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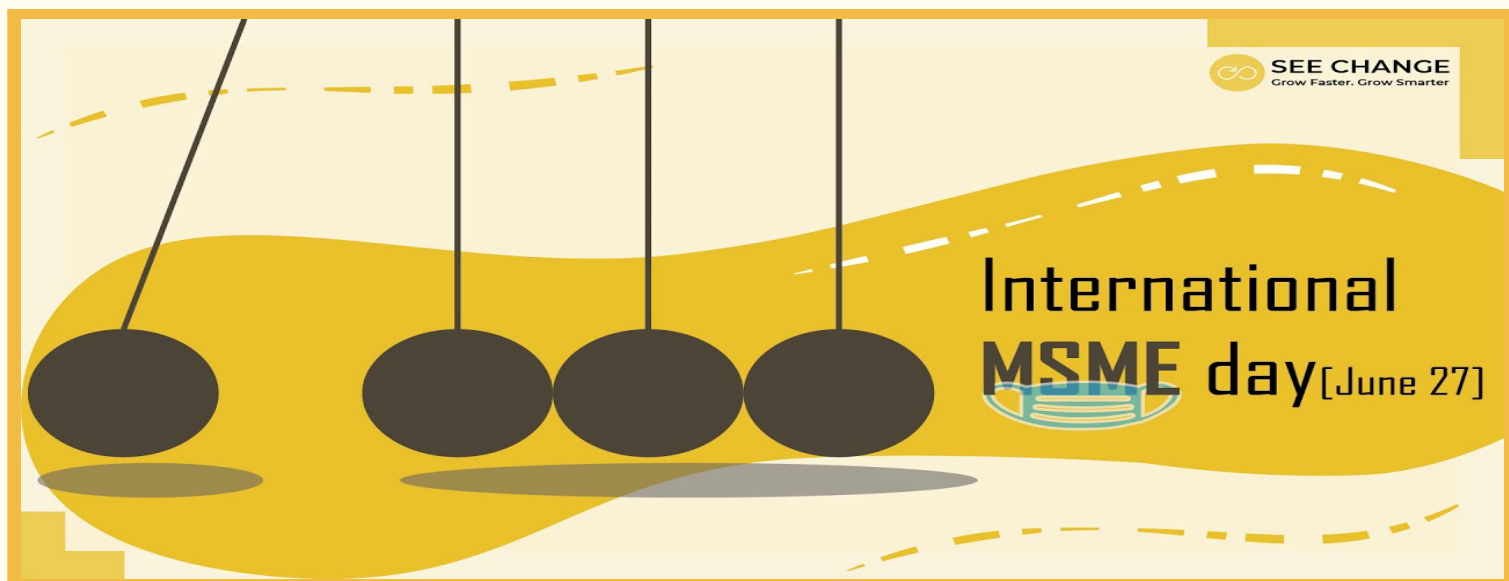


HYDERABAD BRANCH OF SIRC E-NEWSLETTER

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JUNE, 2021

Chairman Writes..



CA. Machar Rao Meenavalli
Chairman

Dear Professional Colleagues,

Our Country is battling “once in a Century” pandemic and during these pandemic times, we at Hyderabad Branch of SIRC have created a “Covid Assistance Team” at the Branch level. The basic objective behind forming this team was to disseminate information with respect to availability of hospital beds, blood plasma donors, oxygen cylinders/concentrators, lifesaving medicines and also supply of food to the needy members and students. The team was successful in connecting the patients with various hospitals, blood banks, plasma donors and pharmacies. We also received requests from several CA students for assistance during the lockdown imposed by the Telangana Government and such requests were also attended to. Apart from catering to requests from Hyderabad and Secunderabad, the Covid Assistance Team was also successful in serving requests which were received from various parts of Telangana and Andhra Pradesh. On behalf of Hyderabad Branch of SIRC, I sincerely thank all the members and students who have contributed to the cause.

I am extremely happy to inform you all that Hyderabad Branch of SIRC of ICAI has successfully conducted a 3 days Covid Vaccination Camp on 5 th , 6 th and 7 th June, 2021 at the Centre of Excellence (COE), Gachibowli, Hyderabad with the assistance of a private hospital as a part of ICAI’s resolve to fight against Covid. More than 1400 CAs and their family members were vaccinated at the camp. I sincerely thank the Central Council Member, the Regional Council members, the Managing Committee members, the hospital team, the staff of COE and the Branch for their untiring efforts in conducting the vaccination camp in a smooth and successful manner. We are also planning to conduct a Vaccination drive for students and staff of CAs for which we are in talks with various hospitals.

June 5 th is celebrated Internationally as World Environment Day. The day is considered to be one of the most remarkable ones for environmental action and to create awareness among people. Amid the corona virus pandemic, the theme of the 47th World Environment Day is & Ecosystem Restoration.& The focus of this day is on resetting relations with nature. The restoration of the ecosystem can only happen with various measures including planting of trees, greening cities, cleaning up rivers and coasts, and rewilding gardens. The ongoing pandemic has reminded mankind of the harm we have caused to nature and how important it is to protect the environment. On this occasion, I urge our professional brethren to contribute efforts towards sustainable development. June 2021 will be a month filled with workshops and programmes on varied topics. We will kick off on June 2 nd with the Virtual CPE Meeting on Technology tools for SMEs. During the month we have organised a Virtual CPE Meeting on Drafting & Representation before Authorities. This programme is a refresher type wherein we intend to hone the drafting and representation skills of our professional colleagues. We have also scheduled a Workshop on International Taxation in the month of June, wherein the provisions have been covered in detail. In addition to the above we have also scheduled programmes on Ind As and FEMA. I request the members to participate in large numbers and make these programmes a grand success. The details of Virtual CPE Meetings are given in the Programme calendar.

During the month of May 2021, we organised Virtual Refresher Course on Auditing Standards, Virtual Seminar on Companies Act and various programmes on other topics wherein we had an average participation of around 300 delegates. We also conducted a program on Disciplinary Mechanism wherein the Immediate Past President of ICAI, CA Atul Kumar Gupta and Member Appellate Authority ICAI and Past Central Council Member, CA J. Venkateswarlu were the speakers. I sincerely thank the faculties and delegates for their unstinted support without which we wouldn’t have achieved this feat.

On the Student front, the SICASA team is conducting STEP (Student Transition & Enrichment Programme) a unique programme aimed at mentoring our students in Public Speaking & Presentation which will be helpful to the student community at large. I also thank the SICASA team for their wholehearted support and contribution towards Covid Assistance Team.

Before I conclude this communication, I would like to mention that, it is always a pleasant experience to interact with you through this column and I look forward to receiving your valuable response and suggestions on the activities of Hyderabad Branch of SIRC for taking it forward.

Dear members, health is of prime importance. It is said that health is wealth, but this pandemic has taught us that health, human relationships and values are the real assets and are much more valuable than wealth. Please take all precautions to stay safe and healthy. I wish all the members, students and their families good health.

Signing off with a quote:

“The only way to do great work is to love what you do. If you haven’t found it yet, keep looking. Don’t settle”. - Steve Jobs

Yours Sincerely,
CA. Machar Rao Meenavalli
Chairman
chairman.hyd@icai.in

Date: 12th June, 2021.

Virtual CPE Programmes for the month of June, 2021

Date	Timing	Topics	Resource Person	CPE	Fees
Wednesday 02nd June, 21	06:00 PM to 08:00 PM	Use of Technology Tools for SMPs	CA. U Saran Kumar & CA. Vijay Srinivas K	2hrs	Free
Wednesday 09th June, 21	05: 00 PM to 07:45 PM	Drafting of Deed, Documentation & Its Legal Importance	Adv. Vishal J Dave	11hrs	Rs 700+GST
Thursday 10th June, 21	05: 00 PM to 07:45 PM	Appearance before NCLT/NCLAT	Adv(CA.)Nipun Singhvi		
Friday 11th June, 21	05: 00 PM to 07:45 PM	Art of Representation	CA. T.Banusekar		
Saturday 12th June, 21	05: 00 PM to 07:45 PM	Preparation of Appeals, Research & Analyse of Case Laws	CA. Hari Agarwal		
Wednesday 16th June, 21	05: 00 PM to 08:00 PM	NRI Transactions -FEMA- Latest Changes & Challenges	CA. PVR Rajendra Prasad	3hrs	Free
Saturday 19th June, 21	04: 00 PM to 07:00 PM	Accounting Standards for Audits 2020-21-An SMP Perspective	CA. Jomon K George & CA. Muralikrishna C	3hrs	Free
Thursday 24th June, 21	05: 00 PM to 08:00 PM	Basics of Taxation of non-residents Understanding of section 5 and 6 of Income-tax Act,1961 Scope of total income, Business connection Capital Gains-Special exemptions to Non-residents and foreign companies Benefits under section 10 to Non-residents and foreign companies	CA. PVSS Prasad CA. Gaurav Singhal	09hrs	Rs 700/- Plus GST
Friday 25th June, 21	05: 00 PM to 08:00 PM	Deeming provisions in respect of non-residents - Brief Overview of Section 9 of the Income Tax Act, 1961 Concept and salient features Indirect transfer Interest Royalty Fee for Technical services	CA. K. R. Sekhar		
Saturday 26th June, 21	05: 00 PM to 08:00 PM	Significant Economic Presence - Impact Analysis Presumptive Taxation Treatment of Tax Losses Taxation of Dividends u/s 196A/196D Section 195 – concepts and applications	CA. Siddharth Banwat		

Articles

Announcements in 43rd GST Council Meeting

Compiled by : CA. Satish Saraf &
CA. Venkat Prasad. P

In recent 43rd GST council meeting, certain changes are announced which are mainly aimed at temporary reliefs/relaxations for the taxpayers in fight against the dreadful attack of Covid-19 in its multiple avatars (variants). The changes can be broadly categorised into 4 categories:

1. Exemption for COVID-19 relief items
2. Extending certain due dates and relaxation of certain compliances
3. Reduction of late fee for pending GSTR-3B
4. Other changes
5. Certain clarifications

In this article, an attempt is made to brief the changes made:

1. Exemption for COVID-19 relief items:

- Several specified COVID-19 related goods such as medical oxygen, oxygen concentrators and other oxygen storage and transportation equipment, certain diagnostic markers test kits and COVID-19 vaccines, etc., have been recommended for full exemption from IGST, even if imported on payment basis, for donating to the government or on recommendation of state authority to any relief agency. This exemption shall be valid up to 31.08.2021. These are exempted from Basic customs Duty also. This exemption was extended to Amphotericin B also, which treats Black fungus (Notification No. 31/2021-Customs & 32/2021-Customs dated 31-05-2021).
- GST rate on Diethylcarbamazine (DEC) tablets has been reduced to 5% (from 12%). This is done to support the Lymphahtic Filaris (an endemic) elimination programme being conducted in collaboration with WHO, the
- Further, a committee with Group of Ministers (GOM) has been formed to go into the need for further relief to COVID-19 related individual items immediately. The GOM shall give its report by 08.06.2021.

2. Extending certain due dates and relaxation of certain compliances

- Certain relaxations are given in interest rates & late fee for the month of March 2021 to May 2021 which are summarised below (Notification No. 18 & 19/2021 – Central Tax both dated 01.06.2021):

Normal taxpayers (Monthly filing):

Sl.No	Tax Period	Class of taxpayer (Based on AATO)	Due date of filing	Reduced Rate of Interest			Waiver of late fee till
				First 15 days from due date	Next 30 days	From 46th day onwards	
1	March, 2021	> Rs. 5 Cr.	20th April	9%	18%	18%	5th May, 2021
		Up to Rs. 5 Cr	20th April	Nil	9%	18%	19th June, 2021
2	April, 2021	> Rs. 5 Cr.	20th May	9%	18%	18%	4th June, 2021
		Up to Rs. 5 Cr	20th May	Nil	9%	18%	4th July, 2021
3	May, 2021	> Rs. 5 Cr.	20th June	9%	18%	18%	5th July, 2021
		Up to Rs. 5 Cr	20th June	Nil	9%	18%	20th July, 2021

Tax payers filing Form GSTR-3B (Quarterly) under QRMP Scheme

Sl.No.	Tax Period	Form Type	Due date of filing	Reduced Rate of Interest			Waiver of late fee till
				First 15 days from due date	Next 45 days	From 61st day onwards	
1	March, 2021	Form GSTR-3B (Quarterly)	22/24th April, 2021 (Group A/B respectively)	Nil	9%	18%	21/ 23rd June, 2021 (Group A/B respectively)
2	April, 2021	Form GST PMT-06	25th May, 2021	Nil	9%	18%	NA
3	May, 2021	Form GST PMT-06	25th June, 2021	Nil	9%	18%	NA

Filing Form CMP-08 by Composition Taxpayers:

Sl.No.	Tax Period	Due date of filing	Reduced Rate of Interest			Waiver of late fee till
			First 15 days from due date	Next 45 days	From 61st day onwards	
1	March, 2021 (Qtr.)	18th April, 2021	Nil	9%	18%	NA

Category A states - Taxpayers whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep

Category B states - Taxpayers whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi

Extension of various due dates:

Sl.No.	Return	Old due date	New due date
1	GSTR-1 (for all taxpayers) for tax period May-21	11-06-2021	26-06-2021
2	IFF (Invoice furnishing facility) for tax period May-21	13-06-2021	28-06-2021
3	GSTR-4 for the FY 2020-21 i.e., return filed by composition tax payers	31-05-2021	31-07-2021
4	ITC-04 for the quarter January to March 2021 i.e., details that goods sent to/ received from job worker	31-05-2021	30-06-2021

Rule 36(4) compliance on cumulative basis for April, May and June 2021 (Notification No. 27/2021 – C.T dated 01.06.2021):

The allowing ITC on 105% of the amount reflected in GSTR 2A shall now apply cumulatively for the period April, May and June 2021. And GSTR 3B for the tax period June, 2021 shall be furnished with cumulative adjustment of ITC for the said months.

Extension of other time limits for various compliances under GST:

The time limit to comply with various proceedings viz., issuance of notice/intimation/orders, reply and appeal (Except issue of tax invoices, filing returns, tax payments & E-way bills) falling between 15th April 2021 to 29th June 2021, then such time limit shall be extended up to the 15th July 2021.

3. Reduction of late fee for belated filing of GSTR-3B (Notification No. 19 & 20 /2021 – Central Tax dated 01.06.2021):

- Concessions are given in the late fee for pending GSTR-3B for the period July, 2017 to April, 2021 if such returns are **filed between 01.06.2021 to 31.08.2021**

Sl.No.	Particulars	Maximum (per return)
1	For taxpayers who had no tax liability for said tax periods	Rs. 500/-
2	Other taxpayers	Rs. 1,000/-

- Rationalization of late fee for delay in furnishing of returns from June 2021 onwards (GSTR-1 / GSTR-3B – both monthly & Quarterly filers)

Sl.No.	Class of registered persons	Maximum (per return)
1	Whose total Tax payable in the said return is NIL	Rs. 500/-
2	Registered persons having an aggregate turnover of up to Rs.1.5 crores in the preceding financial year (other than covered under S. No. 1 above)	Rs. 2,000/-
3	Taxpayers Having an aggregate turnover of > Rs.1.5 crores and up to rupees 5 crores in the preceding financial year, other than those covered under S. No. 1	Rs. 5,000/-

4. Other changes notified:

- Interest payable on net cash liability made effective from 1st July 2017 (Notification No. 16/2021 – Central Tax dated 01.6.2021): The Retrospective amendment w.e.f. 01-07-2017 in Section 50 of CGST Act, 2017 to state that interest is applicable on net GST liability (i.e. paid in cash) was notified now. By virtue of this amendment, the legal position is explicitly made clear that interest is liable only on the Net liability.
- An explicit provision to make it clear that land owner promoters could utilize credit of GST charged to them by developer promoters in respect of such apartments that are subsequently sold by the land promotor and on which GST is paid (Notification No. 02/2021-CT[®] dated 02.06.2021).
- The developer promotor shall be allowed to pay GST relating to area given to the landowners any time before or at the time of issuance of completion certificate (Notification No. 02/2021-CT[®] dated 02.06.2021).
- GST on Maintenance, Repair or overhaul (MRO) services in respect of ships/vessels reduced to 5% (from 18%) (Notification No. 02/2021-CT(R) dated 02.06.2021). Place of supply (POS) of B2B supply of MRO Services in respect of ships/ vessels would be location of recipient of service.
- Exempting Government department, local authority from issue of E-invoice (Notification No. 23/2021 – C.T dated 01.06.2021)
- Facility of filing GSTR-3B and GSTR-1/IFF using EVC instead DSC to companies has been extended till 31-08-2021 (Notification No. 27/2021 – C.T dated 01.06.2021).

Changes proposed but not notified yet:

- Amendments in section 35 and 44 of CGST Act made through Finance Act, 2021 is to be notified which done away with the requirement of certification by CA/CMA in Form GSTR-9C and makes the self-certification of the reconciliation statement. It is said that this change will apply for Annual Return for FY 2020-21 onwards.
- Further, Council also recommended amendments in certain provisions of the Act so as to make the present system of GSTR-1/3B return filing as the default return filing system in GST.

Clarification in relation to GST rates of certain services (official circulars are yet to be given):

- Levability of IGST on repair value of goods re-imported after repairs
- GST rate of 12% to apply on parts of sprinklers/ drip irrigation systems falling under tariff heading 8424 (nozzle/laterals) to apply even if these goods are sold separately.
- To clarify those services supplied to an educational institution including anganwadi(which provide preschool education also), by way of serving of food including mid- day meals under any midday meals scheme, sponsored by Government is exempt from levy of GST irrespective of funding of such supplies from government grants or corporate donations.
- To clarify these services provided by way of examination including entrance examination, where fee is charged for such examinations, by National Board of Examination (NBE), or similar Central or State Educational Boards, and input services relating thereto are exempt from GST.
- To clarify that supply of service by way of milling of wheat/paddy into flour (fortified with minerals etc. by millers or otherwise)/rice to Government/ local authority etc. for distribution of such flour or rice under PDS is exempt from GST if the value of goods in such composite supply does not exceed 25%. Otherwise, such services would attract GST at the rate of 5% if supplied to any person registered in GST, including a person registered for payment of TDS.
- To clarify that GST is payable on annuity payments received as deferred payment for construction of road. Benefit of the exemption is for such annuities which are paid for the service by way of access to a road or a bridge.
- To clarify those services supplied to a Government Entity by way of construction of a rope-way attract GST at the rate of 18%.
- To clarify those services supplied by Govt. to its undertaking/PSU by way of guaranteeing loans taken by such entity from banks and financial institutions is exempt from GST.

SURVEY, SEARCH & SEIZURE UPDATE

Compiled by: CA. Hari Agarwal,
CA. Vivek Agarwal

1. Additions made in order passed U/s 143(3) r.w.s. 153C, for assessment years which are unabated assessments, cannot be made, because same are beyond scope of assessments u/s 153C/ 153A as same are without any incriminating documents found during search...

DEPUTY COMMISSIONER OF INCOME TAX vs. MADHVILATA GRANITE (INDIA) PVT. LTD. (2021) 62 CCH 0104 DelTrib

Search and seizure—Assessment of income of any other person—Investigation Wing of Income Tax Department conducted Search & Seizure operations—On basis of certain documents allegedly belonging to assessee company to have been seized in said search operations, proceedings u/s 153C were initiated in case of appellant company and assessments of 6 assessment years were reopened—Dy.CIT, initiated assessment proceedings u/s 153C—In response to notice u/s 153C, return of income was filed with ACIT—ACIT, completed assessment after making additions made u/s 68—CIT (A) has deleted said additions—Held, Whether cases falling under section 153C, period of six years have to be reckoned from date of recording of satisfaction note or from date of search carried out in a case of a person provided in Section 153A—This precise issue has been dealt by Delhi High Court in case of CIT vs. RRJ Securities Ltd. as reported in 380 ITR 612 wherein it was laid down that date on which AO of person other than one searched assumes possession of seized assets would be relevant date for applying provisions of Section 153A—Here in this case, in view of above judicial precedence, it cannot be disputed that both Assessment years, were non-abated assessment year as per second proviso to section 153A—Notice u/s 143(2) could have been served upon assessee till 30.09.2011 & 30.09.2012 for AY 2010-11 & 2011-12 respectively as per law prevailing on said date, however, no such notice was given—Since no assessment was made thereafter u/s 143(3)/144 within time allowed for same, therefore, assessment completed u/s 143(1) had become final assessment—At time of issuance of notice and taking up proceedings u/s 153C, assessments for these two assessment years did not abate as per second proviso to Section 153A—In case of unabated assessments, legally speaking, no addition could be made, which is not based on any incriminating material found and seized during course of search in case of a concluded assessment—Deemed date of search as per proviso to 153C (1) is 20/09/2013 and accordingly, on that date both assessment years are unabated as per second proviso to section 153A—During course of search no incriminating documents relating to impugned addition made on account of share capital or share premium was found—Therefore, no addition can be made in assessment order passed U/s 153C—Thus, considering facts and circumstances of case additions made in order passed U/s 143(3) r.w.s. 153C, for captioned assessment years which are unabated assessments, cannot be made, because same are beyond scope of assessments u/s 153C/ 153A as same are without any incriminating documents found during search—Revenue's appeals dismissed.

2. It is well settled Law that any material collected at back of assessee or any statement recorded at back of assessee cannot be read in evidence against assessee, unless same is confronted to assessee and that assessee should be allowed to cross-examine to such statements

SMT. SUNITA GADDE vs. INCOME TAX OFFICER (2021) 62 CCH 0117 DelTrib

Addition—Purchase of property—Assessee filed return of income—Information was received from O/o. DDIT that during course of survey conducted on above assessee as well as other Group Promoter various incriminating documents were found—P and Assessee had paid a consideration towards purchase cost of farm house—Seller J stated during course of her deposition under section 131 that both have paid sum towards purchase cost—J furnished a letter that she would pay taxes on that—Notice under section 148 was issued—Assessee filed letter that original return filed may be treated as return having filed in response to

notice under section 148—A.O. made addition in hands of assessee being one half share of assessee in purchase of property—CIT(A) rejected contention of assessee—Held, Revenue has made an addition against assessee solely relying upon statement of J-Seller recorded under section 131 in which she has admitted to have received cash from assessee and her husband on account of sale of property—It is a fact that later on J denied from such statement recorded under section 131 J has retracted from her statement which was made sole basis for making addition against assessee—Assessee has made several requests before A.O. in writing at different stages that all material collected at back of assessee may be provided to assessee and that statement of J may be subjected to cross-examination on her behalf and she may be allowed to cross-examine statement of J, but, A.O. even did not refer to such requests made by assessee in assessment order—It is, therefore, clearly established that A.O. has not supplied any adverse material to assessee which was collected at back of assessee—It is also established that request of assessee to allow cross-examination to statement of J was not allowed by A.O. and she was never produced at re-assessment proceedings for cross-examination on behalf of assessee—It is well settled Law that any material collected at back of assessee or any statement recorded at back of assessee cannot be read in evidence against assessee, unless same is confronted to assessee and that assessee should be allowed to cross-examine to such statements—In this case, A.O. has failed to produce J before assessee for cross-examination on behalf of assessee particularly when J has retracted from her statement—Therefore, such statement and material collected at back of assessee, cannot be read in evidence against assessee—These facts clearly disentitle Revenue to use statement of J recorded under section 131 in evidence against assessee—Therefore, Orders of authorities below are set aside—Assessee's appeal allowed.

3. Where Assessing Officer initiated proceedings under section 153C against assessee on basis of loose sheets found during search showing that assessee had received bogus donation, since such donation was duly recorded in books of account of assessee and disclosed in return of income and donation was received through proper banking channel, such loose sheets could not be considered as incriminating material so as to initiate proceedings under section 153C upon assessee, thus, said proceedings were unjustified

I Q City Foundation v. Assistant Commissioner of Income Tax, Central Circle-3(2), Kolkata *[2021] 123 taxmann.com 134 (Kolkata - Trib.)

Section 69A, read with section 153C, of the Income-tax Act, 1961 - Unexplained moneys (Bogus donation) - Assessment years 2014-15 and 2016-17 - A search under section 132 was conducted upon premises of 'M' group to which assessee company belonged - During search, Assessing Officer found certain loose sheets which showed receipt of donation of certain amount by assessee from company PHPL - In order to verify veracity of claim of receiving donation, Assessing Officer carried out survey at premises of PHPL during which one SL, director of PHPL, recorded a statement and admitted of giving donation to assessee in lieu of cash - Thus, Assessing Officer concluded that assessee was indulged in collecting bogus donation - Accordingly, he initiated proceedings under section 153C against assessee and, further, made addition to assessee's income on account of bogus donation - It was noted that receipt of such donation found during search were duly recorded in books of account of assessee and donation was duly disclosed to income-tax authorities - Further, donation came through proper banking channel - Further, Assessing Officer had framed re-assessment under section 153A/153C/143(3) without providing copy of statement of SL to assessee to provide an opportunity to assessee to cross examine SL - Whether, on facts, such loose sheet founds during search of 'M' group and statement of SL could not be considered as incriminating material unearthed during search qua assessee - Held, yes - Whether, therefore, impugned proceedings under section 153C and further order making additions on account of undisclosed donations were unjustified and same were to be set aside - Held, yes [Paras 23, 24, 27 and 28] [In favour of assessee]

4. Where transactions of payments made in cash by assessee for purchase of land were duly recorded in its books of account and also disclosed in its return of income filed before date of search of assessee, these transactions could not be considered as incriminating material found during course of search so as to initiate impugned proceedings under section 153A(3) upon assessee

I Q City Foundation v. Assistant Commissioner of Income Tax, Central Circle-3(2), Kolkata
*[2021] 123 taxmann.com 134 (Kolkata - Trib.)

Section 153A of the Income-tax Act, 1961 - Search and seizure - Assessment in case of (Condition precedent/Absence of incriminating material) - Assessment year 2007-08 - Whether scope and jurisdiction of Assessing Officer to reassess total income of assessee under section 153A is limited only to extent of income disclosed by incriminating material found and seized during search and seizure action - Held, yes - Assessee-company, engaged in business of real estate, filed its return of income which was processed and an assessment order was passed - Thereafter, a search was conducted at premises of assessee pursuant to which assessment proceedings were initiated against assessee under section 153A - During assessment proceedings, Assessing Officer observed that assessee had purchased certain pieces of land vide six separate registered sale deeds and sale consideration was discharged partly in cash - Thus, Assessing Officer reassessed income of assessee by making disallowance under section 40A(3) of such payments made in cash - It was noted that these transactions of payments in cash for purchase of land were duly recorded in books of account of assessee and same were duly disclosed in its return of income filed before date of search - Thus, these transactions were duly disclosed and could not be considered as incriminating material found during course of search - Whether, therefore, impugned proceedings under section 153A initiated against assessee without any reference to any incriminating material found during search and subsequent assessment order of making disallowance under section 40A(3) were unjustified and same were to be set aside - Held, yes [Para 11] [In favour of assessee]

Information Systems Audit – A Practical Approach

Preliminary Meeting & Audit Planning

Compiled by : CA. Kothapalli Vijaya Srinivas

In the earlier article we have covered about possible types of IS Audit Engagements and the suggested resources to be considered before proceeding with the Audit. In this article we will focus on the second phase of IS Audit, which is, Audit Planning. It starts with conducting preliminary meeting, with a purpose to understand the various controls existing in the organisation and to Plan the IS Audit accordingly. As the purpose of these articles is to provide information on IS Audit practical approach, I have excluded the discussion on Audit Scope and Audit Charter which shall be based on the Audit Engagement, and it varies based on type of audit. I suggest going through the material circulated by ICAI and ISACA to understand these terms.

Preliminary Meeting, which in general parlance referred to as “Kick-off Meeting”, is the most important event for both the IS Auditor and the Auditee. It plays a crucial role in IS Audit Planning.

Though the purpose of kick-off meeting is to have a formal introduction of the Audit Team and the representatives of the Organisation, beyond introduction, it gives the IS Auditor and the Auditee an opportunity to understand if they both are of same understanding with regard to the Scope and Objective of IS Audit.

While I have mentioned below various points that may be brought to discussion during preliminary meeting, I have intentionally excluded the auditor’s preparation regarding understanding the industry in which the auditee is engaged in, studying the general profile of the entity, its team of management (including hierarchy chart etc.,) and other public information about the company. Because those will come under regular due diligence what an IS Auditor would have considered as part of general preparation for an Audit.

It would be suggested to have the preliminary meeting with the management of the organisation, whom, for the convenience, we will refer to as Executive Managers, where none of them are from the team who are directly involved in the Information Systems or IT Security of the organisation.

The following suggestive points may be considered for discussion during the meeting, from the IS Auditor’s point of view:

1. What is the perspective of Executive Managers on IS or IT Risk?
2. Have they defined the organisations Risk Appetite? Means, have they defined their Business Risks? And to what extent they are taking risk, considering the industry standards?
3. Based on their Risk Appetite business organisations would also have defined their Risk Tolerance levels, i.e., accepted level of risk and a specified threshold in terms of cost, which also is referred to as Risk Threshold.
4. Is it the first time IS Audit for the organisation?
5. Is the IS Audit periodic requirement or is there any specific reason other than what mentioned in the objective?
6. What is the management’s understanding or expectation from the IS Audit?
7. What is the management’s take on the investment made in IT Infrastructure, IT Security and IT Training?
8. What is the composition of IT Team?
9. What are the various policies adopted and implemented by the entity, while considering the regulatory requirements, internal controls and Industry requirements?
10. What is the timeline they are looking at to have a draft of the IS Audit?

After the preliminary meeting with the Executive Managers, IS Auditor may have another round of meeting with the IT Staff or IS Professionals of the organisation to build a rapport and also to see constant exchange of information between the IS Auditor and the Auditee.

The above points or questions are not an exhaustive list. On the basis of entity and on assignment-to-assignment basis, he may consider additional points for discussion. If required, there may be a series of such meetings with the management and IT Team of the auditee before we communicate the IS Audit Plan. Because the output of these preliminary meetings will help auditor to come up with required questionnaire and also, to decide upon the Audit Plan, the composition of IS Audit Team, the timelines etc.,

To sum up on Preliminary or Kicking-off meeting, overall purpose is to build rapport with the client or the management, to keep the events and activities transparent, to reduce the chances of any pushbacks either from the client side or from auditor side after commencement of audit, to arrive or set both auditor and auditee at common expectation levels, and also more importantly, for IS Auditor to plan Audit Approaches and the logistics.

Audit Planning starts with understanding the background of the client, relevant IT systems and process implemented by the client, teams involved in and around IT processes along with their roles and responsibilities, legal or regulatory compliances etc., This can be achieved by communicating an IT Evaluation Questionnaire to the client seeking their response, which most of the time would be a general template, however, can be customised depending on the scope or type of assignment. This Questionnaire will be mainly divided into Four parts. One part is addressed to Management / Administration personnel, second part would be addressed to the Operational personnel, third one would be addressed to IT / Technical personnel and the fourth to the Legal / Secretarial personnel.

Examples of Categories or elements under each part of the above questionnaire:

1. Under Management Questionnaire, the following categories may be included:
 - a. Risk Management
 - b. System Control Review
 - c. System Security Planning
 - d. Approval and Authorisation System
 - e. System Development Life Cycle (SDLC)
 - f. License Documentation and updating

2. Under questionnaire to Operational Personnel, the following categories may be included:
 - a. Security Awareness and Training
 - b. Production Controls
 - c. Input / Output Controls
 - d. Personnel Security
 - e. Physical and Environmental Protection
 - f. Incident Response and Contingency Planning
 - g. Maintenance of Hardware and Software Systems
 - h. Data Confidentiality and Data Integrity
 - i. Documentation Control (Internal & External Communication)

3. Under questionnaire to IT / Technical Personnel, the following categories may be included:
 - a. Access Controls – Logical and Physical
 - b. User or Owner Identification / Authentication System
 - c. Record Maintenance – Event Logs, Audit Trails
 - d. Change Management
 - e. Patch Management
4. Under questionnaire to Legal / Secretarial Personnel, the following categories may be included:
 - a. Regulatory Compliance
 - b. Legal Compliance
 - c. Dispute Management
 - d. Grievance Redressal System

Each questionnaire may be drafted in a tabular format requiring following information:

Sample of columns that may be included in questionnaire

Question	Ref. No.	Documented Policy (Section I)	Documented Procedure (Section II)	Implementation of Procedures and Controls (Section III)	Testing and Evaluating of Procedures and Controls (Section IV)	Feedback (Section V)

Purpose of each column are detailed as under:

- Question: Questions with sub-division for each of the category or elements. (Few questions are listed below as an example)
- Ref. No.: As a reference for further explanation or escalation, and also would be referred to in the Audit Planning memo to be prepared by the IS Auditor.
- Documented Policy: To capture the details of the Policies adopted.

Does the entity have a formally documented policy?

Does the policy define,

- purpose and scope of the policy
- responsibilities required for its implementation
- compliance requirements
- How is it dealt with if not complied?

- Documented Procedure: To capture the details of the documented procedures.
 - Does the entity have formal, complete, and detailed procedures for the policies?
 - Does the procedures:
 - Defined the control areas?
 - Document their applicability as to when, where, how, to whom, and for what the procedure is applicable
 - List the assignment of IT responsibilities?
 - Identify points of contact and where information is available?
- Implementation of Procedures and Controls: To capture the details of mechanism to ensure the implementation of above specified procedures and controls.
 - Are the procedures and controls implemented?
 - Is there formal approval for implementation of system?
 - Are the owners and users aware of the security policies and procedures?
 - Are the technical controls installed are in line with the policies and procedures adopted?
 - Is a security measurement program in place?
 - Does the job profile include security responsibilities that the above controls require?
 - Is there any program of training to employees on security procedures?
- Testing and Evaluating of Procedures and Controls: To capture the details of evaluation and review mechanism of above adopted procedures and controls.
 - Is there a system to evaluate the adequacy and effectiveness of security policies, procedures, and controls?
 - Are the following elements considered as part of evaluation mechanism?
 - An effective program for evaluating the adequacy and effectiveness of security policies, procedures, and controls.
 - A mechanism for identifying vulnerabilities revealed by security incidents or security alerts.
 - A process for reporting significant security weaknesses and ensuring rapid and effective remedial action.
- Feedback: To be captured based on the evaluation and testing.
 - Is the comprehensive security program an integral part of entities culture?
 - Is IT security an integrated practice within the asset?
 - Are the Security vulnerabilities understood and managed?
 - Are the threats continually re-evaluated, and controls are adapted to a changing security environment?
 - Any alternative and / or additional cost-effective security programs identified as a backup?

For each question addressed to the respective departments, the IS Auditor has to ensure that there is proper reply from the auditee specifying whether there is a supporting policy, Procedure, Implementation, Monitoring and Feedback mechanism which shall be captured under the respective columns tabulated in the above example. He should not be satisfied with a mere reply of Yes / No or Not Applicable.

The following is a sample questionnaire for each department, taking an example of one category from each of the respective departments:

Management Questionnaire, taking example of Risk Management questionnaire:

1. Does the entity have any policy that requires a reassessment of IT system risk on a periodic basis?

- 1.1.1 Is the system configuration documented? (Containing description of all functions, description of all reports / output data)
- 1.1.2 Any risk assessments performed and documented. If so, is it on a regular basis or whenever the system, facilities etc., change or when management identified any new risks?
- 1.1.3 Is the confidentiality and integrity of the data considered?
- 1.1.4 Are the threat sources been identified?
- 1.1.5 Did the management identify, document, and update a list of known system vulnerabilities, system flaws, or weaknesses that could be exploited?
- 1.1.6 Has a review conducted to determine the current security requirements adequately mitigate vulnerabilities?

2. Does the system manager understand the risk to systems and has determined the acceptable level of risk?

- 2.1.1 Are such risks determinations and management approvals documented and maintained on record?
- 2.1.2 Is there any business impact analysis (BIA) conducted?
- 2.1.3 Are the controls identified to adequately mitigate risks identified?

Operational Personnel Questionnaire, taking example of Security Awareness & Training questionnaire:

3. Are the employees provided with adequate training to comply with their security responsibilities?

- 3.1.1 Are the employees provided with a copy of the rules of acceptable behaviour?
- 3.1.2 Is such process of employee training and professional development documented? Is it regularly monitored?
- 3.1.3 Is such training a periodic activity or a onetime activity at the time of recruitment?
- 3.1.4 Are there define modes and methods of employee awareness such as emails, messages, flyers, short videos etc.?
- 3.1.5 Are the employees provided with easy access to entities security procedures and policies?
- 3.1.6 Is there any feedback or complaint mechanism regarding such training and professional development programs?

IT / Technical Personnel Questionnaire, taking example of Logical Access Controls questionnaire:

4. Are there any logical access controls to restrict users only to authorized transactions and functions?

- 4.1.1 Is there a control to detect unauthorized access attempts?
- 4.1.2 Is there any access control software in use to prevent an unauthorised access to information without hinderance to normal activity?
- 4.1.3 Is access to security software restricted only to security administrators?

5. Are there controls over logical network access?

- 5.1.1 Is the access restricted only through specific terminals?
- 5.1.2 Are insecure protocols (e.g., FTP) disabled?
- 5.1.3 Is the remote access to the system restricted?
- 5.1.4 Are network activity logs maintained and reviewed?
- 5.1.5 Are the privileged IPs defined?

Legal / Secretarial Personnel Questionnaire, taking example of Regulatory Compliance Questionnaire:

6. Has the entity implemented the IT Framework or minimum level of IT controls, as notified by the Regulators?

- 6.1.1 Is the regulatory awareness training conducted for new employees after recruitment?
- 6.1.2 Is there any periodic review of the regulatory compliances?
- 6.1.3 Are the compliance reports and forms submitted to the Regulators within the time stipulated?
- 6.1.4 Was there any audit or review conducted on behalf of the regulatory by an external party?
- 6.1.5 Are there any penal provisions imposed by the regulator for non-compliance?

Note: As mentioned earlier the above grouping, categories, and questionnaire are given only as an illustrative model. Based on the entity and its environment the questionnaire may be drafted and for this purpose help may be taken from the sample questionnaire published by professional bodies like ICAI, ISACA etc., (Example: Annexure I - Audit Checklists of Technical Guide on Information Systems Audit published by ICAI)

Based on the responses received, IS Auditor has to document his understanding of the Client as an Audit Planning Memo and based on this memo auditor shall plan his IS Audit and has to communicate to the client the time lines defined for each of the IS Audit activity, to ensure that the auditee is in concurrence without effecting the entity's business activity.

Sample contents of an Audit Planning Memo:

- A. Background:** To capture the background of the client's IT Systems, process, IT Team along with their roles and responsibilities
- B. Scope and objective,** including re-defined scope or objectives based on preliminary meetings or initial risk assessment. It also needs to capture the output of the assignment in terms of, whether it is for Reasonable Assurance (opinion, rating etc.), Non-Assurance (Advisory, consulting, assessment etc.) or Limited Assurance (reviews).
- C. Team involved** in the assignment, providing the details of the Name, their position in the Audit Organisation, their role in the Audit, their qualifications and experience and reference as to acquiring a declaration of independence.

D. Agreed Timelines consisting of details such as defined phases of audit, and their due dates along with the deliverables which ensures the completion of tasks.

For example: For Planning, deliverables may be Audit Planning Memo, Risk Assessment note and any other documents such as walkthrough observation notes etc., And for On-field work, deliverables may be sequentially numbered working papers etc.,

E. IT Systems / Applications: To be captured under each sub-head such as

- o IT system name.
- o Application name.
- o Database used.
- o Server (local / cloud).
- o Associated Network.

F. Details of applications, software etc., inhouse developed or provided by vendors. If provided by vendor, details of vendor assessment or due diligence

G. Auditor's understanding of Client's environment under following sections:

- a. Access rules and revocation process
- b. Privileged access management process (PAM)
- c. System development (including upgrade) and Change Management process
- d. Vendor management processes
- e. Disaster Recovery Planning and Backup process
- f. Incident management and Recovery process
- g. Vulnerability Assessment or Patching process
- h. Any other processes

H. Applicability of relevant Regulations or Laws to the entity

I. If any requirement of subject matter experts, such as for the process of VAPT etc., If so, the details of such third-party experts along with the details of their competency, roles, responsibilities, their integrity or independence evaluation etc.,

J. Risk Rating and Assessment based on the detailed questionnaire raised above as part of IT Evaluation Questionnaire.

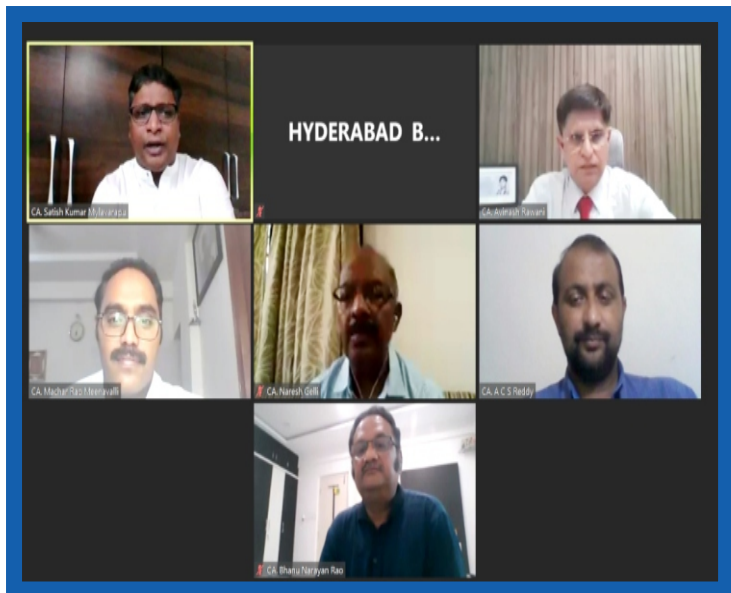
K. Relevant matters of concern or consideration which might require further evaluation or investigation such as, weaknesses in controls, any recent breach or attack, any major issues mentioned in recent audit or evaluation or tests conducted etc.,

L. Any other annexures which may be made part of Audit memo, such as discussion minutes, organisation charts, business process flow charts etc.,

Information captured in Audit Planning Memo will help IS Auditor to keep track of his audit procedures and also to constantly review his audit procedures, controls to be tested, evidences to be collected.

In the next article we will cover Reviewing of Controls, Testing of System and Evidence Collection as part of IS Audit Procedures.

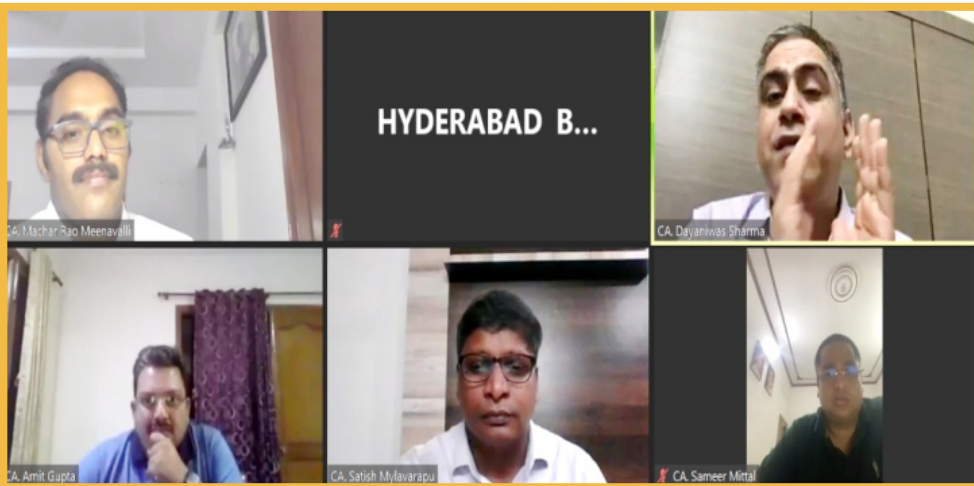
Resource Persons at Virtual CPE Meetings Conducted by Hyderabad Branch of SIRC



**Covid Vaccination Drive for Members at COE Hyderabad,
graced by CA. Devaraja Reddy Past President ICAI along with Shri. P Sridhar,
MD Renova Hospitals and Hyd. Branch MC Members**



Resource Persons on Virtual CPE Meetings



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