

The Institute of Chartered Accountants of India

(Setup by an Act of Parliament)



# HYDERABAD BRANCH OF SIRC E-NEWSLETTER





**December, 2020**

**Chairman Writes....** 

Dear Professional Colleagues,

Trust this communication finds you and your family members in best of your health.

I am sure all of you are adequately geared up to meet the deadline under Various acts which fall on 31<sup>st</sup> December 2020. In the midst of busy working schedules I would urge to all of you that you take care of yourself and your staff members health. Please keep in mind that Vaccine is not yet out in the market and there are talks about the second wave of Covid 19 striking in India. Unfortunately, in Hyderabad we found many people behaving irresponsibly and roaming around without masks. It is thus more important that we take care of all of us more.

You are aware that the 52<sup>nd</sup> Regional Conference of SIRC was conducted in a grand manner by the Southern India Regional Council, the conference was inaugurated by the Hon'ble Finance and Corporate Affairs Minister Smt. Nirmala Sitharaman and the Conference was well organised. I congratulate our Chairman SIRC CA. D C Jain and his team who have taken all efforts in organising the conference in a meticulous manner. I also sincerely thank all members from Hyderabad who have registered and attended the conference.

ICAI has mandated completion of structured CPE hours for various categories of members by December 31, 2020 and has also increased the number of hours which can be granted in online mode from 15 hrs to 20 hrs. I request all members to make use of the opportunity and complete the prescribed CPE hours. Hyderabad branch of SIRC is also conducting certain virtual CPE programmes and the details of the same are also published in the newsletter.

The flagship programme of ICAI i.e. International Conference is being held from December 17-19, 2020 and the conference is being held virtually this year. The complete details about the conference are available in the link: <http://ic.icaai.org/>. I request all members to register for the conference in large numbers and thereby ensure the success of the conference.

ICAI has announced the next cycle of exams for Foundation, Intermediate and Final Students. The announcement relating to the same is available at [www.icaai.org](http://www.icaai.org) and the same is also published elsewhere in the newsletter. The exam commences on January 21, 2020 and is till February 6, 2020. I urge all students who have opted out of November exams to make use of this opportunity and register for January exam cycle. On behalf of the Managing committee of Hyderabad Branch of SIRC of ICAI I wish each and every student all the best for the ensuing examination.

I earnestly hope that 2021 will be a year where we will all start with our normal life as it was during the pre-covid period. With the current research & development of Covid vaccines going at fast pace across all over the globe I sincerely pray that the pandemic times end at 2020, and we all start with our normal routine with 2021.

Let me also wish you all a Merry Christmas and Happy, Healthy & Prosperous 2021.

Signing off with a quote:

“The key to success is to focus on goals, not obstacles.”

**CA Pankaj Kumar Trivedi**  
Chairman  
[chairman.hydr@icaai.in](mailto:chairman.hydr@icaai.in)



## December 2020 Program Sheet

Date & Day	Timing	Topice	Speaker	CPE
Friday 04 <sup>th</sup> December 2020	06:00 PM to 08:00 PM	Assessment Procedures & Handling Notices in the Faceless Assessments era	Dr CA. Abhishek Murali	2hrs
Wednesday 16 <sup>th</sup> December 2020	06:00 PM to 08:00 PM	E-Invoicing under GST	CA. V. S. Sudhir	2hrs
Monday 21 <sup>st</sup> December 2020	06:00 PM to 08:00 PM	Current Issues & Developments - Transfer Pricing	CA. P .V.S.S Prasad	2hrs



**Announcements**

**Mandatory validation of UDIN in all Income Tax Forms**

CBDT is validating Unique Document Identification Number (UDIN) generated from ICAI portal while uploading of Tax Audit and other Income Tax Reports as per their Press release.

Tax Audit Reports / Forms uploaded on e-filing portal from 27th November, 2020 and onwards

The Tax Reports / Forms will be treated valid only if their UDINs have been validated by CBDT E-filing Portal. For doing so, CAs will have a buffer time of 15 days to update their UDIN at e-filing portal in addition to providing the same instantly.

UDIN is being validated by e-filing portal online with UDIN Portal of ICAI on three parameters:

MembershipNo.ofMember(MRN)

UDIN

IncomeTaxFormNumber

Therefore, the Form number selected at the UDIN Portal while generating UDIN, same form number has to be selected at e-filing Portal also while updating UDIN at the time of uploading Reports or within 15 days thereafter. Members are, therefore, requested to ensure that relevant Form Number is selected from the drop-down panel of UDIN Portal.

Tax Audit Reports / Forms uploaded on e-filing portal between 27th April, 2020 and 26thNovember,2020

CBDT has come out with this functionality of mentioning UDIN in IT Forms at e-filing portal from 27th April,2020 onwards. It is being observed that some members though might have generated UDIN for IT Forms well in time but some-how missed to update the same on e-filing portal.



**December, 2020**

On the persuasion of ICAI, CBDT has given a one-time relaxation by allowing them to update UDINs for forms latest by 31st December, 2020 for treating these forms as valid. In view of the same, such members are requested to update the UDINs on the e-filing Portal at the earliest but not later than 31st December, 2020 for all such IT Forms which have been uploaded by them from 27th April, 2020 onwards till 26th November, 2020. For facilitation of Members the steps and screenshots of e-filing portal involved for updating UDIN is available. Members may kindly note that UDIN is treated as consumed when it is accepted by the Taxpayer. Once the UDIN is updated by the member, e-filing portal automatically validates it and shows error message if it is not validated successfully.

The members may kindly once again note that now the Form / Tax Audit Report for which no valid UDIN has been updated within the permissible time limit of 15 days will be treated as invalid. Considering the fact that now IT Form will be treated as Valid by e-filing only if the validation of UDIN is done and Taxpayer has accepted the form, it is recommended that members should plan the filing of the Tax Audit Reports without waiting for the last date to avoid any last-minute hassles

For any clarification, please write us at [udin@icai.in](mailto:udin@icai.in) or call at 033-30840239

Convenor and Deputy Convenor, UDIN Directorate

### **Membership / COP Fee Payment**

Considering hardship caused to the Members due to various reasons, last date for payment of Membership/COP fee is further extended to 31st December 2020. Members are requested to pay their Membership/COP fee online immediately.

Additional Secretary  
M&C-MSS Section  
Noida



**Quarterly Return Monthly Payment Scheme (QRMP)**  
**- does it ease the compliance?**

- CA Satish Saraf & CA Vekata Prasad. P

With a stated objective to reduce the compliance for small tax payers under GST (Turnover < 5 Cr), the Government has announced scheme namely QRMP (Quarterly Return Monthly Payment). In this article, the features of the scheme are explained and also analysed whether the stated objective is met.

**Current Position for small taxpayers**

Currently, the small tax payers have to pay taxes by filing GSTR 3B and uploading output invoices in for FORM GSTR 1 on quarterly basis. Since the invoice uploading happens quarterly, the recipients have to wait till the end of the quarter to avail ITC in compliance with Rule 36(4) i.e. 110% rule.

**New Scheme**

To remove above defects and to easy the compliance burden of the small tax payers, the government has now came up with an option of Quarterly Return Monthly Payment Scheme (QRMP) which will **be in effect from 01.01.2021**.

Under the new scheme,

- The returns filing is made quarterly
- Discharging the tax liability monthly (estimation basis)
- Uploading invoices can be realtime on IFF (Invoice Furnishing Facility) upto Rs.50lakhs in a month for B2B supplies, which enables the recipients to avail the ITC immediately
- No interest for the short paid liability till the end of the quarter (provided minimum estimated liability is paid or sufficient balance in cash or credit ledger is maintained)

**Eligibility for the Scheme**

- Persons having Aggregate Annual Turnover (for easy reference 'TO') up to Rs. 5 Cr. in the previous financial year
- Any person obtaining a new registration or opting out of Composition Scheme can also opt for this Scheme.



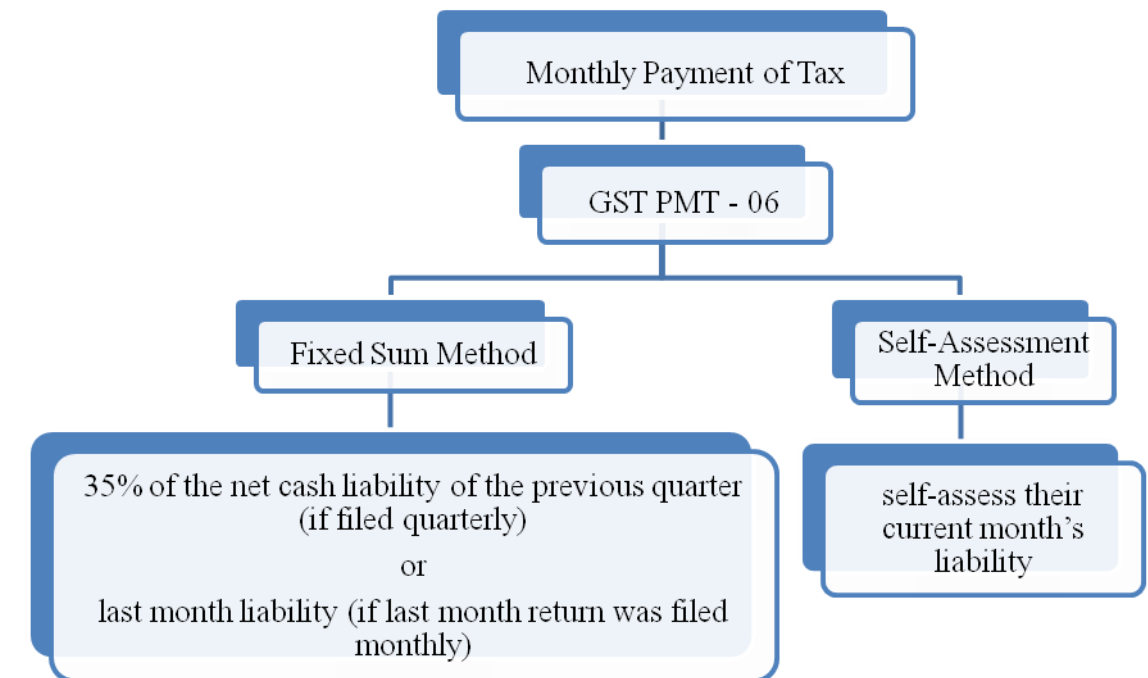
The unique feature of the scheme is that it can be opted GSTIN wise having same PAN. Therefore, few GSTINs for that PAN can opt for the Scheme and remaining GSTINs can remain out of the Scheme.

If TO crosses Rs 5 Cr. during a quarter, scheme will become in-eligible from next quarter onwards.

### **Exercising option for QRMP Scheme**

- Facility can be availed throughout the year, in any quarter.
- Option for QRMP Scheme, once exercised, will continue till option is revised or TO > Rs. 5 Cr.
- Persons migrated by default can choose to remain out of the scheme by exercising their option from 5th Dec., 2020 till 31st Jan., 2021.

### **Monthly Payment of Tax:**



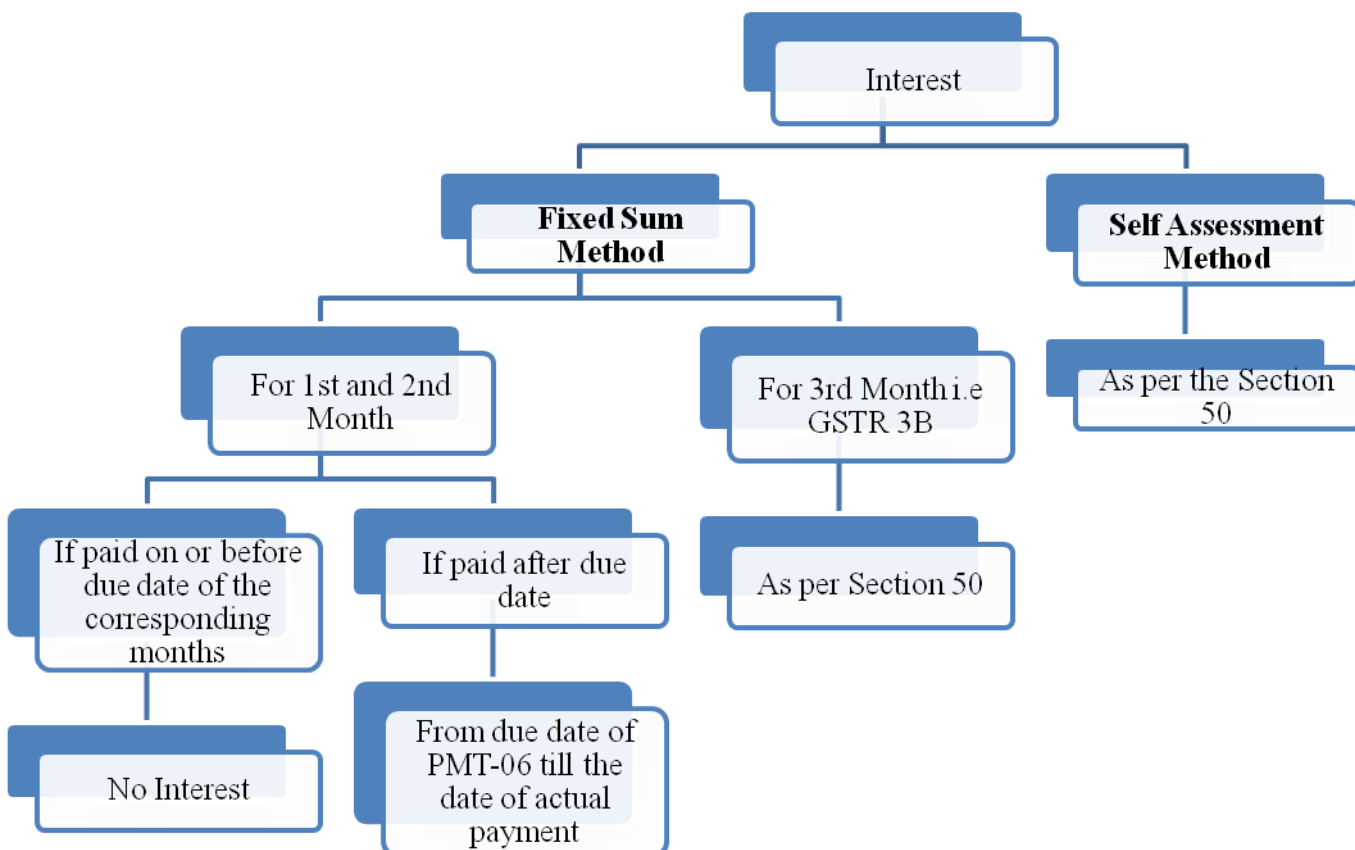
### **Quarterly filing of FORM GSTR-3B**

- Registered persons would be required to furnish FORM GSTR-3B, for each quarter, on or before 22nd or 24th day of the month succeeding such quarter wherein they shall declare the supplies made during the quarter, ITC availed during the quarter and all other details required to be furnished therein.



- The amount deposited by the registered person in the first two months shall be debited solely for the purposes of offsetting the liability furnished in that quarter's FORM GSTR-3B.
- However, any amount left after filing of that quarter's FORM GSTR-3B may either be claimed as refund or may be used for any other purpose in subsequent quarters.
- In case of cancellation of registration of such person during any of the first two months of the quarter, he is still required to furnish return in FORM GSTR-3B for the relevant tax period.

**Interest liability:**



**Late fee:** Late fee would be the applicable for delay in furnishing of the said quarterly return /details of outward supply.

**Conclusion remarks:**

The scheme to the some extent has eased the compliance requirements and also addressed certain difficulties but do not simplifies the compliance requirements specifically the monthly tax payment. Hence, it is recommended to make the both filing & payment quarterly and make IFF available for the total invoices instead of restricting to Rs.50 Lakhs per month.





**Survey, Search and Seizure Update**

**Compiled By: Hari Agarwal, FCA**

**1. No additions based on seizure of loosed sheet where no unaccounted cash was found to be paid by buyer**

**Held:** 'IAE Ltd.' sold certain land to a party for certain sale consideration - Subsequently, a search and seizure was conducted at premises of assessee, a partner of real estate broker concern, wherein certain loose sheet mentioning amount received in cash and cheques regarding sale transaction of said land was seized - Accordingly, Assessing Officer came to conclusion actual sale consideration of land was much more than figure shown in registered sale deed - Assessing Officer relying upon loose sheet seized, mentioning amount received in cash and cheques, calculated profit and divided half vis-a-vis assessee and MD of seller company - Whether in view of fact that it was not case of revenue that circle rate of land was more than what had been disclosed and moreover, no unaccounted cash was found to be paid by buyer to seller and addition made in hand of seller for alleged cash amount received was deleted, assessee-broker could not be saddled with additions [Navneet Jhamb vs. Assistant Commissioner of Income Tax, Central Circle Faridabad [2020] 120 taxmann.com 314 (Punjab & Haryana)]

**2. Loss on sale of gifted shares couldn't be allowed if receipt of same was not disclosed in return of income; SLP dismissed**

During the search, it was found that assessee sold shares which were acquired by him through a gift from his daughter. It was found that resultant capital gain was not offered in return of income. Thus, the assessment was reopened by the Income-tax Officer on the ground that assessee had deposed in his sworn statement recorded under Section 132(4) that he had sold his shares. These shares were stated to have acquired by assessee through a gift from his daughter for nil consideration and the profit was not disclosed to the department.

Assessee preferred an appeal before CIT(A). CIT(A) held that Section 49 specifies that the cost of acquisition of the asset will have to be reckoned based on the cost of acquisition to the previous owner. The action of Assessing Officer (AO) assuming the cost to be nil was not correct.

On revenue's appeal, ITAT held that assessee didn't disclose the receipt of the gift in the original return of income and later on claimed a loss on the sale of shares in the return of income filed in response to notice under Section 148. Further, assessee had not filed any registered document of gift either before AO or CIT(A) which showed that assessee had not owned said shares which were alleged to be gifted to him by his daughter. Since the said provisions envisage only where the



capital asset becomes the property of the assessee, then the cost of acquisition of the asset will have to be reckoned based on the cost of acquisition to the previous owner and otherwise, not. Thus, provisions of Section 49 of the Act did not apply.

Appeal filed by assessee before HC was dismissed and subsequently, SLP filed against the said order was also dismissed by the Supreme Court. **[V. Dwarakanathan vs. ACIT -[2020] 121 taxmann.com138 (SC)]**

### **3. Analysis of section 153C(1)(b)**

Prior to amendment by Finance Act 2015 i.e. before 1-06-2015, section 153C (1) provided that if AO of the person searched (PS) is satisfied that valuable assets (any money, bullion, jewellery or other valuable article or thing) or books of accounts or documents seized/requisitioned belongs or belong to a person other than person searched (OP), the AO of the PS will hand over the valuable assets/books of accounts/documents to the AO of the OP.

Thus, the criteria for arriving satisfaction by the AO of the PS was that the valuable assets/books of accounts/documents belong to the OP. After amendment by above Finance Act w.e.f. 1-06-2015 (i.e. where search is carried out on or after 1-06-2015) "valuable assets" and "documents etc." are separated and the qualifying expressions "belongs to" was retained only with "valuable assets" as contained in clause (a) of section 153C(1). The other part relating to "documents etc." contained in clause (b) was also divided into two parts by putting different qualifying expressions against both the parts.

In this article, clause (b) of section 153C (1) has been analysed and the effect, it is likely to create, is described in brief. In addition, the cases decided by the Courts on the basis of pre-amendment Law are examined in the light of post-amendment Law to see whether different result would come than arrived at by Courts/Tribunal. **[D.C. AGRAWAL - [2020] 121 taxmann.com 182 (Article)]**



**4. Income Tax Search And Seizure Assessments – No Universal Application Of The “Extrapolation Technique” In Search Assessments**

CA Mohit Gupta has pointed out that the Income-tax department usually relies on the extrapolation principle in search assessments to make arbitrary additions even for years where no incriminating material has been unearthed. He has considered whether the Department is justified in doing so and explained the entire law on the subject with reference to leading judicial precedents [Itatonline.org (Articles)]

**5. Non striking of applicable limb of penalty in notice-SC dismisses SLP of Income Tax Department**

Non striking of applicable limb of penalty clause u/s 271(1)(c) in notice-Supreme Court dismisses SLP of the Income Tax Department ABCAUS Case Law Citation ABCAUS 3426 (2020) (11) Important case law relied upon by the parties: Commissioner of Income Tax v/s Shri Samson Perinchery Principal Commissioner of Income Tax v/s New Era Sova Mine In a recent case, the Hon’ble Supreme Court have dismissed the Special Leave Petition of the Income Tax Department challenging the decision of the Hon’ble High Court on the issue of non striking of the applicable limb in penalty notice u/s 271(1)(c). Both the CIT(A) and the Tribunal had

**6. Writ cannot be filed challenging that assessment order was passed without giving fair hearing opportunity**

Where writ petition had been filed raising a plea that assessment order had been passed in violation of principles of natural justice, since each and every objection raised by petitioner in his written representation, had been considered by assessing authority and it had rejected same by giving reasons, and whether reasons for rejection given by respondent is correct or not cannot be held to be violation of principles of natural justice, respondent had adhered to principles of natural justice by providing a fair hearing and by giving petitioner sufficient opportunity to raise all contentions and if petitioner is aggrieved, his only remedy is to file statutory appeal 246A as against impugned assessment order. [M. Vivek vs. DCIT, Central Circle-2(i/c), Trichy [2020] 121 taxmann.com 366 (Madras)]



**7. Assessing Officer while completing assessment under section 153A could not disturb completed assessment of assessee in respect of such earlier assessment year:**

Section 153A of the Income-tax Act, 1961 - Search and seizure - Assessment in case of (Absence of incriminating material) - Assessment year 2008-09 - Pursuant to search, proceedings under section 153A were initiated against assessee - Whether since no incriminating material against assessee in respect of an earlier assessment year for which assessment had already attained finality was unearthed during course of proceedings under section 153A, Assessing Officer while completing assessment under said section could not disturb completed assessment of assessee in respect of such earlier assessment year - Held, yes [Para 7] [In favour of assessee][**Principal Commissioner of Income-tax v. Rameshbhai Jivraj Desai, High Court of Gujarat [2020] 121 taxmann.com 333 (Gujarat)**]

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