CASC BULLETIN

THE CHARTERED ACCOUNTANTS STUDY CIRCLE

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MEETINGS

Date	Time	Speaker	Topic
07.02.2019 Thursday	06.30 p.m.	CA. Dungarchand U Jain	UDIN for CAs
28.02.2019 Thursday	06.30 p.m.	CA. Palaniappan SP	Capital Gains - An Update

Preceded with High Tea Half an hour before the scheduled time of meeting.

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EDITORIAL

Roller Coaster Rides:

The year 2018 ended with notifications and circulars both under Direct taxes as well as Indirect Taxes. The year 2019 also started with such notifications as well as circulars. However, what is disturbing is some of the notifications /circulars are nullifying the earlier notifications. There were 44 such notification as well as circulars issued on the penultimate day of 2018, under GST law and there was only one Circular on the said date under Income Tax Act, which triggered controversy. This circular (Circular No. 10 dated 31st December, 2018) was pertaining to the so called clarification regarding applicability of Section 56(2)(viia) regarding issue of shares by closed held public limited companies as well as private limited companies, at premium. This circular was withdrawn vide Circular No. 02/2019[F.NO. 173/616/2018-ITA-I], DATED 4-1-2019 and was also stated that the said circular shall be considered to have never issued. This happen within a very short span. Thereafter another circular (Circular No. 3/2019 [F.NO. 173/616/2018-ITA.I], DATED 23-1-2019) is issued now stating that "3. Therefore, any view expressed by the Board in Circular No. 10/2018 shall be considered to have never been expressed and accordingly, the said circular shall not be taken into account by any Income-tax authority in any proceedings under the Act." This is not the only bizarre incident. It would be very relevant to know that the Circular No. 2 is not available on the www.incometaxindia.gov.in (based on browsing done on the website while penning down this editorial). Another Circular, namely Circular No. 1 of 2019, which is guiding the employers for deduction of tax from salary. This guidance is belated as it is coming at the start of the last quarter. However, this also had an error which was again rectified by issue of Corrigendum No. 275/192/2018-IT(B), dated 18-1-2019. Thus the previous year has ended with lot of material for updating and the New Year to unlearn the some of them. Thus the very concept of stability and clarity is getting dent. Hope this does not continue for the entire year.

ICAI Final Results

CASC congratulates all the successful candidates who have cleared the CA Exams for which the results were announced on 23rd January, 2019. It is worthwhile to note that a girl who was rescued from human trafficking racket at the age of 13, has now cleared CA exams.

"Sunitha Krishnan shared the girl's story in an FB post. She wrote, "I am chocked with emotions. One our child, Bhavani has qualified for Chartered Accountancy. With a single focus, no external help and her own efforts she finally qualified in her fourth attempt."

"I still cannot forget the day we rescued her with Hyderabad Task Force, stunned to find a 13yrs old child in the room with the customer. More shocked when we found out that the mother was the trafficker and the child was in this situation for more than a year. The child then was instrumental in getting her two siblings rescued."

She wrote, "Due to security concerns she wrote her X Std by open school. Today she is in 2nd year graduation and a college topper. Through sheer grit she has qualified in CA exams. I would have loved to post her picture, but her case is still on and her trail is pending."

I salute Hyderabad Task Force very specifically Inspector Srikanth, my colleagues in the rescue, a wonderful magistrate Padmaja Sathyam and my Shelter team for doing the impossible", wrote Sunitha

Bhavani is indeed a pillar of inspiration for several underprivileged children who aspire to make something great out of their life. Dreams do come true, life does change, aspirations can be attained and you can always rise above the difficulties in your life. And Bhavani has proved this to the entire world. Her journey from being a forced sex worker to crack the exam of Chartered Accountant without any help but with flying colors, is indeed, soul-stirring!"

[SOURCE : https://www.storypick.com/girl-rescued-from-trafficking-racket]

Sad News

CASC has lost one of its life Member, CA. Hariharan, a brilliant professional, a fine gentleman, a genial & affable human being and partner of PKF Sridhar & Santhanam LLP. Our heartfelt deepest condolences. May the departed soul rest in peace. May GOD bless his family members and friends with strength to withstand the irreparable loss.

Appeal

Members are requested to attend the programs conducted by CASC and are also requested to send their suggestions and / or value additions to the services provided by CASC including this Bulletin. The same can be sent by hard copy to the office of the CASC or emailed to admin@casconline.org or any of the Members on the Management Committee.

For and on behalf of Editorial Board

CA. Uttamchand Jain

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1. The copies of the material used by the speakers and provided to CASC for distribution, for the regular meetings held twice in a month is available on the website and is freely downloadable.
2. Earlier issues of the bulletin are also available on the website in the "News" column.

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RECENT JUDGMENTS IN VAT CST GST

Assessment: The petitioner has challenged the assessment order is on the ground that the revision notices dated 29.11.2017 and 09.03.2013 were not served on the petitioner. The other ground is that the paver finisher machine purchased by the petitioner is not a motor vehicle and is not capable of plying on the road and therefore, the demand of entry tax is not acceptable. Though the Government Advocate has produced a copy of the registration slip to justify the stand that the revision notices were despatched by registered post on 05.12.2017, the court observes that in the absence of a postal acknowledgment card, it cannot be taken that the revision notices have been served on the petitioner. As regards the second contention, it is relevant to take note of the decision in the case of RDS Projects Ltd. vs. CTO reported in [2007] 8 VST 574 (Mad.) wherein the Hon'ble Division Bench has held that the excavators are not motor vehicles falling within the definition of the term as defined under Section 2(28) of the Motor Vehicles Act, 1988. Considering these facts, this Court held that the assessment should be redone by considering the petitioner's objections. **M/s. Excel Engineering Enterprises, vs.**

CA. V.V. SAMPATHKUMAR

The Assistant Commissioner (CT), Thirupattur Assessment Circle W.P.No.13320 of 2018 DATED: 12.06.2018

Alternative Remedy: When the revision notices were not replied by the petitioners and the orders passed in the WP filed, the Additional Government Pleader appearing for the respondent submits that the writ petitions are not maintainable as there is an appellate remedy available under the Act. Though it is true that appellate remedy is available under the Act, the Court observed that, if the appeals were filed on the date when these writ petitions were filed, the same would have been dismissed as not maintainable because of expiry of period of limitation. In such a situation, it would not have been very difficult for this Court to dismiss the writ petitions, but, however the Court bears in

mind the interest of revenue, which requires to be balanced in such cases. This is more so in the instant case, as, for more than one year, the impugned orders are remained only as a paper order and effective recovery proceedings were unable to be initiated, though steps have been taken to invoke the provisions of the Revenue Recovery Act. For this reason, this court is inclined to protect the interest of the revenue as well as give one more opportunity to the petitioner to go before the Assessing Officer, subject to certain conditions. **Tvl.Subbulakshmi Hardwares Vs. The Assistant Commissioner (CT), Thiruvottiyur Assessment Circle W.P.Nos.13557 to 13560 of 2018 DATED: 11.06.2018**

Registration Cancellation: Aggrieved by the order passed by the respondent cancelling the petitioner's registration on the ground that on verification it was found that petitioner's place of business was always locked the WP is filed against the impugned order. The petitioner has an effective alternative remedy before the Joint Commissioner (CT), Chennai (North). The factual issue as to whether at the relevant point of time when the Assessing Officer caused enquiry, whether the petitioner was carrying on business has to be agitated before the revisional Authority, namely Joint Commissioner. However, the Court was of the view that if the petitioner had genuinely changed the business premises, it is open to the petitioner to give an application to the Assessing Officer for recording the new address. Accordingly, the petitioner is granted liberty to file a revision before the Joint Commissioner within one week from the date of receipt of a copy of this order and if the same is filed, the Joint Commissioner shall entertain the revision without rejecting the same on limitation. **Tvl.A.K.Trading Corporation Vs. Assistant Commissioner (ST) Kodingaiyur Assessment Circle W.P.No.13596 of 2018 DATED: 20.06.2018**

Mismatch: Assessing order passed an order in respect of mismatch of purchases reported by the buyer with that of corresponding sales by the seller. On a perusal of the impugned orders, this Court finds that the respondent has not dealt with the issues where the petitioner gave their explanation namely with regard to purchases from the registration cancelled dealers, purchase from other end dealers Annexure II and sales from other dealer Annexure I web report and also the allegation of purchase

suppression. While it may be true that the petitioner did not reconcile the mismatch issue after receiving the invoice-wise details, the respondent should have considered the other issues, for which, the petitioner gave their reply. This Court finds that no opportunity of personal hearing was granted. Considering the fact that wherever explanation has not been considered by the respondent, this Court is of the view that one more opportunity can be granted to the petitioner to go before the respondent. Accordingly, the writ petitions are disposed of with a direction to the petitioner to treat the impugned proceedings as show cause notices and submit their objections within a period of three weeks from the date of receipt of a copy of this order. **M/s.R.P.Telebuy Skyshop (P) Ltd., Vs The Assistant Commissioner (ST), Arumbakkam Assessment Circle, Writ Petition Nos.14749 to 14751 of 2018 Dated: 20.6.2018**

Reassessment: The petitioner submitted a representation dated 12.7.2017 enclosing further C-Forms and F Forms and sought for revision of assessment order passed earlier, followed by a reminder dated 24.1.2018. The respondent considered the same, reduced the tax liability and ultimately, the taxable turnover was determined vide revised assessment order dated 14.2.2018 without properly considering F Forms, C Forms, sales returns, stock transfer returns etc. The petitioner again sent a representation dated 26.5.2018 to the respondent for reconsideration of the above issues. The petitioner challenged the assessment order of similar nature relating to the year 2014-15 by filing a writ petition in W.P.No.32843 of 2016. The said writ petition was allowed by order dated 20.9.2016 by setting aside the order in so far as it rejects the issue relating to the sales return and the return of stock transferred goods and directed to redo the assessment. In the aforesaid order, this Court observed as follows: However, the Assessing Authority, being a statutory authority, would also have the power to redo the assessment, more so, when the Court directed to redo the matter. Thus, if the petitioner has made a statement with regard to the sales return and cash discount and produced the necessary documents, it is always open to the assessing officer to take into consideration those documents and take a decision in the matter. Therefore, the respondent need not restrict himself only with regard to the C-Forms and F-Forms and if the

petitioner is legally entitled for any other relief then that may be considered. Accordingly, the Writ Petition in WP.No. 32843/2016 is allowed and the impugned order, insofar as it has rejected the petitioner's case relating to Sales Return, Cash Discount and return of stock transferred goods are concerned, are set aside and the respondent is directed to redo the assessment on these heads afresh, after affording an opportunity of personal hearing to the petitioner. It is seen that the assessment pertains to the year 2010-11 in this and so long the assessment could not be completed. Hence, this Court is of the view that the petitioner can be given one more opportunity, however, subject to condition. **M/s.Alkraft Thermo Technologies Pvt.Ltd. Vs The Assistant Commissioner (CT), Pattaravakkam Assessment Circle Writ Petition No.15035 of 2018 Dated: 22.6.2018**

Limitation: Considering the facts and circumstances of the case, the Court observes that it is evident that the petitioner has resorted to file a statutory appeal before the Appellate Authority on 28.09.2017 after receiving the order of assessment on 30.08.2017. The Appellate Authority being the fact finding authority has to go into the merits and contentions of the appeal. The only hurdle for the Appellate Authority in this case is that the appeal was not filed in time and that he has no power to condone the delay beyond the period of 60 days. It is claimed by the first respondent that the order of assessment was communicated to the petitioner on the date of the order of assessment itself. Thus, it is apparent that such communication, even assuming true, was made only in person. Needless to say that when there are proper modes of communication of the orders, as contemplated under the Statute, the Assessing Authority ought to have communicated the order of assessment only through such modes, so that there cannot be any ambiguity in respect of the date of receipt of such order, as such date is to be taken into consideration for calculating the period of limitation for filing the appeal against the said order of assessment. In this case, the communication of the assessment order was not done so. Considering the above facts and circumstances, this Court is inclined to grant an opportunity to the petitioner to agitate the matter once again before the Appellate Authority, by representing the appeal, so that the same shall be considered and decided on merits

and in accordance with law. Accordingly, this writ petition is disposed of, by directing the petitioner to represent the appeal before the Appellate Authority viz., the second respondent herein within a period of 10 days from the date of receipt of a copy of this order. On receipt of such appeal, the second respondent shall consider the same and pass orders on merits in accordance with law, without reference to the period of limitation. **M/s.Kansai Nerolac Paints Ltd. Vs. The Assistant Commissioner (CT), Sholinganallur Assessment Circle and 2 The Appellate Deputy Commissioner (CT) (FAC) Chennai (East) W.P.No.15315 of 2018 DATED: 07.08.2018**

Personal Hearing: Without affording an opportunity of personal hearing, the impugned order came to be passed by the AO. The Circular dated 03.02.2014 issued by the Commissioner states that Fifteen days' time limit shall be given as reasonable opportunity to dealers before passing any order. No order shall be passed without being satisfied of the reasonable opportunity and adopting the following process. The Hon'ble Division Bench of this Court also in W.A.(MD) No.234 to 240 of 2015 (In G.V.Cotton Mills (P) Ltd., Rep. by its Managing Director Vs. The Assistant Commissioner (CT), Avarayampalayam Assessment Circle Corporation of Shopping Complex, Coimbatore) dated 16.03.2018 has held that even if objection was not given, still the assessing authority was expected to post the matter for hearing by issuing notice to the assessee. The Supreme Court in Swami Devi Dayal Hospital and Dental College vs. The Union of India and others(2013(10) Scale 608) observed that even in the absence of a specific provision of giving hearing, the hearing is required in such cases, unless specifically excluded by a statutory provision. Stating so, the impugned orders are set aside and the matter is remanded back to the respondent for fresh consideration. **M/s. DSRM Steels (P) Limited, Kulathur, Dindigul Vs. The Commercial Tax Officer (Main), Dindigul (Rural) Assessment Circle, Dindigul, W.P (MD)Nos.14939 of 2018 to 14941 of 2018 DATED: 11.07.2018**

(The author is a Chennai based Chartered Accountant. He can be reached at vvsampat@yahoo.com)

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GST - ADVANCE RULINGS CASE LAWS

1. <u>GST – ANTI-PROFITEERING – EXCESS ITC IN RESPECT OF CONSTRUCTION SERVICES NOT PASSED TO FLAT BUYERS – NOT TENABLE</u>

CA. VIJAY ANAND

In RE: Pyramid InfratechPvt. Ltd. 2018(19) GSTL 65(N.A.P.A.), the applicants had booked flats with the respondent under the Haryana Affordable Housing Policy 2013 (Policy) notified by the State of Haryana. They had paid Excise Duty & VAT to the Builder prior to the GST regime, till 30.06.2017. Service Tax was exempted during that period. When, GST was introduced (in place of Excise Duty and VAT w.e.f. 01.07.2017), the rate was 12%, which was reduced to 8% w.e.f. 25.01.2018. The applicants had alleged that the benefit of Input Tax Credit (ITC), which was available to the respondent and which was much more than the output tax liability of the respondent, had not been passed on to them and therefore the applicants should not have been burdened with the entire GST of 12% or 8% and that the respondent was simultaneously also enjoying the benefit of ITC and was not giving the benefit of the ITC thereby contravening the provisions of Section 171 of the CGST Act, 2017. Consequent to the above, applications against the alleged anti profiteering were filed with the Haryana Screening Committee which were forwarded to the Standing Committee on Anti-profiteering for further necessary action. The Standing Committee had forwarded these applications to the Director General of Anti-profiteering (DGAP) for detailed investigation. 102 additional applications against the respondent were also received by the Standing Committee which were also forwarded to the DGAP for investigation. The DGAP, after completing the investigation has submitted his Report under Rule 129 (6) of the CGST Rules, 2017 on 24.05.2018 followed by his subsequent reports submitted on 01.08.2018 and 28.08.2018. The Report of the DGAP mentions 109 Applicants out of the 138 Applicants out of which inasmuch as 26 have filed duplicate applications and 2 have submitted triplicate applications. The authority observed as under:-

1. On perusal of the DGAP's Report, the written and oral submissions of both the Applicants and the respondent placed on record, the issues to be decided by the authority are as under:—

(a) Whether, there was any violation of the provisions of Section 171 of the CGST Act, 2017 in this case?

(b) If yes, then what was the quantum of profiteering?

2. Section 171 deals with two situations one relating to the passing on the benefit of reduction in the rate of tax and the second pertaining to the passing on the benefit of the ITC. In the instant case though rationalization of tax had not resulted in the reduction in the tax rate, the benefit of ITC had been extended to all the goods and services which were utilized by any builder which was not available in the pre-GST era. This fact has not been denied by the respondent.

3. In view of the fact that section 171 not only deals with passing on the benefit of reduction in the rate of tax but also deals with passing on the benefit of ITC, the contention made by the respondent is legally not correct to the extent that there had been increase in the rate of tax from 5.25% to 12% and then 8% and no benefit could be passed on by him to the applicants as the respondent had become entitled to claim ITC the benefit of which was required to be passed on by him to the Applicants as per the provisions of Section 171. The respondent has also admitted that he had become eligible to claim ITC after coming into force of the GST and hence he was liable to pass on the benefit to the Applicants.

4. One of the grievances of the applicants is that 25% of total sale consideration which had been paid at the time of signing of the Buyer's Agreements had earned interest for the respondent, which had not been taken into consideration while fixing the cost of the flats. Therefore the contention of the respondent that the cost factor should be taken into account is not valid and justifiable as there is no escalation clause in the Agreement and the respondent has also availed benefit of interest on the amount paid by the Applicants.

5. One of the arguments advanced by the respondent is that in the pre-GST regime there was no tax liability on the subcontractors and in the post-GST era the tax levied on the subcontractors was to be borne by the respondent. This argument is also not tenable because the entire amount is eligible for ITC to the respondent which has

been admitted by him in his written submissions. Moreover the subcontractors are also eligible for ITC which was not available to them earlier and on account of rationalization of tax rates many of the inputs were now available at the reduced rates.

6. From the above, it is absolutely clear that the excess ITC was available to the respondent the benefit of which he was required to pass on to the Applicants. The respondent cannot appropriate this benefit as this is a concession given by the Government from its own tax revenue to reduce the prices being charged by the builders from the vulnerable section of society which cannot afford high value apartments. The respondent is not being asked to extend this benefit out of his own account and he is only liable to pass on the benefit of ITC to which he has become entitled by virtue of the grant of ITC on the Construction Service by the Government.

7. The second issue which is required is to be settled is that what was the extent of the profiteering. The DGAP has calculated the profiteering @ 6.1% on the base price of Rs. 4000/- per sq. ft. and accordingly calculated tax amount on the reduced payment. The authority is in full agreement with the same.

Hence, the authority held as under:-

a. The respondent shall reduce the price to be realized from the buyers of the flats in commensurate with the benefit of ITC received by him as has been detailed above.

b. Since the present investigation is only up to 28.02.2018, any benefit of ITC which shall accrue subsequently shall also be passed on to the buyers by the respondent.

c. The benefit shall be passed on not only to the Applicants, but to all the 2476 buyers as they are identifiable.

d. Respondent is further directed to refund or reduce the amount, to the extent calculated above to each and every buyer at the time of collecting the last instalment along with the interest @ 18% per annum to be calculated from the date of the receipt of the excess amount from each buyer, within a period of 3 months from the date of receipt of this order.

e. A Show-Cause Notice be issued to him directing him to explain why the penalty prescribed under Section 122 of the above Act, read with rule 133(3)(d), of the CGST Rules, 2017 should not be imposed on the respondent.

f. The Commissioner of State Tax Haryana shall monitor this order under the supervision of the DGAP by ensuring that the amount profiteered by the respondent as ordered by the authority is passed on to the all the buyers.

g. A report in compliance of this order shall be submitted to this authority by the Commissioner within a period of 4 months from the date of receipt of this order.

h. A copy each of this order be supplied to the Applicants, the respondent, Commissioner State Tax Haryana as well as the Principal Secretary (Town & Country Planning), Govt. of Haryana for necessary action.

i. File be consigned after completion.

2. <u>GST – ADVANCE RULING – SERVICES PROVIDED BY IIMs – EXEMPT</u>

In RE: Indian Institute of Management, Calcutta 2018(19) GSTL 104(AAR-GST), the applicant is an Educational Institution funded by the Government of India, engaged in the provision of Educational Services to the students and has filed an application seeking advance ruling as to the following:

(i) After the introduction of the IIM Act w.e.f. 31/01/2018 (hereinafter referred to as "the IIM Act, 2017"), whether or not the Applicant should be considered an "Educational Institution"

(ii) If the Applicant is eligible for exemption under Entry No. 66(a) of the Notification No. 12/2017 Central Tax (Rate) dated 28/06/2017 ("the Exemption Notification"), and from which date it should be effective.

(iii) Whether or not the Applicant is eligible to get Refund of the Tax amount already paid by the Applicant.

The authority observed as under:-

1. The applicant has been providing different programmes such as Post Graduate Programme (PGP) for 2 years term, Post Graduate Programme for Executives (PGPEX) for one year term, Post Graduate Programme for Executives for visionary Leaderships in manufacturing (PGPEX-VLM) for one year term, Fellow Programme etc.

2. After enactment of the IIM Act the applicant is eligible to grant degrees, diplomas and other academic distinctions or titles and to institute and award fellowships, scholarships, prizes and medals, honorary awards and other distinctions u/s 7 of the IIM Act.The IIM Act is aimed to declare

certain Institutes of Management to be of national importance. On and from the commencement of the Act, every existing Institute shall be a body corporate by the same name as mentioned in column 5 of the Schedule to the above Act. The Applicant is mentioned therein.

3. The IIM Act does not mention any specific degree/diploma/program that can be or shall be undertaken by the applicant. In absence of such specification, reference should be made to the degrees/programmes recognized and approved by the University Grants Commission Act 1956 (hereinafter referred to as "the UGC Act") and the All India Council for Technical Education Act, 1987 (hereinafter "the AICTE Act") that can be lawfully awarded by any higher educational institution in the country.

4. The AICTE Act and the UGC Act are very specific and detailed about the approved courses/programmes under it. Neither of the above-mentioned Act mentions courses like PGPEX-VLM and CES-MIM.

5. The next question is whether the applicant should continue to enjoy exemption under Entry No. 67, which has not been deleted even after the IIM Act came into being, or be considered for exemption under Entry No. 66(a) of the exemption Notification.

6. The applicant is an "Educational Institution" within the meaning of sub-clause (ii) of clause 2(y) of the Exemption Notification in terms of the IIM Act.

7. Exemption under Entry No. 66(a) is applicable to such educational institutions as such, especially as the law mentions that the qualifications awarded are to be "recognised by any law for the time being in force". As Entry No. 67 specifically concerns IIMs, courses mentioned therein, will be eligible for Exemption under the specific entry, even if not mentioned elsewhere under any law for the time being in course.

Consequently, both the provisions of the law are available to the applicant and the authority held as under:-

a. The applicant is an 'educational institution' within the meaning of sub-clause (ii) of clause 2(y) of Notification No.12/2017-Central Tax (Rate) dated 28/06/2017.

b. The Applicant is eligible for benefit for exemption under Entry No. 66(a) of Notification No.12/2017-CT(Rate) dated 28/06/2017, being an educational institution in terms of clause 2(y) of the said notification.

3. ST – ADVANCE RULING – SWEET SHOP WITH RESTAURANT WITH TAKEAWAY FACILITIES – COMPOSITE SUPPLY FOR PROVIDING BUNDLED SERVICES – TO BE CLASSIFIED AS RESTAURANT SERVICES ELIGIBLE TO 5% GST

In RE: Kundan Misthan Bhandar 2018(19) GSTL 356(AAR-GST), applicant has a sweetshop in the ground floor and a restaurant in the first floor of the same building. An application was filed seeking advance ruling as to the following:-

a. Whether supply of pure food items such as sweetmeats namkeens, cold drink and other edible items from a sweetshop which also runs a restaurant is a transaction of supply of goods or a supply of service;

b. What is the nature and rate of tax applicable to the following items supplied from ground floor of a sweetshop in which restaurant is also located on the first floor and whether the applicant is entitled to claim benefit of input tax credit with respect to the same:

i. Sweetmeats, namkeens, Dhokla etc. commonly known as snacks, cold drinks, icecreams and other edible items;

ii. Ready to eat (partially or fully pre-cooked/packed) items supplied from live counters such as jalebi, chola bhatura and other edible items;

iii. Takeaway order of sweetmeats or namkeens by a person sitting in the restaurant of a sweetshop, when such products are not consumed within the premises of the applicant but are takeaway.

The authority observed as under:

1. The applicant has a sweetshop in the ground floor and a restaurant in the first floor of the same building. Two or more goods, or a combination of goods and services, are supplied together. This could be due to either of the following reasons:

i. A sales strategy - to attract more customers

ii. The nature or type of goods or services, which requires them to be bundled or supplied together

2. Under service Tax, this mechanism is called Bundled Service - which is the rendering of a service or services with another element of service of services. The service tax law was dealing with pure services and not with goods per se. Now the concept introduced is for goods also and is linked with the concept of Principal Supply.

3. Under GST law, supplies which are bundled with two or moresupplies of goods or services or combination of goods and services are classified, with distinct characteristics as(i) Composite Supply and (ii) Mixed Supply.

4. In order to identify if the particular supply is a Mixed Supply, the first requisite is to rule out that the supply is a composite supply. A supply can be a mixed supply only if it is not a composite supply. As a corollary it can be said that if the transaction consists of supplies not naturally bundled in the ordinary course of business then it would be a Mixed Supply. Once the amenability of the transaction as a composite supply is ruled out, it would be a mixed supply, classified in terms of a supply ofgoods or services attracting highest rate of tax.

5. In the case of sweetshop cum restaurant, the services from the restaurant is a principle supply which provides a bundled supply of preparation & sale of food, and serving the same and therefore it constitutes a composite supply. It further satisfied the following conditions of a composite supply:

i. Supply of two or more goods or services or both together

ii. Goods or services or both are usually provided together in the normal course of business.

6. In the instant case, the nature of restaurant services is such that it may be treated as the main supply and the other supplies combined with such main supply are in the nature of incidental or ancillary services. Thus restaurant services get the character of predominant supply over other supplies.Therefore in the present case, the supply shall be treated as supply of service and the sweet shop shall be treated as extension of the restaurant inasmuch as the said activity covered under Schedule II ofthe Act.

7. In view of the fact that the activities of the applicant comes under the purview of "restaurant services", the same falls under Heading 9963 of GSTrates on services under Notification No. 11/2017- Central Rate (Tax) dated 28.06.2017 (as amended time to time).

Hence, the authority held as under:-

i. The supply shall be treated as supply of service and sweet shop shall be treated as extension of restaurant;

ii. The rate of GST on aforesaid activity will be 5% as on date, on the condition that credit of input tax charged on goods and services used in supplying the said service has not been taken;

iii. All the items including takeaway items from the said premises shall attract GST of 5% as on date subject to the condition of non availment of credit of input tax charged on goods andservices used in supplying the said service.

4. <u>GST - ANTI-PROFITEERING – INCREASE IN BASE PRICE ON THE EVE OF TAX REDUCTION FROM 18% TO 5% - ANTI PROFITEERING</u>

In RE: Hardcastle Restaurants Pvt. Ltd. 2018(19) GSTL 511(N.A.P.A.), the applicants filed complaints alleging that though the rate of GST on Restaurant Services had been reduced from 18% to 5% w.e.f. 15.11.2017, the respondent had increased the prices of the products which were being sold by him and had maintained the same price which he was charging before the above reductionfor which appropriate action should be taken against him.

The DGAP had called upon the respondent to submit reply on the allegation levelled by the Applicants No.1 to 4 and also to suo motu determine the quantum of benefit which he had not passed on to the consumers during the period between 15.11.2017 to 31.01.2018. The above Applicants were given an opportunity to inspect the non-confidential evidences/reply furnished by the respondent between 24.05.2018 to 25.05.2018. However, the Applicants did not avail of this opportunity.

The respondent had submitted his reply on 05.01.2018 vide Annexure-11 and denied the allegations levelled against him and claimed that the benefit of reduction in the rate of tax had been neutralized due to withdrawal of Input Tax Credit (ITC) to him. The respondent had furnished the required information/documents to the DGAP vide his letters dated 12.01.2018, 17.01.2018, 22.01.2018, 24.01.2018, 29.01.2018, 07.02.2018, 09.02.2018, 16.02.2018, 22.02.2018, 23.02.2018, 05.03.2018, 09.03.2018, 19.03.2018, 26.03.2018, 06.04.2018, 31.05.2018 and 01.06.2018.

The DGAP vide his Report has informed that the respondent had made the following contentions before him:—

a. That he was operating quick service restaurants under the brand name "McDonald's" in the Western and Southern regions of India and was registered as a supplier under the GST in 10 States. He had also stated that he was running three tiers of restaurants depending upon the locality, the targeted customers, local competition etc. and was selling the same items at different prices based on the tier of the restaurant.

b. That the rate of GST on the Restaurant Services was reduced to 5% w.e.f. 15.11.2017 with the condition that the ITC on the goods or services used in supplying the restaurant services would not be available. He has further stated that as per Section 33 of the CGST Act, 2017 the amount of tax formed part of the price. He has also claimed that the price lists of the food and the beverages published by him for each tier of restaurants clearly show that prior to 15.11.2017, the GST was being charged @ 18% and w.e.f. 15.11.2017 it had been levied @ 5% on the taxable value and thus, the commensurate benefit arising out of the reduction in the rate of tax had been passed on to the customers.

c. That the price revision made by him w.e.f. 15.11.2017 did not fall within the purview of Section 171 of the above Act as this provision applied in only those cases where the contract of supply/sale had been entered into prior to the change in the rate of tax or ITC. He has also claimed that any such change did not amount to automatic change in the price unless it was agreed to by both the parties as per Section 64 A of the Sale of Goods Act, 1930. He has further claimed that any attempt to regulate the sale price of the products being sold by him would violate his right to carry on trade as per Article 19 (1) (g) of the Constitution and the provisions of Section 171 were not similar to the laws framed for controlling prices as per List III of Schedule VII of the Constitution.

d. That the cost of food and beverages had gone up due to the abrupt denial of ITC which had constrained him to increase the base prices to negate this impact and such increase was also not commensurate with the increase in the costs. He has also contended that the cost of the restaurant services had gone up by at least 15%. He has further contended that he could not avail ITC worth Rs. 8.70 crores for the months of July to October, 2017 and could avail it only after 15.11.2017. He has also submitted that the quantum of ITC not shown in the GSTR 3B would increase from Rs. 8.70 crores to Rs. 9.33 crores and would further increase by 50 lakhs after all the inward supplies were accounted for which would prove that he had not profiteered. He has further contended that prices of some premium products had been reduced from 11% to 22%.

e. That the rent for the restaurants in the shopping malls was charged on fixed or variable or semi-variable basis which was approximately 3.5% of the incremental turnover and was payable at the end of the year and since the

bills for the same would be raised only at the year-end, he would not be eligible to claim ITC on such variable rent and he would suffer an estimated loss of Rs. 22.78 Lakhs.

f. That for the computation of availability of ITC, additional ITC for the period from July, 2017 to 14.11.2017 should be a minimum of Rs. 10 crores. The respondent has also claimed that the transitional credit mentioned in TRAN-1 statement filed by him was not the correct indicator of the tax incurred as (i) credit of CENVAT was not available on the Central Excise Duty, (ii) his restaurants were operating under the Composition Scheme under which ITC on VAT was not allowed (iii) expenses on Petroleum were outside the GST and (iv) most of the inputs were taxable at higher rates. He has further claimed that he had reversed the ITC on the closing stock as on 14.11.2017 amounting to Rs.4.18 crores and hence he should be given deemed credit for the opening stock as on 01.07.2017 of Rs.4.52 crores.

The DGAP has stated in his report that the contention of the respondent that provisions of Section 171 were not applicable in his case was not correct as they would be attracted as soon as there was reduction in the rate of tax or the benefit of ITC was available and they would not be dependent on whether the contract for supply was entered into before such reduction or availability of ITC had come into force and hence provisions of Section 64 A of the Sale of Goods Act, 1930 were not applicable. He has also stated that the argument of the respondent that the provisions of Section 171 amounted to controlling the prices and thus infringed his right to trade under Article 19 (1) (g) of the Constitution was also not correct as this Section nowhere provided for control on the prices and its mandate was limited to the extent of ensuring that the benefits of tax reduction and ITC were passed on to the consumers by way of commensurate reduction in the prices. The DGAP has further stated that the Central Govt, on the recommendation of the GST Council vide its Notification No. 26/2017-Central Tax (Rate), dated 14.11.20171 had reduced the rate of tax on restaurant services from 18% to 5% w.e.f. 15.11.2017 with the condition that the benefit of ITC would not be available on this service.

The DGAP has also submitted that the respondent was selling 1,844 products and after comparing the price lists published before and after 15.11.2017 when the rate of tax was reduced, which was indicated in Annexure-32, the respondent had increased the base price in respect of 1,774 (96.20%) products. He has further submitted that although the respondent had charged GST @ 5% on and after

15.11.2017 but due to increase in the base price the customers were forced to pay the same price which was being charged from them before 15.11.2017 whereas they should have been charged the lower price after commensurate reduction due to reduction in the rate of tax and hence they were denied the benefit which had become due to them.

The DGAP has made detailed calculation of profiteering vide Annexure-37 of his report. He has also compared the ITC which was available to the respondent till 14.11.2017 with the outward taxable supplies made till the above date. He has calculated the ITC from the period from 01.07.2017 to 31.10.2017 as the details of the closing stock as on 14.11.2017 and the ITC on such stock were not available in the GSTR-3B return of November, 2017 filed by the respondent. The DGAP has also intimated that date-wise outward taxable turnover was also not supplied by the respondent up to 14.11.2017. The DGAP while determining the ITC as a ratio of the total taxable turnover of the respondent has taken into account the ITC for the period from July, 2017 to October, 2017, as was shown in the GSTR-3B, which has been adjusted by adding the amount of ITC which was availed in the month of November, 2017 as per GSTR-3B return and by excluding the amount of tax which was paid on inter-unit branch transfers as per sale registers and the input tax credit pertaining to the period before July, 2017 which was availed during the period between July, 2017 to October, 2017 as per the GSTR-3B returns. The amount of ITC pertaining to the period before 01.07.2017 which was availed during July to October, 2017 was also excluded.

The DGAP has also mentioned that the respondent had claimed that the ITC of Rs.9.33 crores approx. availed in November, 2017 and subsequently was on account of the invoices issued during the period of July, 2017 to October, 2017 and for ITC of Rs.0.72 crore, the invoices were not in the possession of the respondent. The DGAP has intimated that out of the above claim, ITC of Rs.8.51 crores pertaining to the invoices issued from July, 2017 to October, 2017 which was availed during November, 2017, had been duly considered on the basis of the details submitted by the respondent. He has further intimated that the ITC amounting to Rs.1.54 crores, which had not been considered while calculating the ITC, was available to the respondent till 31.10.2017, comprised of: (i) ITC of Rs. 0.82 crore availed in December, 2017 and subsequently, (ii) estimated credit of Rs. 0.50 crore, invoices of which were not received by the respondent and ITC was not availed in November, 2017 as per GSTR-3B return and (iii) Rs. 0.22 crore on account of rent for which bills were to be raised in March, 2018.

The authority observed as under:

1. GST being charged on the Restaurant Services from 18% to 5% w.e.f. 15.11.2017 with the stipulation that the suppliers of these services would not be able to obtain benefit of ITC from the above date.

2. Section 171 obligates that in the event of any reduction in the rate of tax on any supply of goods or services, the benefit of ITC shall be passed on to the recipient by way of commensurate reduction in prices. Since there has been reduction in the rate of tax in respect of the above services as per the Notification dated 14.11.2017 the benefit of reduction was required to be passed on to the consumers.

3. Similarly, the benefit of ITC availed by the supplier was also to be passed on to the recipients. Mere charging of GST @ 5% w.e.f. 15.11.2017 does not amount to passing on the benefit of the above reduction as has been claimed by the respondent.

4. The contention of the respondent that the increase in the prices of food article, electricity, fuel, variable rent, royalty and commissions etc. was not considered by the DGAP while calculating the profiteered amount is untenable because the DGAP has mandate to only examine whether the benefit of tax reduction or ITC has been passed on or not.

5. The respondent has also tried to define 'profiteering' as a conduct or practice for making excessive profits. The present conduct of the respondent squarely falls in the definitions mentioned by the respondent himself as he had not only realised his usual margin of profit which he was charging but had also pocketed the amount which he was bound to pass on to his customers due to reduction in the rate of tax and benefit of ITC. The respondent must remember that the benefit of reduction in the rate of tax as well as the benefit of ITC have been given by the Central as well as the State Government by sacrificing their own revenue in favour of the general public and the respondent has no right to appropriate them.

6. The respondent has himself admitted that the DGAP had calculated the ratio of denial of ITC to total taxable turnover as 9.11% whereas it was 9.43% as per his own assessment and hence he had profiteered by 0.32% which demolishes his entire defence of having not profiteered. The amount of profiteering assessed by the DGAP cannot be described as miniscule as it has been earned by fleecing millions of customers.

7. The contention of the respondent that due to sudden denial of the ITC the prices were required to be revised as

there was significant change in the costs is absolutely wrong as the respondent had overnight increased the prices w.e.f. 15.11.2017 the day from which the rate of tax was reduced. Further, the increase was exactly equal to the amount by which the tax had been reduced and the same MRP which was being charged on 14.11.2017 was also charged on 15.11.2017.

8. A perusal of the documents further proves that the respondent had arbitrarily increased his prices without taking into account the audited financial statements and they were increased solely with the mala fide intention of appropriating the benefit which was to be passed on to the general public. The respondent has himself admitted that he had made net marginal gain of 2.81% and the total profiteering was to the tune of Rs.3,17,03,988/-. After this admission the respondent can hardly claim that the price increase was based on the audited statements.

9. The claim of the respondent that the calculation of profiteering has been done on aggregate or consolidated data and not in the absolute terms is wrong as this calculation has been done through a very comprehensive exercise carried out by the DGAP, the veracity of which cannot be challenged. The amount of Profiteering has been meticulously assessed on each and every product by the DGAP and therefore, the same can be fully relied upon. The calculation of ratio of denial of ITC has been worked out as 10.27% by the respondent in the Table submitted by him, however, the same cannot be accepted as it includes the ITC to which the respondent was not entitled and also the inter-unit branch transfers which have not been taken into account by the DGAP.

10. In view of the above discussion the quantum of denial of benefit due to the reduction in the rate of tax and the benefit of ITC availed by the respondent which was required to be passed on to the customers or the amount of profiteering done by the respondent is determined as Rs. 7,49,27,786/- as per the details mentioned in para 12 supra under the provisions of Rule 133 (1) of the CGST Rules, 2017 as the respondent has failed to pass on both the above benefits to his customers. The above amount is inclusive of the extra GST which the respondent had forced the customers to pay due to wrong increase in his basic prices otherwise the prices to be paid by them should have further got reduced by the amount of the GST illegally charged from them.

11. Depositing of the extra GST in the Govt, account cannot absolve the respondent of the allegation that he had compelled them to pay more price than what they should have paid and hence it amounts to denial of benefit under Section 171 of the above Act.

Hence, the authority passed the following order:

i. Respondent is directed to reduce his prices by way of commensurate reduction keeping in view the reduced rate of tax and the benefit of ITC which has been availed by him as per Rule 133 (3) (a).

ii. In view of the fact that the complainants are not identifiable in this case the respondent is further directed to deposit the above amount as per the provisions of Rule 133 (3) (c) in the ratio of 50:50 in the Central or the State CWFs of all the 10 States mentioned in para 12 above, along with the interest @ 18% till the same is deposited, within a period of 3 months.

iii. The concerned Central and State GST Commissioners are directed to ensure that the amount due is deposited by the respondent along with interest and in case the same is not deposited necessary steps shall be taken by them to get it recovered from the respondent as per the provisions of the CGST/SGST Acts under the supervision of the DGAP. They are further directed to submit report in compliance of this order within a period of 4 months.

iv. In view of the fact that the present investigation is only up to 31.01.2018, the DGAP is directed to investigate the quantum of denial of both the above benefits till the respondent reduces/ had reduced his prices commensurately and submit his Report.

v. A show-cause notice may be issued to the respondent to explain why penalty under the anti-profiteering provisions should not be imposed on him.

5. <u>SERVICE TAX – REVERSE CHARGE MECHANISM NOT APPLICABLE WHEN SUPPLIES ARE EXEMPTED FROM TAX</u>

In CCE& ST., Allahabad V. BalrampurChini Mills Ltd. 2018(19) GSTL 653(Tri.-All.), the assessee is registered with the Service Tax Department for the payment of service tax under the head of transport of goods by roads as also under Banking and other financial services. The adjudicating authority confirmed the demand, under reverse charge mechanism, on the 'External

Commercial Borrowings' (ECB) obtained from International Finance Corporation Washington, USA (hereinafter referred to as IFC) in term of approval granted by the Government of India/RBI for purchase of capital goods for their manufacturing plant for which they availed ECB from various Financial Institutions based abroad, which also had their branches/offices in India at Kolkata and who were discharging all their tax liabilities accordingly.

In confirming the demand, the adjudicating authority had denied the assessee'sdefence that IFC enjoys immunity from payment of any kind of tax and duty in India, under the provisions of International Finance Corporation (Status, Immunities and Privileges) Act, 1958. However, this demand was set aside by the Commissioner (Appeals). On further departmental appeal, the Tribunal observed as under:

1. Revenue has not disputed the fact that IFC enjoys immunity from payment of tax. Their only contention is that tax is not being confirmed against IFC but the confirmation is against the assessee, who is located in India.

2. In the ordinary course the tax liability is on the service provider and it is only when the services are obtained from abroad and service provider has no office in India, the tax liability gets shifted to the service recipient, who is required to pay the tax on reverse charge basis.

3. Although there is no obligation on the part of the service recipient to pay the tax but in case service is received from a foreign entity, not having any office in India, the service tax liability gets shifted to the service recipient on reverse charge basis. As such it is not the liability of service recipient but the liability of service provider which gets shifted to the service recipient on deemed basis.

4. Consequent to the above, it can be reasonably concluded that whatever was required to be paid by the service provider would get paid by the service recipient.

5. In case there is no liability on the service provider to pay the tax, the question of shifting any obligation on the service recipient will not arise.

Hence, the revenue's appeal was rejected.

6. <u>GST – ADVANCE RULING – LIAISON OFFICE IN INDIA FOR A GERMAN COMPANY – REIMBURSEMENT OF EXPENSES INCURRED FOR THEIR OPERATIONS IN INDIA FROM GERMAN OFFICE – EXPORT OF SERVICES</u>

In RE: Takko Holding GMBH 2018(19) GSTL 692(A.A.R.-GST), the applicant is a company incorporated in Germany and are permitted by RBI to have a Liaison Office of the company at a particular address in Tirupur, under certain conditions. Takko is not registered under GST. The applicant is permitted by RBI to conduct the following activities:

a. Representing the parent company/ group companies in India.

b. Promoting export import from/ to India.

c. Promoting technical/financial collaborations between parent/group companies and companies in India.

d. Acting as communication channel between the parent company and Indian companies (supplier of goods to parent company at Germany).

Out of the above activities allowed, the applicant is performing only the last activity. Except the proposed liaison work, the office in India, not to undertake any activity of trading, commercial or industrial nature nor they enter into any business contract in their own name without prior permission. No commission/ fees be charged or any other remuneration received/ income earned by the office in India for the liaison activities/services rendered by it in India.

An application for advance ruling was sought as to the following:-

a. Whether liaison office is liable to pay GST?

b. Whether a liaison office is required to be registered under GST Act?

c. Whether the Activities of a liaison office amount to supply of services?

The authority observed as under:

1. The applicant is a liaison Office of M/ s.Takko Holding GmbH, Germany with the prior permission of RBI. Liaison Activities include acting as communication channel between the parent company and Indian supplier of goods to parent company at Germany in terms of the procurement, order placement, quality checks, and technical support shipping of the Readymade garments for which the applicant receives no consideration from the suppliers.

2. The applicant would not undertake any other work in India, except this liaison work nor would they enter into any business contracts in its own name without RBI's prior permission.

3. There is no commission/fees being charged or any other remuneration being received/income being earned by the office in India for the liaison activities/services rendered by it.

4. The HO, reimburses the expenses incurred by Takko for their operations in India which are in the nature of salary, rent, security, electricity, travelling etc. They do not have any other source of income.

5. The liaison office is strictly prohibited to undertake any activity of trading, commercial or industrial nature or entering into any business contracts in its own name.

6. The applicant/liaison office is working as per the terms and conditions stipulated by RBI and the reimbursement of expenses & salary of employees are paid by M/s. Takko Holding Gmbh to the liaison office. No consideration for any activity is being charged by the liaison office and the liaison office does not have any business activity of its own as specified by RBI conditions.

7. Schedule I of the CGST Act specifies that supply of services between the related parties or distinct persons as per Section 25, even without consideration, constitute a supply.

8. The applicant is acting as an extension of the German Office in its procurement activities from suppliers in India as has been spelt out in the RBI permission letter consequent to which they are neither related nor distinct persons, but are in fact working as employees of the foreign office.

9. Accordingly, none of the liaison activities is covered under the definition of supply consequent to which the applicant would not be a supplier and, hence, hence would not be required to obtain registration under the GST laws.

Hence, the authority ruled as under:-

1. The liaison activities being undertaken by the applicant when strictly in line with condition specified by RBI permission letter do not amount to supply under CGST and SGST Acts.

2. The applicant is not liable to pay GST.

3. The Applicant is not required to get themselves registered under GST for the liaison activities.

(The author is a Chennai based Chartered Accountant. He can be reached at reachanandvis@gmail.com)

OUTCOME OF THE 31ST GST COUNCIL MEETING

CA. DEBASIS NAYAK

The 31st GST Council meeting was held on December 22, 2018. Being closure to an election year the council has provided for rate reduction for around 23 commonly used goods and services. Further, the Council has taken various decisions providing relief to the taxpayers in terms of simplification of annual return (GSTR-9) and Audit (GSTR-9C), extension of due date for furnishing various returns, clarity on taxation of EPC contracts, formation of Centralised Appellate Authority for Advance Ruling, waiving of penalty and availment of ITC in relations to invoices for FY 2017-18 till due date of furnishing GSTR-3B for March 2019. A very welcome move by the Government towards ease of doing business.

A. Tax Rate Rationalization

(Relevant Notification No. 24/2018-Central Tax (Rate), 25/2018-Central Tax (Rate), 27/2018-Central Tax (Rate))

- Tax rate on Pulleys, transmission shafts and cranks, gearboxes etc., falling under HS Code 8483 reduced to 18% from 28%.

- Other than cement, automobile parts, and luxury/ sin products, tax rate on most items currently under 28% slab has been reduced to 18%. This include monitors and TVs of upto 32 inches, power banks of lithium ion batteries, digital cameras, video camera recorder, video game consoles and used tyres. There are only 28 items left on the 28% percent category now.

- In relation to EPC contracts of Solar Power Generating plant and other renewal energy plant, it has been held that where specified goods attracting 5% GST rate are supplied along with services/ goods attracting higher rate, 70% of aggregate value of such EPC contract shall be deemed to be value of supply of goods attracting 5% GST rate and remaining 30% value shall be deemed as value of services attracting standard GST rate.

- For cinema tickets priced above INR 100, GST rate has been slashed from 28% to 18% and from 18% to 12% for tickets priced upto INR 100.

- Tax rate on third party insurance premium of goods carrying vehicles reduced to 12% from 18%

Key clarification vide Circular No. 80/54/2018-GST regarding GST rate and classification

Product	HSN	GST Rate
Chhatua or Sattu	1106	• Unbranded, - NIL GST • Branded and packed it will attract 5% GST
Fish meal and other raw materials used for making cattle/poultry/aquatic Feed	2301	It will attract 5% GST (Sl.No. 103 of Notification No. 1/2017-CT (Rate).
Liquefied Petroleum Gas for Domestic Use	2711 12 00, 2711 13 00, 2711 19 00	LPG supplied in bulk, • refiner/fractionator to an OMC or • by one OMC to another for bottling and further supply for domestic use will attract 5% GST
GST on supply of Polypropylene Woven and NonWoven Bags and PP Woven and Non -Woven Bags laminated with BOPP	3923	It would attract 18% GST. However, Non -laminated woven bag s would be classified as per their constituting materials.
GST on supply of wood logs for pulping:	4403	It would attract 18% GST
Supply of Bagasse based laminated particle board:	Chapter 44	It would attract 12% GST
Supply of Waste to Energy Plant	84,85 and 94	GST Rate of 5% would be available only to such machinery, equipment etc., which fall under Chapter 84, 85 and 94 and used in the initial setting up of renewable energy plants and devices including WTEP. This ent ry does not cover goods falling under other chapters, say a transport vehicle falling under Chapter 87 that may be used for movement of waste to WTEP.
GST on supply of Turbo Charger for railways	8414 80 30	It would attract 18% GST

GST on supply of cranes, rigs, tools & Spares and other machinery when moved from one state to another by a person on his account for their use for supply of service		It has been clarified that there is no transfer of title in goods /transfer of goods to a distinct person by way of stock transfer and hence it would not constitute a supply and would not be liable to GST

B. Annual Return and GST Audit (GSTR-9 and 9C)

(Relevant Notification No. 74/2018-Central Tax dated 31.12.2018)

- All returns in FORM GSTR-1 and FORM GSTR-3B have to be filed before filing of annual return and audit report.

- HSN code may be declared only for those inward supplies whose value independently accounts for 10% or more of the total value of inward supplies.

- All invoices pertaining to previous FY (irrespective of month in which such invoice is reported in FORM GSTR-1) would be auto-populated in the Annual return.

- Additional payments, if any, required to be paid can be done through FORM GST DRC-03 only in cash.

- ITC cannot be availed through FORM GSTR-9 & FORM GSTR-9C.

- Amendment of headings in the forms to specify that the return would be in respect of supplies etc. 'made during the year' and not 'as declared in returns filed during the year'.

- Value of "non-GST supply" shall also include the value of "no supply".

- Verification by taxpayer who is uploading reconciliation statement would be included in FORM GSTR-9C.

C. Input tax credit

(Relevant Removal of Difficulty Order No. 02/2018-Central Tax dated 31st December 2018)

- ITC in relation to invoices issued by the supplier during FY 2017-18 may be availed by the recipient till the due date for furnishing of FORM GSTR-3B for the month of March 2019 i.e. 20 April 2019, subject to specified conditions.

D. Changes in the Central Goods and Services Tax Rules, 2017

(Relevant Notification No. 74/2018-Central Tax dated 31st December 2018)

Sl. No.	Description	Brief Content
1	TDS/TCS Registration	A person applying for TCS registration in a state where he does not have physical presence shall mention ❖ Part-A of GST REG-07: Name of the state in which he intends to take registration ❖ Part B of GST REG-07: Name of the state in which principal place of business is located.
2	Job Worker	Details of goods sent by one job worker to another is not required to be reported in ITC-04.
3	Electronic Invoice	Signature or digital signature is not required on electronically issued invoice or Bill of Supply so long as such invoice is issued in accordance with the provisions of the Information Technology Act, 2000.
4	Refund	Departure Manifest shall also be considered as an application of refund
5	Audit u/s 65 of CGST Act, 2017	Part of the year shall also be considered for audit.
6	E-Way Bill	Taxpayers who have not filed the returns for two consecutive tax periods shall be restricted from generating e-way bills

E. Reverse Charge Mechanism

(Relevant Notification Number - 29/2018-Central Tax (Rate) dated 31st December 2018)

- The aforesaid notification has winded the scope of services which are taxable in the hands of recipient

Nature of Service	Service Provider	Person liable to pay tax
Business facilitating services	Business Facilitator (BF)	A banking company, located in the taxable territory
Services provided by the agent of business correspondent to business correspondent	An agent of business correspondent (BC)	A business correspondent, located in the taxable territory
Security services (supply of security personnel) provided to a registered person *{In following specified categories of recipient of services, liability continues to be on the service providers only under forward charge-* *(1) Persons registered for TDS* *- Department/establishment of CG, SG or UT* *- Local authority* *- Government agencies* *When above authorities have taken registration only for the purpose of TDS but not for making taxable supplies* *(2) Persons registered under composition scheme}*	Any person other than a body corporate	A registered person, located in the taxable territory

F. Extension of Due Date for filing of various returns

Notification/Circular /order	Description	Old date of filing	Revised date of filing
78/2017-Central Tax dated 31.12.2018	ITC-04 (details of goods sent to job worker and received from job worker)	31st December 2018 (For the period July 2017 to September 2018)	31st March 2019 (For the period July 2017 to December 2018)
Order No 3/2018-Central Tax dated 31.12.2018	Filing of Annual Return (GSTR-9)	31st March 2019	30th June 2019
Order No 4/2018-Central Tax dated 31.12.2018	E-Commerce Operator (GSTR-8)	10th day after the end of the respective month	31st Janurary 2019 (For the period October to December 2018)

G. Complete waiver of Late Fees

Notification No	Particular	Period of waiver	Condition
75/2018-Central Tax dated 31.12.2018	Registered person who failed to file return in form GSTR-1	July'2017 to September'2018	Return should be filed between 22nd December 2018 to 31st March 2019
76/2018-Central Tax dated 31.12.2018	Registered persons who failed to file return in Form GSTR 3B		
77/2018-Central Tax dated 31.12.2018	Registered persons who failed to file return in Form GSTR 4		

H. Summary of the relevant circulars

Circular No	Issue	Clarification
76/50/2018-GST dated 31.12.2018 – Clarification on certain issues	Whether supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by the government department is taxable?	1. Supply to registered person – Taxable under reverse charge 2. Supply to unregistered person – Taxable under forward charge and government department shall pay tax.
	Whether penalty in accordance with Section 73(11) of the CGST Act should be levied in cases where the return in Form GSTR-3B has been filed after the due date of filing the return?	As per provisions of section 73(11) of the CGST Act penalty is not payable in such cases but penalty under section 125 of the CGST Act may be imposed after following the due process of law.
	In case a debit note or credit note is required to be issued under section 142(2)(a) and 142(2)(b) of the CGST Act then what will be the tax rate	It is clarified that in case of revision of price after the appointed day for the supply made before the appointed day, the rate as per GST Act would apply.
	What is the correct valuation methodology for ascertainment of GST on Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961?	It is clarified that as per the provisions of Section 52 of CGST Act, taxable value for the purposes of GST shall include the TCS amount collected under the provisions of the Income Tax Act since value to be paid to the supplier by the buyer is inclusive of the said TCS.
	Who will be considered as the "owner of the goods" for the purposes of section 129(1) of the CGST Act?	1. If the invoice or any other specified document is accompanying the consignment of goods – Either consigner or consignee 2. If the invoice or any other specified document is accompanying the consignment of goods – Proper Officer shall determine the owner of goods

77/51/2018-GST dated 31.12.2018 – Withdrawal of composition scheme	What will be the effect date of withdrawal of composition scheme in case of voluntary withdrawal or tax authorities has initiated the withdrawal	1. Voluntary Withdrawal - when the taxpayer has actually filed the application in FORM GST CMP-04 2. Tax authorities initiated the withdrawal- date determined by tax authorities but such date shall not be prior to the date of contravention of the provisions of CGST Rules or the CGST Act.
78/52/2018-GST dated 31.12.2018 – Clarification on Export of Services	In case an exporter of services outsources a portion of the services contract to another person located outside India, what would be the tax treatment of the said portion of the contract at the hands of the exporter? There may be instances where the full consideration for the outsourced services is not received by the exporter in India.	1. Supplier of services located in India would be liable to pay IGST on reverse charge basis on the import of services on that portion of services which has been provided by the supplier located outside India to the recipient of services located outside India & the said supplier of services located in India would be eligible for taking ITC of the IGST so paid. 2. Even if the full consideration for the services is not received in forex in India, *that portion of the consideration* shall also be treated as **receipt of consideration** *for export of services if* a) IGST has been paid by importer b) RBI has given the permission

79/53/2018-GST dated 31.12.2018 – Clarification on refund related issues	Physical submission of refund claims with jurisdictional proper Officer	No physical documentation required. However, if the taxpayer wants to submit documents physically, he has an option to do so.
	In case of Inverted duty structure refund departmental officers are denying the refund of ITC of GST paid on those inputs which are procured at equal or lower rate of GST than the rate of GST on outward supply, by not including the amount of such ITC while calculating the maximum refund amount	Where there are multiple inputs attracting different rates of tax then, the term "Net ITC" provided in rule 89(5) of the CGST Rules covers the ITC availed on all inputs in the relevant period, **irrespective of their rate of tax.**
	Refund of accumulated ITC of **input services and capital goods arising on account of inverted duty structure**	The definition of Inputs does not include input services and capital goods. Therefore, intention of the law is not to allow refund of input service and capital goods.
	Disbursal of refund amounts after sanction	If any tax **ordered to be refunded** is not refunded within 60 days from the date of receipt of application then interest @ 6% has to be paid to claimant from the date immediately after the expiry of 60 days.
	Refund applications that have been generated on the portal but not physically received in the jurisdictional tax offices	1. E-mail communication would be sent to the registered e-mail ID of the claimant containing the information on where to submit the refund application. 2. Where applications are not submitted within 15 days from the date of e-mail, refund application would be rejected and debited amount would be re-credited.

	Non-consideration of ITC of GST paid on invoices of earlier tax period availed in subsequent tax period	It is clarified that the input tax credit of invoices issued in say August'2017, "availed" in subsequent month, say, September 2017 cannot be excluded from the calculation of the refund amount for the month of September'2017.
	Misinterpretation of the meaning of the term "inputs" Denial of ITC by department on stores and spares, packing materials, materials purchased for machinery repairs, printing and stationery items, as part of Net ITC on the grounds that these are not directly consumed in the manufacturing process and therefore, do not qualify as input	GST paid on inward supplies of stores and spares, packing materials etc. shall be available as ITC. Further, capital goods have been clearly defined as goods whose value has been capitalized in the books of account and which are used or intended to be used in the course or furtherance of business. Stores and spares, the expenditure on which has been charged as a revenue expense in the books of account, cannot be held to be capital goods.
81/55/2018-GST dated 31.12.2018 – GST rate clarification	GST rate on Sprinklers, drip irrigation system including laterals	It would be taxable at 12% rate.
84/03/2019-GST dated 01.01.2019 - Classification	Whether service of printing of pictures would be classified under 998386 or 998912	Service of "printing of pictures" falls under service code "998386 and attract 18% GST.
85/04/2019-GST dated 01.01.2019 – Clarification on supply of food by educational institute	GST rate applicable on supply of food and beverage services by educational institution	1. Supply of food and beverage services provided by an educational institution to its students, faculty and staff are exempt 2. Supply of food and beverage services provided by an any person other than the Educational institutions based on a contractual arrangement with such institution is leviable to GST@ 5%.

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ALL ABOUT VOLUNTARY LIQUIDATION UNDER THE INSOLVENCY AND BANKRUPTCY CODE 2016

CA. C.S. DHANAPAL

Section 59 of Chapter V, Part II of the Insolvency and Bankruptcy Code, 2016 read with its regulations, namely, Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 contains the provisions which provide for the Voluntary Liquidation of "corporate persons". These provisions came into force from 01st April, 2017.

The term "Corporate Person" includes a Company, a Limited Liability Partnership or any other person incorporated with limited liability under any law for the time being in force. It is not necessary that the corporate person should be a corporate debtor, i.e. it should owe money to any creditor, for initiation of voluntary liquidation.

This mode of Liquidation (voluntary) differs from the other mode of liquidation which takes place by order of the NCLT which is dealt with in Chapter III of Part II of Code and that deals with the liquidation of "Corporate Debtors" (a corporate person who owes a debt to any person) by order of NCLT. In effect, owing of debt and default of its repayment is a pre condition and mandatory for initiation of liquidation proceedings by order of the NCLT under Chapter III of Part II of Code, whereas 'no default' is the pre-requisite for voluntary liquidation.

MODES OF LIQUIDATION OF CORPORATE PERSONS

With regard to the procedural requirements, the provisions of sections 35 to 53 of the Code shall also apply to voluntary liquidation proceedings of corporate persons in the same manner as it applies for liquidation by order of NCLT under Chapter III of Part II of Code, with such modifications as may be necessary and with such other conditions as may be prescribed by the Board. The offences and penalties prescribed under Chapter VII of Part II shall also apply to the voluntary liquidation proceedings with such modifications as may be necessary.

NOW LET US UNDERSTAND THE PROCEDURES IN TABLE FORMAT

PROCEDURES IN TABLE FORMAT

Act/Section	Particular	
In due compliance with the provisions of Companies Act, 2013 and The Insolvency and Bankruptcy Code 2016 (in case of company)	CONVENING OF BOARD MEETING FOR	The Corporate person should be solvent before making application for the voluntary liquidation
	1. approving voluntary winding up of the Corporate person subject to the approval of members at general meeting	
	2. approving appointment of liquidator and his remuneration subject to the approval of members at general meeting;	
	3. fixing date and time for the general meeting;	
	4. Authorising liquidators to operate Corporate person's account	
Sec 59 (3) (a) of the Code 2016	Declaration of solvency duly verified by an affidavit is to be provided by the majority of directors/ designated partners, as the case may be, at the BM of the corporate person.	Date of DoS will be the same as the date of Board meeting
	DoS shall be accompanied by	
	* audited financial statements and record of business operations of the /corporate person for the previous two years or for the period since its incorporation, whichever is later;	
	* a report of the valuation of the assets of the corporate person, if any, prepared by a registered valuer;	
59 (3) (c) of the Code	Filing of the above declaration along with audited accounts, report of the auditors with the Registrar within 4 weeks immediately preceeding the date of passing SR in the general meeting	
	Sending of notice of EGM to all the members/designated partners, directors	Voluntary liquidation shall be deemed to have been commenced from the date of passing of SR.

	Holding of general meeting and passing SR therein	Only an Insolvency professional can be appointed as a Liquidator.
	1.for winding up and	Remuneration due to Liquidator shall form part of Liquidation Cost.
Sec 59 (3) (c) of the Code	2. for appointment of liquidator (fixing his remuneration too)	
	In case the Corporate Person owes any debt to any person:	
Proviso to Section 59 (3) of the Code	Take NOC from the creditors representing 2/3rd of the value of debt of the Corporate person or pass special resolution at a duly convened meeting, within 7 days from the date of passing of SR.	
		Announcement shall be published in
	Liquidator to make public announcement in Form A of Schedule I within 5 days of his appointment inviting stakeholders to submit their claims due to the Corporate person within 30 days from the date of application.	i) English and Regional Language Newspapers;
		ii) On the website of the Company, if any;
Regulation 14 of the Liquidation Regulation		iii) On the website designated by the Board.
Section 59 (4) of the Code	Intimation of the Resolution passed by the Corporate person to the Registrar and to the IBBI within 7 days of passing of SR.	
Regulation 34 of the liquidation Regulation	Liquidator to open a bank account in the name of the corporate person followed by word "in voluntary liquidation" in a scheduled bank, for receiving all moneys due to the corporate person and for meeting all the liquidation cost	The money in the credit of the bank account shall not be used for any purpose except as mentioned in section 53 (1) of the Code.

Rule 14 (2) of the liquidation Rule	Last date of receiving statement of claim	Claimant shall bear cost of proving the claim;
	(Operational Creditors to submit their claim in Form B;	Cost incurred by liquidator for verifying the claim shall form part of the liquidation cost.
	Financial Creditors to submit their claims in Form C;	
	Workmen and Employees to submit their claim in Form D; In case of numerous employees claims to be submitted in Form E;	
	For Other Stakeholders in Form F)	
Rule 9 of the Liquidation Rules	Liquidator to submit Preliminary report detailing:	
	a) the Capital structure of the Corporate Person;	
	b) the estimates of its assets and liabilities as on liquidation commencement date based on the books of the Corporate Person.	
	C) whether he intends to make any further inquiry into any matter relating to the Corporate Person or to the conduct of the business thereof;	
	d) proposed plan of action for carrying out the liquidation (including the timeline within which he proposes to carry out the process and the estimated liquidation cost).	

Regulation 30 of the Liquidation Regulation	Liquidator shall prepare a list of stakeholder on the basis of the proof of claims submitted and accepted with the following columns as may be applicable: i) Amount of claim admitted; ii) the extent of dues to which the debts dues are secured or unsecured; iii) the details of stakeholders; iv) proof admitted or rejected in part or proof rejected fully. Within 45 days from the last date of receipt of claim	The list of stakeholders shall be displayed on the website of the Corporate person and on the website of the Board.
Regulation 35 of the liquidation Regulation	Liquidator to realise all the assets of the corporate person and shall deduct the liquidation cost from the said realisation and after deducting the liquidation cost, shall distribute the realisation among the stakeholders, within 6 month of receipt of the receipt of claim from the stakeholders	Assets which are of a peculiar nature can be distributed by the liquidator among the stakeholders with the prior approval of the corporate person.
Regulation 37 of the liquidation Regulation	Liquidator to complete the liquidation process within 12 months from the date of commencement of liquidation process	
Regulation 37 of the Liquidation Regulation	In case the liquidation process continues for more than a year: the liquidator shall a. call a meeting of the contributories of the corporate person within fifteen days from the end of the year in which he is appointed, and at the end of each succeeding year; and b. present a Annual Status Report(s) indicating progress in liquidation a including-	

	(i) settlement of list of stakeholders,	
	(ii) details of any assets that remains to be sold and realized,	
	(iii) distribution made to the stakeholders, and	
	(iv) distribution of unsold assets made to the stakeholders;	
	(v) developments in any material litigation, by or against the corporate person; and	
	(vi) filing of, and developments in applications for avoidance of transactions in accordance with Chapter III of Part II of the Code. Annual Status Report shall enclose the audited accounts of the liquidation	
	On completion of the liquidation process, the liquidator shall prepare the Final Report consisting of	
	a) audited accounts of liquidation, showing receipts and payments pertaining to liquidation since its commencement;	
	b) statement demonstrating that assets of the corporate person are disposed off, debts are satisfied and no litigation is pending against the corporate person	
Regulation 38 of the Liquidation Regulation	c) A sale statement in respect of all assets realised.	
Regulation 38 of the Liquidation Regulation	Liquidator to submit final report to the IBBI and to the Registrar	
Section 59 (7) of the Code	Liquidator shall make application to the NCLT for dissolution of Corporate Person	
Section 59 (8) of the Code	On receipt of the application, NCLT shall pass an order that the corporate person shall be dissolved from the date of order	
Section 59 (9) of the Code	Within 14 days of the order, copy of order shall be forwarded to the authority with which the corporate person is registered.	

As discussed above, the company may resort to voluntary liquidation under the provisions of the Insolvency and Bankruptcy Code 2016 to initiate the process of voluntary liquidation to liquidate and dissolve the company from its legal existence.

(The author is a Chennai based Company Secretary. He can be reached at csdhanapal@gmail.com).

EXCEL TIPS

CA DUNGAR CHAND U JAIN

RANK.AVG function

Returns the rank of a number in a list of numbers: its size relative to other values in the list; if more than one value has the same rank, the average rank is returned.

Syntax

RANK.AVG (number, ref, [order])

The RANK.AVG function syntax has the following arguments::

- **Number** Required. The number whose rank you want to find.
- **Ref** Required. An array of, or a reference to, a list of numbers. Nonnumeric values in Ref are ignored.
- **Order** Optional. A number specifying how to rank number.

Remarks:

- If Order is 0 (zero) or omitted, Excel ranks number as if ref were a list sorted in descending order.
- If Order is any nonzero value, Excel ranks number as if ref were a list sorted in ascending order.

Example 1 :

	A	B	C	D	E	F
1	Number	Rank	Formula Used		Rank Average	Formula Used
2	1400	4	=RANK(A2,$A$2:$A$32,0)		4.5	=RANK.AVG(A2,$A$2:$A$32,0)
3	407	22	=RANK(A3,$A$2:$A$32,0)		22	=RANK.AVG(A3,$A$2:$A$32,0)
4	166	28	=RANK(A4,$A$2:$A$32,0)		28	=RANK.AVG(A4,$A$2:$A$32,0)
5	1106	7	=RANK(A5,$A$2:$A$32,0)		7	=RANK.AVG(A5,$A$2:$A$32,0)
6	1203	6	=RANK(A6,$A$2:$A$32,0)		6	=RANK.AVG(A6,$A$2:$A$32,0)
7	234	25	=RANK(A7,$A$2:$A$32,0)		25	=RANK.AVG(A7,$A$2:$A$32,0)
8	1400	4	=RANK(A8,$A$2:$A$32,0)		4.5	=RANK.AVG(A8,$A$2:$A$32,0)
9	1585	1	=RANK(A9,$A$2:$A$32,0)		1	=RANK.AVG(A9,$A$2:$A$32,0)
10	1445	3	=RANK(A10,$A$2:$A$32,0)		3	=RANK.AVG(A10,$A$2:$A$32,0)
11	626	14	=RANK(A11,$A$2:$A$32,0)		14	=RANK.AVG(A11,$A$2:$A$32,0)
12	1485	2	=RANK(A12,$A$2:$A$32,0)		2	=RANK.AVG(A12,$A$2:$A$32,0)
13	124	30	=RANK(A13,$A$2:$A$32,0)		30	=RANK.AVG(A13,$A$2:$A$32,0)
14	655	13	=RANK(A14,$A$2:$A$32,0)		13	=RANK.AVG(A14,$A$2:$A$32,0)
15	191	27	=RANK(A15,$A$2:$A$32,0)		27	=RANK.AVG(A15,$A$2:$A$32,0)
16	574	17	=RANK(A16,$A$2:$A$32,0)		17	=RANK.AVG(A16,$A$2:$A$32,0)
17	203	26	=RANK(A17,$A$2:$A$32,0)		26	=RANK.AVG(A17,$A$2:$A$32,0)
18	992	9	=RANK(A18,$A$2:$A$32,0)		9	=RANK.AVG(A18,$A$2:$A$32,0)
19	1020	8	=RANK(A19,$A$2:$A$32,0)		8	=RANK.AVG(A19,$A$2:$A$32,0)
20	916	10	=RANK(A20,$A$2:$A$32,0)		10	=RANK.AVG(A20,$A$2:$A$32,0)
21	74	31	=RANK(A21,$A$2:$A$32,0)		31	=RANK.AVG(A21,$A$2:$A$32,0)
22	565	18	=RANK(A22,$A$2:$A$32,0)		18	=RANK.AVG(A22,$A$2:$A$32,0)
23	612	15	=RANK(A23,$A$2:$A$32,0)		15	=RANK.AVG(A23,$A$2:$A$32,0)
24	132	29	=RANK(A24,$A$2:$A$32,0)		29	=RANK.AVG(A24,$A$2:$A$32,0)
25	901	12	=RANK(A25,$A$2:$A$32,0)		12	=RANK.AVG(A25,$A$2:$A$32,0)
26	420	21	=RANK(A26,$A$2:$A$32,0)		21	=RANK.AVG(A26,$A$2:$A$32,0)
27	476	20	=RANK(A27,$A$2:$A$32,0)		20	=RANK.AVG(A27,$A$2:$A$32,0)
28	581	16	=RANK(A28,$A$2:$A$32,0)		16	=RANK.AVG(A28,$A$2:$A$32,0)
29	369	23	=RANK(A29,$A$2:$A$32,0)		23	=RANK.AVG(A29,$A$2:$A$32,0)
30	903	11	=RANK(A30,$A$2:$A$32,0)		11	=RANK.AVG(A30,$A$2:$A$32,0)
31	239	24	=RANK(A31,$A$2:$A$32,0)		24	=RANK.AVG(A31,$A$2:$A$32,0)
32	508	19	=RANK(A32,$A$2:$A$32,0)		19	=RANK.AVG(A32,$A$2:$A$32,0)
33						

The difference between RANK function and RANK.AVG function is evident from the above example that where there are same values available, RANK function provides the same rank twice whereas the RANK.AVG function provides the average of the two.

In other words, RANK function compares the number to its position in the list and it skips values by giving each duplicate a rank, whereas RANK.AVG finds the average for them.

It is worth noting that Excel does not average the 2 numbers, but the Rank positions.

Average of 4 and 4 is 4, not 4.5, so what is the function averaging?

RANK.AVG () doesn't average the ranked results, but the ranked positions. In the case of value 1400, that would be 4 and 5; the average of 4 and 5 is 4.5.

Example 2:

Assuming there are 1400 appearing four times representing Rank positions 4,5,6 and 7 then RANK.AVG() returns 5.5, the average of 4, 5, 6, and 7.

	A	B	C	D	E	F
1	Number	Rank	Formula Used		Rank Average	Formula Used
2	1400	4	=RANK(A2,$A$2:$A$32,0)		4.5	=RANK.AVG(A2,$A$2:$A$32,0)
3	407	22	=RANK(A3,$A$2:$A$32,0)		22	=RANK.AVG(A3,$A$2:$A$32,0)
4	166	28	=RANK(A4,$A$2:$A$32,0)		28	=RANK.AVG(A4,$A$2:$A$32,0)
5	1106	7	=RANK(A5,$A$2:$A$32,0)		7	=RANK.AVG(A5,$A$2:$A$32,0)
6	1203	6	=RANK(A6,$A$2:$A$32,0)		6	=RANK.AVG(A6,$A$2:$A$32,0)
7	234	25	=RANK(A7,$A$2:$A$32,0)		25	=RANK.AVG(A7,$A$2:$A$32,0)
8	1400	4	=RANK(A8,$A$2:$A$32,0)		4.5	=RANK.AVG(A8,$A$2:$A$32,0)
9	1585	1	=RANK(A9,$A$2:$A$32,0)		1	=RANK.AVG(A9,$A$2:$A$32,0)
10	1445	3	=RANK(A10,$A$2:$A$32,0)		3	=RANK.AVG(A10,$A$2:$A$32,0)
11	626	14	=RANK(A11,$A$2:$A$32,0)		14	=RANK.AVG(A11,$A$2:$A$32,0)
12	1485	2	=RANK(A12,$A$2:$A$32,0)		2	=RANK.AVG(A12,$A$2:$A$32,0)
13	124	30	=RANK(A13,$A$2:$A$32,0)		30	=RANK.AVG(A13,$A$2:$A$32,0)
14	655	13	=RANK(A14,$A$2:$A$32,0)		13	=RANK.AVG(A14,$A$2:$A$32,0)
15	191	27	=RANK(A15,$A$2:$A$32,0)		27	=RANK.AVG(A15,$A$2:$A$32,0)
16	574	17	=RANK(A16,$A$2:$A$32,0)		17	=RANK.AVG(A16,$A$2:$A$32,0)
17	203	26	=RANK(A17,$A$2:$A$32,0)		26	=RANK.AVG(A17,$A$2:$A$32,0)
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19	1020	8	=RANK(A19,$A$2:$A$32,0)		8	=RANK.AVG(A19,$A$2:$A$32,0)
20	916	10	=RANK(A20,$A$2:$A$32,0)		10	=RANK.AVG(A20,$A$2:$A$32,0)
21	74	31	=RANK(A21,$A$2:$A$32,0)		31	=RANK.AVG(A21,$A$2:$A$32,0)
22	565	18	=RANK(A22,$A$2:$A$32,0)		18	=RANK.AVG(A22,$A$2:$A$32,0)
23	612	15	=RANK(A23,$A$2:$A$32,0)		15	=RANK.AVG(A23,$A$2:$A$32,0)
24	132	29	=RANK(A24,$A$2:$A$32,0)		29	=RANK.AVG(A24,$A$2:$A$32,0)
25	901	12	=RANK(A25,$A$2:$A$32,0)		12	=RANK.AVG(A25,$A$2:$A$32,0)
26	420	21	=RANK(A26,$A$2:$A$32,0)		21	=RANK.AVG(A26,$A$2:$A$32,0)
27	476	20	=RANK(A27,$A$2:$A$32,0)		20	=RANK.AVG(A27,$A$2:$A$32,0)
28	581	16	=RANK(A28,$A$2:$A$32,0)		16	=RANK.AVG(A28,$A$2:$A$32,0)
29	369	23	=RANK(A29,$A$2:$A$32,0)		23	=RANK.AVG(A29,$A$2:$A$32,0)
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32	508	19	=RANK(A32,$A$2:$A$32,0)		19	=RANK.AVG(A32,$A$2:$A$32,0)
33						

Note:

1. Common Error

N/A - Occurs if the supplied **number** is not present within the supplied **ref.**
(Note that the Rank.Avg function does not recognise text representations of numbers as numeric values, so you will also get the #N/A error if the values in the supplied **ref** array are text values).

2. Version

The Rank.Avg function is available from version Excel 2010 and onwards.

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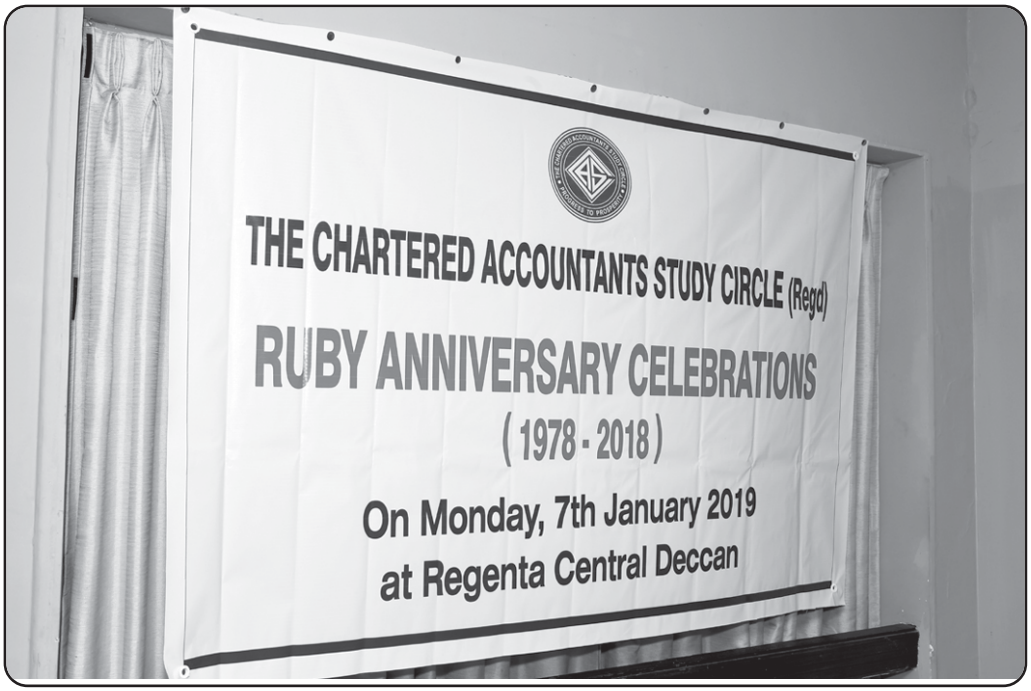
GLIMPSES FROM RUBY JUBILEE CELEBRATIONS



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