



The Institute of Chartered Accountants of India

(Setup by an Act of Parliament)

Ahmedabad Branch of WIRC of ICAI

E-NEWSLETTER

Volume: 08 | ISSUE NO: 01 | March -2021

Chairman's Message

OFFICE BEARERS

Chairman

CA. Harit Ashok Dhariwal
99789 42299

Vice Chairman

CA. Bishan R. Shah
98250 23573

Secretary

CA. Anjali Choksi
98257 73179

Treasurer

CA. Sunil Sanghvi
93761 50100

Members

CA. Ganesh Nadar
CA. Fenil Rajendra Shah
CA. Rahul Kalulal Maliwal

Ex. Officio Members

CA. Aniket Talati, CCM
98255 51448
CA. Hitesh Pomal, RCM
98240 49402
CA. Vikash Jain, RCM
93277 15892
CA. Chintan Patel, RCM
90999 21163

Newsletter Committee

Chairman:

CA. Rahul Maliwal

Co-Chairperson:

CA. Hemlata Dewnani

Convener:

CA. Mohit Tibrewal

Members:

CA. Kushal Reshamwala
CA. Monish Shah
CA. Mahadev Birla
CA. Mahavir Shah
CA. Gautam Pai
CA. Twinkle Shah
CA. Parth Jani
CA. Nimesh Hariya
CA. Jitendra Teelani



Dear Members,

I humbly take over the baton of Ahmedabad Branch of WIRC of ICAI with a deep sense of gratitude, responsibility and commitment. This being my first communication to you as Chairman of the Branch, I would like to place on record my sincere appreciation for the confidence reposed upon me. Like my predecessors, I would work diligently for the Profession and hope to bring greater laurels to the Branch.

I take this opportunity to congratulate the newly elected ICAI President CA. Nihar N Jambusaria, Vice President CA. (Dr.) Debashis Mitra and Team ICAI. WIRC has also handed over its leadership to dynamic chairman CA. Manish Gadia. I am sure these stalwarts will lead ICAI to greater heights of glory.

Our Profession has seen many evolutionary changes over the last few years. In an increasingly complex, demanding and competitive 21st century we still need to push the boundaries and rise beyond the ordinary. With that in mind, our theme for the year 2021-22 revolves around the four letters which we are so proud of – **ICAI - Ideation – Collaboration – Adaptability – Innovation**. These four words encapsulate our ethos that growth is a way of life. We have to excel in all aspects to make an impact while we grow professionally and ethically so as to move beyond the set boundaries. Our theme will inspire us to move out of the mundane and routine into doing new and challenging work – where CAs surge into a

Whats Inside???

Editorial 2
Accounting & Co. Law Updates 3

GST Updates 5
GST Quick Connect 8

RERA Updates 11
Imp. Due Dates 13



realm of innovation and creative growth. To provide new and innovative ideas that reflect our true heritage as professionals who not only deal with numbers but provide strategic solutions to provide continuous impetus for constant growth. Here I am reminded of the words by APJ Abdul Kalam who said, *"Dream, Dream, Dream Dreams transform into thoughts, and thoughts result in action. Dream is not that which you see while sleeping, it is something that does not let you sleep."*

February was a month of great satisfaction and pride for the entire Managing Committee as Ahmedabad Branch of WIRC got awards at National and Regional levels. We sincerely dedicate this proud moment to all the members of our branch, whose immense faith and support has brought this laurels. March is a month of Bank Branch Audit and we from Branch will bring our best programs with renowned speakers. These seminars will update Members about the latest guidelines,

notifications, circulars and other important information that will enable them to perform their bank audit assignments effectively. During the course of the year, we will continue to organise similar knowledge based seminars which will go far in giving a professional boost to members.

March is month of Holi - a festival of colour and a celebration that symbolizes the victory of devotion and virtue over evils. Wishing all our members a very Happy Holi

- May all the seven colours of the rainbow come together this Holi and bless you and your family, life with happiness and joy.

Regards,
CA Harit Dhariwal
Chairman, Ahmedabad
Branch of WIRC of ICAI



EDITORIAL



Greetings to all our members!!

I am extremely glad to inform you that for the Ahmedabad Branch has awarded with 4 best Awards- Two Best Branch Awards by ICAI New Delhi

& Two BEST Branch Awards of WESTERN REGION by WIRC, under the category of Members and Students (WICASA) for Year 2020.

It is a moment of celebration for all the members and students. Getting award is the collective efforts of all the members of Ahmedabad branch, who has constantly committed towards the learning and participating in all the events even during this turbulent time of Covid.

Thank you for all your co-operation & guidance and we look forward to your continuous support in the times ahead. I would like to take this opportunity to sincerely thank all the contributors of newsletter for sending the updates and sparing their precious time for the profession. We have tried our best during the

entire year to give all the relevant updates and changes in due time. First ever for entire year Newsletter was circulated on the 1st day of every month. I extend my sincere gratitude to the Editorial team for their hard work to publish this newsletter in time; I also like to thank our branch staff Shehzad Shaikh bhai for wonderful designing of the newsletter.

I convey my best regards to all of you for constant learning and updating of knowledge through the coming Newsletters.

Knowledge

It cannot be stolen by thieves, nor can it be taken away by the Kings.

It cannot be divided among brothers; It does not have a weight.

If shared regularly, It always keep growing. The wealth of knowledge is the most superior wealth of All!

Sincerely Yours,

Happy learning!!
CA Rahul Maliwal
Chairman, Newsletter Committee

Accounting & Company Law Updates

Compiled by: CA. Chintan Patel



1. MCA signing of Data exchange MOU with CBIC

A formal Memorandum of Understanding (MOU) was signed today between the Ministry of Corporate Affairs (MCA) and Central Board of Indirect Taxes and Customs (CBIC), Ministry Of Finance for data exchange between the two organizations

The MoU will facilitate the sharing of data and information between MCA and CBIC on an automatic and regular basis. It will enable sharing of specific information such as details of Bill of Entry (Imports), Shipping Bill (Exports) Summary from CBIC and financial statements filed with the Registrar by corporates, returns of allotment of shares. The MoU will ensure that both MCA and CBIC have seamless linkage for regulatory purposes.

http://www.mca.gov.in/Ministry/pdf/NoticePressRelease_26022021.pdf

2. Amendments relating to One Person

Company

Companies (Incorporation) 2nd Amendment Rules 2021 amends rules 6 related to One Person Company to Convert Itself into a Public Company or a Private Company in Certain Cases and Rule 7 related to Conversion of private company into One Person Company

http://www.mca.gov.in/Ministry/pdf/CompaniesSecondAmndtRules_16022021.pdf

3. Amendments relating to companies not to be considered as listed companies

MCA inserted Rule 2A in in Companies (Specification of definitions details) Rules, 2014 specifying when Companies not to be considered as listed companies.

http://www.mca.gov.in/Ministry/pdf/CompaniesSpecification2ndAmndtRules_22022021.pdf

4. Publications relating to Valuations issued by ICAI

ICAI recently released 4 important



publications relating to LLP and Companies

- Educational Material on ICAI Valuation Standard- 301- Business Valuation as brought out by VSB ICAI and ICAI RVO

<https://resource.cdn.icai.org/63123vsb51074.pdf>

- Technical Guide on Valuation (Revised Edition- 2021) as brought out by VSB ICAI

<https://resource.cdn.icai.org/63028vsb50999.pdf>

- Educational Material for ICAI Valuation Standard- 103- Valuation Approaches and Methods as brought out by VSB ICAI and ICAI RVO

<https://resource.cdn.icai.org/63029vsb51000.pdf>

- Valuation: Professionals' Insight-Series-5 as brought out by VSB ICAI and ICAI RVO

<https://resource.cdn.icai.org/63030vsb51001.pdf>

5. Various Publications issued by ICAI

- Guidance Note on Accrual Basis of Accounting - (16-02-2021)

<https://resource.cdn.icai.org/63092research51049gnaccba.pdf>

- Guidance Note on Accounting by E-commerce Entities - (16-02-2021)

<https://resource.cdn.icai.org/63093research51049gnecomm.pdf>

- Impact of Digital Transformation Strategies on Performance of Manufacturing Companies in India - (16-02-2021)

<https://resource.cdn.icai.org/63095research51050b.pdf>

- Inching towards Tax Certainty: Neoteric Domestic Dispute Mechanism for Cross-Border Taxation - (16-02-2021)

<https://resource.cdn.icai.org/63096research51050c.pdf>

- How Indian Companies can play a

pivotal role in the supply chain to Australia? - (16-02-2021)

<https://resource.cdn.icai.org/63094research51050a.pdf>

- Internal Control System in State owned Universities: A Study to Formulate Internal Control Manual - (16-02-2021)

<https://resource.cdn.icai.org/63097research51050d.pdf>

- Money Laundering and Scams "THROUGH" Multi-State Urban Cooperative Credit Societies in India - Cash Deposits - (16-02-2021)

<https://resource.cdn.icai.org/63098research51050e.pdf>

- Money laundering and scams "THROUGH" Multi-State Urban Cooperative Credit Societies, Angadia's & Banks in India/Abroad – Gems & Jewellery Industry - (16-02-2021)

<https://resource.cdn.icai.org/63099research51050f.pdf>

- Analysis and Evaluation of Indian Start-ups in Non-metropolitan Areas and Selected Metropolitan Areas – An Untold Story - (16-02-2021)

<https://resource.cdn.icai.org/63100research51050g.pdf>

- Background Material on Business Responsibility and Sustainability Reporting (BRSR) as brought out by SRSB, ICAI - (15-02-2021)

<https://resource.cdn.icai.org/63084srsb51035.pdf>

- Frequently Asked Questions on SEBI (Listing Obligation and Disclosure Requirements) Regulations, 2015 as brought out by CL&CGC ICAI - (11-02-2021)

<https://resource.cdn.icai.org/63014clcgcsibilodr.pdf>

- Handbook on Role of Women Directors as brought out by CL&CGC and WMED ICAI - (11-02-2021)

<https://resource.cdn.icai.org/63019clcgcs50975.pdf>



GST Updates

Compiled by: CA. Monish Shah

BUDGET PROPOSALS

Amendments in CGST, IGST and UTGST Acts, 2017:

Amendments carried out in the Finance Bill, 2021 will come into effect from the date when the same will be notified, as far as possible, concurrently with the corresponding amendments to the similar Acts passed by the States and Union territories with Legislature.

I. AMENDMENTS IN THE CGST ACT, 2017:

a. A new clause (aa) in sub-section (1) of Section 7 of the CGST Act is being inserted, retrospectively with effect from the 1st July, 2017, so as to ensure levy of tax on activities or transactions involving supply of goods or services by any person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

b. A new clause (aa) to sub-section (2) of the section 16 of the CGST Act is being inserted to provide that input tax credit on invoice or debit note may be availed only when the details of such invoice or debit note have been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note.

c. Sub-section (5) of section 35 of the CGST Act is being omitted so as to remove the mandatory requirement of getting annual accounts audited and reconciliation statement submitted by specified professional.

d. Section 44 of the CGST Act is being substituted so as to remove the mandatory requirement of furnishing a reconciliation statement duly audited by specified professional and to provide for filing of the annual return on self-certification basis. It further provides for the Commissioner to exempt a class of taxpayers from the requirement of filing the annual return.

e. Section 50 of the CGST Act is being amended, retrospectively, to substitute the proviso to sub-section (1) so as to charge interest on net cash liability with effect from the 1st July, 2017.

f. Section 74 of the CGST Act is being amended so as to make seizure and confiscation of goods

and conveyances in transit a separate proceeding from recovery of tax.

g. An explanation to sub-section (12) of section 75 of the CGST Act is being inserted to clarify that "self-assessed tax" shall include the tax payable in respect of outward supplies, the details of which have been furnished under section 37, but not included in the return furnished under section 39.

h. Section 83 of the CGST Act is being amended so as to provide that provisional attachment shall remain valid for the entire period starting from the initiation of any proceeding under Chapter XII, Chapter XIV or Chapter XV till the expiry of a period of one year from the date of order made thereunder.

i. Section 129 of the CGST Act is being amended to delink the proceedings under that section relating to detention, seizure and release of goods and conveyances in transit, from the proceedings under section 130 relating to confiscation of goods or conveyances and levy of penalty.

j. Section 130 of the CGST Act is being amended to delink the proceedings under that section relating to confiscation of goods or conveyances and levy of penalty from the proceedings under section 129 relating to detention, seizure and release of goods and conveyances in transit.

k. Section 151 of the CGST Act is being substituted to empower the jurisdictional commissioner to call for information from any person relating to any matter dealt with in connection with the Act.

l. Section 152 of the CGST Act is being amended so as to provide that no information obtained under sections 150 and 151 shall be used for the purposes of any proceedings under the Act without giving an opportunity of being heard to the person concerned.

m. Section 168 of the CGST Act is being amended to enable the jurisdictional commissioner to exercise powers under section 151 to call for information.

n. Consequent to the amendment in section 7 of the CGST Act paragraph 7 of Schedule II to the CGST Act is being omitted retrospectively, with



151 to call for information.

n. Consequent to the amendment in section 7 of the CGST Act paragraph 7 of Schedule II to the CGST Act is being omitted retrospectively, with effect from the 1st July, 2017.

II. AMENDMENTS IN THE IGST ACT, 2017:

Section 16 of the IGST Act is being amended so as to:

- (i) Zero rate the supply of goods or services to a Special Economic Zone developer or a Special Economic Zone unit only when the said supply is for authorised operations;
- (ii) Restrict the zero-rated supply on payment of integrated tax only to a notified class of taxpayers or notified supplies of goods or services; and
- (iii) Link the foreign exchange remittance in case of export of goods with refund

III Central Sales Tax Act.

Amendment proposed in the Union Budget 2021 in Section 8(3) (b)

Before Amendment:

Sec 8 (3) the goods referred to in sub-section (1) (b) Are goods of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for

1. Re-sale by him or subject to any rules made by the Central Government in this behalf,
2. For use by him in the manufacture or processing of goods for sale or
3. In the tele-communications network or
4. In mining or in the generation or
5. Distribution of electricity or any other form of power;

AMENDED SECTION:

- (i) Where the purchaser intends to re-sale the purchased goods
- (ii) Where the purchaser intends to use the purchased goods for manufacture or processing for sale of goods as specified under clause (d) of Section 2

EFFECT OF AMMENDMENT:

Vide this amendment, FORM "C" can be issued for the purchase of goods.

1. Intent for resale or
2. for use in manufacturing/processing for sale of only

The following goods under VAT & CST Acts.

- (i) Petroleum crude;

- (ii) High speed diesel;
- (iii) Motor spirit (commonly known as petrol);
- (iv) Natural gas;
- (v) Aviation turbine fuel; and
- (vi) Alcoholic liquor for human consumption.

NOTIFICATIONS & CIRCULARS

1) 146/02/2021-GST. Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020- Central Tax dated 21st March, 2020-Reg.

This is a circular clarifying certain aspects relating to DQR code which is presently required to be issued by persons having aggregate turnover more than Rs. 500 Crores. Provides the details that the DQRC needs to capture. Certain other aspects clarified are

- a) DQR code is not required for export invoices since the same is required to comply with e invoice requirement.
- b) Payment mode other than by using the DQR to be cross referenced in the invoice in case of digitally displayed DQR
- c) In case of advance payment received also the invoice to contain cross reference of the payment mode.
- d) In case of supplies made through e commerce portal the e commerce operator and the supplier are required to each comply with the DQRC requirement, if applicable

2) 145/01/2021-GST. Standard Operating Procedure (SOP) for implementation of the provision of suspension of registrations under sub-rule (2A) of rule 21A of CGST Rules, 2017. This circular clarifies the procedure required for suspension revocation and procedure thereon

3) New circular for applying & updating IEC (Now e-IEC).

- a) Every year from April to June even if all details of IEC remain same all existing holders have to confirm compulsory.
- b) IEC may be de-activated if not updated/confirmed.
- c) Whatever queries raised by DGFT will be flagged in IEC and reply has to be given within specified time.

4) Notification 01/2021 issued on 1st Jan 2021 where insertion was done in rule 59 whereby

- a) A Registered Person cannot file his GSTR-1 if he has not filled GSTR-3B for preceding 2 months if monthly and for those under



Quarterly system will not be allowed to furnish IFF if not filled for preceding tax period

b) A registered person, who is restricted from using the amount available in electronic credit ledger to discharge his liability towards tax in excess of ninety-nine per cent Of such tax liability under rule 86B, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the return in FORM GSTR-3B for preceding tax period

5) Notification 03/2021 issued on 23rd Feb 2021 CBIC exempts certain classes of people from Aadhar Authentication.

a) Not a citizen of India

b) A department or Establishment of the Central Govt or State Govt

c) A local Authority

d) A Statutory Body

e) Public Sector Undertaking

f) Those applying for registration u/s 25(9)

Important AAR & Judgments

1) Business of different types of thermal spray or metal coating using metal powders, carbide powders, wires rods for various engineering applications. - Coatings of pure metal alloys which include plasma spray, HVOF spray, powder flame spray, wire flame spray. The stages involved in the said process are

(i) receipt of the material from the client with proper Delivery Challan along with the PO/Work Order with the required job specification,

(ii) Performance of the required job on the material received from the client and

(iii) Despatch of the material back to the client.

The activity is in the nature of job work covered under SAC 998873 and Notification No. 20/2019-Central Tax (Rate) dated 30.09.2019 is applicable to the applicant. If Principal is registered the impugned job work attracts 12% GST in terms of item (id) of SL.No.26 of Notification No.11/2017- Central Tax (Rate) dated 28.06.2017 and if the principal is not registered the impugned job work attracts 18% GST item (iv) of SL.No.26 of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 read with Circular No.126/45/2019-GST dated 22.11.2019 As decided in M/s. Spray met Surface Technologies (Pvt.) Ltd. - THE AUTHORITY FOR ADVANCE RULINGS IN KARNATAKA.

2) Term 'may' u/s 83 also indicates an obligation

to consider that there is a need of provisional attachment: Guj. HC Jay Ambey Filament (P.) Ltd. v. Union of India - [2021] 123 taxmann.com 373 (Gujarat). The department passed order under section 83 of CGST Act, 2017 and provisionally attached bank accounts of the petitioner. The petitioner filed writ petition and challenged the order of provisional attachment of five bank accounts. The Honourable High Court observed that on bare perusal of the order of provisional attachment, it would indicate that the same was nothing but a result of mechanical exercise of power under section 83 of the CGST Act, 2017. There must be material based on which alone the authority could form its opinion that it has become necessary to order provisional attachment of the goods or the bank account to protect the interest of the government revenue. The existence of relevant material must be a precondition to the formation of opinion. Moreover, it was observed that the use of the word "may" under Section 83 indicates not only the discretion, but an obligation to consider that a necessity

3) GST AAR Karnataka Hatsun Agro Product Ltd Appeal No: Advance Ruling No. KAR ADRG 68/2019 Date of Judgement/Order: 21/09/2019. It was held

1. The ice creams, chocolates, ice cream cakes and pizza cakes made as per the orders of the customers and served in IBACO outlet qualifies as composite supply under section 2(30) of the CGST Act and section 2(30) of the Karnataka Goods and Services Tax Act, 2017.

2. The said composite supply shall be deemed to be a supply of service as per the entry 6(b) of Schedule II to the CGST Act and entry 6(b) of Schedule II to the KGST Act.

3. The above supplies are classified under chapter "9963" and chargeable to tax at a rate of 2.5% subject to the conditions under CGST Act, 2017 as per entry no. 7(i) of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017, As amended by Notification No. 46/2017 – Central Tax (Rate) dated 14.11.2017 from 14.11.2017 and at a rate of 2.5% subject to the conditions under KGST Act, 2017 as per entry no. 7(i) of Notification (11/2017) No. FD 48 CSL 2017 dated 28.06.2017 as amended by Notification (46/2017) No. FD 48 CSL 2017 dated 14.11.2017 from 14.11.2017



GST Quick Connect

Compiled by: CA. Parth Joshi

Zero rated supplies – Changes in Union Budget – 2021-22

1. Background:

The Hon'ble Finance Minister in the Union Budget 2021-22, stated, "Post-pandemic, a new world order seems to be emerging, one in which Asia is poised to occupy a prominent position and India will have a leading role therein. In this scenario, our tax system has to be transparent, efficient, and should promote investments and employment in our country. At the same time, it should put minimum burden on our tax payers."

"A King/Ruler is the one who creates and acquires wealth, protects and distributes it for common good."

- Thirukkural 385

For the common good, several measures have

been taken to simplify GST. Some of the measures include nil return through SMS, quarterly return and monthly payment for small taxpayers, electronic invoice system, validated input tax statement, pre-filled editable GST return, staggering of returns filing and enhancement of capacity of GSTN system.

The changes relating to GST have been proposed in Union Budget 2021-22, that amends certain provisions of the CGST and IGST Acts. In this article, we have covered an Analysis of Clause No. 114 of the Finance Bill, 2021 i.e., Changes with respect to zero rated supplies.

2. Zero rated supplies [Section 16 of the IGST Act, 2017]:

Section - IGST Act	Existing Provision	Amendment by Budget 2021
16(1)	<p>"Zero rated supply" means any of the following supplies of goods or services or both, namely: —</p> <p>(a) export of goods or services or both; or</p> <p>(b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.</p>	<p>"Zero rated supply" means any of the following supplies of goods or services or both, namely: —</p> <p>(a) export of goods or services or both; or</p> <p>(b) supply of goods or services or both for authorised operations to a Special Economic Zone developer or a Special Economic Zone unit.</p>
16(2)	Subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.	-NA-
16(3)	A registered person making zero rated supply shall be eligible to claim refund under either of the following options, namely: —	A registered person making zero rated supply shall be eligible to claim refund of unutilised input tax credit on



	<p>(a) he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or</p> <p>(b) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder</p>	<p>supply of goods or services or both, without payment of integrated tax, under bond or Letter of Undertaking, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder, subject to such conditions, safeguards and procedure as may be prescribed:</p> <p>Provided that the registered person making zero rated supply of goods shall, in case of non-realisation of sale proceeds, be liable to deposit the refund so received under this sub-section along with the applicable interest under section 50 of the Central Goods and Services Tax Act within thirty days after the expiry of the time limit prescribed under the Foreign Exchange Management Act, 1999 for receipt of foreign exchange remittances, in such manner as may be prescribed.</p>
16(4)	-NA-	<p>The Government may, on the recommendation of the Council, and subject to such conditions, safeguards and procedures, by notification, specify—</p> <p>(i) a class of persons who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid;</p> <p>(ii) a class of goods or services which may be exported on payment of integrated tax and the supplier of such goods or services may claim the refund of tax so paid.</p>

1. Effective Date:

This amendment will come into effect from a date yet to be notified.

It is proposed that the benefit of zero-rated supplies will be available only when the same is used for the authorised operations of a SEZ. Authorised operations must be as per the SEZ Act, rules, relevant notifications and circulars.

2. Analysis:

- Supply of goods or services or both "for authorised operations" of Special Economic Zone [Section 16(1)(b) of the IGST Act]:
- Zero rated supplies on payment of IGST will be available only to notified class of persons/notified class of goods or services [Section 16(3) read with Section 16(4) of the IGST Act]:



Previously, the exporters were having an option (i) to export with payment of IGST and claim refund; or (ii) to export under LUT/Bond without payment of IGST and claim refund of unutilised input tax credit.

After the amendment, only notified class of persons or notified class of goods or services will be eligible for exporting goods or services on payment of Integrated tax. Thus, the taxpayers, except the notified, will have to export goods or services without payment of IGST and claim refund of unutilised input tax credit as per the provisions of section 54 of the CGST Act.

- **Legal backing to rule 96B of the CGST Rules, 2017 via proviso to section 16(3) of the IGST Act:**

Notification No. 16/2020-Central Tax dated 23rd March, 2020 inserted rule 96B to the CGST Rules, 2017. It provides for recovery of refund of unutilised input tax credit or integrated tax paid on export of goods, where export proceeds not realised. The rule for recovery of refund on exports proceeds not realised was being questioned to be ultra vires and may be likely to be challenged by the taxpayers at

various forums. So, as to provide legal backing, a proviso to section 16(3) of the IGST Act was inserted and it provides that the registered person making zero rated supply of goods shall, in case of non-realisation of sale proceeds, be liable to deposit the refund so received under this sub-section along with the applicable interest under section 50 of the Central Goods and Services Tax Act within 30 days after the expiry of the time limit prescribed under the Foreign Exchange Management Act, 1999 for receipt of foreign exchange remittances.

1. **Conclusion:**

After the clause No. 114 gets notified, certain class of persons or notified class of goods or services will only be eligible for exporting goods or services on payment of Integrated tax. For the remaining, they have to claim refund of unutilised input tax credit. Moreover, exporters claiming refund of unutilised input tax credit find this option tedious as it is time consuming and requires various workings, reconciliations and condition of limiting export turnover to 1.5 times the value of like goods is also applicable.



RERA Updates

Compiled by: CA. Mahadev Birla

Case law study
NCPL Infracon LLP Vs Jyotsna Shah and Ors.
(Gujarat High Court Order)



This article attempts to discuss the issues in respect of deciding the preliminary objection raised in the complaint and applicability of Civil Procedure Code, 1908 in the proceeding before RERA Authority.

Issues:

Whether Hon'ble RERA Authority/ Hon'ble Adjudicating Officer should first decide the preliminary objection raised in the proceedings? Whether Hon'ble RERA Authority/ Hon'ble Adjudicating officer should adhere to the Provision of Civil Procedure Code, 1908 while deciding the complaint/application filed under RERA?

Provisions:

Section 35 "Powers of Authority to call for information, conduct investigations"

(1) Where the Authority considers it expedient to do so, on a complaint or suo motu, relating to this Act or the rules of regulations made thereunder.....

2) Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under sub-section (1), the

Authority shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:—

- (i) the discovery and production of books of account and other documents, at such place and at such time as may be specified by the Authority;
- (ii) summoning and enforcing the attendance of persons and examining them on oath;
- (iii) issuing commissions for the examination of witnesses or documents;
- (iv) any other matter which may be prescribed.

Order VII rule 11(d) of Civil Procedure Code, 1908

11. Rejection of Complaint. The complaint shall be rejected in the following cases:—

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the court, fails to do so;
- (c) where the relief claimed is properly valued, but the complaint is written upon paper insufficiently stamped, and the plaintiff, on



being required by the court to supply the requisite stamp paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

(e) where it is not filed in duplicate;

(f) where the plaintiff fails comply with the provision of Rule 9.

Fact of the Case:

In the present case, allottee filed the complaint before the Hon'ble RERA Authority for possession of units with some amendments/modifications in clauses of draft sale deed and not to install the VRV system of AC in the office premises purchased by the allottee. The Hon'ble GujRERA Authority passed the order in favour of the allottee and directed the promoter to execute the sale deed within 30 days from the date of order and not to incorporate the clauses related to VRV System of AC in the sale deed. After expiry of 30 days from the order date but before the time period of filing the appeal, allottee filed the execution application for non-execution of sale deed by the promoter. Meanwhile, the promoter filed the appeal to challenge the order, for execution of sale deed without VRV system of AC clause. passed by the Hon'ble GujRERA Authority. However, pending the outcome of Appeal, Hon'ble GujRERA Authority decided the execution application and imposed the penalty of Rs 10,000/- per day on promoter for non-compliance of order passed by Hon'ble GujRERA Authority.

The promoter again filed the appeal before the Hon'ble RERA Appellate Tribunal to challenge the order of penalty of Rs 10,000/- per day imposed by Hon'ble GujRERA Authority. However pending the Appeal, before the Hon'ble RERA Tribunal, the allottee filed the application, under section 18 of RERA, before Hon'ble Adjudicating officer to seek interest and compensation for delay possession of unit. In response to the application, filed by the allottee, promoter filed the detailed reply raising the preliminary objection with regard to maintainability of the application/complaint since the complaint/application was not affirmed on affidavit.

The promoter, further pleaded that allottee has suppressed various material facts with regard to the present matter and the application/reply filed by the allottee is not affirmed on affidavit

so, promoter requested the Hon'ble Adjudicating officer to direct the allottee to file the complaint/application/reply on affidavit.

Further, promoter again filed the application before the Hon'ble Adjudicating officer to decide the preliminary objection first before going into merit of the case but the Hon'ble Adjudicating officer was not inclined to decide the preliminary objections.

Aggrieved with the decision of the Hon'ble Adjudicating officer for not to decide on the preliminary objections, the promoter filed the writ petition before the Hon'ble High court on the ground that;

- a. The complaint form which have verification clause clearly denote that the complaint should be duly affirmed on affidavit. However, the entire complaint is not filed on affidavit.
- a. The Hon'ble Adjudicating officer being a retired Principle District Judge exercising power of Civil Court as per section 35 of RERA, 2016 needs to follow judicial process while adjudicating complaints made under Section 71 of RERA, 2016 and the preliminary objections which goes to root of the matter has to be heard and decided first.
- b. As Hon'ble Adjudicating officer exercises power of Civil Court under Section 35 of RERA Act. The importance of affidavits strictly conforming to the requirements of Order XIX Rule 3 of the Civil Procedure Code, 1908.
- c. In catena of judicial pronouncements, it has been held that the preliminary objections/issues have to be decided first by the authority/court.

Order of Hon'ble High Court of Gujarat:

The Hon'ble Adjudicating Officer is directed to decide the preliminary objections raised by the promoter in accordance with law and after considering the provision contained in RERA, 2016 as expeditiously as possible.

Conclusion:

While exercising the power of Civil Court, RERA Authority needs to decide first preliminary objections and further as per provision of Civil procedure code and RERA, 2016 the complaint needs to be affirmed on affidavit.



Important Due Dates

Compiled by: CA. Mahavir Shah
FOR COMPLIANCE FOR MARCH - 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-Mar-21
2	Income Tax	Tax Deducted/Collected (TDS / TCS) during the month of February-21 to be deposited	07-Mar-21
3	GST	GSTR-7 for the month of February-21 for persons required to deduct TDS under GST	10-Mar-21
4	GST	GSTR-8 for the month of February-21 for e-commerce operator required to collect TCS under GST	10-Mar-21
5	GST	GSTR-1 for the month of February-21	11-Mar-21
6	GST	Filing of Invoice Furnishing Facility (IFF) for February-21 for taxpayers who opted for Quarterly Return Monthly Payment (QRMP) option	13-Mar-21
7	GST	GSTR-6 for the month of February-21 for Input Service Distributor (ISD)	13-Mar-21
8	Income Tax	Payment of Fourth Installment of Advance Tax for the F.Y. 2020-21 / A.Y. 2021-22	15-Mar-21
9	PF / ESIC	Payment of PF / ESIC for the month of February-21	15-Mar-21
10	GST	GSTR-5 & 5A by Non-resident taxable person & OIDAR for the month of February-21	20-Mar-21
11	GST	Payment of GST & Filing of GSTR-3B for the month of February-21	20-Mar-21
12	GST	Payment of GST in form GST PMT-06 for taxpayers who opted for Quarterly Return Monthly Payment (QRMP) option for the month of February-21	25-Mar-21
13	GST	Opt in GST Composition Scheme	31-Mar-21
14	Income Tax	Due Date for linking of Aadhar with PAN	31-Mar-21
15	Income Tax	Filing of Belated Income Tax Returns for F.Y. 2019-20 / A.Y. 2020-21	31-Mar-21
16	Income Tax	Filing of Quarterly TDS/TCS Return for F.Y. 2020-21 Q-1 & Q-2	31-Mar-21
17	MSME	Migration of UAM/EM Part-II to Udyam Registration	31-Mar-21
18	Income Tax	Last date for payment of Tax without additional amount under Vivad Se Vishwas Scheme (VSVS)	31-Mar-21

Photo Gallery

