



The Institute of Chartered Accountants of India
(Setup by an Act of Parliament)

Hyderabad Branch of SIRC

E-Newsletter

www.hydicai.org

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hyderabad@icai.org

*Refresh your spirit and brighten
the world around you*

Happy New Year

2023



International Conference of CA Students FACING THE FUTURE INNOVATE – INTEGRATE – MOTIVATE on 2nd – 3rd December 2022 at Shilpakala Vedika,



VRIDDHI 54th Regional Conference of SIRC of ICAI on 9th -10th December, 2022 at Shilpakala Vedika, Hyderabad

Chairman Writes



Dear Professional Colleagues,

Wishing you and your loved ones a very happy and prosperous New Year 2023!

The New Year is unique, in the sense that it allows for us a fresh start, a clean slate whereupon we may chart our life's journeys anew. The New Year is an opportunity for us in our personal and professional lives to take on new challenges and opportunities with the zeal and vigour a fresh start brings. The value of a new year resolution is often under-appreciated, and there is a reason why individuals who have committed to see through with their resolutions have come to become one of the most successful people in their field, as the saying rightfully goes 'any task well begun is half done'. A new year also brings new challenges, and it is paramount that professionals such as us take this opportunity to realign our priorities and goals amidst the ever-changing circumstances. Month of December has been full of activity and events. This month we two big conferences of the year

- Firstly Student International Conference Facing the Future on 2nd & 3rd December. Honorable Governor of Telangana Smt. TAMILISAI Soundrajan was Chief guest. Event was attended by galaxy of central council members led by Honourable President CA Dr. Debasis Mitra and Vice President CA Aniket Sunil Talati. Former Skipper Kapil Dev was one of the motivational speaker. Telugu Film star turned politician Pawan kalyan was Guest for valedictory.
- SIRC regional Conference Vriddhi on 9th & 10th December 2022. Honourable President CA Dr. Debasis Mitra was chief guest and Vice President CA Aniket Sunil Talati was Guest of Honour. Hyderabad Branch had the opportunity to host it after a period of 5 years.
- 3 days residential program organized by SIRC of ICAI and hosted by Hyderabad Branch of SIRC of ICAI on Assurance Practice Quality procedures.
- 4 hours program on Ethical Standards Important Changes in Code of Ethics
- 4 hours program on Annual Returns in GST
- 12 number Regular evening CPE programs on contemporary and new areas of practice

I thank the central council members CA Dayniwas Sharma and CA Sridhar Muppala for their outstanding support for making this grand events possible at Hyderabad. I also thank all the regional council led by SIRC chairman CA China Mastan for their support in regional conference and making this.

I also thank all the managing committee members for their excellent team efforts and getting laurels for Hyderabad Branch in handling two big conferences back to back. I also thank all the past Central Council Members, Regional Council Members, Past Chairman's of Hyderabad Branch for their guidance and support at all available times.

I wish all my colleagues Happy Pongal, Makar Sankranti, Lohri and enjoy the festival of harves with family and loved ones

Thanking You

Signature

CA. Deepak Ladda
Chairman
hyderabad@icai.org

Programme for the Month January, 2023

9th (7th Physical) Two Days Intensive Train the Trainer (TTT) Programme

“How to be a Global Speaker in One's Chosen Area”

6th - 7th January, 2023

Organized by CPE Committee Jointly with Committee on
Economic Commercial Laws & Economic Advisory of ICAI

Hosted by Hyderabad Branch of SIRC of ICAI Co-Hosted by Karimnagar and
Warangal Branch of SIRC of ICAI

Venue : ICAI Bhawan, Centre of Excellence, I.T Park, Gachibowli, Hyderabad

Fee : Residential: Rs. 2000/- + Taxes (Double Occupancy)

On spot registration

Non-Residential: Rs. 1000/- + Taxes

not allowed

(Fee Non-refundable)

Registration and Payment Link for the residential members who are choosing
accommodation at Venue: <https://bit.ly/3UUI8WB>

Registration and Payment Link for the non-residential members who are not
choosing accommodation at Venue: <https://bit.ly/3V4QDPj>

Seminar on International Taxation

Organized by: Hyderabad Branch of SIRC of ICAI

Day & Date: Friday 20th January, 2023,

Venue: Centre of Excellence, ICAI

Delegate Fee: Members: Rs 800/- Plus GST

CPE Credit: 06 Hours

Time	Topic	Speaker
9.00 am to 9.45 am	Networking Break Fast	
9.45 am to 10.00 am	Inaugural Session	
Technical Session - I		
10.00 am to 11.15 am	Crypto Currencies – Virtual Digital Asset (VDA) Direct & Indirect tax Implications	CA Pankaj Sancheti, Hyderabad CA Deepak Jain Bengaluru
11.15 am to 11.30 am	Tea Break	
Technical Session - II		
11.30 am to 1.00 pm	Current and Emerging issues of Transfer Pricing	CA P.V.S.S. Prasad Hyderabad
1.00 pm to 1.45 pm	Lunch Break	
Technical Session - III		
1.45 pm to 3.15 pm	How do read Multi Lateral Instrument (MLI) with case studies	CA Ajay Rotti Bengaluru
3.15 pm to 3.30 pm	Tea Break	
Technical Session - IV		
3.30 pm to 5.00 pm	Panel Discussion – Developments in International Taxation	Panalists – Shri. K.R. Sekar, Chennai CA Shyam Sunder Nori Hyderabad Moderator – CA P.V.S.S. Prasad Hyderabad

Programme Directors

CA. Dayaniwas Sharma Central Council Member, ICAI	CA. Muppala Sridhar Central Council Member, ICAI
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Programme Co Directors

CA. China Masthan T Chairman, SIRC of ICAI	CA. Naresh Chandra Gelli Secretary, SIRC of ICAI	CA. Chengal Reddy. R Member, SIRC of ICAI	CA. Mandava Sunil Kumar Member, SIRC of ICAI
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Programme Convenors – Team Hyderabad Branch of SIRC of ICAI

CA. Deepak Ladda Chairman	CA. Satish Kumar Mylavarapu Vice- Chairman	CA. Ravi Sankara Reddy P Secretary
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Exposure Drafts of Amendments to Ind AS 1 and Ind AS 116 for comments

As you are kindly aware that the Indian Accounting Standards (Ind AS) are based on the IFRS Standards issued by the International Accounting Standards Board (IASB). In this regard, it may be noted that IFRS Standards are being issued/revised by the IASB from time to time. As a part of convergence with IFRS Standards, the Ind AS may be issued/revised corresponding to the IFRS Standards. Accordingly, whenever any amendments are made or new IFRS Standard/IFRIC is issued by the IASB, the Accounting Standards Board (ASB) of the ICAI considers those amendments and other related aspects for amending the corresponding Ind AS.

In this regard, the Accounting Standards Board has issued the following Exposure Drafts for public comments with the last date of comments being January 30, 2023:
Classification of Liabilities as Current or Non-current and Non-current Liabilities with Covenants - Amendments to Ind AS 1, Presentation of Financial Statements

The downloadable version of the Exposure Draft is available at:
<https://resource.cdn.icai.org/72564asb58459-indas1.pdf>

Lease Liability in a Sale and Leaseback – Amendments to Ind AS 116, Leases

The downloadable version of the Exposure Draft is available at:
<https://resource.cdn.icai.org/72565asb58459-indas116.pdf>

Comments on the abovementioned Exposure Drafts may be submitted through any of the following modes:

1. Electronically: Click on <http://www.icai.org/comments/asb/> to submit comment online (Preferred method)
2. Email: Comments can be sent to: commentsasb@icai.in
3. Postal: Secretary, Accounting Standards Board,
The Institute of Chartered Accountants of India,
ICAI Bhawan, Post Box No. 7100,

Indraprastha Marg, New Delhi 110 002 Further clarifications on the Exposure Draft may be sought by e-mail to asb@icai.in.

Recent changes in GST

Based on recommendations of 48th GST Council meeting

- CA. Satish Saraf & CA Venkat Prasad. P

Government of India has brought in changes in GST Law based on the recommendations of the 48th GST Council Meeting which was held in the month of December, 2022. Changes brought in by way of Notification and Circulars etc., these changes are discussed in this article.

1. PAN linked mobile number and Email ID for GST registration [Notified vide NN. 26/2022-CT dated 26.12.2022]

Rule 8 of the CGST Rules is amended to provide for auto-population of “E-mail Id and Mobile Number” from Income Tax database as linked with the Permanent Account Number of the applicant before applying for registration in Part A of Form GST REG-01. This helps in validation of PAN using mobile number and E-mail ID linked to PAN in CBDT database.

Authors Comments: This measure helps in curtailing the misuse of PAN at the time of registration obtained by furnishing mobile number and E-mail ID of any other unrelated person and thereby seeks to avoid fake registrations.

2. Biometric-based Aadhar authentication and risk based physical verification [Notified vide NN. 26/2022-CT and 27/2022-CT both dated 26.12.2022]

The following amendments under Rule 8 and Rule 9 have been notified:

- Sub-rule (4A) of Rule 8 is substituted to provide for biometric based Aadhar authentication of the registration applicants where they have opted for authentication of their Aadhar number and the GST Portal identifies such applicant based on data analysis and risk parameters.
- Such authentication would be at notified facilitation centers and would also comprise taking photographs of the applicant (or authorized representative in case of persons other than an individual) along with verification of the original copies of the documents submitted with the registration application in Form REG-01.
- Currently, the Government has notified this rule to be applicable only to the State of Gujarat on a pilot basis vide insertion of sub-rule (4B) in Rule 8.
- Clause (aa) has been inserted in the proviso to sub-rule (1) and sub-rule (2) of Rule 9 to notify physical verification of place of business before granting registration even in case of applicants opting to undergo Aadhar authentication under Rule 8

(4A), if such applicants are identified by the GST Portal as risky based on the data analysis and risk parameters.

- In such cases, the time limit for granting registration in form GST REG-06 or issuing notice. seeking clarification in form GST REG-03 would be within 30 days from the date of submission of the application.

AUTHORS Comments: With this amendment Government seeks to avoid fake and fraudulent registrations by ensuring proper KYC through Aadhar-authentication and physical verification of business prior to granting registration based on the risks identified.

3. Suo-moto application for cancellation of TDS and TCS registration

[Notified vide NN. 26/2022-CT dated 26.12.2022]

To provide for suo-moto application for cancellation of registration granted to a person who is required to deduct tax at source under Section 51 or collect tax at source under Section 52 upon a request made in writing by the said person, sub-rule (3) of Rule 12 has been amended w.e.f., 26.12.2022.

AUTHORS Comments: Prior to 26.12.2022, only the proper officer had to power to order cancellation of registration where he was satisfied that the person to whom TDS/TCS registration has been granted was no longer liable to deduct/collect tax. However, no mechanism was available to such persons for seeking registration cancellation on their own. This is a welcome amendment would thus facilitate initiation of cancellation of registration by such persons.

4. Clarification on reversal of ITC in case of failure to pay consideration within 180 days to be proportionate to amount unpaid

[Notified vide NN. 26/2022-CT and dated 26.12.2022]

Sub-rule (1) of Rule 37 was amended w.e.f., 01.10.2022 which provided that where the registered person failed to pay to the supplier, the value of supply along with tax within 180 days from the date of issue of invoice (as provided for in the second proviso to Section 16(2)), would be required to pay the ITC availed along with interest under Section 50. Prior to the amendment, requirement to pay the ITC availed was only proportionate to the amount remaining unpaid to the supplier. Notification No. 26/2022 – CT, retrospectively amended Rule 37(1) w.e.f., 01.10.2022 which clarifies that where the recipient fails to pay value of supply either “wholly or partly” along with tax, the recipient is required to pay/reverse the ITC availed only in proportion to the amount unpaid to the supplier.

AUTHORS Comments: The position of the law thus remains the same since introduction of GST that in case of failure to pay to the supplier, amount towards value of supply along with taxes within 180 days from the date of issue of invoice, the requirement of reversal/payment of ITC would only be proportionate to the amount remaining unpaid to the supplier. Prior to the amendment, Rule 37 only provided for reversal of ITC upon recipient's "failure to pay" the supplier and did not cover the scenario of partial payment. However, the amendment now provides for ITC reversal where amount to the supplier remains unpaid either "wholly/partially".

5. Mechanism for reversal of ITC in case of non-payment of tax by the supplier and re-availment thereof notified under Rule 37A

[Notified vide NN. 26/2022-CT and dated 26.12.2022]

Rule 37A has been inserted w.e.f., 26.12.2022 to provide for reversal of ITC by the recipient in case of non-payment of taxes by the supplier within the prescribed period and subsequent re-availment of ITC once the supplier has discharged the taxes. The implications of Rule 37A is as follows:

- Where recipient has availed ITC based on the details of invoice/debit note furnished by the supplier in his GSTR-1 or by using IFF who subsequently failed to file GSTR-3B for the said tax period by 30th September of the next financial year, then the ITC so availed is required to be reversed by the recipient in his GSTR-3B before 30th November of the next financial year. For Eg: If the supplier has furnished Jan-22 GSTR-1 but failed to furnish Jan-22 GSTR-3B by 30th September 2022, then the recipient who availed the ITC in Jan-22 GSTR-3B based on supplier's GSTR-1, would be required to reverse such ITC availed in his Oct-22 GSTR-3B. Failure to reverse the ITC would attract interest under Section 50 from 01.12.2022.
- In case where the recipient fails to reverse the ITC in his GSTR-3B before 30th November of the next financial year, then such amount shall become payable by the recipient along with interest under Section 50.
- Where the supplier subsequently furnishes GSTR-3B for such tax period, then the recipient may re-avail the credit so reversed.

Authors Comments: Section 16(2)(c) of the CGST Act imposes a condition stipulating payment of taxes by the supplier to the Government for the recipient to avail ITC. However, where the supplier declares the details of invoice/debit note in his GSTR-1 but failed to discharge the tax dues in his GSTR-3B, the recipient would have availed the ITC in his GSTR-3B based on the details reflected in his GSTR-2A linked to supplier's GSTR-1. Therefore, it was practically difficult for the recipient to ensure payment of taxes by the supplier at the time of availing credit in GSTR-3B.

To address such difficulties, Rule 37A has been introduced w.e.f., 26.12.2022, whereby supplier has been given time upto 30th September (i.e, upto August GSTR-3B) to furnish his GSTR-3B and in case of his failure to furnish, the recipient is given time upto 30th November (i.e, upto Oct-GSTR-3B) to reverse the ITC so availed without any interest liability. Only where the recipient fails to reverse ITC by such date, levy of interest under Section 50 would be attracted. Such interest could be payable from 1st December of the subsequent FY and till the period for which it remains unpaid.

6. Details to be included in the invoice issued to unregistered recipients for services supplied by or through ECO or by supplier of OIDAR services

[Notified vide NN. 26/2022-CT dated 26.12.2022]

Proviso to be inserted in clause (f) of Rule 46 to provide for details to be furnished in the invoice for taxable services supplied by or through an E-Commerce operator or by supplier of OIDAR (online information and database access and retrieval) services to an unregistered recipient. Irrespective of the value of supply, the tax invoice to bear the details of name and address of the recipient along with PIN Code and the State name where such address would be deemed to be the address on record of the recipient.

Authors Comments:

Under Rule 46, in case where recipient is unregistered, the tax invoice would bear the details of name and address of the recipient and delivery address along with State name and code only where the value of taxable supply is INR 50,000 or more or where the recipient requests for such details. However, by virtue of this amendment, w.e.f., 26.12.2022, in case of taxable services supplied by or through an ECO (which includes Section 9(5) supplies and other supplies where TCS under Section 52 is required to be collected) or by an OIDAR service provider, invoice to mandatorily contain the details of name and address of the recipient along with PIN Code and the State name.

This amendment would have far-reaching implications wherein the ECO and OIDAR service provider is required to maintain such details of unregistered recipients to be provided in the invoice irrespective of value of supply.

7. Particulars to be contained in Invoice-cum-bill of supply

[Notified vide NN. 26/2022-CT dated 26.12.2022]

Proviso to Rule 46A is inserted w.e.f., 26.12.2022 to provide that an invoice-cum-bill of supply issued to an unregistered person in case of supply of taxable as well as exempted goods or services to contain the particulars as applicable to an invoice under Rule 46/Rule 54 and as applicable to Bill of supply under Rule 49.

8. Insertion of Rule 88C to provide for manner of dealing differences in tax liability declared in GSTR-1 and tax dues discharged in GSTR-3B

[Notified vide NN. 26/2022-CT dated 26.12.2022]

Rule 88C is inserted in CGST Rules 2017 w.e.f., 26.12.2022 which provides a mechanism for addressing the differences between tax liability as declared in GSTR-1 and the tax dues discharged in GSTR-3B as follows:

- Where the tax liability as declared in Form GSTR-1/using IFF for a tax period exceeds the tax paid as per GSTR-3B by a prescribed amount/percentage, the registered person will be intimated of such difference in Part A of Form GST DRC-01B notified for this purpose generated on the GST portal and served on E-mail.
- The intimation would indicate the difference in tax liability and direct the assessee to either pay such differential liability along with interest under Section 50 through GST DRC-03 and furnish the tax paid details and/or furnish the reasons for such differential tax liability that has remained unpaid in Part-B of Form GST DRC-01B within a period of 7 days.
- Where the recipient fails to pay the differential tax liability as indicated in Part A of Form GST DRC-01B or fails to furnish reasons for the difference in tax liability or furnishes the reasons but are not found acceptable by the proper officer, within the prescribed period of 7 days, then the tax liability would be recovered as per the provisions of Section 79 of the CGST Act.

The reasons for difference in tax liability between GSTR-1 and GSTR-3B could be attributable to:

- a) Excess tax liability declared in GSTR-1 of earlier tax period
- b) Transactions of earlier period not declared in GSTR-1/IFF but where tax liability of the same has been discharged in GSTR-3B the details of which are now declared in GSTR-1
- c) Form GSTR-1/IFF filed with incorrect details to be amended in subsequent tax period
- d) Mistake in reporting of advances received and adjusted against invoices

Authors Comments: Rule 88C provides for a mechanism to deal with difference in tax liability as declared in GSTR-1 and paid in GSTR-3B on a month-on-month basis. This increases compliance burden on the assessee. Further, where the differential liability is not discharged and/or reasons not furnished or even if furnished are found unacceptable, direct recovery proceedings under Section 79 would be initiated without serving SCN or Demand order thereby conferring draconian powers on the GST officers. Further, the differential amount/percentage of tax liability is yet to be prescribed.

9. Filing of GSTR-1 for subsequent periods to be restricted in case of failure to explain the difference or pay the tax dues as per Rule 88C intimation

[Notified vide NN. 26/2022-CT dated 26.12.2022]

Rule 59 of CGST Rules is amended to insert clause (d) under sub-rule (6) to restrict filing of GSTR-1/furnishing details of outward supplies using IFF for subsequent periods unless the registered person to whom an intimation of difference in tax liability declared in GSTR-1 and paid in GSTR-3B is furnished under Rule 88C is served, either pays the differential liability and/or furnishes the reasons for difference to the extent of unpaid amount.

Authors Comments: Failure to pay the tax liability as intimated in Part A of Form GST DRC-01B or failure to furnish the reasons for difference to the extent of unpaid amount would restrict filing of GSTR-1 of the subsequent period. Consequently, filing of GSTR-3B of the said period as well filing GSTR-1 and GSTR-3B of subsequent periods would remain restricted leading to hurdles in carrying on the business. Therefore, careful attention of the assessee is warranted to ensure compliance under Rule 88C read with Rule 59 thus increasing compliance burden.

10. E-Cash ledger to be updated based on e-Scroll of RBI in case of failure of the Bank to communicate details of CIN to GST Portal

[Notified vide NN. 26/2022-CT dated 26.12.2022]

From 26.12.2022, proviso to sub-rule 8 in Rule 87 is inserted to provide that in case of generation of challan, where the bank fails to communicate the details of CIN (Challan Identification Number) to the common portal, the E-Cash ledger may be updated on the basis of e-Scroll details of the RBI where the same is in conformity with the details of challan generated in FORM GST PMT-06.

Authors Comments: This is a beneficial amendment wherein if the Bank fails to communicate the details of CIN to the GST portal due to any technical glitches, then the E-cash ledger may be updated using e-Scroll details of RBI where the same is in conformity with challan details. This would ease the filing of GST returns.

11. Easing procedure for submission of certified copy of Order-in-Original

Rule 108(3) of the CGST Rules is substituted to ease requirement of submission of certified copy of Order-in-Original ('OIO') and issuance of final acknowledgment by the Appellate Authority. Amended provision provides as under:

- Where OIO is uploaded on GST Portal, final acknowledgment will be issued in APL-02. In this case, date of issuance of provisional acknowledgment will be date of filing appeal.
- Where OIO is not uploaded on GST Portal, the Appellant needs to submit self-certified copy of OIO within seven days of filing of APL-01 and final acknowledgment will be issued in APL-02. In this case also, date of issuance of provisional acknowledgment will be date of filing appeal. Where self-certified copy of OIO is not submitted within seven days, date of submission of certified copy of OIO will be date of filing appeal.
- Similar amendments have been made in Rule 109 of the CGST Rules dealing with procedure for application to the Appellate Authority under Section 107(2) of the CGST Act for filing appeal by the Commissioner against OIO.

Authors Comments: This amendment will ease several procedural issues. Even though all litigation related processes are automated on GST Portal, until now, taxpayers were still required to submit certified copy of OIO with the first Appellate Authority who was thereafter issuing final acknowledgement number of appeal. Difficulty used to arise where OIO is served on taxpayer only on GST Portal and the Adjudicating Authority did not issue certified copy. Further, practically, the Adjudicating Authorities refuse to certify OIO issued on GST Portal.

12. Facility to withdraw appeal by taxpayer or revenue:

[Notified vide NN. 26/2022-CT dated 26.12.2022]

Rule 109C of CGST Rules, 2017 is introduced, prescribing the facility for withdrawal of an application of appeal up to certain specified stage, to help in reducing litigations at the level of appellate authorities.

Authors Comments: This rule will provide an opportunity to withdraw the appeal filed by the tax payers if they wish that going into appeal is not beneficial and it can also avoid further litigation and time. However, such withdrawal can only be done prior to issuance of Order in respect of the Appeal or issuance of SCN under Section 107(11) for increase in demand. If withdrawal is sought after issuance of final acknowledgement, the Appellant would have to satisfy the Appellate Authority for the same.

13. E-way bill required for Imitation Jewellery

[Notified vide NN. 26/2022-CT dated 26.12.2022]

Rule 138(14) of CGST Rules provides for the cases where there is no requirement to generate e-way bill for movement goods. It is provided now that “Jewellery, goldsmiths’ and silversmiths’ wares and other articles (Chapter 71) excludes Imitation Jewellery chapter 7117.

14. Other Changes [Notified vide NN. 26/2022-CT dated 26.12.2022]

Following are miscellaneous changes made to the CGST Rules:

- At present rule 161 provides that the order for reduction or enhancement of any demand under section 84 shall be issued in FORM GST DRC-25.
- Section 84 provides that when a notice of demand in respect of Government dues is served any appeal or revision application is filed
 - a) Where such Government dues in such appeal/revision is enhanced, commissioner shall serve another notice of demand to the extent of enhancement
 - b) Where such Government dues are reduced in such appeal/revision, commissioner shall give intimation of such reduction.

Authors Comments: Since, section 84 has reference to the words notice & intimation, to avoid further litigation, rule 161 is amended to be in line with the provisions of section 84. Now after amendment, rule provides that an intimation or notice for reduction or enhancement of any demand under section 84 shall be issued in FORM GST DRC-25.

15. Circular for dealing with difference in GSTR 3B & GSTR 2A for FY 2017-18 and FY 2018-19

[Circular No. 183/15/2022-GST dated 27th December,2022]

The circular provides to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for FY 2017-18 and 2018-19: Officers during scrutiny/audit/investigation noticed that the recipients have availed ITC in GSTR-3B though there are differences/discrepancies between GSTR-2A and GSTR-3B for the bonafide errors committed by the suppliers.

- Supplier has failed to furnish Form GSTR-1 but has not furnished Form GSTR-3B
- Supplier has furnished both Form GSTR-1 & Form GSTR-3B, but has failed to declare the particular supply in form GSTR-1
- Supplies were made to the registered persons and an invoice was also issued as per rule 46 with the recipient GSTIN, but the said B2B supply was wrongly reported as B2C
- The supplier has filed both Form GSTR-1 & Form GSTR-3B, but the particular supply was declared in Form GSTR-1 with a wrong GSTIN.

Officers during such scrutiny/audit/investigation would seek details of invoices or debit notes from recipient on which ITC is availed in GSTR-3B but not reflected in GSTR-2A and ascertain the fulfilment of conditions as per Section 16.

For ascertaining fulfilment of condition under Section 16(2)(c), the officer would follow the process as below:

Difference between GSTR-3B and GSTR-2A (for a single supplier)	Action
Exceeds Rs 5 lakhs per FY	Recipient needs to furnish CA / CMA certificate that supply was actually made, and tax was paid to the Government
Up to Rs 5 lakhs per FY	Recipient needs to furnish supplier's certificate that supply was actually made, and tax was paid to Government

These instructions will apply on ongoing proceedings and proceedings pending with Adjudicating / Appellate Authority, and not on completed proceedings.

Authors Comments:

There was no statutory provision which mandated matching of ITC before October 9, 2019 [date of introduction of Rule 36(4)]. Hence, Circular incorrectly imposes additional conditions that were not prescribed under law. Further, taxpayers can always challenge eligibility of unmatched ITC for period prior to introduction of statutory provision Section 16(2)(aa) mandating matching of ITC which was introduced on January 1, 2022. Also, time and again, Government, Courts etc. (Press Release dated October 18, 2018, and Supreme Court in the case of UOI v. Bharti Airtel Limited, 2021 (54) GSTL 257) whittled down relevance of GSTR2A for availing ITC.

However, persons who can provide the details and certificates as prescribed under circular, can get the rid of unnecessary demands made.

16. ITC eligibility w.r.t transportation of goods outside India

[Circular No. 184/16/2022-GST dated 27th December,2022]

- Section 12(8) of the IGST Act provides place of supply of service for transportation of goods. Proviso to Section 12(8) states that where goods are destined outside India, place of supply will be destination of such goods.
- As per this provision, the place of supply is outside India even when the location of supplier and location of service recipient is in same state and ITC corresponding to the freight charges paid was reported as ineligible in GSTR-2A/2B and lead to a confusion in the trade on availing and utilizing ITC.
- Circular is now issued to clarify that the registered person is eligible to avail ITC of IGST charged by the supplier for supplying services by way of transportation of goods, including by mail or courier in terms of proviso to Section 12(8) of IGST Act.
- CBIC has clarified that recipient can avail ITC of IGST charged by supplier where place of supply is outside India.
- State code for reporting in GSTR-1 - **'96-Foreign Country'**

Authors Comments: Proviso to Section 12(8) was introduced in February 2019 to bring parity between Foreign and Indian shipping lines. However, this amendment was not fruitful as these transactions did not qualify as export of service when rendered to Indian recipient. For this reason, the Government exempted GST on transportation of goods from customs station of clearance in India to place outside India till September 2022. CBIC has now clarified that recipient can avail ITC on the same. Further, it may

be noted that the Circular does not talk about omission of proviso to Section 12(8) as proposed by the Council. This is expected to be taken up in next budget post which aforesaid clarification will become irrelevant since place of supply will become location of recipient irrespective of destination of goods.

17. Re-determination of demand in SCN issued u/s. 74 but converted into Section 73 proceedings in future: [Circular No. 185/17/2022-GST dated 27th December,2022]

- Section 75(2) of the CGST Act requires the proper officer to re-determine tax payable under Section 73 where Appellate Authority /Appellate Tribunal holds that there is no fraud, willful misrepresentation, suppression of facts under Section 74.
- CBIC has clarified manner of re-determination of demand under Section 75(2) of the CGST Act as under:
 - Where Appellate Authority / Tribunal / Court ordered for re-determination of demand holding that there is no fraud, willful-misstatement or suppression of facts, proper officer needs to issue order of re-determination within two years from date of communication of such order.
 - While re-computing the demand, only demand within normal period of limitation i.e., demand within 2 years and 9 months prior to SCN will be considered.

18. Refund application by unregistered persons who have borne the tax incidence in case of cancellation/termination of contract for supply of services [Circular No. 188/20/2022-GST dated 27.12.2022 read with NN. 26/2022-CT dated 26.12.2022]

- Circular No. 188/20/2022 prescribes the manner of filing refund application by unregistered buyers who have borne the incidence of tax in case of cancellation of contract/agreement for supply of construction services of flat/buildings etc., entered into with the builder or in case of premature termination of long-term insurance policies.
- The unregistered buyer/recipient might have paid the consideration/premium upfront as the case maybe along with applicable taxes. The circular clarifies that in case of such cancellation/termination, where the time period for issuance of credit note under Section 34 has not expired, then the supplier can issue a GST credit note refunding the amount along with GST.

➤ However, where the time period has expired, only then the unregistered buyer/recipient can file refund application claiming refund of tax borne proportionate to the amount refunded by the supplier by way of a financial credit note. The procedure for filing the refund application is notified as below:

- A new functionality is introduced in the GST Portal which allows the unregistered person to take a temporary registration in the same state of registration as that of his supplier and apply for refund under the category “Refund of Unregistered persons” in Form RFD-01.
- Clause (k) and (kb) have been inserted in Rule 89(2) vide Notification 26/2022- CT to provide for the documentary evidence to be furnished along with refund application to establish that refund due to the applicant. This comprises:
 - i) Statement containing the details of invoices viz. number, date, value, tax paid and details of payment to supplier along with copies of invoices and proof of payment
 - ii) Copy of agreement/contract entered with the supplier for supply of service,
 - iii) Letter issued by the supplier for cancellation/termination of agreement or contract for supply of service, details of payment received from the supplier against such cancellation/ termination along with proof.
 - iv) certificate issued by the supplier to the effect that he has paid the taxes to the Government in respect of the invoices on which refund is being claimed by the applicant, and that he has not adjusted the tax amount against his tax liability by issuing credit note and has neither claimed nor will claim refund of the tax involved.
- Certificate from CA/CMA to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person is not required to be furnished in cases where refund is claimed by the unregistered person who has borne the incidence of tax.
- Refund amount not to exceed the total tax amount declared on the invoice. Further, separate refund applications have to be filed in respect of invoices issued by different suppliers.
- The relevant date for filing the refund application would be the date of issuance of letter of cancellation of contract/ agreement for supply by the supplier

Authors Comments: The much-awaited clarification on procedure for claim of refund by unregistered persons has been provided by the Government. Although, the clarification in the circular is only restricted to unregistered buyers/recipients in case of cancellation of contract/agreement for supply of construction services/insurance services the Notification prescribes refund mechanism for any unregistered person where agreement/contract for supply of services has been cancelled. Hence, a view is possible that this mechanism can be adopted for all other cases of claim for refund by unregistered persons as well

19. Clarification on taxability of No Claim Bonus offered by Insurance companies and applicability of E-invoicing w.r.t. an entity [Clarified vide Circular No.186/18/2022 -GST dated 27.12.2022]

- Insurance companies generally deduct No Claim bonus from the gross insurance premium amount as an incentive where no claim is made by the insured persons during the previous insurance periods. The same does not represent any consideration paid by insurance company to the insured for agreeing to any contractual obligation not to lodge the insurance claims. Further, the insurance companies make disclosure of availability of discount in the form of No Claim Bonus, subject to conditions, in the insurance policy document itself and also record the details of No Claim Bonus in the invoices also.
- Therefore, such No-claim bonus essentially represents discount from the value of supply in accordance with clause (a) of Section 15(3) the CGST Act and therefore, GST shall only be leviable on actual insurance premium amount, payable by the policy holders.
- Circular No. 186/18/2022- GST also clarifies that exemption from E-invoicing under Rule 48(4) for certain sectors/entities such as insurers, banks, financial institutions, GTA, passenger transport service provider, multiplex vide Notification No. 13/2020-CT dated 21.03.2021 is applicable for such entities as a whole for all the supplies made by such entities irrespective of the nature of such supplies

Authors Comments: The circular provides clarification on treatment of no claim bonus as a discount deductible from the transaction value providing relief to the insurance companies.

20. Clarification regarding treatment of statutory dues under GST in respect of taxpayers for whom insolvency proceedings have been finalized

[Clarified vide Circular No.187/19/2022 -GST dated 27.12.2022]

- Circular No. 187/19/2022-GST clarifies that Section 84 of CGST Act on “Continuation and validation of certain recovery proceedings” covers within its ambit, insolvency proceedings under “other proceedings” as such proceedings involves adjudication of pending government dues under GST. Section 84 provides the mechanism for recovery of government dues (i.e, tax, penalty, interest or any other amount payable) pursuant to a demand notice served on any person in respect of which any appeal/revision application or any other proceedings:

Authors Comments: The circular seeks to address the anomaly regarding the treatment of statutory dues under GST raised on a corporate debtor in respect of whom demand liabilities under GST or any other existing law has been reduced pursuant to insolvency proceedings. This clarification is welcome measure from the Government.

All About FORM ITR-U Indian Income Tax UPDATED Return u/s 139(8A)

CA. Namita Sharma

Hey guys welcome back after a wonderful year end with GSTR-9, GSTR-9C and Belated Income Tax Returns. Let's start this year with Full passion and enthusiasm.

Wishing hereby a very Happy and Prosperous New Year to all of my Professional colleagues. Due date for filing of ITR for AY 2022-23 has been over but still we can file ITR for aforesaid assessment year. The option for filing of ITR is still available through ITR-U with specified conditions which is called as updated returns. The Finance Bill 2022 has inserted a new section, Section 139(8A) in Income Tax Act. This new section provides for facilitating filing of 'Updated Return' by the taxpayers. A new Form ITR-U which shall be required to be filed along with the respective ITRs (ITR-1 to ITR-7). This section has effect from 1st April 2022. So, let's discuss at a glance –

The option of updated return can be opted only once for one assessment year.

Duration for filing of Updated Returns :-

A taxpayer can file this return at any time within 2 years or a period of 24 Months from the end of the relevant Assessment Year. Thus, a taxpayer can now file an updated return for period from AY 2020-21. Updated return can be filed irrespective of the fact that whether the original return was filed by the taxpayer or not.

Applicability for Filing of Form ITR-U :-

This opportunity is available if Taxpayer has to disclose any additional income, which was missed / omitted earlier, and pay the additional tax thereon reasons could be previous returns not filed and tax payable, missed reporting certain incomes, wrong heads of income chosen, reduction of carry forward losses, reduction of unabsorbed depreciation, reduction of tax credit under Section 115JB/115JC, or wrong rate of tax, among others.

Non applicability of New Section 139(8A) :-

The new proposed provision of Sec 139(8A) will not apply in case of the updated return-

1. If it is a return of a loss, Nil Return
2. Holds the effect of decreasing the total tax liability found on the grounds of the return filed u/s 139(1), (4) or (5)
3. Results in refund or hikes the refund due on the grounds of the return filed u/s 139(1),(4) or (5)
4. Also, it cannot be filed if search, survey, or prosecution proceedings are initiated for the said AY. Further, in case of assessment, reassessment, revision, or re-computation is pending or completed for the said AY, then it cannot be filed.

Updated income tax return can only be filed condition it rises tax liability.

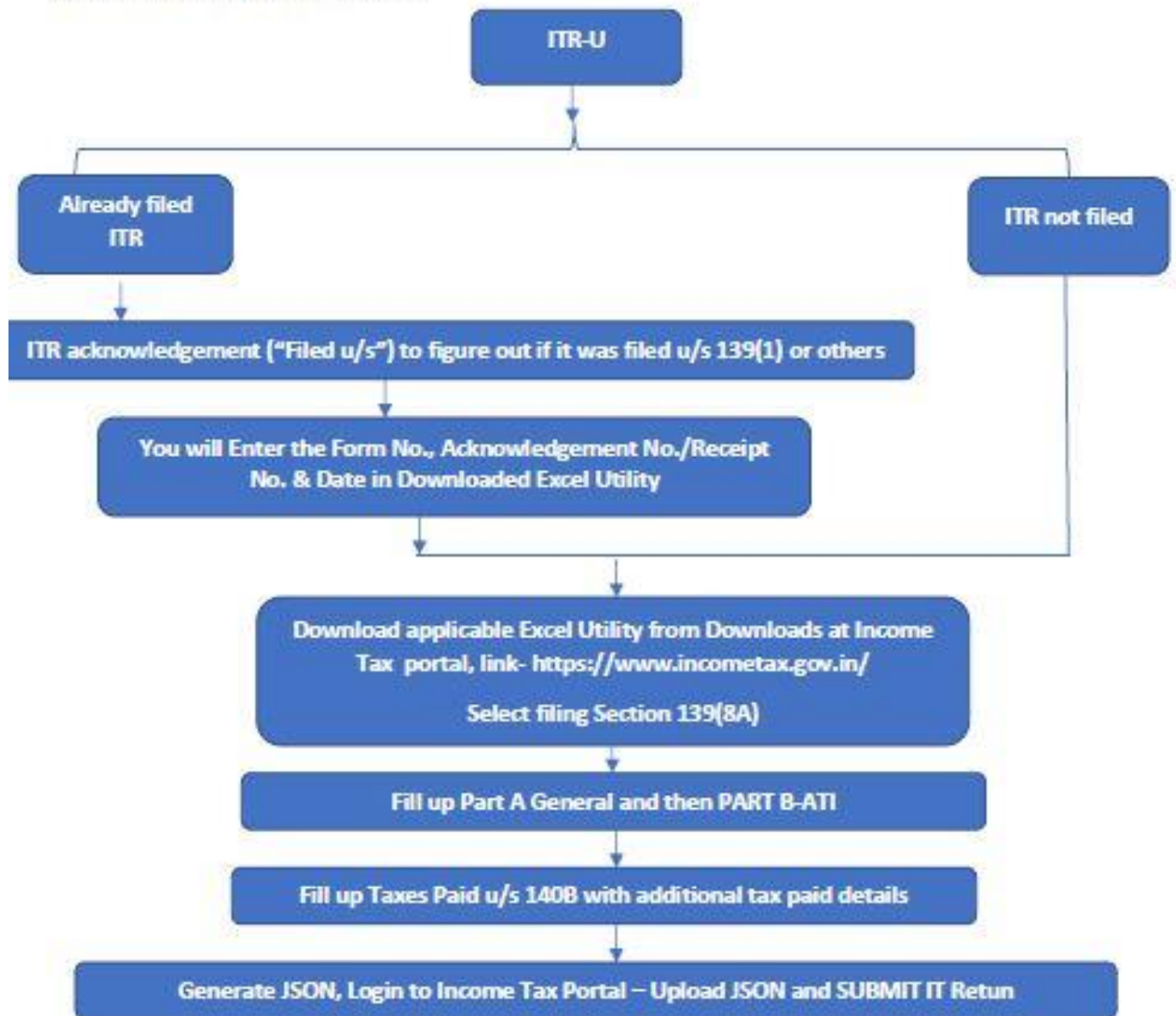
Tax Liability on Filing of Form ITR-U :-

If you wish to opt this facility, you would be required to pay, apart from the normal tax, an additional tax along with interest as follows-

1. In case the return is filed within 12 months from the end of the relevant AY, then you will be required to provide an additional tax of 25%.
2. On the other hand, if you file the return after 12 months but before 24 months from the end of the relevant AY, the additional tax liability would rise to 50%.
3. While filing an updated return, the proof of payment of additional income tax & interest thereon shall have to be submitted by the taxpayer.

In a Nutshell : You can file Form ITR-U only if you have at least some tax liability because this return will be held invalid if you don't pay any Additional Tax along with ITR-U.

Process for filing Form ITR-U :-



Benefits of Filing of Form ITR-U :-

Although the additional income tax along with the interest thereon constitutes in higher tax liabilities and appears as a burden on a taxpayer, this facility of filing an updated return can also be viewed as an opportunity to disclose the earlier missed income and save oneself from any legal proceedings and prosecutions.

The first and foremost benefit is that you can save yourself from scrutiny assessment under Section 143(3), best judgement assessment under Section 144, and income escaping assessment under Section 147. Also, you could avoid the hassle of survey and seizure proceedings, litigations, penalties, and prosecution.

In case of under-reporting of income, a penalty as high as 50% of the tax payable could be levied & for misreporting of income could lead to a levy penalty as high as 200% of the tax payable on the misreported income. Thus, the provision of filing of Updated Return is the biggest opportunity to Taxpayers, as I initially denoted this facility as an opportunity to Taxpayers.

Avoid Extra Tax Burden,

Avoid Unwanted Litigation!







International Conference of CA Students **FACING THE FUTURE INNOVATE – INTEGRATE – MOTIVATE** on 2nd – 3rd December 2022 at Shilpakala vedika, Hyderabad organised by SSEB of ICAI Hosted by Hyderabad Branch of SIRC of ICAI. Chief Guest Inaugural address by Governor-Dr. Tamilisai Soundararajan – Telangana, seen along CA. (Dr.) Debashish Mitra, President ICAI, CA. Aniket Sunil Talati, Vice President, ICAI Motivational session by Shri. Kapil Dev, Former Indian Cricketer & Valdictory address by Shri. Pawan Kalyan, South Film Actor.



VRIDDHI 54th Regional Conference of SIRC of ICAI on 9th -10th December, 2022 at Shilpakala vedika, Hyderabad
Inaugral Address by CA.(Dr.)Debashis Mitra, President ICAI, & CA. Aniket Sunil Talati, Vice President, ICAI

APPEAL BEFORE CIT (A) AND ITAT PROCEDURES AND RELATED ISSUES



Resource Person CA. Sai Prasad K.A, Hyderabad on 16th December, 2022

AUDIT QUALITY MATURITY MODEL PREPAREDNESS



Resource Person CA. Vijay Thotapally, hyderabad on 17th December, 2022

SEMINAR ON ETHICAL STANDARDS IMPORTANT CHANGES IN CODE OF ETHICS



Resource Person's CA. Kamal Garg, New Delhi & CA. C.N Vaze, Mumbai on 19th December, 2022

SEMINAR ON ANNUAL RETURNS IN GST ORGANISED BY GST & INDIRECT TAXES COMMITTEE OF ICAI



Resource Person's CA. Satish Saraf, Hyderabad & CA. Mohd Irshad Ahmed, Hyderabad on 20th December, 2022

SEMINAR ON ACCOUNTING STANDARDS



Resource Person's CA. M.V Kali Prasad, Hyderabad & CA. G. Ganesh, Hyderabad on 21st December, 2022

IMPORT AND EXPORT TRANSACTION UNDER FEMA & FOREIGN TRADE POLICY



Resource Person CA. Manas Chughh, New Delhi on 22nd December, 2022

POWER-UP FOR BUSINESS INTELLIGENCE IN 2023



Resource Person CA. Saran Kumar U, Hyderabad on 23rd December, 2022

HR MANAGEMENT IN CA OFFICE



Resource Person CA. Neel Kamal P, Hyderabad on 24th December, 2022

US TAX COMPLIANCE FOR INDIAN CITIZENS, INDIAN COMPANIES & NRI's



Resource Person Mr. Tej Pakyala, Tax Advisor, Dallas, US on 26th December, 2022

INVESTOR AWARENESS PROGRAM – LET’S TALK MONEY



Resource Person CA. Hitesh Thakral, Bengaluru on 27th December, 2022



THREE DAYS RESIDENTIAL WORKSHOP ON ASSURANCE PRACTICE, QUALITY PROCEDURES

Organised by SIRC of ICAI at COE ICAI from 27th – 29th December, 2022

INTRODUCTION TO BENAMI LAW & RECENT JUDGEMENTS



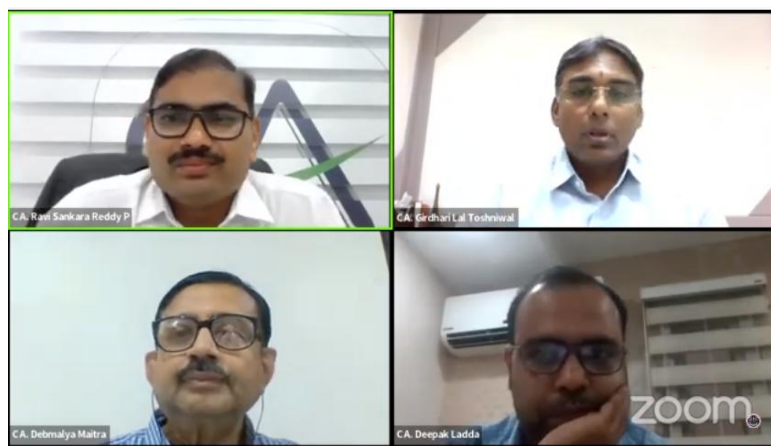
Resource Person CA. Laxmikanth Rathi, Hyderabad on 28th December, 2022

NETWORKING GUIDELINES & MULTI-DISCIPLINARY PARTNERSHIP



Resource Person CA. Surendar Reddy M, Bengaluru on 29th December, 2022

AWARENESS PROGRAM ON MULTI-DISCIPLINARY PARTNERSHIP



Resource Person CA. Debalmaya Maitra, Mumbai on 30th December, 2022



CAREER COUNSELING PROGRAM AT MAHBUB JR COLLEGE SECUDNERABAD
CORDINATOR CA. VIJAY THOTAPALLY





VALDICTORIES SESSION FOR ICITSS & AICITSS OF DECEMBER 2022

OUTDOOR GAMES FOR CA STUDENTS ON DECEMBER 24, 2022



INDOOR GAMES ON DECEMBER 23, 2022



INDUSTRIAL VISIT ON DECEMBER 31, 2022

