



CASC

BULLETIN

THE CHARTERED ACCOUNTANTS STUDY CIRCLE

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MEETINGS

Date	Time	Speaker	Topic
13.07.2019 Saturday	09.00 am*	CA. Debasis Nayak	All About New Returns & Other Recent Developments - GST
25.07.2019 Thursday	06.30 pm**	CA. Nithya Sankaran	Income Based Penalties - 270A, 270AA, 270AAB and 270 AAC

*Preceded with Breakfast half an hour before the scheduled time of meeting

** Preceded with High Tea half an hour before the scheduled time of meeting

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EDITORIAL

New Government – New Thought Process:

With the elections coming to end with absolute majority to the Bharatiya Janata Party, the process of appointment of ministers took the center stage with lots of rumours going around in particular for the important portfolios. India is now having the first ever woman full time finance minister that to after 72 years of independence. By the time one reads this editorial, the first ever woman finance minister would have presented her maiden budget. It would worthwhile to note that only three finance ministers have presented most number of budgets namely 7 and they are Mr. Yashwant Sinha, Mr. Yashwantrao Chavan and C.D. Deshmukh. The first ever woman finance minister has to tackle the difficult situation of slowdown in economy, slowdown in employment generation, etc., Whereas there is a silver lining when one sees the advance tax collection during the first quarter – First Instalment of advance tax collection which has shown robust growth and hopefully this based on revival of economic growth. It would worthwhile to note that there was shortfall to the tune of Rs. 50000 Crores, in the collection of taxes during the fiscal year 2018-19. However, the CBDT while setting the Budget target for its field formation has estimated a 20% increase on the actual collection Rs. 11.50 Crores and put the estimated budgetary target at Rs. 13.80 Crores

INCOMING MONEY

Mumbai advance tax collection figures (in ₹ crore)

	Q1 FY19	Q1 FY20	% growth
Advance tax			
Corporate	5,477	14,873	171.6
Personal	1,879	2,301	22.4
Total advance tax collection	7,356	17,174	133.5
Gross tax collection (As on June 15)	47,486	60,191	26.8
Net tax collection (As on June 15)	17,593	27,208	54.7
Total collection target	3,82,936	4,39,773	14.8

Note: First quarter for advance tax collection ends on June 15 Source- Income tax department

This Government had constituted a task force for drafting a new direct tax law during November, 2017 and the same was reconstituted during November, 2018. The task force was to submit its report by February, 2019 which was extended to May 2019 and now it is further extended to July 2019. Now the budget will presented before the report is to be presented by the Task Force. It would be worthwhile to see whether the Finance Minister

would take any interim report and or recommendations from the task force and accordingly use while presenting the budget. Be that as it may, the fact is that the basic exemption limit has been stagnant for the entire tenure of this Government in the previous five years though there has been inflation during the said period and accordingly it requires a revisit.

Let us wait for the 5th of July, to see what is in store for us as professionals as well as tax payers from the first ever full time woman at the helm of affairs at the Ministry of Finance.

Our Member in limelight

Our Life Member CA. T. N. Manoharan has been appointed by Reserve Bank of India as the Chairman of the newly constituted task force on the development of secondary market for corporate loans. On behalf of the members of CASC, the Management Committee wishes him all the best and are sure that he will excel as is his practice, in this new assignment also.

Appeal

CASC along with Nani Palkhivala Arbitration Centre is conducting a one day program on a very relevant and vividly used law Insolvency and Bankruptcy Code, 2016. Renounced speakers and panelists have been lined up for the program. The details of the same has been mailed to each and every member. However, the details are also carried elsewhere also in this bulletin.

CASC along with other sister concern is also conducting the annual program as done in earlier years, a public meeting on Union Budget. The details of the same has been mailed to each and every member. However, the details are also carried elsewhere also in this bulletin.

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

For and on behalf of Editorial Board

CA. Uttamchand Jain

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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.

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RECENT JUDGMENTS IN VAT CST

Personal Hearing:

Petitioner has filed reply dated 18.07.2018 in respect of the period 2010-2011. A perusal of the assessment order issued in this regard, the assessing officer merely extracted the reply /objections in entirety in the body of the order and rejects the same, in one line stating: "Finally, all the objections filed by them is overruled and the proposals are confirmed". The Court held that the manner of disposal of objections as above is clearly unacceptable. Moreover, the assessing officer has merely indicated a range of days when the assessee may appear before him. He thereafter concludes the assessments stating that the petitioner has not availed the opportunity of personal hearing, granted by him. The Court was of the view that opportunity of personal hearing to be effective, should involve fixation of a specific date and time when the matter will be heard by the assessing officer. Indicating a range of days where the assessee may appear does not amount to effective opportunity of personal hearing, as the assessee cannot be expected to anticipate the availability of the assessing officer nor the assessing officer expected to be available at their desk during the entirety of all working days. It is thus



CA. V.V. SAMPATHKUMAR

necessary that a specific date and time be fixed when the assessee will appear before the Assessing Officer and make their submission. This has not been done in this case and thus of the view that the principles of natural justice stand violated. The assessments are thus liable to be set aside. **Mico Leather Exports, Vs. The State Tax Officer, Ambur. W.P. No.6724 of 2019 DATED: 27.03.2019**

Assessment:

The learned counsel for the petitioner cites a decision of this Court in W.P.No.2980 of 2019 dated 01.02.2019 wherein the assessment for the period 2015-16 was challenged. Admittedly the issues arising therefrom are identical to those arising in the present case, where the impugned orders relate to the periods 2013-14 and 2014-15. It is stated that through the communication dated 13.12.2018, the assessee was informed to file such reply

on or before 02.01.2019 in respect of the assessment years 2013-14 and 2014-15. The learned counsel for the petitioner denies the above contention and states that no such communication was served on the petitioner. In any event, as it is an admitted position that the assessment order was passed based on the report submitted by the Enforcement Wing Officers and not after providing an opportunity of personal hearing, this Court was of the view that one more opportunity can be given to the petitioner so as to enable them to file their objections to the notice of proposal so as to enable the Assessing Officer to pass the order of assessment on merits and in accordance with law, after providing personal hearing to the petitioner as well in the earlier Writ petitions of the same petitioner herein referred to above. In the light of the aforesaid and bearing in mind that the issue arising in all the Writ Petitions are identical, these writ petitions are allowed on similar lines as the earlier Writ Petition. The assessing authority will redo de novo the assessment. **WOOD & CRAFT Coimbatore 641 001. Vs. The State Tax Officer, (The Commercial Tax Officer), N. H. Road Circle, Coimbatore. W.P. Nos.1016 & 1018 of 2019 DATED: 26.03.2019**

Transit Pass:

The Writ Petitioners challenge the proceedings dated 28.11.2014 for the year 2013-14. A query was put as to why the writ petition be entertained, seeing as it is belated and hit by latches. An explanation is offered to the effect that the issue in the impugned assessment relates to surrender of three transit passes generated online during the period 01.04.2013 to 31.03.2014. No appeal was filed as against the aforesaid order. While this was so, an assessment under the provisions of the Central Sales Tax Act, 1956 for the same period i.e. 2013-14 was taken up for hearing and an order passed on 18.05.2016 accepting the 'C' Forms filed and granting the benefit of concessional rate of tax to the petitioner and the petitioner believed that, the 'C' Forms having been accepted, nothing further remained to be done in respect of the order of assessment dated 28.11.2014. Only when the impugned demand notice dated 19.02.2019 was received, raising a demand pursuant to the order of assessment dated 28.11.2014 along with penalty and interest that the petitioner realised that the said order ought to have been challenged as well. In the interests of justice and finding the explanation offered by the petitioner reasonable, this Court permits the petitioner to file an Appeal against order dated 28.11.2014

upon condition that the petitioner remits the entire demand arising from the impugned order of assessment within a period of two weeks from today. Such appeal, if filed by the petitioner, within a period of two (2) weeks from today, accompanied by proof of remittance of 100% of the disputed tax, penalty and interest, shall be taken up and disposed by the respondent in accordance with law, within a period of four (4) weeks, after hearing the petitioners. **M/s. Vikash Trading Co, V. The Assistant Commissioner (CT) (FAC) Hosur South, W.P.Nos.7459 & 7450 of 2019 DATED: 20.03.2019**

Stay Orders:

When there is prayer for the modification of the stay order for the provision of bank guarantee, the Court after taking into account the position that the petitioner has remitted the tax component of a sum of Rs.3,52,000/- as directed by the first appellate authority, permitted to furnish a personal bond in respect of the balance of tax of Rs.14,12,687/- within a period of seven days from date of receipt of a copy of this order. It is made clear that impugned stay order dated 08.02.2019 stands modified to this limited extent alone. **M/s. C. R. Caterers India Pvt. Ltd., vs. The Appellate Deputy Commissioner (ST) (FAC), Chennai (North), Writ Petition No.7540 of 2019 DATED: 15.03.2019**

Registration:

The registration of the petitioner was cancelled only on the reason that the petitioner did not file their monthly return periodically in time. It is contended on behalf of the petitioner that in pursuant to the notice issued by the Commissioner of State Tax, Tamil Nadu extending the time for filing the returns up to 31.03.2019, the 1st respondent ought to have restored the registration by allowing the petitioner to file their return before the cut-off date. It is contended by the learned Additional Government Pleader, even though such time was extended for filing monthly return, by virtue of notification dated 02.01.2019, the impugned proceedings was issued much earlier to the said notification and therefore, the petitioner is not justified in making the above contention before this Court. In any event, the learned Additional Government Pleader fairly submitted that the petitioner has filed their monthly return till November, 2018 and only the return for December, 2018 has to be filed. Therefore, it is contended that if such return is filed with a request for restoration of registration, the same will be considered and appropriate orders will be passed for restoring the registration. Considering the above stated facts and circumstances and in view of the fact that the petitioner

had already filed returns till the month of November, 2018 and in view of the fact that said returns can be filed till the end of 31.03.2019 as per notification Nos.21 and 22 of 2019 and considering the fact that the petitioner has to file the monthly return only for December, 2018, this Writ Petition is disposed of with the following directions: a) The petitioner shall file their monthly return for December, 2018, within a period of two weeks from the date of receipt of a copy of this order along with the application for restoration of registration. b) On receipt of said return along with the application, the 1st respondent shall consider the said application and pass appropriate orders for restoring the registration, by taking note of the fact that the time for filing the return is subsequently extended by the Commissioner till 31.03.2019. **M/s. SGS Home Needs Vs The Assistant Commissioner, Ayanavaram Assessment Circle, W.P.No.31322 of 2018 DATED: 28.01.2019**

Non Application of Mind:

Perusal of the orders passed by the Assessing Officer in respect of assessment years 2006-2007 and 2007-2008 dated 27.04.2018 would show that the Assessing Officer has recorded the appearance of the petitioner on 27.04.2018 in pursuant to the notice dated 10.04.2018. Therefore, it

is evident that the petitioner has appeared before the Assessing Officer on 27.04.2018 pursuant to the notice dated 10.04.2018. When such notice dated 10.04.2018 was issued referable to all the assessment years, the Court states that Assessing Officer is correct in stating that the petitioner did not appear on the day of personal hearing viz., 27.04.2018 in respect of other assessment years, impugned in these writ petitions. Therefore the impugned assessment orders passed by holding that the petitioner did not appear in person, is factually incorrect and therefore, such orders passed in total non-application of mind and violation of principles of natural justice cannot be sustained. **M/s. Salora International Limited, Vs. The Assistant Commissioner of State Taxes, Valluvarkottam Assessment Circle, W.P.Nos.1910, 1914, 1915 & 1917 of 2019 DATED: 24.01.2019**

Personal Hearing:

Upon hearing the learned counsels appearing on either side and by considering the admitted position that the impugned assessment orders were passed without affording an opportunity of personal hearing to the petitioner, more particularly, when the Assessing Officer has also chosen to impose penalty, this Court is of the view that the matter needs to be remitted back to the Assessing

Officer for re-doing the assessment once again after giving an opportunity of hearing to the petitioner since such requirement is mandatory in view of the Circular No.7/2014 dated 03.02.2014 issued by the office of the Principal Secretary/ Commissioner of Commercial Taxes, Chepauk, Chennai-6. It is open to the petitioner to raise all the contentions as raised in these writ petitions before the Assessing Officer at the time of personal hearing. **TEAMLIFTSS IT Systems & Solutions Pvt. Ltd., vs. The State Tax Officer, Pondy Bazaar Assessment Circle, Chennai- 600 028. WP.Nos.1313 of 2019 DATED: 23.01.2019**

Scope of Circular:

Scope of Circular issued No.7 of 2014 was considered by the Court in WP.No.6868 to 6874 of 2017 dated 21.03.2017 wherein at Paragraph Nos. 9, 10 & 11, it has been observed as follows: 9. a) Fifteen days' time limit shall be given as reasonable opportunity to dealers before passing any order etc., and No order shall be passed without being satisfied of the reasonable opportunity and adopting the following process. (i) After issue of notice calling for the objections, if any further time is requested by the dealer within a period of fifteen days, it shall be examined and reply to be given to the dealer (ii)

Objections filed by the dealer on the pre-assessment/revision notices shall be examined in each and every issue meticulously and speaking order shall be passed addressing the objections raised, in short, the speaking order which is complete shall be passed. (iii) As the Act stipulates the condition of granting of personal hearing, it shall be invariably be afforded to the dealer irrespective of whether the dealer has opted for personal hearing or not. 10. The petitioner is entitled for a personal hearing, the respondent has not intimated the petitioner about the date of personal hearing in pursuant to the objections filed by them. Therefore, it is evident that the petitioner was not given such personal hearing and consequently, as rightly argued by the learned counsel for the petitioner, the impugned orders of assessment suffers on the ground of violation of natural justice. 11. Accordingly, this Court is satisfied to set aside the order of assessment only on the ground of violation of principles of natural justice, without going into any of the merits of the contentions raised by the parties on the orders of assessment. **M/s. Jeya Enterprises vs. The Assistant Commissioner (ST) Pollachi Rural Assessment Circle WP.Nos.1485, DATED: 23.01.2019**

“C” Forms:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to issue “C” Forms under the Central Sales Tax Act, 1956 read with the Central Sales Tax (Registration and Turnover) Rules, 1957 to the petitioner for the purchases of High Speed Diesel from the suppliers in other States in view of the recent judgement dated 26.10.2018 passed by the Hon’ble Madras High Court in the case of M/s. Ramco Cements Ltd., & Others in WP Nos.19458/2018 to 19460/2018 and the batch of cases. Considering the very same issue, this writ petition is allowed in terms of the order passed by this Court in W.P.Nos.19458 to 19460 of 2018 etc. batch. Consequently, the respondents are directed to permit this petitioner to download “C” form, as has been done in the past for the purpose of purchasing petroleum products against the issuance of “C” declaration forms. **M/s. Lakshmi Card Clothing Manufacturing Company Pvt. Ltd., vs. The State Tax Officer Palladam Assessment Circle W.P.No.1592 of 2019 DATED: 23.01.2019**

Personal Hearing:

A notice of proposal was issued on 17.04.2014 and the petitioner filed their reply immediately on 22.05.2014. The

Assessing Officer has chosen to pass the assessment order after a period of 4½ years, that too, without providing personal hearing to the petitioner, more particularly, when such opportunity was sought for by the petitioner in their reply dated 22.05.2014 itself. The Court held that perusal of the assessment order would show that the Assessing Officer has also imposed penalty on the petitioner, apart from levying tax and interest. Needless to state that the opportunity of personal hearing is to be provided to the assessee before concluding the assessment, in view of the Circular No.7/2014 dated 03.02.2014 issued by the Commissioner. Considering the above stated facts and circumstances, this Writ Petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the Assessing Officer to redo the assessment and pass fresh orders on merits and in accordance with law, after hearing the petitioner in person. **M/s. Topnotch Infotronix India Pvt. Ltd., Vs. The Assistant Commissioner (ST), Purasawalkam Assessment Circle W.P.No.1614 of 2019 DATED: 23.01.2019**

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

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CASE LAWS - SERVICE TAX & GST

1. SERVICE TAX - FEE OF Rs.20/- COLLECTED FOR ENTRY INTO GAMING ZONE OR FUN FACTORY/ENTERTAINMENT ZONE - EXEMPTION UNDER SL.NO.47 MEGA EXEMPTION 25/2012 - ST - NOT DENIABLE



CA. VIJAY ANAND

In Prasad Media Corporations Pvt. Ltd. V. CCT., Hyderabad, 2019 (24) GSTL 34 (Tri.-Hyd.), the appellant collects an amount of Rs. 20/- as entry fee into the gaming zone or fun factory/entertainment zone. Till 31.5.2015, the entry fee for amusement and entertainment activity was mentioned in the negative list which was removed w.e.f. 01.06.2015 consequent to which the demand for the subsequent period was confirmed by the adjudicating authority and the same was sustained by the Commissioner (Appeals). On appeal the Tribunal observed as under:-

1. Prior to 01.06.2015, service tax liability on the entry fee for amusement and entertainment activity was mentioned in the negative list which would mean no service tax is payable. From 01.06.2015, the said entry has been removed and hence it is the case of the Revenue that the amount collected by the appellant as entry fee of Rs.20/-

would be taxable while it is the case of the appellant that it is not so and they are eligible for the benefit of exemption Notification No. 25/2012.

2. A perusal of entry at Sl. No. 47 in Notification No. 25/2012-ST dated 20.06.2012 would indicate that the entry fee levied to the list of referred activities are exempt from payment of duty. Clause (iii) of the list therein contains an entry to any sporting event other than a recognised sporting event, which would include any sporting event conducted other than recognised sporting event.
3. The appellant is conducting various sporting activity within the area in his premises which would definitely fall out of the definition of "recognised sporting event". Other clause only defines recognised sporting event and Sl. No 47 also exempts sporting event other than recognised sporting event.

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4. Both the lower authorities have misconstrued Entry No. 47 to deny the appellant exemption from service tax liability on the amounts charged by him which are less than Rs 500/- as required under Notification.

Hence, the appeal was allowed and the impugned order was set aside.

2. GST - APPELLATE AUTHORITY FOR ADVANCE RULING - RESTAURANT SERVICES - PROVIDED WITH TAKE AWAY FACILITIES - SWEET SHOP ALSO EXISTS IN THE SAME PREMISES - SEPARATE BILLING AND SEPARATE RECORDS FOR SWEET SHOP AND RESTAURANT - NO COMPOSITE SUPPLY BUT INDIVIDUAL SUPPLY LEVIABLE AT THE RESPECTIVE APPLICABLE RATES

In RE: Kundan Mishthan Bhandar, 2019 (24) G.S.T.L. 94 (App. AAR. - GST), the applicants are running sweetshop and a restaurant in two distinctly marked separate parts of the same premises and are also maintaining separate accounts as well as separate billings for the two types of business. The goods sold from the sweetshop are being exclusively billed as sweetshop sales whereas the goods supplied from the restaurant are billed

under restaurant head. The authority for advance ruling held that both are a composite supply with the principal supply being supply from restaurants. On appeal, the appellate authority held as under:-

The authority observed as under:

1. The applicants are running sweetshop and a restaurant in two distinctly marked separate parts of the same premises and are also maintaining separate accounts as well as separate billings for the two types of business. In such a situation, nature of the business establishment making supply of food, drinks and other articles for human consumption will not determine whether the same is a supply of goods or services but will depend on the constituents of each individual supply and whether same satisfies the conditions/ingredients of a 'composite supply' or 'mixed supply', as defined under section 2(30) and 2(74) of the CGST Act respectively.
2. When the goods such as sweets, namkeens, cold drinks and other edible items are supplied to customers in the restaurant or as takeaways from the restaurant counter and which are being billed under restaurant sales head should fall under 'composite supply' with restaurant service being

the principal supply, since supply of food in this case, is naturally bundled with the restaurant service. The taxability of all such goods supplied to or through the restaurant will be governed by the principal service restaurant service and GST rate with applicable conditions will also be applicable to all such goods also. Input credit will not be allowed in this case.

3. All goods which are supplied to customers through sweetshop counter have no direct or indirect nexus with restaurant service. Any-one can come and purchase any item of any quantity from the counter without visiting the restaurant. The billings of such sales are also done separately. Thus such sales, by no stretch of imagination, can be clubbed with restaurant service. These sales do not satisfy the basic requirement of 'composite supply' i.e. 'being naturally bundled and supplied in conjunction with each other'. These sales are completely independent of restaurant activity and will continue even when the restaurant is closed, either temporarily or permanently. Hence such sales will be treated as supply of goods with applicable GST rates on the items sold. Input credit will be allowed on such supply.

Hence, the authority held as under:

- a. The ruling of the advance ruling authority was set aside.
 - b. Sale of sweets, namkeens, cold drinks and other edible items through restaurant will be treated as 'composite supply' with restaurant supply being the principal service. Existing GST rates on restaurant service will also be applicable on all such sales and no input credit will be allowed.
 - c. Sale of sweets, namkeens, cold drinks and other edible items from sweetshop counter will be treated as supply of goods with applicable GST rates of the items being sold and input credit will be allowed on such supply.
 - d. The applicant should maintain separate records for restaurant and sweetshop with respect to input and output and billings as well as other accounting records should also be separately maintained.
- 3. GST - ADVANCE RULING - HOSTEL BOARDING AND LODGING WITH TRAINING TO EWS STUDENTS - COMPOSITE SUPPLY WITH PRINCIPAL SUPPLY BEING ACCOMMODATION - EXEMPTION SO LONG AS THE DECLARED TARIFF IS BELOW RS.1,000/- PER DAY OR EQUIVALENT - THOSE BENEFIT**

NOT TO EXTEND TO COMMERCIAL USE - DONATION RECEIVED BY TRUST - NOT LEVIABLE TO GST UNLESS DONOR HAS RECEIVED SOME IDENTIFIABLE BENEFITS

In RE: Students' Welfare Association, 2019 (24) GSTL 109 (A.A.R.-GST), the applicant is running a hostel boarding and lodging and was also providing training to economically weaker sections (EWS) along with food. In addition, they were also receiving donations. An application was filed seeking advance ruling as to the following:-

1. Whether hostel accommodation provided by Trusts to students is covered within the definition of Charitable Activities and thus, exempt under Sl. No.1 of Notification No.12/2017-CT (Rate).
2. Whether the donations received to meet the expenses for running the hostel is chargeable to GST?

The authority observed as under:-

Question-1 : Whether hostel accommodation provided by Trusts to students is covered within the definition of Charitable Activities and thus, exempt under Sl. No. 1 of Notification No.12/2017-CT (Rate).

1. From the Notification Entry no.1 and the meaning assigned to the expression 'charitable activities', the activities of the Trust in providing hostel accommodation facilities to the students for education do not fall within the ambit of charitable activities. This conclusion is in conformity with the clarification issued by the Tax Research Unit vide Circular No.32/06/2018-GST dated 12th February, 2018.
2. Consequently, the hostel accommodation provided by Trusts to students is not covered by exemption Notification Entry No.1 of Notification No. 12/2017-CT (Rate).

Question 2: Whether different treatment would be required for use of hostel rooms given for residential purposes but ultimately been used by the hirer for commercial use.

3. As per the clarification issued vide Circular No. 32/06/2018-GST dated 12th February 2018, the distinction between services by a hotel, inn guest house club or composite, by whatever name called, for residential or lodging purposes and Hostel accommodation services is done away. In the present case, during the vacation period, the hostel is offered for residential purpose and hired for labourers of a commercial organization.

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4. A perusal of entry Sr. No. 14 of the Notification No. 12/2017 indicates that the description of service is use based, meaning that if the accommodation is used for residential or lodging purpose then it is immaterial as to who the user is. The services provided by such hostel, for residential and lodging purposes would be covered by the scope of notification entry where the declared tariff of a unit of an accommodation is below one thousand rupees per day.
 5. Consequently, the scope of the entry is restricted to use of the accommodation unit for residential and lodging purpose.

Question-3: Whether the said notification would be applicable if the accommodation is decided to be given for commercial purposes in future whether the activity still would be able to enjoy exemption under said notification.

6. The scope of exemption entry 14 of the Notification 12/2017 which is applicable to accommodation unit when used only for residential or lodging purpose are reiterated.

Question-4: Whether the large donations given by the donors would be treated as service & taxed accordingly and whether only sponsored donations are covered under said mega exemption notification.

7. The applicant is not a commercial hostel nor commercial organization and thus meets its expenses by charging nominal fees to the students & that they also meet the expenses from donations collected from public.
8. The CBEC in Circular dated 01/01/2018 at Sr. 39 clarified that if the income is in the nature of donation received without any instructions, then it would not be subject to GST.
9. Consequently, the donations received without any instruction would not be taxable. However, where the donor is clearly receiving identifiable benefits in return either in terms of advertising or publicity, the said donation amount received is to be treated as a consideration for supply of goods or services or both and liable to GST.

Hence, the authority held as under:

- a. The hostel accommodation provided by the Trust to students is not covered within the definition of charitable activities and thus, exempt under Sl. No.1 of Notification No.12/2017- CT (Rate).
- b. The supply of residential or lodging services @ Rs.22,250/- per annum is covered by Sr. No.14 of Notification No. 12/2017 - CT (Rate).

c. No different treatment would be required for use of hostel rooms given by us for residential purposes but ultimately had been used by the hirer for commercial use.

4. SERVICE TAX - VIRES ON ADVERTISEMENT TAX UNDER UP MUNICIPALITY ACT 1916 READ WITH SECTION 128(2)(vii) OF THE U.P. MUNICIPALITIES ACT - ULTRA VIRES THE CONSTITUTION CONSEQUENT TO THE INTRODUCTION OF GST - REFUND

In Pankaj Advertising Prop V. State of U.P., 2019 (24) G.S.T.L. 162 (All.), the petitioner is an advertising firm and had taken private properties, not belonging to the Nagar Palika Parishad at four places for putting hoardings on the roof of the said premises. However, in pursuance of the bye-laws framed by Nagar Palika Parishad, Hathras on 12.1.2017 and published on 19.8.2017, a demand of advertisement tax on Hoardings/Sign Boards/Glow Signs affixed at various places including on the private buildings was sought to be recovered from the petitioner.

The petitioner therefore challenged the legislative competence to the imposition, collection and realization

of the Advertisement Tax under the U.P. Municipalities Act, 1916 alleging that when there is no provision to impose such a tax there can be no power to frame any bye-laws in that regard.

The High Court observed as under:

1. The bye-laws by virtue of which the municipalities intended to levy and collect tax on advertisement were framed on 12.1.2017 but were published on 19.8.2017 i.e. after 01.07.2017 when GST was introduced and after the omission of Section 128(2) sub-section (vii) of the U.P. Municipalities Act. That being the case, the narrow ground to be considered by this Court is whether the bye-laws framed on 12.1.2017 by the respondents and published on 19.8.2017, were beyond the statutory power of the municipalities.
2. Consequent to the omission of entry-55 of the List-II of the Seventh Schedule to the Constitution of India by the 101st Amendment Act, 2016 with effect from 16.9.2016, even the State Government did not have the legislative competence to levy or collect taxes on advertisement which was earlier available under Entry-55. This coupled with the fact that the power of taxation earlier vested with

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- the municipalities under section 128(2)(vii) of the U.P. Municipalities Act, 1916 having been omitted by virtue of Section 173 of the U.P. Goods and Service Tax Act, 2017, the municipality did not even have the statutory competence to levy, impose or collect Advertisement Tax.
3. Consequently, the levy and collection of the Advertisement Tax under the provisions of Nagar Palika Parishad, Hathras (Vigyapan Kar Ka Nirdharan Aur Wasuli Viniyaman) Upvidhi, 2015 is clearly without legislative or statutory competence and is ultra-vires under article 265 of the Constitution of India, U.P. Municipalities Act, 1916 and U.P. Goods and Service Tax Act, 2017. Nagar Palika Parishad, Hathras (Vigyapan Kar Ka Nirdharan Aur Wasuli Viniyaman) Upvidhi, 2015 is without any legislative or statutory competence and, thus, are hereby struck down.
 4. Article 265 of the Constitution of India mandates that no tax shall be levied or collected except by authority of law. Therefore, the authority to levy any tax must be derived from some Statute.
 5. The Nagar Palika Parishad, Hathras framed the said byelaws in exercise of its powers under Sub-Section (2) (vii) of the Section 128 of the Municipalities Act which enabled the municipality to impose tax on advertisement not being advertisement published in the newspapers.
 6. In view of the aforesaid omission of Section 128(2)(vii) of the Municipalities Act by the G.S.T. Act, all municipalities in the State of U.P. were denuded of the power to impose tax on advertisement after 01.01.2017. Once the said power of imposing tax on advertisement itself was taken away, no bye-laws in that regard could have been framed and promulgated.
 7. The mere framing of the said bye-laws prior to the omission of sub-section 2(vii) of Section 128 of the Municipalities Act would not bring the said bye-laws within the legislative competence as on the effective date the statutory provision enabling the imposition of advertisement tax stood already deleted.
 8. Apart from the above, the State legislature was invested with the power to make laws in respect of taxes on advertisement vide Entry 55 of List II to the 7th Schedule of the Constitution but the said Entry was deleted by the Constitution (101st Amendment) Act, 2016 w.e.f. 12.09.2016. The said Amending Act

vide Section 17 amends 7th Schedule and provides for the omission of Entry 55 of List 2 of the said Schedule. Thus, deleting the power of the State to make laws in respect of taxes on advertisement.

Hence, the aforesaid bye-laws are struck down and the petition was allowed.

5. SERVICE TAX - DIRECTORS' SALARY ALONG WITH DEDUCTIONS ON ACCOUNT OF PROVIDENT FUND, PROFESSIONAL TAX AND TDS U/S 192 OF THE INCOME TAX ACT, 1961 ALONG WITH FORM 16 - NOT LIABLE

In Allied Blenders and Distillers Pvt. Ltd. V. C.C.E. & S.T., Aurangabad, 2019 (24) G.S.T.L. 207 (Tri.-Mumbai), the appellant is providing taxable services under the category of 'rent a cab service', 'security agency service', 'manpower recruitment and supply agency service', 'transport of goods by road/goods transport agency service', 'business support service', and 'works contract service'. During the course of audit, it was noticed that the appellant had been receiving services from the directors, but failed to discharge service tax under reverse charge mechanism, on the remuneration paid, in accordance with Notification number 30/2012-ST dated 20.06.2012

and Notification No. 45/2012 dated 07.8.2012. The adjudicating authority confirmed the demand. On appeal, the Tribunal observed as under:

1. A perusal of the documents makes it crystal clear that the Directors who are concerned with the management of the company, were declared to all statutory authorities as employees of the company and complied with the provisions of the respective Acts, Rules and Regulations indicating the Director as an employee of the company. No contrary evidence has been brought on record by the Revenue to show that the Directors, who were employee of the appellant received amount which cannot be said as 'salary' but fees paid for being Director of the company.
2. The Income Tax authorities also assessed the remuneration paid to the said directors as salary, a fact cannot be ignored.

Hence, the appeal was allowed and the impugned order set aside.

6. SERVICE TAX - EMPLOYEES ON DEPUTATION FROM FOREIGN PARENT COMPANY TO INDIAN SUBSIDIARY UNDER DISPATCH AGREEMENT - TDS FROM SALARY AND PERKS GIVEN TO SUCH EMPLOYEES - NO MANPOWER SUPPLY

In *Nissin Brake India Pvt. Ltd. V. C.C.E., Jaipur-I 2019 (24) G.S.T.L. 563 (Tri.-Del)*, the appellant is engaged in the manufacture of automobile parts and entered into dispatch agreement with its parent company M/s. Nissin Kogyo Company Ltd., Japan for the payment of salary and other perks of the employees deputed from such foreign company. The adjudicating authority confirmed the demand on the appellant under the reverse charge mechanism under the head “manpower recruitment or supply agency service” on payments of such salaries and perks, against which an appeal was filed before the Tribunal which observed as under:-

1. A perusal of the agreement entered into between the appellant and its parent company indicates that the employees deployed by the latter were working under the control, direction and supervision of the appellant. The appellant also deducted tax at source from the salary and other perks given to the employees. The fact that the appellant did not pay any direct/indirect consideration to its parent company towards deployment of the employees is also not under dispute.
2. Thus, no agency and client relationship exists between the parent company and the appellant. Rather, the terms of

the agreement makes the position clear that the relationship between the appellant and the manpower deployed by the parent company is of employer/employee, and as such, it cannot be considered as the taxable service under the category of manpower recruitment or supply agency service.

Hence, the appeal was allowed and impugned order set aside.

7. SERVICE TAX - EXEMPTION FROM LEVY BEYOND FINANCE ACT, 1994 - BORROWING FUNDS FOR ULTRA MEGA POWER PROJECT UNDER ECB SCHEME FROM OVERSEAS LENDERS AND CLAIMING EXEMPTION FROM SERVICE TAX ON VARIOUS CHARGES UNDER RCM - CONSTITUTIONAL OBLIGATION UNDER ARTICLE 253 OF CONSTITUTION OF INDIA TO FRAME LAWS TO HONOUR BINDING INTERNATIONAL AGREEMENTS AND NO SEPARATE EXEMPTION IS REQUIRED TO BE PROVIDED FOR SUCH ORGANISATIONS IN INDIA

In *Coastal Gujarat Power Ltd. V. CSTs., Mumbai-I 2019 (24) G.S.T.L. 572 (Tri.-Mumbai)*, the appellant borrowed funds for the 4000 MW Ultra Mega

Power Project at Mundhra under the External Commercial Borrowing (ECB) scheme from overseas lenders and were contractually obliged to pay (i) commitment charges (ii) upfront fee (iii) arrangement fee (iv) agency fee and (v) out-of-pocket expenses for the period from April, 2008 to March, 2011. The appellant had discharged service tax under the reverse charge mechanism (RCM) on such charges, except for two, International Finance Corporation (IFC) and Asian Development Bank (ADB). The adjudicating authority confirmed the demand, under RCM, for charges paid to IFC & ADB, against which a further appeal was filed before the Tribunal which observed as under:-

1. ADB was set up in 1966 under the auspices of the United Nations Economic Commission for Asia and the Far East to develop a financial institution that has an Asian character. The establishment of the Bank was under an Agreement among the aspiring members and the Agreement was to come into force upon depositing of instruments of ratification or acceptance by fifteen eligible member-countries. IFC is a member of the World Bank Group set up in 1956. The World Bank was established in 1946 following the

United Nations Monetary and Financial Conference at Bretton Woods of 1944 as International Bank for Reconstruction and Development along with the International Monetary Fund to prevent future economic catastrophes that were perceived as being at the root of the events leading to the Second World War. Five international organizations came up as arms of the International Bank for Reconstruction and Development – one of these is the International Finance Corporation. The two Agreements required a member-country to accord, in its territory, the status, immunities, exemptions and privileges set forth in the Agreement.

2. Under article 253 of the Constitution, legislation is necessary to render the agreement enforceable. With such legislation, the immunities acquire force of law that prevail over any other law, even if contrary. It has been held that there is a constitutional obligation to enact laws in pursuance of international agreements and it has also been held that, till such enactment occurs, the agreements remain as unenforceable intentions. Conversely, every law enacted to honour international agreements become binding on every authority in the country.

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3. It is settled law that, in India, the power to enter into treaties and agreements is, in the absence of any legislation under article 246 of the Constitution, vested in the Executive and that treaties and agreements are merely binding contracts between the signatory States. To give effect to those treaties and agreements, legislative sanction is a constitutional necessity. In particular, citizens or residents can seek enforcement of such agreements or treaties only in accordance with consequential legislation by Parliament.
 4. Therefore, while according immunity, the respective Acts refer to the contents of the agreements and append the agreement to the Act. It is left to legislation to enact manner in which specific exemptions are conferred but where a clarification is wanted, the agreement itself must be referred to so that the objectives of the agreement may not be compromised.
 5. The immunity from tax is sufficiently broad to encompass all taxes – direct and indirect – and, in that context, the restrictions in the proviso have to be interpreted literally and not liberally in favour of Revenue. The Agreement imposes self-limitations on the immunity to taxes by the three clauses in the proviso. The first component of the proviso permits Governments to impose restrictions on further dealing with goods imported free of duty. The second debars claims to escapement from duties on goods that were subsumed in the price of the goods. The third likewise debars claims of escapement when such duties or taxes are palpably compensation for services.
 6. Section 8 of the United Nations (Privileges and Immunities) Act, 1947 provides immunity to the relating to bodies established under the auspices of the United Nations, which is denied for excise duties and taxes on sale of movable and immovable property. The impugned order holds that appellant is not covered by immunity even if the providers were premised on the fiction of Section 66A that the receiver of service is deemed to have rendered the service.
 7. The inference of the adjudicating authority is that if the said service providers had an establishment or office in India, there would have been an exemption to tax because the service rendered by Asian Development Bank and International Finance Corporation are exempt. The service is taxable and, owing to its intangibility, the consummation of service is deemed to be complete

when a receiver and provider exist. The proposition of the adjudicating Commissioner would create a new dimension to the tax, viz., the geographical location of the provider, which is not envisaged in Finance Act, 1994.

8. The national treatment for service rendered by ADB and IFC is unconditional tax exemption but, according to the adjudicating Commissioner, the national treatment is exemption conditional upon discharge of threshold tax merely because the provider is located outside the country. Section 66A has been legislated in Finance Act, 1994 to accord national treatment to services provided from outside after discharge of tax at threshold so that there would be no distinction between service providers located within India and outside India. The fiction of merging provider and receiver is a legislative imperative as the provider based abroad is jurisdictionally non-existent in the eyes of sovereign legislature.
9. ADB & IFC are existing entities in the eyes of the sovereign legislature cannot be in doubt in view of the legislation pertaining to these bodies. Section 66A is a special provision to attract tax as a countervailing measure to cover circumstances that general

taxing provision, Section 66, does not encompass.

10. A legislation of India stands on a better footing as having jurisdictional presence than administratively ascertained characteristics such as establishment and place of residence. Hence, ADB & IFC do have an existence in India, even if not corporeally, by legislative acknowledgement. The services rendered by them are not de hors the provider as to require to Section 66A to be subject to taxation. It is Section 66 that is to be invoked.
11. With the provider being not only immune from taxation but also absolved of any obligation to collect and deposit any tax, there is no scope for subjecting the recipient to tax in the absence of inclusion in the definition of 'person liable to pay tax' in Rule 2 of Service Tax Rules, 1994. This would preclude tax on services rendered by the two entities under Section 66 even if these were otherwise taxable and the immunity does not have to emanate from the provisions of Finance Act, 1994 but from the statutes governing the ADB & IFC. The two statutes do not predicate the immunities to the presence of the two entities in India but to wherever may be located in relation to tax liability in India.

12. When the enactments that honour international agreements specifically immunize the operations of the service provider from taxability, a law contrary to that in the form of Section 66A which legislates such operations into tax net will not prevail.

13. Our place in the comity of nations is determined by our respect for commitments made at the international negotiation tables. Compliance, as a signatory to international treaties, conventions and agreements, has been the subject of various disputes before the Supreme Court. In the initial years, a strict view with Article 253 as the Centre-piece was the trend of judicial thinking.

14. The decisions in *Kubic Dariusz v. UOI* [AIR 1990 SC 605 = 1990 (48) E.L.T.17 (S.C.)] and *Mackinnon Mackenzie v. Audrey D'Costa* [(1987) 2 SCC 469] indicate the tendency to the alternate approach of harmony with international law as the cornerstone of administration when in conflict. Similar views were also echoed by Justice V. R. Krishna Iyer in *Jolly Verghese v. Bank of Cochin* [1980 SCR (2) 913].

15. In the evolution of judicial interpretation, the obligation of the State in accordance with Article 51 has

been held to render treaties and agreements as binding. In the situation of Agreements having been enacted to have force of law, there can be no doubt that the intent of those Agreements must prevail over an interpretation that begins and end within the framework of a taxing statute.

16. Consequent to the above, there is no need for a separate exemption as held in the impugned order. The existing laws enacted by the sovereign legislature of the Union suffice for the purpose of giving effect to Agreements. And to attain that end, the taxing statute, if it offers the scope, must be so interpreted.

Hence, the appeal was allowed with consequential relief.

8. GST - ADVANCE RULING - MEDICINES, CONSUMABLES, ROOM RENT, NURSING CHARGES, DOCTOR'S FEES, ETC. CHARGED TO IN-PATIENTS - COVERED UNDER EXEMPTION FOR HEALTH CARE SERVICES UNDER S.NO.74 OF NOTIFICATION NO.12/2017-C.T.(RATE)

In RE: *Starcare Hospital Kozhikode Pvt. Ltd.* 2019 (24) GSTL 802 (A.A.R.-GST), the applicant is rendering medical services with experienced

professionals and have categorized the patients as in-patient and out-patient for administrative convenience. The out-patients are those who visit the hospital for routine checkup or clinical visit. The in-patients are those who are admitted into the hospital for required treatment. The in-patients are provided with facilities like accommodation, medicines, consumables, implants, dietary foods including surgical procedures required for the treatment. As per Service Classification Code 9993, healthcare services by a clinical establishment, an authorized medical practitioner or paramedics have been exempted from tax under Sl. No. 74 of Notification no.12/2017-CT(R) dated 28thJune, 2017. An application was filed seeking advance ruling as the following:

Whether the supply of medicines, consumables, surgical items, items such as needles, reagents etc. used in laboratory, room rent used in the course of providing health care services to in-patients for diagnosis or treatments which 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’ under Sl. No. 74 of Notification no.12/2017-CT(R) dated 28thJune, 2017.

The authority observed as under:

1. The medicines, consumables and surgical items used in the course of providing health care services to the in-patients/patients who undergo day procedure such as IVF, admitted for diagnosis or treatment in the hospital or clinical establishment are naturally bundled in ordinary course of business. Without administering the medicines and use of the consumables or surgical items, appropriate health care service cannot be bundled, thereby exposing the in-patients to fatality.
2. The patients visit the hospital with the basic intention of getting treatment for their ailment. Based on the severity of ailment and need for immediate or constant medical monitoring and care, the patient is admitted as in-patient. During the period of admission in the hospital, the patient is under continuous monitoring of doctors and nursing staff and administration and dosage of medication is all under the control of the doctor and the nursing staff. The entire treatment protocol is

documented and recorded. The invoice/ bill raised for the treatment as an inpatient is a single bill charging for all the facilities/services utilized for the treatment in the hospital including room rent, nursing care charges, laboratory, consumables, medicines, equipment charges, doctor's fee, etc.

3. Thus, it is clear that in case of an inpatient, the hospital has provided a bundle of supplies which is classifiable under health care services. The provision of services of supply of medicines, consumables, surgical items, items such as needles, reagents etc. used in laboratory, room rent used in the course of providing health care services to in-patients and patients admitted for a day procedure such as IVF for diagnosis or treatments is a composite supply as defined in Section 2 (30) of the CGST Act, 2017 and accordingly tax liability has to be determined in accordance with Section 8 of the CGST Act, 2017.
4. In this case the provision of health care services being the principal supply and the other supplies being dependent on the provision of health care services can only be considered as

services ancillary to the provision of health care services.

In view of the observations stated above, the authority held as under:-

- a. The supply of medicines, consumables, surgical items, items such as needles, reagents etc. used in laboratory, room rent used in the course of providing health care services to in-patients for diagnosis or treatments which are naturally bundled and are provided in conjunction with each other would be considered as composite supply.
- b. The in-patient is under continuous monitoring of the doctors and nursing staff and administration and dosage of medication is all under the control of the doctor and the nursing staff. The entire treatment protocol is documented and recorded.
- c. Consequently, the hospital provides a bundle of supplies which is classifiable under health care services eligible for exemption under the category 'health care services' under Sl. No. 74 of Notification No.12/2017- C.T. (R), dated 28th June, 2017.

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LIABILITIES OF DIRECTORS - PRESENT SCENARIO

A Director of a Company is appointed under the provisions of Companies Act, 2013 (Act). Section 2(34) of the Act defines a director *means a director appointed to the Board of a company*. The duties of a director are also prescribed under the Companies Act, 2013. Section 166 contains provisions relating to duties of a director which reads as below:

- (1) *Subject to the provisions of this Act, a director of a company shall act in accordance with the articles of the company.*
- (2) *A director of a company shall act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, and the community and for the protection of environment.*
- (3) *A director of a company shall exercise his duties with due and reasonable care, skill and diligence and shall exercise independent judgment.*
- (4) *A director of a company shall not involve in a situation in which he may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the company.*
- (5) *A director of a company shall not achieve or attempt to achieve any undue gain or advantage either to himself or to his relatives, partners, or associates and if such director is found guilty of making any*



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undue gain, he shall be liable to pay an amount equal to that gain to the company.

- (6) *A director of a company shall not assign his office and any assignment so made shall be void.*
- (7) *If a director of the company contravenes the provisions of this section such director shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.*

As regards liabilities of a director are concerned, the liabilities of a director under the Act can be bifurcated into two categories:

- Liabilities as a director / officer in default (both civil and criminal);
- Personal Liability.

The liabilities of a director as an officer in default are contained in various sections of the Act wherein the penal provisions for non-compliance of the particular section are detailed.

As a general rule, director(s) is/are not held personally liable on behalf of the company unless commission of fraud or gross negligence is proved against him/ them in conducting business of the company at the relevant time, i.e. Personal liability of a director is generally invoked in cases involving breach of trust, fraudulent misrepresentation such as Issue of Prospectus with Intent to Defraud, Acceptance of Deposits with the Intent to Defraud, Undue Advantage by Directors on Account of Fraud etc. Personal liability may also arise on account of personal guarantee given by directors of the Company.

Liability of Director for Debts of the Company

Ordinarily, a director is not, by way of holding the position of a director, liable for the debts of the company. The law in this regard is well settled and has been reiterated by courts in several judgments. For instance, the Delhi High Court in the matter of **Tristar Consultants vs. M/s. VCustomer Services India Pvt. Ltd. & Another** made the following observations and upheld deletion of the name of the director from the suit filed, inter alia, for recovery of outstanding amount and damages, extract as below

“20. Directors of companies have been described as agents, trustees or representatives of the company because of the fact vis-a-vis the company they act in a fiduciary capacity.

They perform acts and duties for the benefit of the company. Thus, directors are agents of the company to the extent they have been authorized to perform certain acts on behalf of the company.

21. But directors of a company owe no fiduciary or contractual duties or any duty of care to third parties who deal with the company...

28. To interpret the law as is sought to be projected by the petitioner would mean negation of the concept of a company being limited by its liability as per the memorandum and articles of association of the company.”

Having said that, there may be exceptional circumstances, wherein the director may be called upon for settlement of the contractual third party debts of the company.

Relevant in this context is the case of **Mukesh Hans & Anr. Vs. Smt. Uma Bhasin & Ors**, where the Delhi High Court observed as under:

“11. It is equally well settled that a Director of a Company though he owes a fiduciary duty to the Company, he owes no contractual duty qua third parties. There are, however, two exceptions to this rule. The first is where the Director or Directors make themselves personally liable, i.e., by execution of personal guarantees, indemnities, etc. The second is where a Director induces a third party to act to his detriment

by advancing a loan or money to the Company. On the third party proving such fraudulent misrepresentation, a Director may be held personally liable to the said third party. It is, however, well settled that this liability would not flow from a contract, but would flow in an action at tort, the tort being of misrepresentation and of inducing the third party to act to his detriment and to part with money."

UNDER THE PROVISIONS OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016(CODE)

The Code does not seem to prescribe any specific duties or liabilities of the directors either during liquidation or after dissolution of the Company.

The provisions of the Code provide penalty applicable, *interalia*, on directors of the Company in cases relating to liquidation of the company. If the directors of the Company under liquidation are found guilty of any of the offences, they shall be penalized for their actions in the manner as stated.

Liability of Directors of Company under liquidation - Legal Precedents (Companies Act, 1956)

Dr. J.S. Gambhir vs Millennium Health Institute and Diagnostics Pvt. Ltd., The High Court of Delhi at New Delhi, 11 February, 2014

"The principal question to be addressed is whether it is necessary to allege and prove misfeasance on the part of an Ex-director of a company in order to make the concerned director liable for the loss suffered by the company on account of its inability to recover the debts from its debtors due to inadequate information....."

A plain reading of sub-section (1) of Section 543 of the Act indicates that the provision has two limbs. The first limb would be applicable where a past or present Director, Manager, Liquidator or any officer of the company (hereinafter referred to as the specified person) has misapplied or retained or has become liable or accountable for any money or asset of the company. The second limb would be applicable if the specified person is guilty of misfeasance or breach of trust in relation to the company. It is apparent that in order to invoke the first limb of Section 543(1), it would be essential to come to a conclusion that the specified person has misapplied or retained any asset or has become liable or accountable for any money or property of the company. In the present case, there is no allegation that the funds of the company in liquidation have been misapplied or retained by the applicant. The only ground on which a claim of compensation has been made is that the applicant is guilty of misfeasance or breach of trust in relation to the company in liquidation. In order to sustain the present claim against the applicant, it would be essential to show that the applicant was guilty of misfeasance or breach of trust. The examination of the conduct of the applicant must indicate that the applicant has committed

a breach of his duty and as a result thereof, a loss has been caused to the company.....

A Director is placed in a fiduciary position to that of a company and, therefore, it is the duty of a Director to ensure that the assets of the company are preserved and protected. It is the duty of a Director to ensure that the affairs of the company are conducted in a manner so as to comply with all laws and for the benefit of the company. Indisputably, the Directors of the company would be liable if the records of the company are not maintained as required by law or that the relevant books and papers of the company are not preserved. Thus, in certain circumstances, where loss is caused to the company on account of not maintaining proper records or where the Directors have failed to take appropriate steps for preserving and recovering the assets of the company, the Directors of that company would be liable. This is so because the Directors have the power to manage the affairs of the company and coupled with this power is a duty to ensure that the affairs of the company are properly managed. In such circumstances, it would not be necessary to impute any malintent or make any specific allegation against a particular Director and it would be sufficient if it was established that proper records of the company were not maintained or that the Directors of the company, who were in charge of its affairs, did not take the necessary steps to preserve and recover the assets of the company.....

In the case of Official Liquidator, Supreme Bank Ltd. v. P.A. Tendolkar & Ors.: (1973) 1 SCC 602, the Supreme Court held that even if no specific act of dishonesty was proved against a Director personally, the Court could nonetheless hold a Director to be liable for misfeasance if he was found to be closely associated with the management of the company. In these circumstances, the Director would be deemed to be cognizant of the entire affairs of the company and would thus also be liable to compensate the company for any fraud that may have been committed in the conduct of the affairs of the company even though their specific knowledge of the fraud could not be proved. The Supreme Court further held that it was not necessary for a Director to have participated in commission of a fraud, it was enough if it could be shown that the Director was negligent which enabled the fraud to be committed. The Directors of a company are placed in a position of trust thus, it is not necessary to show that the Directors themselves have participated in pilfering or secreting the assets of a company, it would be sufficient to point out that the affairs of the company have been carried on negligently which made it possible for the assets to be pilfered or misappropriated. The Directors, by virtue of their position, would have to accept the liability for the conduct of affairs of the company.

In the case of Official Liquidator, Suganti Alloys Castings Limited (supra), the Andhra Pradesh High Court held the Directors were

liable to compensate a company on account of certain receivables of the company that had become time barred. The rationale being that it was the duty of the Directors to ensure that steps are taken for recovery of the debts due to the company. The failure to initiate appropriate steps for recovery of debts was found to be sufficient to hold the Directors liable to compensate the company.

The Code also contains penal provisions for offences by the Company or its officers in relation to affairs of the Company or those on relation to its voluntary liquidation. If during liquidation of the Company, a director is found guilty of any of the offences as mentioned therein, the director shall be liable for penal action prescribed in the Code. The relevant provisions of the Code have been reproduced in the foregoing portion this opinion.

Companies Act, 2013 also contains penal provisions in relation to winding up of a Company which offences primarily address offences by director, officers or other persons in the nature of fraud, misfeasance, negligence, breach of trust etc. If during winding up of the Company, a director is found guilty of any of the offences as mentioned therein, the director shall be liable for penal action prescribed in the Act. The relevant provisions of the Act have been reproduced in the foregoing portion this opinion.

As regards the directors of the Company are concerned, being in a fiduciary position to the Company, they are duty bound to protect the interest of the company and minimise loss and perform all duties which are expected of a director till the company is dissolved by order of the Tribunal. Directors are looked upon as agents or representatives of the company acting in a fiduciary capacity. They are expected to perform acts and duties for the benefit of the company to the extent they have been authorized to do so on behalf of the company.

If during the liquidation proceedings, a director of the company are found to be in breach of his duty to the company in any manner, he shall be liable to make good the loss to the company and in such a scenario there is no requirement to prove any fraud, malfeasance or misfeasance on the part of the director. Whereas, in cases where any fraud, malfeasance or misfeasance, negligence etc. is proved on the part of the director, his liability, being of personal nature, may extend even beyond dissolution of the company.

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NEW RETURN UNDER GST

The GST council in 31st meeting introduced new GST return system to facilitate the taxpayers. Accordingly, the Government have issued draft return formats in the public domain. The objective of the Government is to enable stakeholder readiness for the revamp in return filing procedure.



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In the proposed system of new GST Return filing, a normal taxpayer would have to file FORM GST RET-1 (Normal) or FORM GST RET-2 (Sahaj) or FORM GST RET-3 (Sugam) on either monthly or quarterly basis. Annexure of outward supplies (GST ANX-1) and Annexure of Inward Supplies (GST ANX-2) will be filed as part of these returns. All the outward supplies will be detailed in GST ANX-1 while GST ANX-2 will contain details of inward supplies auto-populated mainly from the suppliers GST ANX-1. It will also contain details auto-populated from Form GSTR-5 and Form GSTR-6.

- a. **Annexure of Supplies (GST ANX-1)** contains features for uploading the details of outward supplies, imports (goods and services), and inward supplies attracting reverse charge etc.
- b. **Annexure of Inward Supplies (GST ANX-2)** is the form in which user can take action on the auto-drafted documents uploaded by supplier, which will made available to them on real time basis.

In May 2019, a prototype of the offline tool has already been shared on the common portal to give the look and feel of the tool to the users. The look and feel of the offline tool would be same as that of the online portal.

The present system of return filing (GSTR-1 and GSTR-3B) would be replaced by new return in the following manner:

Nature	Present Return	Proposed New Returns
Outward Supplies	GSTR-1	GST ANX 1
Inward Supplies	GSTR-2A	GST ANX 2
Monthly consolidated return	GSTR-3B	GST RET 01

Key features of new return

1. Monthly or quarterly

- Taxpayer having previous year aggregate turnover exceeding 5 crore (hereinafter referred as Large Taxpayer) shall file one monthly return. However, the taxpayer having aggregate turnover upto 5 crores (hereinafter referred as Small Taxpayer) may also opt to file return on monthly basis instead of quarterly basis.
- Taxpayers whose previous year aggregate turnover is up to 5 crore, may opt to file Return (RET 1) at quarterly basis.

2. Due Date

The due date for filing of return by a large taxpayer shall be 20th of the next month whereas the due date for the smaller taxpayers shall be 25th of the next quarter.

3. Continuous uploading and viewing

Facility for continuous upload of invoices by the supplier and viewing by the recipient along with tax payment status of an invoice shall be available on common portal.

However, in cases where invoices are uploaded by the supplier but return not filed then it shall be treated as self- admitted liability by the supplier. Uploaded invoices in the annexure of the return shall auto-populate the main liability table of the return.

4. Locking of invoices

Locking of invoices means acceptance of transaction between the recipient and supplier reported in the invoice. Online Facility for locking of invoice by the recipient before filing of the return shall be available. However, locked invoices i.e. acceptance by the recipient cannot be amended.

In cases where the recipient has not taken any action on the invoices uploaded by the supplier then such invoices will be termed as pending invoices. Broadly, pending invoices are invoices which have been uploaded by the supplier for which supplies have not been received or the recipient is of the view that the invoice needs amendment.

5. Reversal of Credit in case of non-payment of tax by the supplier

There shall not be any automatic reversal of Input tax credit at the recipient's end where tax has not been paid by the supplier. However, in some exceptional circumstances like missing dealer, closure of business by the supplier, recovery of input tax credit from recipient shall be through a due process of service of notice and personal hearing.

Further, the first response of revenue administration in case of default in payment of tax shall be to recover it from seller.

6. Periodicity of filing of return

Return filing will be monthly for all taxpayer unless quarterly filing of the return is opted for. However, Change in periodicity of the filing of return (from quarterly to monthly and vice versa) would be allowed only once at the time of filing the first return by a taxpayer. The periodicity of the return filing will remain unchanged during the next financial year unless changed before filing the first return of that year.

Taxpayers who are opting to file quarterly return can choose to file any of the quarterly return namely - Sahaj, Sugam or Quarterly (Normal).

- **Sahaj** - Taxpayers opting to file quarterly return, as 'Sahaj' shall be allowed to declare outward supply under B2C category and inward supplies attracting reverse charge only. Such type of taxpayers shall not take credit on missing invoices and shall not be allowed to make any other type of inward or outward supplies.

However, such taxpayers may make Nil rated, exempted or Non-GST supplies which need not be declared in the said return

- **Sugam** - Taxpayers opting to file quarterly return as 'Sugam' shall be allowed to declare outward supply under B2C and B2B category and inward supplies attracting reverse charge only. Such taxpayers shall not take credit on missing invoices and shall not be allowed to make any other type of inward or outward supplies. However, such taxpayers may make Nil rated, exempted or Non-GST supplies which need not be declared in said return.
- **Quarterly (Normal)** - Taxpayers opting to file monthly return or Quarterly (Normal) return shall allowed to declare all types of outward supplies, inward supplies and take credit on missing invoices.

7. Annexures to the return

There are two annexures to the main return i.e. GST ANX-1 and GST ANX-2.

- **GST ANX-1** - ANX-1 shall contain details of outward supply, inward supply on which tax is payable under RCM and import of goods and services details.
- **GST ANX-2** - The details uploaded in GST ANX-1 will be made available in GST ANX-2 to recipient on near real time basis. In ANX-2, only action to accept, reject and pending has to be taken before filing return. If no action is taken, then all documents will be treated as deemed accepted by recipient for the purpose of availing ITC.

Further, it is to be noted that details of the documents (invoice, credit/debit notes) can be uploaded any time during the month till filing of return. However,

- Documents uploaded up to 10th of the following month shall be made available to the recipient for claiming ITC.
- Documents uploaded after 10th of following month shall be made available to the recipient in the next month

8. **Amendment in return**

- New return provides facility for amendment of invoice and other details filed in the return.
- Amendment return shall be filed in GST RET-1A.
- Amendment shall be carried out by filing of a return called amendment return. For each of the tax period, ***up to two amendment returns can be filed.***
- Filing process of amendment return (GST RET-1A) will be similar to the filing process of original return (FORM GST RET-1).
- Payment can be made if liability arises due to filing of amendment return. If liability becomes negative then no refund shall be paid. However, it will be carried forward to the main return (FORM GST RET - 1) of next tax period where adjustment can be made.

9. **Key aspects for quarterly return filers**

- Taxpayers opting to file the return on quarterly basis have to make payment on monthly basis on the supplies made during the month. Only eligible ITC shall be claimed.
- Payment of self-assessed liabilities shall be made for the first two months of the quarter.
- Credit of the tax paid during the first two months of the quarter shall be available at the time of filing the return for the quarter.
- Payment of the self-assessed liabilities shall be made by 20th of the month succeeding the month to which the liability pertains.
- Liability and input tax credit availed shall be based on self-assessment subject to adjustment in the main return of the quarter.

Recent Developments

Central Board of Excise and Customs ('CBIC') had issued detailed press release on June 11, 2016 regarding "Transition plan to rollout the new return system".

The tentative dates of implementation of the said proposed return is provided as follows:

Probable Date	Particulars
July 2019	<u>On Trial Basis</u> <ul style="list-style-type: none">• Upload invoices using the FORM GST ANX-1 offline tool.• Facility to view and download the inward supply of invoices using the FORM GST ANX-2 offline tool.• Facility to view the summary of inward supply invoices online
August 2019	<ul style="list-style-type: none">• Facility to match the purchase register with downloaded inward supply invoices.
July - September 2019	The trial facility of new return system (ANX-1 & ANX-2) would be available between the periods July to September 2019. However, taxpayer would continue to file GSTR-1 and GSTR-3B in that period.
October 2019	<ul style="list-style-type: none">• Compulsory filing of GST ANX 1 for the dealer having annual turnover more than 5 crores by replacing GSTR-1• Continuous uploading of the invoices in GST ANX 1 by all the dealers• Facility to only view GST ANX 2• Small Taxpayers having turnover less than 5 crores would start filing GST PMT 08 instead of GSTR-3B
November 2019	Larger taxpayer having turnover more than 5 crores would continue to file GSTR-3B for October and November
December 2019	Larger taxpayer having turnover more than 5 crores have to file GST RET 1 for the month of December by 20 th January 2020. Small taxpayer having turnover less than 5 crores have to file first GST RET 1 for the quarter October 2019 to December 2019 by 20 th January 2020
January 2020	All taxpayers shall file FORM GST RET-01 and GSTR-3B shall be completely phased out.

(The authors are Chennai based Chartered Accountants. They can be reached @ debasis.nayak@pwc.com and aman.goyal@pwc.com respectively)

EXCEL TIPS

Calculating retirement date (Using Eomonth)

Given the birth date, to find the retirement date and the balance years of service, the same was done using Edate and Yearfrac functions in Excel.

Generally it is the month end which is reckoned as the retirement date. The same can be done using EOMONTH Function



CA DUNGAR CHANDU JAIN

Eomonth

Returns the serial number for the last day of the month that is the indicated number of months before or after start_date. Use EOMONTH to calculate maturity dates or due dates that fall on the last day of the month.

Syntax

EOMONTH(start_date, months)

The EOMONTH function syntax has the following arguments:

- **Start_date**

A date that represents the starting date. Dates should be entered by using the DATE function, or as results of other formulas or functions. For example, use DATE(2019,7,1) for the 1st day of July, 2019. *Problems can occur if dates are entered as text.*

- **Months**

The number of months before or after start_date. A positive value for months yields a future date; a negative value yields a past date.

Remarks

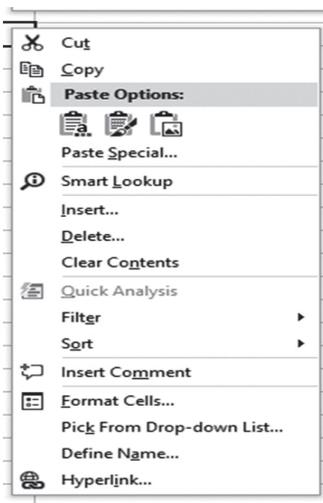
- Microsoft Excel stores dates as sequential serial numbers so they can be used in calculations. By default, January 1, 1900 is serial number 1, and January 1, 2008 is serial number 39448 because it is 39,448 days after January 1, 1900.
- If start_date is not a valid date, EOMONTH returns the #NUM! error value.
- If start_date plus months yields an invalid date, EOMONTH returns the #NUM! error value.
- If months is not an integer, it is truncated.

Example

	A	B	C	D
1	26-Jan-19			
2	Result	Formula	Description	
3	43524	=EOMONTH(A1,1)	Date of the last day of the month, one month after the date in A1.	
4	43465	=EOMONTH(A1,-1)	Date of the last day of the month, one month before the date in A1.	
5	43404	=EOMONTH(A1,-3)	Date of the last day of the month, three months before the date in A1.	
6				

Since the date is displayed as number, the cells A3,A4 and A5 need to be formatted. The same be done bu selecting the cells and changing the format in Home Tab, under Number Section.

	A	B	C	D
1	26-Jan-19			
2	Result	Formula	Description	
3	28-02-2019	=EOMONTH(A1,1)	Date of the last day of the month, one month after the date in A1.	
4	31-12-2018	=EOMONTH(A1,-1)	Date of the last day of the month, one month before the date in A1.	
5	31-10-2018	=EOMONTH(A1,-3)	Date of the last day of the month, three months before the date in A1.	
6				



Alternatively the same can be done using the short cut Ctrl+1 or right clicking and selecting "Format Cells

So Assuming the retirement age is 60 and the birth date is given, retirement date is to be calculated.

	A	B	C	D
1				
2		Assuming Retirement Age is 60 years		
3				
4		Name	Birth Date	Retirement date
5		Sivagami	15-Aug-59	
6		Katappa	26-Jan-68	
7		Bahubali	20-Sep-76	
8		Devasena	26-Jan-77	
9				

To find the retirement date i.e. end of the month of the retirement month, we need to use the Eomonth Function. The EOMONTH function is fully automatic, and will return the end date of xx months in the future or past, when given a date and the number of months to traverse.

In this case, we want a date 60 years in the future, starting with a birthdate, so we can write a formula as follows

Formula to be used is =EOMONTH(Birth date, months * no. of years)
 =Eomonth(C5,12*60)

Since we probably don't know how many months are in 60 years, we can use 12*60 to get the retirement date.

	A	B	C	D	E
1					
2		Assuming Retirement Age is 60 years			
3					
4		Name	Birth Date	Retirement date	> Formula Used
5		Sivagami	15-Aug-59	31-Aug-19	=EOMONTH(C5,12*60)
6		Katappa	26-Jan-68	31-Jan-28	=EOMONTH(C6,12*60)
7		Bahubali	20-Sep-76	30-Sep-36	=EOMONTH(C7,12*60)
8		Devasena	26-Jan-77	31-Jan-37	=EOMONTH(C8,12*60)
9					

YEARFRAC

It calculates the fraction of the year represented by the number of whole days between two dates (the start_date and the end_date). For instance, you can use YEARFRAC to identify the proportion of a whole year's benefits, or obligations to assign to a specific term.

Syntax

YEARFRAC(start_date, end_date, [basis])

The YEARFRAC function syntax has the following arguments:

Start_date Required. A date that represents the start date.

End_date Required. A date that represents the end date.

Basis (Optional) The type of day count basis to use.

Today() Function

Returns the serial number of the current date. The serial number is the date-time code used by Excel for date and time calculations. If the cell format was General before the function was entered, Excel changes the cell format to Date. If you want to view the serial number, you must change the cell format to General or Number.

To calculate the remaining years

The formula used to get remaining years is: =YEARFRAC(TODAY(),D5)

	A	B	C	D	E	F	G
1							
2	Assuming Retirement Age is 60 years						
3							
4		Name	Birth Date	Retirement date	> Formula Used	Remianing Years	> Formula Used
5		Sivagami	15-Aug-59	31-Aug-19	=EOMONTH(C5,12*60)	0.2	=YEARFRAC(TODAY(),D5)
6		Katappa	26-Jan-68	31-Jan-28	=EOMONTH(C6,12*60)	8.6	=YEARFRAC(TODAY(),D6)
7		Bahubali	20-Sep-76	30-Sep-36	=EOMONTH(C7,12*60)	17.3	=YEARFRAC(TODAY(),D7)
8		Devasena	26-Jan-77	31-Jan-37	=EOMONTH(C8,12*60)	17.6	=YEARFRAC(TODAY(),D8)
9							

Also where we need to put a due date, say 7th of the next month, we can use EOMONTH Function to arrive the same.

	A	B	C
1			
2	Date	Due Date, (say 7th of next month)	> Formula Used
3	01-Jul-19	07-Aug-19	=EOMONTH(A3,0)+7
4	15-Aug-19	07-Sep-19	=EOMONTH(A4,0)+7
5			

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



NANI PALKHIVALA ARBITRATION CENTRE

No.22, Karpagambal Nagar, Mylapore, Chennai - 600 004

Phone : 044-24987145 Email : nparbitration@gmail.com



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THE CHARTERED ACCOUNTANTS STUDY CIRCLE (Regd.)

2-L, Rear Block, 22-A, Cathedral Road, Chennai 600086.

Phone : 044-28114283 Email : admin@casconline.org

are Jointly Organising a One Day Seminar on

INSOLVENCY AND BANKRUPTCY CODE, 2016

On Saturday the 13th July 2019

Timing : **9.30 a.m to 5.00 p.m**

Venue : **Welcom Hotel Chennai
(Fortune Chola)**
No.10, Cathedral Road
Chennai - 600 086

Delegate Fees : **Rs.2,500/- (including GST)**

Fees Payment Details : Cheques to be sent in favour of :
The Chartered Accountants Study Circle
and sent to Address of CASC

Rush Your Regn. As We have Capacity Limitation

(150 Delegates Only)

No Spot Registration Please

PROGRAM SCHEDULE

TIMINGS	TOPIC	SPEAKERS
9.00 a.m.	Registration	
9.30 a.m to 10.00 a.m	Inaugural Session	Inauguration
10.00 a.m to 11.00 a.m	Keynote Address	Ms. Sucheta Dalal Padmashri Awardee & Eminent Journalist
11.00 a.m to 11.15 a.m.		Tea Break
11.15 a.m to 12 Noon	Introduction to IBC & Practical Issues	Mr. Anant Merathia Advocate
12 Noon to 1.00 p.m.	Capacity Building to IBC-Challenges	Ms. Sripriya Kumar C.A & I.P
LUNCH 1.00 P.M TO 2.00 P.M.		
2.00 p.m. to 2.30 p.m.	Special Address to IBC-Challenges	Mr. Prakash Kumar NCLT Member (Confirmation Awaited)
2.30 p.m. to 3.30 p.m.	IBC-Bankers Perspective	Mr. R. Ganesh Head - Strategic Solutions Group SME ICICI Bank
3.30 p.m. to 5.00 p.m.	Panel Discussion	Mr. P.H Arvind Pandian Sr. Counsel Mr. B. Ramanakumar Advocate & IP Mr. V. Mahesh CA & IP Moderator : Mr.Anant Merathia, Advocate
Kindly register yourself by paying Registration fees through Cheque/DD payable at Chennai in favour of "THE CHARTERED ACCOUNTANTS STUDY CIRCLE"		

Please Register on or before 25/06/2019 so as to enable us to make appropriate arrangements

THE CHARTERED ACCOUNTANTS STUDY CIRCLE (Regd)

Prince Arcade, 2L, Rear Block, Second Floor, 22A, Cathedral Road, Chennai - 600 086

NOTICE OF ANNUAL GENERAL MEETING

Notice is hereby given that the **FORTY FIRST ANNUAL GENERAL MEETING** of The Chartered Accountants Study Circle will be held on Thursday, 8th August 2019 at 5.45 P.M. at Hindustan Chamber of Commerce, "Greems Dugar", South Wing, 5th Floor, No.149, Greems Road, Chennai - 600 006 to transact the following business:

1. To adopt the minutes of the 40th Annual General Meeting held on 23rd August 2018.
2. To adopt the audited financial statements for the year ended 31st March, 2019, along with the report of the Auditors thereon and the annual report for the said year.
3. To elect four members to the committee of Management, in place of CA Gowtham Chand Daga, CA J. Murali, CA C.S. Rameshbabu & CA Uttamchand Jain who retire by rotation from the Committee at the end of the ensuing Annual General Meeting and they are eligible for reappointment.
4. To appoint auditor for the year 2019 - 2020.
5. To distribute out of Endowment Funds created :
 - a. Scholarships for deserving students pursuing Chartered Accountancy Course
 - b. Prizes for meritorious students successful in Chartered Accountancy Examinations
 - c. Prize for Best Young Paper Presenter for the year 2018-19
 - d. Prize for the Best Article contributor for the CASC Bulletin for the year 2018-19.
6. Any other matter that may be taken up with the permission of the Chair.

For The Chartered Accountants Study Circle

Sd/-

CA. R. Sundararajan
Committee Member

Place : Chennai
Date : 11.05.2019

Explanatory notes to the notice:

1. The regular meeting of CASC will follow the Annual General Meeting.
2. Nomination for election of Committee Members should reach the Office of the Study Circle, in the enclosed format, before **17.00 hrs. (5 p.m.) on 31st July 2019.**

INDEPENDENT AUDITOR'S REPORT

To the Members,

The Chartered Accountants Study Circle, Chennai – 600 006.

Report on Financial Statements

I have audited the accompanying financial statements of **The Chartered Accountants Study Circle**, which comprise the Balance Sheet as at March 31, 2019 the Income and Expenditure Account for the Year then ended, and a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation of these of these financial statements that give a true and fair view of the financial position and financial performance of the Study Circle. This responsibility includes the design, implementation and maintenance of internal control relevant to the preparation and presentation of the financial statements that give a true and fair view and are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

My responsibility is to express an opinion on these financial statements based on our audit. I conducted our audit in accordance with the Standards on Auditing issued by the Institute of Chartered Accountants of India. Those Standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and the disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Study Circle's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Study Circle's internal control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of the accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. I believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion and to the best of our information and according to the explanations given to me, the financial statements give a true and fair view in conformity with the accounting principles generally accepted in India

- (a) In case of Balance sheet, of the state of affairs of the Study Circle as at 31st March, 2019;
- (b) In the case of Statement of Income & Expenditure, of the excess of Income over Expenditure of the Study Circle for the year ended on that date.

For Manikandan & Co

Sd/-

S. Manikandan

Chartered Accountant

Membership No : 211190

Place : Chennai
Date : 11.05.2019

THE CHARTERED ACCOUNTANTS STUDY CIRCLE (Regd)

Prince Arcade, 2L, Rear Block, Second Floor, 22A, Cathedral Road, Chennai - 600 086

BALANCE SHEET AS AT			
<u>LIABILITIES</u>	Sch. No.	<u>31-Mar-19</u>	<u>31-Mar-18</u>
CAPITAL FUND	1	4,192,881	4,172,720
LIFE MEMBERSHIP FUND	2	1,665,400	1,620,400
ENDOWMENTS & FUNDS	3	421,000	386,000
SUNDRY CREDITORS		7,904	16,950
GST PAYABLE		9,379	-
TDS PAYABLE		1,815	-
ADVANCE MEMBERSHIP FEES		7,272	-
		6,305,651	6,196,070
<u>ASSETS</u>			
FIXED ASSETS	4	256,964	270,244
INVESTMENTS	5	5,808,820	5,458,157
LOANS AND ADVANCES	6	57,722	83,041
SUNDRY DEBTORS		44,450	18,100
CASH & BANK BALANCES	7	137,695	366,528
		6,305,651	6,196,070
NOTES ON ACCOUNTS	12		

AS PER OUR REPORT OF EVEN DATE

**FOR THE CHARTERED ACCOUNTANTS
STUDY CIRCLE (REGD)**

For Manikandan &Co

**S.Manikandan
CHARTERED ACCOUNTANT
Membership No: 211190**

**R SUNDARARAJAN
COMMITTEE MEMBER**

**GOUTHAM CHAND N
COMMITTEE MEMBER**

**PLACE : CHENNAI
DATE : 11/05/2019**

THE CHARTERED ACCOUNTANTS STUDY CIRCLE (Regd)

Prince Arcade, 2L, Rear Block, Second Floor, 22A, Cathedral Road, Chennai - 600 086

INCOME AND EXPENDITURE ACCOUNT FOR THE YEAR ENDED				
INCOME		Sch. No.	31-Mar-19	31-Mar-18
ANNUAL MEMBERSHIP			37,500	23,250
CONFERENCE/SPONSORSHIP RECEIPTS		8	486,454	1,641,555
OTHER RECEIPTS		9	264,596	164,250
INTEREST RECEIPTS			433,749	406,392
			1,222,299	2,235,447
<u>EXPENDITURE</u>				
CONFERENCE/SEMINAR/COURSE EXPENSES		10	466,777	1,343,779
NEWSLETTER PRINTING EXPENSES		11	296,994	336,578
SALARY & BONUS			137,700	139,450
ELECTRICITY CHARGES			17,444	17,647
BANK CHARGES			699	850
REPAIRS & MAINTENANCE			82,955	84,880
TELEPHONE / WEB CHARGES			28,154	27,694
PRINTING & STATIONERY			2,401	4,765
PROPERTY/WATER TAXES			42,557	20,036
LOCAL CONVEYANCE			21,775	19,820
PRINTING CHARGES - BOOKS			49,000	71,840
SCHOLARSHIPS TO STUDENTS			12,500	5,000
MISCELLANEOUS EXPENSES			19,902	18,474
AUDIT FEES			10,000	10,000
DEPRECIATION		4	13,280	18,117
EXCESS OF INCOME OVER EXPENDITURE			20,161	116,517
			1,222,299	2,235,447

AS PER OUR REPORT OF EVEN DATE

**FOR THE CHARTERED ACCOUNTANTS
STUDY CIRCLE (REGD)**

For Manikandan &Co

**S.Manikandan
CHARTERED ACCOUNTANT
Membership No: 211190**

**R SUNDARARAJAN
COMMITTEE MEMBER**

**GOUTHAM CHAND N
COMMITTEE MEMBER**

**PLACE : CHENNAI
DATE : 11/05/2019**

THE CHARTERED ACCOUNTANTS STUDY CIRCLE (Regd)

Prince Arcade, 2L, Rear Block, Second Floor, 22A, Cathedral Road, Chennai - 600 086

	31-Mar-19	31-Mar-18
<u>SCHEDULE 1 - CAPITAL FUND</u>		
OPENING BALANCE	4,172,720	4,070,136
ADD: EXCESS OF INCOME OVER EXPENDITURE	20,161	102,584
	4,192,881	4,172,720
<u>SCHEDULE 2 - LIFE MEMBERSHIP FUND</u>		
OPENING BALANCE	1,620,400	1,477,900
ADD: RECEIVED DURING THE YEAR	45,000	142,500
	1,665,400	1,620,400
<u>SCHEDULE 3 - ENDOWMENTS & FUNDS</u>		
ASHOK KUMBHAT EDUCATION FUND	5,000	5,000
B.B.NAIDU MEMORIAL CHARITABLE TRUST FUND	40,000	40,000
CA.T.V.JAYARAMAN ENDOWMENT FUND	50,000	50,000
KUMBHAT DEVELOPMENT & COMMUNICATION SKILLS FUND	11,000	11,000
T.R. PARTHASARATHY ENDOWMENT FUND	10,000	10,000
N.RAJAGOPALAN ENDOWMENT FUND	25,000	25,000
G.BALASUBRAMANIAM MEMORIAL FUND	25,000	25,000
ITTA PARTHASARATHY FUND	5,000	5,000
K.SRINIVASAN ENDOWMENT FUND	35,000	35,000
RAMAN ENDOWMENT FUND	25,000	25,000
R.RAMAKRISHNAN ENDOWMENT FUND	20,000	20,000
P.RAMAKRISHNAN ENDOWMENT FUND	25,000	-
YANMANTRAM EDUCATION FUND	70,000	60,000
SUKUMAR & ASSOCIATES EDUCATION FUND	50,000	50,000
D RANGASAMY ENDOWMENT FUND	25,000	25,000
	421,000	386,000
<u>SCHEDULE 5 - INVESTMENTS</u>		
	31-Mar-19	31-Mar-18
CANARA BANK	2,281,697	1,983,522
LAKSHMI VILAS BANK - FD	1,360,401	1,361,108
CITY UNION BANK LTD	1,511,881	1,468,527
TN TRANSPORT DEV. CORPORATION LTD	321,741	330,000
TN POWER FINANCE CORPORATION LTD	333,100	315,000
	5,808,820	5,458,157
<u>SCHEDULE 6 - LOANS AND ADVANCES</u>		
GOODS AND SERVICE TAX INPUT	-	5,101
TAX DEDUCTED AT SOURCE	48,147	49,201
JOINT MEETING EXPENSES RECOVERABLE	-	7,264
ELECTRICITY DEPOSIT	9,575	9,575
HOTEL SINGAAR - TDS paid	-	11,900
	57,722	83,041
<u>SCHEDULE 7 - CASH & BANK BALANCES</u>		
CASH ON HAND	12,960	4,475
CASH AT BANK	124,735	362,053
	137,695	366,528

THE CHARTERED ACCOUNTANTS STUDY CIRCLE (Regd)

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<u>SCHEDULE 8 - CONFERENCE/SPONSORSHIP RECEIPTS</u>	31-Mar-19	31-Mar-18
ANNUAL RESIDENTIAL CONFERENCE	411,703	1,350,895
OTHER CONFERENCES/SEMINAR/REFRESHER COURSE	74,751	290,660
	486,454	1,641,555
<u>SCHEDULE 9 - OTHER RECEIPTS</u>		
HALL MAINTENANCE CHARGES RECOVERY	58,900	58,500
LCD HIRE	4,800	
DONATION	52,000	
SHARE OF RECEIPT OF JOINT MEETING	13,714	
MISCELLANEOUS INCOME	630	29,400
ADVERTISEMENT	126,782	-
SALE OF CASC PUBLICATIONS	7,770	76,350
	264,596	164,250
<u>SCHEDULE 10 - CONFERENCE/SEMINAR/COURSE EXPENSES</u>		
SEMINAR/REFRESHER COURSE/AGM	214,206	272,295
ANNUAL RESIDENTIAL CONFERENCE	157,523	1,071,484
ANNUAL DAY CELEBRATIONS	95,048	-
	466,777	1,343,779
<u>SCHEDULE 11 - NEWSLETTER PRINTING EXPENSES</u>		
PRINTING CHARGES	227,696	297,516
POSTAGE & COURIER EXPENSES	69,298	39,062
	296,994	336,578

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SCHEDULE 4 - FIXED ASSETS

PARTICULARS	W.D.V. As on 1-Apr-18	ADDITIONS MORE THAN 180 DAYS	TOTAL	DEPRECIATION		W.D.V. As on 31-Mar-19
				RATE %	AMOUNT Rs.	
LAND	173,600	-	173,600	-	-	173,600
BUILDINGS	23,729	-	23,729	5	1,186	22,543
PLANT & MACHINERY	55,619	-	55,619	15	8,343	47,276
FURNITURE & FIXTURES	10,559	-	10,559	10	1,056	9,503
COMPUTER	6,737	-	6,737	40	2,695	4,042
CURRENT YEAR	270,244	-	270,244		13,280	256,964
PREVIOUS YEAR	288,361		288,361		18,117	270,244

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SCHEDULE 12 - NOTES ON ACCOUNTS

SIGNIFICANT ACCOUNTING POLICIES

BASIS OF PREPARATION

The accounts are prepared on cash basis.

INCOME RECOGNITION

Membership Fees and Bulletin Subscription

The membership fees and bulletin subscription are recognized as and when received.

Interest

Interest on fixed deposits and bonds are recognized as and when received.

INVESTMENTS

Investments comprise of fixed deposits and bonds and are shown at cost as increased by interest credited by the respective institutions

FIXED ASSETS AND DEPRECIATION

Fixed assets are accounted at cost less depreciation.

GENERAL INFORMATION

Figures of the previous year have been regrouped / classified wherever necessary.

**FOR THE CHARTERED ACCOUNTANTS
STUDY CIRCLE (REGD)**

**R SUNDARARAJAN
COMMITTEE MEMBER**

**GOUTHAM CHAND N
COMMITTEE MEMBER**

AS PER OUR REPORT OF EVEN DATE

For Manikandan &Co

**PLACE : CHENNAI
DATE : 11/05/2019**

**S.Manikandan
CHARTERED ACCOUNTANT
Membership No: 211190**

41st ANNUAL REPORT FOR THE YEAR 2018-2019

The Committee of Management of The Chartered Accountants Study Circle
have great pleasure in presenting the 41st annual Report for the year 2018 - 2019

THE ACTIVITY REPORT OF YOUR STUDY CIRCLE FOR THE YEAR ENDED 31.03.2019

Date	Subject	Name of the Speaker
19-04-2018	GST – Recent Developments	CA Shaikh Abdul Sahed
26-04-2018	FEMA – Case Study Discussion	CA Sudarshan
10-05-2018	GST Implications during Finalization of Accounts	CA. Ganesh Prakash
31-05-2018	Financial and Secretarial Reporting – A Mapping	CS. C.Prabhakar
14-06-2018	Significant changes in ITR	CA Nirmal Kumar Jain
28-06-2018	Tax Audit	CA Vijayaraghavan K
12-07-2018	Disciplinary Proceedings	CA P.Rajendrakumar
26-07-2018	Cancellation of Trust registration under IT Act Issues	CA Sridharan Rajan
09-08-2018	Revised Tax Audit Report – Legal Issues	CA Muthu Abirami
23-08-2018	CA's Journey beyond Finance	Mr.K.Sankaranarayanan
17-09-2018	GST Return – New Forms – An Analysis	CA Renuka Murali
11-10-2018	Anti-Avoidance Regulations – An Insight	Mr.G.Reddi Prakash
25-10-2018	Revised Accounting Standards – Impact Analysis	CA D.Chaarulatha
15-11-2018	Digital Economy Taxation	CA Vignesh Krishnaswamy
22-11-2018	Reporting of Fraud under Companies Act, 2013	CA Santhosh Mogalapalli S N M
13-12-2018	GST Legal Issues – Post Annual Return Filing	CA Bharathkumar N.K
20-12-2018	CA's As Independent Directors	CA Anand R
07-01-2019	Ruby Anniversary - Credit Risk Ratings – A Critical Analysis	Mr. Sridharan Raghavan
07-01-2019	Ruby Anniversary - Panel Discussion on “Peaking of Audit Risk”	CA S.Ramakrishnan CA Sripriya Kumar CA Chinnasamy Ganesan
10-01-2019	31 st GST Council Decisions – Impact Analysis & Way Forward	CA Seetharaman S
17-02-2019	UDIN for CAs & Budget Analysis	CA Dungarchand U Jain Adv.B.Ramanakumar
28-02-2019	Capital gains – An update	CA Palaniappan SP
09-03-2019	The Companies (Amendment) Ordinance 2019 – Amendments & Compliance	CS Priya Kannan
21-03-2019	The Banning of Unregulated deposit schemes Ordinance, 2019 – An Analysis	Adv.Vaitheeswaran

We are pleased to inform that many of the above speakers are first time speakers and CASC is continuing its tradition of promotion of young talent professional arena in this process.

RESIDENTIAL SEMINAR

Your Study Circle conducted the First Overseas and 20th Annual Residential Conference from 23rd January 2019 to 27th January 2019 at Srilanka with 56 delegates participating with 61 family members aggregating to 117. The conference was a roaring success on par with earlier successful conferences. The members and their family members were enthralled on the excellent conference arrangements and also the ambience of multiple venues

NEWS LETTER

Your Study Circle's bulletin which was started in the year 2000 continues to be popular in the Professional circle. The Editorial Board members are as follows:

1. CA Uttamchand Jain P - Chairman
2. CA C.S. Ramesh Babu
3. CA Anil Kumar Khicha

The bulletin with enriched contents and articles has attracted nationwide readership and received appreciative letters from readers for its quality and content

MEMBERSHIP

The Study Circle added a steady growth of Life Members during the year 2018-19. The details of membership are as follows

Total Members as at the beginning of the year	446 Nos.
New Members enrolled during the year	06 Nos.
Resignation or Removal(Demise) of members during the year	01 Nos.
Total Members on Roll as at the end of the year	451 Nos.

The Committee of Management hopes to improve the number of Life Members in the coming years.

COMMITTEE MEETINGS

The Management Committee met formally five times from the day the present Committee has taken over. The committee member's attendance in the meetings is as follows:-

Total No. of Meetings - 4

MC Members Name	No. of Meeting Attended	Percentage
CA R SUNDARARAJAN	4	100
CA GOWTHAM CHAND DAGA	4	100
CA UTTAMCHAND JAIN P	4	100
CA RAVIR	4	100
CA SATHYANARAYANAN K R	4	100
CA V THULASIDARAN	3	75
CA M GANESH PRAKASH	2	50
CA C S RAMESHBABU	0	0
CA J MURALI	3	75

The Management Committee were ably assisted by Special invitees Mr. Sathyanarayanan Yanmantram by providing valuable inputs.

Other than the regular meetings, Conference Committee, Conference Sub Committee and other Sub Committee Meetings have been held during the year and attended by the respective Committee Members and special invitees

The Joint Meeting held during the period:

<i>Date</i>	<i>Venue</i>	<i>Subject</i>	<i>Speakers</i>	<i>Jointly with</i>
16.10.2018	Hotel Deccan Plaza, Chennai	INTERNATIONAL TAX SESSION	Mr. Kunj Vaidya Mr. Sivarajan & Mr. S.Sivam	International Fiscal Association IB - SRC

ENDOWMENT SCHOLARSHIPS & PRIZES:

As in the past, the Study Circle has continued supporting meritorious students from Chennai pursuing CPT, PE-I, PE-II and Final Examinations conducted by ICAI.

The Study Circle continued to support poor and deserving students pursuing Chartered Accountancy Course by offering scholarships.

During the year, the Study Circle has raised the prize numbers & recognized two young speakers & four Article writers as follows :

Best Emerging Speakers:

- a. CA Nidhi Jain b. CA S.Seetharaman

Best Article Writers:

- a. CA V Vivek Rajan b. CA Debasis Nayak
b. CA Divya Ramesh d. CA Monica Challani

KNOWLEDGE SHARING

As part of Knowledge Sharing, the members of Study Circle have been provided with a copy of CASC Bulletin by uploading into the website of CASC regularly apart from the hard copy.

ACKNOWLEDGEMENTS

The management committee places on record their sincere thanks appreciation for the whole-hearted support extended by Members, Speakers, other professional organizations, Bankers, Sponsors, Advertisers, Endowment Donors and Staff of the Study Circle.

For The Chartered Accountants Study Circle

Sd/-

Place : Chennai
Date : 11.05.2019

CA. R. Sundararajan
Committee Member

THE CHARTERED ACCOUNTANTS STUDY CIRCLE (Regd)

Prince Arcade, 2L, Rear Block, Second Floor, 22A, Cathedral Road
Chennai - 600 086. Phone : 044-28114283

NOMINATION FORM

To
Mr. R.G.Rajan
Returning Officer
The Chartered Accountants Study Circle (Regd.),
Prince Arcade, 2-L Rear Block, Second Floor,
22-A Cathedral Road, Chennai - 600 086.

We, the undersigned, members of The Chartered Accountants Study Circle, nominate the under mentioned person as a candidate for election as a Member of the Committee of Management at the Annual General Meeting to be held on 8th August 2019.

Name of the Candidate :

Father's / Husband's Name :

Address :

Membership Details : Life / Annual

Signature of the Proposer

Signature of the Seconder

Name & Address with
Membership details :

Name & Address with
Membership details :

Signature of candidate consenting to the nomination:

"Intentionally left Blank"



SHREE GURU KRIPA'S INSTITUTE OF MANAGEMENT

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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
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4. Practical Guide on Quantitative Aptitude

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