



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

# Hyderabad Branch of SIRC

*E-Newsletter*

[www.hydciai.org](http://www.hydciai.org)

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Seminar on International Taxation on 20<sup>th</sup> January, 2023 at COE, ICAI



Seminar on Budget 2023 on 2<sup>nd</sup> February 2023 at KLN Prasads Auditorium, FTCCI

## Chairman Writes



**Dear Professional Colleagues,**

This communication with you penning with a sense of satisfaction as the Chairman of Hyderabad Branch of SIRC of ICAI may be the last one, Serving as Chairman of this Prestigious branch which completed 60 glorious years is always the matter of Proud and honour coupled with duty & responsibility to serve more than 11000 members and 50000 students. I am honoured to represent the Hyderabad Branch of SIRC of ICAI as its Chairman which celebrated platinum jubilee year this year, to move ahead the opportunity to head this august Institute is indeed a great honour which works with abundant professionalism.

As a part of our continuous learning and skill development activity, we continued to organise many Seminars, Conferences and other events during the month. The major program conducted were as under: -

- 9th (TTT) (7th Physical) 2 Days Intensive Train the Trainer Prog. on "How to be a Global Speaker in One's Chosen Area org. by CPEC & CECLEA Jointly with Karimnagar & Warangal Branches of SIRC of ICAI held on 6th - 7th January 2023
- One Day Program on International Taxation on 20th January 2023 which was inaugurated by Sri Ravindra Sai, CCIT, South Zone (IT & TP), Sri Ramji Rao, CIT (IT& TP), Hyderabad.
- Recent Judicial pronouncement in GST
- Office Automation & Use of Technology.

### **Meeting on Union Budget 2023**

Branch has organised Seminar on Budget 2023 on 2<sup>nd</sup> February 2023 evening to highlight the tax proposals on Direct and Indirect Taxes and important features of the Budget proposals concerning our professional activity. CA. M. R Vikram, K.C. Devdas & CA. V.S. Sudhir from Hyderabad spoke on the occasion, we have overwhelming response from members.

### **CONVOCATION 2023**

The ICAI Convocation held in Hyderabad in January 2023 to award Membership for newly enrolled Members. It was for the first time that the National convocation was held at Hyderabad in august presence of dignitaries like Shri. Arjun Ram Meghwal, Union Minister State, Ministry of Parliamentary Affairs; and Ministry of Water Resources, River Development and Ganga Rejuvenation, CA.(Dr.) Debashish Mitra, President, ICAI & CA. Aniket Sunil Talati, Vice President, ICAI. I thank our Central Council Members CA Dayaniwas Sharma & CA Sushil Kumar Goyal, Convenor M&SS & CA Sridhar Muppala, Deputy Convenor, M&SS for getting flagship event to Hyderabad. In the event, around 1200 members were

awarded. It was heartening to see young members proudly flipping tassels from one side of their cap to another.

Let me at the outset congratulate all of you who are graduating today. This is a moment of great joy and satisfaction in your life. Your academic efforts have come to fruition. This marks the completion of one stage in your life and another is about to begin.

### **Republic Day Celebrations:**

We had honour of unfurling the National Flag on the auspicious occasion of 74<sup>th</sup> Republic Day on January 26, 2023, at the branch premises. The function was attended by Past President, Central Council Member, Past Chairman, Regional Council Members, Senior Members, Students & staff of Hyderabad branch. We took the pledge to uphold the sovereignty of our great nation.

### **Sincere thanks:**

It was satisfying tenure for me to serve the cause of the profession as the Chairman of Hyderabad branch for the period of 2022-23 and I dedicate myself once again to offer my services in my capacity to the betterment of our profession.

Looking back to my tenure as Chairman, I should admit that it was a fascinating experience for me to have the support of my colleagues in the branch and the good wishes from all the members who guided me to perform. I had tried my best to uphold legacy of my predecessors and I am sure members would subscribe to my feeling.

While sharing my happy association with you through this column I also feel it my pleasure to share some of the important events of the year in nutshell:

- National Conference Gyan Shala under the Aegis of CMP Committee which was inaugurated by CA. Suresh Prabhu Former Union Minister.
- Tax Audit Seminar which was inaugurated by ITAT Members of Hyderabad Bench CA Ramakanth Panda & Shri Laliet Kumar.
- “VRIDDHI” 54<sup>th</sup> Regional Conference of SIRC of ICAI with an all-time record of about 5000 members through physical and virtual presence at Hyderabad.
- International Conference of CA Students - FACING THE FUTURE - Innovate-Integrate-Motivate with a record of about 2900 students with Students from India as well as outside India through physical presence. Smt. Tamilsai Soundrajan Honourable Governor of Telangana & Puducherry graced the occasion a Chief Guest. Honourable President CA.(Dr.) Debashish Mitra, President, ICAI & CA. Aniket Sunil Talati and Galaxy of Central Council Members, Former Indian Cricket Skipper Kapil Dev, Tollywood Power Star Pawan Kalyan graced the Valedictory Session.
- Meet the President & Vice-President Program was Conducted during President Sir visit to Hyderabad.
- Record number of Career Counselling Programmes.

- First Ever 2K Run, Plantation & Financial Literacy Drives at Necklace Road which was inaugurated by Hon'ble Justice Shri. Abhishek Reddy, High Court of Telangana & Shri. L Sharman, Hon'ble District Collector & Magistrate, Hyderabad.
- Financial Literacy Drive at Colleges, Banks & Other Places.
- Investor Awareness Programs
- MSME Program to Commemorate National MSME Day and ICAI MSME Committee initiatives of MSME Yatra & MSME Setu which was graced by IAS Officer for the Inauguration and attended by members from Industries and MSME.
- Seminar on GST & Seminar on Annual Returns in GST organized under aegis of IDTC of ICAI.
- 72 CPE programs 217 CPE Hours held at Branch Premises and other places of various important topics on CARO, Professional Ethics, MDP, Auditing Standards, Networking Guidelines,
- Outreach Program on CRET for Members & Students.
- 38 CPE Study Circle Meetings of Direct Taxes & Indirect Taxes (GST) 76 CPE Hours.
- Study Circle Meetings of FRRG
- Faculty Development Program conducted under the aegis of SSEB
- 2 days Train the Trainer Program under the aegis of CPE Committee.
- 3 days Joint Program with SIRC Assurance Practice, Quality Procedure.
- CA Day with members and their family with Health Checkup, Games & Cultural Program
- CSR initiatives during the year by organising Health Camp, Blood Donation Camp, Food Distribution Campaign, Tree Plantation, Books Distribution to needy.

### Acknowledgment

I acknowledge with thanks the support I received during my tenure as Chairman which I happily record through this column.

- CA. (Dr.) Debashih Mitra, President, ICAI
- CA. Aniket Sunil Talati, Vice President, ICAI
- CA Dayaniwas Sharm & CA Sridhar Muppala, Central Council members from Hyderabad & other Council Members of ICAI.
- CA. China Masthan Talakayala, Chairman, SIRC of ICAI & all Regional Council Members from Hyderabad CA Naresh Chandra Gelli, Secretary SIRC of ICAI, CA Chengal Reddy R & CA Sunil Kumar Mandava Regional Council Member and the team of SIRC.
- Past President, all the Past Council Members from Hyderabad, Past Chairmen, Members & Students who made all the events successful with their participation and encouragement.
- Hon'ble Justice Shri. Abhishek Reddy, High Court of Telangana.
- Shri. L Sharman, Hon'ble District Collector & Magistrate, Hyderabad.

- Shri. Navin Mittal, IAS, Commissioner, Collegiate Education & Technical Education Telangana State.
- CA. Ramakanta Panda, Accountant Member, ITAT
- Shri. Laliet Kumar Judicial, Member, ITAT
- Shri. Krishna Bhaskar, IAS, Director Industries Govt. of Telangana
- Shri. G Kishan Reddy, Minister of Tourism of India
- Governor. Dr. Tamilisai Sundararajan, Govt. of Telangana
- Shri. Arjun Ram Meghwal, Union Minister State, Ministry of Parliamentary Affairs; and Ministry of Water Resources, River Development and Ganga Rejuvenation,
- All the Resource Persons for CPE Program & Seminars.
- Contributors of Hyderabad Branch Newsletter.
- All the Faculties of OP, MCS, ITT, & ADV ITT & Other student classes for their continuous support to Hyderabad Branch.
- Statutory & Internal Auditors of Hyderabad Branch.
- Print and Electronic Media.
- Last & but not the least by entire Team of Managing Committee of Hyderabad Branch of SIRC of ICAI CA. Satish Kumar Mylavarapu, Vice- Chairman, Hyderabad Branch, CA. Ravi Sankara Reddy P, Secretary, CA. Girdharilal Toshniwal, Treasurer, CA. Chandra Babu M, SICASA Chairman, CA. Saran Kumar U, SICASA Co- Chairman, CA. Rajambal M S, CA. Chinna Sitarami Reddy A, CA. Karumanchi Ramarao and entire staff of Hyderabad Branch who always stood for making the program successful.

During the second fortnight of this month at Managing Committee Meeting, I will be handing over the switch to the incoming Chairman. I request the members to continue to offer your support and patronage to my successor in all respects.

I take this opportunity to express My Continued Commitment to our Profession and reiterate that I will continue to dedicate myself to the service of the Institute, Members, Students and would continue to pursue the path of service.

Love All, Trust a Few, Do Wrong to None!!!

Thanking You

Signature



**CA. Deepak Ladda**

**Chairman**

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### Exposure Draft of the International Non-Profit Accounting Guidance (INPAG)- Part 1

Non-Profit organizations (NPOs) have grown by leaps and bounds with larger magnitude. In view of their growing significance, ensuring accountability and transparency for NPOs becomes important. Sound financial reporting aids in ensuring accountability and transparency for NPOs. Quality of financial reporting depends on recognition, measurement, presentation and disclosure principles.

At international level, it has been recognized that the preparation of financial statements by NPOs is crucial for accountability and decision-making and for trust and confidence in NPOs. However, there are no international standards guiding NPOs on how to prepare their financial statements. Recently, the first Exposure Draft of International Non-Profit Accounting Guidance (INPAG) has been issued by Chartered Institute of Public Finance and Accountancy (CIPFA) for public comments to be received by March 31, 2023 to create specific financial reporting guidance for NPOs. After considering the feedback on this Exposure Draft, two more Exposure Drafts will be issued which collectively comprise INPAG.

With the view to contribute to standard setting at international level, the Exposure Draft of the International Non-Profit Accounting Guidance (INPAG)- Part 1 issued by the IFR4NPO, has been hosted on the website of the Institute of Chartered Accountants of India ([www.icai.org](http://www.icai.org)) for public comments with last date as **February 17, 2023**.

The same can be assessed at the following link: <https://resource.cdn.icai.org/72678asb58594.pdf>

How to comment

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

1. Electronically : Click on <http://www.icai.org/comments/asb/> to submit comment online (Preferred method)
2. Email : Comments can be sent to: [commentsasb@icai.in](mailto:commentsasb@icai.in)
3. Postal : Secretary, Accounting Standards Board,

The Institute of Chartered Accountants of India,  
ICAI Bhawan, Post Box No. 7100,  
Indraprastha Marg, New Delhi 110 002

Further clarifications on this Exposure Draft may be sought by e-mail to [asb@icai.in](mailto:asb@icai.in)

**ANNOUNCEMENT****EMPANELMENT OF MEMBERS TO ACT AS OBSERVERS AT THE EXAMINATION CENTRES  
FOR THE CHARTERED ACCOUNTANTS EXAMINATIONS****MAY/JUNE 2023.**

It is proposed to empanel members to act as Observers for the forthcoming May/June -2023 Chartered Accountants Examinations scheduled as under:

	<b>Intermediate, Final and PQC Exams</b>	<b>from 2<sup>nd</sup> MAY to 18<sup>th</sup> MAY 2023</b>
		(Excluding 5 <sup>th</sup> May 2023)
	<b>Foundation Exams</b>	<b>24<sup>th</sup>, 26<sup>th</sup>, 28<sup>th</sup> and 30<sup>th</sup> JUNE 2023</b>

**Eligibility criteria for empanelment:**

Members who fulfill the following criteria are eligible for empanelment, to act as Observers.

- i) He/she should not be more than 65 years of age as on the date of empanelment, i.e.15<sup>th</sup> February, 2023.
- ii) His/her name should have been borne on the Register of Members as on 1<sup>st</sup> November 2020 and continues to be so;
- iii) Neither he/she nor his/her relatives\* or dependant\* is / will be appearing in the ensuing Chartered Accountants Examinations for students / Post – Qualification Course Examinations in MAY/JUNE 2023 in any examination centres in India or Abroad. **However, applying or appearance in ISA - AT will not be considered a disability for observership for CA Examinations.**

[\* the term "relative" or "dependant" for the purpose shall include, in relation to an individual, the wife, husband, son, daughter-in-law, daughter, son-in-law, grandson, granddaughter, brother, brother's wife, brother's son, brother's daughter, sister, sister's husband, sister's son, sister's daughter, wife's brother, wife's sister and husband's brother and husband's sister]

- iv) He/she is not coaching students for any of the examinations / test conducted by the Council of the Institute in any institutions / organization including Regional Councils / Branches of the Institute and also private coaching.
- v) He/she has not been convicted by any court of Law and no disciplinary proceedings are pending against him/her, either by the ICAI / Disciplinary Directorate or by any other organization, both in India or abroad.
- vi) He/she is not associated with the Institute as an elected/co-opted member of the Council / Regional Council / Managing Committee of any Branch of the ICAI.
- vii) He/she shall abide by the Guidelines for Observer and / or any other instructions.
- viii) He/she is not a covid patient / or having symptoms of the Covid and will not take any assignment of Observer's duty if detected on duty dates.

**Honorarium**

The honorarium of ` 3000/- **per day / per session** and ` 350/- as conveyance reimbursement for 'A' class cities and ` 250/- for other cities per day (to cover cost of local travel) will be paid.

The list of A class cities is as under:

Ahmedabad	Bangalore	Chennai,	Delhi/New Delhi
Hyderabad/Secunderabad	Jaipur	Kanpur	Kolkata/Howrah
Lucknow	Mumbai	Nagpur	Pune

All other cities are 'B' class cities.

#### Duties of Observer:

**A member will be allotted duties in the city of his professional address only as per Institute's records.**

**(To avoid any hardship in allotment of Observer assignment, Members are advised to update their professional Address/City in ICAI through the SSP Portal in accordance with the examination cities, if not updated)**

The main duty of the observer is to ensure that the Question Paper Packets meant for the day of the exam, with the right code of the day are collected from the bank, (where they are kept under safe custody) opened and distributed to the candidates. Accordingly, Observer is required to be present in the assigned branch of the Bank/Examination Centre from the time when the code key is opened in the bank till the conclusion of the examination, i.e. till the answer books are pooled, reconciled, packed and handed over to the designated courier agency (including answer sheet of physically handicapped candidates, if any) for dispatch to the Examination Department.

Once the duties are assigned for acting as an Observer in a particular examination centre, he/she should attend to the said assignment and submit his/her report on daily basis in the prescribed format at the Portal immediately after the conclusion of exam. Bill is required to be submitted immediately after completion of all the Examination.

**In case any member is unable to perform his / her assignment, the same may be declined in the portal and communicated to the Examination Department well in advance, so that alternative arrangement can be made.** If a member neither informs the Examination Department nor discharges the duties assigned, he/she would be liable for such action under the provisions of the Chartered Accountants Act 1949 and the Regulations framed thereunder, as deemed fit.

Kindly note that giving false/misleading declaration regarding conflict of interest / involvement in coaching and **any unauthorized absence from the Exam Centre during the exams** will lead to action under disciplinary provisions in accordance with the Chartered Accountants Act, 1949 and the Rules and Regulations framed thereunder.

#### How to empanel:

A member who fulfills the above-mentioned eligibility criteria, desirous of empaneling himself/herself for the assignment, may do so, online at <http://observers.icaiaexam.icaai.org>.

**Applications by any other mode will not be entertained. The activity schedule of the portal is as under:**

<b>Opening of the window for empanelment</b>	<b>15<sup>th</sup> February 2023 (Wednesday)</b>
<b>Closing of the window for empanelment</b>	<b>10<sup>th</sup> March 2023 (Friday)</b>
<b>Hosting of the details of Self Selection of observer assignments</b>	<b>15<sup>th</sup> - 20th April 2023 (Tentative)</b>



Survey, Search and Seizure Update

CA. Hari Agarwal

CA. Vivek Agarwal

**1. Since no proceedings were initiated against assessee under section 153C and Assessing Officer did not record his satisfaction with regard to escapement of income, impugned reassessment proceeding was not sustainable**

Section [147](#), read with section [153C](#), of the Income-tax Act, 1961 - Income escaping assessment - General (Recording of satisfaction) - Assessment years 2005-06 to 2007-08 - During search conducted at premises of 'A', a diary was seized which contained details of payment made by 'A' to assessee - Later on, survey was conducted in assessee's premises and he agreed to offer additional receipts as income but did not file his revised return - Thereafter, Assessing Officer initiated proceedings under section 147 - Whether since no proceedings were initiated under section 153C against assessee, there was patent non-application of mind - Held, yes - Whether since Assessing Officer had not recorded his satisfaction with regard to escapement of income and he had based revenue's case entirely on statement of assessee, impugned reassessment order was not sustainable as assessee's admission could not be conclusive evidence - Held, yes [Paras 10 and 11] [In favour of assessee]

[2022] 143 taxmann.com 362 (Karnataka)

Sri Dinakara Suvarna v. Deputy Commissioner of Income-tax\*

**2. The Author of diary had passed away prior to date of search and relevant entry had not been used**

Section [69B](#) of the Income-tax Act, 1961 - Undisclosed investments (Seized diary) - Assessment year 2007-08 - A search was conducted on premises of 'A' wherein a diary was seized which contained details of payment made by A to assessee in respect of a property - Assessing Officer made addition under section 69B as unexplained investment on basis of entries found in seized diary being of view that assessee had paid cash over and above amount shown in registered document - Commissioner (Appeals) deleted impugned addition holding that it was travesty of justice that relevant entry had not been used in case of 'A' but it had been used in assessee's case who was third party to proceedings - On appeal, Tribunal reversed findings of Commissioner (Appeals) - Whether in view of fact that author of seized diary had passed away prior to date of search and relevant entry had not been used in case of 'A', reversing findings of Commissioner (Appeals) by Tribunal was not sustainable - Held, yes [Para 14] [In favour of assessee]

[2022] 143 taxmann.com 362 (Karnataka)

Sri Dinakara Suvarna v. Deputy Commissioner of Income-tax\*

**3. The Assessing Officer relying upon statement of managing director made addition to income of assessee under section 68, since assessment of assessee with respect to above assessment year was not pending on date of search and no incriminating material was found from assessee during search, Tribunal rightly deleted addition**

Section [153A](#), read with sections [68](#) and [132](#), of the Income-tax Act, 1961 - Search and seizure - Assessment in case of (Incriminating material) - Assessment year 2011-12 - Authorised officer conducted search under section 132 upon a company 'KR' and its group including assessee and Managing Director, namely, 'G' made a statement that undisclosed income had been routed in books through bogus entries of long-term capital gain by way of sale of shares - Thereafter, assessee in response to notice issued under section 153A filed return for assessment year 2011-12 declaring income under different heads and with respect to income from long-term capital gain submitted that she purchased 1600 shares of company 'KG' for a total consideration of Rs. 16,000 and sold same on 20-10-2010 for a sum of Rs. 37,95,231 and earned long-term capital gain and claimed long-term capital gain as an exempt income under section 10(38) - Assessing Officer relying upon statement of 'G' held that amount of long-term capital gain was an accommodation entry and treated same as an unexplained cash credit under section 68 and added same to income of assessee - Commissioner (Appeals) confirmed addition - Tribunal concluded that Assessing Officer made addition solely relying upon statement made by 'G' and after finding that there was no incriminating material found as a result of search conducted against assessee set aside addition - It was noted that on date of search assessment of assessee with respect to assessment year 2011-12 stood completed - It was further noted that since assessment of assessee with respect to above assessment year was not pending on date of search and no incriminating material was found from assessee during search, issue was covered in favour of assessee by two judgments of Delhi High Court - Whether order passed by Tribunal deserved to be affirmed - Held, yes - Whether no substantial questions of law arose for consideration - Held, yes [Paras 9 and 10] [In favour of assessee]

[2022] 143 taxmann.com 404 (Delhi)

**Principal Commissioner of Income-tax v. Ms. Kavita Agarwal\***

*affirmed.*

*CIT v. Kabul Chawla* [\[2015\] 61 taxmann.com 412/234 Taxman 300/\[2016\] 380 ITR 573 \(Delhi\)](#) and *Pr. CIT v. Meeta Gutgutia* [\[2017\] 82 taxmann.com 287/248 Taxman 384/395 ITR 526/295 CTR 466 \(Delhi\)](#) (para 9) *followed.*

4. Where pursuant to search operations on company KR, Assessing Officer treated LTCG on sale of shares of KGN as an accommodation entry and added same to income of assessee, however, upon perusal of statement and contents of letter of Managing Director of company KR, it was evident that there was no reference to KGN in either of said documents and no other material found during search pertaining to KGN had been placed on record, addition made by Assessing Officer was to be deleted

[2022] 144 taxmann.com 42 (Delhi)

**Principal Commissioner of Income-tax v. Ms. Suman Agarwal\***

The Hon'ble Finance Minister has presented annual budget for the Fiscal Year 2023-24 in Lok Sabha on 1<sup>st</sup> day of February, 2023, in which to implement the recommendations of the GST Council, she has proposed changes in 17 sections, out of which 15 sections are proposed in CGST Act and 2 sections proposed in IGST Act, in total the proposed changes are 28, by way of 9 omissions, 9 substitutions, 9 insertions and 1 amendment. These changes will be notified by the Government after the ascent of the President of India to Finance Act, 2023.

The proposed changes in CGST Act & IGST Act are having far reaching implications and which will have impact on trade. In our endeavour as consultants and advisors to the trade, keeping an eye on these changes is imperative. Hence in this direction, the changes proposed in Finance Bill, 2023 in CGST Act & IGST Act are encapsulated.

**1. Composition taxpayers are permitted to make intra-state supplies of goods through E-commerce operators [Clause No.128 of Finance Bill, 2023]**

Section 10(2) and section 10(2A) of the CGST Act,2017 has been proposed to be amended to allow composition taxpayers to make intra-state supplies of "goods" through E-commerce operators.

*Authors Comments: Small taxpayers (up to 1.5Cr of aggregate supplies in a year) have an option to pay GST at the composition rate of 1% for traders /2% for manufacturers, instead of the normal rate. However, this option is subject to certain conditions, one such condition is that the taxpayer should not be supplying goods through E-Commerce Operators (ECOs). This amendment relaxes this condition and the person opting to make the payment of tax at composition rate may also supply goods through e-commerce operator and charging the composition rate. The restriction for supply of service through ECOs continues. This would help the composition dealer also to explore sales through ECOs without additional tax burden.*

**2. Alignment of ITC reversal to the return filing system [Clause No.129 of Finance Bill, 2023]**

Second proviso to Section 16(2) of the CGST Act, 2017 has been amended to re-worded from 'added to his output tax liability, along with interest thereon' to pay by him along with interest payable under section 50. Further, the third proviso to Section 16(2) is proposed to be amended to clarify that the recipient is entitled to re-avail the ITC on making of payment towards value of supply along with tax payable to the supplier.

*Authors Comments: The above proviso provides for the recipient to reverse the ITC availed by way of addition to the output tax liability along with interest where he fails to make payment to the supplier an amount towards the value of supply along with tax payable within 180 days from the date of issue of invoice. The proposed amendment aligns the provisions of law with the mechanism available on the GST portal which provides for reversal of ITC in case such failure to make payment to the supplier within 180 days from the date of invoice under Table 4(B)(2) of GSTR-3B. The ITC so reversed can be subsequently re-availed in Table 4(A)(5) of GSTR-3B with corresponding disclosure in Table 4(D)(1) of GSTR-3B upon payment of value with taxes to the supplier. The amendment is to make alignment of theory with practice. Clarity on rate of interest was given since the same is referring to the interest section (section 50).*

**3. Value of exempt supply for the apportionment of the common input tax credit to include supply of warehoused goods before clearance for home consumption [Clause No.130(a) of Finance Bill, 2023]**

Explanation to Section 17(3) is proposed to be amended to further include supply of warehoused goods before clearance for home consumption (Paragraph 8(a) of Schedule III) within the ambit of "neither supply of goods nor supply of services (exempt supply)" for the purpose of reversal of ITC under Section 17(2) r/w Rule 42 and Rule 43 of the CGST Rules, 2017.

Authors Comments: Section 17(2) of the CGST Act restricts the availability of ITC to the extent attributable to taxable supplies. Explanation to Section 17(3) provides that exempt supply for this purpose would exclude the value of activities or transactions specified in Schedule III (activities or transactions which are treated neither as supply of goods nor as supply of services). The activity of supply of the imported warehoused goods before clearance for home consumption (this is because the person filing the bill of entry i.e., the buyer would be paying IGST under The Customs Act, and would result in double payment if not excluded from supply) would be is also part of the schedule. Now the ITC of inputs, input services and capital goods attributable to such supply needs to be reversed.

*The importer would be incurring various expenditure such as warehousing rent, clearing and forwarding, CHA Charges, port charges, handling charges, freight etc. and GST would have been paid on the same. Hitherto to this amendment such supplier would have claimed exemption from tax on sale and would have also enjoyed the input tax credit. Now the input tax credit of the entire direct expenses pertaining to such sale and purchase along with proportionate common credit would be restricted.*

**4. ITC restricted on goods and services in relation to CSR activities [Clause No.130(b) of Finance Bill, 2023]**

Clause (fa) is proposed to be inserted under Section 17(5) of the CGST Act to restrict availability of ITC in respect of goods or services or both received by a taxable person, which are used or intended to be used for activities of corporate social responsibility (CSR) as provided for under Section 135 of the Companies Act, 2013.

*Authors Comments: Section 17(5) provides the list of the blocked credit. Goods and service received for the CSR activities is added to this, thereby restricting the input tax credit. The expenditure related to business is eligible for the credit, CSR being a mandated activity as per the Companies Act could have been considered as business related expenses for the purpose of input tax credit. This was also ruled in some Advance Rulings. This proposed amendment nullifies such legal position.*

*The ITC cannot be availed for such goods and services used for fulfilling the CSR obligation henceforth. Credit for the past would be eligible, since the intention of law to restrict such credit has been expressed only with this amendment. Further any voluntary CSR other than mandated by Companies Act, 2013 shall be eligible for ITC (view of the authors).*

**5. Clarity provided for exemption from Mandatory registration [Clause No.131 of Finance Bill, 2023]**

Amendment to Section 23 of the CGST Act, 2017 to override Section 22(1) and Section 24. This has been proposed retrospectively w.e.f., 01.07.2017.

*Authors Comments: Section 22 provides for registration requirement; section 23 provides for exemption from registration and section 24 provides the cases where mandatory registration is required. Under section 23, agriculturist, person engaged in exclusive exempted supplies and notified person were exempted from registration which overrides section 22 and 24.*

*Section 24 provides mandatory registration for person liable to pay tax under RCM. There are certain goods and services where tax need be paid by recipient under RCM (say cashew nuts, bidi leaves, GTA, renting of residential dwelling). In such case it is clear that if the person is exclusive providing exempted outward supplies and received GTA service there is no need for registration and payment of tax under RCM.*

**6. Maximum time limit for filing GSTR-1, GSTR-3B, Annual returns (GSTR-9 & GSTR-9C) and GSTR-8 [Clause No.132, 133, 134 & 135 of Finance Bill, 2023]:**

Section 37, 39, 44 & 52 of the CGST Act, 2017 is proposed to be inserted to restrict a registered person from filing such returns after the expiry of a period of 3 years from the due date. However, the power is conferred upon the Government, by way of a notification subject to such conditions and restrictions, to allow a registered person or a class of registered persons to furnish such returns even after the expiry of the said period of three years.

*Authors Comments: Returns in form GSTR-1, GSTR-3B & GSTR-8 are to be filed monthly/quarterly while Form GSTR-9 & GSTR-9C to be filed annually. Presently, this can be filed with late fee if filed after the due date. With this proposed amendment, one cannot file such returns after the expiry of a 3 years from its due date.*

*Where monthly/quarterly returns for a tax period is not furnished by the supplier, then the supplier is restricted from filing further returns. Further Section 29 of the CGST Act, confers powers on the proper officer to cancel the registration where the returns are not furnished for a continuous period of 6 months. Therefore, the practical implications of the said restriction would be required to be tested. Further, in case where cancellation of registration is subsequently revoked upon appeal by the assessee, subject to furnishing of pending returns, where the said time limit of 3 years has expired, then the operability of this provision may come into question.*

**7. Correction in provisional refund for exporters [Clause 136 of Finance Bill 2023]**

It is proposed to amend Sub-section (6) of Section 54 so as to provide that the refund on provisional basis, shall be calculated at 90% of the amount of refund claimed. The words “excluding the amount of input tax credit claimed on provisional basis” has been proposed to be omitted.

AUTHORS COMMENTS: SECTION 54(6) PROVIDES FOR THE PAYMENT OF 90% OF THE REFUND TO EXPORTER. HOWEVER, THE 90% HAS AN EXCLUDED THE PROVISIONAL CREDIT. THE PROVISIONAL CREDIT SCHEME WAS PROVIDED UNDER SECTION 42 OF THE ACT, AT THE BEGINNING OF GST, LATER THE SAME WAS OMITTED BY FINANCE ACT, 2022 WEF 01-10-2022 AND CONCEPT OF PROVISIONAL CREDIT IS DONE AWAY WITH AND HENCE SUCH EXCLUSION HERE WOULD BE IRRELEVANT, THERE BY THIS RECTIFICATION AMENDMENT.

**8. Powers provided for computing the interest in delay in refund. [Clause 137 of Finance Bill 2023]**

It is proposed to substitute the wordings of section 56 of the Act, for the words “from the date immediately after the expiry of sixty days from the date of receipt of application under the said subsection till the date of refund of such tax”, the words “for the period of delay beyond sixty days from the date of receipt of such application till the date of refund of such tax, to be computed in such manner and subject to such conditions and restrictions as may be prescribed” shall be substituted.

*Authors Comments: Section 56 provides for interest in case of delay in refund beyond 6 months. The proposed amendment intends to provide a basis of calculation of interest on delayed refunds in such manner and subject to such conditions and restrictions. That shall be provided in the Rules to be made post enactment of this section. While there seems to be no change in the period for which interest shall be granted, it is expected that the rules may restrict the interest for belated refund only when it is purely attributable to the department officer.*

**9. Penalty proposed for e-commerce operators [Clause 138 of Finance Bill 2023]**

It is proposed to insert a new sub-section, sub-section (1B) in Section 122 of the CGST Act, 2017 so as to provide penal provisions applicable to E-commerce operators (ECO's) in case there is non-compliance of any of the provisions made in relation to supply of goods made through the said ECO by unregistered persons or composition tax payers.

A penalty amounting to 10,000 or an amount equivalent to the tax involved had such supply been made by a registered person other than a person paying tax under section 10, whichever is higher, has been proposed on the following offences -

A)

ALLOWS A SUPPLY OF GOODS OR SERVICES OR BOTH THROUGH IT BY AN UNREGISTERED PERSON OTHER THAN A PERSON EXEMPTED FROM

REGISTRATION BY A NOTIFICATION ISSUED UNDER THIS ACT TO MAKE SUCH SUPPLY;

- B) ALLOWS AN INTER-STATE SUPPLY OF GOODS OR SERVICES OR BOTH THROUGH IT BY A PERSON WHO IS NOT ELIGIBLE TO MAKE SUCH INTER-STATE SUPPLY; OR
- C) FAILS TO FURNISH THE CORRECT DETAILS IN THE STATEMENT TO BE FURNISHED UNDER SUB-SECTION (4) OF SECTION 52 OF ANY OUTWARD SUPPLY OF GOODS EFFECTED THROUGH IT BY A PERSON EXEMPTED FROM OBTAINING REGISTRATION UNDER THIS ACT

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AUTHORS COMMENTS: THE ABOVE AMENDMENT HAS BEEN PROPOSED WITH A VIEW TO PROVIDE FOR A SPECIFIC PENALTY IN CASE THE E-COMMERCE OPERATORS ARE NOT ENSURING COMPLIANCE IN TERMS OF THE PROVISIONS LAID DOWN UNDER SECTION 52 OF THE ACT. FURTHER, DUE CARE HAS TO BE GIVEN BY THE ECO WHEREVER ANY UNREGISTERED PERSON HAS BEEN ALLOWED TO MAKE SUPPLIES THROUGH IT IN TERMS OF SPECIFIC EXEMPTIONS FROM TAKING REGISTRATION EVEN IF A PERSON IS MAKING SUPPLIES THROUGH AN E-COMMERCE OPERATOR.

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**10. Changes in offences which can result into prosecution [Clause No. 140 of Finance Bill, 2023]**

Section 132 has been proposed to amend by deleting the following offences

- (g) obstructs or prevents any officer in the discharge of his duties under this Act;
- (j) tampers with or destroys any material evidence or documents;
- (k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information;

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AUTHORS COMMENTS: THE AFORESAID OFFENSES ARE SPECIFICALLY PUNISHABLE UNDER IPC PROVISIONS AND TO AVOID DUPLICATION OF THE PROSECUTION UNDER GST, THE PROPOSAL IS MADE TO EXCLUDE SPECIFIC MENTION OF SUCH OFFENSES AGAIN UNDER GST.

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**11. Changes in Compounding of offences [Clause No. 140 of Finance Bill, 2023]**

- The restriction for compounding of the offence in case where the assessee had been allowed to compound an offence committed under clause (h) of Sec 132 (i.e., concerns himself in any way with any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules), or under clause (i)(i.e., receives or in any way concerned with supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the Rules) for the value more than Rs. 1 crore is now proposed to restrict the compounding of the offence irrespective of the value involved in the offence.
  - If a person is accused of committing an offence under this act or any other act for the time being in force is prohibited from compounding of the offence is now proposed to impose such restriction only on the person who issues fake invoicing without supply.
  - The amount for compounding of the offences is minimum of not less than Rs.10,000 or 50% of tax whichever is higher and the maximum amount not less than Rs.30,000 or 150% of the tax involved whichever is higher. It is proposed to reduce the amount for compounding of the offences to minimum of 25% of the taxes and maximum of not less than 100% of the taxes.
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AUTHORS COMMENTS: THE PROPOSED AMENDMENT IS AIMED AT MAKING OPTION OF

**12. Power of Government to share the information of the taxpayer [Clause No. 141 of Finance Bill, 2023]:**

Sec 158A is proposed to be inserted to enable the government to share the following information with prior consent of the supplier:

- Particulars details given for registration under section 25 or in the return filed under section 39 or under section 44;
- The particulars uploaded on the common portal for preparation of invoice, the details of outward supplies furnished under section 37 and the particulars uploaded on the common portal for generation of documents under section 68;
- such other details as may be prescribed;

Further the details as mentioned which discloses the identity of the recipient would be shared on prior consent of the recipient.

It is also provided that the government or the common portal cannot be sued for any additional liability to the registered person due to sharing of the information and the liability of the taxpayer would not have any impact.

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AUTHORS COMMENTS: WITH EFFECT OF THIS PROPOSED CHANGE THE GOVERNMENT WOULD HAVE THE POWER TO SHARE THE INFORMATION AVAILABLE LIKE DETAILS PROVIDED AT THE TIME OF REGISTRATION, GSTR 3B, GSTR 9 AND 9C, E-INVOICE, GSTR 1, E-WAY BILL AND ANY OTHER DETAILS. EVEN THE TAXPAYER WOULD NOT HAVE ANY POWER TO SUE THE GOVERNMENT FOR ANY LIABILITY ARISING OUT OF SUCH DISCLOSURE.

**13. Retrospective applicability of changes made in Schedule III of CGST Act on 1.2.2019 [Clause No. 142 of Finance Bill, 2023]**

Through CGST (Amendment) Act, 2018 w.e.f. 01.02.2019, the following provisions are inserted under schedule III:

- Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.
- Supply of warehoused goods to any person before clearance for home consumption.
- Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.

Explanation 2, for the expression "warehoused goods" shall have the same meaning as assigned to it in the Customs Act, 1962 (50 of 1962).

Now, it is proposed that these provisions would have retrospective effect from 1.7.2017. However, it is clarified that the refund would not be granted in cases where the taxes are already paid to the government.

*Authors Comments: The proposed amendment clarifies that supply of goods without such goods entering India, high seas sales and sale of warehoused goods before clearance for home consumption would not be taxable under GST from 1.07.2017 which would reduce the dispute from the department for demanding taxes for the period from 1.07.2017 to 31.1.2019 where there was uncertainty on taxability of these transaction. However, the government has clarified that refund would not be granted where the taxes were actually paid.*

**14. Change in the definition of "non-taxable online recipient" and "online information and database access or retrieval services." [Clause No. 143 of Finance Bill, 2023]**

The term "non-taxable online recipient" included the government, local authority, governmental authority, an individual or any other person not registered and receiving the OIDAR service for the purposes other than commerce, industry or any other business or profession, located in taxable territory.

Now, it is proposed to substitute the definition as extracted below:

*“non-taxable online recipient” means any unregistered person receiving online information and database access or retrieval services located in taxable territory”*

*Explanation–For the purposes of this clause, the expression “unregistered person” includes a person registered solely in terms of clause (vi) of section 24 of the Central Goods and Services Tax Act, 2017.*

The term as defined under Sec 2 of IGST Act, online information and database access or retrieval service which is extract as below:

*(17)“online information and database access or retrieval services” means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply **essentially automated and involving minimal human intervention** and impossible to ensure in the absence of information technology and includes electronic services such as,-*

*(i) advertising on the internet;*

*(ii) providing cloud services;*

*(iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;*

*(iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;*

*(v) online supplies of digital content (movies, television shows, music and the like);*

*(vi) digital data storage; and*

*(vii) online gaming;*

It is proposed to remove the words *“essentially automated and involving minimal human intervention and”*.

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**AUTHORS COMMENTS: DUE TO THE PROPOSED CHANGE IN THE TERM NON-TAXABLE ONLINE RECIPIENT NOW IT EXCLUDES THE GOVERNMENT AND INCLUDES THE DEPARTMENTS OR ESTABLISHMENTS OF CENTRAL GOVERNMENT AND STATE GOVERNMENT (UNLESS SUCH DEPARTMENTS REGISTERED UNDER GST ONLY FOR TDS PURPOSE). FURTHER IT DOES NOT EXCLUDE THE PERSONS IF THEY ARE RECEIVING THE OIDAR SERVICES FOR THE PURPOSES OF COMMERCE, INDUSTRY OR ANY OTHER BUSINESS OR PROFESSION IF HE IS UNREGISTERED. HENCE, ON PROCUREMENT OF ANY OIDAR SERVICES BY THESE WOULD NOT BE CONSIDERED AS IMPORT OF SERVICE.**

**15. Amendment in place of supply for transportation of goods outside India [Clause No. 144 of Finance Bill, 2023]**

In proviso to sub-section (8) of section 12 of the IGST Act provides the place of supply on transportation of goods outside India be the destination of the goods. Now, it is proposed to omit the proviso to sub-section (8) of section 12 of the IGST Act so to specify the place of supply, irrespective of destination of the goods, in cases where the supplier of services and recipient of services are located in India.

*Authors Comments: Due to the effect of proposed change the place of supply even in case where the destination of goods is outside India would be similar to the case where the destination of goods was in India which is in case of supply to a registered person would be the location of such person and to an unregistered person would be the location where the goods were handed over to the transporter.*

Disclaimer: The comments and views expressed by the authors are purely their personal views, the readers are expected to correlate the same with the law before taking any decisions based on the views and comments of the authors. Authors cannot be made responsible for the actions of the readers based on the views and comments of authors.





9th (TTT) (7th Physical) 2 Days Intensive Train the Trainer Prog. on "How to be a Global Speaker in One's Chosen Area org. by CPEC & CECLEA & hosted by Hyderabad branch of SIRC Jointly with Karimnagar & Warangal Branches of SIRC of ICAI on 6<sup>th</sup> - 7<sup>th</sup> January, 2023

### RECENT AMENDMENTS AND JUDICIAL PRECEDENTS IN GST



11.1.2023 Resource Person CA. Jagannadha Grandhi R.N.S

# SEMINAR ON INTERNATIONAL TAXATION





On 20.1.2023 Chief Guest: Shri. Ravindra Sai M, IRS, CCIT (International Taxation South Zone) Bengaluru, Guest of Honor: Dr. L. Ramji Rao, IRS, CIT (International Taxation & Transfer Pricing) seen other Income Tax Officials along CA. PVSS Prasasd, Past Chairman, CA. Deepak Ladda, Chairman, CA. Satish Kumar Mylavarapu, Vice Chairman, CA. Ravi Sankara Reddy P, Secretary Hyderabad Branch, CA. T. Anjaneyulu, Chairman, Karimnagar Branch of SIRC of ICAI

## OFFICE MANAGEMENT AND USE OF TECHNOLOGY



On 30.1.2023 Resource Person CA. Radheshame S Biyani from Latur

## Interactive Meeting on Discussion on Changes in the Present Structure of Post Qualification Diploma in International Taxation



21.1.2023

Interactive Meeting on Discussion on Changes in the Present Structure of Post Qualification Diploma in International Taxation Resource Person CA. Sanjay Kumar Agarwal, Chairman Committee on International Taxation seen CA. PVSS Prasad, Past Chairman Hyderabad branch, CA. Deepak Ladda Chairman, CA. Ravi Sankara Reddy P, Secretary senior members of Hyderabad Branch

## VALEDICTORY SESSION





CONVOCATION 2023



74<sup>TH</sup> REPUBLIC DAY CELEBRATIONS

