



BHILAI BRANCH OF CIRC OF ICAI

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not only multinational but also multicultural. The need to study other cultures arises. So a study of management principles that flow therefrom being a necessary prerequisite for globalized management system. Management is about making the exchange of cultural values efficient and effective. When there are decent exchange, relationships will thrive and society will prosper. That is the direction in which the first hymn of the Veda takes us. There is a lot to learn about the Vedic Human Resource Management Philosophy.

Dear Members,

The month of November brings us to the end of Tax Audit Assignments involving Transfer Pricing issues. The process of simplification of GST Forms has led to the extension of due date of filing GST Annual Returns and GST Audit for the Financial Year 2017-18 to 31st December 2019. December 31st is also last date to file application under amnesty scheme under service tax announced by Finance Minister in Budget called "Sabka Vishwas (Legacy Dispute Resolution Scheme)". Also the scrutiny assessments under Income Tax for AY 2017-18 have to be completed by 31st December of this year.

Dear Members, your active participation is the source of inspiration for us to conduct more and more programs. We request to you to early register for the programs using online / mobile app facilities and allow us to serve you better. We expect continued support and cooperation for the upcoming programs also.

With Best wishes and warm regards,

CA. NITIN RUNGTA

Chairman

Bhilai Branch of CIRC of ICAI

The roots of human motivation lay in cultural values. As the globalization takes place, the complexities of management whether in government system or commercial undertaking have to be

E-NEWSLETTER

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ACCOUNTING & COMPANY LAW UPDATES

1. Quick Referencer on Indian Accounting Standards (Ind AS) Looking at the vast literature of the Indian Accounting Standards and the practical problems of skimming through the entire literature when in need of an aspect to be looked upon, this publication has been brought out that provides a glance on the basic aspects of applicable standards in a summarised manner with an objective to provide a basic understanding of Ind ASs to the members. This publication will be very useful for the members of the Institute and other concerned stakeholders.
<https://resource.cdn.icai.org/57428indas46512.pdf>
2. Guidance Note on Division III - Schedule III to The Companies Act, 2013 For NBFC that is required to comply with Ind AS The revised formats of Division III have brought changes with regard to the classification of trade payables, trade receivables and loan receivables. Also, with the amendments, there is change in the terminology of Schedule III to align it with Ind AS. As the Ind AS has become applicable on NBFCs that fall within the prescribed criteria w.e.f. 1st April, 2018, with the prescription of Division III to Schedule III, the presentation of the financial results will be in line with the Indian Accounting Standards. The publication issued by ICAI provides appropriate guidance of the requirements of Schedule III for NBFCs that are required to prepare their financial statements as per Ind AS in letter and spirit. <https://resource.cdn.icai.org/57407clcg051119.pdf>

Identification and flagging of Disqualified directors u/s. 164(2)(a) of the Companies Act, 2013 MCA has informed that the Registrars of Companies (ROCs) are in process of identification and flagging of directors disqualified under section 164(2)(a) of Companies Act, 2013 for their default of non-filing of financial statement or annual return for continuous period of three financial year i.e. 2015-16, 2016-17 and 2017-18.

In this regard all the defaulting directors have been cautioned to find the pending statutory returns and do necessary compliance as per provisions of law, otherwise action will be initiated Under Section 164 of the Companies Act, 2013



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4. Relaxation of additional fees and extension of last date of filing forms of MGT-7 (annual return) and A O C - 4 (F i n a n c i a l S t a t e m e n t s) MCA has vide Circular dated 29.10.2019 extended the due date for filing of e-forms AOC-4, AOC (CFS) AOC-4 XBRL upto 30.11.2019 and e-form MGT-7 upto 31.12.2019, by companies without levy of additional fee

http://www.mca.gov.in/Ministry/pdf/GeneralCircular_29102019.pdf

5. Relaxation of additional fees and extension of last date of filing forms of IEPF-1A and IEPF-2 MCA has vide Circular dated 25.10.2019 relaxed the additional fee payable by companies on filing form IEPF-1A upto 31.12.2019 and form IEPF-2 (for the purpose of filing Statement of unclaimed and unpaid amounts) upto 30.11.2019.

http://www.mca.gov.in/Ministry/pdf/GeneralCircular1_25102019.pdf



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GST UPDATES

1. Karnataka AAR in the matter of Surfa Coats (India) Pvt. Ltd. [KAR/AAR/28/2019-20 dated 12.09.2019] holds that the applicant, a paint dealer, is not eligible to avail ITC on the inward supplies of goods and services which are attributable to the incentives provided in the form of gifts of goods and services; Section 17(5)(h) of the CGST Act, 2017 does not allow credit on any goods disposed by way of gift or free samples, whether or not in the course or furtherance of business, opines AAR; Further, free travel services provided are without consideration, hence, do not qualify to be 'supply' in terms of Section 7(a)(1) of CGST Act and Schedule I to CGST/KGST Act, 2017; Refers to Para (A)(ii) of Circular No. 92/11/2019-GST dated March 07, 2019 which clarifies that ITC shall not be available to supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration; Therefore, observes that ITC on services procured for offering services of free trips is not available to the applicant: Karnataka AAR.
2. In the matter of Alcon Consulting Engineers (India) Pvt. Ltd Karnataka AAR holds that reimbursements claimed by the employees in the course of employment of the applicant company is not liable to tax; Finds that "Services by an employee to the employer in the course of or in relation to his employment are covered under Clause I of the Schedule III which relates to the activities or transactions which shall be treated neither as a supply of goods nor as a supply of services."; Further observes that applicant-company is liable to discharge tax on under reverse charge mechanism (RCM) on remuneration paid to the Directors in lieu of services rendered by them falling within the ambit of Entry 6 of Notification No. 13/2017 –CT (Rate) dated June 28, 2017.



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3. In *Morigeri Traders* [KAR/AAR/23/2019-20 dated 12.09.2019] it was held that the applicant, being a commission agent, is required to be registered under Section 22(1) of CGST Act 2017, as they qualify to be an agent in terms of para 3 of Schedule I to the CGST Act 2017 - The services provided by the applicant to the principal are covered under "services provided by a commission agent for sale or purchase of agricultural produce", which are exempted under entry no. 54 (g) of the Notification No. 12/2017 - Central Tax (Rate) dated 28.06.2017 and hence the said Notification is applicable to the Applicant, being the commission agent of APMC, Karnataka. However the supply of dry chillies to the traders under the invoice of the applicant is liable to tax - Dry Chillies is covered under the definition of agricultural produce, in terms of definition at para 2(d) of the Notification No. 12/2017 - Central Tax (Rate) dated 28.06.2017

4. The monetary value of the act of providing refundable interest free deposit is the consideration for the services provided by the RNSB and therefore the services provided by RNSB can be treated as supply and chargeable to tax in the hands of the applicant. The Refundable Interest Free Deposit are a non-commercial consideration to cover risk of the Demat account. It appears that the main purpose of the deposits is not only security but also collection of capital. It is also not out of place to mention that the said services were chargeable to Service Tax under the erstwhile provisions of Service Tax era. GST related provisions are also broadly pari materia so far as services are concerned. Held in *M/s. Rajkot Nagrik Sahkari Bank Ltd* [GUJ/GAAR/R/2019/9 dated 15.05.2019]

5. It was held in *Emerald Heights International School* [MP/AAR/13/2019 dated 20.08.2019] that the activities of holding Educational conference/ gathering of students, faculty and staff of other Schools are not exempt under relevant clauses of Entry 66/1/8 of the above-mentioned notification for the simple reason that the education conference does not fall under any of the categories so listed. Hence, GST shall be chargeable on the consideration received by the school from the participant school(s) for the participation of their students and staff in the impugned conference. The Hon'ble Bench further stated that various services provided for organizing an educational conference/gathering of students and staff of other Schools, shall be liable to tax at the rate applicable to the respective services.



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Direct Tax Updates

Circular No. 29/2019 dated 02.10.2019 – Clarification in respect of option exercised under section 115BBA of the Income Tax Act 1961, inserted through the recent ordinance 2019. Representations have received from the stakeholders seeking clarification on following issues relating to exercise of option under section 115BAA: (a) Allowability of brought forward loss on account of additional depreciation; (b) Allowability of brought forward MAT credit. As regards Allowability of brought forward loss on account of additional depreciation, it may be noted that clause (i) of sub section (2) of the newly inserted section 115BAA, inter alia, provides that the total income shall be computed without claiming any deduction under clause (iia) of sub-section (1) of section 32 (additional depreciation): and clause (ii) of the said sub section provides that the total income shall be computed without claiming set off of any loss carried forward from any earlier assessment year if the same is attributable, inter alia to additional deprecation.

Therefore, a domestic company which would exercise option for availing benefit of lower tax rate under section 115BAA shall not be allowed to claim Set off of any brought forward loss on account of additional depreciation for an Assessment Year for which the option has been exercised and for any subsequent Assessment Year. Further as there is no time line within which option under Section 115BAA can be exercised, it may be noted that a domestic company having brought forward losses on account of additional depreciation may if it so desires exercise the option after set off of the losses so accumulated.

As regards allowability of brought forward MAT credit, it may be noted that as the provisions of Section 115JB relating to MAT itself shall not be applicable to the domestic company which exercises option under section 115BAA, it is hereby clarified that the tax credit of MAT paid by the domestic company exercising option under section 115BAA of the Act shall not be available consequent to exercising of such option. Further, as there is no lime line within which option under section 115BAA can be exercised, it may be noted that a domestic company having credit of MAT may, if it so desires exercise the option after utilising the said credit against the regular tax payable under the taxation regime existing prior to promulgation of the ordinance.



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INTERNATIONAL TAXATION

1. CBDT notifies protocol amending India-Morocco DTAA

Government of India notifies the protocol amending DTAA with the Kingdom of Morocco, which was signed in August 2013; Specifies the date of entry into force of the said amending Protocol as July 15, 2019; The Protocol amends “Exchange of Information” Article and is based on international standards of transparency and exchange of information.

Reference https://www.incometaxindia.gov.in/communications/notification/notification_84_2019.pdf

2. Synthesised text for Multilateral Instrument (MLI) modified India-Singapore, India-Finland DTAA and IndiaSlovak's DTAA's published

CBDT releases the synthesised text for India-Singapore DTAA, India-Finland DTAA & India-Slovak DTAA, incorporating changes made by MLI;

Reference – <https://www.incometaxindia.gov.in/dtaa/synthesised-textfor-publishing-with-singapore.pdf> <https://www.incometaxindia.gov.in/dtaa/synthesised-textof-mli-and-india-finland-dtaa.pdf> <https://www.incometaxindia.gov.in/dtaa/synthesised-textof-mli-and-india-slovak-republic-dtaa.pdf>

3. OECD: Releases guidance on spontaneous information exchange by 'no or only nominal tax jurisdictions'

OECD releases guidance note on spontaneous exchange of information by 'no or only nominal tax jurisdictions' Reference - <http://www.oecd.org/tax/oecd-releasesguidance-on-the-spontaneous-exchange-by-no-or-onlynominal-tax-jurisdictions.htm>



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QUICK CONNECT RERA

RERA Act,2016 (RERA,2016) was introduced with intention of attempt to balance the interest of home buyer and real estate developer. RERA,2016 have various object other than regulation of real estate business and establishment of Regulatory Authority. Out of the various objects of RERA,2016, one of the main object is to protect the interest of home buyers. Home buyer's interest can be protected only if the money given by home buyers is utilized for the project and delivery of home within specified time.

To protect the home buyer's interest and to stop utilization of project money, for the purpose, other than construction of project, RERA,2016 have specific provision which restrict the promoter for utilization of project money. As per Provision of section 4(I)(d) of the RERA,2016 every promoter has to give declaration that that seventy percent of the amounts realised for the real estate project from the allottees, from time to time, shall be deposited in a separate account to be maintained in a scheduled bank to cover the cost of construction and the land cost and shall be used only for that purpose:

The above provision requires the deposition of at least 70% of project money in separate bank account so the money can be utilised for the completion of project. Even though the above provision put some restriction on the promoter but for better and effective compliance of the said provision Gujarat Real Estate Regulatory Authority (GujRERA) has issued "Gujarat RERA Bank Account Direction,2018" dated 19th February, 2018.

Some of the important features/provision of the Gujrat RERABank Account Direction,2018 are as follows: -

1. The promoter shall open a RERAAccount before the application for registration of real estate project is made to RERAAuthority.
2. The details of the RERA account to be provided in application for registration of real estate project.
3. RERA Account required to suffix the term "RERAAccount for < name of the project > Real Estate Project" with the name of the RERAAccount holder. Eg. ABC Pvt Ltd RERAAccount for ABC-1



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4. Every project shall have only one RERA Account. The provision of RERA,2016 does not specify the above requirement however, GuRERA has restrict to open more than one RERA Account.
5. As per the RERA,2016 at least 70% of money to be deposited in RERA Account. However, when cost to complete the project is higher than the money to be received from the customers than entire money (100%) receivable from the customer shall be deposited in RERA Account.
6. Pass through charges and Indirect tax collected from the customers is not required to be deposited in RERA Account.
7. RERA Account shall be “No Lien Account”.
8. Promoter can make a Fixed deposit from the money lying in RERA account. However, this Fixed Deposit will created be with the same Bank where RERA Account is opened.
9. Fixed Deposit created will be “No Lien Fixed Deposit” and promoter can not take any loan against the said Fixed Deposit.
10. The money can be withdrawn from the RERA account as per the second proviso to section 4(2)(l)(d) of RERA,2016, which require that promoter can withdraw the money after the certificate received from an Architect, Engineer and Chartered Accountant in practice, that the withdrawal is in proportion to the percentage of completion of project.
11. The promoter and/or Chartered Accountant shall obtain “No Lien/Charge certificate” from the Bank in respect of the Fixed Deposit created from the fund lying in RERA Account.
12. The RERA account opened can be change, however the promoter has to follow the prescribed procedure to change the RERA account. There is no restriction on changing the RERA account and the same can be change more than one time.
13. RERA account from one bank to another bank can be changed with the prior approval from the GujRERA however Banking direction issued by GujRERA is silent on requirement of prior approval, from the authority, when the account is changed within the same bank.



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14. To change the RERA account following procedure is to be followed
 - a. Application for Change in RERA Account to be made in Form Ra1
 - b. In Form RA1, Details of Current RERA Account and Proposed RERA Account to be provided
 - c. Promoter has to give undertaking for nonoperation of present RERA account
 - d. Certificate of account balance from Bank with existing RERA account to be given in Form Ra2
 - e. Bank will provide the Bank Balance confirmation.
 - f. Confirmation Letter in Form RA3 is to be given by the promoter for change in RERA Account.
 - g. In Form RA3, Details of previous RERA Account and New RERA Account to be given
 - h. Certificate of fund transfer from Bank having new RERA Account will be taken in Form RA4