



# 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: 03 | May -2021



### Chairman's Message

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Dear Members,

As we welcome the month of May, where the summer sun boils down and the temperatures soar – the activities at Ahmedabad branch continue with a roar!

April 2021 was an enriching month as we had conducted a number of programs for professional development, launched **"Food kit at your doorstep"** a drive to support those Chartered Accountants, students and their family members who are home quarantined due to COVID-19, undertook **three special vaccination drives** (incl. Tika Utsav on 14<sup>th</sup> April),

launched our Mega Health & Fitness Initiative – **MOVEMENT 73**, started our first ever **Women CA Refresher course**, conducted **Western India Accounting Conference** – a two day regional conference hosted by Ahmedabad Branch of WIRC of ICAI and initiated the **Blood donation drive** (at your doorstep) and **Plasma Donation drive** at Ahmedabad Branch.

I am very happy to share that since March 2021, we have conducted **Eight vaccination drives**, where more than 1,750 CA members & their family members have received vaccination. I would express my sincere gratitude to **CA Jainik Vakil**, Municipal Councillor and past chairman of Ahmedabad Branch, for the guidance and tie up with AMC. Members and even non-members are also taking benefit of our "Food kit at your doorstep" initiative which started from April 12, 2021. Since its inception, we have had **3,108 food kits** (lunch & dinner) delivered across the city of Ahmedabad. We have also started an initiative called **"We Care"** where the members of our managing committee meet the senior members at their office to take suggestions / guidance / blessings and also to take feedback as to how branch can help them. Our visits to a few senior members have been extremely enriching and we are thankful to them for giving their valuable time and suggestions.

April 2021 will also be remembered for the grand launch of **MOVEMENT 73 – a Fitness Carnival!** On 18<sup>th</sup> April, 2021 we had a mega launch of the movement with special address of the Hon'ble President of ICAI CA Nihar Jambusariaji & Hon'ble Vice President of ICAI CA Debashis Mitraji, motivational address by our brand ambassador Shri Sangram Singhji and our fitness ambassador Ms. Sapna Vyas with participation of 1,825 members and 14 branches of ICAI. As I write, we have **2,085 registered participants** with **40 branches of ICAI** join us for this mega health & fitness initiative of Ahmedabad Branch. This **innovative** program, which was **ideated** before two months and supported & **collaborated** by branches across the country, will surely make everyone **adaptable** to a new and healthy lifestyle. I am thankful to each and every chairman and MCM of the branches that have joined us for reposing their faith in us. I am also very happy to inform that the **Fit India Mission Directorate** has approved our request for using the **'FIT INDIA' logo** in our communications/ outdoor media channels for the event. We can use the hashtag **#NewIndiaFitIndia** and also tagline "Fitness ki Dose Aadha Ghanta Roz" on our

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campaign flyers and participation certificates. We are proud to have **Red FM 93.5, FitFormance, Fitness Experts & Nimba Nature cure** as our event partners. The registration for the movement is still on, so those who want to join this unique health carnival, please register at the earliest.

For the month of May, we have several sessions planned on the skill development for members and students, sessions on new practice areas, GST & Income Tax refresher course and many more technical sessions to help members learn, unlearn and relearn the ever changing laws. In these uncertain times, let's stay connected and help each other to the maximum extent possible. Ahmedabad Branch is always with you and we are all always available for any assistance / support that you or your family members may require.

By the time you receive this Newsletter, we would be celebrating Gujarat Day & Maharashtra Day. These two states have continuously contributed to the greater good of our Nation and we are proud to be a part of them. Let us take a leaf from history and do our own personal bit to contribute to our Nation. In the words of Mahatma Gandhi, *"consciously or unconsciously, every one of us does render some service or other. If we cultivate the habit of doing this service deliberately, our desire for service will steadily grow stronger, and will make, not only our own happiness, but that of the world at large."*

With best regards,  
**CA Harit Dhariwal**  
Chairman, Ahmedabad Branch of WIRC of ICAI

## EDITORIAL



Greetings to all our members!!

Month of April has witnessed many challenges which are never thought before in the second wave of COVID 19. The demon of COVID-19 spreading very fast. Many states are

locking down the various establishments, running of trains and flights. With Ahmedabad being the most impacted district, we need to still stand strong. These are challenging times that we are living in. The fight against the pandemic COVID-19 has necessitated drastic measures to be taken. The situation calls for maintaining mental equilibrium and we must remember to motivate each other and keep the morale of the entire family and friends up in testing times like this. So dear Members it's the time to sharpen our skills and introspect in oneself. The most wonderful way to sharpen the same is read a lot.

*This is how Warren Buffett, one of the most successful people in the business world, describes his typical day: "I just sit in my office and read all day."*

*Sitting. Reading. Thinking. Buffett credits many of his successful decisions to his incredible reading habit. He estimates that he spends as much as 80 percent of his day reading and thinking. In a 2014 letter to Berkshire*

Inspite of all these turbulent time our branch is constantly organizing the various webinars on topics like GST, Direct tax, corporate tax and RERA for knowledge updating. Chartered Accountants are the pillar of Indian economy, so we have to come out of comfort and forecast the new opportunities coming to us. It's now globally acclaimed that India would be now an international hub for multinational companies for Investment and major shift of business will come to India from China. So that can convert this pandemic into a great value addition.

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](mailto:ahmedabad@icai.org)

Healthy mind lives in Healthy body, and Healthy body makes Healthy India. So Ahmedabad branch has started with Movement 73 on 18<sup>th</sup> April to make you fitter and immune. So Members are requested to take the benefit of same also.

*Formal education will make you a living; self-education will make you a fortune. —Jim Rohn*  
*So this is the time to self-educate our self and support each other.*

*Just remember the golden days are waiting for us.*

Stay Safe and Stay Happy!!  
Happy learning!!  
CA Rahul Maliwal  
Chairman, Newsletter Committee

# Accounting & Company Law Updates

Compiled by: CA. Chintan Patel



## 1. Deferment of Accounting software having audit trail

Ministry of Corporate Affairs (MCA) has vide Notification dated 1st April, 2021, the mandatory requirement of Audit Trail (with edit log) for the companies using Accounting Software for maintaining books of accounts has been **deferred by one year i.e. to be effective from 1st April, 2022.**

[http://www.mca.gov.in/Ministry/pdf/AccountsAmendmentRules\\_01042021.pdf](http://www.mca.gov.in/Ministry/pdf/AccountsAmendmentRules_01042021.pdf)

Consequently, the requirement for Auditors to comment on Audit trail in the auditor report, has been deferred to be applicable to financial year commencing on or after 1st April, 2022.

[http://www.mca.gov.in/Ministry/pdf/AuditAuditorsAmendmentRules\\_01042021.pdf](http://www.mca.gov.in/Ministry/pdf/AuditAuditorsAmendmentRules_01042021.pdf)

## 2. Setting up makeshift hospitals and temporary COVID care facilities

The Government has issued a notification in continuation to the Ministry's General Circular No. 10/2020 dated March 23, 2020 wherein it was clarified that spending of CSR funds for COVID-19 is an eligible CSR activity. It has been clarified that spending of CSR funds for 'setting up makeshift hospitals and temporary COVID Care facilities' is an **eligible CSR activity** under item nos. (i) and (xii) of Schedule VII of the Companies Act, 2013 relating to promotion of health care, including preventive health care, and disaster management respectively.

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

[No5\\_22042021.pdf](#)

## 3. Criteria for classification of Non-company entities for applicability of Accounting Standards

ICAI has in recent council meeting revised classification criterias for applicability of Accounting Standards (AS) for Non-company entities. **The scheme for applicability of Accounting Standards to Non-company entities shall come into effect in respect of accounting periods commencing on or after April 1, 2020.**

1. For the purpose of applicability of Accounting Standards, Non-company entities are classified into four categories, viz., Level I, Level II, Level III and Level IV.

2. Level I entities are required to comply in full with all the Accounting Standards

3. Certain exemptions/relaxations have been provided to Level II, Level III and Level IV Non-company entities. Applicability of Accounting Standards and exemptions/relaxations to such entities are given in Annexure 2 of the Announcement.

4. This Announcement is not relevant for Non-company entities who may be required to follow Ind AS as per relevant regulatory requirements applicable to such entities.

<https://resource.cdn.icai.org/64269asb51535.pdf>







**AHMEDABAD BRANCH  
OF WIRC OF ICAI**

**To Order:**

1. Fill this Form the previous day by 5 PM  
<http://tiny.cc/FoodKit>.

(The members can also opt for a daily or weekly order placements.)

2. Pay the vendor directly with below available options for order confirmation.

**For any Queries:**  
**Hiteshbhai**  
**9327502175**

**paytm**

Paytm on 9904659771 or NEFT

Name: Shree Radhe Traders  
IFSC Code: CBIN0280545  
A/C No.: 3088083950  
Central Bank Of India  
Branch: Kankaria



ak mobile studio

**CA Harit Dharwal**  
Chairman, ICAI Ahmedabad



**ICAI**  
**Ahmedabad Branch**  
cares for you  
**Team Ahmedabad Branch**

**CA (Dr.) Anjali Choksi**  
Secretary, ICAI Ahmedabad





**AHMEDABAD BRANCH  
OF WIRC OF ICAI**

**Food - kit**  
**at your doorstep**

for  
**CA members / students / family members  
quarantined due to COVID-19**

**Starts**

**Monday,  
12th April,  
2021**

**COVID-19  
QUARANTINE**

**CA members / students / family members  
quarantined due to COVID-19**



**AHMEDABAD BRANCH  
OF WIRC OF ICAI**

**Food - kit**  
**at your doorstep**

for  
**CA members / students / family members  
quarantined due to COVID-19**

**Starts**

**Monday,  
12th April,  
2021**



# GST Updates

Compiled by: CA. Monish Shah

## Important AAR & Judgments

1) Applicant is a registered dealer at Bengaluru - engaged in business of selling guitar training books in United States of America, United Kingdom and Canada through their website. The applicant sends soft copy of the book to the printer located in USA, who in turn prints it and ships to the customers located in USA, UK and Canada. Further, in another business model the applicant is having an agreement with Amazon Inc. who through their website "amazon.com" based on the choice of the customers either prints the books and sells it to the consumers on their own account or will share the link to download the e-books material in an of the electronic devices and pays royalty to the applicant as agreed between the two parties.

- The supply of books from the warehouse located in USA (non-taxable territory) to the customers located in USA, UK and Canada (non-taxable territory) without such books entering into India by the applicant does not amount to supply under GST.

- The printing charges, for printing of books, charged by the printer located in USA (non-taxable territory) are taxable under Reverse Charge Mechanism under GST, where only content is supplied by the applicant.

- The services received by the applicant from foreign service provider such as warehousing of printed books located in USA (non-taxable territory) is not taxable under Reverse Charge Mechanism under GST.

- The input tax credit can't be availed, to the extent of inputs and input service on the transaction covered in first question as the said transaction does not amount to supply under GST.

(M/s Guitar Head Publishing LLP - THE AUTHORITY FOR ADVANCE RULING IN KARNATAKA)

2) The AAR, Karnataka in the matter of M/S. SPSS South Asia Pvt. Ltd., [Advance Ruling No. KAR/ADRG/15 of 2021, dated March 24, 2021] held that, supply of license of pre-developed or pre-designed software by assessee amounts to supply of goods and said supply is covered

under tariff heading 8523. Further, such supply of computer software to a public funded research institution are covered under Serial No. 1 of Notification No.45/ 2017-Central Tax (Rate) dated November 14 2017 ("NN. 45/2017-CT(R)").

3) 18% GST on Services provided to TANGEDCO for carrying out Retrofitting Work for strengthening NPKRR Maaligai against Seismic and Wind effect - AAR Tamandu, Order No 14/AAR/2020 Dated 20/4/2020. Tamil Nadu Generation & Distribution Corporation Limited

4) Waste Collection, Segregation, Treatment, Transportation, Disposal Services under Service Agreements not exempted from GST, affirms AAAR – Tamilnadu Order No Appeal No AAAR/08/2021 Sumeet Facilities

5) Applicant cannot use the Input Tax Credit Balance available in the Electronic Credit Ledger legitimately earned on the inputs/raw materials/inward supplies (meant for outward supply of Bullions) towards the GST liability on 'Castor Oil Seed' which were procured from Agriculturists and subsequently meant for onward supply- ADVANCE RULING NO. GUJ/GAAR/R/15/2021 M/s. Aristo Bullion Pvt Ltd

6) Ahmedabad Municipal Transport Service (AMTS) qualifies as "Local Authority" as defined under the Central Goods and Service Tax Act, 2017. - The service recipients of AMTS are required to pay GST under reverse charge mechanism on advertisement service (GUJARAT AUTHORITY FOR ADVANCE RULING - Ahmedabad Municipal Transport Service) - GUJ/GAAR/R/13/2021 dated 27.01.2021

7) National Institute of Design (NID) has been formed by an Act of Parliament to carry out the function entrusted to a municipality under Article 243W of the Constitution and to a Panchayat under Article 243G of the Constitution, the applicant will qualify as





'Governmental Authority' if it also fulfils the condition namely 'ninety percent or more participation of Government by way of equity or control.' (National Institute of Design - GUJARAT AUTHORITY FOR ADVANCE RULING) GUJ/GAAR/R/08/2021 dated 20.01.2021

8) Section 16 provides that ITC could be availed by the buyer if GST is paid by the seller. Thus, in case of non-payment of GST, who should be questioned, the seller or the buyer? Madras HC quashed notices issued to the buyers wherein no proceedings were initiated against the sellers for non-payment of tax M/s DY Beathel Enterprises Vs State Tax Officer. WP (MD) No.2127 of 2021

9) ITC can't be availed on distribution of promotional product done for marketing and brand promotion, rules AAAR – Karnataka Appellate Authority in Page Industries Ltd

10) 18% GST on Leasing of pathway to a person to their Dwelling Unit, affirms AAAR- Tamilnadu Appellate Authority in the case of Chennai Metro Rail

11) ITC not available on GST paid on laying of Transfer Pipeline, Foundation and Structural Support for Pipeline: AAR held by Tamil Nadu in the case of SHV Energy Pvt Ltd

12) The medicines, consumables and implants used in the course of providing health care services to in-patients for diagnosis or treatment for patient opting with or without packages along with allied services i.e. (room rent/food/doctor fees Etc.) provided by hospital is a "Composite Supply". Supply of inpatient health care services by the applicant hospital as defined in Para 2(zg) of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, as amended, is exempted from CGST as per Sl. No. 74 of the above notification. - ADVANCE RULING NO. GUJ/GAAR/R/11/2021 M/s. SHALBY Limited

13) ADVANCE RULING NO. GUJ/GAAR/R/10/2021 in the matter of M/s. I-tech Plast India Pvt.Ltd. ruled that the applicant cannot claim Input Tax Credit in relation to CGST/SGST separately in debit notes issued by the supplier in current financial year i.e., 2020-21, towards the transactions for the period 2018-19 as from a combined reading of the

definition of 'debit note', sub-section (3) of Section 34 of the CGST Act, 2017 and the particulars to be provided in a debit note issued under GST, it is amply clear that the debit note is not an independent document or an invoice in itself and is connected to an invoice as it is issued in pursuance to change in value of an invoice. It, therefore, follows that the financial year to which a debit note pertains, is invariably the financial year in which the original invoice (related to the said debit note) was issued. In view of the aforementioned discussions, and in light of the provisions of amended sub-section(4) of Section 16 of the CGST Act, 2017(amended w.e.f. 01.01.2021), we conclude that the applicant shall be entitled to claim the input tax credit only in respect of debit notes issued by the supplier towards the transactions entered into and goods supplied to the applicant during the financial year 2018-19, on or before the due date of furnishing of the return under section 39 for the month of September following the end of the said financial year 2018-19 or furnishing of the relevant annual return, whichever is earlier

### Notifications/Circulars

- 1) ADVISORY No. 8 /2021- REFUNDS dated 20<sup>th</sup> April 2021. The PMT-03 functionality available at present in the online refund module is only for re-crediting of the rejected amount that has been debited at the time of filing of refunds. In order to enable the operationalisation of re-crediting of ITC sanctioned as refund towards tax wrongly paid or paid in excess by debiting the credit ledger, a new enhanced PMT-03 functionality has been developed and deployed in the system. This new functionality is applicable only to the following 4 types of refund as provided in the referred circular.
  - i. Refund of excess payment of tax;
  - ii. Refund of tax paid on intra-State supply which is subsequently held to be interState supply and vice versa;
  - iii. Refund on account of assessment/provisional assessment/appeal/any other order; and
  - iv. Refund on account of "any other" ground or reason.



## Investment Corner

Compiled by: CA. Shailesh Kumar

# Importance of Term Insurance at Every Stage of Your Life!

Life is full of uncertainties especially due to Covid-19 situation. A serious accident or critical illness could affect the financial stability of your family. So, it is most important to start investing in a life insurance that will safeguard the financial future of your family in case of any unfortunate event.

A life insurance plan acts as a saviour that protects your family against financial hardship that may face due to unfortunate events especially when you are the breadwinner in the family. Term plan is the purest form of life insurance. It not just ensures your family's financial security, but also gives an option to protect them from critical illnesses such as cancer, heart diseases, etc.

To help you understand better, I have made a list of examples that will help you determine why term insurance is important at every stage of life:

- When you are young - When you start job at a young age, you have limited liabilities and responsibilities. Therefore, at this stage, buying a term insurance plan is the perfect choice for you. It would help you get larger cover at a lower premium. The best part about term insurance is that the premium paid towards the policy does not increase with age and is locked for the entire duration of the policy. Also, when you are young, you are less prone to critical ailments such as heart problems, cancer and your premiums are relatively lesser as for an insurance company you are less likely to develop any chronic ailments.

- When you get married - Newlyweds usually should buy term insurance to provide income protection for their surviving partner. As soon as you start your married life, you need to buy an adequate cover for your family to

protect your spouse and family against the increasing liabilities, because such financial liabilities can fall on your partner if something happens to you. Keeping such situations in mind, it is very important to invest in a term insurance plan. Starting a new life with your partner and making investments such as buying a car, new house would require a huge amount of money. Thus, with the rise in liabilities, it is important for you to ensure that you have adequate coverage that protects your family financially, if something happens to you.

- When you become a parent - The joy of becoming a parent cannot be described in words. It's the most beautiful feeling in the world. From excellent education to impressive lifestyle, it's every parent's dream to ensure that their child continue to live the best life, even when they are not around. Thus, many young parents nowadays have started investing in several financial instruments to make sure that their child's future is safe and secure. The claim amount can be used to fulfill your child's education needs and will cover them for a longer period. Basis this, it is ideal to buy a term insurance when you have financial dependents. Although, while buying a term plan, do not just go by the amount of premium. You must also look for the other things such as insurance company's reputation, claim settlement ratio, market share, etc.

you can also claim tax deduction for the premium amount paid for term insurance under section 80C.

So, whether you are single, married or retired parent, always ensure that your family is financially stable in case of any unfortunate event so that they can live a secure and stress-free life term.

# GST Quick Connect

Compiled by: CA. Parth Joshi

## Is interest demand on unpaid-tax issued in Form No. DRC 01 valid?



### 1. Introduction:

This article enunciates about the validity of issuance of Form No. DRC 01 under Section 50 of the CGST Act.

### 2. Issue:

Whether issuance of Form No. DRC 01 under Section 50 of the CGST Act, 2017 is legal and proper?

### 3. Legal Background:

#### 3.1 Interest on delayed payment of tax

**[Section 50 of the CGST Act]:** *(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.*

*Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of Section 39, except where such return is furnished after commencement of any proceedings under Section 73 or Section 74 in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger.*

(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.

(3) A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty-four per cent., as may be notified by the Government on the recommendations of the Council.

#### 3.2 Notice and order for demand of amounts payable under the Act [Rule 142 of the CGST Rules]:

*(1) The proper officer shall serve, along with the*

*(a) notice issued under section 52 or section 73 or section 74 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, a summary thereof electronically in FORM GST DRC-01,*

*(b) statement under sub-section (3) of section 73 or sub-section (3) of section 74, a summary thereof electronically in FORM GST DRC-02, specifying therein the details of the amount payable.*





- (1A) .....  
 (2) .....  
 (2A) .....  
 (3) .....  
 (4) .....

***(5) A summary of the order issued under section 52 or section 62 or section 63 or section 64 or section 73 or section 74 or section 75 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 shall be uploaded electronically in FORM GST DRC-07, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax.***

- (6) .....  
 (7) .....

### **3.3 Notice and order for demand of amounts payable under the Act [Section 75 of the CGST Act]:**

***(12) Notwithstanding anything contained in section 73 or section 74, where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79.***

**4. Name of the Case:** Rajkamal Builders Infrastructure Private Limited through Director Mahendra H. Patel V/s. Union of India [Gujarat High Court (2021)]

### **5. Facts of the Case:**

A show cause notice was issued to the petitioner for recovery of interest on unpaid tax in Form DRC 01. In this connection, the petitioner, invited the attention of the court to the impugned show cause notice dated 19.07.2019 issued in Form GST DRC 01 under Rule 142(1) of the Central Goods and Service Tax Rules, 2017 (hereinafter referred to as "the CGST Rules") to point out that the notice has been issued in relation to section 50 of the Central Goods and Service Tax Act, 2017 (hereinafter referred to as "the CGST Act").

Reference was made to rule 142 of the CGST Rules to point out that in the same, no-where

contemplates issuance of notice thereunder in respect of section 50 of the Act. It was submitted that therefore, the impugned show cause notice has been issued without any authority of law.

Now, question that fall for the consideration of this court:

(i) Whether issuance of DRC 01 under Section 50 of the CGST Act, 2017 is legal and proper?

### **6. Hon'ble High Court's Observations:**

(i) On the plain reading of rule 142(1)(a) of the CGST Rules, it indicates that Form GST DRC 01 can be served by the proper officer along with the notice issued under Section 52 or Section 73 or Section 74 or Section 76 or Section 122 or Section 123 or Section 124 or Section 125 or Section 127 or Section 129 or Section 130 and that too, electronically as a summary of notice. Further, we do not find reference of any notice under Section 50 so far as Rule 142(1)(a) of the CGST Rules is concerned. In such circumstances, DRC 01 could not have been issued for the purpose of recovery of the amount towards interest on delayed payment of tax.

(ii) The aforesaid leads us to consider the question that if the amount towards interest on delayed payment of tax is to be recovered, then what is the Form in which the notice is to be issued? – Section 75(12) make it abundantly clear that notwithstanding anything contained in section 73 or Section 74, if there is any amount of interest payable on tax and which had remained unpaid, the same has to be recovered under the provisions of Section 79. Section 79 is with respect to recovery of tax. Section 79 provides for the modes of recovery.

(iii) Rule 142 of the CGST Rules, 2017 makes it clear that the order referred in subrule (5) shall be treated as the notice for recovery.

### **7. Held:**

From the aforesaid, we have reached to the conclusion that the notice should have been issued in Form GST DRC 07. The notice should also specify the amount of tax, interest and penalty payable by the person chargeable with tax. In view of the aforesaid, the Form GST DRC 01 could be said to have been issued without any authority of law. The impugned order issued in GST DRC 01 is hereby ordered to be quashed and set aside.

# Direct Tax Updates

Compiled by: CA. Mohit R. Tibrewala



1. Notification No. 28/2021 dated 01.04.2021 – Income Tax (Eighth Amendment) Rules, 2021.

The report of audit furnished under this rule may be revised by the person by getting revised report of audit from an accountant, duly signed and verified by such accountant, and furnish it before the end of the relevant assessment year for which the report pertains, if there is payment by such person after furnishing of report under sub rule (1) and (2) which necessitates recalculation of disallowance under section 40 or section 43B.

[https://www.incometaxindia.gov.in/communications/notification/notification\\_28\\_2021.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_28_2021.pdf)

2. Press Release dated 24.04.2021- Government Extends certain timelines in light of raging pandemic

In the light of several representations received (supra) and to address the hardship being faced by various stakeholders, the Central Government has decided to extend the time limits to 30th June, 2021 in the following cases where the time limit was earlier extended to 30th, April 2021 through various notifications issued under the

Taxation and Other Laws (Relaxation) and Amendment of Certain Provisions Act, 2020, namely:-

- (i) Time limit for passing of any order for assessment or reassessment under the Income-tax Act, 1961 (hereinafter called 'the Act') the time limit for which is provided under section 153 or section 153B thereof;
- (ii) Time limit for passing an order consequent to direction of DRP under sub-section (13) of section 144C of the Act;
- (iii) Time limit for issuance of notice under section 148 of the Act for reopening the assessment where income has escaped assessment;
- (iv) Time Limit for sending intimation of processing of Equalisation Levy under sub-section (1) of section 168 of the Finance Act 2016.

It has also been decided that time for payment of amount payable under the Direct Tax Vivad se Vishwas Act, 2020, without an additional amount, shall be further extended to 30th June, 2021.

<https://pib.gov.in/PressReleasePage.aspx?PRID=1713723>

3. Press Release dated 09.04.2021 – Provisional Direct Tax Collection for the F.Y. 2020-21.



The provisional figures of Direct Tax collections for the Financial Year 2020-21 show that net collections are at Rs. 9.45 lakh crore. The net Direct Tax collections include Corporation Tax (CIT) at Rs. 4.57 lakh crore and Personal Income Tax (PIT) including Security Transaction Tax (STT) at Rs. 4.88 lakh crore. The net Direct Tax collections represent 104.46% of the Revised Estimates of Rs. 9.05 lakh crore of Direct Taxes for the F.Y. 2020-21.

The Gross collection of Direct Taxes (before adjusting for refunds) for the F.Y. 2020-21 stands at Rs. 12.06 lakh crore. This includes Corporation Tax (CIT) at Rs. 6.31 lakh crore and Personal Income Tax (PIT) including Security Transaction Tax (STT) at Rs. 5.75 lakh crore; Advance Tax of Rs. 4.95 lakh crore; Tax Deducted at Source (including Central TDS) of Rs. 5.45 lakh crore; Self-Assessment Tax of Rs. 1.07 lakh crore; Regular Assessment Tax of Rs. 42,372 crore; Dividend Distribution Tax of Rs. 13,237 crore and Tax under other minor heads of Rs. 2,612 crore.

Despite an extremely challenging year, the Advance Tax collections for F.Y. 2020-21 stand at Rs. 4.95 lakh crore which shows a growth of approximately 6.7% over the Advance Tax collections of the immediately preceding Financial Year of Rs. 4.64 lakh crore.

Refunds amounting to Rs. 2.61 lakh crore have been issued in the F.Y. 2020-21 as against refunds of Rs. 1.83 lakh crore issued in the F.Y. 2019-20, marking an increase of approximately 42.1% over the preceding Financial Year.

<https://pib.gov.in/PressReleasePage.aspx?PRID=1710598>

4. Press Release dated 01.04.2021 – CBDT notifies New Income Tax Return Forms for AY 2021-22.

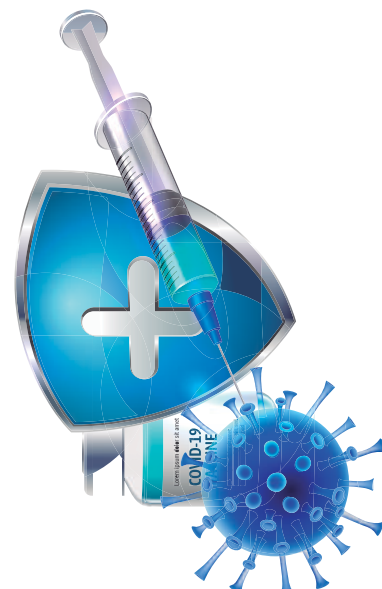
The Central Board of Direct Taxes has notified Income Tax Return Forms (ITR Forms) for the Assessment Year 2021-22 vide Notification no.21/2021 in G.S.R. 242(E) dated 31.03.2021. Keeping in view the ongoing crisis due to COVID pandemic and to facilitate the taxpayers, no significant change have been made to the ITR Forms in comparison to the last year's ITR Forms. Only the bare minimum

changes necessitated due to amendments in the Income-tax Act, 1961 have been made.

ITR Form 1 (Sahaj) and ITR Form 4 (Sugam) are simpler Forms that cater to a large number of small and medium taxpayers. Sahaj can be filed by an individual having income upto Rs. 50 lakh and who receives income from salary, one house property / other sources (interest etc.). Similarly, Sugam can be filed by individuals, Hindu Undivided Families (HUFs) and firms (other than Limited Liability Partnerships (LLPs)) having total income upto Rs. 50 lakh and income from business and profession computed under the presumptive taxation provisions.

Individuals and HUFs not having income from business or profession (and not eligible for filing Sahaj) can file ITR-2 while those having income from business or profession can file ITR Form 3. Persons other than individual, HUF and companies i.e. partnership firm, LLP etc. can file ITR Form 5. Companies can file ITR Form 6. Trusts, political parties, charitable institutions etc. claiming exempt income under the Act can file ITR-7.

There is no change in the manner of filing of ITR Forms as compared to last year. The notified ITR Forms are available on <http://egazette.nic.in/WriteReadData/2021/226336.pdf>. <https://pib.gov.in/PressReleasePage.aspx?PRID=1709090>







# Direct Tax Quick Connect

Compiled by: CA. Kushal Reshamwala

## Sec 80JJAA: Deduction in respect of employment of new employees

### **Applicability:**

1. It is applicable to those assessee who are covered under section 44AB of the income tax act, 1961.
2. Benefit is available to only those assessee having business income only. In other words benefit of this section to assessee having profession income is not available.

### **Amount of Deduction:**

Under this section quantum of deduction is available to that extent of 30% of the additional employee cost from the three assessment years including assessment year relevant to the previous year in which such employment is provided.

Additional Employee cost means the total emoluments paid or payable to additional employees employed during the previous year. However Additional Employee cost is Nil in the following circumstances if there is no increase in the number of employees from the total number of employees employed as on the last day of the preceding year. Emoluments are paid otherwise than by an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account

### **Additional employee:**

Additional employee means an employee who has been employed during the previous year and whose employment has the effect of increasing the total number of employees employed by the employer as on the last day of the preceding year. However the following are not considered as additional Employee:

- (a) An employee whose total emoluments are more than twenty-five thousand rupees per month; or
- (b) An employee for whom the entire contribution is paid by the Government under the Employees' Pension Scheme notified in accordance with the provisions of the [Employees Provident Funds and Miscellaneous](#)

[Provisions Act, 1952](#); or

(c) An employee employed for a period of less than two hundred and forty days during the previous year; or

(d) An employee who does not participate in the recognised provident fund.

### **Meaning of Emoluments:**

Emoluments means any sum paid or payable to an employee in lieu of his employment by whatever name called. However the following are excluded from Emoluments.

(a) Any contribution paid or payable by the employer to any pension fund or provident fund or any other fund for the benefit of the employee under any law for the time being in force; and

(b) Any lump sum payment paid or payable to an employee at the time of termination of his service or superannuation or voluntary retirement, such as gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and the like.

### **Non Availability of deduction:**

The benefit of this section is not available in the following circumstances.

(a) If the business is formed by splitting up, or the reconstruction, of an existing business:

Provided that nothing contained in this clause shall apply in respect of a business which is formed as a result of re-establishment, reconstruction or revival by the assessee of the business in the circumstances and within the period specified in section 33B;

(b) If the business is acquired by the assessee by way of transfer from any other person or as a result of any business reorganisation.

### **Form:**

Form 10DA is to be submitted with Tax Audit Report and return of Income by the assessee for claiming the deduction under section 80JJAA.



# International Taxation Updates

**Compiled by: CA. Nancy Logar**

## 1. Dividends tax: Role of Most Favored Nation clause of India - Netherland DTAA

Recently, Delhi High Court (HC) in case of **Concentrix Services Netherlands B.V. and Optum Global Solutions International B.V.** (taxpayers) granted benefit of 5% withholding tax rate on dividends payable by an Indian subsidiary to its Netherland parent company, by virtue of the Most Favored Nation (MFN) clause of India - Netherlands Double Taxation Avoidance Agreement (DTAA) read with the India - Slovenia DTAA.

### Facts of the case:

- An application was made seeking for a certificate permitting Indian subsidiaries to deduct withholding tax at a lower rate of 5% as per India Netherlands DTAA read with MFN clause and DTAA entered by India with Slovenia/Lithuania/Columbia.
- Tax authority did not accept taxpayers' claim and issued certificate wherein withholding tax rate of 10% was stipulated.
- Aggrieved by the same, taxpayers filed writ petitions before the HC. It was contended that since India had entered into a beneficial DTAA with countries who are member of Organisation for Economic Co-operation and Development (OECD), the lower rate of tax as per the said beneficial DTAA would automatically apply to the subject DTAA.

### Tax Department's contentions:

- Slovenia, Lithuania, and Columbia were not OECD members on the date when India executed DTAA with these countries (*DTAA with Slovenia was executed in 2005 and Slovenia became member of OECD in 2010*).
- Benefit of MFN clause would be available only if the country with which India enters a DTAA was an OECD member at the time of execution of subject DTAA (*DTAA with Netherlands was executed in 1989*). Since, Slovenia, Lithuania and Columbia were not OECD members on the date of execution of subject DTAA and became members only on a later date, MFN clause of subject DTAA would not be applicable.

### Decision of HC:

- Protocol of DTAA forms an integral part of DTAA and there is no requirement of issuing

separate notification to apply provisions of protocol. [*relied on Steria (India) Ltd. v. CIT (2016) 386 ITR 390*].

- Dismissed contentions of tax department and while interpreting MFN clause involving "...which **is** a member of the OECD" observed that the word '**is**' requires countries to be OECD members when source taxation is triggered in India and not at the time when subject DTAA was executed. Accordingly, benefit of MFN can be granted in present case.
- Netherlands court had held that MFN clause will apply i.e. dividends taxable at lower rate of 5% (*in decree of 28.02.2012, no. IFZ 2012/54M*) and therefore principle of common interpretation should apply to ensure consistency and equal allocation of tax claims between the contracting states.
- Interpretation of DTAA is liberated from technical rules governing the interpretation of domestic law. Core function of DTAA should be seen to aid commercial relations and equitable distribution of tax revenues in respect of income which falls for taxation in both the contracting states.

**Impact:** Taxpayers may evaluate the impact of this ruling to facts of their case.

*Source: Delhi HC judgment in WP (C) 9051/2020 and 882/2021, pronounced on 22 April 2021.*

## 2. UN Tax Committee approves text of Article 12B and commentary in UN Model Tax Convention

- Article 12B on income from automated digital services and commentary has been adopted into UN Model Tax Convention.
- The new taxing right would apply to income from automated digital services provided on internet or another electronic network, involving minimum human involvement from the service provider. It would apply to income derived from online advertising, cloud computing, online gaming, social media platforms, etc.
- Definition of automated digital services excludes payments qualifying as royalties or fees for technical services under Article 12 or 12A.
- Enumerates allocation of taxing rights amongst the source and resident state.



# RERA Updates

## Compiled by: CA. Mahadev Birla

### RERA Compliance for Real Estate Agent

"Real estate agent" is the person who actually facilitates the sale or purchase of flat, apartment or building, in a Real Estate Project, through any medium. RERA, 2016 cast some duties on the Real Estate Agent for better transparency of sale in real estate project. The duties of the Real Estate Agent are not only limited to obtained the registration under RERA, 2016, but it requires the Agent to maintain the professionalism by performing some other functions as below:

1. The Real estate agent shall not facilitate the sale or purchase of plot, apartment, building in real estate project which is not registered with under RERA.
2. It is the duty of Real Estate Agent to maintain the books of account, records and documents in accordance with the Provision of Income Tax Act, 1961.
3. Not to involve in any unfair trade practice.
4. Real Estate Agent shall facilitate the possession of all information and documents to the allottee.
5. Real Estate agent shall disclose all the information's in respect of inventory dealt by the him in respect of project. In state of Gujarat these information's are to be disclose by **filing a half yearly return** for which GujRERA has issued a Standard Operating Procedure (SOP).
6. Real Estate Agent shall file this return online on website of GujRERA.
7. In the return, the details of the unit dealt by the agent will be disclosed for each project separately which includes the project name, RERA Registration number of the project, number of units along with the time period.
8. As per SOP, GujRERA has considered the dynamic rolling half years (6 months) duration with respect to a specific logic

unique to each agent for which the agent is liable to submit the mandatory Agent RERA Return. Further, the start date and end date for the half year is dynamic in nature and different from one agent to another but fixed for a particular Agent for its return filing life cycle.

***However, recently GujRERA has come with the amendment by issuing an Order No.: GujRERA/Order-47 dated 31.03.2021 and it is decided to implement the "Financial Year based - Agent annual reporting System which will be applicable from the Financial Year 2021-22 and according to this system first Annual return for the Financial Year will be due on 7<sup>th</sup> April, 2022.***

***Apart from the changing the return filing system, GujRERA has given some relaxation in respect of all half yearly return which are pending to file till 31.03.2021. by issuing the Order no. GujRERA/Order-47 dated 31.03.2021 it is decided that all registered Agents shall have to file Half Yearly return by 30<sup>th</sup> April, 2021, to update the sales till 31<sup>st</sup> March 2021.***

***The Agents who file their H.Y return by the extended date will be exempted from any regulatory action for default committed up to March, 2021. Stringent regulatory action will follow against the defaulters, thereafter.***

9. As per the current procedure, the processing fees of Rs 200/- (In case of individual Agent) and Rs 1,000/- (in case of the agent other than individual) is payable for filing the Half yearly return however, in the Order no 47, fees payable for the annual return is not clarified.



# Excel in Excel

Compiled by: CA. CS. Hemlata Dewnani

## FLASH FILL



**F**lash Fill is a data tool in Microsoft Excel that will allow you to combine, extract or transform data based on a few examples.

Let's say column A contains GSTN, In column B you want to fill PAN. If you establish a pattern by typing the PAN in column B, Excel's Flash Fill feature will fill in the rest for you based on the pattern you provide.

	A	B
1	GSTN	PAN
2	24BUTPD9328Q1ZN	BUTPD9328Q
3	26AUXPD5544H1ZR	AUXPD5544H
4	24AURPH5643H1ZN	AURPH5643H
5	27AAACV4156J1ZR	AAACV4156J
6	29BUTPD6520W1ZX	BUTPD6520W
7	27ABUTPF5320F1ZE	ABUTPF5320F

If Flash Fill doesn't generate the preview, it might not be turned on. You can go to **Data > Flash Fill** to run it manually, or press **Ctrl+E**. To turn Flash Fill on, go to **Tools > Options > Advanced > Editing Options > check the Automatically Flash Fill** box.

Examples : It can be used to combine first and last names from two different columns, or for separating product code with definite numbers, you need only date from DD-mm-yyyy

,Plant and machinery code etc.

It is more powerful and can replace all following i.e we have used left, right, middle, Text to columns, concatenate, upward or downward, Rounding off etc all have some specific requirements which you need to fulfill if you require answers and it is limited one also.

Flash Fill was released in Excel 2013, and any later versions will also have it. This includes Excel 2013, 2016, 2019 and Excel for Office 365.

### Limitations Of Flash Fill:

While Flash Fill is very powerful, it does have limitations.

1. Results are not dynamic. Flash Fill values will not update when you change the values they're based on. You will need to perform the Flash Fill again in order to update the values.
2. Flash Fill might not always return results. The pattern might be too complex for Excel.
3. Flash Fill may incorrectly identify the pattern and return undesired results. With lots of data, incorrect results might be hard to spot so you essentially need to trust a black box algorithm. For this try to type in 2-3 columns then press **ctrl + E** and before submitting data, cross verify some with examples.
4. Flash Fill doesn't fill results horizontally. Your data will need to be vertical.



# Important Due Dates

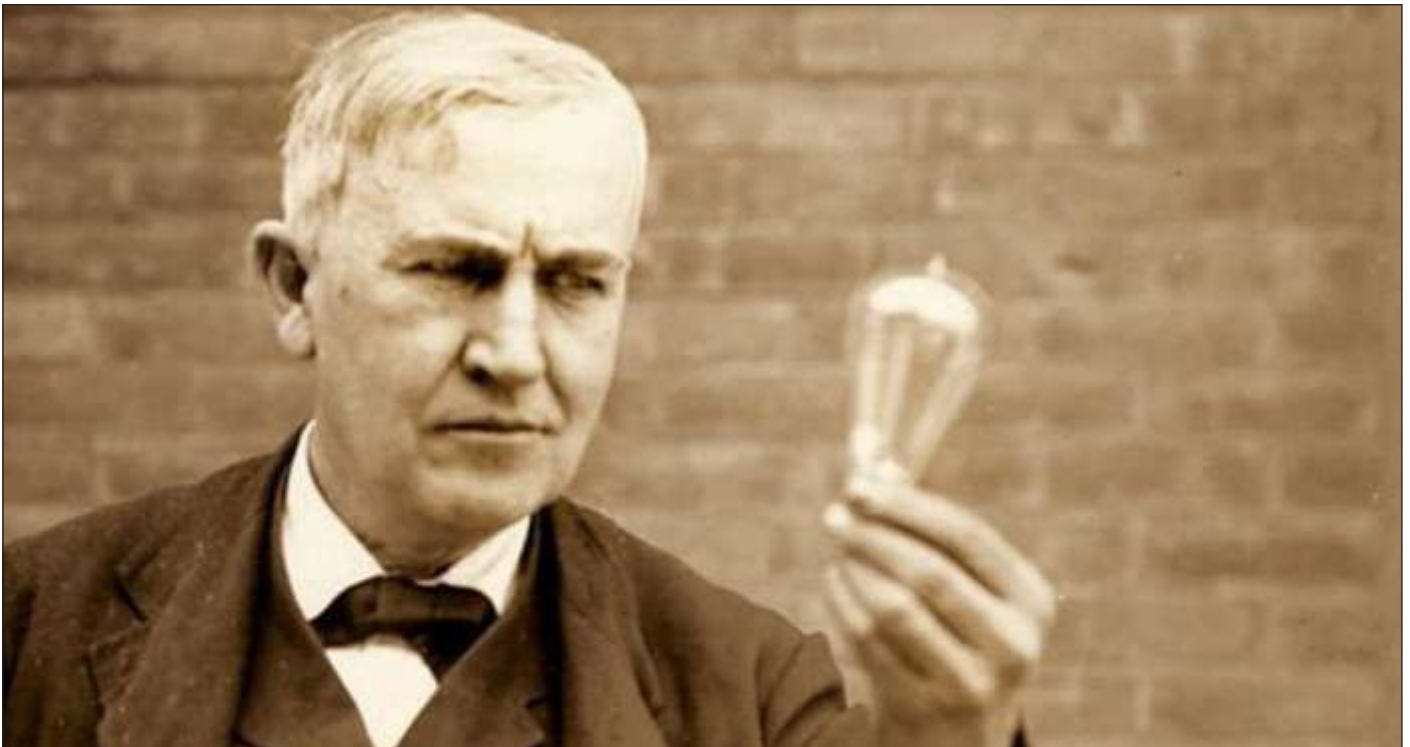
Compiled by: CA. Mahavir Shah  
FOR COMPLIANCE FOR MAY- 2021

Sr. No.	Act	Compliance	Due Date
1	GujRERA	In case of Promoter : <b>Quarterly Return</b> for Project to be filled with 7 days from the end of the Quarter allocated by RERA Authority	07-May-21
2	Income Tax	Tax Collected at Source ( <b>TCS</b> ) during the month of <b>April-21</b> to be	07-May-21
3	GST	<b>GSTR-7</b> for the month of <b>April-21</b> for persons required to deduct <b>TDS under GST</b>	10-May-21
4	GST	<b>GSTR-8</b> for the month of <b>April-21</b> for e-commerce operator required to collect <b>TCS under GST</b>	10-May-21
5	GST	<b>GSTR-1</b> for the month of <b>April-21</b>	11-May-21
6	GST	Filing of <b>Invoice Furnishing Facility (IFF)</b> for <b>April-21</b> for <b>taxpayers who opted for Quarterly Return Monthly Payment (QRMP)</b> option	13-May-21
7	GST	<b>GSTR-6</b> for the month of <b>April-21</b> for Input Service Distributor ( <b>ISD</b> )	13-May-21
8	Income Tax	Due date for issue of TDS Certificate for tax deducted under section 194IA, 194IB and 194M in the month of March, 2021	15-May-21
9	Income Tax	Filing of Quarterly <b>TCS Return</b> for <b>F.Y. 2020-21 Q-4</b>	15-May-21
10	PF / ESIC	Payment of <b>PF / ESIC</b> for the month of <b>April-21</b>	15-May-21
11	GST	<b>GSTR-5 &amp; 5A</b> by <b>Non-resident</b> taxable person & <b>OIDAR</b> for the month of <b>April-21</b>	20-May-21
12	GST	Payment of GST & Filing of <b>GSTR-3B</b> for the month of <b>April-21</b> for monthly taxpayers	20-May-21
13	GST	Payment of GST in form GST <b>PMT-06</b> for taxpayers who opted for <b>Quarterly Return Monthly Payment (QRMP)</b> option for the month	22-May-21
14	Income Tax	Furnishing of Challan-cum-Return for Tax Deducted ( <b>TDS</b> ) u/s <b>194IA, 194IB and 194M</b> during the month of <b>April-21</b>	30-May-21
15	MCA	Filing of <b>Form 11 - Annual Return</b> by <b>LLP</b> for <b>F.Y. 2020-21</b>	30-May-21
16	MCA	Filing of half yearly Reconciliation of Share Capital Audit Report in Form PAS 6 by unlisted public companies	30-May-21
17	Income Tax	Due date for furnishing of Statement of Financial Transactions ( <b>SFT</b> ) u/s 285BA for <b>F.Y. 2020-21</b>	31-May-21
18	Income Tax	Filing of Quarterly <b>TDS Return</b> for <b>F.Y. 2020-21 Q-4</b>	31-May-21

# Motivational Story

Compiled by: CA. CS. Hemlata Dewnani

**I have not failed. I have just found 10,000 ways that won't work - Thomas A. Edison**



**A** failure is more useful than a win because it brings more experience and it trains people's perseverance. Most of us are scared by failures. We should understand that everything in life is going to go according to plan and that failure is just part of the plan. Sometimes our efforts don't seem to give any output, that doesn't mean that we should stop trying- **"There's a way to do it better - find it."**

The fact is that even we try and fail that doesn't mean we didn't learn something. We shouldn't worry about what happens if we fail, because it's not our choice, either we can get back up and try again or we can stay as it is and cry for failure- **"To have a great idea, have a lot of them."**

Many of us believe that failure is bad but it's not true, not all failure means that it's going to be the worst part of your life, maybe failure it's just a way of showing us that there's more to the idea of success and that probably we shouldn't set for anything less than we deserve. We wouldn't let failure become our mother but the mother of success instead, and that if we fail we'll get back up and keep moving on, because

after all that's what life's about. We should apply trial and error method for any endeavour to find right outcomes- **"There is far more opportunity than there is ability."**

According to the Edison Innovation Foundation, he operated on four simple principles, taught to him by his loving mother:

1. Never get discouraged if you fail. Learn from it. Keep trying.
2. Learn with both your head and hands.
3. Not everything of value in life comes from books- experience the world.
4. Never stop learning. Read the entire panorama of literature.

I am sharing the Link for many Successful persons who failed, failed, failed and tried till they won

**L i n k** : <http://www.uky.edu/~eushe2/Pajares/OnFailingG.html>

Many of life's failures are people who did not realize how close they were to success when they gave up."





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	<b>CA Vishal Narsing Chavan</b> Chairman, Latur Branch	

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