

# THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(SET UP BY AN ACT OF PARLIAMENT)

HYDERABAD BRANCH (SIRC)



**E-NEWSLETTER**  
**JULY 2025**

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# FROM THE CHAIRMAN

My Dear Professional Colleagues,  
A happy Chartered Accountants Day!

1st July is a red-letter day for all of us – the day when our prestigious Institute, the Institute of Chartered Accountants of India (ICAI), came into existence in 1949. This day is etched in our memories as a symbol of professional pride and legacy. Over the past 77 glorious years, the ICAI has grown by leaps and bounds in terms of membership strength, student base, and global outreach, earning the distinction of being the second-largest accounting body in the world.

ICAI stands unique in its holistic role encompassing education, examination, membership, continuing professional development, and regulation of the profession through disciplinary oversight. No other professional body in the world commands the intellectual backing and institutional recognition that ICAI enjoys. As rightly acknowledged by Dr. A.P.J. Abdul Kalam, our alma mater is a true “Partner in Nation Building.”

The history of ICAI is one of resilience and vision. The journey began with the introduction of the Companies (Amendment) Bill in the Constituent Assembly on 23rd March 1936, followed by the formation of the Accountancy Board in 1932. This effort culminated in the formation of ICAI on 1st July 1949 through an Act of Parliament.

We owe a deep debt of gratitude to CA. G.P. Kapadia, the first President of ICAI, and all our past leaders who laid the foundation and shaped the destiny of our institution. On this occasion, let us remember their foresight and take a solemn pledge to uphold the values they stood for. Let us strive to enhance the global image of our profession and contribute to the continued growth and excellence of ICAI.



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

## **CA Day Celebrations – 1st July 2025**

This year, CA Day was celebrated with great enthusiasm and participation:

- The day commenced with Flag Hoisting, followed by a Blood Donation Camp and Health Check-up for members at the Branch premises.
- In the evening, a special felicitation ceremony was held at the Centre of Excellence to honour senior members who have completed 50 years of service to the profession.
- The celebrations also included fun-filled games and cultural programmes for members and their families, adding joy and vibrancy to the occasion.

## **Cycling Event – 08<sup>th</sup> June 2025**

The Hyderabad Branch of the Institute of Chartered Accountants of India (ICAI) hosted a vibrant Cycling Event at Narsingi Cycle Track, ORR, to celebrate World Bicycle Day and promote fitness, sustainability, and community well-being. The event was organised by the Committee for Promoting Work Life Balance of ICAI.

The event began with fun-filled activities and energising stretches, which participants of all age groups thoroughly enjoyed. Members, their families, and fitness enthusiasts took part with great enthusiasm and community spirit.

# FROM THE CHAIRMAN

## **21 Day Fitness Challenge**

09<sup>th</sup> June 2025 to 29<sup>th</sup> June 2025

The 21-Day Fitness Challenge was a resounding success, bringing together members committed to health and discipline. With over 400 participants across walking, running, and cycling categories, the challenge saw remarkable consistency, positivity, and camaraderie.

I extend heartfelt thanks to every participant who made this initiative meaningful. As we continue to prioritise wellness in the profession, The Hyderabad Branch of SIRC of ICAI remains committed to hosting more such initiatives that inspire a balanced and healthy lifestyle for all members.

## **National CA Students' Conference 2025**

12th & 13th June 2025 | Shilpakala Vedika, Hi-Tech City, Hyderabad

The Hyderabad Branch of SIRC of ICAI had the honour of hosting the National CA Students' Conference 2025, under the aegis of the Board of Studies (Operations), ICAI. The two-day event was a grand success, witnessing participation from over 2,000 CA students from across India.

The event was inaugurated by Shri Bati Vikramaditya, Hon'ble Deputy Chief Minister of Telangana, who delivered an inspiring keynote address encouraging students to strive for excellence and nation-building.

Eminent dignitaries who graced the conference included:

- Shri Laxmi Narayana, Former Additional Director General of Police
- CA. Snehaja J, Regional Passport Officer
- Special address by actor Shri Naga Chaitanya

Each of them left the audience enriched with their motivational and insightful addresses.

## **MSME Day – 27th June 2025**

To commemorate MSME Day, a dedicated programme on MSMEs and Startups was organized, drawing a significant attendance of over 400 members.

**In conclusion,** I would like to pen down the timeless words of Swami Vivekananda:

*"They alone live, who live for others."*

Let us continue to serve with dedication, uphold the dignity of our noble profession, and carry forward the legacy of excellence.

**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	<b>Chairman</b>
CA. A Chinna Sita Rami Reddy	<b>Member Ex-Officio</b>
CA. Seelam Naga Harshavardhan Reddy	<b>Member</b>
CA. Gonugunta Murali	<b>Member</b>
CA. Srikanth Bhakkad	<b>Member Co-opted</b>
CA. Manu Sharma	<b>Member Co-opted</b>

## TAXATION COMMITTEE

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

## CPE COMMITTEE

CA. Girdhari Lal Toshniwal	<b>Chairman</b>
CA. A Chinna Sita Rami Reddy	<b>Member Ex-Officio</b>

## NEWSLETTER COMMITTEE

CA. Shailesh Khandelwal	<b>Chairman</b>
CA. A Chinna Sita Rami Reddy	<b>Member Ex-Officio</b>

## INFORMATION TECHNOLOGY (IT) COMMITTEE

CA. Uppalapati Saran Kumar	<b>Chairman</b>
CA. A Chinna Sita Rami Reddy	<b>Member Ex-Officio</b>

## LIBRARY COMMITTEE

CA. Rama Rao Karumanchi	<b>Chairman</b>
CA. A Chinna Sita Rami Reddy	<b>Member Ex-Officio</b>

**HYDERABAD  
(SIRC)**

# ANALYSIS OF REVISED FORMAT FOR FINANCIAL STATEMENTS BY ICAI ON NON CORPORATE ENTITIES (WOMEN'S STUDY CIRCLE)

HELD ON  
2<sup>ND</sup> JUNE, 2025



The session provided an in-depth analysis of the revised format for financial statements issued by ICAI, specifically applicable to non-corporate entities. The distinguished speaker, CA. Sai Anusha, elaborated on the key changes introduced, the rationale behind the revisions, and the practical implications for practitioners and stakeholders. The discussion also covered classification of entities, disclosure requirements, and compliance guidelines as per the new framework. The lecture was highly insightful and offered clarity on transitional aspects, ensuring participants are better equipped to implement the revised norms effectively in their professional practice.



**RESOURCE PERSON: CA. SAI ANUSHA**

## PLACE, TIME & VALUE OF SUPPLY (A 2 Z OF GST ACT)

HELD ON  
3<sup>RD</sup> JUNE, 2025



This detailed and engaging session focused on the three fundamental pillars of GST – Place of Supply, Time of Supply, and Value of Supply. CA. Sreeram Kapaganty provided an in-depth explanation of the statutory provisions, rules, and interpretations that govern these concepts under the GST Act.

The session covered key topics such as the determination of place of supply in inter-state and intra-state transactions, the time of liability to pay tax, and the valuation mechanisms including inclusions and exclusions for determining taxable value.

This session was especially valuable for practitioners and businesses aiming to enhance accuracy in GST compliance, avoid litigation, and gain clarity in complex transactional scenarios.



RESOURCE PERSON: CA. SREERAM KAPAGANTY



## A SESSION ON GSTR-1 & 3B RETURN FILING AND REPORTING AS PER THE GST LAW, TDS & TCS UNDER GST

HELD ON  
04<sup>TH</sup> JUNE, 2025

This informative session focused on the procedural and practical aspects of GSTR-1 and GSTR-3B return filing, along with the provisions related to TDS and TCS under the GST regime. The esteemed speakers, CA. Kedarnath P and CA. Lokesh Kumar Dewangan, provided participants with a detailed understanding of return preparation, reconciliation, error handling, and recent updates in compliance requirements. The session also clarified the applicability, registration, and deduction procedures for TDS/TCS under GST, supplemented with examples and reporting formats. It proved to be an enriching experience for professionals seeking to ensure accuracy and efficiency in GST return filing and statutory compliance.



RESOURCE PERSONS:  
CA. KEDARNATH P,  
CA. LOKESH KUMAR DEWANGAN

# INSPECTION, SEARCH, SEIZURE & ARREST, GST ON MERGERS AND ACQUISITION

HELD ON  
05<sup>TH</sup> JUNE, 2025



This insightful session covered two crucial areas under the GST law – enforcement provisions and the GST implications on mergers and acquisitions. CA. Venkata Prasad Pasupuleti and CA. Rajitha Manish expertly explained the legal framework governing inspection, search, seizure, and arrest under GST, including the powers of officers, procedural safeguards, and taxpayer rights. The second part of the session focused on the tax treatment of business reorganizations such as mergers, demergers, and acquisitions. Key topics included transfer of input tax credit, registration implications, and compliance challenges. The session was highly informative and equipped attendees with both theoretical knowledge and practical guidance.

RESOURCE PERSONS: CA. VENKATA PRASAD PASUPULETI, CA. RAJITHA MANISH



## CYCLING EVENT AT ORR, NARSINGI

HELD ON  
08<sup>TH</sup> JUNE, 2025



# EXEMPTIONS UNDER GST, RCM UNDER GST ACT

HELD ON  
09<sup>TH</sup> JUNE, 2025



The session provided a concise overview of GST exemptions and the Reverse Charge Mechanism (RCM). CA. Vignesh Srivastava and CA. Giriraj Mundada explained the categories of exempt supplies, conditions for claiming exemptions, and the practical application of RCM in various transactions. The session was highly informative and helped participants gain clarity on compliance and reporting under these provisions.



RESOURCE PERSONS: CA. VIGNESH SRIVASTAVA, CA. GIRIRAJ MUNDADA



# PRACTICE BEFORE ITAT, DECODING FACELESS APPEALS – PRACTICAL CHALLENGES AND REMEDIES

HELD ON  
10<sup>TH</sup> JUNE, 2025



The session offered practical insights into representing cases before ITAT and handling faceless appeals under the Income Tax regime. Key challenges and effective remedies were discussed to help professionals navigate the new appellate framework efficiently.

RESOURCE PERSONS: CA. K C DEVDAS, CA. SRINARAYAN TOSHNIWAL

# NATIONAL CONFERENCE FOR CA STUDENTS – “PRAVAHA: THE FLOW OF FUTURE”

HELD ON  
12<sup>TH</sup> & 13<sup>TH</sup> JUNE, 2025















## GST TRIBUNAL PROCEDURE & PRACTICES

HELD ON  
16<sup>TH</sup> JUNE, 2025



The session focused on the procedural aspects and practical functioning of the GST Appellate Tribunal. CA. V. S. Sudhir provided valuable insights into filing appeals, documentation, and effective representation before the tribunal, enhancing participants' understanding of appellate practices under GST.



**RESOURCE PERSON: CA. V. S. SUDHIR**

## REFUNDS UNDER GST, DEMANDS & RECOVERY, MULTIPLE SCN

HELD ON  
17<sup>TH</sup> JUNE, 2025

The session covered key aspects of GST refunds, demand and recovery provisions, and handling multiple Show Cause Notices (SCNs), with practical insights and compliance strategies shared by the speakers.



**RESOURCE PERSONS: CA. RAGHAVENDER KUNCHARAPU, CA. LAKSHMAN KUMAR KADALI**



# GSTR-2B RECONCILIATION & IMS, E-WAY BILL

HELD ON  
18<sup>TH</sup> JUNE, 2025

The session focused on GSTR-2B reconciliation, input matching systems (IMS), and E-Way Bill compliance. The speakers provided practical guidance on error resolution, automation tools, and ensuring accurate GST credit claims.



RESOURCE PERSONS: CA. VAMSHI KRISHNA JAVVAJI, CA. RAVINDAR M



## REGISTRATION (LAW , RULE & PROCEDURE), AMENDMENT, SUSPENSION & CANCELLATION (LAW, RULE & PROCEDURE)

HELD ON  
19<sup>TH</sup> JUNE, 2025

The session provided a comprehensive overview of GST registration processes, including amendments, suspension, and cancellation. The speakers explained the legal provisions, procedural requirements, and practical challenges with clarity and real-life examples.



RESOURCE PERSONS: CA. APPALA K NAIDU, CA. AJAY MUNDADA

HELD ON  
20<sup>TH</sup> JUNE, 2025





## FIRST APPEALS UNDER GST, ASSESSMENT UNDER GST & DEPARTMENTAL AUDIT

HELD ON  
21<sup>ST</sup> JUNE, 2025



The session covered the procedures for filing first appeals, various types of assessments under GST, and key aspects of departmental audits. The speakers shared practical insights and strategies for effective handling of GST disputes and compliance reviews.

RESOURCE PERSONS: CA. SATISH SARAF, CA. ARPAN BOHRA

# 11<sup>TH</sup> INTERNATIONAL YOGA DAY CELEBRATIONS

HELD ON  
21<sup>ST</sup> JUNE, 2025





# SCOPE OF SUPPLY & LEVY UNDER GST, COMPOSITE SUPPLY & MIXED SUPPLY, COMPOSITION LEVY- SCHEME & RETURNS

HELD ON  
23<sup>RD</sup> JUNE, 2025

The session provided clarity on the scope and levy of GST, differentiation between composite and mixed supply, and the composition scheme. The speakers explained legal provisions, practical implications, and return filing procedures under the composition levy.



RESOURCE PERSONS: CA. MANINDAR KAKARLA, CA. PANKAJ CHANDAK

## ELIGIBILITY, CONDITIONS & BLOCKED CREDITS [SEC 16 TO 19], ISD (LAW, RULE, PROCEDURE & RETURN)

HELD ON  
24<sup>TH</sup> JUNE, 2025

The session covered input tax credit (ITC) eligibility, conditions, and blocked credits as per Sections 16 to 19 of the GST Act. It also included a detailed discussion on Input Service Distributor (ISD) provisions, procedures, and return filing requirements.



RESOURCE PERSONS: CA. HITESH JAIN, CA. BALAJI BIRADAR

## ACCOUNTS & RECORDS AND OTHER DOCUMENTS, LEVERAGING TECHNOLOGY IN GST COMPLIANCE

HELD ON  
24<sup>TH</sup> JUNE, 2025

The session focused on statutory requirements for maintaining accounts and records under GST, and how technology can be effectively used to enhance compliance. The speakers shared tools, best practices, and automation strategies for efficient GST management.



RESOURCE PERSONS: CA. SATISH SARAF, CA. SUMEETH SETHIA



## ICAI MSME MAHOSTAV (ON THE THEME EK DIN MSME KE NAAM)

HELD ON  
27<sup>TH</sup> JUNE, 2025

The session focused on statutory requirements for maintaining accounts and records under GST, and how technology can be effectively used to enhance compliance. The speakers shared tools, best practices, and automation strategies for efficient GST management.



RESOURCE PERSONS: CA. SANTHOSHI, SHRI.MADHUKAR BABU, CA. VINEET SUMAN DARDA, CA. MANI P, CA. P MUKESH

## RECENT JUDICIAL, PRONOUNCEMENTS, PENALTIES, PANEL DISCUSSION AND Q&A

HELD ON  
27<sup>TH</sup> JUNE, 2025

The session featured a panel discussion on recent judicial rulings under GST, key penalty provisions, and their practical impact. The speakers shared expert insights, followed by an interactive Q&A session addressing participants' queries.



RESOURCE PERSONS: CA. HARI KISHAN B, CA. SATISH SARAF, CA. V. S. SUDHIR



## CA DAY CELEBRATIONS

HELD ON  
1<sup>ST</sup> JULY, 2025



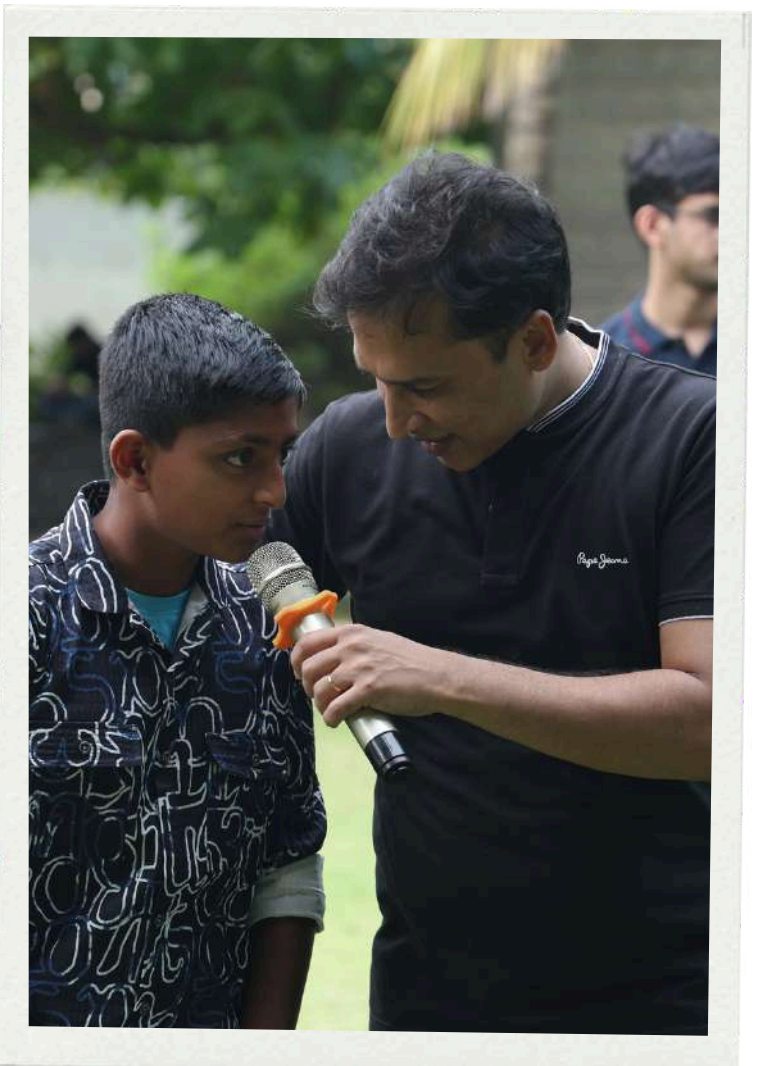
The CA Day was celebrated with great enthusiasm, marking the foundation day of the Institute of Chartered Accountants of India (ICAI). The celebrations included flag hoisting, community service activities, knowledge sessions, cultural performances, and member interactions – honoring the legacy, integrity, and contribution of the CA profession to the nation.





## CA DAY CELEBRATIONS

HELD ON  
1<sup>ST</sup> JULY, 2025





## CA DAY CELEBRATIONS

HELD ON  
1<sup>ST</sup> JULY, 2025



## CA DAY CELEBRATIONS

HELD ON  
1<sup>ST</sup> JULY, 2025







CA SHAILESH KHANDELWAL

# REAL ESTATE ABROAD? CHOOSE THE RIGHT ROUTE FOR REMITTANCE COMPLIANCE

## Introduction: The Rise of Global Property Investment

With the growing aspirations of Indian investors, many Resident Indians are actively exploring property purchases abroad, particularly in destinations like Dubai, the UK, and Australia. These investments are driven by lifestyle goals, potential rental yields, and long-term capital appreciation.

However, what often gets overlooked is the critical importance of compliance with India's foreign exchange laws, particularly the Foreign Exchange Management Act (FEMA) and the Liberalised Remittance Scheme (LRS) administered by the Reserve Bank of India (RBI).

A common mistake made by investors is using third-party fintech platforms like Wise, Instarem, Remitly, etc., to transfer funds for such purchases. While these platforms are efficient and cost-effective for routine transfers, they are not legally compliant for capital account transactions like real estate purchase abroad.

Let's explore why.

## Understanding the Regulatory Landscape

### 1. What is a Capital Account Transaction?

Under FEMA, outward remittances are categorized as either:

- Current Account Transactions – e.g., payment for education, medical expenses, family maintenance, travel
- Capital Account Transactions – e.g., purchase of property, investment in foreign companies, opening a foreign bank account

*Buying property abroad is a capital account transaction.*

As such, it falls under a stricter compliance framework, with detailed documentation and monitoring requirements.

### 2. Who Can Handle Capital Account Transactions?

Only Authorized Dealer (AD) Category I Banks are permitted by RBI to handle such transactions. Examples include:

- ICICI Bank
- HDFC Bank
- Axis Bank

- State Bank of India
- Kotak Mahindra Bank

These banks are licensed to:

- Validate source of funds
- Collect and verify Form A2
- Deduct and deposit applicable TCS
- Report transactions to RBI

### **Why Wise, Instarem, and Similar Platforms Are Not Permissible?**

#### 1. Not AD Category I Entities

Wise and Instarem are not Authorized Dealer Category I banks under Indian law. They are fintech platforms operating through overseas entities.

They do not have a license from the RBI to process capital account transactions, and using them for property-related remittance is a direct violation of FEMA.

#### 2. No PAN or Form A2 Compliance

Under LRS, individuals must:

- Submit PAN for every remittance
- File Form A2 specifying the purpose of the remittance
- Declare the source and intent of funds

Fintech platforms do not collect or process this documentation, which means the remittance is not being reported to RBI as required.

### **Compliance Risks of Using Third-Party Platforms**

#### 1. FEMA Violation

Using a non-AD bank for a capital transaction is a technical violation of FEMA. Penalties under FEMA can be severe:

- Up to 3x the amount remitted, or
- ₹5 lakh, whichever is higher
- Seizure of property or bank accounts in extreme cases

#### 2. Tax Non-Compliance

The Income Tax Department receives direct reporting from AD banks. Any mismatch in TCS or LRS declarations can:

- Trigger scrutiny or reassessment
- Result in penalties and interest

#### 3. Legal Compounding Requirements

If detected, a violation may require the individual to file a compounding application with RBI, which is costly and time-consuming.

### **What is the Right Way to Remit for Property Purchase Abroad?**



Step-by-Step Compliant Process:

1. Identify an AD Category I Bank (ICICI, HDFC, Axis, SBI, etc.)
2. Prepare the following documents:
  - PAN Card
  - Form A2
  - KYC documents (Passport, Aadhaar, etc.)
  - Builder's invoice or sale agreement
  - Escrow account details of the builder
3. Declare the correct purpose code:
  - Use purpose code S0001 or S0023 depending on bank guidance
  - Mention: "Purchase of immovable property abroad under LRS"
4. Pay TCS (if applicable):
  - Above ₹7 lakh: TCS @ 20%
  - Save Form 27D for ITR filing
5. Retain transaction proof for RBI & Income Tax disclosure:
  - SWIFT receipt
  - Bank debit confirmation
  - Builder's acknowledgment of funds



## Common Myths and Misconception

### Myth

"Wise is cheaper and faster"  
"My friend used Instarem, no problem"  
"TCS makes bank remittance too expensive"  
"Fintech apps support property payments"

### Reality

True, but not legal for capital transactions  
Doesn't mean it's compliant or risk-free  
TCS is a recoverable tax credit, not a cost  
Only if local regulations permit, not FEMA

### **Conclusion: Compliance First, Always**

While fintech platforms offer unmatched convenience for daily transactions, they are not designed for high-value capital transactions like foreign real estate purchases. As a resident Indian, compliance with FEMA, RBI, and Indian tax laws is non-negotiable.

Using an authorized bank not only ensures legality but also helps you:

- Claim TCS refunds
- Avoid legal consequences
- Maintain transparency in your financial and tax records.

**When in doubt, always use an AD Category I bank for property transactions abroad. It's better to be slow and secure, than fast and non-compliant.**

### **Thinking of investing in property abroad?**

It's important to get the structure right—right from the first remittance. From coordinating with banks and ensuring the correct purpose code on Form A2, to aligning your investment with RBI guidelines and reporting it properly in your ITR (including Schedule FA) - every step matters.

Ensure that compliance doesn't become an afterthought. Global investments deserve local expertise.



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CA AKHIL JAIN

# WILL & ESTATE PLANNING – TO SAFEGUARDS YOUR LEGACY

## Executive Summary

In India, less than 10% of individuals create a Will, compared to significantly higher percentages in Western countries. This gap is driven by misconceptions that estate planning is only for the wealthy or that the process is complex and expensive. However, a Will is a vital legal tool for anyone who owns assets, such as fixed deposits, shares, or real estate. Shockingly, approximately ₹50,000 crores worth of unclaimed assets lie with the government due to families being unaware of their deceased relatives' investments. Chartered Accountants (CAs) can play a crucial role in raising awareness and guiding clients through the process of Will drafting and estate planning.

## What is a Will & its benefits

A Will is a legal document that outlines how a person's assets will be distributed after their death. In India, where family structures are often complex and joint families are common, having a Will is crucial for ensuring peace of mind and protecting the interests of loved ones. A well-drafted Will not only prevents potential disputes over wealth distribution but also simplifies the legal process of transferring assets, reducing the need for court intervention.

Despite its importance, many individuals in India delay or overlook the creation of a Will, often leading to unintended consequences for their families. Beyond its legal and financial implications, a Will provides emotional reassurance to individuals, knowing that their loved ones will be cared for according to their wishes. It also reduces the stress and burden on family members during an already difficult time. Moreover, parents can use a Will to name a guardian for their children in case of untimely demise. The testator can modify or revoke a Will at any time before their death as circumstances change.

There is a misconception that having a nominee registered in the bank account or demat account make the nominee rightful owner of those assets. However, this is not true, a nominee is merely a custodian of the assets and does not have any ownership rights. It is only the legal heir who is entitled to inherit the assets either as per Will or as per succession laws (in case person dies intestate). For example, if a person appoints their spouse as nominee in bank account but mentioned that their child should inherit the funds in the Will, then in that case the spouse (nominee) should ensure that the money is transferred to their child. Understanding this is important to avoid any conflicts in future and for proper estate planning.



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## **Legal Aspects of Will**

### **Requirements for a Valid Will:**

In India, a Will can be made by a person who is above the age of 18 years. Will does not need to be registered to be valid. It can be handwritten or typed on a simple piece of paper, signed by the testator, and witnessed by two individuals. It must be clearly drafted and must not be ambiguous. For example - a Will stated that the testator's property should be divided "fairly" among his children. The lack of specific instructions led to a prolonged legal battle, with each child interpreting "fairly" differently. The court eventually divided the property equally, but the case could have been avoided with clear and precise language in the Will. The testator must be of sound mind and free from coercion or undue influence. To minimize the risk of Will being challenged, it is advisable to have a doctor as a witness, as their presence can attest to the testator's mental capacity. There is no restriction on the number of times changes can be made in the Will. Only the last valid Will is legally enforceable, rendering all previous Wills as invalid. It may also prudent to mention reference of previous Wills in the last or latest Will. The testator must ensure that all their assets and liabilities as on the date of writing the Will are clearly included in it. In case some assets are not mentioned in the Will then they will be distributed as per the Hindu Succession Act.

### **Registration of a Will:**

While registration is not mandatory even an unregistered Will is legally valid. However, registering a Will adds a layer of authenticity and makes it harder to challenge it in court. A Will can be registered at the sub-registrar's office for a nominal fee. Regular updates to the Will, especially after major life events such as the birth of a child, the death of a spouse or divorce, are essential to ensure it reflects the testator's current wishes. For instance, a businessman drafted a Will in 2010, leaving his entire estate to his wife and two children.

In 2015, he had another child but did not update the Will. After his death, the third child challenged the Will, claiming he was unfairly excluded.

### **Role of Executors:**

The executor plays a crucial role in ensuring the smooth execution of the Will. The executor can also be beneficiary of the Will or he could be a professional who is competent in handling estate planning matters. The executor could also be the spouse or eldest son of the testator. The executor must be familiar with the contents of the Will and the testator's wishes to avoid delays or disputes during the distribution of assets. Executor will ensure that liabilities of the person are settled before distribution of the assets. There can be more than one executor appointed in the Will to ensure that in case one person is not available the other could execute the Will.

### **Consequences of dying intestate:**

In case a person dies intestate (i.e. without having a valid Will) then their assets are distributed as per Hindu Succession Act, 1956. This law applies to Hindus, Jains, Buddhists, Sikhs while Muslims follow personal inheritance law. As per Hindu Succession Act the assets should be distributed equally amongst class 1 legal heir. Class 1 legal heir includes – mother, spouse, son and daughter. Thus, it is a lengthy and time-consuming process to transfer assets after a person's death intestate which may also involve getting probate from courts in some states in India.



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### **Conditional Will:**

A conditional Will allows the testator to specify conditions that must be met before assets are distributed. It is not necessary that the contents of the Will immediately be executed on the death of the testator. The testator of the Will could even make a conditional Will. In such case the assets will be distributed by the executor only when the conditions specified in the Will are fulfilled as per the wishes of the testator. For instance, the testator may choose that the assets specified under the Will should devolve to the child only after he attains majority. Till the time he attains majority only a small amount should be paid to him to meet his monthly expenses. In such cases the executor has to ensure that the assets are safeguarded till the child attains majority. Another example of a conditional Will could be father decides that the property be given to son after his demise only in case he resides with his mother. There could be multiple examples of how a conditional Will can be made. However, the conditions imposed in the Will must be practical and not unreasonable. Thus, it is crucial for the testator to be mindful while drafting a Will and keep on reviewing the Will when important events in their life occur.

### **Tax implication of transfers by Will**

A Will enables tax-efficient wealth transfer to loved ones. Since there is no inheritance tax in India, a properly drafted Will ensures that assets are distributed according to testator wishes, minimizing legal uncertainties and disputes.

Transfer of assets even to an unrelated person by way of Will is not subject to Income Tax as it is outside the ambit of section 56(2)(x) of the Income Tax Act, 1961. Any money or property received by any person from any person by way of Will or inheritance is not subject to tax.

Hence, a will can serve as an effective mechanism to distribute assets among family members, particularly in joint families.

### **Grounds on which Will can be challenged:**

- A Will can be contested if it's believed that the testator was under undue influence or coercion at the time of making the Will.
- If it's believed that the testator was not of sound mind, or lacked the mental capacity to understand the contents of the Will, it can be grounds for contesting.
- If there are suspicions that the Will was forged, it can be legally challenged.
- If a Will is not properly witnessed it can be challenged.

### **Role of Chartered Accountants in estate planning**

Chartered Accountants being at the forefront of providing financial literacy to clients should educate and encourage them to make Will in time so that their assets are safeguarded and their families can live happily even after their demise. They should educate them about the benefits of having a Will. In India succession planning is often less talked about and people think that assets would be amicably distributed amongst the family members after their death. CAs can dispel these misconceptions by highlighting the benefits of a Will and guiding clients through the drafting process. This also gives CA new field to practice in and could help client in planning and distributing their assets. CAs are also suited for being appointed as executors for their clients, given their expertise in financial matters and their ability to maintain confidentiality.





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CAs can provide tailored succession planning solutions that align with client specific needs and priorities, ensuring a smooth and efficient process. CAs need to ensure that information shared with them remains confidential at all times. They can offer complete service, from tax consultation and estate planning to Will drafting, registration and execution. CAs can assist clients in creating comprehensive estate plans that include trusts, charitable foundations, and tax-efficient wealth transfer strategies. For example, a CA helped a client establish a family trust to manage their assets and provide for their grandchildren's education. CAs can also act as mediators in family disputes over inheritance, leveraging their financial expertise to propose fair and equitable solutions.

### **Conclusion**

In conclusion, a Will is an indispensable tool for ensuring the orderly distribution of assets and protecting the interests of loved ones. As death is inevitable and unpredictable, it is advisable to prepare a Will at an opportune time. Despite its importance, many individuals in India delay creating a Will, often due to a lack of awareness or misconceptions about the process.

People often think that estate planning and Will is required only by High Net Worth Individual, which is a great misconception. Any person who has assets to be transferred should plan and make his Will to ensure that family is secured. Chartered Accountants have a unique opportunity to educate their clients about the benefits of Will and provide comprehensive estate planning services. By taking a proactive approach, CAs can help clients achieve peace of mind and ensure that their legacy is preserved for future generations.



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CA SAINATH REDDY

# BALANCING LEDGERS AND LIFE: GITA'S TIMELESS GUIDE FOR US

To our esteemed community of Chartered Accountants and students, Chartered Accountants are often seen as the backbone of economic trust and financial clarity. In a world that never slows down—of audits, compliance cycles, financial planning, and strategic advice—you carry immense professional responsibility. But with great responsibility often comes an invisible burden: long hours, mounting pressure, ethical dilemmas, and the elusive pursuit of balance between work and life.

In the face of such intensity, the **Bhagavad Gita**, a timeless Indian philosophical text, offers guidance that is surprisingly relevant. Its teachings are not about renunciation or religion—they are about balance, discipline, duty, and peace of mind. The Gita shows us that the path to inner calm does not require withdrawing from work—it requires a transformation in how we approach it. Let us explore five profound principles from the Gita that can help every CA achieve harmony in a demanding profession.

## 1. Master Your Actions, Not the Outcomes

**(Gita 2.47)** *“You have a right to perform your prescribed duties, but you are not entitled to the fruits of your actions.”*

This verse is one of the most widely quoted—and with good reason. It captures the heart of stress management: learning to focus on the process, not obsess over results.

As Chartered Accountants, outcomes are often outside your control: a deal may not close, a client may not comply, an audit may not be appreciated. When your sense of satisfaction is tied solely to outcomes, you're setting yourself up for stress and discontent.

Instead, the Gita calls for **karma yoga**—the discipline of action without fixation on results. This is not apathy, nor resignation. It is about **doing your best with full sincerity**, and then letting go of what's beyond your scope.

### How to Apply It:

- At the end of each workday, reflect not on what was achieved, but how it was done.
- Ask: “Did I act with skill, care, and integrity today?”
- Let performance be your reward—not applause, not outcomes.

This mindset doesn't reduce your ambition—it releases your anxiety.



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## 2. Transform Work into a Higher Offering

**(Gita 3.9)** *“Work must be done as a selfless offering; otherwise, it leads to bondage.”*

This teaching reframes our daily effort. The Gita reminds us that work, when done only for reward or recognition, becomes a chain. But when approached as an offering—done sincerely, without self-centered motives—it becomes liberating.

Every balance sheet you verify, every financial model you build, every ethical decision you make—these are not just tasks. They are opportunities to bring order, trust, and clarity into the financial world. When you work with a sense of contribution, not just compensation, the very experience of work transforms.

### How to Apply It:

- Reframe your tasks weekly: "This isn't just an audit—it's ensuring trust in financial systems."
- Treat your role as a service to clients, the public, and the economy.
- Let intention elevate your execution. It's not what you do, but how you do it that brings depth.

This subtle shift from transaction to contribution brings meaning, even in the most routine tasks.

## 3. Cultivate Equanimity in All Situations

**(Gita 2.14)** *“Happiness and distress come and go like summer and winter; learn to tolerate them without being disturbed.”*

In professional life, as in nature, seasons change. There are cycles of growth, challenge, success, and setbacks. Some clients appreciate your work, others do not. Some quarters bring progress, others friction. The Gita advises emotional stability amidst these fluctuations.

This doesn't mean becoming numb or indifferent. It means maintaining clarity and balance, not allowing external ups and downs to cloud your inner state.

When equanimity becomes your default, stress doesn't disappear—but it loses its grip on you.

### How to Apply It:

- When things go wrong, remind yourself: “This too shall pass.”
- Create a “pause ritual”: Before reacting to bad news, take a deep breath and mentally step back.
- View both criticism and praise as temporary—and keep your focus inward.

Professional calm isn't about avoiding pressure. It's about standing firm within it.

## 4. Let Ethics Be Your Foundation

**(Gita 18.5)** *“Acts of sacrifice, discipline, and clarity must never be abandoned; they purify the wise.”*

One of the most powerful teachings of the Gita is the unwavering commitment to dharma—the ethical path. For CAs, ethical conduct is not just professional compliance; it is spiritual discipline. The temptation to bend rules, overlook details, or yield to client pressure is real. But such shortcuts inevitably lead to long-term unrest.

Adhering to your inner compass—even when no one is watching—is the hallmark of a professional guided by Gita's wisdom.

Integrity doesn't always bring immediate reward—but it always brings long-term peace.

### How to Apply It:

- In moments of ethical doubt, ask: “Will this decision let me sleep well tonight?”
- Choose the harder right over the easier wrong—even if no one notices.
- Understand that long-term credibility is far more valuable than short-term convenience.

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True work-life balance starts with the ability to live with oneself, fully and peacefully.

## 5. (Gita 6.17) Embrace Moderation and Self-Discipline

*“One who is balanced in eating, sleeping, working, and recreation achieves freedom from all sorrows.”*

In modern times, overwork is often glamorized. Long hours, skipped meals, and constant connectivity are seen as signs of commitment. But the Gita calls this out as imbalance.

Sustainable success comes from regulated living. Just as extreme indulgence weakens, so does extreme austerity. The one who can maintain balance—between work and rest, effort and recovery—is the one who endures, excels, and evolves.

### How to Apply It:

- Block non-negotiable time in your calendar for exercise, family, and self-care.
- Set digital boundaries: No emails post a set time unless truly urgent.
- Follow the principle: "If it's not scheduled, it's not sacred." Prioritize wellness like you prioritize deadlines.

A balanced life is not a distraction from work—it's the fuel that sustains it.

### Conclusion:

#### Transforming Work into a Spiritual Path

The Bhagavad Gita does not ask us to abandon our duties—it asks us to elevate them. For a Chartered Accountant, the desk, the documents, and the deadlines are not distractions from peace—they are your path to it.

When you act without ego, work without obsession, lead without attachment, and rest without guilt, you begin to experience a new state of being—one where work fuels life and life enriches work.

Let your professional journey be more than a pursuit of recognition. Let it be your practice of karma yoga—a life of responsible, ethical, and balanced action. In doing so, you won't just achieve balance—you will become it.

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CA (DR) SRINATH N G

# HISTORICAL EVOLUTION OF CAPITAL GAINS IN INDIA

## ABSTRACT

Capital gains taxation is an important aspect of financial planning in India. Understanding the applicable tax rates, exemptions, and evaluation methods is crucial for maximizing returns and minimizing tax liability. Consulting with a tax advisor can provide valuable guidance in navigating the complexities of capital gains taxation. It is important to note that each exemption has its own set of eligibility conditions, such as holding period, investment period, and type of property.

## 1. Introduction

In India, capital gains tax is a crucial tax component that is imposed when you sell certain assets for a profit. You can, however, use a number of legal tactics to reduce capital gains tax. We'll look at a number of scenarios in this blog and give real-world examples to assist you understand how to reduce your tax liability. One important element of the financial environment that affects both individuals and investors is capital gains taxation. The profits or gains you make from the sale or transfer of a "capital asset," like securities, are taxable. The purpose of this post is to demystify capital gains, how they are taxed, and how to pay less in taxes

One of the most sought-after investments is a residential property, mainly because you get to own a house. Some investors, however, might do so with the goal of making money when they sell the property later on. It is significant to remember that, for income tax purposes, real estate is considered a capital asset. As such, any profit or loss realized from the sale of real estate may be liable to taxation under the "Capital Gains" heading. Similar to this, selling various kinds of capital assets can result in capital profits or losses. Here, we'll go into great detail on the "Capital gains" chapter.

Those who are thinking about investing in mutual funds or the equity markets are also interested in knowing about the relevant tax regulations and their implications in order to lower the amount of tax required upon the sale of these investments. The idea of discussing capital gains taxation using a question-answer or query-response format originated in this context.

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## 2. History of Capital Gains Taxation in India

The introduction of capital gains tax, which took effect in the 1947 Budget, was intended to stop speculative asset buying and selling in an inflationary climate following World War II. Section 12B of the Indian Income-tax Act, 1922 was then inserted, and the tax took effect in the 1947–1948 fiscal year.

However, this levy was only in place for two years before being removed since it was thought to be impeding the expansion of the stock market.

On the advice of Professor Nicholas Kaldor, the Finance (No. 3) Act of 1956 reintroduced capital gains tax with respect to sales, exchanges, relinquishments, or transfers of capital assets made after March 31, 1956, with the goal of increasing tax revenue and based on the principle of equity in taxation.

Since then, the capital gains tax has been a constant component of the Indian tax system. In the previous sixty years, India has made significant progress in the area of capital gains taxation.

## 3. The Evolution of Capital Gains Taxation in India

The capital gains taxation of listed securities has undergone significant changes over the past three decades, from the levy of a special tax rate of 20% on Long-Term Capital Gains (LTCG) after indexation in 1992 to the grant of exemption on LTCG earned from listed securities in 2004 [subject to levy of a nominal Securities Transaction Tax (STT)] and the reintroduction of LTCG tax on equities by the Finance Act, 2018.

These changes have paved the way for increased investor participation in the stock market and, as a result, the deepening of the equity markets in India.

Capital gains taxation has, for the most part, always changed throughout history. The evolution of capital gains taxation has primarily taken two forms:

1. By rationalizing and streamlining the statutory provisions in order to close gaps and plug loop-holes; and
2. By relieving the genuine hardship of taxpayers by occasionally loosening the strict application of the law.

Due to all of this, capital gains taxation in India has been able to adapt to the needs of a rapidly developing economy and to the changing times. In addition, capital gains taxation has proven to be a useful instrument for promoting economic development and growth by encouraging the allocation of capital gains towards high-priority economic sectors such as infrastructure, housing, agriculture, small and medium-sized businesses (SMEs), and rural electrification. This often leads to confusion because equations do not balance dimensionally. If you must use mixed units, clearly state the units for each quantity that you use in an equation.

## 4. Legislative Measures to Improve Capital Gains Taxation

The Legislature has periodically taken the required actions to close the gaps and seal the openings in the current laws, suppressing any potential damage by enacting the necessary corrective measures to prevent tax evasion. For instance, Section 48 was replaced by the Finance Act, 1992 with effect from AY 1993–94 and forward, granting the benefit of indexation of cost of acquisition and cost of improvement on transfer of long-term capital assets, in order to counteract the effect of price inflation over the period during which LTCG had arisen. This was done in response to recommendations made by the Chelliah Committee to rationalize the system of LTCG taxation. Some of the most crucial measures are as follows:



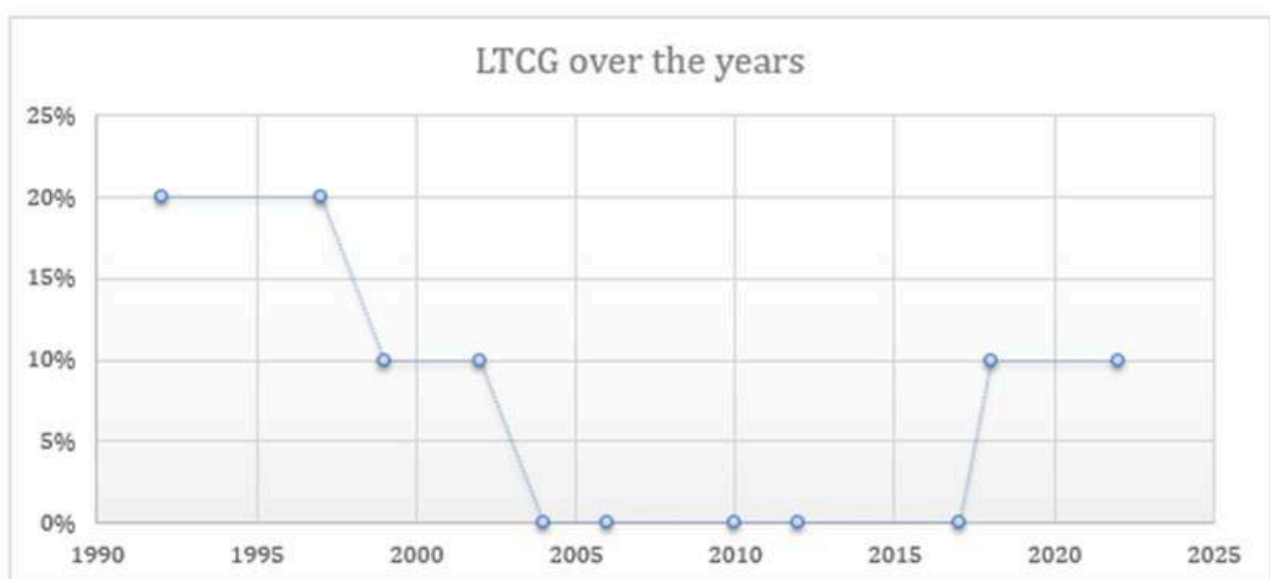
- Once again, section 50C was added to the law book with effect from AY 2003-04 in order to prevent widespread tax fraud through understating the consideration received for the sale of real estate at the time of transfer.
- Subsections (1) and (2) of section 55 were recently amended by the Finance Act, 2023 to state that the costs of acquisition and improvement of any intangible asset or other right—aside from those already mentioned in section 55(1)(b)(1) and section 55(2)(a)—of a capital asset shall be assumed to be nil.
- Over the years, the Legislature has also taken a number of actions to try to remove obstacles and lessen the actual suffering that the strict provisions of the Act have caused the taxpayers. Several notable instances in this context include the addition of a new section 45(5) to the Finance Act, 1987, effective January 04, 1988, which allows for the taxation of both initial and additional compensation in the year of receipt rather than the year of capital asset transfer through compulsory acquisition due to the significant time lag between the date of transfer and the date of compensation payment;
- The Finance (No. 2) Act, 1991, w.e.f. 01-10-1991, inserted a new section 54H, which states that the period for depositing or investing the capital gain in acquiring the new asset under sections 54, 54B, 54D, 54EC, and 54F shall be determined from the date of receipt of such compensation. The third proviso to section 50C (1) prescribes an exception limit of 5% as of 01-04-2019 and 10% as of 01-04-2021 for avoiding the substitution of stamp duty value for the declared sale consideration. Experts and observers on tax policy have long bemoaned and been hopeless about the complexity of direct tax legislation in India.
- The current income tax system has to be made more straightforward and sensible, both in terms of overall policy and the capital gains structure specifically. India's capital gains tax system, which applies to a variety of asset classes, including gold, real estate, and stock, and which specifies various holding periods, cost indexation procedures, and tax rates for each class, has been dubbed "a complex maze" in recent times.
- On the other hand, capital gains are the earnings that investor makes when they sell assets on the capital markets. Long Term Capital Gains (LTCG) tax applies to any stock held for longer than a year. Stocks held for less than a year are subject to the Short-Term Capital Gains (STCG) tax.
- At the moment, capital gains are subject to 15% tax on short-term capital gains upto 23.07.2024 and 20% thereafter. Tax on long term capital gains on sale of shares or securities on which Securities transaction tax is paid at the time of sale and purchase are capped at 10% (which are exempt up to ₹1 lakh) upto 23.07.2024 and 12.5% thereafter on gains exceeding 1.25 lakh. All other long term capital gains are taxed at 10%/20% with indexation benefit upto 23.07.2024 and at 12.5% thereafter.



## 5. Taxation on Stocks

- From 1948 onwards, capital gains were subject to progressive taxation, akin to the current income tax system, with taxes up to ₹15,000 being excluded. A progressive tax rate was applied on amounts over ₹15,000, with 31.3% tax applied to the highest category, which included amounts over ₹10,00,000.
- Capital gains taxation was eliminated in 1949 because it was thought to be impeding the expansion of the stock market.
- From 1957 to 1992: In an effort to raise tax income, capital gains were subject to permanent taxes.
- 1992–1999: Individuals were taxed at their slab rates up to 1991, but a significant drawback of this system was that inflation was not included in. Then, Dr. Manmohan Singh, the finance minister, established the idea of indexation, which raises procurement costs in line with the annual inflation rate declared by the government. A unique LTCG provision was also implemented in the 1992 Union budget, imposing a 20% tax (indexed from April 1993 onwards). For stocks, the holding period under the LTCG was one year; for gold and real estate, it was three years.
- From 1999 to 2004: Yashwant Sinha, the finance minister, set a 10% tax ceiling. Taxpayers may choose to pay 10% of taxes without indexation benefits or 20% of taxes with it.
- 2004–2018: P Chidambaram, the Minister of Finance, instituted STT (a tax imposed on the sale and purchase of shares) in 2004 in place of the LTCG tax. The ruling was historic and contributed to the growth of the Indian capital markets. (about five times growth between 2004 and 2018). Additionally, short-term capital gains were lowered from 15% to 10%. (which, in 2008, was raised to 15%).
- 2018–present: A 10% LTCG tax rate was reinstated in 2018 (gains up to ₹1,00,000 excluded). The STCG tax is still 15%.

**Figure-1: History of Long-term Capital Gain**





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## 6. Taxation on Futures and Options

Gains from F&O are not considered capital gains but business income. As these are considered non-speculative business gains, income tax is levied according to the applicable tax slab rates.

## 7. Taxation of Other Asset Classes

Popular asset classes among investors include stocks, bonds, mutual funds, fixed deposits, real estate, gold, and so forth. To reach their financial objectives, investors must allocate their assets properly. The tax implications of different asset classes vary. Distinct tax laws apply to the returns (or) gains produced by these distinct asset groups.

## 8. Period of Holding of Capital Asset as amended by Finance Act 2024

Position till 23.07.2024 – Sec 2(42A)

12 months	24 months	36 months
Unit of Equity Oriented Fund	Unlisted Shares	Unlisted Securities
Unit of UTI	Land & Building	Unit of Debt Oriented Fund
Listed Shares or Securities		Any other Capital Asset
Zero Coupon Bonds		

If any of the above Capital Assets are held upto 12/24/36 months, then they are treated as Short Term, else it is treated as Long Term

## 9. Period of Holding of Capital Asset as amended by Finance Act 2024

Position on or after 23.07.2024 – Sec 2(42A)

12 months	24 months
Unit of Equity Oriented Fund	Any other Capital Asset
Unit of UTI	
Listed Shares or Securities	
Zero Coupon Bond	

If any of the above Capital Assets are held upto 12/24 months, then they are treated as Short Term, else it is treated as Long Term.

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## 10. Exemptions from Capital Gains

According to the Income-tax Act, capital gains or sale consideration may be exempt from capital gains tax if the gains are reinvested in new, designated assets. The following sections clarify how these exemptions are granted:

**(a) Section 54:** Investment in new residential house and transfer of residential house property which is a Long Term Capital Asset are exempt from capital gains taxes.

**(b) Section 54B:** Exemption from capital gains resulting from investing in new agricultural land and transferring land utilized for farming which may be Long Term or Short Term Capital Asset.

**(c) Section 54D:** Exemption from capital gains resulting from the forced purchase of real estate and buildings that are used as a component of an industrial enterprise and that are purchased in order to establish or relocate the industrial undertaking which may be Long Term or Short Term Capital Asset.

**(d) Section 54EC:** Investment in designated bonds and exemption from capital gains resulting from the transfer of land, building, or both which must be Long Term Capital Asset

**(e) Section 54F:** Exemption from capital gains resulting from investing in residential real estate and transferring a long-term capital asset other than a residential house property.

**(f) Section 54G:** Capital gains exemption resulting from asset transfers during the relocation of an industrial enterprise from an urban to a non-urban area which may be short term or long term.

**(g) Section 54GA:** Capital gains exemption on asset transfers resulting from the relocation of an industrial enterprise from an urban area to a SEZ which may be short term or long term.

**(h) Section 54GB:** It provides an exemption from capital gains taxes on residential property transfers and investments in qualifying firms or eligible start-ups.

- Each exemption has its own set of eligibility conditions, such as holding period, investment period, and type of property. It's crucial to consult with a tax advisor to determine which exemption applies and whether you meet the eligibility criteria.
- The taxpayer must file a return disclosing the capital gains and the claimed exemption along with the required documentation. The tax authorities may scrutinize the claim and verify the utilization of sale proceeds for the specified purpose.
- The new property can be purchased in the joint names of the taxpayer and other family members. However, the exemption is granted only to the extent of the taxpayer's investment in the property.
- Capital gains from the sale of equity shares held for more than one year are taxed at a concessional rate of 10%, subject to certain conditions. For short-term capital gains (held for less than one year), the applicable tax rate is as per the individual's income tax slab.
- Investors can consider various strategies to minimize their tax liability:
  - Long-term holding: Holding equity shares for more than one year to avail of the lower tax rate.
  - Tax harvesting: Selling losing investments to offset capital gains from winning investments.
  - Investing in tax-efficient funds: Opting for equity mutual funds that follow a dividend reinvestment plan (DRIP) or tax-efficient index funds.
  - Utilizing capital losses: Utilizing capital losses from the sale of equity investments to reduce taxable income.
- It's important to consult with a tax advisor to tailor a tax-efficient investment strategy based on your individual circumstances and risk tolerance.

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## 11. Recommendation

Capital gains arising from the sale of immovable property, such as residential houses or agricultural land, can be minimized or eliminated by taking advantage of various tax exemptions and rollover provisions under the Income-tax Act, 1961. These provisions typically involve reinvesting the sale proceeds into specific assets within a specified period.

For capital gains from the sale of equity shares, the tax liability can be reduced by holding the shares for more than one year to avail of the lower long-term capital gains tax rate. Additionally, investors can employ strategies like tax harvesting and utilizing capital losses to further optimize their tax position.

It is crucial to consult with a tax advisor to determine the most suitable tax-saving strategies based on your individual circumstances, investment goals, and risk tolerance.

## 12. Taxation of Capital Gains

### Tax Rates if Capital Asset is sold prior to 23.07.2024

Type of Capital Asset being sold	Rate of Capital Gains Tax
Short Term on sale of shares or securities on which Securities Transaction Tax is paid – Sec 111A	15%
Any Other Short Term Capital Gain	Normal Slab Rates
Long Term other than Sec 112A	20% with Indexation (10% without Indexation)
Long Term on sale of share or securities on which Securities Transaction Tax is paid at the time of sale and purchase – Sec 112A	10% on gains above Rs 1,25,000

### Tax Rates if Capital Asset is sold on/after 23.07.2024

Type of Capital Asset being sold	Rate of Capital Gains Tax
Short Term on sale of shares or securities on which Securities Transaction Tax is paid – Sec 111A	20%
Any Other Short Term Capital Gain	Normal Slab Rates
Long Term other than Sec 112A	12.5% - indexation removed
Long Term on sale of share or securities on which Securities Transaction Tax is paid at the time of sale and purchase – Sec 112A	12.5% on gains above Rs 1,25,000



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**Note: For Resident Individuals and HUFs:**

If land, building, or both were acquired before 23rd July 2024 and sold on or after 23rd July 2024, the taxpayer has the option to choose between the following two taxation methods only if the asset qualifies as a long term capital asset:

- Opt for indexation on the cost of acquisition and pay long-term capital gains tax at 20%, or
- Forego indexation and pay tax at the reduced rate of 12.5%.

Taxpayers may choose the more beneficial option based on their specific circumstances.

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CA SHILPI JAIN

# CASE LAW SUMMARY INDIRECT TAXATION – JUNE '25

## Case 1 - No Service Tax on Booking Cancellations charges

*M/s Nimbus Motors Private Limited Vs. Commissioner of CGST, Noida [2025 (5) TMI 1996]*

### Facts

- Appellant was appointed as an authorized dealer of M/s Hyundai Motors India Ltd (HMI).
- Appellant sells cars and when customers book a car, they pay an advance.
- Cancellation charges were collected from customers who booked cars for purchase but later-on, requested to cancel the booking.
- The Appellant refunded booking amount after deducting cancellation charges.

### Decision

On demand of service tax on cancellation charges, CESTAT Allahabad held:

- On account of cancellation, there was some kind of loss to the Appellant and to compensate the same, cancellation charges were collected.
- There is no service element in such transaction.
- The amount collected towards cancellation charges does not represent "consideration" received on account of provision of any service, rather it is a compensation for breaking the contract.

- Consideration is the purpose of the contract, whereas damages are penalty for breaking it.
- Therefore, booking cancellation charges being in the nature of damages are not a consideration for the contract. Support drawn from clarification in Circular 178/10/2022-GST.
- Hence, no ST liability on cancellation charges.

### Comments

This brings a very important point to the fore that mere receipt of money from the customers should not lead to the conclusion of existence of supply and thereby a GST liability.

It should be seen whether the amount collected is a consideration for the contract/ the supplies promised under the contract, or merely a deterrent for not breaking the contract.

In case of the latter, the amount received does not bear the character of consideration. In the absence of consideration there can be no supply and no GST liability.

However, in the clarification provided vide circular 178/22 dated 03-08-2022 it has been mentioned that for hotel accommodation, tour and travel, transportation etc., facility of cancellation of the intended supplies within a certain time period on payment of cancellation fee is allowed where this cancellation fee can be considered as the charges for the costs

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involved in making arrangements for the intended supply and the costs involved in cancellation of the supply. This cancellation fee is clarified to be liable to GST at the rate applicable to the principal supply.

Thus, due to this clarification there is a possibility of a dispute from the department in case of non-payment of GST on the cancellation charges. However, it is also an important aspect to note that circulars not in line with law are not valid as was held in the case of *Melting and Wire Industries 2008 (231) E.L.T. 22 (S.C.)*

Thereby, contract clauses and other aspects related to a particular transaction play a vital role to ensure that any non-payment of tax on contract cancellation and resultant non-supply of the goods/services, does not get into dispute.

#### **Case 2 - E-Credit ledger is a unified resource - No wrong availment if ITC claimed under wrong head**

*Manissery Jayachandran [2025 (5) TMI 2066]*

#### **Facts**

- Eligible Input Tax Credit (ITC) was, by mistake wrongly claimed by Petitioner under the head of IGST, leading to a notice.

#### **Decision**

Kerala HC held:

- By relying on the decision in the case of *Rejimon Padickapparambil Alex v. Union of India and Others [2024 KHC Online 7215]*, noted that the electronic credit ledger (ECrL) is in the nature of a wallet with different compartments of IGST, CGST and SGST.
- There cannot be any wrong availing of ITC merely because a taxpayer had availed the benefit of ITC available in one compartment, under the other.
- After referring to Circular No. 192/04/2023-GST, it can be regarded that

ITC available in the ECrL should be considered as a pool of funds designated for different types of taxes, such as CGST, IGST and SGST.

- For utilizing the IGST liability, the eligibility of the fund for payment is based on the total balance in the entire wallet and not just the IGST compartment.
- GST system treats the ECrL as a unified resource.
- Thus impugned orders were set aside and a reconsideration of the matter afresh was directed.

#### **Comments**

It is a settled principle that ITC availed is a common pool and can be utilized for payment of any output tax liability of the same registration. However, under GST there arises a peculiar scenario since, even though it is claimed to be a 'one nation one tax' regime, in fact there are numerous GST taxes like IGST, CGST and SGST.

There are a number of disputes under GST due to payment or availing/utilising of credit under the wrong head i.e. IGST instead of CGST & SGST and vice versa.

This decision will help in defending these disputes, though one has to be keep in mind that in cases where CGST & SGST has wrongly availed as IGST, there is a restriction under law for utilizing CGST and SGST credit against SGST and CGST respectively. Thereby, one may not be able to say in all cases that credit availed under the wrong head would be revenue neutral and thereby should not lead to demand of taxes.

One could also look at the possibility of making a representation in these cases to allow rectification of wrongly availed / utilized credit, without any time limit, without any interest or penalties if the original credit was availed in time. This would be in line with the provision in place for refund of wrong taxes paid u/s 77 of CGST Act or section 19 of the IGST Act.



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### **Case 3- The date of the Conciliation agreement is the relevant date for filing a refund**

*Delhi Metro Rail Corporation Limited Vs. The commissioner (Appeals II) and ANR. [2025 (5) TMI 2084]*

#### **Facts**

Disputes had arisen in respect of a rental agreement where DMRC was the lessor, which was resolved after reference to conciliation.

Result of the conciliation was that the consideration for the service, for the period between July 2017 and March 2019, was reduced, leading to excess payment of tax by DMRC.

Refund application was filed by DMRC in 2021 which was rejected on the ground of limitation.

#### **Decision**

Delhi High Court held that:

- The exact extent of tax payable is not ascertainable at the initial stages in situations where the value of the subject matter contract is disputed.
- Tax payments to the Department are made in advance and it is only when the dispute is subsequently resolved/settled, the exact extent of tax payable/refundable becomes ascertainable.
- The conciliation agreement conclusively determined the contractual value.
- It was only at this juncture that the exact amount of tax refundable became ascertainable.
- Conciliation agreement is like an arbitral award, which is in effect, equivalent to a decree of the Civil Court.
- Thus, the time limit for claiming refund should be seen from the date of this agreement as per explanation 2(d) to section 54.
- Refund was directed to be processed, as DMRC's claims were filed within valid time frame post-conciliation.

#### **Comments**

In cases of cancellation of contract resulting in

refund of consideration to customers, this decision will support the refund application filed within 2 years from the date of the cancellation of contract (but beyond 2 years from date of payment of taxes).

This decision is also in line with the clarification given under GST in circular No. 188/20/2022-GST, dated 27-12-2022 which clarifies that the time limit to file refund application by the customer should be calculated from the date of issuance of the cancellation letter.

In cases of contract cancellation without any services being provided and where the time limit of 2 years may have expired after cancellation, one could also consider to take a stand that when supply itself was not made there can be no question of levy of GST and thereby the Exchequer cannot retain the taxes paid which would also be in violation of Article 265 of the Constitution which states that no tax shall be levied or collected except by authority of law.

### **Case 4 - Refund of unutilised ITC upon Business Closure eligible**

*SICPA India Private Limited and Another Vs. Union of India - TS-513-HCSIK-2025-GST*

#### **Facts**

The Petitioners decided to discontinue its operation in the State of Sikkim and sold all the machineries and manufacturing facilities by paying/reversing applicable GST.

Accumulated balance of unutilised ITC amounting to ₹ 4,37,61,402/- on account of closure of its business was claimed as refund.

#### **Decision**

The Sikkim High Court held that:

- There is no express prohibition under GST<sup>[1]</sup> for claiming a refund of ITC on closure of unit.
- Statute does not authorize retaining tax without legal justification.

- Petitioners are entitled to refund of unutilized ITC on closure of unit.

[1] Section 49(6) read with Section 54 and 54(3) of the CGST Act

### Comments

This is a welcome decision for refunding the taxes that are paid on procurement and which remain un-utilised even on closure of business.

However, one may also have to take note of contrary decisions under the earlier law as in the case of Gauri Plasticulture P. Ltd. 2019 (30) G.S.T.L. 224 (Bom.) by the Bombay HC and the fact that this decision has not been examined by the Sikkhim HC, any refund application filed on account of closure of business will not be a cake-walk.

Though the possibility of refund cannot be completely ruled out in such cases due to no explicit provisions under GST for lapse of such un-utilised credit and also considering the facts on a case to case basis.

### Case 5 - Secondment Not Taxable When Invoice Value is Nil

*Thales India Private Limited Vs. Additional Commissioner of CGST, Audit II, Delhi and Anr. [2025-TIOL-973-HC-DEL-GST]*

### Facts

Seconded employees from a foreign entity were employed in India for the discharge of duties in the capacity of an employee of the petitioner.

₹8,99,61,147 GST was paid under protest under RCM on the amounts paid to these secondees, without raising invoices for the services.

### Decision

The Delhi High Court held that:

- As per rule 28 of the CGST Rules, the invoice value is the Open Market Value; if the invoice value is Nil, OMV is also Nil.

- Circular 210/04/2024-GST and the decision in the case of Metal One Corporation confirm that the value for the present services is Nil, with no GST liability.
- Petitioner would be entitled to the reliefs sought.

### Comments

Even in case of import of services from related parties where the recipient is eligible for full credit, the clarification in circular 210 ibid will apply as per which any value can be adopted for payment of GST and in case no GST is paid, shelter can be taken that invoice was issued with nil value and thereby no further liability.

However, an important aspect here is that no invoice should have been raised to the related party for these transactions.

Further, even if an invoice is issued, one should examine whether the facts of their specific transaction under dispute, is distinguishable from the facts noted in the decision of the Supreme Court given in the case of Northern Operating Systems Private Limited [2022-TIOL-48-SC-ST-LB] and thereby claim that no services are provided resulting in a no tax payment situation. This would be in line with the C.B.I. & C. Instruction No. 5/2023-GST, dated 13-12-2023.



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(SET UP BY AN ACT OF PARLIAMENT)

**HYDERABAD BRANCH (SIRC)**



# CRAFTING CAPTIVATING THOUGHTS

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An executive summary of about 100 words should accompany the article.

Articles should be engaging, original and aligned with newsletter guidelines. Every selected article is subjected to Plagiarism check in line with Newsletter Committee's Plagiarism Policy.

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