can allow companies under IBC to take a new registration so that all past baggage is left behind and decided as per the Resolution Plan and the Resolution Professional and the Resolution Applicant starts afresh with GST compliance. However, we can only wait and watch for some more action by the Government in resolving the cross-connection!

* * * * *

Swami Vivekananda gave this iconic speech that every Indian knows :



“Never say, “O Lord, I am a miserable sinner.” Who will help you? You are the help of the universe. What in this universe can help you? What can prevail over you? You are the God of the universe; where can you seek for help? Never help came from anywhere but from yourself. In your ignorance, every prayer that you made and that was answered, you thought was answered by some Being, but you answered the prayer yourself unknowingly. The help came from yourself, and you fondly imagined that someone was sending help to you. There is no help for you outside of yourself; you are the creator of the universe. Like the silkworm, you have built a cocoon around yourself. Who will save you? Burst your own cocoon and come out as a beautiful butterfly, as the free soul. Then alone you will see Truth.”



CA A Jatin Christopher
Bengaluru

Taxpayer’s actions, incompatible with plea of innocence

Introduction

‘Legitimate expectation’ is where taxpayer is ‘led to believe’ that the state of affairs would be such and such (by legitimate means), giving this assurance and then to displace taxpayer from that position would be frowned upon. And Courts have seldom hesitated to strike down attempts to revise the law that causes such displacement from taxpayer’s legitimate expectations.

There’s no vested right in matters of procedure. And when any procedural law is amended, course of action that has already started will be continue but in accordance with the amended procedure. And if taxpayer is aggrieved by the amendment, except to examine if it is with respect of substantive law, Courts have been loath to allow any relief from the rigours of the amendment or remedy against affecting pre-amendment transactions.

GST lays down some remarkable new ways to impose this tax and exact compliance. When tax imposed is at rates far greater than margins in business, benevolence in its interpretation must make way for diligence in understanding its contours and complying.

‘Return’ is immutable

After all the things that needs to be done get done, including the credit in the ‘return’ is imperative. Omission to include credit in the return is fatal to claim to credit. All it will

take is for the first judicial authority to be pronounced that grants recognition to 16(2) as the ‘vesting conditions’. Return has assumed such significance because it’s the only window for tax administration to be ‘put at notice’ about taxpayer’s claim to credit in a self-assessment tax regime.

Government is resolved to ensure ‘return’ comes to hold its place in the understanding of trade. And ‘3B is a return’ around which every credit-related experiment will play itself out. Expecting 3B to be a matter of compliance is unlikely to stand judicial scrutiny because self-assessment tax regime does not permit taxpayer to usurp authority to play ‘judge, jury and executioner’.

Recognize ‘basis of incidence’ in a transaction

Agreements are drawn up to meet requirements of business. And if the ingredients to impose tax are found, then incidence of tax is imminent. Agreement to ‘harvest and take away’ produce of the land will be taxed as ‘supply of goods’ if the tenure is for one season and as ‘supply of services’ if its longer. Agreements all look the same, but their tenure and remuneration will be the ‘give away’. Question is, how to read such agreements and what if it’s read wrong?

Once supply is admitted, debating its valuation is a cause that’s lost already, as tax incidence has been conceded. Valuation of deemed

supplies is somehow attempted to enjoy protection of *proviso* to rule 28. All that it does is to keep tax administrators from contesting valuation adopted but c'mon, it does not override section 15(1). Valuation of inter branch transactions cannot deviate from the demands of 'transaction value' in section 15(1) and survive the legal scrutiny by offering to pay tax on a value of Re.1 or Re.100 for deemed supplies. It is not just difficult to defend but actually reckless to expect that tax authorities may entertain.

Paying wrong tax is tax 'not paid'

Except for relief from interest, 'right tax' is required to be paid again. But who's going to 'pay' for it again. Remember, refund of wrong tax is nearly impossible to recover because Recipient has claimed its credit and is long gone before error is discovered. There's no occasion to recharge the right tax to Recipient. So, taxpayer who misreads place of supply is mostly going to pay tax 'twice'.

Logic, reason and appealing to the good conscience of the Court, seem to be avenues that are blocked. And it seems that the legislative policy is to expect a mechanical application of the provisions which are, for this reason, laid down in the Act itself and not in rules notified by a delegate. When the Act says that right tax is to be paid 'again', in section 77 and section 19, it seems to have excluded from being rationalized by Courts of equity.

Credits don't 'flow back' in Annual Return

Eligible credit of 17-18 'taken' in 18-19 may be reported in table 13 of AR. In other words, invoices 'dated' sometime during 17-18 are identified and included in 3B filed during 18-19 (up to Sept 18), may be disclosed in table 13. Such credits belong to 18-19 and NOT to 17-18.

Optimists have been found appropriating such 'table 13 credits' to discharge tax liability of 17-18. Disclosure in table 13 DOES NOT permit such credits to 'flow back' to the previous year. Output tax liability belongs to the month in which 'time of supply' occurs. Input tax credit belongs to the month in which credit is 'taken' in 3B.

Table 13 credits 'stay' in the month in which it is 'taken'. It does not flow back to any earlier year. Table 13 is only a 'disclosure' and not *modus operandi* to do

shift credits from 18-19 to 17-18. Remember, Annual Returns is only a 'document of disclosure' and all corrections are to be carried out (time permitting) in GSTR 1 and GSTR 3B; DRC 3 is challan for payment of admitted dues, that's all.

Revenue neutrality, not anymore

Sub-contractor may be excused from paying tax if it can be shown that main-contractor has already discharged tax on entire contract sum. Omission to pay RCM dues is not serious deviation if output tax is fully discharged since it is anyway creditable. These and other similar equitable dispositions were identified as being 'revenue neutral' as compliance would NOT yield any incremental revenue to Exchequer.

Neutrality is an economic outcome viewed as a minor compliance deviation that (no less than) a Court of equity might entertain. But this liberty abates if it is expressly proscribed by legislative action found in the Act. Sections 47 and 155 seem to continue the inflexibility that was already introduced from 2011 in Cenvat Credit Rules. It seems now even less likely that Courts will be able to condone deviations that are 'revenue neutral' in GST.

Credit (in)admissible when Court rules 'exemption ineligible'

Misreading of entitlement to exemption when set right by a Court of law, credits that were let go will be admissible while confirming demands. For this equitable relief to be admissible, misreading should not be due to adventurous reading of exemption but one where divergent view prevailed in quasi-judicial renderings (of the scope and applicability of the exemption) that came to be finally resolved by Larger Bench or a Court.

By placing a 'prescription' in section 16(4) where the right itself is taken away (unlike limitation where only the remedy is taken away, while leaving the right intact), GST seems to have deliberately and thoughtfully left 'no authority with any authority' to allow such credits where *bona fide* view (about entitlement to exemption) entertained by taxpayer stands decided in favour of revenue.

Can't pay tax 'if' exemption is doubtful

Risk of tax demand if entitlement to exemption is

doubtful is too steep to take chances. When taxpayer is permitted to 'collect and remit', there's no incentive to experiment with doubtful exemptions. And when taxes are paid, credits will be admissible. When exemption is finally decided and accepted by tax authorities, taxpayer could stop charging tax and forfeit credits too.

Explanation to section 11 bars taxpayer from charging tax when exemption is doubtful. Exemption, partial or complete, MUST be availed and section 32 bars collecting tax when none is applicable. And then section 76 requires that any money collected 'as tax' to be paid to the Government. When supply was exempt, tax collected cannot be paid 'by credit'. This is clearly thoughtfully drafted and deliberate policy shift in GST that flows from the Act and no less.

Conditional exemption isn't 'optional' exemption

Unless notification itself contains 'or' in the tariff listing, all conditional notifications are mandatory. 9965 in entry 9(iii) is a case in point. And 9963 in entry 7(vi) is the other where taxpayer cannot 'opt' to pay 18% tax so that the ban on credit is lifted. There are many taxpayers who are too far down this road to accept that output tax collected will be recovered 'in cash' by section 76 and credit utilized will go.

Just because portal does not block credit 'availability' or 'utilization' is no reason to assume everything is fine. Portal is just that, a repository of facts reported by (none other than) taxpayer. When *bona fide* views

(due to contrary decisions) enjoys no relief, for cherry-picking tax rates is a far cry for any equitable remedy. Taxpayer MUST comply with 'conditions' linked to applicable tariff entry.

Conclusion

Although it seems like there's no justice anymore, it needs to be appreciated that no less than a Constitutional amendment has birthed this law. To still be leaning on equitable remedies seems insufficient diligence on the part of taxpayer. And after two years since its roll out, taxpayers continue to wrestle with transactions 'newly' exposed to tax incidence. Law may be new but not business of taxpayer. There's urgent need to embrace 'what's new' in this law so as not to be surprised at every turn.

Also, it takes no skill or intelligence to speak disparagingly about the law or the Government that is implementing this law. Remember, the collective wisdom of Parliament is behind this law. Experience in earlier laws or rather expectations from earlier laws may be responsible for the disappointment or surprise that every new circular seems to bring. There's no estoppel or legitimate expectation here. Any misapplication of law due to misconceptions (about this law) is incompatible with taxpayer's (plea of) innocence. And credit must be given to an engaging Government, tirelessly supported by an administration, striving to move us into a new tax regime that demands everyone to update, upgrade and be upright!

* * * * *

Swami Vivekananda gave this iconic speech that every Indian knows :



"We are responsible for what we are, and whatever we wish ourselves to be, we have the power to make ourselves. If what we are now has been the result of our own past actions, it certainly follows that whatever we wish to be in the future can be produced by our present actions; so we have to know how to act."



CA Vinamar Gupta
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Transitional Provisions of GST for J&K and Ladakh

Introduction

While Special status of the state of J&K was abolished by making announcement in Parliament on 5-8-2019, the state of J&K has been reorganized into the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh vide J&K reorganization Act 2019 on 9-8-2019 and 31st October 2019 has been notified as appointed date for putting into effect this reorganization. The purpose of this article is to assess the impact of this reorganization on the different aspects of gst laws that shall prevail in J&K and Ladakh

Status of SGST law in J&K

Although both J&K and Ladakh have been designated as Union Territories but still both UTs are not same. While J&K shall be a UT with legislative assembly, UT of Ladakh shall not enjoy the same privilege. Hence while Ladakh shall be administered by Centre directly, J&K shall have partial statehood and shall join the ranks of Delhi and Pondicherry. However while The Puducherry Police comes under the direct control of the Department of Home Affairs, Government of Puducherry, while Delhi Police comes under the Home Ministry of the central government. In case of J&K it shall be Delhi model. However for the purpose of GST, all Delhi, Puducherry and J&K shall be same i.e. state goods and service tax law shall continue to prevail.

Transitional Provisions notified under GST

Following provisions have been notified to give effect to this arrangement under GST:

1. J&K reorganization (Removal of Difficulties) Order 2019
2. Notification 62/2019-Central Tax dated 26-11-2019
3. Notification 3/2020-Central Tax dated 01-01-2020
4. New GSTIN reallocation for taxpayers of Ladakh notified on gst.gov.in on 01-01-2020

Impact of Transitional Provisions

1. Existing State of J&K has been reorganized into Union territory of J&K and Union Territory of Ladakh w.e.f. 31-10-2019 vide Jammu and Kashmir Reorganisation (Removal of Difficulties) Order, 2019.
2. The Jammu and Kashmir Goods and Services Tax Act, 2017 shall be applicable to the Union Territory of Jammu and Kashmir and the Union Territory Goods and Services Tax Act, 2017 shall be applicable to the Union Territory of Ladakh [Para 7 of Removal of Difficulty Order]

Tax periods redefined

3. Due to reorganization taking effect from 31st October 2019, tax period of October and November 2019 have also been bifurcated as under:

October 2019	1st October to 30th October 2019 (Instead of 1-10-19 to 31-10-19)
November 2019	31-10-2019 to 30-10-2019
But for such bifurcation return for one day i.e. for 31st Oct 2019 would have been segregated. Hence one day reduced from October and added to November	

Payment of Taxes

4. Till 31st December 2019, irrespective of particulars of tax in the invoice/debit note/credit note/ e way bill, appropriate applicable taxes shall be paid as under:

Union Territory of J&K	SGST (Because state tax has been continued)
Union Territory of Ladakh	UTGST

Inter Transfers

5. Where interstate supplies between J&K and Ladakh are made from 31-10-19 till 31-12-2019, compulsory registration requirement u/s 24(i) regarding inter state supply shall not apply. Interstate supply of service up to 20 lacs is already exempt from registration vide Notification 10/2017-CT dated 13-10-2017. However w.e.f. 01-01-2020 inter transfers between J&K and Ladakh shall invite compulsory registration u/s 24(i).

New GSTIN for J&K and Ladakh

- Those having place of business in J&K only need not apply new GSTIN because they continue to be governed by J&K SGST Act
- Those having principal place of business in J&K and additional place of business in Ladakh shall apply new registration in Ladakh under UTGST law for effecting transactions from Ladakh and old GSTIN for J&K shall continue as such for effecting transactions for J&K
- Those having place of business in Ladakh only shall be reallocated new GSTIN with code 38 in lieu of old GSTIN Code 01. New new registration need to be applied. GSTIN with 38 code to be used in Invoices w.e.f. 01-01-2020.
- Those having principal place of business in Ladakh and additional place of business in J&K shall be reallocated new GSTIN with code 38 for Ladakh in lieu of old GSTIN Code 01. New registration need not be applied for Ladakh. However new number need to be applied for J&K.

6. Transfer of ITC

- ITC to be transferred to new registration in ratio of turnover by reversing ITC in 3B of of existing GSTIN in Table 4B.2 and taking credit in new GSTIN 3B in Table 4A.5. Jurisdictional tax officer of transferor and transferee state should be informed about transfer of ITC along with copy of ITC and the amount of adjustment made with in one month from obtaining new registration
- Balance in ITC Account on 30-10-2019 for those having **principal place of business in Ladakh** or **having additional place of business in ladakh** shall transfer balance to ITC credit ledger on 31-10-2019. **(By Notification 3/2020 dated 01-01-2020, the credit on 31-12-2019 to be transferred to credit ledger of J&K/Ladakh on 01-01-2020)**. Transfer may be made through reduction in GSTR 3B Table 4B.2 of October 2019 and adding ITC to new GSTIN GSTR 3B Table 4A.5. Alternate mechanism may be transfer through ITC-02.

GOODS & SERVICES TAX CONCLAVE



Summary:

The above position of law can be summarized as under

Principal Place	Additional Place	Registration	ITC Balance on 31-12-2019
J&K	NIL	No New registration	No Transfer of ITC
J&K	Ladakh	Apply New UT registration in Ladakh	ITC (CGST/SGST/IGST) to be transferred in ratio of turnover of J&K and Ladakh. SGST share of Ladakh on 31-12-2019 shall rank as UTGST Balance in Ladakh on 01-01-2020. IGST/CGST Share of Ladakh in Old GSTIN of J&K shall also be transferred as such
Ladakh	NIL	New GSTIN with code 38 reallocated in lieu of old GSTIN Code 01. GSTIN with 38 code to be used in Invoices w.e.f. 01-01-2020	SGST Balance on 31-12-19 to be transferred to UTGST Balance on 01-01-2020. IGST/CGST from old J&K GSTIN to be transferred as such in GSTIN (Code 38)of Ladakh
Ladakh	J&K	Apply new number in J&K. For Ladakh New GSTIN with code 38 reallocated in lieu of old GSTIN Code 01. GSTIN with 38 code to be used in Invoices w.e.f. 01-01-2020	ITC to be transferred in ratio of turnover. Ladakh's share of SGST on 31-12-19 to be ranked as UTGST Balance on 01-01-2019 IGST/CGST Share from J&K GSTIN (Code 01) to be transferred to IGST/CGST Balance in reallocated GSTIN of Ladakh (Code 38) J&K share of SGST in old J&K GSTIN shall continue to be ranked as SGST for New J&K GSTIN. IGST/CGST share also rank as IGST/CGST in new J&K GSTIN

Note :

The Notification 62/2019 and 3/2020 are silent about period for which turnover to be considered for apportioning ITC Balance between J&K and Ladakh GSTINs. Last Nine months turnover i.e. from 01-04-19 till 31-12-2019 may be used as suggestive turnover for such apportionment. Alternately last 30 months turnover from 01-07-2017 to 31-12-2019 may be used for such apportionment. However if due to some later clarification if there is change in proportion, the consequential impact shall have to be routed through adjustment in GSTR-3B till 20th October 2020 having regard to the provision of section 16(4). Excess allocation shall be reversed in such case entailing interest liability also.

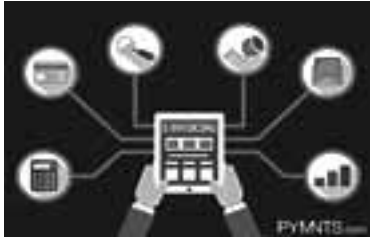
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CA Abhishek Agarwal
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E-Invoicing

What is E-invoicing and how it is different from current invoicing system?



‘E-invoicing’ or ‘electronic invoicing’ is a system in which B2B invoices generated by ERP/Accounting system are authenticated electronically by GSTN IRP (Invoice Registration portal) and Digitally signed which then automatically auto populates the GST Anx-1 of the recommended GST Return and Part A of

the GST E-way bill.

Currently, businesses generate invoices through various software’s, and the details of these invoices are manually uploaded in current GSTR-1 return. The invoice information is thereafter reflected in current GSTR-2A for the recipients for viewing only. On the other hand, the consignor or transporters must generate e-way bill by again importing the invoices in excel or JSON manually.



E-Invoicing is Simpler than Current Invoicing system:



Why Government is coming up with E-Invoicing system from 1st April 2020?

In 2018-19, 1,620 cases of fake invoices were registered involving fraudulent ITC claim of Rs 11,251 crore under the goods and services tax (GST). As many as 154 persons were arrested.

The government has taken measures to prevent GST evasion by introducing E-Invoice system. E-Invoicing disseminates analytical reports and intelligence inputs to field formations of CBIC for the purpose of scrutiny, audit and enforcement to prevent GST evasion.

Benefit to business

- One time reporting on B2B invoice data as it is autopopulated to GST ANX-1 and E-way Bill Part A when E-Invoice is created
- It autopopulates Anx-1 and Anx-2(Sales and Purchase register) from E-invoice which in turn helps keep GST Return ready for filing.
- E-invoices created on one software can be read by another, allowing interoperability and help reduce data entry errors.
- As input credit details available to buyer in real time it leads to substantial reduction in input credit verification by the buyer

Benefit to government

- Elimination of fake invoices
- 1.E-invoice resolves and plugs a major gap in data reconciliation under GST to reduce mismatch errors.
- Lesser possibility of audits/surveys by the tax authorities since the information they require is available at a transaction level.

APPLICABILITY OF E-INVOICE AND RELATED NOTIFICATIONS:

Title	Notification No.	Date
CBIC notifies class of registered person required to issue GST invoice having QR Code	Notification No. 72/2019–Central Tax	13/12/2019
CBIC notifies rule 46 of CGST Rules, 2017 (Tax Invoice) wef 01.04.2020	Notification No. 71/2019–Central Tax	13/12/2019
CBIC notifies Class of registered person required to issue e-invoice under GST	Notification No. 70/2019–Central Tax	13/12/2019
CBIC notifies common portal for e-invoice under GST	Notification No. 69/2019–Central Tax	13/12/2019
CBIC amends Manner of Issuing Tax Invoice under GST	Notification No. 68/2019–Central Tax	13/12/2019

The GST Council approved the standard of e-invoicing in its **37th meeting** held on **20th September 2019** and accordingly, on **13th December 2019, Government has issued Notification No 68/2019 CT to 72/2019 CT**, laying down legal roadmap for E-Invoicing.

APPLICABLE FROM: **Applicable on voluntary basis from January 2020**

Applicable on mandatory from April 2020

APPLICABLE TO: Some class of person (These class of persons are explained people)

As per **Notification No. 70/2019 CT dated 13th Dec, 2019**, it be applicable,

- to registered person whose aggregate turnover in a financial year exceeds Rs 100 crore and
- In respect of supply of Goods/Services to Registered Person (B2B)

Clarifications relating to E-Invoice:

PREPARATION OF E-INVOICE: Many people think that e-invoice will be generated from government's tax portal. However, this is incorrect. Invoices will continue to be generated using an Accounting or billing software. Under E-Invoice, Invoice is prepared on ERP software and then JSON file from software will be created and that is required to be uploaded on portal.

CLASS OF PERSONS TO WHOM E-INVOICE IS APPLICABLE: it is applicable to all GST registered person. However as per Notification No 70/2019 CT dated 13th Dec 2019, it will be applicable if aggregate **turnover of a REGISTERED PERSON in a F.Y exceeds Rs. 100 Crore in of B2B transactions only.**

Type of Documents required to be reported to GST System (IRP):

1. Invoice by supplier
2. Credit note by supplier
3. Debit note by supplier
4. Any other document required under law

CONCEPT OF QR CODE:

As per **Notification No. 71/2019 CT & 72/2019 CT dated 13th Dec 2019:**





- QR Code (Quick Response Code) is applicable to Registered Person, whose aggregate turnover in a financial year exceeds Rs 500 Crore.
- Code will be mandatory on **Tax Invoice**, from 1st April 2020, on Supply to unregistered person (B2C). It is not applicable for supply to Registered Person.

The QR Code will consist of the following E-Invoice parameters:

GSTIN of supplier
GSTIN of Recipient
Invoice number as given by Supplier
Date of generation of invoice
Invoice value (taxable value and gross tax)
Number of line items
Unique Invoice Reference Number
HSN Code of main item (the line item having highest taxable value)

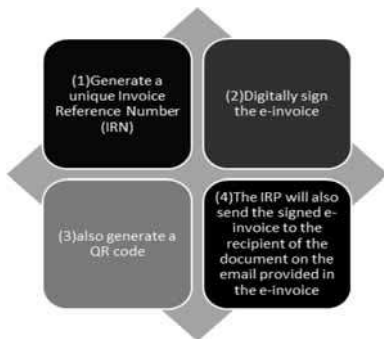
STEPS OF GENERATION OF E-INVOICE:

Heading	Description	
1. Seller generating invoice and JSON file	<p>Seller will generate Invoice in his own accounting system or billing system. Invoice must confirm to the e-invoice schema(standards) that is published by ICAI. Seller should have a feature in its ERP that will output invoice data in JSON format since Invoice registration portal (IRP) will only take JSON file. If the seller does not have this feature in its accounting software, he will be provided an offline tool to key-in data of invoice and then submit the same.</p> <p>(Note: All mandatory fields as per e-invoice schema must be filled. A mandatory field without any value can be reported as NIL.)</p>	

<p>2. Seller generating Invoice reference number</p>	<p>This step is optional step</p> <p>The seller generates the unique Invoice Reference Number (IRN) (In technical terms, this IRN is called as Hash).</p> <p>The seller can generate this and upload along with invoice date.</p> <p>The 3 parameters which will be used to generate IRN (hash) are:</p> <ol style="list-style-type: none"> Supplier GSTIN, Supplier's invoice number and, Financial year (YYYY-YY). <p>Note 1: The IRN or hash generation algorithm will be prescribed by GSTN in the e-invoice standard. As per GSTIN, the providers of accounting and billing software are being separately asked to incorporate this feature in their product.</p> <p>Note 2: IRN shall be unique to each invoice and hence be the unique identity for each invoice for the entire financial year in the entire GST System for a taxpayer.</p>	
<p>3. Seller uploading JSON with or without Invoice reference number (IRN)</p>	<p>Seller to upload the JSON of the e-invoice (along with the IRN/hash, if generated as per Step 2) into the IRP.</p> <p>The JSON may be uploaded directly on the IRP or through GSPs or through third party provided Apps).</p> <p>If IRN is not generated at step2, then IRP will generate IRN, based on JSON uploaded.</p>	
<p>4. Invoice registration portal validating and e-signing the invoice data</p>	<p>Then IRP will validate the IRN from Central Registry of GST System to ensure that the same invoice from the same supplier pertaining to same Financial Year is not being uploaded again</p> <p>On receipt of confirmation from Central Registry, IRP will add its signature on the Invoice Data as well as a QR code to the JSON</p> <p>GST Systems will create a central registry where hash sent by all IRPs will be kept to ensure uniqueness of the same.</p>	
<p>5. Sharing of E-invoice with GST System, E-way Bill Portal and the buyer</p>	<p>IRP after generation of IRN and signing the e-invoices will share the signed e-invoices along with the IRN to the GST System as well as to E-Way Bill System.</p> <p>Based on this, GST System will update the ANX-1 of the seller and ANX-2 of the buyer, which in turn will determine liability and ITC.</p> <p>E-Way bill system will create Part-A of e-way bill using this data to which only vehicle number will have to be attached in Part-B of the e-way bill.</p> <p>The registered invoice will also be sent to the buyer on their mail ids as provided in the invoice.</p>	

<p>6. Sharing of E-signed Invoice and JSON with the buyer</p>	<p>IRP returns the digitally signed JSON with IRN back to the seller along with a QR code.</p> <p>The registered invoice will also be sent to the seller on their mail ids as provided in the invoice.</p> <p>Note: It is advisable for suppliers to keep the IRN against each of its invoice in the ERP itself.</p>	
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ACTIVITY OF E-INVOICE PORTAL IN THE E-INVOICING PROCESS ARE AS FOLLOWS:



MODES OF GENERATION OF E-INVOICE:



Invoice Registration Portal:

For the purpose of E-Invoice compliance, below portals (Invoice Registration Portal (IRP)) will be provided as given in Notification no 69/2019 CT dated 13th Dec 2019 –

- | | | |
|--|---|---|
| 1. www.einvoice1.gst.gov.in ; | 2. www.einvoice2.gst.gov.in ; | 3. www.einvoice3.gst.gov.in ; |
| 4. www.einvoice4.gst.gov.in ; | 5. www.einvoice5.gst.gov.in ; | 6. www.einvoice6.gst.gov.in ; |
| 7. www.einvoice7.gst.gov.in ; | 8. www.einvoice8.gst.gov.in ; | 9. www.einvoice9.gst.gov.in ; |
| 10. www.einvoice10.gst.gov.in . | | |

Other Aspects on E-Invoice:

- **Signature on E-invoice** - E - invoice generated is not required to be signed again by the taxpayer. The e-invoice will be digitally signed by the IRP after it has been validated. Once it is registered on IRP/GST System, it will not be required to be signed by anyone else.
- **E-invoice Currency** – Default currency of E-Invoice will be INR. Seller can display the currency in E-invoice.
- **Line item of E-Invoices - The maximum number of line items per e-invoice is 100.** GSTIN should increase this limit. It may impact some of big companies.
- **Printing** – E-invoice can be printed. It is valid only if it has IRN.
- **Cancellation of E-Invoice** - The e-invoice mechanism enables invoices to be cancelled. This will have to be reported within 24 hours. Any cancellation after 24hrs could not be possible, however one can manually cancel the same on GST portal before filing the returns.
- **Number of Invoice copies** - No need to prepare triplicate (in cases of goods) or duplicate (in cases of services) copies of invoice.
- **No replacement of E-Way bill** - Invoicing does not replace E-way bill. It auto-populates Part A of the E-way bill.
- **Auto-populates GSTR Return and E-way bill** - It will eliminate the need for manual data entry while filing ANX-1/GST returns as well as generation of part-A of the e-way bills, as the information is passed directly by the IRP to GST portal.

* * * * *



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Online Gaming Industry – GST perspective

1.0 An overview of Online Gaming market in India

The advent of India’s online gaming industry can be dated back to 2000s, when console and PC gaming brought several middle-income group Indians on digital gaming platforms. During mid 2000s, online gaming was largely in the form of social games. This adoption was facilitated primarily through Games games by international developers. Indian development ecosystem acted primarily as service providers for international developers. Since then, India has been a volume based story enabled by rise in internet penetration and increase in smartphone user base. Online gaming market realized impressive volumes with 120 million online gamer(s) and market value estimated at ~ 290 million USD in 2016. (Source – KPMG report on online gaming).

2.0 What is Online Gaming?

Online gaming has not been defined under GST legislation. It may be identified on the basis of:

1. Channels used to procure or access the game
2. Device used to play and
3. Mode of game-play

Online game is procured or accessed through online channels and requires internet

in the primary game-play experience or monetization. Online games include all genres and can be played across single-player, multiplayer and massively multiplayer formats. The channel of playing online games could be browser based where gamers log in through web browser or it could be app based which could be downloaded through android or ios based app distribution stores.

3.0 Stages in online gaming

Stage 1 – Developer

The developer conceptualizes the concept, designs the game keeping the target audience in mind and then does the coding for the game. The aforesaid may be done by one or more persons, for the sake of convenience, the same has been clubbed under the head “Developer”.

Stage 2 – Checker

The checker investigates for any bugs in the software, hardware compatibility, porting, special effects and sound checking.

Stage 3 – Publisher

The publisher checks the compatibility with the distribution channels and places or distributes the games on android, ios and other app distribution platforms.

Stage 4 – Ultimate user

Downloads the game from

distribution channel either on payment of fee or otherwise.

4.0 Revenue streams in Online Gaming

The following are probable sources of revenue:

- a) in-app purchases
- b) in-app advertisement
- c) upgrades
- d) pay per download
- e) subscription
- f) Incentive from pay channels

5.0 “Online gaming” is covered under “Online Information Data Base Access and Retrieval (OIDAR) Services” in GST and therefore it is imperative we first understand OIDAR services in GST regime

5.1 What is OIDAR?

Section 2(17) of IGST Act defines OIDAR to mean *services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic services such as (i) advertising on the internet; (ii) providing cloud services; (iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet; (iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network; (v) online supplies of digital content (movies, television shows, music and the like); (vi) digital data storage; and (vii) **online gaming**;*

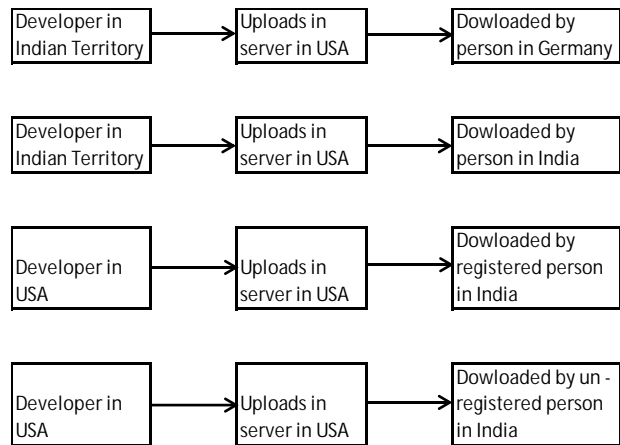
5.2 Place of Supply of OIDAR under GST

Section 13 (12) of IGST Act, 2017 settles the place of supply of online information and database access or retrieval services as the **location of the recipient of services**.

Location of the recipient of service could be in India or outside India as anyone can download the online gaming app. In certain cases, it has been clarified that a person receiving such services shall be deemed to be located in the taxable territory,

if **any two** of the following non contradictory conditions are satisfied:

- (a) the location of address presented by the recipient of services through internet is in the taxable territory;
- (b) the credit card or debit card or store value card or charge card or smart card or any other card by which the recipient of services settles payment has been issued in the taxable territory;
- (c) the billing address of the recipient of services is in the taxable territory;
- (d) the internet protocol address of the device used by the recipient of services is in the taxable territory;
- (e) the bank of the recipient of services in which the account used for payment is maintained is in the taxable territory;
- (f) the country code of the subscriber identity module card used by the recipient of services is of taxable territory;



In case, both the supplier of OIDAR Service and the recipient of such service are in India, the place of supply would be the location of the recipient of service i.e. it would be governed by the default place of supply rules. In case the supplier is in India and the recipient is outside India, the same would be out of tax net as the place of supply would be outside India. OIDAR services provided by entities outside India to a registered entity in India would also be taxable under reverse charge

under import of Services under section 21 of IGST Act, 2017.

5.3.1 What happens in cases where the supplier of service is located outside India and the recipient is located in India but the recipient is an unregistered entity in GST. In this case although the place of supply is in India yet since the recipient is not registered, how will the taxability take effect?

In such cases also the place of supply would be India and the transaction is amenable to levy of GST, but the problem would be, how such tax would be collected. It would be impractical to ask the individual in India to register and undertake the necessary compliances under GST for a one off purchase on the internet. As per Section 14 (1) of IGST Act, 2017, On supply of OIDAR services by any person located in a non-taxable territory and received by a non-taxable online recipient in India, the supplier of services located in a non-taxable territory shall be the person liable for paying integrated tax on such supply of services. The supplier of service located outside India either itself or through its authorized representative in India has to mandatorily take registration in India.

Non-taxable online recipient has been defined under Section 2(16) of IGST Act to mean any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory

5.3.2 What happens if a supplier of OIDAR services located in non – taxable territory supplies OIDAR services to a non-taxable recipient in India through an intermediary?

A developer of gaming app will supply such app through android or ios app distributor platforms or through google downloads. In such cases, Google, Apple IOS or the android entity

would become an intermediary. An individual downloading the app in India would be non-taxable recipient in India.

It has been provided in Section 14(1) of IGST Act, 2017 that in the case a supplier of OIDAR services located in non-taxable territory supplies OIDAR services to a non-taxable recipient in India through an intermediary, such **intermediary** shall be deemed to be the recipient of such services from the supplier of services in non-taxable territory and shall also be deemed to be supplying such services to the non-taxable online recipient.

5.3.3 Is there any exception to the deeming clause as laid down in 5.3.2 above?

The Intermediary shall not be deemed to be recipient of OIDAR services from supplier of OIDAR services located in non-taxable territory and shall also not be deemed to be supplier of services to the non-taxable online recipient when such intermediary satisfies the following conditions, namely:—

- (a) the invoice or customer's bill or receipt issued or made available by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory;
- (b) the intermediary involved in the supply does not authorise the charge to the customer or take part in its charge which means that the intermediary neither collects nor processes payment in any manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services;
- (c) the intermediary involved in the supply does not authorise delivery; and
- (d) the general terms and conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.

5.4 Summary of taxability of OIDAR Services based on aforesaid discussion is as below:

Location of Supplier of service	Location of recipient of service	Taxability	Forward Charge/ Reverse Charge	Examples
India	India	Yes	Forward Charge	Elon (registered in India) allows Indian users to download and play games Elon will charge GST on Indian users
Outside India	India	Yes	Reverse Charge	An Indian Co. (registered) asks BlueHost (US) for web hosting services. GST is payable by the Indian Co. under RCM.
	Recipient: Registered		(GST payable by the recipient)	
Outside India		Yes	Forward Charge	A student in India registers in Netflix (US) for watching movies. Netflix has to pay IGST in India.
	Recipient: Non-Taxable Person		(GST payable by the service provider)	
India	Outside India	No	NA	Elon allows foreigners to download and play games. GST is not applicable as it is an export of service
Outside India	Outside India	No	NA	Netflix (US) provides online movie streaming services to people in US.
		(Not covered under GST)		This is not covered in Indian GST.

In brief Tiger is engaged in providing the following services to Elon –

- a. Commercialization Services,
- b. Publishing the app and its updates,
- c. Advertising and Marketing the game,
- d. Exploiting the opportunities for In-App advertising.

Tiger shall deduct 50% of the revenue realized from aforesaid services and where the game does not generate any revenue, Elon is not bound to pay anything to Tiger.

Game will generate revenue from the following which will be initially entirely received by Tiger –

- a. App Download Fees,
- b. In-App Purchases and
- c. In-App Advertising Fees.

Tiger will deduct the following expenditure from the Gross Revenue collected to arrive at

the Net Revenue –

- a. Chargebacks and returns,
- b. Fees charged by third party platform,
- c. Actual spends on marketing by Tiger (media cost),
- d. Any indirect tax or duty

Further it is assumed that the game has been downloaded by users across the world including India.

7.0 GST implications on the aforesaid case study

7.1 The services clearly discernible in the aforesaid case study are as below:

- a) ELON, located in India, is developer of online gaming and is therefore a provider of OIDAR services
- b) Tiger Games, located outside India, provides a bouquet of services to Elon. It helps to publish the games at android and ios, conducts marketing activities for the

6.0 Hypothetical case study

Elon Games (P) Ltd., India (hereinafter “Elon”) has developed an online gaming application. Elon has entered into a Principal to Principal agreement with Tiger Games, Paris, France (hereinafter “Tiger”) where Tiger has agreed to publish the game developed by Tiger on Google and Android Platforms. Tiger Games is an independent mobile game studio specializing in the publishing, user acquisition and monetization of mobile games. Tiger Games publishes the games on Apple and Google Platforms hence serving both IOS and Android users. Game developers like Elon share the publishing rights of the game with Tiger Games after which Tiger Games guide the developers through each process to ensure their game is ready for its launch on the market. Tiger also provides inputs to the developers to enhance the design of their game to take it from a good game to a hit game. Tiger also provides round the clock support for development integrations and offer game design improvements as part of service.

app, arranges for in app advertisement and purchases etc.

As per section 14 of IGST Act, 2017, an intermediary is the one who facilitates or arranges the supply of OIDAR Services. In this case Tiger Games not only acts as a publisher intermediary but also provides a wide array of consulting and facilitation services to Elon including setting the general terms and conditions, collecting the revenue, defrayment of expenses etc.

- c) Google/Android/IOS platforms provide the medium for download of the gaming app to ultimate users. It may be noteworthy here that contract for listing of gaming app is between Tiger games and Google/Android/IOS platforms.

7.2 The taxability under GST legislation can be analysed through answers to the following questions:

7.2.1 **Whether Tiger located in Paris is giving any service to Elon in India? If yes, whether the same is taxable under GST Laws**

Tiger Games, located in Paris, is giving a bouquet of services to Elon located in India. Although the service recipient is located in India, services are provided outside India. Therefore the moot question is whether the services received by Elon are import of services liable to GST under reverse charge.

Section 21 of IGST Act, 2017 provides that Import of services made on or after the appointed day shall be liable to tax under the provisions of this Act regardless of whether the transactions for such import of services had been initiated before the appointed day.

Section 2(11) of IGST Act, 2017 defines import of services as :

“import of services” means the supply of any service, where— (i) the supplier of service is located outside India; (ii) the recipient of service is located in India; and (iii) the place of supply of service is in India;

In the instant case study, it is clearly established that the supplier of services is located outside

India and recipient is located in India. One has to ascertain if the place of supply of service is In India.

Services provided by Tiger Games are mixed bag of services. **It not only facilitates publishing** of game online, it also provides other services such as **providing IT consultancy, finalizing deals relating to advertisements, product placements etc, collection of revenue etc.** Hence it is difficult to classify the services under one head. It includes OIDAR services, consultancy services, intermediary services etc

Section 13 of the IGST Act, 2017 lays down the place of supply of services where atleast one of the supplier or recipient of service is located outside India. As a general Rule, place of supply of service is the location of recipient unless otherwise stated for specific services.

- For intermediary services, the place of supply shall be the location of the supplier of services
- For OIDAR services, the place of supply shall be the location of the recipient of services
- For IT Consultancy and other services, the place of supply shall be the location of the recipient of services

Apropos the variety of services provided by Tiger Games place of supply of some fall in India and some outside India. Therefore in case the consideration against the same is not divided and specific to the services, according to us IGST has to be paid by Elon on the entire portion of revenue retained by Tiger Games under import of services.

7.2.2 **Whether Elon is giving any service to Tiger?**

Elon is giving the rights to publish the game to Tiger. Such transfer of publishing rights is a service provided by Elon to Tiger. Tiger being situated outside India, such sharing of published of rights will be export of services in GST.

Section 2(6) of IGST Act, 2017 defines “export of services” as *the supply of any service when,—*

(i) the supplier of service is located in India; (ii) the recipient of service is located outside India; (iii) the place of supply of service is outside India; (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange; and (v) the supplier of service and the recipient of service are not merely establishments of a distinct person

7.2.3 Whether Elon is giving any service to Users of the Game app?

Elon is developer of online gaming app and publishes the same through intermediaries such as Tiger, Google, Android and IOS. Section 14(1) talks about intermediary being deemed recipient of services only when the supplier of service is located in non-taxable territory and not otherwise. In this case since Elon is located in India, therefore service recipients would be users of online gaming app. Subject to Section 13(12) of the IGST Act, 2017, Elon will not charge IGST on users located outside India and have to charge GST on users located in India.

It is however relevant to discuss the definition of “Supplier” as per Section 2(105) of the CGST Act 2017, which states that “*supplier in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied.*”

Section 2 (5) of CGST Act, 2017 defines “agent” as a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of

another,

On a perusal of the aforesaid definitions, one may contend that Tiger Games is an agent of Elon and supplies services to users of the app on behalf of Elon and hence would be a supplier. However in the instant case study, we find that gross revenue is linked with and booked by Elon and the amount retained by Tiger is booked as expenses. Also the intent of the parties are to keep the agreement on principal to principal basis. Further even on listing, Elon as Developer has been clearly mentioned. Therefore as per our inference, Elon will be the service provider to users.

7.2.4 Whether Tiger is giving any services to users of the Game app?

Although one may contend based on arguments discussed in para 7.2.3 above that Tiger Games is providing services to users. However according to our interpretation, Tiger is providing publishing services to Elon as per the terms of the agreement. The game is developed by Elon which is located in India. It is clearly mentioned on the games listed that Tiger is publisher and Elon is the Developer. In none of the scenarios therefore is Tiger providing any sort of services to the end users.

Conclusion

Taxability of OIDAR services will largely depend upon the terms of agreement between Developer, Intermediaries and users. The aforesaid is only one of the hypothetical scenarios and one may come across more varied terms and conditions which might change the character and consequentially leviability of GST on the transaction.

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Dr. APJ Abdul Kalam inspirational quotes :

“If a country is to be corruption free and become a nation of beautiful minds, I strongly feel there are three key societal members who can make a difference. They are the father, the mother and the teacher.”



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Issuance of Notice to Non-filers

Standard operating procedure (SOP) for issuance of notice to Non- filers of GST returns. (Section 46 of CGST Act, 2017)

To resolve the Doubts that have been raised across the field formations in respect of the appropriate procedure to be followed in case of non-furnishing of return under section 39 or section 44 or section 45 of the Central Goods and Services Tax Act, 2017.

The Department has issued a Circular (**129/48/2019** dated 24th December 2019) in pursuance of the powers conferred by section 168(1) of CGST Act,2017, requiring the Non-filers of GST returns to furnish the return within 15 days of such notice.

Further,

Section 39 of CGST Act, 2017 provides for the manner, conditions and time for furnishing of return by different categories of registered person *viz.*

GSTR-3B (Normal registered person)

GSTR-4 (Composite dealer)

GSTR-5 (Non- resident person)

GSTR-6 (Input service distributor)

GSTR-7 (Person deducting TDS)

Section 44 of CGST Act, 2017 requires furnishing of Annual return by specified person.

Section 45 of CGST Act, 2017 requires furnishing of Final return by those persons whose registration has been cancelled.

The move is part of a strategy to ensure better compliance and filing of GST return. Thus, the proposed start will effectively result in negative consequences for those taxpayers who are not filing return even after repeated follow ups.

Standard Operating Procedure for the issuance of notice.

1. A system generated message would be sent to all registered person – before 3 days of the due date as a reminder to file the return on time.
2. If the said return is not filed on time then a System generated mail/ message would be sent to the Non-filers who has not filed the return to the effect that they have not furnished the return for the said tax period – immediately after the due date. (It will be sent to Authorised signatory as well as to the proprietor/ partner/ director/ Karta, etc.)
3. Five days after the due date a notice in the **FORM GSTR-3A** shall be issued electronically to the above-mentioned person who fails to furnish such return, requiring him to furnish such return within 15 days.
4. If the return is still not filed by the defaulter within 15 days of the said notice then the proper officer may proceed to assess the tax liability under section 62 of CGST Act, to the best of his judgement taking into account all the relevant material which is available with him *viz.*

Form GSTR-1,
 Form GSTR-2A,
 E-way bills,
 Inspection under section 71,
 or any other information available with him.

Order of the same will be issued in **Form GST ASMT-13** (under rule 100 of CGST Rules, 2017) and summary of such order will also be uploaded by the proper officer in **Form GST DRC-07**.

5. If the return is filed within 30 days of the service of assessment order then the said assessment order shall be deemed to have been withdrawn and if in case it remains unfurnished then proceedings under section 78 and recovery under section 79 of CGST Act may be initiated.
6. Based on the facts of case, the commissioner may resort to provisional attachment to protect revenue under section 83 of the CGST Act before issuance of Form GST ASMT-13.
7. Also, Proper office may initiate action under section 29(2) of CGST Act for the cancellation of registration.

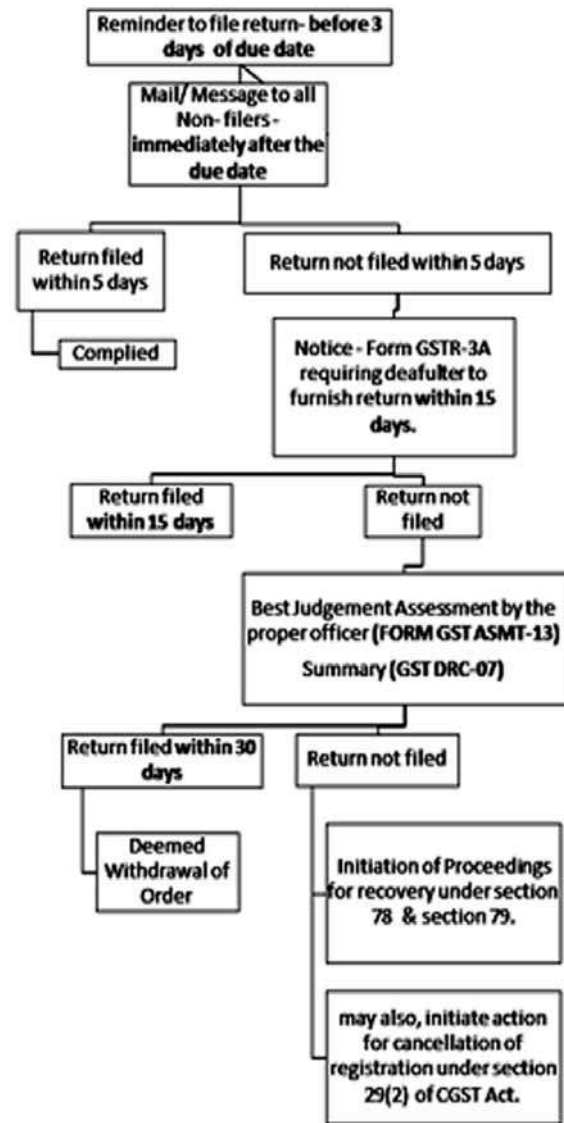
Our View: A bird's-eye view on this circular gives a understanding that if a taxpayer fails to furnish the return even after issuance of the Notice (FORM GSTR-3A) then immediately the proper officer may proceed to assess the tax liability and issue assessment order to the best of his judgment under section 62 of CGST Act, 2017.

Section 62 provides that an assessment order may be issued within a period of 5 years from the date specified under section 44 for furnishing of the Annual return for the Financial year to which the tax not paid relates, which means best judgment assessment order can only be passed after the due date of Annual return for such financial year.

Thus there seems to be ambiguity as how this circular will curb the non-furnishing of return by the defaulters.

We expect that department will come with some clarification on this shortly.

Summary :



* * * * *

Dr. APJ Abdul Kalam inspirational quotes :

“If a country is to be corruption free and become a nation of beautiful minds, I strongly feel there are three key societal members who can make a difference. They are the father, the mother and the teacher.”



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Intricacies of Place of supply of goods

Introduction

Place of supply determines the State or Union Territory to which the SGST portion of the revenue accrues. Even if a person pays the correct nature of tax (say IGST) but declares the wrong place of supply in his return, he may arguably be required to bear the burden declaring the correct place of supply, paying the tax again and then only seeking for a refund of the taxes wrongly paid during the departmental proceedings. Apart from this, there can be multiple other reasons why place of supply should be declared correctly as under:

- Input tax credit can only be taken by the recipient if the place of supply declared by the supplier is in the same State where the recipient is registered
- To determine if input tax credit is to be distributed by means of ISD where service is received at one or more locations and the invoice is received at another location
- To determine which State gets the share of revenue from any particular supply
- To find out which nature of tax should be charged i.e. CGST and SGST or IGST
- Where the supplier is located outside India and recipient in India, it helps in knowing whether the supply constitutes import or is not taxable at all
- Where the supplier is in India and the recipient outside

India, it acts as a factor for determination whether the supply can be said to be export or not.

Place of supply of goods provisions can be seen from Section 10 and 11 of the IGST Act 2017. Following are the scenarios which may arise in this regard:

1. Domestic Supplies

a. **Where supply involves movement** - the place of supply would be the location of goods at the time at which movement terminates for delivery to recipient i.e. address of delivery of the recipient.

'Movement of goods' can be said to be mean the displacement of goods from one location to other. However, any movement of goods made by any person which falls beyond the knowledge purview of the supplier, then the supplier cannot be in a position to determine where the movement terminates for delivery. Thereby, an assumption can be drawn in such a situation that no movement has occurred within the understanding of the supplier. For determining whether the supplier is aware of the place where movement terminates, the covenants of the contract becomes extremely significant.

If the taxpayer had manufacturing facility in Haryana and sales office in Delhi, in pursuance of the purchase orders, if goods were manufactured at the factory and sold from the Delhi office, the question was whether the sale would be an inter-

state sale even if the contract of sale does not itself provide for the movement of goods from one state to another. It was held that such movement was the result of a covenant in the contract of sale or was an incident of the contract.¹

Where the supplier is involved in the movement of goods, he is aware of the place where he finally delivers the goods to the recipient. The place where the supplier delivers would be the place of supply.

Where the recipient is involved in the transportation and where the recipient provides his GSTIN and his final address where he intends to take the goods, then that address as provided by the recipient should be the place of supply even though the recipient takes delivery at the supplier's premises.

Another view that may arise here is that since the supplier had transferred the possession of the goods along with the risk and rewards as soon as the goods left the supplier's premises, the location of the supplier's premises should be considered as the place of supply. However, the author does not subscribe to this view. 'Where the movement terminates for delivery to the recipient' should be read very strictly and only refers to the destination at which the movement finally stops.

A sale which occasions movement of goods from one State to another is a sale in the course of inter-state trade, no matter in which State the property in the goods passes. It is not necessary that the sale must precede the inter-state movement in order that the sale may be deemed to have occasioned such movement. It was further held that it is also necessary for a sale to be deemed to have taken place in the course of interstate trade or commerce that the covenant regarding inter-state movement must be specified in the contract itself. It would be enough if the movement was in pursuance of and incidental to the contract of sale. If the movement of goods from one State to another was the result of a covenant or an incident of the contract of sale, then the sale was an inter-state sale.²

Whether the goods are delivered by the supplier or the same is done on their own by the recipient is merely a matter of whether the terms and cost of delivery of the supplier is acceptable to the recipient or not. Also, there may be situations when the supplier may

not have the means of getting the goods delivered to the recipient. In all such cases, whether the supplier or the recipient is involved in delivery, movement of goods occur in both the situations and the delivery termination also happens at the same location.

Further for the seamless flow of credit and availability of input tax credit in the hands of the recipient in his state, the place of supply should be the destination State even where movement is caused by the recipient. If the location of supplier is taken as the place of supply, it defeats the whole purpose of GST and cuts the wing of recipients who wish to move the goods on their own. This surely cannot be the intent of the law.

Thereby, the destination of the goods is to be seen even where movement is caused by the recipient.

Illustration: *A distributor in West Bengal goods from a wholesaler in Gujarat on FOR basis. The terms of the contract require the carrier to be arranged by the supplier and the supply would be complete only if the goods reach the destination safely. Here, the movement of goods is made by the supplier. Therefore, the location where the movement terminates i.e. West Bengal would be the place of supply.*

Illustration: *A wholesaler buys goods directly from the factory of the manufacturer at Bihar on an ex-factory basis. The wholesaler obtains delivery of the same at the factory gate and declares the destination of goods as Madhya Pradesh. Thereafter, he takes the goods to his godown for supply at Madhya Pradesh. This refers to the situation of movement of goods by the recipient. Hence, the place of supply would be the place where the movement of goods terminates for delivery to the recipient i.e the godown at Madhya Pradesh.*

b. Where goods do not move – Where the goods do not involve movement but are simply sold at the place where it stands, then the place of supply should be when the goods are made available by the supplier to the recipient. This can include off the counter sales in case of retail shops. Manufacture of mould necessary for supply of parts. Further in situations where the supplier sells the goods without having the address of the recipient on record, he has to deem that the goods do not involve movement and the place of business of the supplier would be deemed as the place of supply.

Illustration: *A customer from Kolkata on a visit to Mumbai buys a leather jacket from a shopping mall*

¹ K. G. Khosla and Co Ltd AIR 1979 SC 1160 in Supreme Court.

² Oil India Ltd v Superintendent of Taxes AIR 1975 SC 887

at Mumbai. The supplier of goods does not ask for the destination of goods nor the customer submit the same. No GSTIN was declared by the customer as well. Here, the person supplying the goods does not know the destination of goods. In fact, he doesn't even know if any movement would occur outside the state or not. This would be covered in the case wherein supply does not involve movement of goods. Therefore, the place of supply would be the location of goods at the time of delivery to the recipient i.e. Mumbai.

c. Where goods are delivered on direction of a third person - Where the goods are delivered by Mr. A to Mr. C on the direction of Mr. B, the place of supply for the transaction between Mr. A and Mr. B would be the principal place of business of Mr. B. For the transaction leg between Mr. B and Mr. C, the place of supply would be that of Mr. C. This is an exception to where movement terminates for delivery to the recipient. This is because though Mr. B never receives the goods and may not be involved at the movement at all, still his place of business is considered as the place of supply for the first leg of the transaction. This would be so irrespective of when the recipient provides direction to the supplier i.e. before or after the commencement of the movement of goods.

Illustration: A wholesaler in Jharkhand asks a manufacturer in Maharashtra to directly deliver goods to a retailer in Gujarat. Here, there would be two supplies that would be deemed to have taken place. First would be the supply between the manufacturer in Maharashtra and wholesaler in Jharkhand for which the place of supply would be Jharkhand. The second would be the supply between the wholesaler in Jharkhand and the retailer in Gujarat for which the place of supply would be Gujarat.

Illustration: An agent in Kolkata procures an order for fibres from a dealer in New Delhi for delivery to his principal at Mumbai. Since, the goods are delivered on direction of a third person (agent in Kolkata), the first supply would be the principal place of business of the agent i.e. Kolkata. The second supply would be between the agent in Kolkata and the principal in Mumbai for which the place of supply would be Mumbai.

Illustration : An agent in Delhi asks a manufacturer in Kolkata to deliver goods to a retailer in Kolkata. In this case there would be two supplies that would be

deemed to have taken place. First would be the supply between the manufacturer in Kolkata and the agent in Delhi. The Second Supply would be between agent in Delhi and the retailer in Kolkata

Note: In the above example although the goods are not being moved outside Kolkata, the Manufacturer in Kolkata would charge IGST because the Place of Supply of Goods would be Delhi.

2. Export and Import

a. Export – Export of goods specifically involve taking the goods outside India. In such cases, the place of supply would be the location outside India where the goods are exported. Since, this has been further classified as a zero rated supply, no tax is leviable upon such a transaction and the input tax credit is also admissible against such supplies. Mechanism and alternatives of refund in such cases has already been prescribed in the law.

Illustration: Jute goods are exported by a jute manufacturer in Kolkata to a dealer in Texas, USA. The place of supply in this situation would be Texas, USA i.e. the location outside India.

b. Import – Import of goods refers to bringing goods into India from a place outside India. In such a situation, the location of the importer is taken the place of supply. While importing goods, the bill of entry has to be filed by the importer through which he makes the payment of GST as well.

Having said this, there are a number of situations wherein the goods are bought by both traders and consumers online from outside India. In the case of traders, they usually sell these under the imported premium segment. In most of these cases, the online retailer would have their own custom housing agent for clearance of goods from the port after payment of tax. Thereby, the responsibility of the delivery of goods completely fall on the online retailer for which they may obviously charge premium from the buyer. The place of supply in such cases would also be India as the bill of entry for home consumption would also be filed within India.

Illustration : A showroom in Kolkata imports certain goods from Italy. For this, the place of supply would be Kolkata i.e. the location of the importer.

* * * * *



CA Aditya Dhanuka
Kolkata

Cryptocurrencies & GST

Over the past few years, digitization and technology have taken over everything by a swarm. No one and nothing are spared by this wave. Whether young or aged, whether buying articles or ordering food, everything is now overtaken and governed by technology.

Payments systems specifically have taken a huge turn, especially after demonetization. Post 8 Nov 2016, India has taken a quantum leap towards a cashless economy and digital payments have been taking over since. While previously the only payment methods we discussed were cash and bank, in the last couple of years so many new avenues have come into existence being – USSD, AEPS, UPI, IMPS, Mobile Wallets and it goes on.

However, while the masses have acclimatized to the above, slowly over the last 10 years another currency format has been growing behind the scenes – Cryptocurrencies.

While the above payment methods discussed involve the circulation of actual currency, cryptocurrencies are totally virtual and are in fact a digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds, operating independently of a central bank.

This started off way back in 2009 with the most popular of the cryptocurrencies known today – BITCOIN. However, over the past decade not only has Bitcoin gained

traction, but a host of other virtual currencies have also cropped up, some notable ones being – Litecoin, Ethereum, Dogecoin, Ripple and so on.

Bitcoins which were initially a dollar a piece, over the years gained value to over \$15000 and right now is trading at around \$7200 for a single unit. This currency, and other cryptocurrencies for that matter, work on blockchain technology wherein transactions are verified by network nodes through cryptography and recorded in a public distributed ledger.

In the blockchain, bitcoins are registered to bitcoin addresses. Creating a bitcoin address requires nothing more than picking a random valid private key and computing the corresponding bitcoin address. This computation can be done in a split second. But the reverse, computing the private key of a given bitcoin address, is mathematically unfeasible. Users can tell others or make public a bitcoin address without compromising its corresponding private key. Moreover, the number of valid private keys is so vast that it is extremely unlikely someone will compute a key-pair that is already in use and has funds. The vast number of valid private keys makes it unfeasible that brute force could be used to compromise a private key. Thus, there is no tracking mechanism for this currency or its owner.

Bitcoin's anonymity encourages money laundering and other crimes,

and therefore while India also has slowly caught up to this rage and trading volumes started skyrocketing among individuals and entities; the Indian Government found the concerns over this currency more worrisome and therefore in February 2018 announced that bitcoin or such other crypto currencies will not be considered as legal tender in India. Further, the RBI also issued a release in April 2018 that any bank or financial institution regulated by RBI will not deal in virtual currencies.

But then while the same is being regulated in India and many other countries, its importance cannot be understated. Even Facebook has reported to launch its own cryptocurrency in June 2019 and would offer its employees the choice to take it as salary. The same going by the name of 'Libra' would be released early next year.

Now the government has not made trading illegal yet, however there is no support or any resort in case of any scam to the affected parties. An inter-ministerial panel set up by the government to look into this has on June 2019 confirmed that it will soon submit its report to the finance ministry. While the majority are hoping for the government to provide some leniency and not ban this currency, the Reserve Bank of India has maintained its hard-line stance on not allowing privately owned cryptocurrencies in India, but said that it would 'seriously' consider developing a sovereign digital currency when the time is 'appropriate'.

Killing the aspirations of several private companies experimenting with digital currencies such as Facebook and JP Morgan Chase, and other blockchain enabled cryptocurrencies vying for Indian markets, RBI governor Shaktikanta Das added that currency issuance is a sovereign mandate which will not be handed over to a private company.

However, until then, in the current scenario those involved in this transaction are also subject to the tax regime prevailing over the transactions. While Income tax would be charged on the margin over buy and sell price, this article aims to discuss on the impact of GST on these virtual currencies.

Applicable clauses in GST which have an impact on this are first discussed herewith :-

As per Section 2(52) of the CGST Act – “goods” means

every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;

As per Section 2(102) of the CGST Act – “services” means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

The important words to focus here are money and securities-

As per Section 2(75) of the CGST Act – “money” means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;

As per Section 2(101) of the CGST Act – “securities” shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956;

As per Section 2(h) of the Securities Contracts (Regulation) Act, 1956 – “Securities” include

(i) shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;

[(ia) derivative;

(ib) units or any other instrument issued by any collective investment scheme to the investors in such schemes;]

[(ic) security receipt as defined in clause (zg) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;]

[(id) units or any other such instrument issued to

the investors under any mutual fund scheme.]

[Explanation.—For the removal of doubts, it is hereby declared that “securities” shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a combined benefit risk on the life of the persons and investment by such persons and issued by an insurer referred to in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938);]

[(ie) any certificate or instrument (by whatever name called), issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case may be;]

(ii) Government securities;

(iia) such other instruments as may be declared by the Central Government to be securities; and

(iii) rights or interest in securities;

So, Cryptocurrencies are neither classifiable as securities nor as money since the same is not recognised by the Reserve Bank of India. Also, since the same is not tangible, it cannot be called as goods also. Resultantly it is classifiable as services.

However, another school of thought is that the same should be classified as goods, going by the FAQ on IT/ITES released by CBIC wherein it has been clarified that where a pre-developed or pre-designed software is supplied in any medium/ storage (commonly bought off-the-shelf) or made available through the use of encryption keys, the same is treated as a supply of goods classifiable under heading 8523.

On account of the above ambiguity on classification and more on the taxability itself, news was also doing the rounds that some of the big players in India are planning to approach the Advance Authority of Ruling (AAR) to provide clarity on the queries.

While there are no clear guidelines on this transaction structure till date, but whether classifiable as goods or services, cryptocurrencies are as of today taxable in India @ 18% and therefore trading in this segment while can be highly rewarding, however would definitely entail a tax obligation.

* * * * *

Swami Vivekananda gave this iconic speech that every Indian knows :



“After every happiness comes misery; they may be far apart or near. The more advanced the soul, the more quickly does one follow the other. What we want is neither happiness nor misery. Both make us forget our true nature; both are chains—one iron, one gold; behind both is the Atman, who knows neither happiness nor misery. These are states, and states must ever change; but the nature of the Atman is bliss, peace, unchanging. We have not to get it, we have it; only wash away the dross and see it.”

CA Shrikant Balakrishnan
Bengaluru

GST on salary is absurd, but how exactly?

Introduction

“That’s ridiculous, I’m an employee of all branches of the Company” quipped a CEO. Of course, there’s para 1 in schedule III which clearly states that ‘transaction between Employee and Employer’ is neither a supply of goods nor a supply of services. What then is all the melee about? Where’s the need for a paper on this ‘non-issue that’s no-supply’?

Services performed by the Employee under a ‘contract of employment’ requires an unequivocal statement in para 1 in schedule III to state that is neither a supply of goods nor a supply of services. But that’s limited to ‘services by’ employee to employer (and not the other way around).

Does schedule III contain a ‘declaration’ or ‘affirmation’ of no-supply? If it’s a declaration of legislative intent, then it would be a supply that is saved from the incidence by finding mention in schedule I. And if it’s an affirmation, then it would not even be considered a supply. And that, if nothing, is reason enough to attempt a paper about exactly how absurd is this proposition – GST on Salary.

Contract lies at the heart of supply

Even as we keep discovering the full extent of the meaning of this remarkable term ‘supply’, it is unmistakable that ‘contract’, with all its ingredients, lies at the very heart of supply. And so, where contract fails, supply (must) fail. But

a transaction might well constitute a contract yet not be a supply for managing to duck each of the 8-forms that supply takes. By that reasoning (and leaving the words ‘such as’ and ‘including’ found in section 7(1) for another paper), contract would therefore be the superset and supply a subset.

Capacity to contract, lawful object, valuable consideration and free consent are a must in every form that supply takes. If any of these ingredients is missing, then contract fails hence supply fails. Of these ingredients, of particular interest is ‘valuable consideration’.

Consideration, whether in monetary or non-monetary form, must be valuable. That is, it cannot be nominal say, Re.1 that is admitted in a contract merely to document the agreement. Courts have held nominal consideration to be ‘no consideration’. But the same Courts have accepted monetary value of Re.1 to be part of the consideration where there’s yet another part that is valuable but non-monetary.

Nominal consideration is not same as adequate consideration. Adequacy is the opinion of Promisor (or consenting Payee of consideration) but valuable is the opinion of a reasonable man of commerce. Nominal consideration is clearly no consideration and cannot therefore be valuable at all. When anything is stated to be supplied for Re.1, it is NOT a lawful consideration for that transaction.

Purpose of schedule I

Missing ingredients of a valid contract are attempted to be furnished-by-fiction in each case specified of listed in schedule I. It is legislative will, to overlook these missing ingredients but in specific cases only. Schedule I does not attempt to write new jurisprudence on Contract law but for furthering its own objectives, furnishes missing ingredients to authorize reading into these (specified) transactions, a contract-like situation, so that supply survives in these cases. That there's a need to furnish-by-fiction certain missing ingredients is proof enough that 'contract lies at the heart of supply'.

Four specific instances in schedule I are reasonably circumscribed and deviate from Contract law principles. And this fiction is necessitated due to another fiction, that of 'distinct person' created by GST law. But for this fiction (of distinct person), there would have been no requirement for schedule I. Without launching into a detailed discussion of each para in schedule I, suffice to lay it out in tabular form and leave to reader's insightful understanding:

Schedule I	Capacity to Contract	Object of Contract	Valuable Consideration
Permanent transfer	✓	✓	✓/✗
Supply (goods and services) between related and distinct persons	✓/✗	✓	✓/✗
Supply (goods) between Principal-Agent	✓	✓/✗	✓/✗
Import (services) from related persons or own establishment	✓/✗	✓	✓/✗

Stock transfer of goods

Taxes paid on goods held in one State (by distinct person 'A') need to flow to the State to which the goods are moved. When goods are moved to another State (to distinct person 'B'), taxes located in State 'A' cannot remain there. To enable credit flow to State 'B', movement of goods between distinct persons (both belonging to same person or legal entity) are 'treated' as supply by fiction in schedule I.

When it comes to payment of GST on movement of goods between distinct persons, there's very little resistance because the physical relocation of goods from State 'A' to State 'B' is inarguable. But it is not free from argument when it comes to services.

Very nature of internal stock transfer is that there will be no written contract for the reason that there is no

occasion for its enforcement against oneself. Hence, supply by fiction between distinct persons must be identified by examining a two-step process, namely:

- (i) distinct person who accepted external obligations towards Clients; and
- (ii) role played by other distinct persons in its fulfilment.

Stock transfer of services

ISD is an 'office' that 'receives invoice and distributes credit'. ISD is not another distinct person capable of making outward supplies of its own. ISD is 'distributor' of credit in respect of inward supplies which are enjoyed or consumed or availed by other distinct persons who are capable of making outward supplies. It is for this reason that ISD must 'zeroise' all credits each month and verification of 'eligible-ineligible' will be in the hands of that distinct person who accepts distribution.

Services billed to any registered location needs to be examined whether those inward supplies are received for consumption or received for distribution. And the difference lies in capacity of the location (receiving inward supplies) to consume those inward supplies such that they extinguish in the hands of receiving distinct person and do not remain in any form.

Say, export contract received by software services company in Bangalore is performed partly from Bangalore (60% of project) and partly from Chennai offices (40% of project). Contract fulfilment of zero-rated supply is by Bangalore (distinct person) along with repatriation of forex. P&L of Bangalore distinct person records 100% of revenue with cost of 60% whereas P&L of Chennai distinct person records 0% revenue with 40% of cost. GST law regards collaborative work on this export project to be regarded as (i) export by Bangalore distinct person and (ii) subcontract works by Chennai distinct person. Unless contract itself were split and awarded to each distinct person (which must comprise of intelligible division of total project), it is unimaginable that there's no subcontracting *inter se*. Services of Chennai distinct person are consumed and get merged into the overall scope and deliverables of the Bangalore distinct person who is the one effecting the zero-rated supply.

When there's movement of services from one distinct

person to another who are both capable of making outward supplies severally (and not merely operating as distributors of credit), it would not be so ridiculous to locate 'stock transfer of services'. And once 'service transfers' are admitted, valuation would be based on OMV. As in the case of stock transfer of goods, there will be no contract for service transfers and must still be identified by the same two-step process, namely:

- (i) distinct person who accepted external obligations towards Clients; and
- (ii) role played by other distinct persons in its fulfilment.

Supply by Head Office

Head Office of a Company does not perform any contracts from Clients. Client-contracts are fulfilled by factory in manufacturing goods ordered and service centre undertakes repairs and maintenance activities.

Even then, Head Office is not a 'distributor' of credits but when auditor's issues their report along with their invoice, Head Office cannot be relegated to 'receive invoice and distribute credit' but Head Office reviews auditors' report, understands their observations and translates them into 'management decisions'. These management decisions are converted into instructions which are different for the factory and for the service center.

FAQ issued by Government for BFSI sector brings this out in Q54 to Q56 where Head Office of banks are said to be providing 'management and oversight services' to various branches. It would uncharitable to the role played by the Board and various Committees operating from Head Office to be considered as 'not making any supply' unless they too are either involved in manufacturing or servicing operations. Each distinct person is established with different capabilities that are necessary to collectively further the business of the legal entity.

Conclusion

Just as office space, power and utilities enjoyed by Employees are admitted as utilized by their Employer, contracts fulfilled by Employees are admitted as fulfilled by their Employer, who is a legal entity. Artificial legal entities neither consume office space, power and utilities themselves nor do they fulfil contractual obligations. But by operation of law, a certain state of affairs is required to be assumed where action of the Employee are imputed to be action by Employer.

Actions of Employee to their Employer is saved by schedule III and not actions of Employers to their Clients which actually were performed by the resources and capabilities of its Employees. When fiction of 'distinct person' is admitted, that fiction begs to be carried to its logical end and this is made feasible by the two-step process:

- (i) distinct person who accepted external obligations towards Clients; and
- (ii) role played by other distinct persons in its fulfilment.

Where there's an office in any State with some real purpose for its existence and is adequately staffed who are gainfully occupied performing a real role in fulfilment of obligations towards third parties and is does not merely 'receive invoice and distribute credit', every such office would be liable to answer for the supply whose ingredients are furnished-by-fiction through schedule I.

When we find such an office located in any State, there's a rebuttable presumption operating and the onus lies on taxpayer to extricate himself from the results of examination by the two-step process that seems to operate in favour of revenue. And unlikely that GST law would be satisfied with the defence that "it's ridiculous!"

Dr. APJ Abdul Kalam inspirational quotes :

"Why are we, as a nation so obsessed with foreign things? Is it a legacy of our colonial years? We want foreign television sets. We want foreign shirts. We want foreign technology. Why this obsession with everything imported?"

ACAE ACTIVITIES AT A GLANCE

SL. NO.	DATE	DETAILS OF PROGRAMME	VENUE	SPEAKER/INITIATOR	SUB-COMMITTEE
1	18.09.2019	Group Discussion on (1) Disputes and Legal Sanctity of various actions by Department	ACAE, Emami Conference Hall	Adv CA Avinash Poddar, Surat	CA Pramod Kr Mundra <i>Chairperson - Group Discussions</i>
		(2) Issues related to Income-Tax Return Filing - organised jointly by ACAE and AIFTP		CA Ayush Goel, Kolkata	
2	01.10.2019	3CPE Hrs Lecture Meeting on Recent Scheme of E-Assessment under Income-Tax Act, 1961	ACAE, Emami Conference Hall	CA S S Gupta, Kolkata	CA Ramesh Kr Patodia <i>Chairperson - Direct Tax</i>
3	15.10.2019	3CPE Hrs Lecture Meeting on (1) Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019	ACAE, Emami Conference Hall	CA Ankit Kanodia, Kolkata	CA Shivani Shah <i>Chairperson - GST/ Indirect Tax</i>
		(2) Recent Amendments in GST including Real Estate		CA Vikash Parakh, Kolkata	
4	17.10.2019	Group Discussion on Compliance of Income Computation and Disclosure Standards - ICDS -I, ICDS - II, ICDS - III & ICDS - IV	ACAE, S S Agarwala Committee Room	CA Vivek Newatia, Kolkata	CA Pramod Kr Mundra <i>Chairperson - Group Discussions</i>
5	18.10.2019	3CPE Hrs Lecture Meeting on Mergers & Acquisitions and Case Studies on Corporate Restructuring	ACAE, Emami Conference Hall	CA Mohit Bhuteria, Kolkata CA Vivek Newatia, Kolkata	CA Sumantra Guha <i>Chairperson - Corporate Laws</i>
6	20.10.2019	Discourse on Role of Principles and Ethics in Contemporary Profession - organised by Shree Digamber Jain Muni Sangh Vyavastha Samity (Upsamity), Kolkata and Associate Co-ordinator : ACAE	Shree Parasnath Digamber Jain Temple, Belgachia, Kolkata	Jain Muni, Ganacharya Sri Virag Sagar Ji Maharaaj	
7	22.10.2019	3CPE Hrs Lecture Meeting on Advanced Excel for Auditors - Solver, Pivot Table, Slicer, Power Pivot with Power query, Vlookup vs Xlookup, Go to special, Transpose using formula	ACAE, Emami Conference Hall	CA Sanjib Sanghi, Kolkata	CA (Dr.) Debashis Mitra <i>Chairperson - Accounts & Audit</i>
8	07.11.2019	3CPE Hrs Lecture Meeting on (1) LL Conversion and Taxation Issues (2) E-Assessment and Faceless Assessments : Boon or Bane	ACAE, Emami Conference Hall	CA Mohit Bhuteria, Kolkata CA R R Modi, Kolkata	CA Ramesh Kr Patodia <i>Chairperson - Direct Tax</i>
9	08.11.2019	Bijoya & Deepawali Get-together	Ideal Banquets & Gardens, Kolkata		CA Samya Sengupta <i>Chairperson - Fellowship</i>
10	11.11.2019	Group Discussion on GST Annual Return and GST Audit	ACAE, S S Agarwala Committee Room	CA Vikash Kr Banka, Kolkata	CA Pramod Kr Mundra <i>Chairperson - Group Discussions</i>
11	14.11.2019	Group Discussion on Importance of 2A Reconciliation with Accounts and 3B and other Relevant Amendments in GST	ACAE, S S Agarwala Committee Room	CA Shubham Khaitan, Kolkata	CA Pramod Kr Mundra <i>Chairperson - Group Discussions</i>
12	15.11.2019	3CPE Hrs Lecture Meeting on GST with emphasis on Real Estate and WBHIRA	ACAE, Emami Conference Hall	CA Rajarshi Dasgupta, Partner - AQUILAW, Kolkata	CA Shivani Shah <i>Chairperson - GST/ Indirect Tax</i>

GOODS & SERVICES TAX CONCLAVE



SL. NO.	DATE	DETAILS OF PROGRAMME	VENUE	SPEAKER/INITIATOR	SUB-COMMITTEE	
13	20.11.2019	3CPE Hrs Lecture Meeting on (1) Practical Issues arising out of IBC Cases	ACAE, Emami Conference Hall	CA Animesh Mukhopadhyay <i>Practicing Chartered Accountant, Kolkata</i>	CA Sumantra Guha <i>Chairperson- Corporate Laws</i>	
		(2) Valuation - Overview & Opportunities		CA Debayan Patra <i>Regional Council Member of EIRC - ICAI</i>		
14	21.11.2019	Group Discussion on E-assessment under Income-Tax Act, 1906	ACAE, S S Agarwala Committee Room	CA R R Modi, Kolkata	CA Pramod Kr Mundra <i>Chairperson - Group Discussions</i>	
15	23.11.2019	Digital Accountants Summit Kolkata - 2019 - organised jointly by ACAE and IIAI, Calcutta Chapter	The Park, Kolkata		CA Sanjib Sanghi <i>Chairperson - Information Technology</i>	
		Inaugural Session		Chief Guest - Sri Debashis Sen, IAS <i>Additional Chief Secretary, Govt. of West Bengal</i>		
		1st Educational Session				
		Impact on CA Profession		CA Narasimhan Elangovan, Bengaluru		
		How to grow your CA Firm using Social Media		Mr. Abhishek Rungta, Kolkata		
		Connected Banking - Future of Accounting		Mr. K P Narayanan, Bengaluru		
		Data Analytics for SMEs - Opportunity for CAs		CA Abdul Rafeq, Bengaluru		
		Driving accelerated growth through Digitalization		Mr. Srish Agarwal, Kolkata		
		1st Parallel Lab Session				
		Human Resource - Documentation & Performance Tracking		Mr. Pramod Pachisia, Kolkata		
		Accounting & Expense Management on Cloud		Mr. V Sasekiran & Mr. Y Frederick, Bengaluru		
		Automating Audit to save time and reduce risks		Mr. Prasun Newar, Delhi		
		How to differentiate using Power Query, Pivot and BI		Mr. Aswini Bajaj, Kolkata		
		Practical Case Studies on Information System Audit		CA Narasimhan Elangovan, Bengaluru		
		2nd Educational Session				
Getting GST Compliance at the Click of Button	CA Venugopal Gella, Bengaluru					
Managing Cyber Risks for Digital Accountants	Mr. Nirmal Bazaz, Kolkata					
Robotics Process Automation in Accounting	CA Janardhan Hebbar, Bengaluru					

GOODS & SERVICES TAX CONCLAVE



SL. NO.	DATE	DETAILS OF PROGRAMME	VENUE	SPEAKER/INITIATOR	SUB-COMMITTEE
		Panel Discussion on CAs Leading Digital Transformation		Moderator : CA Sanjib Sanghi, Kolkata	
				Panelists : CA Narasimhan Elangovan	
				CA Venugopal Gella	
				CA Janardhan Hebbar	
				CA Abdul Rafeq	
		2nd Parallel Lab Session			
		Data Analytics using R and Python		Mr. Dipak Singh, Kolkata	
		Computer Assisted Audit Techniques		CA Abdul Rafeq, Bengaluru	
		How to use your smart phone smartly		Mr. Pawan Lohia, Kolkata	
16	24.11.2019	Special Session on Agricultural and Rural Development - Challenges and Possibilities - ACAE jointly with Calcutta Chamber of Commerce	The Park, Kolkata	Shri Parshottam Rupala <i>Hon'ble Union Minister of State for Agriculture and Farmers Welfare</i>	
17	26.11.2019	3CPE Hrs Awareness Programme on Code of Ethics - 2009 vs 2019	ACAE, Emami Conference Hall	Chairman - CA K P Khandelwal Former Central Council Member, ICAI	
				CA Ranjeet Kr Agarwal, Central Council Member, ICAI	
				CA A P Singh, Practicing Chartered Accountant, Kolkata	
18	28.11.2019	Group Discussion on Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019	ACAE, S S Agarwala Committee Room	CA Arun Kr Agarwal, Kolkata	CA Pramod Kr Mundra <i>Chairperson - Group Discussions</i>
19	03.12.2019	3CPE Hrs Lecture Meeting on Company Law Committee bats for Decriminalising Penal Provisions	ACAE, Emami Conference Hall	CS Anjan Kr Roy Past Chairman, Institute of Company Secretaries of India - EIRC	CA Sumantra Guha <i>Chairperson - Corporate Laws</i>
20	11.12.2019	3CPE Hrs Interactive Session on Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 and Recent Changes in GSTR 9/9C & New GST Returns	ACAE, Emami Conference Hall	Chief Guest : Shri Devendra Nagvenkar, IRS, Commissioner, CGST & CX, Kolkata (South) Commissionerate	CA Shivani Shah <i>Chairperson - GST/ Indirect Tax</i>
				CA Arun Kr Agarwal, Kolkata	
				CA Vikash Kr Banka, Kolkata	
21	14.12.2019	3CPE Hrs Interactive Session on Enhancing Personal Effectiveness - The first few steps <i>Let's "reconfigure"-Naye disayein, naye soch and naye sankalp</i>	ACAE, Emami Conference Hall	Mar. Ajay Agarwal, Nationally acclaimed Corporate Trainer and HR Consultant	

GOODS & SERVICES TAX CONCLAVE



SL. NO.	DATE	DETAILS OF PROGRAMME	VENUE	SPEAKER/INITIATOR	SUB-COMMITTEE
22	17.12.2019	Group Discussion on Voluntary Liquidation of Companies	ACAER, S S Agarwala Committee Room	CS Atul Kr Labh, Kolkata	CA Pramod Kr Mundra <i>Chairperson - Group Discussions</i>
23	23.12.2019	Group Discussion on Valuation of Shares as per Income-Tax Rules and its relevance under various Provisions of Income-Tax Act	ACAER, S S Agarwala Committee Room	CA Ayush Goel, Kolkata	CA Pramod Kr Mundra <i>Chairperson - Group Discussions</i>
24	24.12.2019	3CPE Hrs Lecture Meeting on (1) Insolvency and Bankruptcy of Personal Guarantor	ACAER, Emami Conference Hall	Chairman : CS S M Gupta, President, NCLT Kolkata Bar Association	CA Sumit Binani <i>Chairperson - Insolvency and Bankruptcy Study Group</i>
		(2) Insolvency and Liquidation Proceedings of Financial Service Provider		Dr. (h.c) Advocate Mamta Binani Insolvency Professional Past President-Institute of Company Secretaries of India	
				Ms. Ujjaini Chatterjee, Advocate	

Swami Vivekananda gave this iconic speech that every Indian knows :



“If a man works without any selfish motive in view, does he not gain anything? Yes, he gains the highest. Unselfishness is more paying, only people have not the patience to practice it. It is more paying from the point of view of health also. Love, truth, and unselfishness are not merely moral figures of speech, but they form our highest ideal, because in them lies such a manifestation of power. In the first place, a man who can work for five days, or even for five minutes, without any selfish motive whatever, without thinking of future, of heaven, of punishment, or anything of the kind, has in him the capacity to become a powerful moral giant. It is hard to do it, but in the heart of our hearts we know its value, and the good it brings. It is the greatest manifestation of power — this tremendous restraint; self-restraint is a manifestation of greater power than all outgoing action.”



ASSOCIATION OF CORPORATE ADVISERS & EXECUTIVES

(Registered under the Societies Registration Act, 1860)

An ISO 9001 : 2015 Certified Organisation

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APPLICATION FORM FOR MEMBERSHIP

To
 The General Secretary,
 Association of Corporate Advisers & Executives
 6, Lyons Range, 3rd Floor, Unit - 2
 Kolkata - 700 001

FOR OFFICE USE ONLY	
Date of Receipt	_____
Membership Approved on	_____
Membership No. Allotted	_____
Chairperson <i>Membership Development Sub-Committee</i> General Secretary	

Dear Sir,
 Please ENROL me/us as a LIFE/GENERAL MEMBER of the Association. I/We agree to abide by the Memorandum and Rules & Regulations of the Association.

1. Name in Full (IN BLOCK LETTERS) : _____
2. Father's Name : _____
3. Date of Birth : _____
4. Academic and/or Professional Qualifications : _____
5. Occupation : _____
6. Name of the Concern with which associated : _____
7. GSTIN : _____
8. Designation : _____
9. CA/CS/ICWAI Membership No. : _____
10. Blood Group : _____ (Self) _____ (Spouse)
11. Date of Marriage : _____ Name of Spouse _____
12. Office Address : _____
13. Resident Address : _____

14. Telephone (Nos.) : (Off.) : _____ (Resi.) : _____ Fax : _____
 Mobile : _____ E-mail : _____

15. Address where Circular etc. should be sent : Office Residence
 I am/We are sending herewith Rs. _____ (Rupees _____)
 by Cash/Cheque No. _____ Dated _____ Drawn on _____
 towards Life Membership General Membership.

Place : _____
 Date : _____
 Proposed By : Name : _____ Signature : _____
 ACAE Membership No. : _____
 Seconded By : Name : _____ Signature : _____
 ACAE Membership No. : _____

- NOTES :**
1. Fee for Life Membership Rs. 11,800/- (for individuals only) (inclusive of GST)
 2. Fee for General Membership :
 - a) Annual Subscription Rs. 8850/- and Admission fees Rs. 8850/- (For Firm and Body Corporate) (inclusive of GST)
 - b) Annual Subscription Rs. 1770/- and Admission fees Rs. 1770/- (for individual) (inclusive of GST)
 - c) Annual Subscription will be half, if Membership Commences after 30th September of the year in which the membership is approved.
 3. Cheques should be drawn in favour of Association of Corporate Advisers & Executives.

ACAIE at a Glance ...



Group photograph - Bijoya & Deepawali Get-together on 08.11.2019 at Ideal Banquets & Gardens, Kolkata.



CA Anand Chopra, Past President-ACAIE lighting the Diya at Bijoya & Deepawali Get-together on 08.11.2019 at Ideal Banquets & Gardens, Kolkata.



Speaker CA Rajarshi Dasgupta, Partner-AQUILAW, Kolkata giving his deliberation at Lecture Meeting on GST with emphasis on Real Estate and WBHRA on 15.11.2019 at ACAIE, Emami Conference Hall.



Speaker CA Debayan Patra, Regional Council Member of EIRC-ICAI giving his deliberations at Lecture Meeting on Practical Issues arising out of IBC Cases and Valuation - Overview & Opportunities on 20.11.2019 at ACAIE, Emami Conference Hall.



Chief Guest Sri Debashis Sen, IAS, Additional Chief Secretary, Govt. of WB, lighting the lamp in the Inaugural Session, accompanied by CA Jitendra Lohia, President-ACAIE, CA Anindra Nath Chatterjee, Vice President-IIA India, Calcutta Chapter, CA Sanjib Sanghi - Chairman, Information Technology Committee of both ACAIE & IIA India, Calcutta Chapter, Executive Committee Members of ACAIE and Board of Governors of IIA India, Calcutta Chapter at the Digital Accountants Summit Kolkata on 23.11.2019 at The Park, Kolkata.



Release of Digital Accountants Summit Kolkata Hand Out - 23 Tools to become Digital Accountants and IIAI, Calcutta Chapter News Letter on 23.11.2019 at The Park, Kolkata.

ACAIE at a Glance ...



Outgoing President, CA Vasudeo Agarwal pinning the Lapel Pin on Incoming President, CA Jitendra Lohia at the 59th Annual General Meeting on 13.09.2019 at The Lalit Great Eastern Kolkata.



CA S S Gupta giving his deliberations on Recent Scheme of E-Assessment under Income-Tax Act, 1961 at Lecture Meeting on 01.10.2019 at ACAIE, Emami Conference Hall.



On the dais CA Shivani Shah, Chairperson-GST/Indirect Tax Sub-Committee with Speakers CA Vikash Parakh and CA Ankit Kanodia at Lecture Meeting on Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 and Recent Amendments in GST including Real Estate on 15.10.2019 at ACAIE, Emami Conference Hall.



On the dais Speaker CA Vivek Newatia, Chairperson CA Sumantra Guha, Co-Chairperson CS Arun Kr Khandelvia of Corporate Laws Sub-Committee and Speaker CA Mohit Bhuteria at Lecture Meeting on Mergers & Acquisitions and Case Studies on Corporate Restructuring on 18.10.2019 at ACAIE, Emami Conference Hall.



CA Vikash Kr Banka felicitating Speaker CA Sanjib Sanghi at Lecture Meeting on Advance Excel for Auditors on 22.10.2019 at ACAIE, Emami Conference Hall.



Convener CA Tarun Kr Gupta welcoming Speaker CA R R Modi at Lecture Meeting on LL Conversion and Taxation Issues and E-Assessment and Faceless Assessments :Boon or Bane on 07.11.2019 at ACAIE, Emami Conference Hall.

GOODS & SERVICES TAX CONCLAVE



ACAEL at a Glance ...



On the dais, CA Jinesh S Vanzara, Past President-ACAEL, CA Madhav Prasad Sureka, President-CCC & Past President-ACAEL, Sri Parshaottam Rupala, Hon'ble Union Minister of State for Agriculture and Farmer Welfare and Sri Rajeev Maheshwari, Sr. Vice President, CCC at Special Session on Agricultural and Rural Development - Challenges and Possibilities organised jointly by ACAEL and CCC on 24.11.2019 at The Park, Kolkata.



Dy. Convenor CA Beena Jajodia, Former Central Council Member-ICAI, CA K P Khandelwal, Chairman of the Session, CA Jitendra Lohia, President-ACAEL, Speakers CA Ranjeet Kr Agarwal, Central Council Member, ICAI and CA A P Singh at Awareness Programme on Code of Ethics - 2009 vs 2019 on 26.11.2019 at ACAEL, Emami Conference Hall.



CA Sumantra Guha, Chairperson-Corporate Laws Sub-Committee felicitating Speaker CS Anjan Kr Roy, Past Chairman, ICSI-EIRC at Lecture Meeting on Company Law Committee's Stubs for Decriminalising Penal Provision on 03.12.2019 at ACAEL, Emami Conference Hall.



Chief Guest Shri Devendra Nagvenkar, IRS, Commissioner, CGST & CX, Kolkata (South) Commissionerate sharing his thoughts and views at Interactive Session on Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 and Recent Changes in GSTR 9/9C & New GST Returns on 11.12.2019 at ACAEL, Emami Conference Hall. Others on the dais, Convenor CA Tarun Kr Gupta, President-ACAEL, CA Jitendra Lohia, Speakers CA Arun Kr Agarwal and CA Vikash Kr Banka.



Nationally acclaimed Corporate Trainer and HR Consultant Mr. Ajay Agarwal interacting with the participants on Enhancing Personal Effectiveness - The first few Steps -Let's "reconfigure" - Naye disayein, naye soch and naye sankalp on 14.12.2019 at ACAEL, Emami Conference Hall.



On the dais, Convenor CA Tarun Kr Gupta, Speaker Dr. (h.c) Adv Mamta Binani, Insolvency Professional and Past President of Institute of Company Secretaries of India, Chairman of the Session, CS S M Gupta, President NCLT Kolkata Bar Association and Past President - ACAEL and Adv Ms. Ujjaini Chatterjee at Lecture Meeting on Insolvency and Bankruptcy of Personal Guarantor and Insolvency and Liquidation Proceedings of Financial Service Provider on 24.12.2019 at ACAEL, Emami Conference Hall.

KLASS Insolvency Resolution Professionals Pvt. Ltd.

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- Advisory services and opinions
- Representing creditors in COC
- Other matters relating to IBC 2016

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