



CASC

BULLETIN

THE CHARTERED ACCOUNTANTS STUDY CIRCLE

Prince Arcade, 2-L, Rear Block, Second Floor,
22-A, Cathedral Road (Next to Stella Maris College)
Chennai - 600 086. Phone : 044 - 28114283
Website : www.casconline.org

Volume 58

Issue 10

Monthly

January 2019

Rs.25/-

INDEX

Subject	Author	Page No.
Recent Judgments in VAT CST GST	CA. V.V. Sampathkumar	6
GST - Advance Rulings Case Laws	CA. Vijay Anand	12
Summary of Recent Case laws in Service Tax, Central Excise and Customs	CA. Debasis Nayak	25
Impact of Companies (Amendment) Ordinance, 2018	CA. C.S. Dhanapal	31
Frequently-Asked Questions (FAQs)		36
Excel Tips	CA. Dungarchand U Jain	45
Decisions, In-Principle Approval & Recommendations of 31st GST Council Meeting held on 22nd December, 2018	CA. Ganeshprabhu	48
CC Elected Members List		53
RC Elected Members List		54

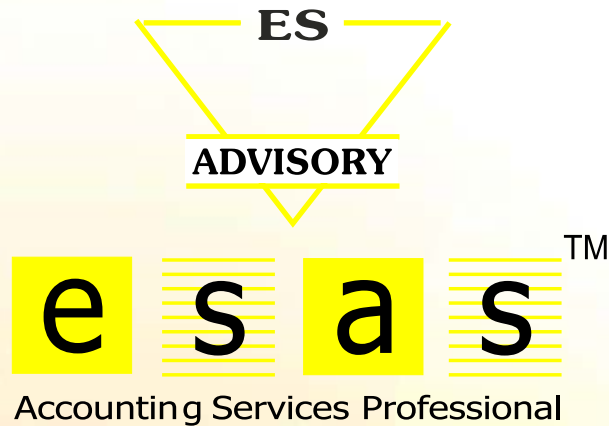
MEETINGS

Date	Time	Speaker	Topic
10.01.2019 Thursday	06.30 p.m.	CA. S. Seetharaman	31st GST Council Decisions - Impact Analysis & Way Forward

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

CASC Annual Members are requested to renew their
subscription for 2018 - 2019

THE MONTHLY MAGAZINE FROM CASC



Accounting Advisory Services & One Stop Financial Solution.,

For all your esteemed Client Needs

ACCOUNTING SERVICES IN TALLY

Along with
Statutory Compliances

At Your Business Premises

(or)

In our Back office support

Contact : **U. Elango, CEO**
H / P : 98410 20581, 98416 20581
Tel : 044 26184581 / 26184582
Direct : 044 26186537
E-mail : esasbpo@gmail.com, esaskpo@gmail.com
Address : No 24/20, Thirumangalam Road, Villivakkam,
Chennai - 600 049.
(Near IOB Kambar Colony Branch)

ICAI Elections :

The marathon run which commenced with Notification of the elections, to the Central Council as well as the Regional Councils, on 6th September, 2018 has come to conclusion in the same year that is by December, 2018. It saw many instances for the first time. To start with this election saw for the first time counting centers were formed in the respective regions. It is the first time that the Notification of the election result for the Central Council has been done vide Notification dated 24th December, 2018 as well as Gazette Notification (No. 54-EL(1)/15/2018 dated 24th December, 2018). By the time this editorial has been penned the counting of votes for four out of five regions were completed and the result for the WIRC was in progress. In all probability the same would be complete and Notification would come out before the year end. This may be first time in recent times wherein the election Notification as well as Election Result Notification has been made in the same year.

In the southern region at least may be for the first time there were lesser disturbance, if one is allowed to use the word, by way of unsolicited sms. However, the use of social media, to the great extent, whatsapp was used. This time there was lot of challenges for the candidates as almost most of the period between the election notification and polling date was taken away by the extended dates of professional commitments.

In our region the overall polling percentage is not encouraging as could be seen from the below table

ICAI Elections 2018 [Souther Region]					
Update as of 15th Dec 2018 @ 8.00 p.m. [from ICAI Portal for Elections]					
State	Booth Region	Total_Voters	Voted	Not Yet Voted	Voted %
TAMIL NADU		17,292	7,436	9,856	43.0%
KARNATAKA		15,021	4,958	10,063	33.0%
TELANGANA	HYDERABAD	7,663	4,066	3,597	53.1%
	Telangana excl. HYD	599	263	336	43.9%
TELANGANA Total		8,262	4,329	3,933	52.4%
KERALA		5,587	2,518	3,069	45.1%
ANDHRA PRADESH		4,502	2,138	2,364	47.5%
PUDUCHERRY		138	73	65	52.9%
Grand Total		50,802	21,452	29,350	42.2%

(Complied by CA. Deepak Gulecha)

The overall percentage is much below the earlier year – 2015 it was 45% and in 2012 it was 45.6%. The overall fall in polling percentage for the entire region is 6.1% as compared to earlier election and in absolute term 1279, in spite of the fact that there is increase in the number of voters in the comparable periods. The polling has dropped in spite of the fact that the Institute has made arrangement to make the polling stations nearer to the voter by having more polling stations particularly at Chennai and Bengaluru. The fall in polling has not only dropped in the polling station but also people who are eligible for postal votes. Against the total 4208 eligible voters eligible to vote by post the total number of voted were 744 which turns out to be meagre 14.78% which has also fallen from 16.09% in the earlier election though the addition in the overall votes has not seen major change. What is more disturbing is the number of postal not considered valid not being in line to the instructions given for postal votes is over 16% of the votes received.

What could be the reasons for the above trends? Was it result of the various development including the formation of National Financial Reporting Authority? Are the voters interest or participation in ICAI activities is dwindling? Is this trend only in this region or is it same across the regions?

The Election process did generate lots of discussions about why it is taking so much time to count the votes, why information technology is used for polling and counting thereafter, etc. It would be pertinent to note that the preferential voting system ensures a truly representative winner as could be seen from various winners who are from small centers where the number of voters are less.

So be as it may, CASC on its own behalf and on behalf of every member congratulates the Elected Members, both to the Central Council of ICAI as well as Southern India Regional Council of ICAI. The details of the elected Council Members to the Central as well as SIRC are carried elsewhere in this Bulletin.

Wishes

CASC wishes its members and readers, a happy and prosperous new year as well as happy festival of harvest – Pongal.

During the month of January, 2019, CASC will be conducting its first International Annual Residential Course at Srilanka and the preparation for the same is in full swing.

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

DISCLAIMER

The contents of this Monthly Bulletin are solely for informational purpose. It neither constitutes professional advice nor a formal recommendation. While due care has been taken in assimilating the write-ups of all the authors. Neither the respective authors nor the Chartered Accountants Study Circle accepts any liabilities for any loss or damage of any kind. No part of this Monthly Bulletin should be distributed or copied (except for personal, non-commercial use) without express written permission of Chartered Accountants Study Circle.

COPYRIGHT NOTICE

All information and material printed in this Bulletin (including but not flowcharts or graphs), are subject to copyrights of Chartered Accountants Study Circle and its contributors. Any reproduction, retransmission, republication, or other use of all or part of this document is expressly prohibited, unless prior permission has been granted by Chartered Accountants Study Circle. All other rights reserved.

ANNOUNCEMENTS

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.
The soft copy of this bulletin will be hosted on the website shortly.

READER'S ATTENTION

You may please send your Feedback Contributions / Queries on Direct Taxes, Indirect Taxes, Company Law, FEMA, Accounting and Auditing Standards, Allied Laws or any other subject of professional interest to admin@casconline.org

For Further Details contact :

"The Chartered Accountants Study Circle"

"Prince Arcade", 2-L, Rear Block, 2nd Floor, 22-A, Cathedral Road,
Chennai - 600 086. Phone 91-44-28114283

Log on to our Website : www.casconline.org

For updates on monthly meetings and professional news.

Please email your suggestions / feedback to admin@casconline.org

RECENT JUDGMENTS IN VAT CST GST

Rectification petition: The petitioner filed a representation u/s 84 of the Act stating therein specifically referred to a deviation proposal sent by the Assistant Commissioner (CT), Suramangalam Circle, proposing to deviate from the observations made by the Inspecting Officials. Apart from that, the petitioner has pointed out that they have constructed only 36 flats out of total 84 flats and there cannot be any deemed sale of the flats, which are yet to be constructed. The respondent, referring the filing of the appeal for the other years by the petitioner, prayed that the petitioner be directed file appeal before the appellate authority. Examining the perusal of the impugned order the Court found that the reasons assigned by the respondent are not adequate and taking note of the elaborate averments set out by the petitioner in their petition filed u/s 84 the Court is convinced that the petition has to be reconsidered and fresh orders has to be passed and Writ Petition is allowed and the impugned order is set aside and the matter is remanded to the respondent for fresh consideration, who shall afford an opportunity of personal hearing and pass a speaking order, on merits in accordance with law, after taking note of the contentions raised by the petitioner including the deviation proposal sent by



CA. V.V. SAMPATHKUMAR

the Assistant Commissioner(CT),
**M/s.Ashok Builders, v.Assistant
Commissioner (CT) Suramangalam
Assessment Circle, Salem, W.P.No.1171
of 2018 DATED: 04.06.2018**

Input tax credit: The only issue arises for consideration is whether the respondent is justified in reversing the Input Tax Credit availed by the petitioner on the alleged ground that they effected purchases from Registration Cancelled Dealers. The petitioner has also obtained information from the official web portal of the Commercial Taxes Department, which shows that the Registration of the said selling dealer M/s.Ramanathan Chettiar, Chennai, was cancelled only on 30.09.2013. Thus, for the relevant Assessment year, namely Assessment Year 2012-13, the selling dealer's registration was very much valid. Therefore, the respondent could not have reversed the Input Tax Credit on the said ground.

Also the Court is convinced to interfere with the impugned Assessment Order is, the respondent is not sure whether the Registration Certificate of the selling dealer was cancelled as he uses the expression 'appears'. For the above reasons, the writ petition is allowed and the impugned order is quashed insofar as it relates to the Input Tax Credit availed by the petitioner to the tune of Rs.1,78,527/- and the respondent is directed to drop the proposal and pass appropriate orders as directed by this Court. **Aarthy Enterprises Vs. The Commercial Tax Officer, Chrompet Assessment Circle, W.P.No.12165 of 2018 DATED: 11.06.2018**

Objections: The respondent being the statutory authority has to take note of the objections of the dealer petitioner and pass a speaking order as to why the objections are tenable or not tenable. Without doing so, by rejecting the objections and by confirming the proposal in the show cause notice in a single line is unsustainable in law. **M/s.Triumph Realtors India Private Ltd., Vs Assistant Commissioner (CT), Avanashi Road Circle, W.P.Nos.13683 of 2018 DATE: 07.06.2018**

Revision: The petitioner has challenged the revised assessment orders. Earlier, the Predecessor Officer has completed the

assessment and passed orders and has recorded a finding that the dealer has exported direct export sales and the bill of lading, sales invoice packing list, airway bill and shipping bill were verified and found to be in order and the final and taxable turnover was determined. After about four years, a new Incumbent Officer has issued a revision notice, alleging that the petitioner has produced only the bill of lading and not produced export documents such as purchase invoice, sales invoice, packaging list, payment receipt and all other supporting documents. In the revision notice, the respondent has not stated that the statement made by her predecessor Officer, while completing assessment vide order dated 28.01.2014 is false or incorrect. The respondent, while completing the revision of assessment, has accepted the fact that the petitioner has produced the export documents, especially the custom clearance records. However, the respondent states that on verification of those documents exemption claimed was disallowed. The respondent has not assigned any reasons as to why the claim of exemption, which was accepted by the Predecessor Officer was disallowed, even after verification of the export documents produced by the petitioner. If, for any reason, the respondent finds any discrepancy in the record that should have been clearly spelt out in the impugned order. Thus, the

Court got fully convinced that the impugned assessment orders are the outcome of the total non-application of mind and devoid of reasons and set aside the proceedings **Tvl.Samah Enterprises, Vs The Commercial Tax Officer, Harbour Assessment Circle, W.P.Nos.13692 of 2018**
DATE: 07.06.2018

Deemed assessment: Section 22(2) of the Tamil Nadu Value Added Tax, 2006 states that in respect of such returns submitted for the years 2006-07 to 2010-11, on which assessment orders are not passed shall be deemed to have been assessed on the 30th day of June 2012. The statutory time limit prescribed cannot be extended by the respondent. The para wise comments given by the respondent touch upon the merits of the matter and has wrongly stated that they have not passed any assessment order under the TNVAT Act. What is to be noted is that on and after 30.06.2012, the petitioner is deemed to have been assessed for the relevant year, viz., 2007-08. Therefore, the question of passing a separate assessment order does not arise. However, it was well open to the assessing officer to pass such an order before the cut-off date 30.06.2012 and not thereafter. If the respondent is of the view that the rate of tax as mentioned in the return and the amount of tax paid is incorrect or for certain other reasons, the

returns cannot be processed, then the only remedy is to reopen the assessment and, the impugned proceedings cannot be given effect to. For the assessment year 2008-09 is concerned, the mistake committed by the respondent is to issue a notice for provisional assessment. This could not have been done by the respondent, in the light of the above reasons. Stating so these writ petitions are disposed of giving liberty to the respondent to initiate reopening proceedings, if she deems fit and appropriate to do so **M/s. India Piston Limited, vs. The Assistant Commissioner (CT), Sembium Assessment Circle, W.P.Nos.4080 & 4081 of 2018 DATED : 07.06.2018**

Natural justice: If the turnover is proposed to be revised based upon the information secured from the official website of the department and an allegation is made against the dealer that certain transactions have not been accounted, for this, the dealer should be given an effective opportunity to put-forth their objections for which, details are required by the petitioner to be issued. This court had an occasion to consider as to how “mismatch” issue, of sellers data and that of purchasers, has to be dealt with and laid down certain guidelines in the form of instructions to the Assessing Officers, since there was no circular or

instruction in the Commercial Tax Department. The said decision being in the case of JKM Graphics Solutions Private Limited Vs. CTO, Vepery Assessment Circle [reported in (2017) 99 VST 343]. For the Notice the petitioner dealer filed their reply/objections and factually it is correct to say that the petitioner had not filed any reply and is dragging the matter. Considering the above facts, this court is of the view that one more opportunity should be granted to the petitioner and the details sought for by the petitioner should be furnished so that they can submit their defence in an effective manner. **Venkateswara Automobiles and Oil Stores Villupuram District v. The Commercial Tax Officer (Additional) Kallakurichi W.P.No No.40875 of 2016 DATED: 20.06.2018**

Assessment: Petitioner has filed this writ petition challenging the Assessment Orders under the provisions of the TNVAT Act for the Assessment years 2013-14 to 2015-16. The objections given by the dealer have not been discussed and no speaking order has been passed, though the Assessing Officer has verbatim extracted the objection submitted by the dealer by showing the same in italics in the impugned order. In the counter affidavit, the respondent stated that at the time of inspection, the petitioner has not produced the original purchase bills.

Learned counsel for the petitioner points out that they appeared before the respondent and while submitting their explanation to the revision notice, has given the purchase bills, which tallied with the signed financial statement and requested the officer to peruse the same. Apart from that, the petitioner has also given certain explanation as to why certain purchases were omitted, because the Proprietor has withdrawn certain materials for his personal use and a separate explanation has been given for each assessment year. What was expected of the respondent to do, is to consider the explanation offered by the petitioner and then consider as to whether the proposal in the notice dated 27.02.2018 should be confirmed or not. While taking such a decision, the respondent should adopt an independent approach to the matter, not solely guided by the report of Enforcement Wing Officers, as the respondent being the Assessing Officer is entitled to take an independent decision in the matter. The respondent, who has not discussed the case in a proper manner while completing the assessment, cannot be permitted to improve the stand by way of a counter affidavit. Challenge to the assessment proceedings should stand or fall on the reasons contained therein. As observed earlier, there is no reason assigned by the respondent in the impugned Assessment Order. Therefore,

the Court was of the view that the assessment should be redone. **Tvl. Mercy Hardware Ariyalur Dt. Vs. The Commercial Tax Officer Jayankodam Writ Petition Nos.11462 to 11465 of 2018 Dated: 29.06.2018**

Mismatch: Though there is non-filing of reply /objection to the notice issued by the respondent and though there is violation of principles of natural justice by considering the fact that the revision of assessment is on two grounds, mismatch purchases and sales data of buyer and seller and the other regarding Registration Cancelled Dealers, the Court was of the view that one more opportunity can be granted to the petitioner to explain and reconcile the allegations made against them, by directing the petitioner to treat the impugned Assessment orders as show-cause notices and submit their objections within 15 days from the date of receipt of a copy of this order. **Sri.Balamurugan Papers and Boards Namakkal District Vs. The Commercial Tax Officer Namakkal Rural Assessment Circle Writ Petition Nos.11862 to 11865 of 2018 Dated: 29.06.2018**

Discount: In the Circular issued by the Commissioner of Commercial Taxes dated 04.11.2013 has directed the following three steps to be taken note of by the Assessing Officer. They being: "1.Identification of

cases in which huge ITC is accumulated on account of lesser sale price than the purchase price. 2. The above facts have to be ensured by verifying the purchase and sale price per unit. 3. If the above two things are found in a business concern, the quantum of ITC which exceeds the output tax shall be reversed." Admittedly, the above referred steps have not been taken note of by the Assessing Officer while completing the assessment. However, taking note of the fact that the petitioner is a small dealer and there is a circular issued by the Commissioner with regard to the applicability of Section 19(20) of the TNVAT Act coupled with the fact that a decision has been rendered by the Hon'ble Division Bench in the case M/s.Giant Cement Trading Pvt. Ltd., v. The Assistant Commissioner (CT) Chrompet Assessment Circle in W.A.Nos.1038 to 1040 of 2015 dated 05.08.2015, this Court is inclined to grant one more opportunity to the petitioner to go before the Assessing Officer and re-do the assessments. **M/s.Mahalakshmi Marbles Sendurai, Ariyalur District. Vs. The Commercial Tax Officer, Jayankondan Assessment Circle. W.P.Nos.12712 to 12716 of 2018 DATED: 08.06.2018**

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

CASC CHENNAI, MEMBERSHIP FEE

<u>Corporate Membership</u>	Rs.
Corporate Annual Membership	3,000.00
Corporate Life Membership (20 Years)	20,000.00
<u>Individual Membership</u>	
Annual Membership	750.00
Life Membership	7,500.00

CASC - HALL RENT

HALL RENT FOR 2 HOURS	1,000.00
HALL RENT FOR 2-4 HOURS	1,500.00
HALL RENT FOR FULL DAY	2,500.00
LCD RENT FOR 2 HOURS	600.00
LCD RENT FOR 2-4 HOURS	800.00
LCD RENT FOR FULL DAY	1,200.00

CASC BULLETIN - ADVERTISEMENT TARIFF - PER MONTH

Full Page Back Cover	2,500.00
Full Page Inside Cover	2,000.00
Half Page Back Cover	1,500.00
Half Page Inside Cover	1,250.00
Full Page Inside	1,200.00
Half Page Inside	750.00
Strip Advertisement Inside	500.00

Minimum 6 months advertisement is required.

If advertisement is 12 months or above, special discount of 15% is available

The above amounts are Exclusive of Government Levies like GST. Applicable taxes will be added

Your demand draft / cheque at par should be drawn in the name of
"The Chartered Accountants Study Circle" payable at Chennai.
Kindly contact admin@casconline.org for the Clarifications and or queries.

GST - ADVANCE RULINGS CASE LAWS

1. GST - ADVANCE RULING - PRINTING OF QUESTION PAPERS FOR VARIOUS EXAMINATIONS CONDUCTED BY GOVERNMENT/ GOVT. AIDED EDUCATIONAL B O A R D S / C O U N C I L S / UNIVERSITIES ETC. EXEMPT UNDER SL.NO.66(b)(iv) OF NOTIFICATION NO.12/2017/CT(R) - NO ITC ON GST PAID ON INPUTS USED FOR PRINTING SERVICES

In RE: Ashok Kumar Basu 2018(18) GSTL 49(A.A.R.-GST), the application states that the applicant is providing services by way of printing question papers for various examinations, conducted by the Council of Higher Secondary Education of various States, Joint Entrance Boards, various UGC granted Universities in India and by various authorities of vocational educations. The Councils/Boards/Universities/Institutions are supplying the matter to be printed to the Applicant, who is providing the paper, ink, other inputs, manpower, machinery, etc. to print the given matter in appropriate question paper format as provided by the Councils/Boards/Universities/Institutions supplying the matter.



CA. VIJAY ANAND

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

- a. Whether GST is to be charged on such supply and, if so, at what rate and under what HSN or SAC code is the GST to be charged?
- b. Whether credit of the GST paid on the inputs used for provisioning the supply can be availed.

The authority observed as under:

1. It is, therefore, necessary to consider as to whether the question papers are to be considered as “goods” or, if not, if the act of printing the question paper, albeit with the supply of necessary raw material, manpower and machinery being provided by the applicant, is to be considered as “service”.

-
2. The applicant has neither been notified to be an authority under Section 7(2) of the GST Act, nor is the activity of supplying printed question papers listed in the said Schedule III.
 3. Section 7(1) of the GST Act along with the relevant portions of Schedules I and II clearly state that transfer of title in goods is a supply of goods and in the absence of such transfer, even in the future, is to be considered as supply of services.
 4. The applicant is procuring the inputs required for provisioning the service of printing Question Papers. The content for printing, of course, is provided by the Boards/Institutions. The applicant does not hold the right to the property of the printed question papers. The Boards/Institutions prepare the question papers for conducting examinations and also fix the format in which the applicant is required to print the content.
 5. Section 8 of the GST Tariff-Services deals with Business and Production Services which include printing services under Heading 9989 where “only content is supplied by the publisher and physical inputs including paper used for printing belongs to the printer”. The service is taxable under Serial No. 27 of Notification No. 11/2017-CT (Rate) dated 28/06/2017, as amended from time to time, *provided the materials being printed are goods classifiable under Chapter 48 or 49 of the Tariff Act and taxable under the GST Act.* As transactions in Question Papers as goods is beyond the ambit of the GST Act, they are neither classifiable under Chapter 48 or 49 nor taxable under the GST Act. Service of printing Question Papers is not, therefore, classifiable under Heading 9989.
 6. No exemption is granted for supply of printing services to government/ Government aided Educational Boards/Councils/Universities/ Institutions merely by virtue of being Government/Government-aided Institutions. Notification No.12/2017-CT.(Rate) dated 28/06/2017, however, deals with Educational Board/Councils/Universities etc. whether or not they are Government/Government-aided.
 7. Serial No. 66(b)(iv) of Notification No. 12/2017-CT(Rate) dated 28/06/2017 wholly exempts services provided to an Educational Institution relating to conduct of examination. The phrase ‘relating to’ expands the scope of this entry to include such support services without which conduct of the examination is not possible, unless they are specifically mentioned under any other entry.

-
8. Question papers can have no use other than in conducting a specific examination, and the supply of service of printing such question papers is a supply related to conduct of that examination.
9. Explanation (iv) to Notification No.12/2017-CT (Rate) dated 28/06/2017, inserted vide Notification No.14/2018-CT(Rate) dated 26/07/2018, clarifies that the Central and State Educational Boards shall be treated as Educational Institution for the limited purpose of services by way of conducting examinations.
10. Serial No.66(b)(iv) above, includes services provided to such Boards relating to the conduct of examinations consequent to which the applicant is not liable to pay tax on the service of printing question papers provided to the Educational Boards/Councils/Universities/ Institutions relating to the conduct of examination.
11. In view of the fact that the supply of Question Papers to Educational Institutions for an examination is an exempt supply, the applicant cannot avail any Input Tax Credit as no amount is attributable to the said taxable supplies including zero-rated supplies that is not exempt.
- (a) Service of printing Question Papers for Educational Institutions for specific examination is classifiable under SAC 9992.
- (b) Service to such Educational Institutions relating to conduct of examination, includes supply of the service of printing question papers, and is exempt under the GST Act.
- (c) Being an exempt supply, the applicant cannot claim credit of the GST paid on the inputs used for provisioning the service of printing question papers provided to the Boards/Educational Institutions relating to conduct of examination.
2. **GST - ADVANCE RULING - TAX PAID ON BROKERAGE SERVICES FOR RENTING PROPERTY - ITC NOT DENIABLE**
- In RE: Adwitya Spaces P. Ltd. 2018(18) GSTL 308(A.A.R.-GST), the applicant is in the business of letting out property and is in the receipt of rental income. They have let out one of the properties which was arranged by a property consultant who has raised their bill for their services to the applicant along with CGST and SGST. An application was filed seeking advance ruling as to whether input tax credit can be availed on the brokerage fees paid to the property consultant.

Hence, the authority ruled as under:

The authority observed as under:

1. Brokerage services was provided by identifying a lessee for the commercial property owned by the applicant, was done at a consideration of which falls within the definition of "Supply" under Section 7(1)(a) of CGST. This is a brokerage services related to buildings involving renting of buildings on a fee which as per the Explanatory Notes to classification of Services would fall under SAC 997222.
2. In this case, the applicant has received an inward supply of real estate brokerage services for renting of property on a fee basis. Due to the broking services, the applicant was able to make an outward supply of renting of the property concerned. Hence, this inward supply was used in the course of the applicants' business.
3. This inward supply is not listed in any of the exceptions mentioned in Section 17(5) of CGST Act/ SGST Act for availing the input tax credit of CGST and SGST.
4. Further, Section 16(2) states that input tax credit is available only if the registered person is in possession issued by registered supplier; a supply of the service has been received; tax has been paid by supplier to Government; the recipient (applicant)

has filed returns; recipient has paid the supplier the amount within a period of 180 days.

5. Section 16(4) states that the recipient (applicant) shall not be entitled to take input tax credit after the due date of furnishing return for September following the end of financial year or annual return whichever is earlier.
6. Similarly, Section 17 and Section 18 impose certain conditions on availment of input tax credit.
7. Therefore, the applicant eligible to take credit of the CGST & SGST charged on the applicant for real estate brokerage services for renting of property, subject to the conditions as per Sections 16, 17 and 18 of CGST & SGST Act.

Hence, the authority ruled that the applicant is eligible to take credit of the CGST & SGST charged on the applicant for real estate brokerage services for renting of property on a fee basis, subject to the conditions as per Sections 16, 17 and 18 of CGST & SGST Act.

3. **EXTENDED PERIOD CANNOT BE INVOKED MERELY BECAUSE THE ASSESSEE HAD NEITHER APPLIED FOR SERVICE TAX REGISTRATION NOR FILED ST-3 RETURNS NOR DECLARED THEIR ACTIVITIES TO JURISDICTIONAL**

AUTHORITIES - WHEN TWO VIEWS WERE POSSIBLE WITHIN DEPARTMENT, EXTENDED PERIOD CANNOT BE INVOKED

In Principal Commr. of GST & C.Ex., Chennai V. C.Kamalakaran 2018(18) GSTL 589(Mad.), a Show Cause Notice dated 19/10/2012 was issued as to why service tax should not be demanded on the respondent-assessee on the commission received for promoting, marketing and selling the goods produced by M/s. Herbalife International India Private Limited (wherein the assessee is an independent distributor) for the period from 2007-08 to 2011-12. The demand was confirmed and sustained by the Commissioner (Appeals), but was set aside by the Tribunal holding that there is no fraud or suppression of facts, etc., and the entire service tax along with interest was paid before the Department and the Department had any clue that the appellant was providing taxable service and before issuance of the said show cause notice and that therefore, they were covered under Section 73(3) of the Finance Act, 1994. On departmental appeal before the High Court, it was observed as under:-

1. The Tribunal, while considering the correctness of the order passed by the First Appellate Authority, referred to

the decision of their New Delhi Bench in the case of Charanjeet Singh Khanuja Vs. CST, Indore (2016) 68 Taxmann.com 60 and held that if two findings are possible, the longer period of limitation under the Proviso to Section 11A(1) cannot be invoked.

2. There is no dispute with regard to the fact that the decision in Charanjeet Singh Khanuja has attained finality and that the Department has not preferred any appeal against the said decision.
3. The issue as to whether the extended period of limitation could have been invoked when there were two views within the Department itself i.e. when certain Original Authorities hold that the services are taxable services and certain Appellate Authorities hold otherwise was deliberated by the Supreme Court in Continental Foundation Jt. Venture Vs. CCE, Chandigarh-I [reported in (2007) 216 ELT 177] wherein it was held that when, on the issue involved in the batch of cases, there were two views in the Department itself, it cannot be said that there was no scope for doubt and that when there is scope for doubt in the mind of the assessee on a particular issue, the longer period under the Proviso to Section 11A of the Central Excise Act, 1944 cannot be invoked.

-
4. In the case, the Tribunal had followed the decision in Charanjeet Singh Khanuja, which has attained finality. The Revenue does not dispute the fact that there were two views on the issue within the Department itself and this was considered by the New Delhi Bench of the Tribunal in a batch of appeals, which consisted of both appeals filed by the Department against the orders passed by the Commissioner (Appeals) as well as appeals filed by the assessee as against the orders of the Commissioner (Appeals).
 5. Thus, the Tribunal rightly held that the extended period of limitation could not have been invoked and there is no error in the order passed by the Tribunal.

Hence, the departmental appeal was dismissed.

4. GST - ADVANCE RULING - HEALTH CARE SERVICES - MEDICINES, CONSUMABLES & IMPLANTS USED IN PROVIDING SERVICE TO IN-PATIENTS FOR DIAGNOSIS OR TREATMENT - COVERED - FOOD SUPPLY TO IN-PATIENTS AND ROOM RENT ARE PART OF COMPOSITE SUPPLY OF HEALTH CARE - EXEMPTED

In RE: KIMS Health Care Management Ltd. 2018(18) GSTL 831(A.A.R.-GST), the applicant is a multi-specialty tertiary care hospital providing health care services to out-patients (those who visit the hospital for routine check-ups or clinical visits) and in-patients (those who are provided with stay facilities, medicines, consumables, implants, dietary food and other surgeries/procedures required for the treatment).

An application was filed seeking advance ruling as to whether the medicines, consumables and implants used in the course of providing health care services to in-patients for diagnosis or treatment would be considered as "Composite Supply" and eligible for exemption under the category 'health care services'?

The authority observed as under:

1. Health care services provided by a clinical establishment, an authorized medical practitioner or para medics are exempted vide Sl.No.74 of Notification No.12/2017-CT (Rate), Dt.28/06/2017. The word 'clinical establishment' means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnostics or treatment or care for

illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases.

2. In-patient services are exempt under the sub-group 9993 11 as patients are only admitted to a hospital when they are extremely ill or have severe physical trauma.
3. As far as an in-patient is concerned, hospital is expected to provide lodging, care, medicine and food as part of treatment under supervision till discharge from the hospital. The nature of the various services in a bundle of services will help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and other services combined with such service are in the nature of incidental or ancillary services which help in better utility of main service then the various elements of the service are said to be naturally bundled in the ordinary course of business.
4. Hence the medicines, implants, room provided on rent, dietary food advised by nutritionists etc. used in the

course of providing health care services to the patients admitted for diagnosis or treatment in the hospital or clinical establishment is undoubtedly naturally bundled in the ordinary course of business. The patients expect to receive health care services by way of appropriate diagnosis, appropriate medicines as well as relevant consumables or implants required to make sure that they receive the best possible treatment. Hence the medicine and allied goods supplied to in-patient are indispensable items of the treatment and it is a composite supply to facilitate health care services.

5. Pharmacy is an outlet to dispense medicines or allied items based on prescription. The in-patient pharmacy and operation theater pharmacy supplied medicines and consumables only to in-patients. Whereas an out-patient is concerned, hospital gives only prescription, which is an advisory in nature. The patient has absolute freedom to follow the prescription or not. Similarly there is freedom to procure the medicines or allied items prescribed, either from the pharmacy run by the hospital or from any other medicine dispensing outlets. Hospital reserves no control over his continuous treatment.

-
6. As far as an out-patient is concerned there is no difference for procuring medicine either from the dispensing outlet within the hospital or from outside the hospital. In both places medicines dispensed based on prescription. Hence, there is no privilege for the hospitals that are dispensing medicine to out-patients.
 7. Therefore pharmacy run by hospital dispensing medicine to out-patient or by standers or others can be treated as individual supply of medicine and not covered under the ambit of health care services. Hence such supply of medicine and allied goods are taxable.
 8. CBEC Circular No.27/01/2018-GST, dt.04-01-2018 has clarified that room rent in hospital is exempted. As for as in-patients are concerned, room facility in a hospital is one limb of bundled service of health care. Other supplies of food by hospital to patients not admitted are taxable. The same principle is applicable in the case of dispensing of medicine also.

Hence, the authority held that the supply of medicines, consumables and implants used in the course of providing health care services to in-patients for diagnosis or treatment are naturally bundled and are provided in conjunction with each other, would be considered as “Composite Supply” and eligible for exemption under the category ‘health care services’.

5. **GST - APPELLATE AUTHORITY FOR ADVANCE RULING - CONTRACT BOTTLING UNITS (CBU) MANUFACTURING BEER FOR OR ON BEHALF OF BRAND OWNERS ACCORDING TO THEIR SPECIFICATIONS BY PROCURING RAW MATERIALS, PACKAGING MATERIALS INCURRING MANUFACTURING AND OTHER OVERHEADS - SELLING DIRECTLY - CBUs PAYING BRAND OWNERS FOR REPRESENTATIONAL RIGHTS TO MAKE AND SUPPLY BEER UNDER THEIR BRAND AND ALSO REMOVAL OF EXPENSES INCURRED BY BRAND OWNER - SURPLUS PROFIT OVER AND ABOVE BRAND FOR TRANSFER BY CBUs TO BRAND OWNERS - LIABLE TO GST @18%**

In RE: United Breweries Ltd. 2018(18) GSTL 855 (App.A.A.R.-GST), the appellant is engaged in manufacture and supply of beer under various brand names. The appellant, apart from manufacturing beer on its own, also has an arrangement with contract brewing/bottling units (hereinafter referred to as the ‘CBU’) who make the brands of beer belonging to the appellant and supply such beer to market. CBUs, in making the beer brands owned by the appellant, procure the raw materials, packaging

materials, incur overheads and other manufacturing costs etc., on their own; and the beer they make is sold by them directly to Government Corporations/in wholesale depending on the state market regulation.

The CBUs, upon the sale of such goods, pay the statutory levies and taxes. The CBUs further account for all the manufacturing cost and distribution overheads in their books of account since it is they who procured all resources for the manufacture of the beer. Further, CBUs retain a certain amount of profit. After accounting all these revenues and deducting the part of their share from the total turnover that is had from the sale of such beer in each period, the CBUs transfer the balance of amount from the total turnover to the appellant.

The appellant filed an application seeking a ruling on the following:-

- a. Whether, beer bearing brand/s owned by the appellant manufactured by Contract Brewing Units out of the raw materials, packaging materials and other input materials procured by it and accounted by it and thereafter selling such beer to various parties under its invoicing would be considered as supply of services and whether GST is payable by the CBUs on the profit earned out of such manufacturing activity?

- b. Whether, GST is payable by the Brand Owner on the "Surplus Profit" transferred by the CBU to Brand Owner out of such manufacturing activity?

The authority held as under:-

- a. On the first question, it was held that the activity undertaken by the CBUs is not in the nature of job-work and, hence, no GST is payable. The ruling on this aspect has been accepted by the appellant and is not challenged in this appeal.
- b. On the second question, it was held that GST is payable by the Brand Owner on what has been termed as the 'surplus profit' transferred by the CBU to the brand owner out of the manufacturing activity since the said amount is received as a consideration for rendering a service at the rate of 18%

On an appeal filed before the appellate authority which observed as under:-

1. To qualify as "supply" in terms of Section 7 of the CGST Act, the following conditions are to be fulfilled:
 - (i) The activity has to involve a transaction in either 'goods' or 'services' or both;
 - (ii) The activity should be undertaken for a consideration

-
- (iii) There should be agreement to engage in the transactions of the nature specified;
- (iv) The activity should be in course or furtherance of business.
2. Broadly speaking, when the above circumstances are accomplished by (at least) the two persons involved in the transactions, then it can be inferred that the activity is a 'supply' under GST law and thereby chargeable to GST. There are however, certain exceptions to the above principles viz: –
- (i) Certain activities have been termed as a 'supply' even when they are made without a consideration. Such supplies have been listed in Schedule I to the CGST Act; and
- (ii) Certain activities, even when made for a consideration, have been termed as not a supply of either goods or services and thus kept outside the scope of levy of GST. These activities have been listed in Schedule III of the CGST Act.
3. The levy clearly excludes the supply of alcoholic liquor for human consumption in line with the amendment in article 366 by The Constitution (One Hundred and First Amendment) Act, 2016.
4. On a perusal of the terms of the agreement, the Brewer shall make beer, in strict conformity to the brew specifications and quality parameters laid down by the appellant, and shall dispose off the beer under the concerned States' Excise laws, to those who are authorised to purchase/deal in beer in terms of the relevant regulations. The proceeds from the sale of the beer are used by the brewer to cover his operational costs like purchase of raw materials, packaging materials, consumables, bottle cost, cost on account of energy consumption and his profit. The CBU's clearly make and supply alcoholic liquor (beer, in this case) for human consumption, and the same is excluded from the purview of GST.
5. CBU's collect a consideration/payment for the supply of the product (beer) made by them to the Beverages Corporation/State regulated depots or to the Wholesalers/Indenters holding necessary permits/licenses under the relevant Excise laws of the State concerned and GST is not leviable on these sales.
6. The CBU's incur expenses in making the beer which among other things include the expenditures in procurement of different goods (example hops, yeast, bottles, cans etc.) and services (for example, transport,

banking etc.). Out of these goods and services that the CBUs spend on, many are exigible to GST levies as they may apply-there being no general exemption being available under GST, to such raw materials/services that are used in making the alcoholic liquor for human consumption. The income so had from CBU operations are then partially disposed off by being charged as the expenses and the profit for CBU and as the payments for use of brand name etc. The remaining amounts which represent the sales turnover or income from the sale of beer (termed as surplus profits by the appellant) are transferred to the appellant.

7. The appellant give the brewer the right to use their process for manufacture of their branded beer under their supervision and control. To ensure that the beer made at the brewery meets their specified standards, the appellant, at their cost, deposes Process Executives and Commercial Executives to the brewer, who will provide the specifications, methods and quality parameters; guide the brewer in procurement of raw materials, packing materials and such other materials; give directions for carrying out quality control of the beer manufactured by the brewer: take samples for analytical

and quality tests and advise changes in the brew from time to time and advise the brewer on the brewing, fermentation and lagering time of the beer.

8. The appellant receives two kinds of amount from the Brewer in terms of the agreement:
 - (a) One is the Brand Fee which is fixed at Rs 5 per case; and
 - (b) The other is the variable component 'W' which is the surplus amount remaining in balance after the sale proceeds have been apportioned towards the brewer's operational costs and brand fee.
9. The question on which a ruling was sought from the Authority was whether, GST is payable on both the amounts received as Brand Fee of Rs 5/- per case and on the component 'W'.
10. The ruling held in the affirmative in respect of both the amounts treating both of them as 'Surplus Profit hold' as no goods have been supplied by Brand Owner to the Brewer and, hence, the only act for which the amounts could have been received is for the 'supply of service'.

-
11. It is essential to clearly distinguish the nature of the receipts by the appellant as Brand Fee and Reimbursed surplus since the two amounts are clearly received for activities performed by the appellant for the CBUs. 'Activity' has not been defined in the GST law.
 12. In terms of the common understanding of the word, activity would include an act done, a work done, a deed done, an operation carried out, execution of an act, provision of a facility etc. It is a term with very wide connotation. The concept 'activity for a consideration' involves an element of contractual relationship wherein the person doing an activity does so at the desire of the person for whom the activity is done in exchange for a consideration. There is no dispute that the amount transferred to the appellant's account is a Brand Fee which is fixed at Rs 5 per case as per the agreement. This Brand Fee being a fixed rate is paid to the appellant every month based on the volume of sales of beer.
 13. As regards, the amount denoting a reimbursement of expenses, this amount which is denoted as 'W' in the agreement, is variable and depends on the balance remaining if any, after adjusting components 'Y' 'Z', Rs 73 per case, and Rs 5 per case from the turnover of brand beer sales.
 14. As regards Brand Fee, the agreement states that "Brewer agrees that in consideration of the representational right for manufacture and supply of beer under labels mentioned in Annexure I having been granted by the brand owner, the brewer shall pay a Brand Fee of Rs 5 per case. Such fee is in return for the grant of right to manufacture and supply branded beer of UBL. The agreement itself recognises that this payment of Brand Fee is a consideration for the act of granting the right to manufacture and sell branded beer.
 15. As per clause 5(c) of Schedule II of the GST Act, the act of temporarily transferring any intellectual property right or permitting the use of or enjoyment of any intellectual property right has been categorised as a supply of service. In the instant case, the appellant has permitted the CBUs to use the trademarks owned by it, permitted the Brewer to acquire the know-how relating to the production and packaging of the brand beer, and has permitted the Brewer to use the Labels for branding of brand beer for sale by the Brewer. All these amount to permitting the Brewer to use UBL's intellectual property rights. Therefore, by virtue of clause 5(c) of Schedule II of the CGST Act, the said activity amounts to a supply of service. To this extent, the findings of the Authority are differed.

16. As regards the reimbursed expenses received by the appellant, the agreement provides for the reimbursement of the expenses incurred by the brand owner which is arrived at after servicing all the operational costs, retention cost and brand fee from the sale proceeds of the beer. The surplus if any, will be transferred to the appellant's account. This surplus is a reimbursement for the 'expenses incurred' by the brand owner.

17. It is evident from the agreement that the appellant incurs expenses towards deputing his personnel to the CBU's distillery; expenses are incurred by the appellant in ensuring that its business interests are secured by the manufacture of beer to its specifications and standards.

18. These expenses are being reimbursed by the CBU out of the profit arising from the sale of beer by the CBUs

19. The grant of representational right to the Brewer and the receipt of the consideration in the form of Brand Fee and reimbursed expenses, are all undertaken in the course of the business of the appellant. Therefore, all the parameters of 'supply' as defined in Section 7 of the CGST Act are duly satisfied and therefore, the

entire amount i.e. Brand Fee as well as the reimbursed expenses, received by the appellant as a consideration for the supply of service is chargeable to GST.

Hence, the authority passed as under:

- a) The activity engaged in by the appellant by way of granting the contracting brewing units the representational right to manufacture and supply beer bearing its brand name, in return for a consideration, is a supply of service as mandated in Section 7 of the CGST Act, read with clause 5(c) of the Schedule II of the said Act;
- b) The supply of service by the appellant is taxable to GST in terms of Section 9 of the CGST Act;
- c) The service supplied by the appellant is classified under the Service Code 999799 as "other services nowhere else classified".
- d) The amounts received by the appellant from the contracting units under the agreement, in the nature of Brand Fee and reimbursement of expenses, is termed as a consideration for the supply of service and is chargeable to GST at the applicable rate of 18%.

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

SUMMARY OF RECENT CASE LAWS IN SERVICE TAX, CENTRAL EXCISE AND CUSTOMS

1. DGCEI have all India jurisdiction and can issue notices and enquire into the matters even if assessee are registered with multiple Commissionerate.

The question before the Delhi High Court in the case of *National Building Construction Company Ltd Vs Union of India and Ors [2018-TIOL-2432-HC-DEL-ST]* raised were

- a) Whether DG, DGCEI direction to investigate against Petitioner on all India basis by formation an opinion that “service tax evasion by all branches of NBCC” in impugned letter dated 03.12.2015 is based on any materials and sustainable in law?
- b) Whether an officer of DGCEI can act as the Central Excise Officer to issue summons for production of documents and papers and for recording of statements Section 14 of the CE Act even when no proceedings under Section 73 of the Fin Act or other provision are pending before the said officer?

The High Court observed and held that Rule 3 of the Service Tax Rules, 1994 states that the Board may appoint such Central Excise Officers as they think fit for exercising the powers under Chapter V of



CA. DEBASIS NAYAK

the Fin Act. Rule thus empowers and authorises the Board to appoint Central Excise Officers to exercise power relating to service tax. Thus, investigation/inquiry functions and adjudicatory functions can be demarcated and divided between/amongst different Central Excise Officers. While dividing and demarcating the functions, the Board for the said purpose can fix local limits within which the Central Excise Officer would exercise power and also specify the taxable service in relation to which such power can be exercised.

The Board has wide discretion in power while fixing the local limit assigned to a Central Excise Officer. Local limit can be pan or all India. This position must be accepted as in cases of centralized registrations all India jurisdiction is exercised. Argument and contention that use of the expression “local limit” impliedly excludes all India jurisdiction is without foundation and fallacious.

The Board is equally empowered to authorize centralised or pan India investigations to be undertaken by the Central Excise Officers. This may indeed be desirable and necessary to curtail delay, facilitate complete and detailed investigation at one location rather than multiple investigations and enquiries which would be overlapping. Multiple enquiries would be inconvenient and cause harassment to many assessee specially when similar or identical issues are involved.

Power under Section 14 of the CE Act and other powers relating to investigation and enquires cohabit and exist together and also independently". It is on the Revenue to decide and exercise whether or not to exercise power of special audit, summons etc. and not for assessee to direct. Notice or summons under Section 14 of the CE Act can be issued by the Central Excise Officer when required and necessary for any enquiry relating to service tax.

Therefore, Notice under Section 14 of the CE Act i.e. Central Excise Act can be issued even if proceedings under Section 73 of the Fin Act i.e. Finance Act, 1994 are not pending. However, the notice should relate to matters and issues relating to provisions of services and imposition of service tax.

2. Manpower services availed to maintain 'Occupational Health Centre is an Input Service.

In case of **M/s Rallis India Ltd vs Commissioner of Central Excise and Service Tax Pune-I 2018-TIOL-3795-CESTAT-MUM** the appellant was engaged in manufacturing insecticides, pesticides and various hazardous effluents and wastes are generated as by products that pose risk to the life of workers. To mitigate any medical exigency and first aid requirement of workers in case of any mis-happening, it has to maintain Occupational Health Centre at its factory premises and it has availed manpower supply by engaging medical staff at such OHC as an input service. The **question before the Tribunal is** whether Manpower services availed to maintain 'Occupational Health Centre' at the factory engaged in hazardous manufacturing process is an Input Service.

The Tribunal held that Appellant's factory is found to be hazardous factory and from the "Maharashtra Pollution Control Board" certificate it is found that recycling of hazardous waste was made obligatory for the factory that was also directed to comply with the industry specific standards and concur to Rule 5(2) of the Hazardous Wastes (M,H & TM) Rules, 2008. Under Rule 73W of Maharashtra Factories Rules, 1963, hazardous factory shall maintain Occupational Health Centre. First aid and other particulars mentioned therein shall be compulsory maintained by the appellant factory.

Health services are put under exclusion clause in 2012 amendment to CENVAT Credit Rules, 2004. Therefore, such health services if provided by a manufacture or service provider to its employees generally is no more to be treated as admissible credit but when there is statutory requirement to have provisions for first aid facility and primary treatment for employees in case of accident and injuries sustain by them and the said service is made available to other employees additionally without any extra expenditure, it cannot be excluded from the perview of availment of credit.

Therefore, Denial of CENVAT credit on the ground that they fail to keep records of emergency treatment would not deprive the appellant to avail such credit, since it is made to meet a contingency/emergency situation and without any such hazardous accident also, the manpower engaged are entitled to get their remunerations.

3. Reversal of credit on account of sale of surplus electricity manufactured through waste product is not sustainable in law.

In case of *M/s Shivratna Udyog Ltd vs Commissioner of CGST and CX Pune II [2018-TIOL-3794-CESTAT-MUM]*, **question under consideration is**

- a) *Whether appellant is required to pay 6% of the value of such electricity sold by it as electricity being non-excisable goods cleared for a consideration from the factory by using common inputs/ input services without maintenance of separate records.*

Appellant was a manufacturer of sugar and molasses falling under chapter 17 of the Schedule to the Central Excise Tariff Act, 1985. It has a power generation plant in its factory where electricity is generated and captively consumed within the factory for manufacture of the above final product and only remaining portion of electricity is sold out to the Maharashtra State Electricity Board. Applying Explanation 1 appended to Rule 6, the departmental authority held a finding against the appellant during the verification of records that such electricity being non-excisable goods cleared for a consideration from the factory had used common input and input services for which appellant had not maintained separate records for generation of such exempted final product i.e. electricity and it was held to have been liable to pay 6% duty on the value of such exempted goods sold by it.

The Tribunal held that electricity, though not found in tangible form, is classifiable under Tariff item no. 27160000 of Central Excise Tariff Act, 1985. But it is a non-excisable goods and the process of generation of electricity though a

manufacturing process is dutiable if it is generated from mineral oils, bitumen substance, mineral waxes etc. and electricity generated from bagasse is not covered under Chapter 27 like electricity generated through solar power, hydro power, wind power etc.

Reliance is placed in case of

- **Gularia Chini Mills (supra) 2013-TIOL-568-HC-ALL-CX** wherein Hon'ble Allahabad High Court held that electricity energy is not an excisable goods nor it is exempted goods as defined in Rule 2(d) of the Cenvat Credit Rules 2004.
- **Jakarya Sugars Ltd 2018-TIOL-1845-CESTAT-MUM** wherein Tribunal held that electricity generated from bagasse which is a byproduct is neither a dutiable goods nor liable for payment of 6% in terms of Hon'ble Supreme Court judgment passed in **DSC Sugar Ltd 2015-TIOL-240-SC-CX**.

In due obedience to the judicial precedent emerged from the decision of Jakarya Sugars Ltd. post amendment period it can be said that the duty demand made against such sale of surplus electricity manufactured through waste product is not sustainable in law.

4. Clean Energy Cess shall be admissible as CENVAT Credit even if it is not specifically mentioned in Section 3 of the CCR Rules, 2004

In case of **The Ramco Cements Ltd vs. Commissioner of Central Tax Bangalore 2018-TIOL-3553-CESTAT-BANG** the appellants are engaged in the manufacture of cement falling under CSH 25232930 of CETA, 1985. During the course of audit of the records of the appellant by the Internal Audit Party of the Department, it was observed that the appellant had availed CENVAT credit of Clean Energy Cess paid on the coal imported as well as indigenously procured. It was felt that the CENVAT credit on Clean Energy Cess on coal is not admissible under CNEVAT Credit Rules 2004. Accordingly, the demands were issued for denial of credit and imposition of interest and penalty.

The question before the Tribunal was

- a) **Whether CENVAT Credit for Clean Energy Cess paid on imported / indigenous coal, Lignite is admissible under Cenvat Credit Rules, 2004**

The Tribunal held that Clean Energy Cess on coal has been levied by Section 83 of the Finance Act, 2010 and as per Section 83(3) of the Finance Act, 2010, it is provided that the Clean Energy Cess in respect of goods specified in Tenth Schedule **is levied as duty of excise** and sub-section (7) of Section 83 also declares that **any of the provisions of Central**

Excise Act, 1944 relating to levy, exemption from duty of excise, refund, offences, penalties and confiscation will be applicable in respect of Clean Energy Cess levied under sub-section 3.

Clean Energy Cess contains the reference to the provision of Central Excise Act, 1944 and even if the CCRs, 2004 do not specifically mention in Section 3 but still the appellants are entitled to CENVAT credit because the Cess has been paid as duty of excise and the same has been levied under Section 83 of the Finance Act, 2010.

Reliance is placed in case of *CC & Cus. & ST, Belgaum vs. Sri Renuka Sugars Ltd - 2014-TIOL-98-HC-KAR-CX* wherein *Hon'ble High Court held that assessee was entitled to claim Cenvat credit in respect of the cess paid as additional duty (CVD) on raw sugar imported under the Sugar Cess Act of 1982 read with Section 3 of the Customs Tariff Act, 1975.*

After going through the decision in Sri Renuka Sugars Ltd. cited supra, **Sugar Cess levied under Sugar Cess Act, 1982 is similar to Clean Energy Cess** levied under Section 83 of the Finance Act, 2010 and therefore case law cited supra is squarely applicable in the facts and circumstances of the case, Therefore, by relying upon the ratio of the decision cited above impugned order denying the CENVAT credit of Clean Energy Cess is not sustainable in law.

5. Assessing Officer to give reasons as to why the transaction value declared in the Bills of Entry was being rejected

In case of *Commissioner of Central Excise and Service Tax, Noida vs M/s Sanjivani Non-Ferrous Trading Pvt Ltd [2018-TIOL-447-SC-CUS]* **question under consideration before apex court was**

a) Whether rejection of the transaction value by assessing officer as declared by the respondent and enhancing the same by taking into consideration the value of imported goods is tenable?

In this case the respondent had imported various varieties of Aluminum Scrap and filed bills of entry along with invoices and purchase orders declaring transaction value for the purpose of payment of customs duty. The declared value was rejected by the assessing officer and reassessment was done by increase in the Assessable value. The respondent has filed writ petition in Allahabad High Court and on the direction of High Court, the Deputy Commissioner has passed a speaking order giving reasons to reject the transaction value. The said order was challenged by the respondent before Commissioner (A) and these appeals were dismissed by Commissioner (A) upholding the order of lower authority.

Respondent challenged the order of Commissioner (A) in Tribunal and Tribunal set aside the order of the Commissioner (Appeal) and allowed the appeal of the importer by observing that as provided by Section 14 of the Customs Act, 1962, the assessable value has to be arrived at on the basis of the price which is actually paid and in a case where the price is not the sole consideration or if the buyers and sellers are related persons, then after establishing that the price is not the sole consideration. Assessable value can be arrived rejecting transaction value taking other evidences into consideration. In the present case since no such exercise had been done, the enhancement of assessable value was rejected by Tribunal. After that Revenue in appeal before the Supreme Court.

The Apex Court observed that the Tribunal has clearly mentioned that this declared price could be rejected only with cogent reasons by undertaking the exercise as to on what basis the Assessing Authority could hold that the paid price was not the sole consideration of the transaction value. Since there is no such exercise done by the Assessing Authority to reject the price declared in the Bills of Entry, Order-in-Original was, therefore, clearly erroneous.

Reliance in Placed in cases of

- *Eicher Tractors Ltd., Haryana vs. Commissioner of Customs, Mumbai [2002-TIOL-06-SC-CUS]*, wherein Court held as No reason has been given by the Assistant Collector for rejecting the transaction value under Rule 4(1) except the price list of vendor.
- South India Television (P) Ltd. wherein the Court explained as to how the value is derived from the price and under what circumstances the deemed value mentioned in Section 14(1) can be departed with.
- *Commissioner of Customs vs. Prabhu Dayal Prem Chand 2010-TIOL-43-SC-CUS* wherein apex court held that it is manifest from order of the Tribunal that no details of any contemporaneous imports or any other material indicating the price notified by LME had either been referred to by the adjudicating officer in the adjudication order or such material was placed before the Tribunal at the time of hearing of the appeal

Based on Tribunal findings the apex court did not find any merit in the appeal filed by the revenue and therefore set aside.

(The author is a Chennai based Chartered Accountant. He can be reached at debases.nayak@pwc.com)

IMPACT OF COMPANIES (AMENDMENT) ORDINANCE, 2018

Pursuant to the recommendations made by "*Committee to review the offences under the Companies Act, 2013*", the Companies (Amendment) Ordinance, 2018 was promulgated by the President of India on the 02nd of November, 2018 to further amend the Companies Act, 2013. It is expected to be placed before the Houses of Parliament in the current session to become an Act though it has already come into force w.e.f. 02.11.2018 by way of Ordinance. Now let us see the few important changes as under;



CA. C.S. DHANAPAL

HIGHLIGHTS OF FEW IMPORTANT CHANGES

S.No.	SECTION NUMBER AND HEADING	NATURE OF CHANGE	IMPACT OF THE AMENDMENT
1.	90 - Register of significant beneficial owners in a company	Substitution of sub- section (9) of Section 90 Amendment of sub- section (10) of Section 90	<ul style="list-style-type: none"> • Sub-section (9) provides for making of application by the Company / aggrieved person to NCLT for lifting / relaxation of any restriction imposed by the NCLT on securities of the Company in relation to which securities details of their beneficial holding was not forthcoming / sufficient. By virtue of this amendment, a period of 1 year has been prescribed as the time limit within which such application may be made and not beyond that. • If no application is filed during such time, such shares will be transferred to IEPF in the manner to be prescribed. • The penal provision for default in making declaration of significant beneficial ownership under sub-section (1) has been enhanced by insertion of provision for imprisonment for a period up to one year. The amended section reads as below:

S.No.	SECTION NUMBER AND HEADING	NATURE OF CHANGE	IMPACT OF THE AMENDMENT
			<p><i>"If any person fails to make a declaration as required under sub-section (1), he shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than one lakh rupees but which may extend to ten lakh rupees or both and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the failure continues."</i></p>
2.	<p>164 - Disqualifications for appointment of director</p>	<p>Insertion of new clause (i) in sub-section (1) of section 164</p>	<p>Additional ground for disqualification for appointment of director introduced.</p> <ul style="list-style-type: none"> • A person shall not be eligible for appointment as a director of a company, if he has not complied with provisions of sub-section (1) of section 165. • Sub-section (1) of section 165 places restriction on number of companies in which a person can hold directorship at a time.
3.	<p>197 - Overall Maximum Managerial Remuneration and Managerial Remuneration in Case of Absence or Inadequacy of Profits</p>	<p>Omission of sub-section (7) Substitution of sub-section (15) of Section 197</p>	<ul style="list-style-type: none"> • Following provision has been omitted: "Notwithstanding anything contained in any other provision of this Act but subject to the provisions of this section, an independent director shall not be entitled to any stock option and may receive remuneration by way of fees provided under sub-section (5), reimbursement of expenses for participation in the Board and other meetings and profit related commission as may be approved by the members."

S.No.	SECTION NUMBER AND HEADING	NATURE OF CHANGE	IMPACT OF THE AMENDMENT				
			<ul style="list-style-type: none"> Penal provision has been changed as below: <table border="1" data-bbox="687 387 1236 979"> <thead> <tr> <th data-bbox="687 387 961 442">Before Amendment</th> <th data-bbox="961 387 1236 442">After amendment</th> </tr> </thead> <tbody> <tr> <td data-bbox="687 442 961 979"> <p>If any person contravenes the provisions of this section, he shall be <u>punishable with fine</u> which shall not be less than one lakh rupees but which may extend to five lakh rupees.</p> </td> <td data-bbox="961 442 1236 979"> <p>If any person makes any default in complying with the provisions of this section, he shall be <u>liable to a penalty</u> of one lakh rupees and where the default has been made by a company, the company shall be liable to a penalty of five lakh rupees</p> </td> </tr> </tbody> </table> 	Before Amendment	After amendment	<p>If any person contravenes the provisions of this section, he shall be <u>punishable with fine</u> which shall not be less than one lakh rupees but which may extend to five lakh rupees.</p>	<p>If any person makes any default in complying with the provisions of this section, he shall be <u>liable to a penalty</u> of one lakh rupees and where the default has been made by a company, the company shall be liable to a penalty of five lakh rupees</p>
Before Amendment	After amendment						
<p>If any person contravenes the provisions of this section, he shall be <u>punishable with fine</u> which shall not be less than one lakh rupees but which may extend to five lakh rupees.</p>	<p>If any person makes any default in complying with the provisions of this section, he shall be <u>liable to a penalty</u> of one lakh rupees and where the default has been made by a company, the company shall be liable to a penalty of five lakh rupees</p>						
4.	238 - Power of Registrar to Remove Name of Company from Register of Companies	Amendment of Section 248	<ul style="list-style-type: none"> Additional grounds for removal of name of company introduced as below: The subscribers to the Memorandum have not paid the subscription which they had undertaken to pay at the time of incorporation of a company and a declaration to this effect has not been filed within one hundred and eighty days of its incorporation under sub-section (1) of section 10A The company is not carrying on any business or operations, as revealed after the physical verification carried out under sub-section (9) of section 12. 				

S.No.	SECTION NUMBER AND HEADING	NATURE OF CHANGE	IMPACT OF THE AMENDMENT
5.	441 - Compounding of certain offences	Amendment of Section 441	<ul style="list-style-type: none"> • The limit of fine up to which offences may be compounded by RD has been enhanced from Rs. 5 Lakhs to Rs.25 Lakhs. • The requirement of seeking permission of Special Court for compounding of any offence which is punishable under the Act, with imprisonment or fine, or with imprisonment or fine or with both has been omitted.
6.	447 - Punishment for fraud	Amendment of Section 447	<ul style="list-style-type: none"> • Upper limit of penalty where the fraud involves an amount less than ten lakh rupees or one per cent of the turnover of the company, whichever is lower, and does not involve public interest has been enhanced from Rs. 25 Lakhs to Rs. 50 Lakhs. <p>The revised proviso reads as below:</p> <p><i>Provided further that where the fraud involves an amount less than ten lakh rupees or one per cent. of the turnover of the company, whichever is lower, and does not involve public interest, any person guilty of such fraud shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to fifty lakh rupees or with both.</i></p>

S.No.	SECTION NUMBER AND HEADING	NATURE OF CHANGE	IMPACT OF THE AMENDMENT
7.	454 - Adjudication of Penalties	Substitution of sub-section (3) of Section 454 Amendment of sub-section (8) of Section 454	<ul style="list-style-type: none"> Sub-section (3) of Section 454 is amended to the effect that the adjudicating authority shall have power to impose penalty not only on the Company and its officers in default but also on any other person, as the case may be. Further, the adjudicating authority, may by an order direct such company, or officer who is in default, or any other person, as the case may be, to rectify the default, wherever he considers fit. Earlier, the section provided for imposition of penalty only.
8.	454A - Penalty for Repeated Default	Insertion of new Section 454A	<ul style="list-style-type: none"> A new section 454 A has been introduced which provides that where a Company or an officer of a company or any other person having already been subjected to penalty for default under any of the provisions of the Act, again commits such default within a period of 3 years from the date of order imposing such penalty passed by the adjudicating officer or the Regional Director, as the case may be, it or he shall be liable for the second or subsequent defaults for an amount equal to twice the amount of penalty provided for such default under the relevant provisions of this Act.

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

ICAI - UDIN - MANDATORY WITH EFFECT FROM 1ST FEBRUARY, 2019 FREQUENTLY-ASKED QUESTIONS (FAQS)

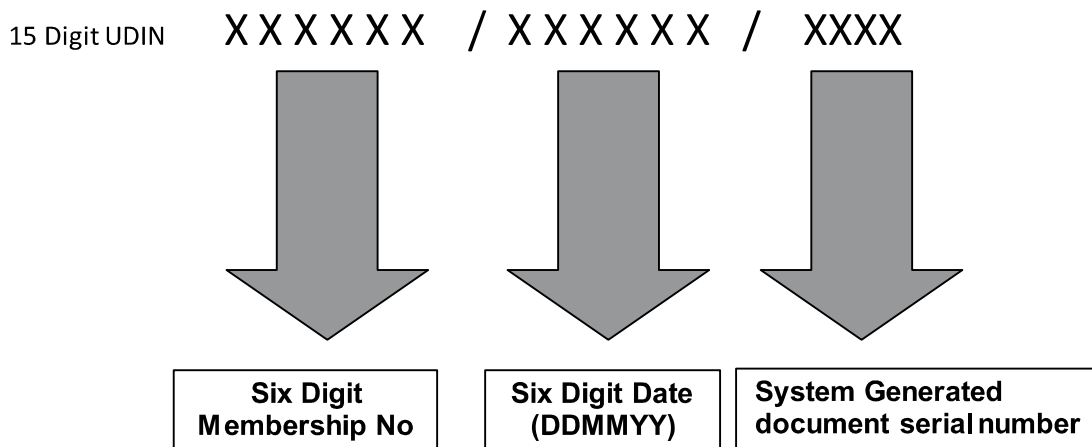
1. What is Unique Document Identification Number (UDIN)?

Unique Document Identification Number (UDIN) is a unique number, which will be generated by the system for every document certified/ attested by a Chartered Accountant and registered with the UDIN portal available at <https://udin.icai.org/>.

2. What is the Algorithm of UDIN?

Algorithm of UDIN comprises of the following:

1. The Membership Number of the Member attesting the document/ certificate.
2. The Date (dd/mm/yy) when certificate is issued.
3. The Document Serial Number allotted automatically by system.



3. Why UDIN?

It has been noticed that financial statements and documents were being certified/ attested by third persons, in lieu of Chartered Accountants. As these statements are being relied upon by the authorities as true statements and certificates, UDIN can be generated by a practicing CA by registering his/her documents/ certificates on UDIN Portal for verification.

4. Who can generate UDIN?

A practising Chartered Accountant can generate a UDIN for certificate/ document attested by him either in individual capacity or as a partner.

5. Whether UDIN is mandatory for the CA members of ICAI for each certification done?

At present, this facility is recommendatory. But ICAI is mulling to make the same compulsory in near future, so as to curb the menace of fake or forged documents.

6. What is the link to crosscheck whether the certificate number so indicated is valid?

The Certificate Number can be cross checked at <https://udin.icaai.org?mode=searchudin>

7. How many UDINs can be generated by a CA? Is there any limit?

There is no restriction on the number of UDINs to be generated by a CA.

8. How to create an account on the UDIN portal?

To register at UDIN portal, please take the following steps:

Step 1: Enter the homepage <https://udin.icaai.org>

Step 2: Click button “For first time sign up, click here”

Step 3: Enter your six-digit Membership No., Date of Birth and Date of Enrollment, and click the “Send OTP”.

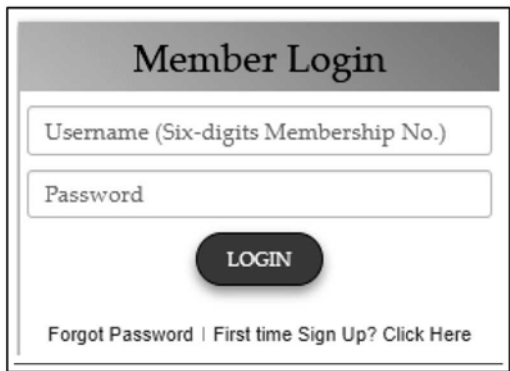
An OTP will be sent to you at the mobile and email, as registered with the ICAI.

Step 4: Enter OTP received and click “Continue”, you will receive username and system generated password at the mobile and email, as registered with the ICAI.



9. How to Sign in?

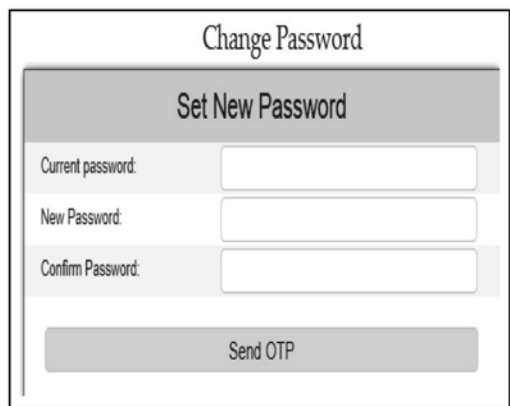
Go to the link
<https://udin.icai.org/?mode=login>
 and Enter your Membership No,
 Password and click “Login”



10. Should the password be changed after login for safety?

The password generated is encrypted to ensure its appropriate safety. However, Members may change the password at any time. “Change Password” menu can be used to change the password.

- ✓ Sign in.
- ✓ Under] "Sign-in", select "Change Password" menu.
- ✓ Enter your current Password.
- ✓ Enter your new password, then click send OTP. You will receive an OTP on your mobile and email, as registered with the ICAI.



15. How to generate a Unique Document Identification Number (UDIN)?

- ✓ After login, click "Generate UDIN"
- ✓ Enter details such as, your Client Reference Code/Number, Document Issued, Document Description, Date of Document, Keywords/Values (minimum three) with in the document and click the button "Send OTP". Firm Registration Number (FRN) is Optional.
- ✓ An OTP will be sent to you at the mobile and email, as registered with the ICAI.
- ✓ Enter OTP received and click the button "Preview". You will see the details you have entered for generating the UDIN.
- ✓ If there is any change in the content, you should click the button "Back" or else click the button "Submit"
- ✓ A UDIN will be generated and you can use that UDIN on the document for which it has been generated

UDIN - Preview	
Membership Registration Number or MRN:	
Member Name:	
E-mail ID:	
Your Firm Registration No. or FRN:	
Firm Name:	
Your Client Reference Code/Number:	XXXXX
Document Issued Under:	Accounting
Document Description:	XXXX
Date of Document:	01/07/2018
Keywords/Values:	
Revenue	XXXX
Net worth	XXXXX
Loan amount	XXXX
<input type="button" value="Back"/>	
<input type="button" value="Submit"/>	

UDIN that have been generated would be displayed as watermarked on document(s) else the UDIN can be mentioned on the document(s) using a pen. "List UDIN" menu can be used to print the UDIN.

16. Can one see the various certificate numbers generated?

Yes, one can see and search the various certificates number generated using the search option.

17. Is any modification possible in case incorrect information such as client reference code/number, Document Issued Under, Document Description, Date of Document, Keywords within the document, etc., has been submitted?

No change is possible in the data already registered by a Chartered Accountant in the online system. Therefore, members are requested to thoroughly check the details in preview option before submission of their application.

Information filled in can be edited/ modified any number of times before the submission. But once it is submitted, it cannot be edited.

18. Can a Certificate number once generated be revoked or cancelled?

The UDIN once generated can be withdrawn or cancelled with narration. Hence if any user search for this UDIN, appropriate narration indicated by Member with the date of revoke will be displayed for reference.

19. What is the validity of a UDIN on the portal for viewing by a third party?

As of now, there is no time limit.

20. Is UDIN mandatorily required to be registered for the search?

Yes, UDIN will be available for search by the end user only after registration.

21. What are the key values and are they necessary?

While registering the certificate for generation of UDIN, the member has to compulsorily provide Key values (minimum three and maximum five), which are found in the document or certificate generated. Key values can be any financial figure extracted from the attested statement or certificate such as Turnover Net profit, Utilization amount, Import amount, Export amount, Duty refund, Refund, Net worth, Revenue, Input tax credit, Loan amount, Total Assets, Net owned funds, Profitability, Capital To Risk Asset Ratio (CRAR), Statutory Liquidity Ratio, Gross fixed assets, Net loss, Misc. expenditure, Total capital investment, Sanction amount, Other (please specify any key words), etc.

22. What happens if while registering on UDIN Portal, the information is not accepted or the password is not sent?

Credentials do not match with the database as maintained by the regional offices. Probably, the database maintained does not have the correct email ID or mobile number, or the regional offices may have entered the same wrongly. For example, entering multiple email IDs in one field, providing space before the email IDs, etc.

You may reach the **PDC Department at (011) 3011 0444, 0444** or by writing to udin@icai.in For all issues relating to the data regarding enrolment dates, DOB, email IDs, phone number corrections, etc., please get in touch with the respective regional offices.

Western Region

ICAI Tower, C-40, G-Block, Bandra Kurla Complex, Bandra (E)
MUMBAI - 400 051
Phone : [+91] (22) 3367 1400 / 1500
 [+91] (22) 3367 1462, 463
E-mail: wro@icai.in; wirc@icai.in; raviarora@icai.in
Website: <http://www.wirc-icai.org>

Northern Region

ICAI Bhawan, 52-53-54, Institutional Area, Vishwas Nagar, Shahdara, Near
Karkardooma Court
DELHI - 110 032
Phone: [+91] (11) 3989 3990, 3021 0600
 [+91] (11) 3021 0636, 629
Email: nro@icai.in; nirc@icai.in; shivam@icai.in
Website: <http://www.nirc-icai.org>

Central Region

ICAI Bhawan, Plot No.9, Block No.A-1, Lakhanpur
Kanpur 208024 (UP)
Phone: [+91] (512) 3092600
 [+91] (512) 3092634, 681
Email: cro@icai.in; circ@icai.in; skgarg@icai.in
Website: <http://www.circ-icai.org>

Eastern Region

ICAI Bhawan, 382/A, Prantik Pally
Rajdanga, (Near Acropolis Mall & Garden High School), Kasba, KOLKATA - 700 107
Phone: [+91] (33) 3084 0210 / 03
 [+91] (33) 3084 0296, 289
Email: ero@icai.in; eirc@icai.in; alokray@icai.in
Website: <http://www.eirc-icai.org>

Southern Region

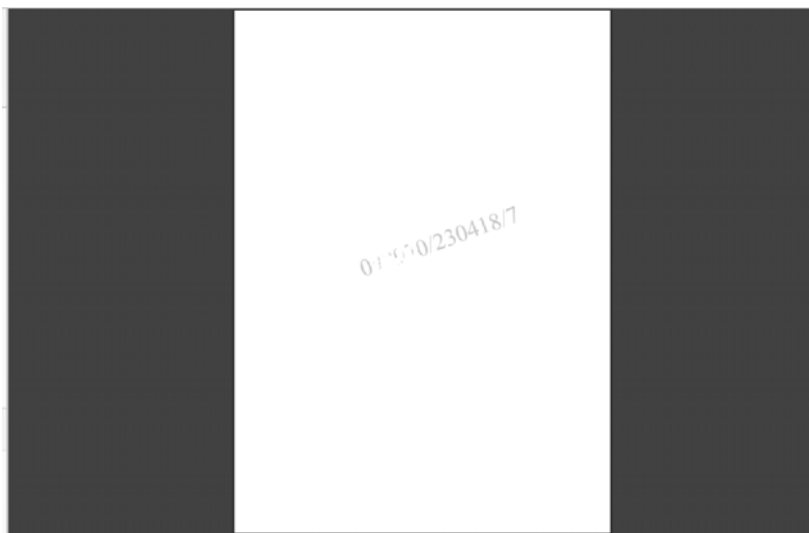
ICAI Bhawan, 122, Mahatma Gandhi Road
Post Box No. 3314, Nungambakkam
CHENNAI - 600 034
Phone: [+91] (44) 3989 3989, 3021 0300
 [+91] (44) 3021 0355, 391
Email: sro@icai.in; sirc@icai.in; giridharan@icai.in
Website: <http://www.sircoficai.org>

23. Is online generation of UID number is mandatory? Or, if the UID number is generated offline, can the same be entered in back date?

Yes, it is mandatory that the numbers to be generated online only.

24. How will the UDIN appear on the documents?

UDIN that have been generated would be displayed as watermarked on document(s) else the UDIN can be mentioned on the document(s) using a pen. "List UDIN" menu can be used to print the UDIN.



25. Can UDIN be generated as per the category of the area of certificate?

Yes, UDIN can be generated in the specific area of certificate, like Goods & Service Tax Act, banks, Companies Act, Income-tax Act, finance and capital market, public finance and government accounting, etc.,.

Log Out

Click logout, when you wish to leave this application. Please note, there is a provision of automatic logout, if there is no activity for five minutes.

For any assistance/ clarification, members may call us at **(011) 30110444** or email at udin@icai.in

EXCEL TIPS

RANK Function

RANK function is used to compare numbers to other numbers in the same list. If we give the RANK function a number, and a list of numbers, it will tell us the rank of that number in the list, either in ascending or descending order.



CA DUNGAR CHAND U JAIN

In other words, it returns the rank of a number in a list of numbers. The rank of a number is its size relative to other values in a list. If we were to sort the list, the rank of the number would be its position.

Syntax

RANK(number,ref,[order])

The RANK 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.

If order is 0 (zero) or omitted, Microsoft Excel ranks number as if ref were a list sorted in descending order.

If order is any nonzero value, Microsoft Excel ranks number as if ref were a list sorted in ascending order.

Note :

- RANK gives duplicate numbers the same rank. However, the presence of duplicate numbers affects the ranks of subsequent numbers. For example, in a list of integers sorted in ascending order, if a number appears twice and has a rank of 4, then it would return a rank of 4 (no number would have a rank of 5).

Example 1 :

	A	B	C	D	E
1	Score				
2	7				
3	3.5				
4	3.5				
5	1				
6	2				
7					
8		Description (Result)	Result	Formula	
9		Rank of 3.5 in the list above (3)	3	=RANK(A3,A2:A6,1)	
10		Rank of 7 in the list above (5)	5	=RANK(A2,A2:A6,1)	
11					
12					

There are 3 arguments for the RANK function:

- **number:** in the above example, the number to rank is in cell (i)A3 & (ii)A2
- **ref:** We want to compare the number to the list of numbers in cells A2:A6. However it is advisable to use an absolute reference (**\$A\$2:\$A\$6**), instead of a relative reference (A2:A6) so the referenced range will stay the same when we copy the formula down to the cells below.
- **order:** (optional) This argument tells Excel whether to rank the list in ascending or descending order.
 - Use zero, or leave this argument empty, to find the rank in the list in descending order. In the example above, the order argument was left blank, to find the rank in descending order.
=RANK(A3,\$A\$2:\$A\$6)
 - For ascending order, type a 1, or any other number except zero. If we are comparing scores, we need to type a 1, to rank in ascending order.
=RANK(A3,\$A\$2:\$A\$6,1)

	A	B	C	D	E	F
1		Regional Council Elections ICAI 2018 - SIRC				
2	S. No	Name	1st Pref. Vc	Ra	Formula used	
3	1	Abhishek M, Chennai	1400	4	=RANK(C3,\$C\$3:\$C\$33,0)	
4	2	Alagappan V, Tiruchirapalli	407	22	=RANK(C4,\$C\$3:\$C\$33,0)	
5	3	Baskar R, Salem	166	28	=RANK(C5,\$C\$3:\$C\$33,0)	
6	4	Chengal Reddy Ramireddygar, Hyderabad	1106	7	=RANK(C6,\$C\$3:\$C\$33,0)	
7	5	China Masthan Talakayala, Hyderabad	1203	6	=RANK(C7,\$C\$3:\$C\$33,0)	
8	6	Dhavalagi Chandramappa Ramanna, Hubballi	234	25	=RANK(C8,\$C\$3:\$C\$33,0)	
9	7	Dungar Chand U Jain, Madurai	1400	4	=RANK(C9,\$C\$3:\$C\$33,0)	
10	8	Geetha A B, Bengaluru	1585	1	=RANK(C10,\$C\$3:\$C\$33,0)	
11	9	Jalapathi K, Coimbatore	1445	3	=RANK(C11,\$C\$3:\$C\$33,0)	
12	10	John Moris A, Chennai	626	14	=RANK(C12,\$C\$3:\$C\$33,0)	
13	11	Jomon K George, Kochi	1485	2	=RANK(C13,\$C\$3:\$C\$33,0)	
14	12	Kandasamy R, Udamalpet	124	30	=RANK(C14,\$C\$3:\$C\$33,0)	
15	13	Katta Ramachandra Reddy, Hyderabad	655	13	=RANK(C15,\$C\$3:\$C\$33,0)	
16	14	Madhavan S, Chennai	191	27	=RANK(C16,\$C\$3:\$C\$33,0)	
17	15	Mandava Sunil Kumar, Hyderabad	574	17	=RANK(C17,\$C\$3:\$C\$33,0)	
18	16	Muralidharan K P, Chennai	203	26	=RANK(C18,\$C\$3:\$C\$33,0)	
19	17	Naresh Chandra Gelli, Hyderabad	992	9	=RANK(C19,\$C\$3:\$C\$33,0)	
20	18	Pampanna B E, Bengaluru	1020	8	=RANK(C20,\$C\$3:\$C\$33,0)	
21	19	Panna Raj S, Bengaluru	916	10	=RANK(C21,\$C\$3:\$C\$33,0)	
22	20	Rajagopal C, Pattukkottai	74	31	=RANK(C22,\$C\$3:\$C\$33,0)	
23	21	Rajesh S, Pollachi	565	18	=RANK(C23,\$C\$3:\$C\$33,0)	
24	22	Revathi S Raghunathan, Chennai	612	15	=RANK(C24,\$C\$3:\$C\$33,0)	
25	23	Sankar M S, Chennai	132	29	=RANK(C25,\$C\$3:\$C\$33,0)	
26	24	Satheesan P, Thrissur	901	12	=RANK(C26,\$C\$3:\$C\$33,0)	
27	25	Sathyamoorthy N, Chennai	420	21	=RANK(C27,\$C\$3:\$C\$33,0)	
28	26	Siva Prasad A S R S S, Vijayawada	476	20	=RANK(C28,\$C\$3:\$C\$33,0)	
29	27	Subba Rao Muppala, Guntur	581	16	=RANK(C29,\$C\$3:\$C\$33,0)	
30	28	Sumermal D Ostawal, Hubballi	369	23	=RANK(C30,\$C\$3:\$C\$33,0)	
31	29	Sundararajan R, Chennai	903	11	=RANK(C31,\$C\$3:\$C\$33,0)	
32	30	Umamaheswara Rao O K, Tirupati	239	24	=RANK(C32,\$C\$3:\$C\$33,0)	
33	31	Yarra Tirupathaiah, Hyderabad	508	19	=RANK(C33,\$C\$3:\$C\$33,0)	
34						

In the above example, =RANK(C3,\$C\$3:\$C\$33,0) gives the ranking of data in the cell C3 amongst the data in the range C3:C33. Absolute reference is given by inserting \$ symbols so that when copied the range does not change i.e. C\$3:\$C\$33

The last parameter is to tell the order. If we want the Ranking in Descending order (Smaller to Bigger) we need use 0 and if we need it in Ascending (Bigger to Smaller) use a 1.

=RANK(C9,\$C\$3:\$C\$33,)		
RANK(number, ref, [order]) 0		
3 =RANK(C11,\$C\$3	<input type="checkbox"/> 0 - Descending	
14 =RANK(C12,\$C\$3	<input checked="" type="checkbox"/> 1 - Ascending	

number as if reference were a list sorted in descending

(The author is a Madurai based Chartered Accountant. He can be reached at dungarchand@hotmail.com)

DECISIONS, IN-PRINCIPLE APPROVAL & RECOMMENDATIONS OF 31ST GST COUNCIL MEETING HELD ON 22ND DECEMBER, 2018

Post Implementation of GST, every GST Council Meeting was receiving its importance as many policy decisions with regard to procedural changes, changes in rate of tax of goods or service, granting exemption for goods or services, implementation of any new procedures or introduction or notification of new forms, are discussed and recommended to the Central and State Government by the GST Council.

However, in the last few GST Council Meetings there are not many decisions or changes made, and even such changes was recommended are on regular and routine matters. Whereas, this GST Council Meeting, which was held on 22nd December, 2018 being the 31st GST Council Meeting, was expecting and receiving may recommendations and directions on various grounds under GST, and the GST Council has met and discussed all those recommendations received and has taken many significant decisions, which are favourable to the business in general and many initiatives by the Government is based on their principle of ease of doing business. Though this is only the council decision, to make it effective necessary Bill, Notification & Circulars need to issue by both the Governments.



CA. GANESHPRABHU

Following are the notable decisions, in-principle approval, changes in rate of tax, changes in forms and extensions of due-date decided by the GST Council during the council meeting;

01. NEW RETURN FILING SYSTEM:

The new simplified GST return filing system (GST Return 2.0), which will be functioning on unidirectional flow of invoices for availment of Input Tax Credit and which allows Suppliers to “Upload” Invoices on regular basis, and also allows recipient of Goods or Services to “Lock” the Input Tax Credit, so that the Invoice issued by the Supplies cannot be amended or deleted and the Supplier on a periodical basis will “Pay” the GST. The new return filing system of “Upload, Lock and Pay”, will be

introduced on trial basis from 01st April, 2019 and will become mandatory from 01st July, 2019.

02. GST ANNUAL RETURN & AUDIT:

The due date for filing Annual Returns such as **Form GSTR 9** (All Regular Person, except a few) and **Form GSTR 9A** (Composition Levy Person) for the financial year 2017-18 (Jul 17 to Mar 18), and Reconciliation Statement in **Form GSTR 9C** (In case of GST Audit), is being extended till 30th June 2019.

Proposed Amendments or Changes in Formats of Form GSTR 9, 9A & 9C:-

- a) The table heading of Form GSTR 9 & 9A, where ever required will be amended to in respect of Supplies “ – – *made during the year – –*” from “ – – as declared in the return filed during the year – –”. The impact of the said change will be all supplies effected by the assessee during the said period will be brought into the Annual Return, irrespective of it being reported in subsequent period.
- b) All returns such as Form GSTR 3B, Form GSTR 1 or Form GSTR 4, need to be filed for the financial year 2017-18, before filing of Form GSTR 9, 9A & Form GSTR 9C.

- c) In case of “**HSN wise Summary for Inward Supply**”, a specific Table in Form GSTR 9, if the Value of Inward Supplies exceeds 10% of Total Value of Inward Supplies, such information need to be provided.
- d) In case of any un-availed Input Tax Credit (ITC) being identified during preparation of GST Annual Return or Audit, the said ITC cannot be availed through Form GSTR 9 or Form GSTR 9C.
- e) In case of any payment need to be made, as differential tax, which are determined as part of preparation of GST Annual Return or GST Audit, the said amount will be paid trough **Form GST DRC-03**, only by Cash.
- f) In case of “Non-GST Supply” a term which was not defined in the GST Law book, and was only part of return terminology, and which was debated, left, right, centre, will it include “**Exempted Supply or Nil Rate Supply**” further to add, will it also include “**No Supply**” such as Profit on Sale of Building or Land, Securities. It is being clarified now, that the “Non GST Supply” in Table 5F of Form GSTR 9 will also include “No Supply”.

g) Reconciliation of Form GSTR 3B Vs

Form GSTR 2A:- A reconciliation, which is proposed in **Table 8 of Form GSTR 9**, was receiving its own criticism. However, it being decided that Auto Population of data, under the earlier format approved by the government, will stop with in a financial year, now it is expected to happen that in Table 8A, the date which is being Auto Populated, will be Invoices raised by the supplier and ITC available by the Recipients and which are appearing in Form GSTR 2A from July 17 to Sep 18 of the assessee. Let's wait and watch the GAME of Reconciliation!!!

h) A new verification is being proposed in Form GSTR 9C, where such verification will be the taxpayer who is going to upload the Reconciliation Statement under Form GSTR 9C, issued by the GST Auditor, such verification step is going to be included in Form GSTR 9C.

03. INPUT TAX CREDIT:-

The GST Council has recommended that Input Tax Credit, in relation to Invoices issued by the Supplier during the financial year 2017-18 may be availed by the recipient, till the due date of furnishing Form GSTR-3B of March 2019, return, subject to conditions that are to be notified by

the Government. A welcoming view, as this year being the first year for GST, this would help assessee who missed to avail ITC to avail for FY 2017-18, a last opportunity to avail such Input Tax Credit.

Every registered person being principal, who remove goods for the purpose of Job Work, to job worker premises need to file a form on quarterly basis, called as **Form GST ITC-04**, which due date is to be extended from 31st December, 2018 to 31st March 2019.

04. GST REFUND:-

a) The following refund are also going to be made available through Form GST RFD-01A, on account of Provisional Assessment, Assessment or based on Orders, Tax Paid erroneously considering an Intra State Supply as Inter State Supply or vice-versa, Excess Payment of Tax.

b) All supporting documents, invoices in relation to a claim for Refund in Form GST RFD-01A, shall be uploaded electronically on the common portal at the time of filing of refund application itself, whereby removing the need for a Tax Payer to physically visit a tax officer for submission of refund application. Where GSTIN will enable the functionality shortly.

-
- c) All refund application that are filed and ARN generated, such applications shall be submitted to the jurisdictional tax officer, within 60 days from date of generating ARN, in case if the same is not submitted within 60 days, an email will be sent to the registered email id of the applicant and within 15 days from such email the refund application will be summarily rejected and the amount debited in electronic ledger will be re-credited to the applicant.
- d) A scheme of single authority for disbursement of refund amount sanctioned by either the Centre or the State tax authorities would be implemented on pilot basis, the procedures for the same to be finalised shortly for implementation of the same.

05. GST RETURN:-

In the GST Council meeting it was proposed to completely waive Late Fee for non-filing of GST Return, to encourage better compliance, in filing the returns such as Form GSTR 1, Form GSTR 3B and Form GSTR 4 for the months or quarter from **July 2017 to September 2018**, which are filed after 22nd December 2018 and before 31st March 2019. No doubt this will bring better compliance, however who has paid the entire late fee and very

recently complied with filing of GST “Nil” return, will feel the pinch of Late Fee paid under GST.

A new restriction for generation of E-Way Bill is being proposed, where any assessee has failed to file his return consequently for two tax period, he will be restricted from generation of E-Way Bill, will come in to force once the functionality is been made available by GSTIN and NIC.

06. GST AMENDMENTS ACT (2018):-

The most expected strategic and path breaking amendments which are made by Central Government in GST Law, in terms of Supply, Not a Supply - Schedule, Input Tax Credit, Documentation, Debit Note & Credit Note, Registration, Payment of Taxes, are passed amended and approved by the Central Government as CGST (Amendment) Act, 2018, similarly IGST & UTGST amendments, now it is proposed that corresponding changes in SGST Acts would be notified before 01st February, 2019. Few grey areas such as High Sea sales, Drop Shipment, Sale of Goods from Bonded Warehouse, Deemed Supply, Receipt of Goods or Services by the recipient who avails ITC, Issue of Debit Note and Credit Note, availment of Input Tax Credit on Motor Vehicle, on those topics it will bring more clarity.

07. CAAAR:-

An in-principle approval given for amendment of GST Law by this GST Council meeting, on creation of a Centralised Appellate Authority for Advance Ruling (CAAAR), to deal with case where there are conflicting decisions are issued by two or more State Appellate Authority for Advance Ruling on a same issue, which is a need of the hour.

08. INTERETS UNDER GST:-

An in-principle approval given for amendment of GST Law by this GST Council meeting, amendment to Section 50 of CGST Act, to provide that Interest should be charged only on the net tax liability of the taxpayer, after considering admissible Input Tax Credit, or only on the amount payable through electronic cash ledger. Currently, as per Section 49 and Section 16(2) of CGST Act, 2017 read along with Section 50 of CGST Act, 2017, would bind an assessee to pay Interest on GST on their Gross Tax Payable, which a positive note by the Government, if it is an retrospective amendment, it will be great.

09. CHANGES IN RATE OF TAX:-

This GST Council meeting has recommended to Central and State Government to reduced GST Rate on following services such as Cinema Tickets, Third Party Insurance Premium of Goods Carriage Vehicle, Air-Travel Services provide for religious pilgrimage from the existing higher rate to lower rate of tax.

With regard to change in GST Rate on Goods is as follows, Television upto 32', Power Banks, Digital Cameras, Video Game Consoles, etc. The effective date of such rate changes will be based on the date on which such notification is issued by the Central or State Government.

10. SINGLE CASH LEDGER:-

A new concept of Single Cash Ledger, is being proposed where for each tax head, money will be collected or paid under a same head and while, filing return the same shall be distributed towards Tax, Interest, Penalty, Fees, Others. The possibility and modalities will be finalised after discussion with GSTIN. The above mentioned are the major highlights, of 31st GST Council Meeting.

(The author is a Chennai based Chartered Accountant. He can be reached at ganeshprabhu.b@crbs.in.)

ICAI Elections 2018

FINAL LIST OF CANDIDATES SENT BY THE VOTERS TO THE TWENTY FOURTH CENTRAL COUNCIL OF ICAI FROM SOUTHERN REGION

Member's #	S No.	MEMBER's Name	City	State	Gender	Mobile No.	Sequence	Remarks
201797	20	VIJAY KUMAR M P	CHENNAI	TN	M	98402 51223	1	ELECTED 1
026973	2	BABU ABRAHAM KALLIVAYALIL	KOCHI	KL	M	98460 35333	2	ELECTED 2
204314	12	RAJENDRA KUMAR P	CHENNAI	TN	M	94440 17087	3	ELECTED 3
025533	17	SEKAR G	CHENNAI	TN	M	99401 77776	4	ELECTED 4
023999	11	PRASANNA KUMAR D	VISAKHAPATNAM	AP	M	98481 92636	5	ELECTED 5
216244	5	DAYANIWAS SHARMA	HYDERABAD	TE	M	98852 00029	6	ELECTED 6

ICAI Elections 2018

FINAL LIST OF CANDIDATES SENT BY THE VOTERS TO THE TWENTY THIRD REGIONAL COUNCIL OF ICAI FOR THE SOUTHERN REGION

Member's #	S No.	MEMBER'S Name	City	State	Gender	Mobile No.	Remarks
213002	8	GEETHA A B	BENGALURU	KA	F	98455 26327	ELECTED 1
214823	9	JALAPATHI K	COIMBATORE	TN	M	98428 96673	ELECTED 2
215625	7	DUNGAR CHAND U JAIN	MADURAI	TN	M	98945 05007	ELECTED 3
226622	1	ABHISHEK M	CHENNAI	TN	M	99625 21966	ELECTED 4
218549	5	CHINA MASTHAN TALAKAYALA	HYDERABAD	TE	M	98498 64289	ELECTED 5
221424	4	CHENGAL REDDY RAMIREDDYGARI	HYDERABAD	TE	M	94403 64824	ELECTED 6
202144	11	JOMON K GEORGE	KOCHI	KL	M	98470 31343	ELECTED 7
201754	17	NARESH CHANDRA GELLI	HYDERABAD	TE	M	98491 65491	ELECTED 8
029591	29	SUNDARARAJAN R	CHENNAI	TN	M	94440 30959	ELECTED 9
200052	22	REVATHI S RAGHUNATHAN	CHENNAI	TN	F	98402 61311	ELECTED 10
220424	18	PAMPANNA B E	BENGALURU	KA	M	99867 52428	ELECTED 11
026366	19	PANNA RAJ S	BENGALURU	KA	M	94490 73398	ELECTED 12



SHREE GURU KRIPA'S INSTITUTE OF MANAGEMENT

"Shri Guru Padhuka", No.27, Akbarabad II Street,
Kodambakkam, Chennai - 600 024.

Phone : 044 - 2483 7667 / 2484 7667 Contact : 99400 12301 / 03 / 06



Visit:

www.shrigurukripa.com

BOOKS AUTHORED BY

EXPERT FACULTY TEAM

- v Guideline Answers for CA Exams & RTP upto date.
- v Exhaustive coverage of entire syllabus in simple language, exam oriented presentation.
- v All past Exams Question considered.

- v Table and Flow Charts, Diagrams for easy understanding.
- v Fast Track Referencer for Quick Revision.

BOOKS FOR PROFESSIONALS

1. Handbook on Direct Taxes
2. Personal Income Tax
3. Practical Guide on TDS and TCS

BOOKS FOR C.A. IPCC / PCC

1. Students' Guide on Financial Reporting
2. Students' Referencer on Strategic Financial Management
3. Students' Handbook on Corporate and Allied Laws
4. Students' Handbook on Advanced Auditing
5. A Ready Referencer on Advanced Management Accounting
6. Students' Handbook on Information Systems Control and Audit
7. Direct Taxes - A Ready Referencer
8. Students' Referencer on Indirect Taxes
9. Students' Referencer on Standards on Auditing
10. A Handbook on Accounting Standards

BOOKS FOR C.A. IPCC / PCC

1. Ready Referencer on Accounting Group - I
2. Law, Ethics and Communication - A Referencer
3. Students' Handbook on Cost Accounting and Financial Management
4. Students' Referencer on Income Tax, Service Tax and VAT
5. Students' Handbook on Advance Accounting - Group II
6. Students' Handbook on Auditing and Assurance
7. Students' Handbook on Information Technology and Strategic Management

BOOKS FOR CPT

1. Basics of Accounting
2. Basics of General Economics
3. Mercantile Law Guide
4. Practical Guide on Quantitative Aptitude

For CA CPT: Visit
www.cacptexam.com

Order for Books can be placed with :



C. Sitaraman & Co.

LAW BOOK SELLERS AND DISTRIBUTORS

No.73/37, Royapettah High Road, Chennai - 600 014. Phone : 044 - 2811 1516 / 044 - 2811 7069
Email : sitaraman_tn@airtelmail.in / csandco@md3.vsnl.net.in / Website : www.sitaraman.com

niyogin

Grow your Business!

Register for niyogin
partner program



Are you a financial expert looking to help your small business customers grow?
Look No Further!

Small businesses are at the heart of the Indian economy. niyogin with its **fully digital and truly paperless platform** strives to empower small businesses meet their capital

The niyogin partner program provides you with a host of benefits:



Financial rewards for all
loans originated through you



Free customised website
for your business



Personalised on-ground support
and account management



Opportunity to participate in local events
and seminars to grow your business



Customised unsecured loan products
for your target segment & markets

How to become a partner:



Visit <https://www.niyogin.in/become-a-partner>



Scroll down and click on “**request for one**” below enter invite code



Fill in the details and our executives will get in touch with you

BECOME A PARTNER LINK:  18002660266  partnersupport@niyogin.in

Published by : Anil Kumar Khicha on behalf of the Chartered Accountants Study Circle,
2-L, Prince Arcade, 22-A, Cathedral Road, Chennai - 600 086. Phone : 2811 4283

Printed by : D. Srikanth at Super Power Press, No.1, Francis Joseph Street, Chennai - 600 001. Phone : 6536 1540

Editor : **Anil Kumar Khicha**

The CASC does not accept any responsibility for the views expressed/contributions published in the Bulletin.