



Chairman's Message

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Dear Professional Colleagues,

उत्साहो बलवानार्य नास्त्युत्साहारपदं बलम्।

सोत्साहस्य च लोकेषु न किंचिदपि दुर्लभम्॥

(Enthusiasm is the power of noble men.

Nothing is as powerful as enthusiasm.

**Nothing is difficult in this world for an
enthusiastic person.)**

Greetings. Hope you and your family
members are healthy and safe.



EXPECTATIONS FROM BUDGET 2021-22: We all are waiting for Budget 2021-22 to come focussing on New Normal post COVID 19 with New Dreams having New Opportunities to Grow with New Perspectives in Budget with positive side on Direct & Indirect Tax with focus on Environment, Health Care, Defence, Revival of Business Units, Atmanirbhar Bharat & Benefits for Youth, Women, Senior Citizens & Farmers.

JOURNEY 2020-21: When I started my term I had a plan the year round activities to establish connect of our Mother Institute ICAI with Members & students. But then due to COVID 19 pandemic situations changed and followed by the lockdown during major Tenure Term there were difficulties to connect with students and members but still I managed to organise events in virtual mode. But then thought from new perspectives and took initiatives which are different and kind of first time in the history of ICAI Ahmedabad. Due to overwhelming participation by CA members and CA students of the Ahmedabad branch we made the Year 2020 to end with vibrant events and plethora of events done for the first time in the history of Ahmedabad branch. Some fantastic unique knowledge enriching and awesome ACTIVITIES OF 2020 were **ICAI BHAWAN** - Bhoomi Poojan, Virtual **GST HELP DESK, SAMVAD** - Virtual Help Desk, **INTERNATIONAL CA STUDENTS CONFERENCE 2021, YOUTH PARLIAMENT, SPORTS WEEK, Professional MODEL UNITED NATIONS, KNOWLEDGE FLASH** - Articles Contribution Initiative, **MISSION SLIMPOSSIBLE** - 21 Days Fitness Challenge, **GREEN GANESHA WORKSHOP** To Learn To Make Our Own Green Ganesha of Soil And Seeds, **TEACHER'S DAY CELEBRATION** - A Talk Show-Strengthen The Bonding Between CA Principal (Teacher) And CA Article Trainee (Student), Ahmedabad **CYCLES 4 CHANGE Ride, KALEIDOSCOPE**- Virtual MENTORING SESSIONS On A Look Into The Changing Role of Women In Current Changeover Time For Women CA Members And Students, **NANI PALKHIVALA BIRTH CENTENARY CELEBRATION** - Virtual Series On Important Diverse Areas of Law, Workshop On **"HOW TO DO RESEARCH"**, **RERA Ki Pathshala** - Webinar Series, **EXAM CARE SUPPORT** - FOOD, ACCOMMODATION & TRANSPORT FACILITY, **BRIANY BIRBAL** - Virtual Quiz, **PHOENIX** - Cultural Event, **SWADHYAY** - Virtual-A Self Study Series For Students To Grow As A Speaker, Self Development Series – **PARAMARSH**, Litigation Skills

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Development Workshop, **PANACHE** - Workshop on How to be an Effective READER, Writer & Speaker, National Conference on Forensic & Investigation, Outreach Program on **Networking** of Firms of CA, **JEMS** of Profession, etc.

ICAI DIGI LOCKER FACILITY: Inline to its objective of always providing only the best services to its members & students, ICAI has introduced the Digi-Locker facility, which can now be used by all the Institution members, including Chartered Accountants and CA students.

New Portal for CABF: With the launch of the CA Benevolent Fund Portal (cabf.icaai.org) recently the process has been fully automated for providing financial assistance under CABF with provision to upload all relevant supporting documents. Further, portal will also enable online payment of contribution and auto generation of receipt. I am sure with this technology platform, we will be able to provide support to our fraternity in a more prompt and transparent manner.

VIRTUAL AHMEDABAD BRANCH GST HELPDESK: Any person can lodge the grievance and it will be redressed by an GST HELP DESK COMMITTEE consisting of experts. In case of any grievance you can Submit your details on this LINK

<https://forms.gle/3m3eyqiSvMG6iXiz7>

The year 2020 gone by has been a tough one for all of us. The year has thrown many curveballs for the mankind to deal with as we all witnessed the calamitous power of the nature and the need to move on with positive thought. The pandemic experience, with all-encompassing lack of certainty, has not only shaped how society shall dwell into future but will also chisel functioning of the economies and business for many years to come. The humanity realised that the uncertainty of the future with fragility of life can stress life in peculiar ways that were unfelt and unthought of previously. If one firmly believes that one can do something, one will eventually find ways to make it happen. Initially, we might seem to be lost and not know how to reach our destination but as we work our way towards our goals, we acquire the skills we need. Goals are the catalyst for success and help us in mapping out the strategies to achieve the desired results. To conclude can convey the words by Mahatma Gandhi,

"If I have the belief that I can do it, I shall surely acquire the capacity to do it even if I may not have it at the beginning"

सत्त Satt (Truth) चित्त Chitt (Consciousness)
आनंदम् Anandam (Bliss)

Stay Home. Stay Safe. Stay Updated. Stay Happy.

Thanks & Regards,

CA. Fenil Shah

Chairman, Ahmedabad Branch of WIRC of ICAI



Ahmedabad Branch of WIRC of ICAI



संवाद → CONNECT TO CHAIRMAN

A Platform for **MEMBERS** and **STUDENTS** of Ahmedabad Branch to Connect and Interact with the **CHAIRMAN** of Ahmedabad Branch of WIRC of ICAI

Connect by Filling Form :- <http://tiny.cc/ConnectToChairman>

Connect and Share to Me

- ◆ IDEAS of yours for our Fraternity
- ◆ Redressal of your GRIEVANCE
- ◆ Willingness to be a VOLUNTEER
- ◆ Share your valuable SUGGESTIONS
- ◆ Any OTHER Purpose.

"Always Happy to Help"

CA. Fenil Shah

Chairman, Ahmedabad Branch

Members & Students of Ahmedabad Branch can take Benefit of the Initiative.

EDITORIAL



Greetings of Atmanirbhar to all our members!!

Currently we are witnessing that India is readily progressing towards the approach of Atmanirbhar Bharat. The way vaccine is developed

and rolls out in the nation is something to cherish. With the onset of 1st round of Covid Vaccine to front line workers and doctors we have witnessed the country progressing towards the old normal times. Education sectors have started to reopen in a phased manner. Our aim is above self-sufficiency in this pandemic which is reflected as export of vaccine to other countries also started.

The month of February is again going to be crucial as the dates for GST Annual return and Annual Audit is approaching. We need to relearn the new provisions applicable for the year 2019-20 GST Audit. Even we need to better plan the audits in given time frame so no more extension is required for the same

The outcome of current India- Australia test match series reflects how resilience and confidence of young team can lead to the victory. It fosters us to believe more and give full support to young professional colleague, it could give the tremendous outcome.

As legendary **Albert Einstein** said "**the definition of genius is taking the complex and making it simple.**" So our aim from the newsletter to articulate the complex aspects of changes in various laws in most simple manner which can inculcate the reading habit in our member.

This newsletter includes all the recent changes in Corporate law, GST, Direct & International Taxation, RERA and Theory of long term investing. Members those who are willing to contribute for newsletter on any topic can share the same with us at ahmedabad@icai.org

Stay Safe and Stay Happy!!

Happy learning!!

CA Rahul Maliwal

Chairman, Newsletter Committee





Accounting & Company Law Updates

Compiled by: CA. Chintan Patel

1. AOC-4 filing date extended till 15.02.2021

No additional fees shall be levied in filing of e-forms AOC-4, AOC-4 (CFS), AOC-4 XBRL and AOC-4 Non-XBRL in respect of the financial year ended on 31.03.2020 upto 15.02.2021.

http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.4_29012021.pdf

2. Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021

MCA has issued on 22nd January, 2021 Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021 making important amendments:

Few important changes:

• Definition of Corporate Social Responsibility (CSR):

It has been revised and instead of activities mentioned in Schedule VII the activities are described in the definition itself.

Corporate Social Responsibility (CSR) means the activities undertaken by a Company in pursuance of its statutory obligation laid down in section 135 of the Act in accordance with the provisions contained in these rules, but shall not include activities/purpose as detailed in the definition. Other definitions like Administrative overheads, International Organisation, Ongoing project defined

• CSR Implementation

Addition of implementation mode by a section 8 Company or Trust or Society by the company either singly or along with any other company; Registration of the project details with the Central Government by filing CSR-1 Form to generate a unique registration number; Inclusion of international organisations for designing, monitoring and evaluation of the CSR projects.

• CSRExpenditure

Any surplus arising out of the CSR activities transferred to the Unspent CSR Account and spent in pursuance of CSR policy

• CSR Reporting:

Significant enhancement with respect to filing of the Board's **Annual Report on CSR** with addition of Impact Assessment Reports as annexure

• Website Disclosure:

A further note to add more to company's website

about the CSR Committee, CSR Policy and Projects approved by the Board

• Unspent CSR:

It details about the transfer of unspent CSR by the company to any fund included in schedule VII of the Act.

http://www.mca.gov.in/Ministry/pdf/CSRAmendmentRules_22012021.pdf

3. Scheme of Condonation of delay for companies restored on the registrar of companies between 1st December 2020 and 31st December, 2020

MCA vide General Circular No. 03/2021 dated 15th January, 2021 introduced the Scheme namely, "Scheme for condonation for delay for companies restored on the Register of Companies between 1st December, 2020 and 31st December, 2020 under Section 252 of the Companies Act, 2013" for the purpose of condoning the delay in filing e-forms with the Registrar, insofar it related to charging of additional fees on account of delay in such filing.

http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.3_15012021.pdf

4. Publications relating to LLP and Companies issued by ICAI

ICAI recently released 4 important publications relating to LLP and Companies

- Statutory Compliance Calendar of Limited Liability Partnership as per LLP Act, 2008 and rules thereunder

<https://resource.cdn.icai.org/62753clcg50746-scllp.pdf>

- Frequently Asked Questions on Limited Liability Partnership Act, 2008

<https://resource.cdn.icai.org/62754clcg50746-faqlp.pdf>

- Technical Guide on the provisions of Independent Directors from Corporate Governance perspective

<https://resource.cdn.icai.org/62755clcg50746-pid.pdf>

- Technical Guide on Charges- Registration, Modification and Satisfaction under the Companies Act, 2013 and LLP Act, 2008

<https://resource.cdn.icai.org/62756clcg50746-crms.pdf>



Ahmedabad Branch of WIRC of ICAI



Is Happy To Inform You About The New

The Chartered Accountant Benevolent Fund PORTAL

One Stop Solution for CABF Contribution & Financial Assistance

PORTAL LINK: <https://cabf.icai.org>

Member can apply for life membership/ Annual membership online

01

Pay your contribution and get auto-generated fee receipt instantly

02

Auto populated application from linked with members database.

03

MIS generated administration monitoring of the CABF for efficiency.

04



05

Details of life Members, ordinary Members and voluntary contribution would be available at the portal

06

Online recommendation, approval and disbursement process of the application.

07

Track application status across the process

08

100% online automated process for financial provision to upload all relevant supporting documents.

Its our earnest appeal to all the Members of Ahmedabad Branch to become LIFE MEMBER of the Fund and to voluntarily contribute any amount for the noble and pious cause of CABF. The contribution to CABF is eligible for tax exemption under Section 80-G of Income Tax Act.

Courtesy

CA. Fenil Shah,
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RCM,WIRC

CA. Vikash Jain,
RCM,WIRC

GST Updates

Compiled by: CA. Monish Shah



IMPORTANT JUDGMENTS, AAR & AAAR

1) 2020 (43) G.S.T.L 673 -Telangana High Court in M/s. Same Deutzfahr India P Ltd versus State Of Telangana. It was held that Goods in transit were detained for the reasons that the Invoice carried the destination address of Principal place of business instead of Depot Address. It cannot be said that the petitioner was indulging in any illegal activity Writ Petition is allowed; and respondents are directed to refund the amount collected

2) In M/s Sterling Accuris Wellness Pvt Ltd it was held by Gujarat AAR that Pathology or Diagnostic services supply to the client who is researcher is liable to GST. GUJ/GAAR/R/69/2020 dated 17.09.2020

3) KARNATAKA AAR in Midcon Polymers Pvt. Ltd. Advance Ruling No. KAR ADRG 48/2020 Date of Judgement/Order: 16/09/2020 held that the applicant can't deduct the property taxes and other statutory levies for the purpose of arriving at the value of rental income.

The notional interest on the security deposit shall be taken into consideration, for the purposes of arriving at total income from rental, only if it influences the value supply of RIS

service i.e. monthly rent.

The applicant is entitled for exemption of tax under the general exemption of Rs 20 lakhs, subject to the condition that their annual turnover, which includes monthly rent and notional interest, if it influences the value of supply, does not exceed the threshold limit

4) Integrated Constructive Solutions v/s ACST & E-Cum-Proper Officer (2020) 121 taxman.com 104(AA-GST-HP) it was held that Non-updation of Part B of EWB is merely procedural lapse and minor penalty shall be leviable

5) Vikram A Sarabhai Community Science Centre carrying out various activities - With aims to nurture young minds towards scientific thinking with methods and techniques that make the process of learning, an enjoyable and lasting experience, the applicant has combined several formal and non-formal techniques and come up with many innovative methods to give students a better understanding of Science and Mathematics. - The applicant does not fall under the definition of "educational institution. - Also not entitled for exemption in respect of any activity undertaken by applicant, under the Entry Nos. 1, 13 & 80 of the of the exemption



Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, as amended, granting exemption to an entity registered under Section 12AA of the Income Tax Act, 1961.

In ruling, Authority mentioned that the advance ruling authority is not the Legislature to amend the GST law, but it concise with law. Hence, they are not the authority to consider science education imparted by Community Science Centres as an integral and important support to formal education system in raising the quality of science education and include it in the definition of 'educational institution'. Required to get GST Registration and Liable to pay GST on all the activities carried out by the applicant. Held by Gujarat Authority for Advance Ruling in the case of Vikram A Sarabhai Community Science Centre GUJ/GAAR/R/48/2020 dated 30.07.2020

6) In M/s Amneal Pharmaceuticals Pvt. Ltd. - GUJARAT AUTHORITY FOR ADVANCE RULING GUJ/GAAR/R/50/2020 dated 30.07.2020 it was held GST is applicable on the amount recovered from employee on account of third party canteen services which is obligatory under Section 46 of the Factories Act, provided by company

7) In M/s Amneal Pharmaceuticals Pvt. Ltd. - GUJARAT AUTHORITY FOR ADVANCE RULING GUJ/GAAR/R/51/2020 dated 30.07.2020 it was held that Applicant entering into contract with employees by issuing "Appointment Letter". Under appointment letter, it has been clearly mentioned that, either parties shall serve a three months mandatory notice to terminate this contract. Thus, three months' notice is mandatory for all employees/employer. In case, if any employee doesn't serve the notice period after tendering the resignation, then as per contract (Appointment Letter) condition, company is entitled to recover the notice pay from the agreed portion of salary to compensate the loss to company. The condition is hereby reproduced below: "Your services can be terminated by giving three months' notice or notice pay in lieu of notice period from either side".

Thus Applicant is liable to pay GST on recovery of Notice Pay from the employees who are leaving the company without completing the notice period as specified in the Appointment Letter issued as per the contract entered between Employer and the Employee.

8) Applicant want to sell factory land to Mr B for Rs. 1 crore. Mr B showing acceptance to the sale agreement, gives advance money amounting to Rs. 20 lakhs which is 20% of the total sale amount. Now for some reasons Mr B could not complete the transaction upon which Applicant forfeits amount of Rs. 20 lakhs. - The amount forfeited by Fastrack will attract GST - The applicant is the service provider and Mr B (customer) is the service receiver - The amount forfeited/ received by applicant is covered under supply of service as per clause 5(e) of Schedule II of CGST Act, 2017 and therefore, liable to GST. Held by Gujarat AUTHORITY FOR ADVANCE RULING GUJ/GAAR/R/58/2020 dated 30.07.2020 in M/s. Fastrack Deal Comm Pvt. Ltd.

9) 2021 (1) TMI 552 - Kerala High Court in M/S. Podaran Foods India Private Limited versus State Of Kerala it was held that Interpretation of Section 129 of CGST Act - scope and ambit of the orders passed by the proper officer in Form GST MOV-6 and Form GST MOV-9 - Detention of goods for mis-classification or mis-description of goods - 'fruit drinks' or 'aerated soft drinks with added flavours' - 'Papad' or 'un-fried fryums' - HELD - It is rather surprising that although the statute provides for a detention of goods and conveyance while in transit, the procedure to be followed by the proper officer concerned is not spelt out in any Rule framed under the parent Act - the central government has chosen to prescribe the procedure for interception of conveyances for inspection of goods in movement, detention, release and confiscation of goods and conveyances through various Circulars - mere suspicion of mis-classification of goods cannot be the basis for a detention under Section 129 of the CGST Act - Section 129 forms part of the machinery provisions under the Act to check evasion of tax and a detention can be justified only if there is a contravention of the provisions of the Act in relation to transportation of goods or their storage while in transit - the alleged mis-classification cannot form the basis of a detention under Section 129 of the GST Act - the impugned detention orders and notices are quashed - the writ petitions are allowed | Under Section 129 of the Act, the proper officer does not have the discretion to condone the procedural lapse or relax its rigour in particular cases. He must interpret the Rule strictly keeping in mind the statutory scheme that aims to curb tax evasion.



AHMEDABAD BRANCH OF WIRC OF ICAI

Presents



DO YOU KNOW?

ICAI Introduces Digi-locker Facility For Member Chartered Accountants And Students



STEPS TO USE

Step 1

Download/update
DigiLocker App

Step 2

After login, Click
Education Menu

Step 3

Click ICAI

Step 4

By using ICAI membership
number, Download ID Card

Benefits of Digi-Locker to ICAI Members / Students

- ◆ Easy & Secure storage of important documents.
- ◆ Quick access to Digi-Locker wallet anytime, anywhere.
- ◆ Authentic documents, having the same credentials as physical docs.
- ◆ Easy sharing of documents online.
- ◆ Faster delivery of government services & benefits.

Benefits of Digi-Locker to Clients & Agencies

- ◆ Trusted digital documents fetched directly from concerning agencies.
- ◆ Minimizes the use of paper and cuts the cost and time in manual verification, thus reducing the administrative overhead.
- ◆ Highly secure way of storing and sharing documents between concerned parties.
- ◆ Allows agencies to verify data in real-time from concerning authorities/issuers.

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RCM,WIRC

CA. Vikash Jain,
RCM,WIRC

Insights on How to Become a Millionaire Through Equity Investing

Compiled by: CA. Pratik Modi



Insights on How to become a millionaire through Equity Investing.

In my last article we had discussed about what is Mutual Fund and how they work? And more details about Index Funds.

Now the question is arise, for how long we should stay Invested in Equities (**"Equity" here means Equity shares and Equity oriented Mutual Funds**)

In equity market, there is most popular word is Long Term. You might have heard the word "long term" from many advisors i.e. if you want to invest in equity, Invest for Long term. What does Long term here mean and why is it advised to stay invested for long term?

What is Long Term Investment? And Why the Long Term Only?

Equity Market is discounting of future price. The price of shares of companies you see has already discounted its future outcomes. E.g. The Nifty/Sensex is at its till time high, however the valuation doesn't look justified looking to micro and macro-economic factors. Such high and low valuation situations are very common in stock market. So whenever you invest in the equity market, you are not paying for current price rather you are paying future discounted price. Its means you have to wait for some time after

investing in the equity for its fair price.

Generally, the equity market is traded at one year forward PE or in case of bull run of market it is traded at two year PE. (PE means Price to Equity Ratio)

Best time Invest in Equity Market?

In equity market, there is no specific time to invest money in equities, if you have money you can continue to stay invested. The Nifty/Sensex is at it's till time high now. Many of the Investors say that we have wait for some correction and investment in equity market after some correction. In my opinion, **Market is at Till Time Up not at All time up.** The Investors has regularly invest money in equity market in discipline manner without timing the market.

Average Period for Investment in Equity Market.

1. In case of Investment in Mutual Fund on Monthly SIP Basis.

In my opinion, In case of investment in mutual fund in SIP manner (**SIP means Systematic Investment plan. Already discussed in earlier articles**) the investors have invest their money for minimum **7 years**. Here the question may arise, Is the 7 years are too long period? The answer is no because here investors are invest on monthly basis, it means their average period of holding of investment is just 4 years (approx.)



2. In case of Investment in Equity or Mutual Fund on Lumsum Basis.

In my opinion, In case of investment in equity or Mutual fund on lumsum basis, the investors have invest their money for minimum 3 years as you are not paying fair for current price rather you are paying for future discounted price.

Key Points for Investors which will help in wealth creation.

1

Planning.

You all are aware that "Investment in Equity is subject to the market risk". This is the most an important thing in the Equity. How much amount you need to invest in equity, for that panning is required before investment in equity. Following points consider for how much amount you need to invest in equity.

- Your Monthly Income.
- Your Monthly Obligation i.e. Any Loan EMI, Monthly Household Expense, Child School Fees.
- Your Emergency Fund. (Every Investors must have total of at least 6 to 8 month salary amount corpus in Bank FDs or Liquid Funds)
- After considering above factors, you have to start investing in equity in disciplined manner.

2. Buy business and not "Stock"

As per my view, when you buying the shares of company, you are not just buying shares rather you are buying business. Before you buy any shares of any company, you need to understand its business first. If you are able to understand the business and then you invest in such business, you're thinking of such investment will totally change.

Investors can effectively research and invest on stocks of such business where they have prior personal knowledge and expertise to understand them. This understanding will help them to research key strengths, weaknesses and long-term prospects of the company.

E.g. you are in business of pharma sectors since many years. You must have experienced the business process, company policies and products of various pharma manufactures in your routine business tenure. If you apply this experience in selecting your shares, you would certainly be able to identify the right pharma company to invest in.

3

Honest Management. One should invest in companies, which has good and honest management.

In a company, management is the key set of people who drives the entire company and be responsible for its growth.

"A Very good driver of Car can drive the whole world with a normal car, if driver is not good, he cannot drive few kilometers even with a luxury car."

4

Focused Portfolio. In my opinion, a portfolio which can be summarized in one page is good portfolio. In Equity, Quality with quantity is more important than number of companies. If you have focused portfolio than you can build quantity since you have limited companies to focus on.

5. Don't Time the Market.

This is most common question of every investor. Is it right time to invest in Equity? In my opinion, there is no specific time to invest in Equity rather invest in equity in disciplined manner. If you want to create your wealth in Equity, your presence in equity is a must.

6. Don't be greedy because, " there is no limit for greed"

If you buy 100 shares of A Ltd at the price of INR.700/ per share. After 3 years, the share price might go INR 7000 /per share. At this time, you might think, could I bought 1000 shares instead of 100. This type of greed is always seen in equity market.



GST Quick Connect

Compiled by: CA. Parth Joshi

Rule 86B of the CGST Rules - Restriction on use of amount available in electronic credit ledger

1. Background:

In exercise of the powers conferred by section 164 of the CGST Act, 2017, the Central Government on the recommendations of the Council, vide Notification No. 94/2020 – Central Tax dated 22nd December, 2020, has inserted rule 86B in the CGST Rules, 2017. The intent behind introducing such a rule is to impose a deterrence on the fraudsters in a multi-layered fraud of passing fake Input Tax Credit (ITC) and restricting the use of ITC available in credit ledger.

2. Restrictions on use of amount available in electronic credit ledger [Rules 86B of the CGST Rules, 2017]:

Notwithstanding anything contained in these rules, the registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of 99% of such tax liability, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds Rs. 50 Lakh:

Provided that the said **restriction shall not apply where –**

(a) the said person or the proprietor or karta or the managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid **more than Rs. 1 Lakh as income tax** under the Income-tax Act, 1961 (43 of 1961) in **each of the last two financial years** for which the time limit to file return of income under subsection (1) of section 139 of the said Act has expired; or

(b) the registered person has received a **refund amount of more than Rs. 1 lakh** in the preceding financial year on account of unutilised input tax credit under clause (i) of first proviso of sub-section (3) of section 54; or

(c) the registered person has received a **refund amount of more than Rs. 1 lakh** in the preceding financial year on account of unutilised input tax credit under clause (ii) of first proviso of sub-section (3) of section 54; or

(d) the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount **which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month** in the current financial year; or

(e) the registered person is – **(i) Government Department; or (ii) a Public Sector Undertaking; or (iii) a local authority; or (iv) a statutory body:**

Provided further that the Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit.

3. Effective Date:

This rule is applicable with effect from 01st January, 2021.

4. Analysis:

- **Non-obstante Clause:** This rule starts with a non-obstante clause. Accordingly, this rule has an overriding effect on other rules.

- **Rule applies, where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds Rs. 50 Lakh:** Rule is applicable to a registered person, where the value of taxable supply other than exempt supply and zero-rated supply in a month exceeds Rs. 50 Lakh. Therefore, if turnover in a particular month for a registered person is below Rs. 50 Lakh, then, the rule may not apply. The applicability of rule has to be checked each month by the tax-payers.

- **Restriction on use of the amount**



available in electronic credit ledger to discharge his liability towards output tax in excess of 99% of such tax liability: This rule casts a restriction on registered person for utilization of input tax credit while paying output tax liability, hence, registered persons cannot use ITC in excess of 99% of output tax liability.

5. Non-applicability of rule 86B to certain category of persons:

- **Income tax paid more than Rs. 1 lakh in each of the last two financial years:** This rule will not apply; where the said person or the proprietor or karta or the managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid more than Rs. 1 Lakh as income tax under the Income-tax Act, 1961 in each of the last two financial years.

- **Receipt of refund of input tax credit on account of zero-rated supply of goods or services exceeding Rs. 1 lakh:** The rule will not apply; where the registered person has received a refund amount of more than Rs. 1 lakh in the preceding financial year on account of unutilised input tax credit towards supply of zero-rated goods or

services.

- **Receipt of refund of input tax credit because of inverted duty structure exceeding Rs. 1 Lakh:** The rule will also not apply; where the registered person has received a refund amount of more than Rs. 1 lakh in the preceding financial year on account of unutilised input tax credit due to inverted duty structure.

- **More than 1% of the total output liability, applied cumulatively, is discharged through cash:** The rule will not be applicable where, the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, up to the said month in the current financial year.

- **Government Undertaking:** Not applicable, when the registered person is – (i) Government Department; or (ii) a Public Sector Undertaking; or (iii) a local authority; or (iv) a statutory body.

6. Misconceptions V/s Reality of rule 86B issued by CBIC:

Sl. No.	Misconceptions	Reality
1.	Large number of taxpayers would be affected by this rule.	The rule provides for various exemptions like exporters, suppliers of goods of inverted duty structure, taxpayers having a foot print in the Income Tax data base etc. It is expected that this rule would be applicable to less than 0.5% of the total taxpayer base of 1.2 crore. The rule clearly identifies where the risk to revenue is high and imposes deterrence to the fraudsters in a multi-layered fraud of passing fake ITC. This rule would help to control such fraudsters, who issue fake invoices and show high turnovers, but have no financial credibility and flee after misusing ITC without payment of any tax liability in cash.
2.	The requirement of cash payment of 1% liability will create huge burden on small business and will increase their working capital requirements.	The cash payment of 1% is to be calculated on the tax liability in a month and not turnover of the month. In fact, it amounts to only 0.01% of turnover. For example, if a dealer has made sale of Rs. 1 crore of the goods whose tax rate is 12% and if he is discharging his tax liability more than 99% through ITC, then he has to pay only Rs. 12,000 under this rule. On the other hand, a composition dealer would have paid Rs. 1 Lakh in cash with this volume of sale.



Sl. No.	Misconceptions	Reality
3.	This rule adversely affects small and medium enterprises.	The new provision which restricts the use of ITC for discharging output liability is applicable to the registered person whose value of taxable supply other than exempt supply and export, in a month exceeds Rs. 50 Lakh – that means those whose annual turnover is more than Rs. 6 crores. Therefore, the rule does not apply to micro and small businesses, and composition dealers.
4.	All the registered persons will be required to pay 1% cash liability.	This rule is applicable to only to those registered persons whose value of taxable supply, other than exempt supply and export, in a month exceeds Rs. 50 Lakh – that means whose annual turnover is more than Rs. 6 crore. The rule is also not applicable in the cases where the registered person: (a) has deposited more than Rs. 1 Lakh rupees as Income Tax in each last two years. (b) has received a refund of more than Rs. 1 Lakh in the preceding financial year on account of export or inverted tax structure. (c) has paid output through cash in excess of 1% of the total output tax liability, applied cumulatively, upto the month in the current financial year. (d) is a government department, PSU, local authority, statutory body.
5.	This rule adversely affects genuine taxpayers.	This rule is only applicable to taxpayers who have taxable supplies of more than Rs. 50 Lakh in a month, which amounts to an annual turnover of more than Rs. 6 crore. Besides, the registered persons falling in any of the exempted category including paying Rs. 1 Lakh as Income Tax in each of the last two financial year or having received refund of more than Rs. 1 Lakh in the previous year on account of export or inverted duty structure etc. are also out of purview of this rule. With these exemptions and conditions and precise targeting, the requirement of mandatory payment of at least 1% of the tax liability in cash would apply only to risky or suspicious taxpayers and genuine taxpayers would remain excluded.

7. Registration liable to be cancelled, if rule 86B is not complied by taxpayers [Rule 21 of the CGST Rules, 2017]:

The registration granted to a person is liable to be cancelled, if the said person, -

- (a) does not conduct any business from the declared place of business; or
- (b) issues invoice or bill without supply of goods or services in violation of the provisions of this Act, or the rules made thereunder; or
- (c) violates the provisions of section 171 of the

- Act or the rules made thereunder
- (d) violates the provision of rule 10A;
- (e) avails input tax credit in violation of the provisions of section 16 of the Act or the rules made thereunder; or
- (f) furnishes the details of outward supplies in FORM GSTR-1 under section 37 for one or more tax periods which is in excess of the outward supplies declared by him in his valid return under section 39 for the said tax periods; or
- (g) violates the provision of rule 86B.

ALL YOU NEED TO KNOW ABOUT INDUSTRIAL RELATIONS CODE 2020

Compiled by: CA. Nikhil Vekariya



"Be kind, for everyone you meet is fighting a harder battle." — Plato

Background

The motive of Industrial Relations Code 2020 is to repeal some of the earlier laws and give fresh perspective to the industry and stakeholders. It will lead to efficient economic activities. It aims at creating a formal industrial relations system by removing uncertainties and ambiguities. Employees are empowered by reducing the constraints of erstwhile labour laws.

The Industrial Relations Code 2020 is broadly subsumes three earlier laws;

- The Industrial Disputes Act, 1947
- The Trade Unions Act, 1926
- The Industrial Employment (Standing Orders) Act, 1946

It was first recommended by "National Commission on Labour" in 2002 to combine the laws. It took almost 18 years to implement the idea on the ground.

The Code deals with industrial disputes, trade unions regulation. The date of implementation of the code is not yet notified by the government.

Below are major changes made in the code;

1. Definition of Industry

The code has brought clarity and exempts the

institutions which are owned or managed by organisations substantially or wholly engaged in any charitable and philanthropic service from the purview of the term industry.

2. Definition of Worker

Earlier the word was used as 'workman' which is proposed to be changed to 'worker' in the new code. The scope is expanded so the rights can be exercised by large group. The new definition of 'worker' includes persons getting salary up to Rs. 18,000/- a month. The Industrial disputes act has limit of ₹ 10,000/- a month.

3. Definition of Employer

The code brings good alignment of the term 'employer' with other laws. It is now expanded to cover the legal representative of deceased employer and contractor. The purpose of wide definition of employer is to protect the rights of employee.

"Compassion is the basis of morality."
— Arthur Schopenhauer

4. Definition of Bipartite Forums

The industrial disputes act did not explicitly mentioned about compulsory internal mechanism. The code has mandatory requirement of 'grievance redressal committee' for industries having workers 20 or more. Further, it should have a 'Works Committee' if



the establishment has 100 or more workers. This is to resolve internal disputes between employees and the employer.

"As the women participation in the labour force increases, the new code has brought proportionate women representation."

5. Definition of Trade Unions

The code has provision for recognition of a 'negotiating council' or 'negotiating union' in establishments which is registered Trade Unions for negotiating with the employer of the industrial establishment, on such matters as may be prescribed. The motive of these negotiation unions is to ensure that the voice of the workmen does not remain unheard.

6. Standing Orders

Similar to standing orders act, the code also provides for the adoption of the standing orders. The code has provided that each establishment shall draft the modifications required in the model standing orders, within a period of 6 months from the date of commencement of the code. If the establishment, does not get the modifications certified, then the model standing orders shall be deemed to be applicable to them.

7. Retrenchment

The industrial disputes act has provided that an establishment which has more than 100 workers are required to seek prior approval of the government before closure, lay-off, or retrenchment. Now, the code is uniform and prior permission requirement only for industry having 300 or more workers. This is favourable to employers.

8. Strike

The code requires giving a prior notice of 14 days before a strike or a lockout. As per the industrial disputes act, it was applicable only for public utility services such as transportation, railways, telecommunication, postal. The definition of 'strike' has been amended. It now includes 'concerted casual leave on a given day by 50% or more workers employed in an industry'.

"No act of kindness, no matter how small, is ever wasted."

—Aesop

9. Industrial Disputes

The definition of 'industrial dispute' under the ID act does not explicitly include disputes arising out of dismissal, discharge, or termination of employee. Now Industrial Tribunals is envisaged as the adjudicating body in place of multiple adjudicating bodies like the Court, Board of Conciliation and Labour Courts. It makes the process of dispute resolution less complex.

10. Fixed Term Employment

The code has made introduction of a new definition of 'fixed term employment'. It will allow employers to hire workers for a particular duration as and when the need basis. If the work is not long term in nature it is beneficial for employer. It also benefits employees as they are entitled to the get all benefits like social security, medical insurance etc.

11. Government's Power to Exempt

The code provides the government with a wide power to exempt any new industrial establishment or class of establishment based only on public interest.

12. Penalties

The code has introduced provisions for compounding of offences. The penalties under the code for violations are much rationalized to commensurate with the gravity of the violation.

Takeaways

As we have observed, the code is aiming at incentivising employers and ensure that they are treated well and get heard in the industry. It emphasise on increasing the employment opportunities for workers. These amendments will substantially improve the wellbeing of employee.

"There is no exercise better for the heart than reaching down and lifting people up."

—John Holmes

Analysis of Corporate Social Responsibility Provisions as per Companies Act, 2013

By: CA. Parag Shah

<https://drive.google.com/file/d/1b5WbtbWueVC0vmalsCubK-VdIWvkj9If/view?usp=sharing>

CODE ON SOCIAL SECURITY, 2020

By: CA Kankshil Parikh

<https://drive.google.com/file/d/1nkWYpamnH4fy31qjvzxpekMVlb5GJ1hG/view?usp=sharing>



Invitation for Participation

Campus Placement Programme

**For Newly Qualified
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February-March, 2021



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Direct Tax Updates

Compiled by: CA MOHIT R. TIBREWALA



1. Notification No. 2/2021 dated 12.01.2021 – Faceless Penalty Scheme, 2021

In exercise of the powers conferred by sub-section (2A) of section 274 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the Scheme, namely, the Faceless Penalty Scheme, 2021.

[Notification No. 2/2021 \(incometaxindia.gov.in\)](https://www.incometaxindiaefiling.gov.in/NotificationNo.2/2021)

2. Press Release dated 12.01.2021 - CBDT launches e-portal for filing complaints regarding tax evasion/Benami Properties/Foreign Undisclosed Assets.

Taking another step towards e-governance and encouraging participation of citizen as stakeholders in curbing tax evasion, the Central Board of Direct Taxes has launched an automated dedicated e-portal on the e-filing website of the Department to receive and process complaints of tax evasion, foreign undisclosed assets as well as complaints regarding benami properties.

The public can now file a Tax Evasion Petition through a link on the e-filing website of the Department

<https://www.incometaxindiaefiling.gov.in/> under the head “File complaint of tax evasion/undisclosed foreign asset/ benami property”. The facility allows for filing of complaints by persons who are existing PAN/Aadhaar holders as well as for persons having no PAN /Aadhaar. After an OTP based validation process (mobile and/or email), the complainant can file complaints in respect of violations of the Income- tax Act, 1961, Black Money (Undisclosed Foreign Assets and Income) Imposition of Tax Act, 1961 and Prevention of Benami Transactions Act (as amended) in three separate forms designed for the purpose.

Upon successful filing of the complaint, the Department will allot a unique number to each complaint and the complainant would be able to view the status of the complaint on the Department's website. This e-portal is yet another initiative of the Income Tax Department to bring about enhanced ease of interaction with the Department, while strengthening its resolve towards e-governance.

<https://pib.gov.in/PressReleasePage.aspx?PRID=168803>



Direct Tax Quick Connect

Compiled by: CA. Kushal Reshamwala

Sec 35ABB: Expenditure for obtaining licence to operate telecommunication services

The present article covers deduction available under section 35ABB of the Income Tax Act for obtaining a licence for operating telecommunication services. The article briefly explains the treatment on the transfer of the licence and also treatment in case of amalgamation/demerger.

Deduction u/s 35ABB: Following conditions are required to be fulfilled to claim the deductions u/s 35ABB.

- The expenditure incurred should be capital in nature.
- The expenditure should be incurred for acquiring the right to obtain the licence to operate telecommunication services.
- The amount towards eligible expenditure should actually be paid. In other words, deduction under section 35ABB is available on actual payment.
- Any capital expenditure incurred before the commencement of telecommunication business is also allowable as a deduction.
- The deduction is available in equal instalments over the period the licence remains in force.
- Amount of deduction claimed and allowable under section 35ABB is not eligible for depreciation under [section 32](#) of the Income Tax Act.

Treatment in case of Transfer of License:

Following treatment is given in case of transfer of license before completion of period

- When the proceed amount is less than the expenditure remaining unallowed as a deduction, the deduction will be allowed under this section by applying this formula

Deduction allowable under section 35ABB in the previous year in which the transfer takes place = Total expenditure remaining unallowed (-) proceed amount

- When the proceed amount is more than the expenditure remaining unallowed as a deduction, the amount will be charged under the head Business and Profession by applying this formula

The amount chargeable to Income tax under the head 'Profits and gains of business and profession' in the previous year in which the transfer takes place = Total expenditure incurred for obtaining a licence (-) total expenditure remaining unallowed

- When Part of the license has been transferred and proceed amount is less than the expenditure remaining unallowed as a deduction is calculated by applying this formula

Deduction allowable under section 35ABB for the expenditure remaining unallowed = Total expenditure remaining unallowed (-) proceed amount

Number of previous years not expired at the beginning of the previous year during which the licence is transferred

Treatment in case of Transfer of Amalgamation or Demerger:

In case of amalgamation/ demerger, the same will not be treated as transfer, if the following conditions are satisfied-

1. The amalgamated company or the resulting company is an Indian company; and
2. The amalgamated or the resulting company has not transferred the licence.

Notably, since the same is not treated as transfer, the deduction will be available to the amalgamated/ resulting company as the same would have been available to the amalgamating/ demerged company.



RERA Updates

Compiled by: CA. Mahadev Birla

Extension of Registration of Real Estate Project

As per the provision of section 6 of RERA, "The registration granted under section 5 may be extended by the Authority on an application made by the promoter due to force majeure, in such form and on payment of such fee as may be specified by regulations made by the Authority:

Provided that the Authority may in reasonable circumstances, without default on the part of the promoter, based on the facts of each case, and for reasons to be recorded in writing, extend the registration granted to a project for such time as it considers necessary, which shall, in aggregate, not exceed a period of one year:

Provided further that no application for extension of registration shall be rejected unless the applicant has been given an opportunity of being heard in the matter.

Explanation.: For the purpose of this section, the expression "force majeure" shall mean a case of war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the regular development of the real estate project. The above provision empower the RERA Authority to extend the registration of real estate project, subject to circumstance, fact of each case and when there is a no default on the part of the promoter.

Further rule 7 of Gujarat Real Estate (Regulation and Development) (General) Rules, 2017 provides that Application for registration is to be made online along with the necessary documents and payment equivalent to 50% of the registration fees payable as per rule 3(3) of GujRERA General Rule-2017.

Ministry of Housing & Urban Affairs has issued an advisory for extension of registration of real estate projects due to '**Force Majeure**' under the provisions of Real Estate (Regulation and Development) Act, 2016 (RERA).

In line with the above advisory and by virtue of power conferred under section 37 read with section 34(f) of the RERA, and as per provision of section 5, 6, 7(3) and relevant rules related to extension of registration of real estate project, the GujRERA has issued order no. *GujRERA/Order-35 dated 16th May, 2020*.

Further, GujRERA has issued another order no

GujRERA/Order-45 dated 13.01.2021/for clarification in respect of application for extension of registration of project under RERA.

By this order it is clarified that, as per section 6 of RERA 2016, extension for registration of project is granted for a period of one year however even though in some of cases extension for more than one year is asked by the developers/promoter for the decision is taken according to interest/benefits of the allottees.

Further it is clarified that While filing the application for extension of the project registration following documents are to be submitted by the promoters;

Where application is made for extension of one year:-

- Reason for delay in completion of project along with the supporting documents for delay;
- Form-1 Architect certificate, Form-2 Engineer Certificate, Form-3 Chartered Accountant certificate;
- Photographs which shows that project is ongoing;
- Latest commencement certificate;
- Form B i.e. affidavit
- If construction work of the project is completed then copy of Form-4, Application for BU permission, Application for registration of association of allottee
- Planning to complete the balance construction work.
- Certificate from architect that project is completed as per plan submitted in RERA which was approved by local authority.
- Affidavit that all the compliance is made in respect of the order issued by RERA authority against the complaint filed by allottee, suo motu case of RERA Authority.

Where application is made for extension of more than one year:-

In addition to the above requirement, promoter has to submit the consent of 2/3 allottee in the project for such extension.

Further, extension application is to be made before 3 months from the end date of project.

The order no 45 dated 13.01.2021 will be applicable for the all extension application submitted on or after 01.02.2021.



Important Due Dates

Compiled by: CA. Mahavir Shah
FOR COMPLIANCE FOR FEBRUARY- 2021

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	07-Feb-21
2	Income Tax	Tax Deducted/Collected (TDS / TCS) during the month of January-21 to be deposited	07-Feb-21
3	GST	GSTR-7 for the month of January-21 for persons required to deduct TDS under GST	10-Feb-21
4	GST	GSTR-8 for the month of January-21 for e-commerce operator required to collect TCS under GST	10-Feb-21
5	GST	GSTR-1 for the month of January-21	11-Feb-21
6	GST	Filing of Invoice Furnishing Facility (IFF) for January-21 for taxpayers who opted for Quarterly Return Monthly Payment (QRMP) option	13-Feb-21
7	GST	GSTR-6 for the month of January-21 for Input Service Distributor (ISD)	13-Feb-21
8	Income Tax	Filing of Income Tax Returns for A.Y. 2020-21 for following - i. Corporate Assesseees ii. Non-corporate Assesseees whose books needs to be Audited iii. Working Partner of Firm whose accounts needs to be Audited iv. Assessee who is required to furnish report u/s 92E	15-Feb-21
9	Income Tax	Payment of Fourth Installment of Advance Tax for the F.Y. 2020-21 / A.Y. 2021-22	15-Feb-21
10	PF / ESIC	Payment of PF / ESIC for the month of January-21	15-Feb-21
11	GST	GSTR-5 & 5A by Non-resident taxable person & OIDAR for the month of January-21	20-Feb-21
12	GST	Payment of GST & Filing of GSTR-3B for the month of January-21 , for taxpayers having turnover of morethan Rs.5 Crore in preceeding financial year	20-Feb-21
13	GST	Payment of GST & Filing of GSTR-3B for the month of January-21 for taxpayers having turnover upto Rs.5 Crore in preceding F.Y. for following State - Chhattisgarh, Madhya Pradesh, Gujarat , Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep	22-Feb-21
14	GST	Payment of GST & Filing of GSTR-3B for the month of January-21 for taxpayers having turnover of upto Rs.5 Crore in preceding F.Y. for following States - Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi	24-Feb-21
15	GST	Payment of GST in form GST PMT-06 for taxpayers who opted for Quarterly Return Monthly Payment (QRMP) option	25-Feb-21
16	GST	GSTR-9 Annual Return for FY 2019-20	28-Feb-21
17	GST	GSTR-9A Annual Return for FY 2019-20 for taxpayers under Composition Scheme	28-Feb-21
18	GST	GSTR-9C Annual Audit and Reconciliaton Statement for FY 2019-20	28-Feb-21
19	Guj VAT	Payment of Installment of Vera Samadhan Yojana of Guj. VAT	28-Feb-21