

The Institute of Chartered Accountants of India

(Setup by an Act of Parliament)



Hyderabad Branch of SIRC

E-Newsletter

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H A P P Y
**INDEPENDENCE
DAY**



Dear Professional Colleagues,

At the outset, I wish each one of you a Happy 74th Independence Day. I am also very happy to take this opportunity to wish you a Happy Eid ul Adha, Raksha Bandhan, Janmashtami, Navroz, Ganesh Chaturthi & Onam.

Every year we used to celebrate the above festivals along with our loved ones and every festival had its unique importance. Keeping in view the present situation, all the festivals now have to be celebrated as a lowkey affair. I urge you to celebrate the festivals only with family members and step out of the house only when it is very important. Covid 19 cases are increasing and we see the figure crossing 50000 every day over the past few days.

On Independence day, the Managing Committee members, in the presence of Central Council member CA Dayaniwas Sharma Ji and few staff members of branch, hoisted the flag, and distributed Immunity kits to staff members and the needy. We missed you all every minute on 15th August.

The Branch had organised a Virtual CPE meeting on Formation and taxation of Private/Family Trust wherein CA Dr Girish Ahuja ji addressed us and the event was attended by more than 500 members.

On 14th August, Noted Tollywood Director & Actor Sri Tharun Bhascker, who got National award for his film “Pelli Choopulu”, answered the questions of members on Challenges faced by him in Film Industry. I am very happy to share with all of you that he credits his financial success to the advice of his Chartered Accountant and announced that a having a good Chartered Accountant is very much required for success of anyone.

The Branch conducted virtual meetings almost every day in July/August and I am happy to share that we had an average attendance of 300 plus in every meeting. I sincerely thank the members for their active participation in meetings and encouraging us to conduct more meetings.

The details of Programmes are given elsewhere in the Newsletter.

AGM

58th AGM of Hyderabad Branch of SIRC of ICAI was conducted on Zoom platform on Friday, 31st July 2020 at 10 AM. I am happy to share that 92 members attended the meeting.

Signing off with a quote:

Sometimes we are tested, not to show our weakness, but to discover our strengths.

Yours Sincerely,

CA Pankaj Kumar Trivedi
Chairman
chairman.hyd@icai.in

Virtual CPE Webinar for the Month of August-2020

Day & Date	Timing	Topic	Speaker	CPE Hours
Friday 07 th August, 2020	06 PM to 08 PM	"Rights of a Taxpayer at the time of Search and Seizure under GST"	CA. Keshav R Garg	2hrs
Monday 10 th August, 2020	06 PM to 08 PM	RERA	CA. Tejomurtula Rama Murthy	2hrs
Friday 14 th August, 2020	06 PM to 08 PM	Making it big facing challenges with courage	Mr. Tharun Bhasker	-
Saturday 15 th August, 2020	Independence Day Flag Hoisting 09 AM onwards			
Saturday 15 th August, 2020	12.30 PM to 2.30 PM	Formation & Taxation of Private/Family Trust	Dr.CA. Girish Ahuja	2Hrs
Monday 17 th August, 2020	06 PM to 08 PM	Acceptance of deposits by Companies and DPT3- Practical issues	CS. L Jayaraman	2Hrs
Friday 21 st August, 2020	06 PM to 08 PM	Intricacies of Sec 115BBE in relation to Post Demonetisation Cash Deposit Cases	CA. Hari Agarwal	2Hrs
Monday 24 th August, 2020	06 PM to 08 PM	Tally Erp9	Mr. Pugal T	-
Tuesday 25 th August, 2020	06 PM to 08 PM	Zoho Books - Cloud Accounting	Mr. MD. Rameez Faizal	-
Wednesday 26 th August, 2020	06 PM to 08 PM	Focus-Company Introduction and ERP Presentation CRM and HCM platforms & Artificial Intelligence	Mr.Baqer Ali Khan,Mr.Rohan Tejura & Mr. Anil Kumar Putin	-
Thursday 27 th August, 2020	06 PM to 08 PM	Wings	CA. Ajay Gandhi, Mr. Veeresh Singh	-
Friday 28 th August, 2020	06 PM to 08 PM	Pitfalls in Audit of Private Limited Companies	CA. Chitale Chandrashekhar Vasant	2Hrs
Saturday 29 th August, 2020	06 PM to 08 PM	Issues in Tax Audit	CA. Prashant GS	2Hrs
Monday 31 st August, 2020	03 PM to 05 PM	Overview & Professional approach to GST Audit	CA V S Sudhir	-
Monday 31 st August, 2020	06 PM to 08 PM	Financial Wellness- All about Planning of Finance	CA. Manoj Kumar Trivedi	2Hrs
Tuesday 01 st Sept, 2020	03 PM to 05 PM	Analysis of GSTR - 9	CA Raghavender K	-
Wednesday 02 nd Sept, 2020	03 PM to 05 PM	Analysis of GSTR - 9C	CA Radhika Verma	-
Thursday 03 rd Sept, 2020	03 PM to 05 PM	Practical Issues to be addressed - GST Audit	CA K Sri Ram	-
Friday 04 th Sept, 2020	03 PM to 05 PM	Panel Discussion, Q & A, Validictory	"CA Satish Saraf, CA V S Sudhir, CA B. Hari Kishan, CA Radhika Verma & CA K Sri Ram"	-

Important Announcement

COVID-19 (CABF)

The Managing Committee of the Chartered Accountants Benevolent Fund (CABF) ICAI has considered the difficulties being faced by Members in the time of pandemic and has decided to grant Medical Financial Assistance to the Members and their dependents suffering from CORONA.

This help is going to be available to the Members and their dependents who are in distress and need financial assistance for treatment of Corona disease. To avail this help members/dependents may file request in prescribed Application Form-cum-Undertaking hosted on the website of the ICAI at the CABF Portal at the link <https://cabf.icai.org/> . The application is to be accompanied with the CORONA positive report and is available only for the cases of hospitalization.

The financial assistance will be up to INR 1.5 Lakhs and will be returnable to CABF in full, if it is not utilized for treatment of CORONA.

For detailed information please mail to covidassistance@icai.in.

Member Secretary
Chartered Accountants Benevolent Fund
M&C-MSS Directorate
The Institute of Chartered Accountants of India
ICAI Bhawan
Plot No. A-29, Sector-62 NOIDA
Phone - 0120-3045997/98

GST returns – Due dates conundrum:

- CA Satish Saraf &
CA Venkat Prasad. P

Introduction:

Extending the due dates for various compliances is one of the reliefs extended by the Government to support the struggling taxpayers due to Covid-19 crisis. However, the extensions are not straight forwarded, it comes with conditions and criteria. Hence it is important to carefully check the relevant conditions and make the compliance. We have attempted to summarise the GST returns compliance requirements for the Month of February 2020 to August 2020.

GSTR-3B

Turnover in Pre. FY	Month	Due Date	No late fees if filed before (note below)	No Interest till	Interest of 9% from & till	Interest @ 18% from	Ref of Notification
> 5 Cr	Feb'20	20-03-2020	24-06-2020	04-04-2020	05.04.2020 to 24.06.2020	25-06-2020	For interest - Notification No. 51/2020 - CT dated 24.06.2020
	Mar'20	20-04-2020	24-06-2020	05-05-2020	06.05.2020 to 24.06.2020	25-06-2020	
	Apr'20	20-05-2020	24-06-2020	04-06-2020	05.06.2020 to 24.06.2020	25-06-2020	For Late fee - Notification No. 52/2020 dated 24.06.2020
	May'20	27-06-2020	No waiver	NA	NA	28-06-2020	36/2020 - CT dated 03-04-2020
	Jun'20	20-07-2020				21-07-2020	NA
	Jul'20	20-08-2020				21-08-2020	
	Aug'20	20-09-2020				21-09-2020	

Turnover in Pre. FY	Month	Due Date	No late fees if file before (see note below)	No Interest till	Interest of 9% from & till	Interest @ 18% from	Ref of Notification
≤ 5 Cr & in Group A States	Feb'20	22-03-2020	30-06-2020	30-06-2020	30-09-2020	01-10-2020	For interest - Notification No. 51/2020 - CT dated 24.06.2020 For Late fee - Notification No. 52/2020 dated 24.06.2020
	Mar'20	22-04-2020	03-07-2020	03-07-2020	30-09-2020	01-10-2020	
	Apr'20	22-05-2020	06-07-2020	06-07-2020	30-09-2020	01-10-2020	
	May'20	12-07-2020	12-09-2020	12-09-2020	30-09-2020	01-10-2020	
	Jun'20	22-07-2020	23-09-2020	23-09-2020	30-09-2020	01-10-2020	
	Jul'20	22-08-2020	27-09-2020	27-09-2020	30-09-2020	01-10-2020	
	Aug'20	01-10-2020	NA			02-10-2020	54/2020 - CT dt. 24.06.2020
≤ 5 Cr & in Group B States	Feb'20	24-03-2020	30-06-2020	30-06-2020	30-09-2020	01-10-2020	For interest - Notification No. 51/2020 - CT dated 24.06.2020 For Late fee - Notification No. 52/2020 dated 24.06.2020
	Mar'20	24-04-2020	05-07-2020	05-07-2020	30-09-2020	01-10-2020	
	Apr'20	24-05-2020	09-07-2020	09-07-2020	30-09-2020	01-10-2020	
	May'20	14-07-2020	15-09-2020	15-09-2020	30-09-2020	01-10-2020	
	Jun'20	24-07-2020	25-09-2020	25-09-2020	30-09-2020	01-10-2020	
	Jul'20	24-08-2020	29-09-2020	29-06-2020	30-09-2020	01-10-2020	
	Aug'20	03-10-2020	NA			04-10-2020	54/2020 - CT dt. 24.06.2020
Group A States	whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep						
Group B	whose principal place of business is in the States of Himachal Pradesh, Punjab,						

States	Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi,
Note: 1. Maximum Late fees is Rs. 500/- i.e. (250+250) per return if it is filed after the aforesaid date but filed before 30-09-2020 2. Late is 'Nil' if the tax payable is 'Nil'	
57/2020-C.T dated 30.06.2020	

Form	Periodicity	Period	Due Date	No late fees if filed before	Ref of Notification
GSTR-1	Monthly	Mar'20	11-04-2020	10-07-2020	53/2020 - CT dt. 24.06-2020
		Apr'20	11-05-2020	24-07-2020	
		May'20	11-06-2020	28-07-2020	
		Jun'20	11-07-2020	05-08-2020	
		Jul'20	11-08-2020	NA	
		Aug'20	11-09-2020		
	Quarterly	January to March, 2020	30-04-2020	17-07-2020	
		April to June, 2020	31-07-2020	03-08-2020	
GSTR 4	Annual	FY 19-20	31-08-2020	No waiver	59/2020 dated 13.07.20
GSTR - 5	Monthly	March 2020 to July 2020	31-08-2020	NA	35/2020 - CT dated 03-04-2020
GSTR - 6					
GSTR - 7					
GSTR - 8					
GSTR - 9	Annual	18-19	31-12-2019	30-09-2020	41/2020- C.T dated 05.05.2020
GSTR - 9C	Annual	18-19	31-12-2019	30-09-2020	

The following worth noting:

- The due dates are not extended except few cases, the reliefs are only for late fee waiver or reduced liability of the interest
- The late fee waivers & interest concessions are based on the Turnover in Preceding Year & not current year. For February and March 2020, the Turnover of the FY 2018-19 shall be seen whereas, for April, 2020 onwards, the Turnover of FY 2019-20 shall be seen. Due to change of the base year, it may be possible that the same taxpayer would be changing the category of the taxpayers i.e. Larger tax payers to small tax payers and vice-versa.
- Aggregate Turnover to be seen (i.e. Pan India Basis and not state wise), which includes all types of Turnover viz., exempted,
- NIL Late fee in case of NIL Return
- Mere Deposit of Tax is not sufficient. Hence, actual filing of the return with setting off the liability only enables the aforesaid benefits

SURVEY, SEARCH AND SEIZURE UPDATES

-CA. Hari Agarwal

1. Lalji Khimjibhai Patel v. ACIT

ITA Nos.712 to 715/Rjt/2010 & 388 to 391/Rjt/2

a. Assessment under section 153A---No incriminating material found during search

Conclusion: Originally return was filed under section 139(1) and time-limit to issue notice under section 143(2) has expired before search was conducted upon assessee on 11-10-2006 and since no material was found during search relating to concerned assessment year exhibiting escapement of taxable income or availability of undisclosed income. Nothing would abate for making a fresh assessment under section 153A.

AO pursuant to search conducted at assessee's premises framed assessment under section 153A and made addition, to the income of concerned year, however, without any incriminating material found during search. Held: Originally return was filed under section 139(1) and time-limit to issue notice under section 143(2) has expired before search was conducted upon assessee on 11-10-2006 and since no material was found during search relating to concerned assessment year exhibiting escapement of taxable income or availability of undisclosed income. Nothing would abate for making a fresh assessment under section 153A.

Decision: In assessee's favour.

Relied: CIT v. Kabul Chawla (2015) 380 ITR 573 (Del) : 2015 TaxPub(DT) 3486 (Del-HC).

b. Assessment under section 153A---Addition on the basis of mere statement recorded under section 132(4)

Conclusion: On the basis of simple declaration even under section 132(4) addition could not be made as it was the AO who had to first establish that some undisclosed expenditure was incurred by the assessee and details recorded to that effect were found as revenue authorities failed to carry out this inquiry, therefore, addition could not be sustained.

AO pursuant to search conducted at assessee's premises framed assessment under section 153A and made addition on account of undisclosed expenditure admitted by assessee in his statement recorded under section 132(4). Held: On the basis of simple declaration even under section 132(4), addition could not be made as it was the AO who had to first establish that some undisclosed expenditure was incurred by the assessee and details recorded to that effect were found as revenue authorities failed to carry out this inquiry, therefore, addition could not be sustained.

Decision: In assessee's favour.

Relied: CIT v. Maulikkumar K. Shah (2008) 307 ITR 137 (Guj) : 2008 TaxPub(DT) 837 (Guj-HC), CIT v. Abhalbhai Arjanbhai Jadeja [Tax Appeal Nos. 233 of 2013] and K.P.M Nair v. ACIT [TA No. 1152 of 2007] : 2016 TaxPub(DT) 3657 (Guj-HC).

Assessment under section 153A---Cash found during search---Assessee not able to demonstrate source of such cash

Conclusion: Addition of cash found during search was not based only on the basis of the statement recorded under section 132(4), rather corroborated with recovery of cash at the time of search, which remained unexplained and assessee had not demonstrated source of this cash, accordingly, addition made by AO was justified.

During search at assessee's premises, a sum of Rs. 11,25,536 was found in cash. As per books of account, total cash balance available on date of search was Rs. 1,25,480. AO added balance of Rs. 10 lakhs as unaccounted income of the assessee. Assessee challenged this on the ground that addition had been made merely on the basis of statement recorded under section 132(4). Held: Addition was not based only on the basis of the statement recorded under section 132(4), rather corroborated with recovery of cash at the time of search, which remained unexplained and assessee had not demonstrated source of this cash, accordingly, addition made by AO was justified.

Decision: Against the assessee

2. ACIT v. Swastic Safe Deposit and Investments Ltd.*

[2020] 118 taxmann.com 94 (SC)

Mere non-disclosure of exempt income in ITR wouldn't amount to escaped income; SC dismissed SLP

Section 10(38), read with sections 2(29A), 115JB and 147 of the Income-tax Act, 1961 - Capital gains - Income arising from transfer of long-term securities (Reassessment) - Assessment year 2011-12 - During year, assessee company sold shares of company PHL held by it - Assessee contended that shares were sold in recognised stock exchange after holding them for more than 12 months and this transaction was subjected to Security Transaction Tax (STT) and, therefore, any gain arising out of sale of shares was exempt from tax under section 10(38) - Assessment was completed under section 143(1) - Thereafter, Assessing Officer issued reopening notice on grounds that; firstly; though capital gain from sale of shares was exempt from tax but assessee had failed to disclose receipt on sale of shares in its return of income which would amount to escapement of income chargeable to tax; secondly, even if for normal computation, sale consideration was exempt from tax, same would form part of assessee's book profit for purpose of computing tax under section 115JB - It was noted that mere non-disclosure of receipt of gain on sale of shares which was already exempt from tax would not automatically imply escapement of income chargeable to tax from assessment to reopen assessment - Further assessee had included profit arising out of sale of share for purpose of computation of its book profit in terms of section 115JB - High Court by impugned order held that since undisputedly profits from sale of shares was exempt from tax in terms of section 10(38) under normal provisions and it was included by assessee for purpose of computing book profit under section 115JB, impugned reopening of assessment was unjustified - Whether special leave petition filed against impugned order was to be dismissed - Held, yes [Para 2] [In favour of assessee]

3. Savita Kapila v. ACIT Circle 4(1)* ■■■[2020] 118 taxmann.com 46 (Delhi)

Legal heir isn't statutorily obliged to intimate death of assessee; HC quashes notice issued to assessee Section 148 of the Income-tax Act, 1961 - Income escaping assessment - Issue of notice for (Service of notice) - Assessment year 2012-13 -

An information was received by Assessing Officer that assessee had deposited certain amount in his bank account source of which was not explained - Assessing Officer thus issued a notice to assessee under section 148 seeking to reopen assessment - Petitioner i.e. legal representative of assessee filed instant petition challenging validity of said notice by contending that it was issued subsequent to death of assessee and, thus, statutory requirement of service of notice had not been fulfilled - Whether in absence of a statutory provision, a duty cannot be cast upon legal representatives to

intimate factum of death of assessee to department - Held, yes - Whether, therefore, question as to whether PAN record was updated or not or whether department was made aware by legal representatives or not is irrelevant - Held, yes - Whether in view of aforesaid legal position and, having regard to fact that impugned notice could not have been served upon assessee, same deserved to be quashed - Held, yes [Paras 32, 41 and 42] [In favour of assessee]

4. SLP against ruling deleting additions as no nexus between cogent materials between doc. seized and assessee

[2020] 118 taxmann.com 92 (SC)
SUPREME COURT OF INDIA
Principal Commissioner of Income-tax
v.
Himanshu Chandulal Patel*

Section 153C of the Income-tax Act, 1961 - Search and seizure - Assessment of any other person (Documents seized in search) - Assessment year 2010-11 - A search and seizure operation under section 132 was undertaken at premises of 'SL' in course of which documents were seized containing details of payments/receipts in respect of transactions in shares by way of cheques and cash - Assessing Officer took a view that said documents belonged to assessee - Accordingly, proceedings were initiated against assessee under section 153C and certain addition was made to assessee's income on account of undisclosed capital gain on transfer of shares - Commissioner (Appeals) as well as Tribunal formed an opinion that it could not be conclusively established that documents seized belonged to assessee - Thus, addition made by Assessing Officer was deleted - High Court by impugned order held that, on facts, it was necessary on part of revenue authorities to show some nexus on basis of cogent materials between documents seized and assessee and since Assessing Officer failed to establish any such nexus, impugned addition was rightly deleted - Whether special leave petition filed against impugned order was to be dismissed - Held, yes [Para 2] [In favour of assessee]

5. Ravinder Kaur Grewal vs. Manjit Kaur (Supreme Court) Itatonline.org

The settled legal position is that when by virtue of a family settlement or arrangement, members of a family descending from a common ancestor or a near relation seek to sink their differences and disputes, settle and resolve their conflicting claims or disputed titles once and for all in order to buy peace of mind and bring about complete harmony and goodwill in the family, such arrangement ought to be governed by a special equity peculiar to them and would be enforced if honestly made. The object of such arrangement is to protect the family from long drawn litigation or perpetual strifes which mar the unity and solidarity of the family and create hatred and bad blood between the various members of the family (All imp judgements referred)

It is well settled that registration would be necessary only if the terms of the family arrangement are reduced into writing. Here also, a distinction should be made between a document containing the terms and recitals of a family arrangement made under the document and a mere memorandum prepared after the family arrangement had already been made either for the purpose of the record or for information of the court for making necessary mutation. In such a case the memorandum itself does not create or extinguish any rights in immovable properties and therefore does not fall within the mischief of Section 17(2) of the Registration Act and is, therefore, not compulsorily registrable