



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

AHMEDABAD BRANCH OF WIRC OF ICAI

e - NEWSLETTER

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Chairman's Message



May Greetings from CA Ganesh Nadar!

Summer is here in its scorching fury so let's make hay while the sun shines!

The electorate has made its choice and for the next five years the same political party will continue to lead India.

April marked a lot of highs and lows for our country – the harnessed fury of Cyclone Fani; the IPL 2019 Trophy being lifted by the Mumbai Indians; Gold sales soaring to a 25 per cent rise on Akshaya Tritiya; and the President approving the Redevelopment Bill giving a push to the realty sector.

For us April was replete with events the premier one being the Key Note Address by Union Minister Piyush Goyal, CA at our Conference on

GST alongside felicitating the WIRC Office Bearers 2019-20 on 20 April 2019. Other knowledge-sharing moments were created with the Intensive FEMA Series; alongside Seminars on – Decoding GST for the Real Estate Sector and Professionalism and Skills Development. Members benefitted from Lecture Meetings on topics ranging from – Income Tax, Success Mantras and Learning Skills for Upcoming Exams, Handling Reassessment Proceedings before AO to Demystifying the Indian Capital Market.

Mission to take our esteemed profession to unparalleled heights!

Understanding that “all work and no play make Jack a dull boy” we held a Cricket Carnival from 27 April to 5 May which epitomized the sportsman spirit of not only our young blood but also our revered doyens!

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The May issue of your newsletter provides you with a glimpse of - Updates on Accounting, Auditing, Company Law, Direct Tax, International Taxation, FEMA and compliance due dates; a snapshot of FAQs on TDR, FSI and long term lease issued by CBIC; a quick connect on Project Alteration under the RERA Act, 2016; and Important AARs – Re-credit of rejected GST Refund can be claimed through GSTR-3B and ITC can be claimed on inward supplies by the recipient when consideration is paid through book adjustment. A moral story highlighting the need to boldly face challenges head-on instead of using the escape route and a closer look at the advance filter feature of Microsoft Excel are also a part of this issue.

The month of May is dedicated to mothers as “the hand which rocks the cradle, rules the world”! We also pledge our alliance to doing away with unhealthy addictions like tobacco on 31 May. The month also marks the beginning of the holy Ramadan for our Muslim brethren which culminates in the celebration of Eid-ul-Fitar in June. Advance wishes to all our readers for a - peaceful Eid, conscious World Environment Day, a fit and healthy Yoga Day and of

course a happy Father's Day!

ICAI-Delhi initiatives like – the Self Service Portal, No to Physical Daak and Non-acceptance of Offline Membership Applications - are a positive step in the direction of reducing our carbon footprint. While the Help Desk is anticipated to go a long way in facilitating communication between ICAI and industry members

As we ring in World Environment Day let us each try to take a step howsoever small to protect the planet on which we walk as – “The environment and the economy are really both two sides of the same coin. If we cannot sustain the environment, we cannot sustain ourselves” (Wangari Maathai)

For those of you enjoying a well-deserved break with your family...Enjoy your vacation and keep reading and contributing to YOUR newsletter!

CA. Ganesh Nadar

Chairman

Mission to take our esteemed profession to unparalleled heights!



CA. Ganesh Nadar

Chairman,
Ahmedabad Branch

Editorial

The scorching heat waves knocked us off our feet and let's hope the results of the elections do not bring in the same impact for us. “MAY” is a month of hope and let's hope the upcoming overloaded months of work just vanish away with the popular “SNAP” of Thanos. The month May was named for Maia, the Greek goddess of fertility. So we hope for good luck and success waiting for all of us on this Akshaya Tritiya.

We observe World no Tobacco day & National Anti-Terrorism Day in May. These encourage us for abstinence from our bad habits and raise our voice

against bad acts. We not only have condolence for the severe acts of terrorism faced by our neighbour country but also pledge to put a firm step against it. A combination of healthy physical and mental environment is must for the future generations to come.

Above all don't forget that we don't need superheroes as we have supermoms. We have immense honour for our mothers who have a great contribution in our lives and because of whom we exist in the world. Surely do something very special for them on this Mother's day.



CA. Rahul Maliwal

Chairman,
Newsletter Committee

ICAI New Delhi News from the desk of CCM CA. Aniket Talati

My ICAI - Paperless SSP

SSP (Self Service Portal), is an initiative from ICAI to make applications (Forms) and transactions (Services) – faster and easier.

The full scale student and Member / Firm services developed by TCS will be implemented starting third week of May 2019.

ICAI has scheduled a one-time migration activity from old system to new system from 6th May, 2016. The entire IT Systems (including e-service) with respect to Members and Student Services are not available between 6th to 22nd May, 2019 and the DCOs will not be able to process any forms or transaction. However, the membership renewal link is available to make fee payments through online mode. New Students of Foundation Course and Direct Entry are also able to register. The new system would be entirely OTP based and aims to making paper and physical documents redundant in line with Go Green & Digital India initiatives.

Very Important: PHYSICAL DAK including CHEQUES / DD's will not be accepted by DCOs / Regional Offices and Branches beyond 6th May 2019.

Please note that effective 22nd May, 2019 (Wednesday), ICAI will accept only Online Application forms only through e-services at the link on the website www.icaai.org.

Important: Members are requested to update and validate their e-mail address and mobile number (one time activity) to ensure access to the new system, as all transactions henceforth in the new system will be OTP based transactions.

Members in Industry – One stop solution

CMI&B of ICAI has decided to set up a help desk within the committee for disposal of all the queries and concerns of the members in industry pertaining to ICAI. We are rolling out a Help Desk to help the members in industry to communicate with ICAI easily.

If you are having any query that require assistance from the Institute, please contact us through any of the below medium;

- Fill the form in help desk at <https://cmib.icaai.org>
- Drop an email to helpdesk.cmib@icaai.org
- Call at 844851271



INITIATIVES FROM SMALL & MEDIUM PRACTITIONERS

- Checklist on SA's : E-Book
<https://resource.cdn.icaai.org/54214ccbmp43510.pdf>
- Knowledge Bank : <http://kb.icaai.org/>
- Practice Management Software: An initiative for capacity building of CA Firms ; Work Allocation – Time Sheets etc.
https://www.icaai.org/new_post.html?post_id=15286
or
<https://simplifypractice.com/>
- Antivirus Protection:
https://www.icaai.org/post.html?post_id=11505
- ICAI LIC Group Term Insurance:
https://www.icaai.org/post.html?post_id=15416
- General Insurance : Professional Indemnity, Health, Motor Car, Personal Accident, Household etc.
<https://icaai.newindia.co.in/>



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Accounting, Auditing & Company Law Updates

1. Ind AS Technical Facilitation Group (ITFG) Clarification Bulletin 19

The ITFG has considered various implementation issues received from members. The ITFG, after due deliberation, issued clarifications on six Ind AS issues through its bulletin 19.

<https://resource.cdn.icaai.org/55219indas44435.pdf>

2. MCA Clarification for form ADT-1 filed through GNL-2 under the Companies Act, 2013

It is here by clarified that companies which had filed Form no. ADT-1 through GNL-2 as an attachment (by selecting others) during the period from 01.04.2014 to 20.10.2014 may file eform no. ADT-1 for appointment of Auditor for the period upto 31.03.2019 without fee, till 15.06.2019 (since fee had been paid for filing GNL-2 for the same purpose) and thereafter fee and additional fee shall be applicable.

<http://www.mca.gov.in/Ministry/pdf/GeneralCircular13052019.pdf>

3. Companies(Removal of Names of Companies from the Register of Companies) Amendment Rules, 2019

The rules amended the existing procedure in case of strike off of the company. Major Changes:

- Fee for striking off (Application Form STK-2) doubled to Rs. 10,000/-
- No strike off application shall be filed by a company unless it has filed all overdue returns (AOC4 & MGT-7) upto the end of the financial year in which the company ceased to carry its business operations
- Once notice in Form No STK-7 has been issued by the Registrar u/s. 248(1), company shall not be allowed to file an application in Form No' STK-2'
- Statement of accounts shall be in Form No. STK-8 format.

http://www.mca.gov.in/Ministry/pdf/AmendmentRules_08052019.pdf

4. ICAI: Analysis of MCA Notification regarding filing of DPT - 3 Form and DIR-3 KYC Form

Form DPT-3 is a one time Return and the form is to be filed on or before 29th June, 2019.

https://www.icaai.org/new_post.html?post_id=15612&c_id=240

Form DIR-3 KYC is required to be filed on or before 30th June of immediate next financial year.

https://www.icaai.org/new_post.html?post_id=15613&c_id=240

5. ICAI : IFRS Background Material - Part B and Part C uploaded on website

Ind AS are derived from IFRS Standards issued by the IFRS Foundation. In view of this, it is useful and appropriate to read Ind AS along with the following background material of IFRS Standards:

[IFRS Part B \(Accompanying Guidance\)](#)

[IFRS Part C \(Bases for Conclusions\)](#)

However, for the avoidance of doubt, it is clarified that the Ind AS differ from the IFRS Standards as they contain certain carve outs and carve ins for making them contextually relevant to the Indian economic and legal environment. Therefore, above IFRS material

has to be read in the context of differences between Ind AS and IFRS Standards. Please refer the link: [Other Differences between Ind AS and IFRS and reasons for the differences.](#)

6. ICAI : Ind AS e-Compendium 2019-20

ICAI has released e-version of Compendium of Indian Accounting Standards (Year 2019-2020) that includes Ind AS 116 effective from 1st April, 2019.

Please find the link to Two Volumes of Ind AS Compendium:

Volume - I (Ind AS 101-116)

<https://resource.cdn.icaai.org/55149asb44306vol1.pdf>

Volume - II (Ind AS 1-41)

<https://resource.cdn.icaai.org/55150asb44306vol2.pdf>

7. Companies (Acceptance of Deposits) Second Amendment Rules, 2019

Companies (Acceptance of Deposits) Rules, 2014, in rule 16A, in sub-rule (3) requires every company other than Government Companies to file a one-time return of outstanding receipt of money or loan by a company but not considered as deposits within 90 days. The central government vide notification extended the time limit for filing the said return, i.e., 90 days from 31 March 2019.

http://mca.gov.in/Ministry/pdf/CompaniesAcceptanceDepositsSecAmendRules_01052019.pdf

8. Invitation for responses to various issues on applicability/implementation of Ind AS

Ind AS Technical Facilitation Group (the Group/ITFG) has been formed to consider the issues raised by the members of the institute, preparers of financial statements and other stakeholders with regard to applicability/implementation of Ind ASs. The group issues clarification bulletins addressing these issues from time to time. The group has invited members of the institute and other stakeholders to send their suggested responses or any other comments on the queries included in the agenda. These suggestions will be considered by ITFG at its meeting.

<https://resource.cdn.icaai.org/55082indas44265.pdf>

9. FRRB update: Common Errors found by FRRB in Implementation of AS 3 Cash Flow Statements

Financial Reporting Review Board (FRRB or Board) reviews the General Purpose Financial Statements (GPFS) of enterprises with the view to identify the non-compliances with Accounting and Auditing Standards, CARO, Companies Act and other statutory requirements applicable in preparation and presentation of the financial statements. The non-compliances observed by the Board are compiled from time to time and published under the name of "Study on Compliance with Financial Reporting Requirement." This edition deals with the non-compliances, observed by the Board, with disclosure requirements prescribed under Accounting Standard – 3 Cash Flow Statements.

<https://resource.cdn.icaai.org/55116cajournal-may19->



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GST Updates

Some Important AAR

High Courts says Re-credit of Rejected GST Refund can claim through GSTR-3B

Gujarat High Court in the case of M/s GARDEN SILK MILLS LTD (R/Special Civil Application No. 7397 of 2018) has held that Re-credit of Rejected GST Refund can claim through GSTR-3B. The facts of the case are that, the petitioner filed refund application and debited electronic credit ledger by the amount of Rs.17,55,13,818/- as refund claimed.

Pursuant to filing of refund claims, there was no concrete response from the proper officer. Constrained by the inaction of the department, petitioner vide letter addressed to the proper officer, inquired the status of refund applications and inter alia stated that the amount of refund claim filed by them were huge and they had also debited the same from the Electronic Credit Ledger, non-passing of the order is adversely affecting their working capital requirements. Subsequently, by the impugned order, the proper officer rejected the refund claims filed.

The petitioner requested for the finalisation of the refund claims by crediting the Electronic Credit

Ledger by the amount of refund claim rejected. Getting, no response from the proper officer, the petitioner filed present writ petition seeking relief for, recrediting the amount of Rs.17, 55, 13,818/- on the basis of Form GST RFD-PMT 03 issued by the proper officer in their Electronic Credit Ledger at the time of filing of monthly summary return – GSTR 3B (suo moto) or for a direction to the proper officer to grant such re-credit immediately in Form GST RFD-01B.

High Court Observed that the petitioner having given up his right (i.e. filing of appeal) to the order rejecting the refund, the respondents revenue (proper officer) are bound to re-credit the amount of refund rejected to the Electronic Credit Ledger by an order made in Form GST PMT-03. In case, it is not possible to re-credit the amount to the Electronic Credit Ledger by the respondent revenue due to non-availability of mechanism at GSTN portal, the petitioner shall be permitted to manually take input tax credit of the amount of the refund rejected in Form GSTR-3B.

ITC can be claimed on inward supplies by the recipient when consideration is paid through book adjustment

Applicant engaged in manufacturing and retailing of jewellery and articles made of gold, silver, platinum, diamonds and other precious stones, apart from his own retail stores, also maintains a network of franchisee-operated stores. He grants such a franchisee the right and license to operate a showroom and to use, in connection therewith, certain Proprietary Marks and System in accordance with a Franchise Agreement (Agreement). The applicant raises tax invoices on the Franchisee for supply of jewellery and other articles and also for Franchise Support Services in terms of Agreement periodically. On its part, Franchisee also raises tax invoices on applicant for supply of old gold, silver etc., received from customers. The applicant intends to settle the mutual debts through book adjustments. He seeks an advance ruling on whether input tax credit is admissible when he settles through book adjustment, debt created on inward supplies from Franchisee.

Held

Unless law specifically restricts recipient from claiming input tax credit when consideration is paid through book adjustment, credit of input tax cannot be denied on this ground alone.

Thus, applicant can pay consideration for inward supplies by way of setting off book debt. The GST Act and rules made there under do not restrict recipient from claiming input tax credit when consideration is paid through book adjustment, subject to conditions and restrictions as may be prescribed and in manner specified in sections 16 and 49 of the CGST Act, 2017.



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GST Quick Connect

FAQ's on TDR, FSI & Long Term Lease issued by CBIC

FAQ's on TDR, FSI & Long Term Lease issued by CBIC

Compiled by CA. Devam Sheth

Q. What is the rate of GST applicable on transfer of development rights, FSI and long term lease of land?

- Supply of TDR or FSI or long term lease of land used for the construction of residential apartments in a project that are booked before issue of completion certificate or first occupation is exempt.

- Supply of TDR or FSI or long term lease of land, on such value which is proportionate to construction of residential apartments that remain un-booked on the date of issue of completion certificate or first occupation, would attract GST at the rate of 18%, but the amount of tax shall be limited to 1% or 5% of value of apartment depending upon whether the residential apartments for which such TDR or FSI is used, in the affordable residential apartment category or in other than affordable residential apartment.

- TDR or FSI or long term lease of land used for construction of commercial apartments shall attract GST of 18%. The above shall be applicable to supply of TDR or FSI or long term lease of land used in the new projects where new rate of 1% or 5% is applicable

Q. Who is liable to pay GST on TDR and floor space index?

- The promoter is liable to pay GST on TDR or floor space index supplied on or after 01-04-2019 on reverse charge basis.

Q. At what point of time, the promoter should discharge its tax liability on TDR.

- The liability to pay GST on development rights shall arise on the date of completion or first occupation of the project, whichever is earlier. Therefore, promoter shall be liable to pay tax on reverse charge basis, on supply of TDR on or after 1.4.19, which is attributable to the residential apartments that remain un-booked on the date of issuance of completion

certificate, or first occupation of the project.

Q. At what point of time, the promoter should discharge its tax liability on FSI (including additional FSI).

- On FSI received on or after 1.4.2019, the promoter should discharge his tax liability on FSI as under:

- In case of supply of FSI wherein consideration is in form of construction of commercial or residential apartments, liability to pay tax shall arise on date of issuance of Completion Certificate.

- In case of supply of FSI wherein monetary consideration is paid by promoter, liability to pay tax shall arise on date of issuance of Completion Certificate only if such FSI is relatable to construction of residential apartments. However, liability to pay tax shall arise immediately if such FSI is relatable to construction of commercial apartments.

Q. At what point of time, the promoter should discharge its tax liability on supply of long term lease.

- On long term lease received on or after 1.4.19, the promoter should discharge his tax liability on long term lease as under:

In case of supply of long term lease of land for construction of commercial apartments, tax shall be paid by the promoter immediately. However, for construction of residential apartment, liability to pay tax on the upfront amount payable for long term lease shall arise on the date of issuance of Completion Certificate.

Q. In case where the Development rights are supplied by the Landowner to the Promoter, under an area sharing arrangement between 1.7.17 and 31.3.19, but the allotment of constructed area in an ongoing project is made by the Promoter to the Landowner on or after 1.4.19, whether the tax liability, if any, is

required to be discharged in terms of the Notification No. 4/2018 – CT (R)?

· Yes. Tax liability on service by way of transfer of development rights prior to 01-04-2019 is required to be discharged in terms of Notification No. 4/2018-Central Tax (Rate) dated 25.01.2018.

Q. Whether the GST is leviable on the output supply of Transferrable Development rights by a developer (usually evidenced by TDR Certificate issued by the authorities). If yes, under which entry and at what rate?

· Yes, GST is payable on transfer of development rights by a developer to another developer or promoter or to any other person under reverse charge mechanism @ 18% with ITC under Sl. No. 16, item (iii) of Notification No. 11/2017 - Central Tax (Rate) dated 28-06-2017 (heading 9972).

Q. Whether TDR purchased on or after 1.4.2019 to be consumed by a developer-promoter in an ongoing project, in respect of which the promoter has opted for the new rate of tax, shall be liable to be taxed at the applicable rate, but limited to 1% or 5%, as the case may be, of the unsold area at the time of issuance of completion certificate?

· Yes. Portion of such TDR transferred on or after 01-04-2019 which is used in an ongoing project in respect of which the promoter has opted for new rate of tax on construction of apartment @ 1% or 5% without ITC which remained un-booked on the date of issuance of completion certificate or first occupation of the project shall be liable to tax at the applicable rate not exceeding 1% of the value in case of affordable residential apartments and 5% of the value in case of other than affordable residential apartments.

Q. It may be clarified whether exemption granted on transfer of development right or FSI for residential construction and reverse charge mechanism prescribed for payment of tax on TDR, FSI or long term lease (premium) in the new dispensation is applicable where development rights were transferred by way of an agreement executed prior to 1.4.19 but consideration, whether in cash or other form, flowed to the land owner, in full or part, on or after 1.4.19.

· The new dispensation has been prescribed for real estate sector vide notifications issued on 29.03.2019. The same are effective prospectively

from 1.4.19. They shall apply only to development rights or FSI transferred on or after 1.4.19. They shall not apply to development rights transferred by way of an agreement prior to 1.4.19 even if the consideration for the same in cash or kind, is paid in part or full on or after 1.4.19.

Q. Land Owner being an individual is not engaged in the business of land relating activities and thus whether the transfer of development rights by an individual to a promoter is liable for GST and whether the same will fall within the scope of “Supply” as defined in Section 7 of CGST / SGST Act, 2017? Position of such a transaction may be clarified in light of amendments recently made.

· The term business has been assigned a very wide meaning in the CGST Act and it includes any trade, commerce, manufacture, profession, vacation, adventure, or any other similar activity whether or not it is for a pecuniary benefit irrespective of the volume, frequency, continuity or regularity of such activity or transaction. Therefore, the activity of transfer of development rights by a land owner, whether an individual or not, to a promoter is a supply of service subject to GST.

Q. Land development corporation of Orissa has provided land on long term lease for 99 years, for construction of a real estate project. As per the lease agreement, promoter has to pay an upfront amount of Rs. 10 Crore and annual/ monthly licence fee of 5 lakhs. Does the promoter has to pay GST on these amounts?

The liability to pay tax on Long term lease of land (30 years or more) received against consideration in the form of upfront amount and periodic licence fee is on the promoter. The promoter has to discharge tax liability on the same on RCM basis. However, the upfront amount payable for the long term lease (known as premium, salami, cost, price, development charges etc.) is exempt to the extent it is used for construction of residential apartments that are booked before issuance of completion certificate or first occupation. Annual/ monthly rent or licence fee payable for long term lease is taxable under GST.



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Direct Tax

1. Notification No. 36/2019 dated 12.04.2019 – Amendment to Form No. 16 and Form No. 24Q.

In exercise of powers conferred by sections 200 and 203 read with section 295 of the Income tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the rules further to amend the Income-tax Rules, 1962. They shall come into force on **12th day of May, 2019.**

In Form No. 16, – (i) the “Notes” occurring after “Part A” shall be omitted; (ii) for “Part B (Annexure), it shall be substituted as given in the following link.

https://www.incometaxindia.gov.in/communications/notification/notification_36_2019.pdf.

2. Order No. F.No.225/105/2019/ITA.II dated 30.04.2019 – Data Furnishing to GSTN by Income Tax Department.

The CBDT hereby directs that Principal Director General of Income Tax (Systems) or Director General of Income Tax (Systems), New Delhi shall be the specified income tax authority for furnishing information respecting assesses to the Nodal officer, Goods and Service Tax Network (GSTN).

While furnishing the information, the specified income tax authority shall form an opinion that sharing of such information is necessary for the purpose of enabling the specified authority in GSTN to perform its function under Goods and Service Tax.

<https://taxguru.in/income-tax/cbd-t-share-itr-data-gstn.html>



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Upcoming Events

SR.	DATE & DAY	Name of the Seminar, Lecture Meeting, Etc.	FACULTY	REGN. FEES	CPE
1	Monday, 27thMay, 2019	2nd Workshop on GST Annual Return and Audit 27.05.2019 To 06.06.2019	CA. Ashu Dalmia, New Delhi, CA. Rahul Patel, Ahmedabad, CA. Gaurav Gupta, New Delhi, CA. Chirag Mehta, Mumbai	Rs. 1000 + GST for Members	12
2	Friday, 31stMay, 2019	Seminar on The Banning of Unregulated Deposit Schemes Ordinance, 2019 On 31.05.2019	CA. Naveen Khariwal, Bangalore	Rs. 300 + GST for Members	3
3	Wednesday, 05thJune, 2019	3rd Workshop on GST Annual Return and Audit 05.06.2019 To 12.06.2019	CA. Rishabh Singhvi, Bangalore, CA. Venugopal Gella, Bangalore, CA. Naresh Sheth, Mumbai, CA. Manish Gadia, Mumbai	Rs. 1000 + GST for Members	12
4	Saturday, 08thJune, 2019	Post Qualification Course on Information System Audit Practical Training (Pt) at Ahmedabad	DECIDED BY DAAB BOARD	AS PER INSIDE CIRCULAR	30
5	Saturday, 08thJune, 2019	Women CA Industrial Visit to Amul, Anand On 08.06.2019	AS PER INSIDE CIRCULAR	Rs. 650 + GST per Women CA Member	NIL

International Taxation

1. Central Board of Direct Taxes (CBDT) released draft profit attribution guidelines

- Recognizing significance of issues relating to profit attribution to a Permanent Establishment (PE) as well as the need to bring greater clarity and predictability, CBDT had formed a committee, to examine the existing scheme of profit attribution to PEs and to recommend changes to the existing Rule 10 of the Income Tax Rules. The Committee's report was released for public consultation on 18 April 2019.

- After considering various options, the Committee has recommended a mixed or balanced approach that allocates profits between the jurisdiction where sales take place and the jurisdiction where supply is undertaken, with necessary safeguards to prevent excessive attribution on one hand and to protect the interests of Indian revenue authorities on the other hand.

- Considering the recommendations, multinational enterprises with business operations in India may be suggested to review the implications of these recommendations on their business models as well consider any risk of double taxation.

- Public comments on the report can be sent electronically by 18 May 2019 to the CBDT.

2. Judicial Pronouncements

2.1. Indusind Bank Ltd [TS-223-HC-2019 (BOM)]

- For raising capital abroad, assessee had engaged UAE based Amas Bank as a global co-ordinator and Lead Manager to Global Depository Receipts [GDRs] offer.

- Tax authorities relied on explanations inserted under section 9(1)(vii) vide Finance Acts, 2007 and 2010 with retrospective effect which provides for taxability of income in India irrespective of fact if non-resident has permanent establishment in India or rendered services in India.

- In response to the appeal filed, the Tribunal held that the services rendered by Amas Bank were purely of a commercial nature and bore the character of income arising to it wholly outside India, further upholds that such services were neither rendered in India nor utilized in India and therefore, it did not partake the character of Fees for Technical Services (FTS);

- The Hon'ble High Court had explained that explanations to section 9(1)(vii) of the Income Tax Act, 1961 (Act) merely seek to delink the concept of income deemed to have accrued or arisen in India from the requirement of non-resident having a residence or place of business or business connection in India and the non-resident having rendered services in India. The Hon'ble High Court further clarified that **explanation however, did not imply that the basic**

requirement of income having arisen in relation to the activity in India and having connection to the consumption of such services in India was totally done away with.

- Accordingly, the Hon'ble High Court upholds the decision of Tribunal and holds that payment made by assessee (a Scheduled Bank in India) to a Bank in the Middle East towards services in relation to issuance of GDRs is not FTS under Explanation 2 to Sec.9(1)(vii) of the Act and hence TDS u/s. 195 of the Act is inapplicable.

2.2. Smt. Supriya Suhas Joshi [TS 202-HC-2019 (BOM)]

'On spot control' - not sole criteria to decide employer-employee relationship in deputation

- The assessee had entered into a manpower supply contract with a Kuwait based company under which a commissioning engineer was provided to the said company on deputation basis. The assessee received a fixed sum from the Kuwait company, out of which salary was paid to the employee. While making payment to the employee the assessee had deducted tax at source under section 192 of the Act.

- The Assessing Officer, was of the view that while making payment to the employee tax shall be deducted under section 195 of the Act.

- Tribunal and Commissioner of Income tax (Appeals) had accepted the contention of the assessee and held that tax has been rightly deducted under section 192 of the Act.

- Before the High Court the tax authorities contended that since the employee was under supervision and control of Kuwait based company, he was under employment with foreign company and not assessee and hence on the payment made by the assessee to the individual tax has to be deducted under section 195 of the Act.

- While the Hon'ble High Court had accepted the test of the extent of control and supervision by the engaging agency as relevant consideration, it remarks that in such a situation, **the question of dual control would always arise. Further held that mere test of on spot control or supervision in order to decide the correct employer may not succeed.**

Upholds treatment of payment as salary observing that, assessee continued to enjoy the employer employee relationship with the said person and thus, TDS under section 195 of the Act is inapplicable.



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FEMA Updates

(A) Master Direction – Deposits and Accounts (FN-1)

Special Non-Resident Rupee Account - SNRR account:

RBI has extended timeline for tenure of SNRR accounts opened by person resident outside India beyond seven years subject to obtaining prior RBI approval. Accordingly, the restriction of seven years will not be applicable to SNRR accounts opened by person resident outside India who are registered with SEBI for the purpose of making investment in India in accordance with FEMA-20(R), 2017 i.e. FDI Regulations, as amended from time to time.

Earlier, the tenure allowed for SNRR account was concurrent to the tenure of the contract/ period of operation/ the business of the account holder and in no case should exceed seven years.

Opening of NRO accounts by Citizen of Pakistan or Bangladesh

- AD (Authorized dealer) Bankers are now allowed to open one Non-Resident Ordinary (NRO) Account for a citizen of Bangladesh or Pakistan, belonging to minority communities in those countries, namely Hindus, Sikhs, Buddhists, Jains, Parsis and Christians, residing in India and who has been granted a Long Term Visa (LTV) by the Central Government (CG).
- The account will be converted to a resident account once such a person becomes a citizen of India.
- This account can also be opened if such person has applied for LTV which is under consideration of the CG but in that case account will be opened only for a period of six months which may later on renewed at six monthly intervals subject to the condition that the individual holds a valid visa and valid residential permit issued by Foreigner Registration Office (FRO)/ Foreigner Regional Registration Office (FRRO) concerned
- The opening of such NRO accounts will be subject to reporting of the details of accounts opened by the concerned AD to the Ministry of Home Affairs (MHA) on a quarterly basis. The report shall contain details as follows:

- (I) Name/s of the individual/s;
- (ii) Date of arrival in India;
- (iii) Passport No. and place/country of issue;
- (iv) Residential Permit/Long Term Visa reference and date & place of issue;

- (v) Name of the FRO/FRRO concerned;
- (vi) Complete address and contact number of the branch where the bank account is being maintained.

(B) Trade Credit (FN-2)

i. Limit of trade credit

RBI has further relaxed norms for limit of trade credit of petro-chemical and airlines industry. Now trade credit up to USD 150 million or equivalent per import transaction is allowed for oil/gas refining & marketing, airline and shipping companies under automatic route.

Earlier all the entities were eligible to raise trade credit up to USD 50 million or equivalent per import transaction.

ii. Period of trade credit

a) For non-capital goods: From date of shipment up to 1 year or the operating cycle whichever is less. However, for shipyards / shipbuilders, the period for import of non-capital goods can be up to 3 years.

b) For capital goods: From date of shipment up to 3 year.

Earlier, the period allowed for trade credit of capital goods was 5 years which has now been reduced to 3 years.

Further, RBI has introduced reporting requirements for AD banks in respect of Suppliers' credit beyond 180 days and up to 1 year/3 years from the date of shipment for non-capital/capital goods respectively. Further, permissions granted by the AD banks/Regional offices of Reserve Bank for settlement of delayed import dues is also to be reported by the AD banks

(C) Compounding Contraventions (FN-3)

RBI has updated the list of contraventions which can be compounded by Regional offices (including Ahmedabad RBI office) to include the following contraventions:

1. Delay in reporting the downstream investment made by an Indian entity or an investment vehicle in another Indian entity (which is considered as indirect foreign investment for the investee Indian entity in terms of these regulations), to Secretariat for Industrial Assistance, DIPP.

► Continued on next page

Quick Connect:

Project Alteration under RERA Act, 2016

Chapter III - Functions And Duties Of Promoter

Sec 11: Functions & Duties of promoter

Sec 12: Obligations of promoter regarding veracity of the advertisement or prospectus

Sec 13: No deposit or advance to be taken by promoter without first entering into agreement for sale

Sec 14: Adherence to sanctioned plans and project specifications by the promoter

Sec 15: Obligations of promoter in case of transfer of a real estate project to a third party

Sec 16: Obligations of promoter regarding insurance of real estate project

Sec 17: Transfer of title

Sec 18: Return of amount and compensation

Now let us discuss Sec 14, which plays a very important role in deciding when, how and under what conditions Promoters are liable to get their project altered.

Sec 14 says,

1. That the promoter has to adhere with the sanctioned plans, layout plans and specifications as approved by the competent authority.

2. Whereas, after receiving the approval from the competent authority, the promoter shall not make –

(i) Any additions and alterations in the sanctioned plans, layout plans and specifications and the nature of fixtures, fittings and amenities described in respect of the apartment, plot or building, as the case may be. But it can be made, without the previous consent of the allottee, where, such minor alterations are made as per the directions of the allottee or it is necessary due to architectural and structural reasons after proper declaring and intimating to the Allottee.

(ii) Any other alterations or additions in the sanctioned plans, layout plans and specifications of the buildings or the common areas within the project without the previous written consent of at least 2/3rd of allottees, other than the promoter, who have agreed to take apartments in such building.

3. In case any structural defect or any other defect in workmanship, quality or provision of services or any other obligations of the promoter as per the agreement for sale relating to such development is brought to the notice of the promoter within 5 years from the date of handing over possession, promoter shall be responsible to rectify such defects without charging them within 30 days.

If promoter fails to adhere to the above, then the allottee is entitled to receive compensation as provided under the Act.

In context to above, Gujarat RERA has made clear in its circular regarding the very minor difference of what is called addition / alteration of project. The following is the thin line clarifying the difference:

1. Processing of application as Addition/ Alteration shall only be considered if a registration has already been provided to the project under section 3.

2. If the plan revision entails additional land procurement or change in end date of the project then the application shall be considered as “New Phase” and registration will be as per under section 3.

Note: The process for Alteration of Project to be continued.....



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FEMA Updates continue...

2. Delay in reporting receipt of amount of consideration for capital contribution and acquisition of profit shares by Limited Liability Partnerships (LLPs)/ delay in reporting disinvestment/transfer of capital contribution or profit share between a resident and a non-resident (or vice-versa) in case of LLPs.

3. Gift of capital instruments by a person resident in India to a person resident outside India without seeking prior approval of the Reserve Bank of India.

Earlier, the power to compound above mentioned offences was only with central office of RBI at Mumbai.

(FN-1)

<https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=10198&fn=5&Mode=0#FN39>

(FN-2)

<https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=11510&fn=5&Mode=0>

(FN-3)

<https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=10190&fn=5&Mode=0>



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Lets Excel in Excel

Excel Advanced Filter Introduction

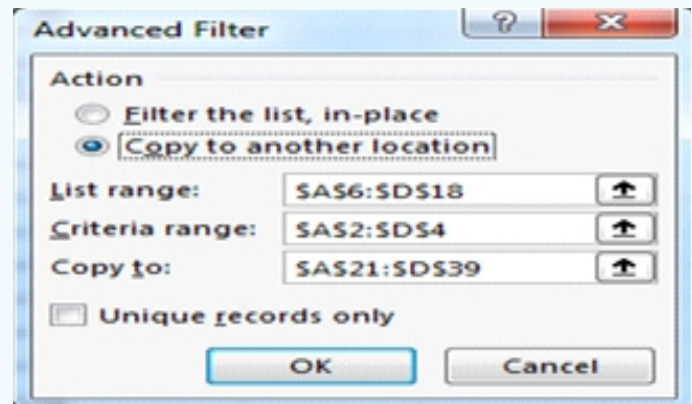
We will learn in this article, How to apply an advance filter in Excel to only display records that meet Complex Criteria. When you use the Advanced Filter, you need to enter the criteria on the worksheet. Create a Criteria range above your data set. Leave at least one line blank between criteria range and Data Set. Use the same column headers. Advance filter can be used in complex situations or multiple Criteria in a single time. It cannot be functioned with Simple Filter. To display the Sales and GST of Gujarat Branch in Qtr 4 or in the Maharashtra in Qtr 1, execute the following steps.

1. Enter the criteria shown above the table in the worksheet.i.e A16:D18

	A	B	C	D
1	Criteria			
2	Branch	Sales	GST	Quarter
3	Gujarat			4
4	Maharashtra			1
5				
6	Branch	Sales	GST	Quarter
7	Gujarat	12576	2263.68	1
8	Maharashtra	16019	2883.42	1
9	Dadra nagar Haveli	15938	2868.84	1
10	Rajasthan	16632	2993.76	1
11	Gujarat	19997	3599.46	2
12	Maharashtra	14868	2676.24	2
13	Dadra nagar Haveli	12870	2316.6	2
14	Rajasthan	14580	2624.4	2
15	Gujarat	16570	2982.6	3
16	Maharashtra	23327	4198.86	3
17	Gujarat	10958	1972.44	4
18	Rajasthan	18752	3375.36	4

2. Click any single cell inside the data set and on Data tab, in the Sort & Filter group, click Advanced (Shortcut of the same is Alt +A+Q), and the Data range A1:D13 will be automatically select

In Action phase we have two options :



a. Filter the List , In place : To filter the list range by hiding rows that don't match your criteria, click Filter the list, in-place.

b. Copy to another location: To filter the list range by copying rows that match your criteria to another area of the worksheet, click Copy to another location, click in the Copy to box, and then click the upper-left corner of the area where you want to paste the rows or type the range.

c. Criteria Range: In the Criteria range box, enter the reference for the criteria range, including the criteria labels. Using the example, enter \$A\$2:\$D\$4.

3. Click OK and result will be

It can be used in various excel utilities, Dashboards

	A	B	C	D
20	Result			
21	Branch	Sales	GST	Quarter
22	Maharashtra	16019	2883.42	1
23	Gujarat	10958	1972.44	4
24				

also or as a Google search system also. We type our criteria and result is available. The main loophole or problem with this Advance filter is not Auto updation. So every time criteria changes we have to repeat the same steps again. So for that we will learn MACRO in our next Article. That is one step Forward : Advance filter + Macro which will have some functions similar as Slicers in Pivot table and can be used on extreme level for presentations and analysis etc.



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Important Due dates for Compliance

Sr. No.	Act	Compliance	Due Date
1	GujRERA	In case of Promoter : Quarterly Return for Project to be filled with 7 days from the end of the Quarter allocated by RERA Authority	7th May, 2019
2	GujRERA	In case of Agent : Half Yearly Return to be filled with 7 days from the end of the Half year allocated by RERA Authority depending on Registration Date	7th May, 2019
3	Income Tax	Tax Deducted (TDS) during the month of April-19 to be deposited	7th May, 2019
4	GST	GSTR-7 for the month of April-19 for persons required to deduct TDS under GST	10th May, 2019
5	GST	GSTR-8 for the month of April-19 for e-commerce operator required to collect TCS under GST	10th May, 2019
6	GST	GSTR-1 for the month of April-19 for taxpayer having Annual Aggregate Turnover exceeding Rs.1.50 Crore	11th May, 2019
7	GST	GSTR-6 for the month of April-19 for Input Service Distributor (ISD)	13th May, 2019
8	Income Tax	Furnishing of Challan-cum-Return for Tax Deducted (TDS) u/s 194IA and 194IB during the month of April-19	15th May, 2019
9	Income Tax	Filing of Quarterly TCS Return for Quarter ended on 31st March, 2019	15th May, 2019
10	PF / ESIC	Payment of PF / ESIC for the month of April-19	15th May, 2019
11	GST	Payment of GST & Filing of GSTR-3B for the month of April-19	20th May, 2019
12	GST	GSTR-5 & 5A by Non-resident taxable person & OIDAR for the month of April-19	20th May, 2019
13	MCA/ROC	Filing of Annual Return of LLP in Form 11 for F.Y. 2018-19	30th May, 2019
14	MCA/ROC	Filing of Form MSME I, Initial Return for dues to MSME	30th May, 2019
15	Income Tax	Filing of Quarterly TDS Return for Quarter ended on 31st March, 2019	31st May, 2019
16	Income Tax	Filing of Form - 61A, Statement of Financial Transactions (SFT) for F.Y. 2018-19	31st May, 2019



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Motivational Story : Face them

One morning in Sarnath, after visiting the temple of Mother Durga, the Swami was passing through a place, where there was a large tank of water on one side and a high wall on the other. Here, he was surrounded by a troop of large monkeys. They were not willing to allow him to pass and there was no other way. As he tried to walk past them, they howled and shrieked and clutched at his feet. As they pressed closer, he began to run; but the faster he ran, the bolder the monkeys got and they attempted to bite at him. When it seemed impossible for him to escape, he heard an old sannyasi calling out to him, "Face them" The words brought him to his senses. He stopped running and turned majestically to boldly face the irate monkeys. As soon as he did that,

they fell back and fled! With reverence and gratitude he gave the traditional greeting to the sannyasi, who smilingly responded with the same, and walked away.

Be Bold.. Be Strong.. Be Heroes..

Moral :

Try to face the world. We always try to escape or just run away from the Situation, problems, persons, places etc but we forget that's not the solution. Be brave enough to stand and win.



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Events in images



Seminar to Decode GST Taxation
On Real Estate Sector On 03.04.2019



L.M. on Demystify The Indian Capital Market Which
Accelerating With Highest GDP Growth Rate On 12.04.2019



L.M. on How To Handle Re Assessment Proceedings
Before AO & How To Appear On 13.04.2019



WICASA-L.M. on Learn Success Mantra And Learning Skills for
Upcoming Exams On 14.04.2019

INTENSIVE FEMA SERIES on 16th, 17th, 22nd, 24th, 25th, 26th & 30th April, 2019



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Sanghvi



CA. Arpit Jain



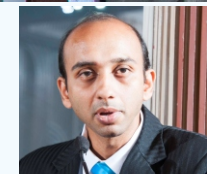
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Seminar on Professionalism and Skill Development on 16.04.2019



Lecture Meeting on Income Tax on 17.04.2019



Interaction with Union Minister CA. Piyush Goyal on 20.04.2019



CA. M. R. Venkatesh



CA. Ashu Dalmia



CA. Gaurav Gupta



Conference on GST at Ahmedabad on 20.04.2019



Felicitation of WIRC Office bearers 2019-20 at Ahmedabad on 20.04.2019



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