

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(SET UP BY AN ACT OF PARLIAMENT)

HYDERABAD BRANCH (SIRC)



E-NEWSLETTER MAY 2025

Condemning

PAHALGAM TERROR ATTACK



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FROM THE CHAIRMAN

Dear Professional Colleagues,

As we step into a new financial year, it is an opportune time to pause and reflect on the importance of staying current, focused, and committed to excellence in our professional journey. In the spirit of progress and courage, let us remind ourselves of the inspiring words of Swami Vivekananda:

"Be not afraid of anything. You will do marvelous work. It is fearlessness that brings heaven even in a moment."

The coming months will bring significant responsibilities—particularly in the form of bank audits, statutory audits, and other critical assignments. These tasks demand not only our diligence but also a proactive approach to continuous learning. I urge each of you to stay abreast of recent developments, especially in Company Law and SEBI regulations, to ensure that we deliver work that meets the highest standards of professionalism and compliance.

We are pleased to share that the month of April has been highly productive for our professional community. Some of the highlights include:

- Seminars focused on updated networking guidelines and evolving financial reporting standards.
- Training sessions for peer reviewers, aimed at strengthening the review process and ensuring quality assurance.
- Knowledge-sharing initiatives fostering dialogue and learning among members on emerging topics.

We are also happy to report that we conducted a special programme for members in industry, which was well received and appreciated.

For our student community, we organized a series of mock tests and rapid revision classes,



**CA. A CHINNA SITA RAMI REDDY
- CHAIRMAN**

which saw enthusiastic participation. We are glad that these efforts were well received and proved beneficial in their academic preparations.

On a somber note, our thoughts are with the victims of the Pahalgam attack, where innocent lives were lost. We strongly condemn such acts of violence and extend our heartfelt condolences to the families affected.

As we embrace both personal and professional growth, let us also draw strength from spiritual wisdom. On the auspicious occasion of Buddha Purnima, to be celebrated on 12th May 2025, may the teachings of Lord Buddha inspire us toward inner peace, compassion, and enlightenment.

In closing, I leave you with a powerful thought from the Bhagavad Gita:

"You have the right to work, but for the work's sake only... Seek refuge in the knowledge of Brahma."

Let us continue our journey with dedication, mindfulness, and a steadfast commitment to excellence.

Best regards,

CA Chinna Sita Rami Reddy A

Chairman, Hyderabad Branch of SIRC of ICAI

MEET THE TEAM!

MANAGING COMMITTEE (2025-26) OF HYDERABAD (SIRC)



CA. A Chinna Sita Rami Reddy
(Chairman)



CA. Girdhari Lal Toshniwal
(Vice- Chairman)



CA. Rama Rao Karumanchi
(Secretary)



CA. S N Harshavardhan Reddy
(Treasurer)



CA. Mukkara Sai Charan Reddy
(Chairman - SICASA)



CA. Gonugunta Murali
(Co-Chairman - SICASA)



CA. Uppalapati Saran Kumar
(Committee Member)



CA. Shailesh Khandelwal
(Committee Member)



CA. Kumar Pal Tated
(Committee Member)

EX- OFFICIO COUNCIL MEMBERS (2025-26)



CA. Dayaniwas Sharma
(Central Council Member)



CA. Muppala Sridhar
(Central Council Member)



CA. Bhanu Narayan Rao Y V
(Treasurer - SIRC)



CA. Chengal Reddy R
(Member - SIRC)



CA. Deepak Ladda
(Member - SIRC)



CA. Mandava Sunil Kumar
(Member - SIRC)



CA. Yarra Tirupathaiah
(Member - SIRC)

SUB - COMMITTEES

COMMITTEE FOR MEMBERS IN INDUSTRY

CA. Shailesh Khandelwal	Chairman
CA. A Chinna Sita Rami Reddy	Member Ex-Officio
CA. Seelam Naga Harshavardhan Reddy	Member
CA. Gonugunta Murali	Member
CA. Srikanth Bhakkad	Member Co-opted
CA. Manu Sharma	Member Co-opted

TAXATION COMMITTEE

CA. Kumar Pal Tated	Chairman
CA. A Chinna Sita Rami Reddy	Member Ex-Officio
CA. Seelam Naga Harshavardhan Reddy	Member
CA. Gonugunta Murali	Member
CA. Akshaye Surana	Member Co-opted
CA. Komal Chhajer	Member Co-opted

CPE COMMITTEE

CA. Girdhari Lal Toshniwal	Chairman
CA. A Chinna Sita Rami Reddy	Member Ex-Officio

NEWSLETTER COMMITTEE

CA. Shailesh Khandelwal	Chairman
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INFORMATION TECHNOLOGY (IT) COMMITTEE

CA. Uppalapati Saran Kumar	Chairman
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LIBRARY COMMITTEE

CA. Rama Rao Karumanchi	Chairman
CA. A Chinna Sita Rami Reddy	Member Ex-Officio

**HYDERABAD
(SIRC)**

TRIBUTE TO PAHALGAM VICTIMS

The tragic incident in Pahalgam has left an indelible mark on our hearts. Such acts of terror have no place in a society that aspires for peace, compassion, and progress. We offer our deepest condolences and heartfelt tributes to the victims and their families.

As we mourn this profound loss, the nation stands united in grief, prayer, and solidarity on 25th April 2025, honouring the memory of those we have lost.



Placement Drive for Women CAs

EMPOWER YOUR WORKFORCE WITH

WOMEN CHARTERED ACCOUNTANTS

An Opportunity To Recruit
Women CAs

- ▶ Virtual Interview
- ▶ Flexi time / Hybrid / Part time /
Work from Home

- ▶ Access to a Diverse
Talent Pool
- ▶ Cost-Effective Hiring
- ▶ Flexibility in Workforce
Models
- ▶ Support for Women
Excellence

For more details refer the
brochure: <https://shorturl.at/cN8wf>



Organized jointly by:

**Committee for Members in Industry & Business
and
Women & Young Members Excellence Committee
The Institute of Chartered Accountants of India**



SEMINAR ON NETWORKING GUIDELINES (WOMEN'S STUDY CIRCLE)

HELD ON
01ST APRIL 2025



Chairman CA A. Chinna Sita Rami Reddy joins fellow women Chartered Accountants for a memorable group photograph, reflecting camaraderie and professional unity.

Women Chartered Accountants engaged in enriching discussions, fostering collaboration and shared growth.



Chairman CA A. Chinna Sita Rami Reddy addresses the gathering, sharing valuable insights and encouraging meaningful engagement among women CAs.





RESOURCE PERSONS:
CA. LAKSHMI NALLAMILLI, DR. SWATHI

OC & MCS VALEDICTORY SESSION

HELD ON
09TH APRIL 2025



The Orientation Course (OC) and Management & Communication Skills (MCS) play a vital role in shaping future CAs by enhancing communication, leadership, and professional ethics. The valedictory session celebrated this learning journey. Here are some memorable moments from the event:



AWARENESS PROGRAM ON FINANCIAL REPORTING PRACTICES

HELD ON
11TH APRIL 2025



RESOURCE PERSONS:
CA. MOHAN RAGHOTHAMA LAVI, CA. SHRENIK MEHTA,
CA. TOTAPALLY VIJAY



ONE DAY TRAINING PROGRAMME FOR PEER REVIEWERS

HELD ON
21ST APRIL, 2025



RESOURCE PERSONS:

CA. CHINNSAMY GANESAN, CA. VIJAY TOTAPALLY, CA. VENKATA JANAKINATH D

OC VALEDICTORY SESSION

HELD ON
26TH APRIL, 2025



SATURDAY SYNCUP ENERGIZE YOUR WEEKEND. EMPOWER YOUR CAREER

HELD ON
26TH APRIL, 2025



RESOURCE PERSONS:
MS. DISHA METHI KHANDLWAL AND MR. RAMESH PARTANI

SATURDAY SYNCUP ENERGIZE YOUR WEEKEND. EMPOWER YOUR CAREER

HELD ON
26TH APRIL, 2025



Members enthusiastically participating in the “Icebreaker: Speed Meeting”, fostering new connections and vibrant conversations.



SATURDAY SYNCUP ENERGIZE YOUR WEEKEND. EMPOWER YOUR CAREER

HELD ON
26TH APRIL, 2025



Members sharing positive feedback, reflecting the energy, connection, and professional value gained from the session.

ONE DAY CPE SEMINAR NEXT FRONTIER FOR CHARTERED ACCOUNTANTS (SME MARKETS, UAE & USA)

HELD ON
29TH APRIL, 2025



ONE DAY CPE SEMINAR NEXT FRONTIER FOR CAS SME MARKETS, UAE & USA

HELD ON
29TH APRIL, 2025



RESOURCE PERSONS:

CA. SHAILESH KHANDELWAL, CA. SREEKAR REDDY, CA. NAG MUNAGAPATI, CA. LAKSHMI
ANUSHA CHITTURI, MR. MOHAMMAD ZEESHAN ALI



CA SHAILESH KHANDELWAL

YOUR GUIDE TO INCORPORATING A COMPANY IN THE UAE MAINLAND: 10 ESSENTIAL STEPS

Setting up a company in the UAE mainland offers significant advantages, including access to a thriving economy, strategic global location, and full operational freedom within the UAE. However, understanding the incorporation process is crucial for a smooth setup. Here's a detailed guide outlining the 10 key steps involved in forming a mainland company in the UAE:

Step 01: Decide the Business Activity

Start by selecting the appropriate business activity from the Department of Economic Development (DED)'s approved list. Keep in mind that some activities may require additional approvals from relevant authorities, such as health, food safety, or real estate regulators.

Step 02: Choose a Legal Structure

Decide on the legal structure that best suits your business model. Common options include:

- LLC (Limited Liability Company) – the most widely used structure.
- Sole Establishment
- Civil Company

Your choice will affect ownership distribution, liability limits, and visa eligibility.

Step 03: Reserve a Trade Name

Choose and register a unique trade name that complies with DED naming guidelines. Avoid using religious, political, or offensive terms in the name.

Step 04: Obtain Initial Approval

Apply for an Initial Approval Certificate from DED. This “no objection” certificate allows you to move forward with the rest of the setup process.

Step 05: Prepare MOA/LSA

Depending on your legal structure:

- LLC: Draft a Memorandum of Association (MOA) with all shareholders.
- Sole Establishment / Professional Firms: Draft a Local Service Agent (LSA) agreement if required.

Both MOA and LSA documents must be notarized by a UAE public notary.

Step 06: Choose Office Space

Secure a physical address by leasing an office or obtaining a flexi-desk in Dubai. You must also get an Ejari Certificate, which is the official registration of your tenancy contract—this is mandatory for mainland licensing.

Step 07: Submit Final Documents

Submit the following documents to DED for final review:

- Initial Approval Certificate
- MOA / LSA
- Trade Name Certificate
- Ejari
- Passport copies of all stakeholders
- Any other required external approvals

Step 08: Pay Fees and Collect License

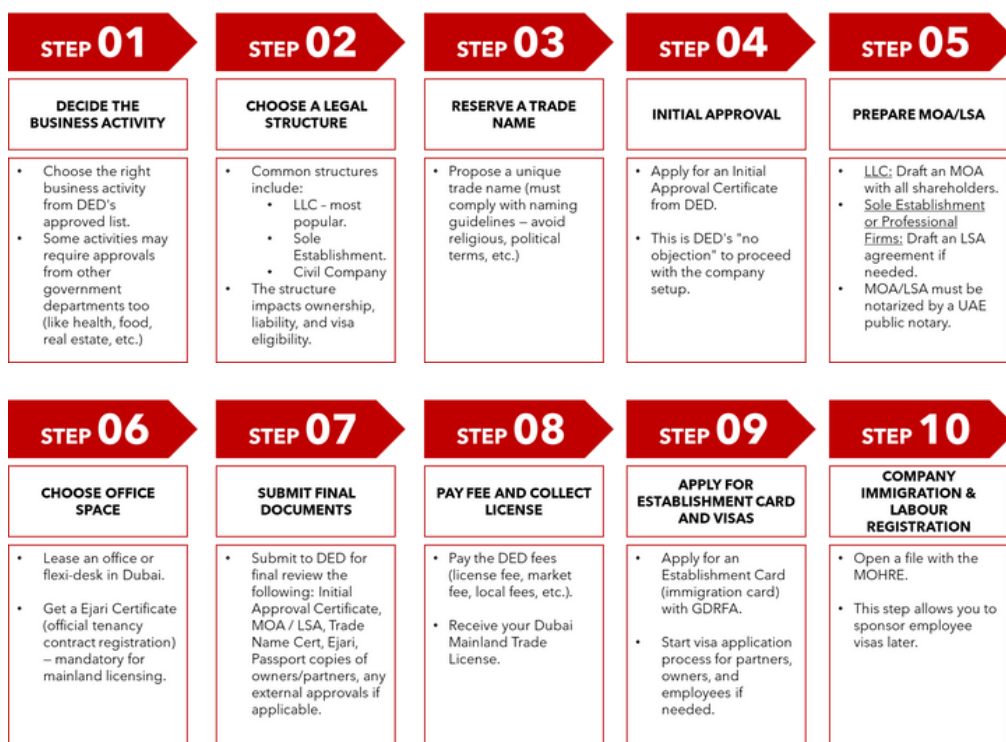
Pay the applicable fees, including license issuance, market fees, and other local charges. Once processed, you will receive your official Dubai Mainland Trade License.

Step 09: Apply for Establishment Card and Visas

Apply for your Establishment Card (immigration card) with GDRFA. This allows you to initiate visa applications for yourself, your partners, and employees.

Step 10: Company Immigration & Labour Registration

Open a file with the Ministry of Human Resources and Emiratization (MOHRE). This registration is mandatory and allows your company to hire, sponsor, and manage employee visas and labour contracts legally and efficiently across the UAE.



Setting up a business in the UAE mainland involves a clear, step-by-step process that ensures legal compliance and opens doors to a dynamic market. With the right guidance, entrepreneurs can focus more on growth and less on paperwork.

Many businesses find that having professional support during these stages not only saves time but also helps avoid costly delays - making the entire journey more seamless and efficient.

The author may be reached out at
shailesh@skauditors.com



CA RAVI LADIA

BANGLES, BILLS & CBDT: A LOVE-HATE TRIANGLE

It begins with a wedding. There's laughter, there's gold, and there's that slightly proud moment when the bride's side ensures the locker gets a little heavier. Years pass, jewellery accumulates – gifts, inheritances, 'it-just-matched-my-saree' purchases – and then one fine morning, the department rings the bell. What follows is not a matrimonial dispute, but a fiscal one: how much is too much to keep? Welcome to the curious case of Streedhan – a sacred right in our cultural fabric, and an often-taxed mystery in assessment files.

It wasn't long before the sparkle of tradition caught the glint in the department's eye. What began as a sacred custom – jewellery given to a woman at marriage and celebrated through generations – gradually became an audit trigger. The department, with all due reverence, seems to believe that behind every necklace lies a potential concealment. And so began the historic standoff: on one side, cultural legacy; on the other, capital gains logic. While grandmothers blessed their daughters with bangles, the taxman blessed them with notices. For every claim of 'Maa ke zamane ka haar,' there emerged a counterclaim of 'Where is the source and supporting evidence?' The result? Streedhan has found itself precariously balanced –

between Godh Bharai and guidelines, between rituals and reports.

What is Streedhan? – Cultural and Legal Context

At its core, Streedhan is not just a collection of ornaments – it is a deeply embedded cultural concept, signifying the wealth voluntarily given to a woman at the time of her marriage and throughout her life, from her parents, in-laws, relatives, and even friends. It represents emotional security, social recognition, and in many cases, financial independence. It is her absolute property, to be held, worn, gifted, or bequeathed as she chooses – a legal and moral right enshrined not just in tradition but in jurisprudence.

The Supreme Court in *Pratibha Rani v. Suraj Kumar* (1985) ((1985) 155 ITR 0190) left no ambiguity, declaring that Streedhan is a woman's exclusive property, and she retains full ownership even if it is kept in the custody of her husband or in-laws. It is not to be confused with dowry, nor is it a family asset. The law recognises that while the custom is sentimental, the ownership is absolute.

In short, while the origins of Streedhan may lie in cultural rituals, its status as a woman's

lawful, individual asset has been judicially acknowledged – even if the Income Tax Department sometimes insists on examining the receipts behind those rituals.

Tax Law Meets Tradition – When Does Streedhan Become a Problem?

For the longest time, Streedhan stayed out of balance sheets and tax files – quietly nestled in lockers, family traditions, and velvet-lined boxes. But that changed the moment the Income Tax Department began looking at jewellery not just as ornamentation, but as a potential asset class – especially during search and seizure proceedings under Section 132.

The conflict arises under Section 69A of the Income Tax Act, which empowers the Assessing Officer to treat any unexplained money, bullion, jewellery, or valuable article as deemed income, if the assessee cannot satisfactorily explain its source. This section becomes particularly potent during searches, where gold, especially in excess of certain thresholds, invites closer scrutiny.

What complicates matters is the burden of proof – once jewellery is found, the onus lies squarely on the assessee to prove ownership, source, and legitimacy. Vague explanations like “gifted at marriage” or “family inheritance” without documentary support are often dismissed as inadequate, especially when the department’s weighing scale is more persuasive than sentiment.

Thus, what begins as a cultural right can swiftly turn into a tax complication – not because Streedhan is illegal, but because its undocumented nature often doesn’t satisfy the cold arithmetic of assessment.

CBDT Instruction No. 1916 (1994) – The Department’s Gold Standard (Almost)

In a rare moment of cultural sensitivity meeting administrative clarity, the Central Board of Direct Taxes (CBDT) issued Instruction No. 1916 on 11th May 1994 – a circular that has since become the most frequently cited lifeline in jewellery-related assessments.

The Instruction was issued to guide officers during search and seizure operations, clarifying when jewellery should not be seized – even if the assessee cannot immediately explain its source. It lays down the following thresholds:

- 500 grams of gold jewellery per married woman
- 250 grams per unmarried woman
- 100 grams per male member of the family

These limits are not upper ceilings on what can be owned, but rather guidelines for non-seizure. They were framed to account for Indian customs, recognising that families – especially women – commonly possess jewellery through marriage, festivals, inheritance, and gifts.

In practice, this Instruction often serves as the first line of defence – a soft shield of cultural acceptance before the hard numbers begin.

Between Lockers and Lawbooks: Unpacking Judicial Thinking on Streedhan

As the conflict between sentiment and scrutiny unfolds, it becomes essential to ground our understanding in legal precedent. Over the years, a multitude of judicial forums – from Income Tax Appellate Tribunals to High Courts, and even the Supreme Court – have weighed in on what constitutes legitimate streedhan and how jewellery holdings should be treated under tax laws. These decisions have collectively shaped a nuanced legal framework that balances tradition with statutory compliance. In the following section,

we trace and consolidate these rulings to better understand the core legal principles that now define this evolving intersection of custom and compliance.

“Show Me the Money, and You Can Keep the Jewellery”

(Principle: Higher Declared Income and Drawings Offer a Buffer)

When jewellery is found during a search, the department often demands invoices, gift deeds, and the odd photograph of a cousin handing over a necklace at a wedding. But courts, thankfully, have taken a more reasonable view – especially when the assessee’s income is high and withdrawals are steady. In *Ankur Sharma v. DCIT (ITAT Delhi, 2023)* (ITA No. 1843/Del/2022), the Tribunal found that the family’s consistent earnings and capital drawings left no room for doubt – and certainly no room for additions under Section 69A. Similarly, in *Chandra Pal v. ACIT (ITAT Delhi, 2023)*((2024) 204 ITD 0194), the assessee’s business income and steady lifestyle overruled the department’s suspicion about the family’s jewellery holdings.

The Delhi Bench took the same approach in *Kirti Singh v. Assistant CIT (ITAT Delhi, 2023)* ((2024) 204 ITD 0487), where part of the jewellery found was attributed to sisters-in-law. The Tribunal looked at the overall income tax returns of the extended family and found the explanation credible, particularly in view of their financial standing.

In *Monisha R. Jaising v. DCIT (ITAT Mumbai, 2018)*(2017 TaxPub(DT) 4198), the bench acknowledged that Indian women, commonly recycle old jewellery into new designs, and ruled that the small unexplained portion did not justify addition under Section 69A, given her consistent high income and absence of incriminating evidence.

The Chennai Bench in *Kandiah Muthukrishnan v. DCIT (ITAT Chennai, 2024)*(2024 TaxPub(DT) 1695) held that when the family has sufficient declared income and the quantity found isn’t outrageous, there’s little justification for taxing it. Even where the source was gold bonds, like in *Rakesh Bansal v. ACIT (ITAT Chandigarh, 2019)*(2020 TaxPub(DT) 2461), the Tribunal gave the benefit of the doubt – noting that you can’t demand fresh documentation when the financial narrative already makes sense.

The consistent thread? If you’ve earned well, withdrawn reasonably, and lived within your means – the jewellery on the shelf doesn’t need to be treated like contraband. Sometimes, income speaks louder than invoices.

“The Circular That Wears the Crown”

(Principle: CBDT Instruction No. 1916 Provides a Safe Harbour)

In the world of tax litigation, few documents have had the staying power – or the protective aura – of CBDT Instruction No. 1916, issued in 1994. Originally framed to guide officers during search and seizure operations, it has evolved into a powerful judicial benchmark even at the assessment stage. The Instruction prescribes non-seizure limits – 500g for a married woman, 250g for an unmarried woman, and 100g for a male family member – and courts have consistently upheld its relevance while interpreting Section 69A.

In *Ritu Bajaj v. Dy. CIT (ITAT Delhi, 2018)*((2018) 063 ITR (Trib) 0594), the Tribunal applied the Instruction directly, holding that jewellery within these limits requires no further explanation. *CIT v. Ratanlal Vyaparilal Jain (Gujarat High Court, 2010)*((2011) 339 ITR 0351) went a step further, emphasizing the circular’s binding nature and rejecting revenue’s attempts to make additions when

the quantity was well within prescribed thresholds.

The Mumbai Bench echoed the same view in *DCIT v. Mehul Johnson* (ITAT Mumbai, 2022) (2022 TaxPub(DT) 6416), where the Tribunal shielded most of the jewellery found across family members using the safe limits from the Instruction – leaving only a couple of unmatched pieces exposed. Recently, in *Kirti Singh v. ACIT* (ITAT Delhi, 2023), the circular provided refuge for jewellery held by sisters-in-law, with the Tribunal noting that culturally such possessions are expected – and limits under Instruction No. 1916 could not be ignored.

In *Rakesh Mahajan & Anr. v. DCIT* (ITAT Delhi, 2017)(2017 TaxPub(DT) 4979), the Tribunal upheld the binding nature of CBDT Instruction No. 1916 (1994) and held that jewellery within the prescribed limits should not be treated as unexplained, especially when found during a search. Similarly, in *Chhavi Anand v. ACIT* (ITAT Delhi, 2021)(2021 TaxPub(DT) 5562), the Tribunal reiterated that the Instruction provides a reasonable safe harbour, and additions cannot be sustained when the quantity of jewellery is broadly within those thresholds.

The takeaway? In the eyes of the law, gold may glitter – but not beyond what’s gracefully sanctioned by this ever-resilient circular.

“Decades of Marriage, and You Still Want a Receipt?”

(Principle: Long-standing Marriage & Cultural Accumulation Support Ownership)

In Indian households, jewellery doesn’t accumulate overnight – it weaves itself into the fabric of years. From the early days of marriage through anniversaries, festivals, childbirths, and ceremonies, ornaments arrive without fanfare – often without bills. Yet,

during a tax search, the expectation of exhaustive documentation can feel comically out of touch with how Indian families actually operate. Fortunately, the courts have seen this gold story for what it is – cultural continuity, not concealment.

In *Ashok Chaddha v. ITO* (Delhi High Court, 2011)((2011) 202 Taxman 395), the department questioned the possession of 906 grams of jewellery. The court firmly rejected the addition, holding that in the context of a long-standing marriage and no history of undisclosed income, such possession was perfectly reasonable. No bills were needed for what time had bestowed.

In *Suneela Soni v. DCIT* (ITAT Delhi, 2018) (2018 TaxPub(DT) 1778), the Tribunal accepted the explanation that the jewellery had been accumulated over a long duration of married life, consistent with Indian customs. It held that in the absence of contrary evidence, such possession – spread across decades – could not be treated as unexplained merely because of lack of invoices.

An even earlier recognition came in *Tara Devi Goenka v. CIT* (Calcutta High Court, pre-1994)((1980) 122 ITR 0014), where the court acknowledged that over years, women in well-to-do families would naturally accumulate jewellery. The absence of transactional evidence did not override decades of tradition. Across these judgments, the message is clear: matrimonial gold is often undocumented – but not unexplained.

“My Mother Gave It, My In-Laws Confirmed It – Now You Want an Invoice?”

(Principle: Inheritance and Family Gifting Are Valid Justifications)

In Indian families, jewellery rarely comes with a bill – it comes with a blessing. Passed down through generations or received during life’s many ceremonies, gold is often more an

heirloom than an asset. Yet, when unearthed during tax searches, the department often expects these ornaments to be accompanied by forensic proof. Fortunately, the judiciary has repeatedly grounded its rulings in cultural realism.

In *Sudha Aggarwal v. DCIT* (ITAT Chandigarh, 2022)(2022 TaxPub(DT) 8110), the assessee explained the presence of jewellery by pointing to inheritance from both her mother-in-law and father-in-law. The Tribunal upheld her claim, observing that such possession was consistent with Indian customs and family structure. It also noted that the department's valuation appeared exaggerated due to its failure to exclude stone weights.

Veljibhai M. Sheta v. ACIT (ITAT Ahmedabad, 2003)((2004) 089 TTJ 0330) dealt with a Will through which jewellery had passed to the assessee. The department attempted to question the source, but the Tribunal upheld the claim based on inheritance, affirming that absence of a wealth tax return could not override credible documentary evidence and long-standing family traditions.

In *Raj Kumar Kakrania v. DCIT* (ITAT Delhi, 2018)(2018 TaxPub(DT) 3085), the assessee relied on family gifting practices over time, such as birthday and anniversary occasions. Given the declared income of the family and the nature of events cited, the Tribunal found the explanation plausible.

In *Pooja Shree Chouksey v. ACIT* (ITAT Indore, 2020)(2020 TaxPub(DT) 0590), the Tribunal accepted that the jewellery found was accumulated over time and largely received through gifts on various family occasions, including marriage. In *Vibhu Aggarwal v. DCIT* (ITAT Delhi, 2018)((2018) 170 ITD 0580), the assessee explained possession of jewellery as received from family members, which the

Tribunal accepted in the absence of any contrary evidence. The Rajasthan High Court, in *CIT v. Kailash Chand Sharma* (Rajasthan HC, 2004)((2005) 198 CTR 0201), reinforced that jewellery received as gifts and inheritance cannot be treated as unexplained merely due to lack of documentary proof, especially in culturally accepted volumes. In *Chhavi Anand v. ACIT* (ITAT Delhi, 2021), the Tribunal allowed reasonable credit for jewellery owned by the assessee and also considered jewellery inherited from her late mother, recognising familial transmission of wealth. These rulings affirm that gifting and inheritance are legitimate sources, and when broadly consistent with social and economic background, they cannot be invalidated merely due to absence of invoices or wealth declarations.

Together, these rulings make one more thing clear: not all gold glitters with GST tags – some of it carries family sentiment, and that too, can be legally sound.

“Her Gold Is Not His Problem – And Vice Versa”

(Principle: Separate Identity of Family Members Must Be Respected)

In Indian households, a family locker is often like a group chat – everyone contributes, but no one wants to be responsible for it all. Still, when the tax department opens that locker during a search, they often attribute everything inside to the assessee alone. Fortunately, courts have repeatedly reminded them that custody is not ownership, and family members have individual legal identities – even when they live under the same roof.

In *Padam J. Challani v. ACIT* (ITAT Chennai, 2023)(2023 TaxPub(DT) 3870), the assessee explained that the seized jewellery belonged to his wife and daughter. The Tribunal

accepted the claim, holding that unless the department could disprove this family-wise segregation, they couldn't summarily tax it all in the assessee's hands.

Vijay L. Bhawe v. ACIT (ITAT Mumbai, 2016)(2016) 051 ITR (Trib) 0474 followed a similar logic – merely finding jewellery in the husband's premises does not imply he owns it. Without specific proof of acquisition or ownership, no adverse inference can be drawn. A foundational ruling came in Asstt. CIT v. Jerambhai Bhimjibhai Patel (ITAT Ahmedabad, 2015)(2016 TaxPub(DT) 0952), where jewellery found in the house was clearly explained as belonging to the assessee's wife and other women in the family. The Tribunal observed that gold held in a shared home may belong to multiple persons, and the department cannot presume single ownership without rebutting the explanation. Importantly, it acknowledged that in Indian homes, one member may hold custody of others' jewellery purely for safekeeping.

Veljibhai M. Sheta v. ACIT (ITAT Ahmedabad, 2003)((2004) 089 TTJ 0330) dealt with a Will through which jewellery had passed to the assessee. The department attempted to question the source, but the Tribunal upheld the claim based on inheritance, affirming that absence of a wealth tax return could not override credible documentary evidence and long-standing family traditions.

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(Principle: Separate Identity of Family Members Must Be Respected)

In Indian households, a family locker is often like a group chat – everyone contributes, but no one wants to be responsible for it all. Still, when the tax department opens that locker during a search, they often attribute everything inside to the assessee alone. Fortunately, courts have repeatedly reminded them that custody is not ownership, and family members have individual legal identities – even when they live under the same roof.

In *Padam J. Challani v. ACIT* (ITAT Chennai, 2023)(2023 TaxPub(DT) 3870), the assessee explained that the seized jewellery belonged to his wife and daughter. The Tribunal accepted the claim, holding that unless the department could disprove this family-wise segregation, they couldn't summarily tax it all in the assessee's hands.

Vijay L. Bhawe v. ACIT (ITAT Mumbai, 2016)(2016) 051 ITR (Trib) 0474 followed a similar logic – merely finding jewellery in the husband's premises does not imply he owns it. Without specific proof of acquisition or ownership, no adverse inference can be drawn. A foundational ruling came in *Asstt. CIT v. Jerambhai Bhimjibhai Patel* (ITAT Ahmedabad, 2015)(2016 TaxPub(DT) 0952), where jewellery found in the house was clearly explained as belonging to the assessee's wife and other women in the family. The Tribunal observed that gold held in a shared home may belong to multiple persons, and the department cannot presume single ownership without rebutting the explanation. Importantly, it acknowledged that in Indian homes, one member may hold custody of others' jewellery purely for safekeeping.

In *Pr. CIT v. Pradip Jayantilal Karia* (Gujarat High Court, 2018)(2018 TaxPub(DT) 4430), the court held that when jewellery is explained as belonging to multiple family members and no contrary evidence exists, it cannot be taxed solely in the hands of the assessee. Similarly, in *CIT v. Satya Narain Patni* (Rajasthan High Court, 2014)((2014) 366 ITR 0325), the court permitted reasonable limits per individual, acknowledging customary family holdings. In *Dy. CIT v. N. Muthusamy* (ITAT Chennai, 2023) (2023 TaxPub(DT) 470), the Tribunal accepted joint family ownership and held that division across members must be respected, especially when supported by family declarations and no evidence of concealment is found.

And in *Geeta Subhash Dalal v. DCIT* (ITAT Ahmedabad, 2025)(2025 TaxPub(DT) 1252), the Tribunal quashed the addition when jewellery found in the assessee's home was proved to belong to her NRI daughter, confirming that custodial possession alone doesn't establish tax liability. Similarly, In *Manjulaben Bipinbhai Patel v. DCIT* (ITAT Ahmedabad, 2024) (2024 TaxPub(DT) 5100), the Tribunal accepted that jewellery received by the daughter-in-law as streedhan remained her exclusive property, even though it was found in the possession of the mother-in-law. The decision reinforced that ownership does not transfer merely due to custody, and streedhan retains its individual character under both social and legal norms.

When it comes to gold, the law is learning to recognise what Indian families have always known: just because it's in your locker, doesn't mean it's yours.

“No Past Declarations? No Problem. That's Not a Death Certificate.”

(Principle: Supporting Evidence Helps – But Valuation Mismatches and Missing Returns Are Not Fatal)

In search cases, the department often acts like every bangle should come with a bill and every chain with a cross-reference in a wealth tax return. But courts have repeatedly held that valuation mismatches, or even the absence of formal declarations, do not automatically make jewellery “unexplained” – especially when the explanation is consistent and the source is reasonable.

In *Shalini Chawla v. ACIT* (ITAT Delhi, 2020) (2020 TaxPub(DT) 3515), the assessee produced details of jewellery received during various ceremonies. The department tried to discredit the explanation due to minor differences in weight and lack of wealth tax

filings, but the Tribunal held that these were immaterial – especially when the family was affluent and there was no contrary evidence.

In *Nawaz Singhania v. DCIT (ITAT Mumbai, 2017)*(2018 TaxPub(DT) 0386), affidavits from family members supported the claim that jewellery was gifted over the years. The absence of wealth tax returns didn't bother the Tribunal; what mattered was the consistency of the claim and credibility of the source.

In *Nitin Manaktala & Anr. v. DCIT (ITAT Delhi, 2017)*(2017 TaxPub(DT) 1940), the jewellery was supported by explanations that matched family background and cultural practices. The department's emphasis on valuation and mismatch was dismissed as technical nitpicking in the face of reasonable social context.

The principle is now well-settled: you don't lose your streedhan just because your tax filing team forgot to list it under a Schedule years ago.

"Missing Jewellery Is Not Capital Gains in Disguise"

(Principle: Mere Absence of Jewellery, without proof of sale, Does Not Trigger Tax Liability)

In *Bina Aggarwal v. ACIT (ITAT Delhi, 2019)* (2019 TaxPub(DT) 7323), the department sought to tax the shortfall in declared gold as capital gains, claiming that the jewellery was sold and the proceeds went unreported. However, the assessee had declared a higher quantity of gold earlier, and lesser gold was physically found during the search. The Tribunal rejected the department's imaginative leap, holding that absence is not proof of sale, and certainly not evidence of undisclosed capital gains.

The ruling draws an important boundary: loss,

misplacement, or gifting of jewellery doesn't automatically imply that the assessee has earned from it. Without evidence of sale or receipt, there's no basis for assuming capital gains under the Income Tax Act. The Tribunal also cautioned the revenue from drawing speculative inferences in the absence of transactional evidence.

This principle becomes especially important in situations involving family partition, jewellery loans, or simply misplaced heirlooms. Courts have recognised that not all gold is eternal – some of it genuinely goes missing.

CONCLUSION

Sentiment Is Not Exempt from Scrutiny

In the great Indian wedding, gold flows like blessings – unasked, undocumented, and almost divine. But once the taxman enters the frame, the velvet boxes of streedhan are no longer sacred; they're scanned, weighed, questioned, and sometimes taxed. As the courts have shown, tradition can't be bulldozed, but neither can it be used as a blindfold. Streedhan enjoys dignity, yes – but not diplomatic immunity. Judicial pronouncements have struck a pragmatic balance: you don't need a receipt for every bangle, but you do need a story that makes sense – ideally one supported by your income, social standing, and a little foresight. Because while customs may be ancient, scrutiny is very much modern. So as families pass down heirlooms wrapped in nostalgia, it might be wise to also wrap a copy of the CBDT Circular with it. Sentiment is beautiful – but in the world of tax, it's the substantiated sentiment that survives assessment. In the end, the message is clear: document what you can, explain what you must, and declare what matters – because in today's world, even gold inherited with love may need to be defended with law.

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CA M ANAND KUMAR

PROMPT ENGINEERING: A NEW SKILL FOR THE MODERN CHARTERED ACCOUNTANT

Introduction: The Evolving Landscape of the Accounting Profession

The accounting profession has always adapted to technological changes, from the advent of calculators to spreadsheets to cloud accounting. Today, we stand at the frontier of another significant transformation driven by Artificial Intelligence (AI). The global emergence of powerful Large Language Models (LLMs) such as OpenAI's ChatGPT, Google's Gemini, and Anthropic's Claude has revolutionized how professionals across industries interact with information.

Recognizing this paradigm shift, the Institute of Chartered Accountants of India (ICAI) has



been making rapid strides in the AI domain, building upon these technological advancements. Following the widespread adoption of general-purpose AI models, ICAI launched CA GPT—a specialized AI tool designed specifically for Chartered Accountants that leverages the foundational technology of earlier GPT models while being tailored to our profession's unique requirements.

CA GPT represents ICAI's commitment to equipping members with cutting-edge technology customized to our professional needs. However, like any AI tool, its

effectiveness depends on how skillfully we use it. This is where prompt engineering comes in—a new skill that can significantly enhance our interaction with AI systems, whether using CA GPT or other available AI platforms.

Understanding Generative AI and Large Language Models (LLMs)

Before diving into prompt engineering, it's essential to understand what we're working with. Generative AI refers to artificial intelligence systems capable of creating new content—be it text, images, or code—based on the input they receive.

Large Language Models (LLMs) like GPT (Generative Pre-trained Transformer) are a type of generative AI specifically designed to understand and generate human language. These models are:

- Large: Trained on vast amounts of data with billions of parameters
- Language-focused: Primarily dealing with text data
- Predictive: Capable of anticipating the next word or sentence based on context

CA GPT is built on this foundation but is fine-tuned with accounting and finance-specific

data, making it particularly valuable for our profession.

What is Prompt Engineering?

Simply put, prompt engineering is the art and science of crafting effective instructions for AI systems to get the desired results. It's about knowing how to "talk" to AI to maximize its utility.

A prompt is a detailed set of guidelines given to an LLM to perform a specific task. Think of it as giving instructions to a very literal but highly capable assistant—the clarity and specificity of your instructions directly impact the quality of the outcome.

Why Prompt Engineering Matters for CAs

As Chartered Accountants, we deal with complex, nuanced information that requires precision. Effective prompt engineering can help us:

- Extract accurate financial insights from raw data
- Draft precise technical documents and correspondence
- Analyze complex tax scenarios and regulatory requirements
- Generate clear explanations of complicated accounting concepts for clients
- Create structured reports that meet professional standards.

Components of an Effective Prompt

A well-crafted prompt typically consists of four key elements:

1. Context

This is the background information that helps the AI understand the professional setting. For example: "I am a Chartered Accountant preparing a financial statement analysis for a manufacturing client."

2. Instruction

The specific task you want the AI to perform. For instance: "Create a variance analysis comparing this year's financial performance with the previous year."

3. Input Data

The information the AI needs to work with: "Here are the key financial metrics for both years..."

4. Output Indicator

The format or structure you want for the response: "Present the analysis in a tabular format with percentage changes and highlight significant variances."

Practical Prompt Engineering Techniques for CAs

Define Clear Goals

Tell CA GPT exactly what you want it to do. Instead of asking, "What about GST?" try "Explain the recent changes to GST input credit rules for manufacturing companies and their impact on quarterly filings."

Specify the Format

If you want a specific output format, state it clearly: "Please format your response as a professional email to a client" or "Organize this information as bullet points under appropriate headings."

Assign a Role

This helps frame the AI's perspective: "Act as a tax consultant explaining Section 80IBA benefits to a real estate developer client."

Provide Examples

Showing the AI what you expect can improve results: "Here's an example of how the final paragraph should be structured..."

Apply Restrictions

Setting boundaries helps ensure appropriate responses: "Limit your explanation to

provisions applicable for Assessment Year 2025-26" or "Focus only on MSME compliance requirements."

Advanced Prompt Strategies for Professional Accounting Tasks

1. Zero-Shot Learning

This involves directly asking the AI to perform a task without examples: "Explain the tax implications of the recent Supreme Court ruling on XYZ case for service sector businesses."

2. Few-Shot Learning

Here, you provide a few examples to guide the AI: "Example 1: For interest income of ₹50,000 from savings account, the tax treatment is... Example 2: For interest income of ₹30,000 from fixed deposits, the tax treatment is... Now, explain the tax treatment for interest income of ₹70,000 from corporate bonds."

3. Chain of Thought Process

Ask the AI to show its reasoning: "Walk through the step-by-step calculation of GST liability for a business with both taxable and exempt supplies, explaining each step of the input credit allocation."

Real-World Applications for CAs

1. Client Communication

Prompt: "Act as a CA drafting an email to a client explaining the implications of the new tax audit requirements. The tone should be professional yet accessible to a non-finance professional. Include specific deadlines and clear action items."

2. Technical Research

Prompt: "I need to understand the ICDS implications for a construction company following percentage completion method. Analyze the key provisions, highlight potential compliance challenges, and suggest documentation requirements."

3. Financial Analysis

Prompt: "Using the following financial ratios [list ratios], generate a comprehensive analysis of the company's financial health. Compare against industry standards, identify strengths and weaknesses, and suggest areas for improvement."

4. Audit Documentation

Prompt: "Create a template for documenting the testing of internal financial controls as required under Companies Act, 2013. Include sections for control objective, test procedure, sample size determination, and conclusion."

Common Prompting Errors to Avoid

- Vague or Ambiguous Prompts: "Tell me about accounting standards" is too broad. Instead, try "Explain the key differences between Ind AS 115 and AS 9 regarding revenue recognition."
- Insufficient Context: Without adequate background, the AI may miss nuances specific to the Indian accounting environment.
- Overlooking Restrictions: Failing to specify limitations may result in unnecessarily lengthy or irrelevant responses.
- Not Iterating: Prompt engineering is an iterative process. If the initial response isn't satisfactory, refine your prompt based on what worked and what didn't.

Limitations to Keep in Mind

While CA GPT and similar tools are powerful, they have limitations:

- Hallucinations: AI can sometimes generate plausible-sounding but incorrect information, particularly for very recent regulatory changes.
- Cut-off Date Knowledge: The AI's knowledge has a cut-off date and may not include the very latest developments.
- Professional Judgment: AI cannot replace the professional judgment and ethical considerations that are core to our profession.

Always verify important information, particularly legal or regulatory content, against authoritative sources.

Conclusion: The Future-Ready CA

As our profession evolves, the ability to effectively leverage AI tools like CA GPT will become increasingly valuable. Prompt engineering is not merely a technical skill—it represents a new way of thinking about how we approach problem-solving and information processing in our practice.

The Chartered Accountants who embrace these tools while applying their professional expertise and judgment will be best positioned to thrive in the changing landscape. By mastering prompt engineering, we can harness the power of AI to handle routine tasks more efficiently, freeing our time for the higher-value advisory work that truly serves our clients.

The key to becoming proficient in prompt engineering is practice—experiment with different prompts, analyze the outcomes, and continuously refine your techniques.

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CA RAVI GARG

INDIA'S GLOBAL PATH: ADAPTING TO GEOPOLITICAL CHANGES

Introduction

We are probably experiencing the most challenging times in recent history. The world is moving faster, with an unimaginable pace, rebalancing ties with each other based on political outlook, security concerns, cultural alignments, and other self-interests. Meanwhile, we are witnessing crisis such as the Russia-Ukraine war, Middle East conflicts, the rising power and ambitions of China, and, of course, the imposition of new tariffs by the world's largest economy. It is a lot to digest in a short span of time.

In this climate of uncertainty and amid a fragile world order, it is imperative for India to make its choices objectively.

India has made its stance loud and clear, often characterized by a strategic balance with world powers, non-alignment, prioritizing regional security, stability and economic interests, and an emphasis on diplomatic engagement. India's positioning in geopolitical conflicts reflects a pragmatic approach, offering opportunities for economic growth and trade partnerships, technological and defense collaboration, national security and sustainability, recognition as a world leader, and participation in global governance.

Navigating Turbulence: Challenges from Geopolitical Conflicts

Russia-Ukraine conflict: After the pandemic crisis of Coronavirus, the world had just begun to recover and adjust to the normalcy, it anticipated to overcome the challenges soon. However, in February 2022, the Russia-Ukraine conflict erupted, impacting lives in numerous ways. It has changed the world order and disrupted existing supply chains, long-standing trade ties between territories, and caused energy crises, rising food grain prices, and inflation in general.

In 2022, Ukraine's GDP contracted by 29.1%, and steel production dropped by 71% due to the destruction or occupation of key steel plants by Russia. Additionally, exports fell by 35% compared to the previous year (source: Wikipedia).

Conflicts in the Middle East region: On October 07, 2023, following the dastardly attack on Israeli and foreign civilians by the Hamas-led militant group, Israel invaded Gaza with the stated objectives of destroying Hamas and freeing hostages taken by Hamas, further escalating conflicts in the Middle East region. This has led to severe humanitarian crisis

including displacements and human right abuses, economic crisis and increased risk of global terrorism.

Rising power and ambition of China: China's emergence as a superpower in the last decade through economic expansion, technological advancements, enhanced military power, global connectivity, and regional dominance presents both global opportunities and challenges. At a global level, issues such as the concentration of manufacturing activities in a particular region, concerns about regional security (particularly in the Indo-Pacific region), disruptions in local markets, and autonomy of prices for essential items are among the many challenges.

Tariffs imposed by the United States Administration: New Administration of United States announced unilateral tariffs with a minimum rate of 10% tariff on all US imports and higher tariffs on imports from 57 countries (deferred for a period of 90 days for all the countries except for China) on April 02, 2025 which is labeled as "Liberation Day" by the president of United States, has impacted the philosophy of globalization model advocated by the western world so fervently over the years. This has also impacted the domestic and international economic landscapes with increasing trade tensions, decrease in spendings, rise in inflation, supply chain disruption and rebalancing of diplomatic relations.

As much as USD 10 trillion was wiped out from major global markets within a few days of the announcement (source: NDTV News).



Other Zones of Conflict: Other conflicts include geopolitical tensions such as territorial disputes in the South China Sea, Iran's nuclear ambitions, border disputes in Asia, transnational terrorism, and cybersecurity threats, all of which impact existing alliances, economies, and national security.

From Regional to Global: India's Evolving Role in the World Affairs

India's stance on globalization was evident during the COVID-19 pandemic when many low- and middle-income countries, as well as to countries facing shortages of vaccines, relied on India for Indigenous developed vaccines and pharmaceutical supplies, which India delivered while meeting domestic demands.

Our Prime Minister's strong message on the ongoing Russia-Ukraine conflict that "this is not an era of war" underscores India's advocacy for peace and belief in dialogue and diplomacy to resolve conflicts. India has condemned terrorist attacks and the loss of civilian lives in the Middle East conflict, calling for the release of hostages, a ceasefire, and a peaceful resolution.

Regarding China, ongoing diplomatic negotiations alongside the military standoff since May 2020 illustrate India's position. Through the Quad partnership with the US, Japan, and Australia, India promotes regional stability in the Indo-Pacific, countering China's influence.

Furthermore, as a trading partner, India has leveraged strategic relations to its advantage, aligning with its "Make in India" vision. India is also proactively pursuing a Bilateral Trade Agreement (BTA) with the US and is engaged in negotiations to mitigate the impact of tariffs and safeguard its economic interests.

India's stance on "zero tolerance against terrorism" is widely recognized globally,

prompting various countermeasures to reduce terrorist activities. These measures include blocking funding sources, conducting military operations to eliminate threats, fast-tracking trials for suspects, empowering authorities to take strict actions in attaching properties belonging to terrorists, and investing heavily in regions prone to terrorism.

The key messages to world leaders during India's G20 presidency perfectly reflected our policies, which prioritize inclusive development and sustainable growth.

Way forward for India

India's stance on geopolitical changes reflects the dynamic nature of our policies and stands out for the benefit of our people as well as our partners, with mutual respect for each other's cultures. It has provided tremendous opportunities and, at the same time, offered direction to the world for a new order.

While we have gained notable benefits from our country's stance on geopolitical situations and its endeavors and ambitions, much work remains in areas such as manufacturing, research, innovation, intellectual property (IP), agricultural transformation, and defense to become self-sufficient while meeting global needs. Emerging challenges such as green growth, sustainable profitability, and climate action also present new possibilities.

Economically, while initiatives such as "Make in India" and "Ease of Doing Business" provide immense opportunities to foster growth and innovation, there is still much to be done to address infrastructure gaps, political and regulatory hurdles to attract foreign investments, reduce trade deficits, increase employment opportunities, and reduce income disparities.

On dealing with US on tariffs, India needs to aggressively pursue the BTA and negotiate terms sooner than later to get the maximum out of it.

Although India has taken several countermeasures to combat terrorism, the recent terrorist attack in Jammu and Kashmir raises question about our capabilities and preparedness to respond to terrorists and perpetrators of such activities.

Conclusion

It is clearly visible that India's increased relevance on the world stage has led to it being referred to as "New India".

With its trusted leadership, India is perceived as an alternative to China. India is gaining recognition on the global platform for its growing economic activities, strong diplomatic relations, and status as a trusted partner.

India has effectively leveraged the multipolarity of the world order in its diplomacy and pursuit of self-interests and has the potential to achieve its goal of becoming a developed nation by 2047. However, it faces numerous roadblocks and must act wisely and decisively to address these challenges effectively.



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CA MANINDAR KAKARLA

NAVIGATING THE CONCEPT OF INPUT SERVICE DISTRIBUTOR (ISD) MECHANISM

INTRODUCTION:

Input Service Distributor ('ISD') is a mechanism that existed under Service Tax regime for transfer of common credit to all branches/units which is also adopted under GST to distribute the ITC on common input services to various branches/units. However, because of the use of the word 'may' under section 20(2) of CGST Act and for existence of cross charge mechanism, doubts were raised on its mandatory compliance. This confusion was put to rest by GST council in their 50th meeting wherein it is clarified that the existing section 20 does not mandate ISD for credit distribution and suitable amendments would be brought out to make it mandatory. Accordingly, the existed section 20 is substituted with new provisions through Finance Act, 2024. The amended provision is notified to take effect from 01.04.2025 and thereby ISD mechanism is to be complied mandatorily from this date. In this backdrop, this article attempts to bring out various insights related to ISD mechanism.

SALIENT FEATURES OF ISD MECHANISM:

1. Input Service Distributor:

The term 'Input Service Distributor' is defined under section 2(61) of CGST Act, 2017. It

means an office of the supplier of goods or services or both which receives tax invoice towards receipt of input services including invoices in respect of services liable to tax under reverse charge for or on behalf of distinct persons referred to in section 25 (office or establishment of same entity located in other states and registered under GST in such other states) and liable to distribute the input tax credit in respect of such invoices in the manner provided in section 20.

Therefore, any office of a business entity which receives invoices towards receipt of input services including input services liable to tax under reverse charge for and on behalf of distinct persons viz. offices/establishments located in different states shall be called as 'Input Service Distributor'. The input tax credit pertaining to these invoices shall be required to be distributed in the manner specified under section 20 of CGST Act, 2017.

2. Pay Tax for Services under Reverse Charge in Same State as ISD for Distribution:

With respect to services covered under reverse charge, Section 20(1) of CGST Act, 2017 also provides that the applicable tax

under reverse is to be paid by the distinct person of same state in which ISD registration is obtained for distribution to distinct persons. This implies that with respect to common input services received by an entity which are covered under reverse charge, it is required to ensure that these invoices are addressed to such office of business entity which is located in same state as that of ISD for accounting and tax payment. This implies that if reverse charge tax is paid in a state other than that of ISD, provisions of section 20(1) does not facilitate distribution.



3. Manner of Distribution of Input Tax Credit:

Rule 39 of CGST Rules, 2017 read with section 20(3) of the CGST Act, 2017 governs the manner and procedure to be followed for distribution of 'Input Tax Credit'. The conditions and procedure to be followed are broadly summarised as under;

- If the credit available with ISD for distribution is attributable to a particular recipient (distinct person) shall be distributed to that recipient only.
- If the credit available with ISD for distribution is attributable to two or more recipients shall be distributed to those recipients on pro-rata basis based on turnover of such recipients during the relevant period.
- The credit available with ISD for distribution is attributable to all recipients shall be distributed on pro-rata basis based on turnover of all the recipients during the relevant period.
- The term 'Turnover' for the purpose of credit distribution is defined under explanation to Rule 39. This term is defined only in the context of registered person supplying taxable as well as exempted goods. Accordingly, it means the value of turnover reduced by any amount excise duty, sales tax levied on petroleum products, state excise duty and sales tax levied on IMFL. In case the registered person is engaged in supply of

services, this term is required to be understood in its general meaning.

- The term 'Relevant Period' is relevant to determine the turnover for pro-rata distribution. It is defined under explanation to Rule 39 to mean the following;
- If the recipients of credit have turnover in their States in the financial year preceding the year in which ISD is to be distributed, then such preceding financial year is the relevant period. The turnover of all states in such preceding financial year shall be considered for distribution.
- If some or all the recipients of credit do not have any turnover in their states in the financial year preceding the year during which credit is to be distributed, then last quarter preceding the month for which credit is to be distributed and for which turnover of all recipients are available shall be the relevant period. The turnover of all states in such preceding quarter shall be considered for distribution.
- ISD is required to distribute the amount of eligible and ineligible credit separately. The distribution of credit to the recipients should be by way of special invoice provided under Rule 54(1) of CGST Rules, 2017
- The credit of Integrated Tax shall be distributed as integrated tax only. The credit of central tax/state tax shall be distributed as central tax/state tax if the recipient of such credit is located in the same State as that of ISD. If the recipient of such credit is located in different state, then the credit of central tax/state tax shall be distributed as integrated tax which is aggregate of the amount of central tax and state tax available for distribution.
- If the credit distributed to a recipient is
 - excess on account of clerical mistake or the value of supply and tax amount is reduced by vendor by way of credit note in a month subsequent to the month in which invoice was issued, then ISD is required to reduce such excess distributed credit by issuance of credit note referred under Rule 54(1) of CGST Rules, 2017.
 - If the credit distributed to a recipient is less on account of clerical mistake or the value of supply and tax amount is increased by vendor by way of debit note in a month subsequent to the month in which invoice was issued, then ISD is required to further distribute the balance credit by issuance of debit note referred under Rule 54(1) of CGST Rules, 2017.
 - Apart from issuing invoice/debit note/credit note in the manner specified above, the ISD is required to file return in Form GSTR-6 by 13th of every month following the tax period in order to distribute the credit to all the branches/units electronically through GST portal.

ISD VS CROSS CHARGE:

As stated above, under the GST regime, there exists another concept of Cross Charge. In terms of schedule I to CGST Act, 2017 read with section 7(1)(c) of CGST Act, 2017, activities listed in the said schedule would be deemed to be supply even in the absence of consideration. Sl.no. 2 of schedule I provides that any supply of goods or services between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business.

This implies that any goods/services supplied by one of the distinct persons to another distinct person shall be deemed to be a supply even in the absence of consideration. With respect to supplies between distinct persons, the value of the supply shall be determined as per Rule 28 of CGST Rules, 2017. This concept

of charging GST on deemed supply by one distinct person to another distinct person is popularly called as 'Cross Charge' stated above, there was confusion whether ISD is to be followed or cross charge is to be followed for credit distribution. Based on Law Committee Report to GST Council, it is clarified by Circular No. 199/11/2023-GST dated 17.07.2023 that ISD mechanism is applicable for common input services procured from third party. Cross charge is applicable if the Head Office is involved in generating any service internally to their branch offices. This implies that both of them co-exists.

Say for example, the Head Office is carrying out Centralised HR Functions to meet the HR Management needs of all branches, then such service by Head Office to their branches is called internally generated services. In order to carry out internally generated services, the Head Office needs various services viz. HR/Payroll software, Services of HR consultants on which ITC would be accumulated at HO. By adopting cross charge invoicing to Branches for these services, the ITC accumulated at HO will follow to the branches where the benefit of these internally generated services is received.

It is also clarified in the above referred circular that there is no need for Head Office to cross charge for the internally generated services if the Branch Offices involved are entitled for full input tax credit i.e. all supplies involved are taxable and are not exempted. Further, it is also clarified that salary cost of employees should not be considered for cross charge as inclusion of these costs will indirectly lead to taxing services of employees which are kept outside the ambit of 'Supply'. This is huge relief to the trade as salary costs would be a major cost component in internally generated services.

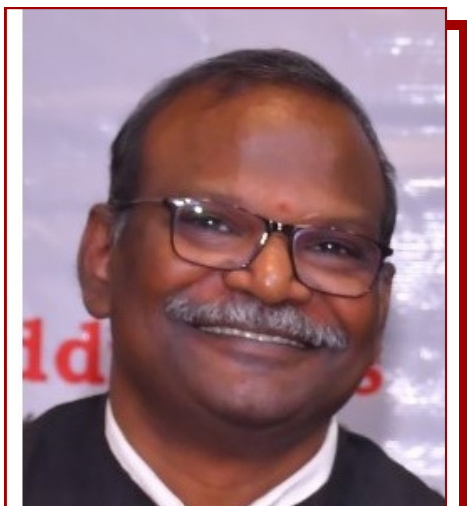
CONCLUSION:

Summing up, 'Input Service Distributor' mechanism is made mandatory from 01.04.2025 onwards. It is the need of every business having multi-state operations to take separate registration under ISD at their Head Office and start distributing the credit to all their branches/units by filing Form GSTR-6 every month in GST portal.

It would be advisable to the taxpayers to carefully evaluate all their input services that are required to be distributed to more than one state and accordingly ensure that the invoices are received by ISD registration to facilitate hassle free credit distribution. Similarly, with respect to services covered under reverse charge, care should be taken to ensure that tax is paid under reverse charge in the same state as that of ISD as section 20(2) bars such distribution if such tax is paid in different state.

As clarified by CBIC, ISD and Cross charge co-exists. Taxpayers dealing in exempt supplies apart from taxable supplies should also focus on internally generated services as cross charge would become mandatory in those cases.

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CA SATISH SARAF

UNLEARN, LEARN, RELEARN – DETERMINATION OF TAX IN GST

Unlearn, learn, and relearn is not new for practicing fraternity specially Chartered Accountants, we all are involved in this practice for ages and hope we continue the same and provide our services to the Nation and trade at large.

Introduction:

As per the recommendations of GST Council, Section 73 & 74 of Central Goods & Services Tax Act, 2017 (CGST Act) application is restricted till FY 2023-24 and in place of these two sections a new Section 74A is inserted by Finance Act (No:2) of 2024 having application from FY 2024-25 and onwards, the same is notified by Central Tax Notification No: 17/2024, Dt: 27-09-2024 with effect from 01-11-2024. Text of Section 74A of CGST Act is appended to this article, as ready reference to the readers.

Section 73 / 74 of CGST Act are invokable for the period starting from 01-07-2017 till 31-03-2024 and after 01-04-2024 new Section 74A is invokable for determination of tax. One must unlearn old sections and forced to learn new section for the Financial Years 2024-25 and onwards.

Intention for insertion of Sec. 74A:

Legislatures and Government collectively

make changes in GST Law through a Constitutional body i.e., GST Council. GST Council in 53rd Meeting Press Release stated the intention/reason for insertion of new Section 74A in CGST Act as - “Presently, there is a different time limit for issuing demand notices and demand orders, in cases where charges of fraud, suppression, willful misstatement etc., are not involved, and in cases where those charges are involved. In order to simplify the implementation of those provisions, the GST Council recommended to provide for a common time limit for issuance of demand notices and orders in respect of demands for FY 2024-25 onwards, in cases involving charges of fraud or willful misstatement and not involving the charges of fraud or willful misstatement etc. Also, the time limit for the taxpayers to avail the benefit of reduced penalty, by paying the tax demanded along with interest, has been recommended to be increased from 30 days to 60 days”.

Amendment of Act & Rules:

The Finance Act (No.2) of 2024 has amended 16 sections in CGST Act to incorporate the effect of insertion of new Section 74A, these Sections are Sec. 10, 21, 35, 39, 50, 51, 61, 62, 63, 64, 65, 66, 75, 104, 107 & 127 of CGST Act. The Government as the powers vested to it in Section 164 of CGST Act, has issued Central

Tax Notification No: 20/2024, Dt: 08-10-2024, notifying Central Goods and Services Tax (Second Amendment) Rules, 2024, this notification amended the rules to incorporate Section 74A of CGST Act; these rules are Rule 36, 46, 47A, 66, 86, 88B, 88D, 96B, 121 & 142 of CGST Rules, 2017.

Transition period:

As stated supra, Section 74A is applicable from FY 2024-25 (i.e., 01-04-2024 onwards) and the same is notified with effect from 01-11-2024. Show Cause Notice issued between the period 01-04-2024 to 31-10-2024 for the Financial Year 2024-25, which section to be invoked i.e., Section 73 / 74 or new Section 74A is a big question, in this period new section is not in force and Sections 73 / 74 are not applicable for Financial Year 2024-25, as a result all such Show Cause Notices issued, if any, in this period suffers legally.

Section 73 / 74 Vs Section 74A:

Before we go into discussion on other few aspects of Section 74A of CGST Act, let us try to understand the differences between Sections 73 & 74 and new Section 74A of CGST Act, in tabular format below:

Subject	Section 73	Section 74	Section 74A
Applicability	Till FY 2023-24	Till FY 2023-24	FY 2024-25 and onwards & notified with effect from 01-11-2024.
Objective	Facilitate recovery without penalizing genuine errors.	Punitive with recovery and penalty for fraudulent conduct.	Simplify future adjudication by merging both fraud and non-fraud into one timeline and mechanism.
Scope & Coverage	Limited to non-fraudulent transactions upto FY 2023-24.	Covers fraudulent transactions upto FY 2024-25.	Covers all cases irrespective of reason from FY 2024-25 and onwards.
Establishing intent to evade tax	No requirement to prove fraudulent intent or misstatement, or suppression.	Requires establishment of fraudulent intent, willful misstatement, or suppression of facts.	While invoking provisions relating to fraud, misstatement, or suppression, it is required to establish the same.
Time Limit for issuance of Order	3 years from the due date of annual return for the relevant financial year.	5 years from the due date of annual return for the relevant financial year.	Within twelve months from the date of issue of Show Cause Notice
Time limit to issue Show Cause Notice	To be issued at least 3 months before the expiry of limitation period for passing order.	To be issued at least 6 months before the expiry of limitation period for passing order.	Within 42 months from the due date of Annual Return for the relevant FY or erroneous refund.

Extension of time limit for issue of Order	Not permitted	Not permitted	Commissioner or an officer authorized by commissioner not below the rank of Joint Commissioner can extend the time limit not beyond 6 months.
Minium quantum of Tax / ITC / Refund involved for issue of SCN	No limit specified	No limit specified	Rs. 1,000/- and above
Levy of penalty where tax along with applicable interest is paid before issue of SCN	No penalty.	15% of Tax / ITC / Refund.	In case of non-fraud cases – No Penalty and in fraud cases - 15% of Tax / ITC / Refund.
Levy of penalty where Tax / ITC / Refund paid along with applicable interest within 30 Days of SCN.	No penalty	25% of Tax / ITC / Refund	In non-fraud cases – No penalty and in fraud cases – 25% of Tax / ITC / Refund. Time limit for payment is extended to 60 days from 30 days.
Levy of penalty where Tax / ITC / Refund paid along with applicable interest within 30 days of issue of Order	10% of Tax / ITC / Refund & Rs. 10,000/- whichever is higher	50% of Tax / ITC / Refund	In non-fraud cases – 10% of Tax / ITC / Refund and in fraud cases 50% of Tax / ITC / Refund. Time limit for payment is extended to 60 days from 30 days.
Levy of penalty in all other situations	10% of Tax / ITC / Refund & Rs. 10,000/- whichever is higher	100% of Tax / ITC / Refund	In non-fraud cases – 10% of Tax / ITC / Refund and in fraud cases – 100% of Tax / ITC / Refund

30 Days to 60 Days:

Section 74A of CGST Act brings out uniform due dates for issue of Show Cause Notice and issue of Orders and extended the time lines from 30 days to 60 days for few compliances for payment of tax / ITC / refund payable to reduce the burden of penalty. Payment of Tax / ITC / Refund and applicable Interest U/s. 50 of CGST Act remains the same. This brings some relief to the trade in mitigating the penalty to the extent of additional 30 days.

Old wine in new bottle:

Section 74A of CGST Act brings out a mixed flavor of Section 73 & 74 of CGST Act, when it comes to reasons, purpose and establishing the fraud, misstatement, or suppression. The content of Section 73 & 74 of CGST Act is still the same in Section 74A of CGST Act in different sub sections, for example levy of quantum of penalty under Section 73 is now in Section 74A(8) and levy of quantum of penalty under Section 74 is now in Section 74A(9).

How to know:

Any Show Cause Notice received upto Financial Year 2023-24, one can easily understand basing on the section invoked by the Department i.e., in non-fraud cases Section 73 and in fraud etc. cases Section 74. One need to read and understand Show Cause Notice issued for Financial Year 2024-25 and onwards under Section 74A, whether the Department is invoking involvement of

fraud, mis-statement, or suppression or not. It is challenge for the Department Authorities to clearly specify involvement of fraud, mis-statement, or suppression in the Show Cause Notice, otherwise it is difficult to determine the quantum of levy of penalty. Apart from quantum of penalty other things remain constant for cases involving Fraud, mis-statement, or suppression and non-fraud etc. cases.

Self-Assessed Tax:

Section 73(11) and Section 74A(11) are similar, where any person chargeable to tax has (i) not paid or short paid self-assessed tax or (ii) any amount is collected as tax but not paid to exchequer within 30 days of due date of payment; is liable to a penalty of 10% of such amount; these two sub-sections deal with non-fraud etc. cases. Non-payment or short payment of self-assessed tax is practically not possible because self-assessed tax is required to be paid before or at the time of filing of GSTR-3B etc., there could be possibility with respect to enhancing tax or reducing ITC in annual returns. In my view, tax collected but not paid to the credit of exchequer within 30 days from the due date of payment of such tax, should fall directly under fraud etc. cases, but legislatures are taking a lenient view on this aspect.

Times limit under Section 74A:

The below illustrative table gives the time lines for issue of Show Cause Notice and passing of orders under Section 74A of CGST Act.

Activity	Time limit U/s. 74A	Date calculation	Date till
Issue of Show Cause Notice for the FY 2024-25.	42 months from the due date of filing Annual Return (Assuming due date does not get extended)	For FY 2024-25 – GSTR-9 & 9C due date 31-12-2025 + 42 Months	30-06-2029
Due date for passing Order	Max. within 12 months from the date of issue of SCN	30-06-2029 + one Year	30-06-2030
In case of extension of time for passing order	Max. 6 months by commissioner to Joint Commissioner	30-06-2030 + 6 months	31-12-2030

Section 73, time limit for passing order for the FY 2024-25 would have been 31-12-2028 (3 years from the due date of filing Annual Return for the relevant FY) and under Section 74 would have been 31-12-2030 (5 years from the due date of filing Annual Return for the relevant FY). It is evident from the above table, the Government smart move for insertion of Section 74A is to gain more time for non-fraud cases.

Conclusion:

All these three sections start with “Where it appears to the proper officer”, in the past 94 months I have encountered many Show Cause Notices, but could not find in any of such Show Cause Notice, how it appears to the proper officer that person chargeable to tax has not paid or short paid tax, or availed or utilized excess ITC or granted erroneous refund. This is one of my observations and there are several other observations on which the department is silent, let us keep our fingers crossed and wait for the days to come where the department will fall in line with the statute.

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CA SHILPI JAIN

Case law 1 – Sale of under-construction property without any further service to be provided – not liable to GST

M/s Rohan Corporation India Private Limited Vs. Union of India 2025 (4) TMI 549 - KARNATAKA HIGH COURT

Facts:

- M/s. Lotus Shopping Centres Private Limited was constructing a mall named Lotus Shopping Mall, Kuskhekar, Mangaluru.
- During the pendency of the construction of the mall, there were insolvency proceedings initiated against the said company.
- Directions were issued to the Liquidator to liquidate the assets of the company resulting in sale of the shopping mall on standalone basis in e-auction.
- Liquidator intimated the payments to be done by the petitioner which also included GST.
- During Dec '22 the petitioner filed an application / refund claim, seeking refund of the said GST amount of Rs. 14,32,64,614/-.

Decision:

- When the constructed immovable property, whether fully constructed or partially constructed is sold, as such, without providing any construction service subsequently, there is no supply of goods or services or both.
- The GST rate notification also notifies the rate of GST applicable only for construction services provided by a builder/promoter to a service recipient.
- In the present case, as no construction service is being contemplated between the parties.
- Thereby sale of mall without any further services to be provided, is neither a supply of goods nor a supply of service which will not be covered under para 5 (b) of Schedule II.
- The question of whether the building has received completion certification or not would be irrelevant in such cases.

- Sale of building not coming within the ambit of para 5 (b) of Schedule II, would be treated neither as supply of goods nor a supply of service.
- The impugned order deserves to be quashed.

Comments

The assumption by the department that sale of all under construction buildings would be liable to GST is not correct. The most important aspect to note is whether the contract between the transacting parties is to provide any construction services after the agreement is entered into.

Any construction activity undertaken prior to the agreement between the parties would not be regarded as services provided. Rather it would only be in the nature of sale of immovable property which is not liable to GST. This is in line with the decision of the Supreme court in the case of Commissioner of Central Excise, Kerala vs. Larsen & Toubro Ltd - 2015 (39) STR 913 (SC).

Any GST paid in respect of these kind of sale of immovable property transactions can be considered for filing refund applications.

Case law 2 - CGST & SGST credit availed as IGST – State/Centre to resolve with the GST Council

MJBR Marketing And Financial Services P Ltd. - 2025 (4) TMI 870 - KERALA HIGH COURT

Facts

Due to an inadvertent error, petitioner had claimed ITC available under the CGST and SGST as credit under IGST leading to a mismatch between GSTR 3B and GSTR 2A.

Court held

- Petitioner has utilized the CGST and SGST credit to set off the IGST output tax liability.
- Though there is an error in availing the same, it cannot amount to a short avilment or short payment.
- Circular No.192/04/2023 dated 17.07.2023 states “Since the amount of input tax credit available in electronic credit ledger, under any of the heads of IGST, CGST or SGST, can be utilized for payment of liability of IGST....”
- In Rejimon Padickapparambil Alex the Kerala HC held that the ITC available in the electronic credit ledger should be considered as a pool of funds designated for different types of taxes such as IGST, CGST and SGST.
- These accounts would represent a wallet with compartments for IGST, CGST and SGST funds and the entire wallet has to be taken into consideration, not just individual compartments.
- Clarification referred above indicates that GST system treats the electronic ledger as a unified resource and if collectively the available funds fall below the amount of wrongly availed credit during the specified period, interest can be imposed.

- W.r.t. plea of department of any loss to the State/Centre due to such errors in availing credit – State/Centre directed to approach GST Council with a representation for appropriate relief.

Comments

This is a welcome decision that again brings to the fore that taxpayers cannot be penalised for inadvertent errors that have occurred since - to err is human. If the GST law does not have appropriate mechanisms in place to enable the taxpayers to rectify such errors, it is not the taxpayer who is to be conveniently blamed and penalised.

Taxpayers cannot put to inconvenience for shortcomings in the portal or GST system. Even not allowing rectifications to be made when identified, is a shortcoming which has been pointed out in numerous decisions under GST already.

Hopefully, this point would be taken up at the GST Council to ensure appropriate resolution for the past.

However, once the Invoice Management System (IMS) is made mandatory, these issues will fade away since the taxpayer will be forced to only avail credit as appearing in the GSTR2B. Though one may expect certain other challenges to arise w.r.t. IMS.

Case law 3 – Clubs & Associations not liable to GST since the concept of mutuality still survives

Indian Medical Council, Kerala - 2025 (4) TMI 872 - KERALA HIGH COURT

Facts

- Petitioner runs various mutual Schemes for the benefit of its member-doctors.
- The member-doctors contribute an admission/annual fee, and in cases of certain Schemes (e.g. SSS, PDSS) also a fraternity contribution upon the death/disability of a fellow member doctor; the pooled sum is paid out to the widow of deceased doctors, disabled doctors, doctors afflicted with specified diseases, etc.
- Present writ is being filed to challenge the amendment made in the GST law to treat the club/association and its members as separate persons to tax the amounts collected from its members.

Court held

- The concepts of “supply” and “service” do require a plurality of persons to infer their existence i.e. existence of two parties.
- Concepts of self-supply or self-service are not envisioned under the Constitution for the purposes of the levy.

- When a word/concept in the Constitution has been interpreted by the Supreme Court in a particular manner, a legislative body, that derives its legislative competence to enact a Statute from the Constitution, cannot give to the word/concept a meaning that goes against the meaning assigned to the same word/concept by the Supreme Court in the context of its setting under the Constitution.
- The concept of “supply” and “service” as understood under the Constitution and the CGST/SGST Acts (before their amendment) both excluded transactions informed by the principle of mutuality i.e. a supply/service from one entity to itself (self supply/self service).
- Thus, even if there is now a deemed “supply”, based on the amendments effected to the CGST/SGST Acts, there is no deemed “service” in circumstances where the service is rendered by a club or association to its members, since the definition of service has not been amended.
- The principle of mutuality has survived under the Constitution even after the 46th Amendment - Calcutta Club Ltd. – [(2019) 19 SCC 107].
- If that be so, then the amendment exercise carried out by the Parliament would itself have to be seen as unconstitutional since it incorporates a definition of supply that militates against the constitutional understanding of the term.
- A phrase as understood under the Constitution cannot be statutorily expanded by any legislature since the power to legislate is itself one that is conferred by the Constitution.
- Unless the Constitution is amended suitably to remove the concept of mutuality from the concepts of supply and service thereunder, the impugned amendment to the CGST/SGST Acts must necessarily fail the test of constitutionality.
- Accordingly the provisions of Section 2 (17) (e) and Section 7 (1) (aa) and the Explanation thereto of the CGST Act, 2017 and the provisions of Section 2 (17) (e) and Section 7 (1) (aa) and the Explanation thereto of the KGST Act are declared as unconstitutional and void being ultra vires the provisions of Article 246A read with Article 366 (12A) and Article 265 of the Constitution of India.

Comments

A welcome decision that would be applicable to all kinds of associations/clubs, etc. that are formed for the benefit of its members, whereby any amount collected from its members to provide them the facilities, would not be regarded as a provision of services since the association and its members are one and the same. This is applicable from the very beginning.

Members and associations cannot be regarded as 2 different persons even if the CGST/SGST Act deems them to be so, since service as understood under the Constitution does not include self-service.

Hence, for any amendment done in the statute one has to ensure that such amendment does not run against the Constitution since all the enactments of statutes derive power from the Constitution to make laws.

Any association/club that has paid GST on amounts collected from its members can apply for refund provided the burden of such tax is not passed on to anyone else.

Case law 4 – Developer not liable under RCM for transfer of development rights under JDA

M/s. Shrinivasa Realcon Private Ltd. Shrinivasa Realcon Pvt. Ltd. – 2025-TS-256-HC(BOM)-GST

Facts

- Joint development agreement was entered during Jan '22.
- Notice has been issued demanding GST under RCM on developer on the transfer of development rights under the JDA.

Court held

- The expression “transfer of development rights” read in conjunction with ‘FSI’ in the RCM notification would only relate to a TDR (Transferable Development Rights) as contemplated by clause 11.2.2 under Unified Development Control and Promotion Regulations for the State of Maharashtra.
- Clause 11.2.1 defines transferable development rights, to mean compensation in the form of Floor Space Index (FSI) or development rights, which shall entitle the owner for construction of built-up area subject to the provisions in the said regulations.
- TDR / FSI under RCM notification cannot be related, to the rights which a developer derives under joint development agreement.

Comments

Going by this decision, the landowners will be liable to pay to the department the GST on transfer of development rights under JDA entered after 31-03-2019, and not the developers.

However, in view of the writer, this decision has not considered aspects like intention for introduction of the RCM entry, exemption provided and various other aspects regarding the new scheme of taxation introduced under GST for the real estate sector w.e.f. 01-04-2019.

There could be an impact on residential projects where the interpretation given in this decision could affect the exemption sought to be claimed for transfer of development rights.

It is suggested that representation be made to the Government to get clarity in this regard initially itself so that the confusion or ambiguity is resolved and appropriate decision and action can be taken for compliance under the law.



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