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e NEWS LETTER



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Chairman's Message

Respected Members,

The calendar year 2017 has just ended with **more than 300 CPE activities generating 1,49,011 CPE Hours; highest numbers of activities so far in the history of Ahmedabad Branch.** The professionalism, integrity and ethics were the cornerstone of the branch activities during the year.



The month of December started with RRC at Dhordo, White Rann of Kutch from 1st to 3rd December wherein the participants across Gujarat take active participation in deliberation of important issues of GST implementation. The excellent venue, arrangements and GST discussion made it one of most memorable RRC for the participants!

Mega Summit 2017 was organized on 22nd and 23rd December, participated by around 1,100 members. The summit was inaugurated by Shri Achalbhai Bakeri, Managing Director Symphony Ltd. and the key note address was given by Dr. Subramanian Swami, the Economist and Hon'ble Rajyasabha MP. The

The unique seminar for the first time specially for LITIGATION SKILL DEVELOPMENT was organized on 15th & 16th December, 2017, wherein around 200 members across Gujarat participated and appreciated the seminar.

Being end of calendar year for CPE hours requirement, the month ended with two Days CPE Seminar on Important aspects & latest developments covering crypto currencies, Ethics and other contemporary issues on 29th & 30th December, 2017

The specialization is need of an hour and to promote the expertise in new areas, the branch has started two separate Study Groups i.e. on Ind AS and Insolvency & Bankruptcy Code. 1st meeting of Ind AS Study group was held on 19.12.2017 and that of Insolvency & Bankruptcy on 21.12.2017.

In addition to knowledge updation, the lot importance is required to be given to the Quality Life. A special session on Total Quality Life and Achieving Excellence in Profession was organized on 18.12.2017 addressed by Shri E. V. Swaminathan. The series of programs to take care Health of members, students and their family members are also organized in 1st Week of January 2019 as HEALTH IS WEALTH SERIES: Spend Some Time for Yourself.

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The CA Students Conference was organized by Board of Studies and hosted by Ahmedabad Branch on 8th and 9th December 2017 at PDU Hall. Hon'ble Union Minister Shri Ravi Shankar Prasad inaugurated the conference and participated by more than 700 students across the region.

We are committed to provide the best of infrastructure for members and students. After renovation of coaching class and ground floor, the renovation work for extra facilities in terms of terrace for canteen facility and members reading room are going on and expected to be ready soon!

Wishing you all a blessed New Year full of peace, laughter, prosperity and Health!

Happy To Serve,

CA. Chintan Patel
Chairman

Editorial



Dear Members,

After receiving a wonderful response to the December edition of our Newsletter, it gives me immense pleasure to share the January edition on the theme of "**Republic Day**".

We will be celebrating our Republic Day on 26th January, the day on which the Constitution, as drafted and approved by the Constituent Assembly of India, was mandated to take effect thereby declaring India a Republic in 1950. On this occasion let us resolve to always follow the path laid down by our great freedom fighters reminiscing the words of our First President Dr. Rajendra Prasad who in his speech on 26th January, 1950 said "It is up to us to preserve and protect the Independence that we have won and to make it really bear fruit for the man in the street. Let us launch this new enterprise of running our Independent Republic with confidence, with truth and non-violence and above all, with heart within and God above".

I would like to take this opportunity to sincerely thank all the contributors for sending the updates and sparing their precious time for the cause of the profession. In order to make the newsletter more resourceful, we need your support by way of contribution of updates, useful suggestions, etc. I would request you to send your contributions on the topics of Direct Taxes, GST, Corporate Law, Information technology, FEMA, Indian & World economy and other interesting topics. Kindly email your contributions, achievements etc. on ahmedabad@icai.org. The editorial team will publish the best contribution at its own discretion. I extend my sincere gratitude to the Editorial team for their hard work to publish this newsletter in time.

Happy Reading!

CA. Harit Dhariwal
Chairman, Newsletter Committee



Income Tax Updates

(Contributed by **CA. Nirav Choksi**)

A. The address of communication to the assessee is described– Notification No. 98/2017 dated 20th December, 2017

If the communication cannot be delivered or transmitted to the address furnished by the assessee, the communication shall be delivered to the address given in the notification.

<http://www.incometaxindia.gov.in/communication/s/notification/notification98-2017.pdf>

B. The Central Government constituted Special Economic Zone Authority– Notification No. 99/2017 dated 22nd December, 2017

The central government constituted SEZ Authority in respect of income specified in the notification.

http://www.incometaxindia.gov.in/communication/s/notification/notification99_2017.pdf

International Taxation

(Contributed by **CA. Nirzari Shah**)

JUDICIAL PRONOUNCEMENTS

1. ACIT vs. Broadcom Communication Technologies (P.) Ltd [2017] 88 taxmann.com 309 (Bangalore - Trib.)

- Even though onsite filter is very important filter in TP study, yet DRP could not apply said filter to only one comparable rather all comparables had to be examined in light of same and thereafter list of comparables could be finalized.
- DRP couldn't apply onsite filter to only one comparable while determining ALP.
- Impugned order was to be set aside and, matter was to be remanded back to DRP for disposal afresh.

2. Vesta Technology R & D Chennai (P.) Ltd. vs. ACIT [2017] 88 taxmann.com 308 (Chennai - Trib.)

- Where assessee was engaged in providing engineering design services to AE a company providing IT consulting services and solutions for financial services sector, could not be accepted as comparable
- In case of assessee rendering engineering design services to AE, a company engaged in development of software and software products and training centre engaged in training of software professionals on online projects, was not acceptable as comparable

- Where assessee was providing engineering design services to AE a company providing software development projects to Government of Goa and basically engaged into application development, providing solutions internet/intranet, clients/server and main frame and wire, could not be accepted as comparable
- In case of assessee rendering engineering design services to AE a software development company providing services like data warehousing, software development, data mining, etc., was not acceptable as comparable
- Where assessee rendered engineering design services to AE, a company engaged into domain of e-learning, ERP/SAP Projects and CRM solutions, was not acceptable as comparable
- In case of assessee rendering engineering design services to AE, a company providing software development services for enterprises engaged in financial service industry was to be regarded as uncomparable
- Where assessee was providing engineering design services to AE, a company which was in business of assurance and testing, catering needs to banking and financial sector, was functionally not comparable
- Where assessee rendered engineering design services to AE, a company engaged in providing



services in domain of e-learning and digital content services was not acceptable as comparable

3. DCIT vs. Applied Micro Circuits India (P.) Ltd [2017] 88 taxmann.com 276 (Pune - Trib.)

- Where assessee was engaged in providing design engineering services to AE, a company following different accounting period, i.e., comprising of 15 months, could not be accepted as comparable

- Where a concern had been accepted as comparable by TPO in previous assessment year and information relating to it was available in public domain at relevant time, TPO was to be directed to include said concern in list of comparables for relevant assessment year as well
- Where assessee was rendering design engineering services to its AE as captive service provider whereas comparables were risk bearing entities, its claim for grant of risk adjustment was to be allowed.

GST Updates

(Contributed by **CA. Monish S. Shah**)

Refunds under GST

There are certain events where refund arises. Let us check out the transactions in details.

- In case of exports (including deemed exports), where there is a cumulative balance of input credit arising out of such exports or under a claim of rebate.
- Where there is an excessive payment of tax due to an inadvertent mistake.
- When there is an accumulation of credit resulting due to the output tax being nil or exempted from tax.
- A refund may arise after a provisional assessment.
- Where an appeal is for a respondent, then the amount made as a deposit towards holding such appeal shall be refunded to the appellant
- Refund after investigation or findings by an adjudicating officer.
- Refund can be provided to foreign embassies or bodies of United Nations when the purchases are made by them.
- When there is an accumulation of credit resulting due to the output tax being of a lesser rate than the input.
- Suppliers receiving discounts or credits through the issuance of credit notes.
- GST paid by foreign or international tourists are subjected to refund.

The Government will not just give away the pending amount as a refund. The taxpayers have to make an application and follow the correct procedure for fetching the refund amounts in their bank accounts.

Refund Application Process Under GST

The refund application has to be made in **Form RFD-01 (to be certified by a Chartered Accountant)** within a period of 2 years from the "relevant date." This relevant date is different for different scenarios.

1. When the goods are exported through air or sea, then relevant date shall be the date on which such ship or aircraft leaves India.
2. When the goods are carried by a land vehicle, then relevant date shall be the date when the goods cross the land frontier of the country
3. When goods are sent through post, then relevant date shall be the date of despatch of goods from the Post Office.
4. When the supply includes services, and when the same is completed before receipt of payment, then relevant date shall be the payment receipt date.
5. Similarly, when the services are performed after receipt of an advance, then relevant date shall be the invoice date.
6. Where refund claim is made for excess input tax credit left unutilised, then relevant date shall be the end of the financial year for which such refund claim is being made.
7. Where the goods are supplied for deemed exports, i.e. supply to SEZ or 100% EOU, the relevant date shall be the return filing date related to such deemed exports was filed.



8. Where refund arises due to an order passed in favour of the appellant, then relevant date shall be the date of such order.
9. Where tax was paid following a provisional assessment and refund now arises, then relevant date shall be date at which such tax was adjusted.
10. When the person claiming refund is not the supplier, then relevant date shall be the date at which the goods are received by such person.
11. For all other cases, relevant date shall be the date of payment of tax.

It is mandatory to keep in mind these relevant dates as failure to file refund applications within mentioned time can lead to blockage of credit.

Once the application made, an acknowledgement in **Form RFD-02** will be auto-generated for future references and sent across through an email and an SMS. In case the system finds some deficiencies in the refund application, then **Form RFD-03** shall be sent to the taxpayer to correct his application.

Moreover, there are certain documents that must be enclosed along with the electronic refund application. Where the refund application is below Rs. 5 lakhs, then a declaration shall be made by the taxpayer indicating that the amount of refund has not been utilised by or transferred to any other person. Where such application exceeds Rs. 5 lakhs, then apart from the declaration above, a document evidencing that the amount was paid by the taxpayer shall also be attached.

When the person filing refund claim is a United Nations' body, Consulate or a foreign embassy, then the application for refund has to be filed within 90 days from the end of the quarter for which the goods or services were procured. The application should be made in **Form RFD-10**.

Note: There shall be no refunds where the amount of refund is less than Rs. 1,000/-.

Refund of Input Tax Credit

There are 3 cases against which a refund claim can be made with respect to input tax credit. All the above scenarios covered refund emanating from certain specified transactions.

1. Input tax credit left unutilized when the goods or services being supplied are zero rated or exempted from GST.
2. When input goods or services have a higher rate of tax

and the same goods or services have a lesser output tax, then the accumulated input tax credit can be claimed as refund.

3. In case of a partial reverse charge, where the input tax credit cannot be used completely against the output tax.

Furthermore, no refund against unutilized input tax credit can be given when:

- Input arises out of GST paid against goods exported out of India, that were taxable to excise duty
- The supplier has already availed the benefit of duty drawback paid with respect to excise duty.

The process is very thorough in itself and once followed properly, then availing refund can become very smooth and hassle free. It will change the face of the long drawn refund process and give a boost to the manufacturing or export industry. Those refunds, which usually took years to pass can now be taken in just 60 days. The strong IT system and forward thinking of the GSTN have enabled this initiative.

OTHER IMPORTANT PROVISIONS

Section 54 (8) –

Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to—

- a) refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies;
- b) refund of unutilised input tax credit under sub-section (3);
- c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;
- d) refund of tax in pursuance of section 77 (i.e. Tax wrongfully collected and paid to Central Government or State Government);
- e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person;
- f) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.



Section 54 (10) –

Where any refund is due under sub-section (3) to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may—

- withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;
- deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is

liable to pay but which remains unpaid under this Act or under the existing law.

Section 54 (13) –

Notwithstanding anything to the contrary contained in this section, the amount of advance tax deposited by a **casual taxable person** or a **non-resident taxable person** under sub-section (2) of section 27, shall **not** be refunded **unless** such person has, in respect of the **entire period** for which the certificate of registration granted to him had remained in force, furnished **all the returns** required under section 39.

Quick Connect

(Contributed by **CA. Rahul Maliwal**)

Provision for E-way Bill

Govt by Notification No 74/2017- Central tax provided that 01/02/2018 is the appointed date for applicability of provisions of serial numbers 2(i) and 2(ii) of notification No. 27/2017.

Introduction:-

- A waybill is a receipt or a document issued by a carrier giving details and instructions relating to the shipment of a consignment of goods and the details include name of consignor, consignee, the point of origin of the consignment, its destination, and route.
- Rule 138 of the CGST Rules, 2017 provides for the e-way bill mechanism and in this context it is important to note that “information is to be furnished prior to the commencement of movement of goods” and “is to be issued whether the movement is in relation to a supply or for reasons other than supply”.
- It has two component Part A and Part B
- Part A Comprising of
 - GSTIN of recipient
 - Place of delivery
 - Invoice/ Challan Number and date
 - Value of goods
 - HSN
 - Transport document number
 - Reasons for transportation

- Part B Comprising of Transporter details (Vehicle Number)

Who shall furnish:-

- Every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees—
 - in relation to a supply; or
 - for reasons other than supply; or
 - due to inward supply from an unregistered person,
- Part B (transport details) to be furnished by the person who is transporting the goods. Where the goods are transported by a registered person whether as consignor or recipient, the said person shall have to generate the e-way bill by furnishing information in part B on the GST common portal. Where the e-way bill is not generated by registered person and the goods are handed over to the transporter for transportation by road, the registered person shall furnish the information relating to the transporter in **Part B of FORM GST EWB-01** on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in **Part A of FORM GST EWB-01**.

Finer Points:-

- where the goods are transported for a distance of less than ten kilometres within the State or Union territory from the place of business of the consignor



to the place of business of the transporter for further transportation, the supplier or the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01.

- Any transporter transferring goods from one conveyance to another in the course of transit shall, before such transfer and further movement of goods, update the details of conveyance in the e-way bill on the common portal in FORM GST EWB-01.
- Provided that where the goods are transported for a distance of less than ten kilometres within the State or Union territory from the place of business of the transporter finally to the place of business of the consignee, the details of conveyance may not be updated in the e-way bill.
- where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in FORM GST EWB-02 maybe generated by him on the said common portal prior to the movement of goods.

Validity of E-Way Bill:-

- The validity of e-way bill depends on the distance to be travelled by the goods.

S. No.	Distance	Validity period from Relevant date
1.	Upto 100 km	One Day
2.	For every 100 km or part thereof thereafter	One additional day

- The "relevant date" shall mean the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as twenty-four hours.

Acceptance by recipient:-

- The details of e-way bill generated shall be made available to the recipient, if registered, on the common portal, who shall communicate his acceptance or rejection of the consignment covered by the e-way bill.
- Where the recipient does not communicate his acceptance or rejection within seventy two hours of the details being made available to him on the common portal, it shall be deemed that he has

accepted the said details.

Cancellation of E-Way Bill:-

- Where an e-way bill has been generated under this rule, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal, within 24 hours of generation of the e-way bill.
- However, an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B of the CGST Rules, 2017.

Exceptions to e-way bill requirement:-

- No e-way bill is required to be generated in the following cases:-
 - Transport of goods as specified in Annexure to Rule 138 of the CGST Rules, 2017
 - goods being transported by a non-motorised conveyance
 - goods being transported from the port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs.
 - in respect of movement of goods within such areas as are notified under rule 138(14) (d) of the SGST Rules, 2017 of the concerned State; and
 - Consignment value less than Rs. 50,000/-

Consequences of non-conformance to E-way bill rules:-

- If e-way bills, wherever required, are not issued in accordance with the provisions contained in Rule 138 of the CGST Rules, 2017, the same will be considered as contravention of rules. As per Section 122 of the CGST Act, 2017, a taxable person who transports any taxable goods without the cover of specified documents (e-way bill is one of the specified documents) shall be liable to a penalty of Rs.10,000/- or tax sought to be evaded (wherever applicable) whichever is greater.
- As per Section 129 of CGST Act, 2017, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made there under, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure.



Accounting & Company Law Updates

(Contributed by **CA. Chintan Patel**)

1. The Companies (Cost Records and Audit) Amendment Rules, 2017

The MCA has notified the Companies (Cost Records and Audit) Amendment Rules, 2017. The Amendment Rules substitute existing form CRA-1 and Form CRA-3 with new forms with effect from 1 April 2016. These rules should be deemed to have been inserted with effect from 1 April 2016. http://www.mca.gov.in/Ministry/pdf/CompaniesCostRecordsAuditRule_08122017.pdf

2. The Companies Act (Amendment Act) 2017

The Companies (Amendment) Bill, 2017 was passed by the Lok Sabha in July 2017 and was approved by the Rajya Sabha on 19 December 2017. The Bill has now got assent from the Honorable President of India, on 3 January 2018, and has been notified in the Official Gazette of the same date (to be called the Companies (Amendment) Act, 2017). <http://www.egazette.nic.in/WriteReadData/2018/181439.pdf>

HIGHLIGHTS OF THE COMPANIES (AMENDMENT ACT), 2017

1. For incorporation of company declaration will be required instead of affidavits.
2. Name reservation in case of new company shall be valid for 20 days from date of approval instead of 60 days from the date of application.
3. Annual General Meeting of unlisted company can be held anywhere in India.
4. Every company shall have registered office within 30 days of incorporation instead of current requirement to have registered office within 15 days.
5. Notice of every changes of situation of the registered office shall be given to ROC within 30 days instead of 15 days as currently provided.
6. Sweat equity shares can be issued at any time currently it can be issued after 1 year from commencement of business.
7. In addition to Directors & KMP, any employee of the company can also authenticate company documents as authorised.
8. Wholly owned subsidiary (WOS) of a company incorporated outside of India is now allowed to hold EGM outside India.
9. No central govt. approval required for payment of remuneration in excess of 11% of net profit.
10. Money received under the private placement shall not be utilised unless the return of allotment is filled with the ROC.
11. Central govt. Can provide any other number to be treated as DIN like Aadhar or PAN.
12. Where a director incur any of disqualification under section 164(2) due to default of filing of financial statement or annual return or repayment of deposit or pay interest or other mentioned in section, than he shall be vacate office of the director in all the companies other than the company which is in default.
13. Requirement of filing of form DIR 11 (Filing of a copy of resignation to ROC by director itself) made optional.
14. Eligibility for doing CSR to be determined based on preceding "Financial Year" instead of "three preceding Financial year";
15. The requirement related to annual ratification of appointment of auditor by members is omitted.
16. CG will prescribe an abridged Board Report for One Person Company and small company.
17. Disclosure which have been provided in the financial statement shall not be required to be reproduced in the Board Report again.
18. Disclosure by promotes and top ten shareholder with respect to 2% change in shareholding in a listed company is omitted.
19. In case delay in filing documents, fact or information required to be submitted under section 92 (Annual Return) or 137 (copy of financial statement), after expiry of prescribed period a flat additional fee of Rs.100 per day shall be paid instead of slab wise additiinal fee.
20. For calculation of net worth of the company, ydebit or credit balance of profit and loss account shall be included



FEMA Updates

(Contributed by **CA. Mehul Talera**)

Liberalised Remittance Scheme

Liberalised Remittance Scheme (LRS) was initially introduced to facilitate resident individuals to remit funds abroad for permitted current and capital account transactions or combination of both, as per Master Direction FED 7/2015-16 dated 1.1.16 and updated from time to time, the gist explaining major changes wide referred directions is here as under:

General, Subsumption and Consolidation of threshold limit of LRS

1. This scheme is not applicable to corporates, partnerships firms, HUF, Trust etc.
2. The threshold limit of annual remittance by individual resident (including minors) has been raised from USD 125,000 to USD 250,000 for all permitted current and capital account transactions. This increased limit subsumes/includes individual limit for current account transactions, which earlier was separately available for current account transactions.
3. Family members can club their individual limit complying with its term and conditions subject to restrictions into some capital account transactions.

Transactions

4. Permitted capital account transactions:
 - a. Opening foreign currency bank account abroad
 - b. Purchase of property abroad
 - c. Making investment abroad – acquisition and holding shares of both listed and unlisted overseas company or debt instruments; acquisitions of ESOP (the scheme is in addition to acquisition of ESOPs linked to ADR/GDR and acquisition of qualification share); investment in units of Mutual fund, Venture capital fund, unrated debt securities, promissory notes

- d. Setting up of wholly owned subsidiary and Joint Ventures (with effect from Aug 05, 2013) outside India for bona fide business subject to terms & conditions stipulated in relevant provisions.
 - e. Extending loans including loans in Indian Rupees to Nonresident Indian (NRI) who are relative as defined in Companies Act.
5. Permitted current account transactions:
 - a. Private visits
 - b. Gift/Donation
 - c. Going abroad for employment
 - d. Emigration
 - e. Maintenance of close relatives abroad
 - f. Business trip
 - g. Medical treatment abroad
 - h. Students for pursuing their studies abroad
 - i. Purchasing art objects abroad

Utilisation of fund abroad and other relevant aspects

6. The scheme can be used for outward remittance in form of DD either in the name of resident individual or in the name of proposed intended beneficiary.
7. Individual can open, maintain and hold foreign currency account with Bank outside India for making remittances under LRS without RBI approval. The account may be utilized for putting through all transactions connected with or arising from remittances eligible under LRS.
8. The investor who has remitted funds under LRS can retain, reinvest the income earned on the investments. As on date, the resident individual is not required to repatriate the funds or income generated out of investments made under LRS.

Rupees Loan and Gifts to NRI/PIO by resident individual

9. Loan in rupees to NRI/PIO close relative:



- a. Rupee loan can be given to close relative NRI/PIO of resident individual by account payee cross cheque.
- b. The loan should be free of interest and minimum maturity in one year.
- c. The resident individual should ensure that loan is within the ambit of LRS and not exceeded in given financial year.
- d. The loan proceeds should be utilized for meeting borrowers' personal requirements or business purposes in India.
- e. The loan shall not be utilized, either singly or in association with other person for any activity in which investment by person resident outside India is prohibited i.e.
 - The business of chit fund or
 - Nidhi company or
 - Agricultural or plantation activities or in real estate business or constructions of farmhouses (real estate business shall not include development of townships, construction of residential / commercial premises, roads or bridges)
 - Trading in transferable development rights (TDRs)
- f. The loan should be credited to NRO account of the NRI/PIO.
- g. The loan should not be remitted outside India.
- h. Repayment of loan shall be made by way of inward remittance through normal banking channels or by debit to the NRO / NRE / FCNR account of the borrower or out of the sale proceeds of the shares or securities or immovable property against which such loan was granted.

10. Resident Individual can make rupee gift to relative NRI/PIO by account payee crossed cheque / electronic transfer within overall limit of LRS in a given financial year. The same should be credited to NRO account of such NRI/PIO and be treated as eligible credit to NRO account.

Prohibitions / Restrictions

11. The scheme is not available for remittance for any purpose specifically prohibited under schedule I or any item restricted under schedule II of Foreign Exchange Management (Current Account Transactions) Rules, 2000 dated May 03, 2000 as amended from time to time.
12. The scheme is not available for capital account remittances to countries identified by Financial Action Task Force (FATF) as non-co-operative countries, from time to time and remittances to individuals and entities identified as posing significant risks of committing acts of terrorism as directed by RBI
13. The scheme is not available for remittances from India for margins or margin calls to overseas exchanges/counterparty, purchase of FCCBs of Indian companies in overseas secondary market and trading in foreign exchange.
14. The Authorised dealer (AD) should not extend any kind of credit facilities to resident individuals to facilitate remittances for capital account transactions under LRS.
15. The ADs shall not make any advertisement for soliciting of LRS without approval by RBI.
16. Any remittance exceeding USD 250,000 will require prior approval from RBI.

https://www.rbi.org.in/SCRIPTS/BS_ViewMasterDirections.aspx?id=10192



Lets excel in excel !

(Contributed by **CA. Hemlata Dewnani**)

In this Article we are focusing on VLOOKUP with wildcard characters i.e. AdvanceVLOOKUP

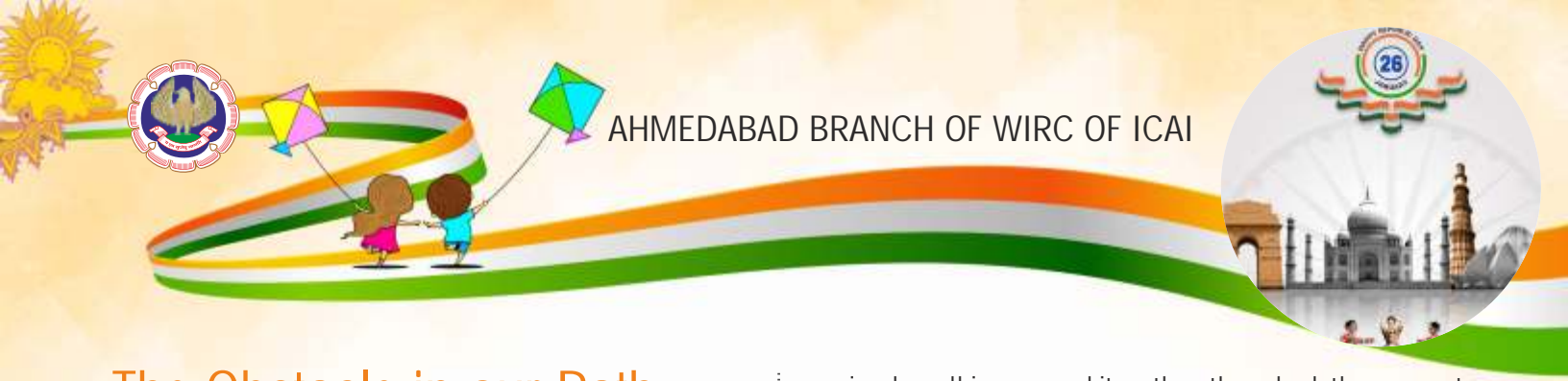
Wildcard character	Description
Asterisk (*)	It can take the place of several characters. It matches any number of characters and can be used at any place.
Question mark (?)	It matches single character only. So if three characters are missing we will use three times "???" to match
Tilde (~)	It nullifies or cancels the effect of other wildcard characters such as ? And *

Wildcard characters are supported in the VLOOKUP function when the lookup value is a text string and when the fourth argument indicates exact match logic (FALSE or 0). In simple vlookup we have exact or approximate match but with the use of wildcard characters you can have partial match also i.e. It is going to check value with a partial match.

we are going to learn Questionmark (?) Wildcard character with example :

we need sales amount of product code 8560SEE which is combination of number and model. We want to have sales amount though we know only number of product that is 8560 not the model

	A	B
1	PRODUCT CODE	SALES AMOUNT
2	1109SWY	156000
3	1569RAM	150323
4	8560SEE	262303
5	1234DIL	2262303645
6	0HAR	65465
7	7890JYO	65656
8		
9	Product code Number	8560
10	Formula	=VLOOKUP(B9 & "???", A2:B07, 2, 0)
11	VLOOKUP+ Wildcard character	262303
sr no	Lets understand this in detail	Explanation
1	lookup value = It's the value to be found in the first column of the table and can be value, a reference, a string, Text etc	In our example we need product code 8560SEE Sales amount. So lookup value will be 8560 & "???" i.e B9 & "???"
2	Table Array = It is a table of text, numbers, or logical value, in which data is retrieved. It can be a reference to a range or a range name	A1:B7
3	Col_index_num = is the column in a table_array from which the matching value should be returned. The first Column of values in the table is column 1	As our answer lies in second column - 2
4	range_lookup = It is a logical value: to find closest match in the first column (sorted in ascending order) = True or omitted: find an exact match = False.	It will be always exact match in case of partial match. so we are going to take false or 0



The Obstacle in our Path

(Contributed by **CA. Neelo Porwal**)

There once was a very wealthy and curious king. This king had a huge boulder placed in the middle of a road. Then he hid nearby to see if anyone would try to remove the gigantic rock from the road.

The first people to pass by were some of the king's wealthiest merchants and courtiers. Rather than moving it, they simply walked around it. A few loudly blamed the King for not maintaining the roads. Not one of them tried to move the boulder.

Finally, a peasant came along. His arms were full of vegetables. When he got near the boulder, rather than

simply walking around it as the others had, the peasant put down his load and tried to move the stone to the side of the road. It took a lot of effort but he finally succeeded.

The peasant gathered up his load and was ready to go on his way when he saw a purse lying in the road where the boulder had been. The peasant opened the purse. The purse was stuffed full of gold coins and a note from the king. The king's note said the purse's gold was a reward for moving the boulder from the road.

The king showed the peasant what many of us never understand:

"Action is a foundation key to all success" and thus "every obstacle presents an opportunity to improve our condition".

GST - Its tryst with Indian Constitution

(Contributed by **Advocate Ambarish Pandey**)

A tax is a compulsory exaction of money levied by the legislature without conferring any visible benefit to the taxpayers. Article 265 of the Indian Constitution states that no taxes shall be levied or collected except by authority of law.

In the case of *Govind Saran Ganga Saran vs. Commissioner of Sales Tax*, AIR 1985 SC 1041, Hon'ble Supreme Court stated the following to be essential components of levying a tax viz. (i) taxable event; (ii) Taxable person; (iii) Rate of Tax; and (iv) Taxable value

A challenge to any tax law can be made on the two-fold grounds, which are:

- i. Where the legislature is not competent to enact a law levying tax; and
- ii. Where the tax levied infringes upon the fundamental rights being arbitrary, discriminatory or violative of equality as also for creating an unreasonable restriction to carry on business and trade.

For a legislature to be competent to enact a law, the subject must fall in respective lists enumerated in 7th Schedule to Constitution of India

Part III of the Constitution of India

Article 14 of the Indian Constitution states that the State

shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. Briefly put, following are the concomitants to determine whether the law is arbitrary and/or discriminatory:

- i. Whether the classification is founded on any intelligible differentia?
- ii. Whether the basis for differential treatment has any rational nexus with the object sought to be achieved?

Scope of Article 226

Article 226 of the Indian Constitution confers the High Courts with the power to issue directions, orders or writs for the enforcement of Fundamental Right and for any other purpose. Such power conferred upon the High Courts cannot be restricted by legislation as Article 226 is part of judicial review and therefore forms part of basic structure of the Indian Constitution.

GST: Approach of the Judiciary

The new regime of Goods and Services Tax ("GST") has begun since 1st July 2017. For the lack of clarity in the respective statutes and the corresponding rules, Assessee's are constrained to approach the High Court by way of writ petitions in the jurisdictional High Court.

Several writ petitions have already been filed before various High Courts pertaining to applicable tax rates on commodities and other issues. However, Courts seem inclined to not interfere in issues pertaining to rate of tax

treating it as a policy decision, which is best suited for the legislature to decide. However, other issues regarding non-availability of input credit of CGST in SGST, classification as goods or services etc. are likely to be scrutinized by the High Courts in the writ petitions under Article 226.

We take a birds eye view of the recent decisions of various High Courts where challenges were made to provisions in IGST, CGST and SGST:

- i. In the case of J.K. Mittal & Co. vs. Union of India, W.P. (C) No. 5709/2017, a notification dated 15.07.2017 introducing reverse charge mechanism on services provided by legal practitioners was challenged. Hon'ble Delhi High Court, vide its Order dated 18.07.2017 directed that no coercive steps towards recovery from legal practitioners or law firms shall be taken until further orders.
- ii. In another case of Mohit Minerals Pvt. Ltd. vs. Union of India, 2017-TIOL-01-SC-GST, challenge was made to the GST (Compensation to States) Act, 2017. Hon'ble Delhi High Court granted ad-interim relief stating that no payment of compensation cess can be imposed for stocks where clean energy cess has already been paid.
- iii. In the case of Zarmina Khan vs. Union of India, W.P.

(C) No. 6034 of 2017, challenge was made to the imposition of GST at 12% on sanitary napkins. Hon'ble Delhi High Court questioned the policy of government in not granting exemption on the necessities like sanitary napkins and proceeded to issue notice to GST Council and Ministry of Finance.

- iv. In the case of GNG Enterprises vs. State of Uttar Pradesh, Writ Tax No. 518 of 2017, a petition was filed challenging levy of entertainment tax under U.P. Entertainment & Betting Tax Act, 1965 despite introduction of GST. However, Hon'ble Allahabad High Court did not grant any stay on imposition of such tax on the ground that no repealing notification was issued by the State Government.

From the analysis of the constitutional provisions and the approach of the High Courts towards challenge to provisions under GST regime, it can be observed that the High Courts do not seem to have a conservative view for ambiguity in the provisions of CGST, SGST and IGST legislations. However, where the challenge pertains to issues which are best suited for the legislature to determine, High Courts might observe restraint and give legislature some more time to come out with notifications, circulars and other clarifications to remedy the situation.

Forth coming Events

S. N.	Date	Name of the Seminar, Lecture Meeting, Etc.	Venue	Program Details	Fees	CPE
1	23-01-2018	Lecture Meeting on GST	ICAI Bhawan, Shantinath Hall, Ahmedabad Branch 123, Sardar Patel Colony, Naranpura, Ahmedabad	https://icaiahmedabad.com/event.php?id=OTg5	Rs. 150/- + 18% GST per Member	2
2	03-02-2018	Lecture Meeting On Finance Bill (Budget) 2018: Direct Taxes	Sabarmati River Front, Event Centre Block A, Behind Tagore Hall, Paldi, Ahmedabad	https://icaiahmedabad.com/event.php?id=OTg1	Rs.100/- + 18% GST per member till 31-01-2018 thereafter Rs.150/-	2
3	10-02-2018	Post Qualification Course on Information System Audit Practical Training	Hotel Starottel (St.Laurn), Old Vadaj, Ahmedabad	https://icaiahmedabad.com/event.php?id=OTg4	Rs. 20,000/- per person.	*

* Candidates who have successfully started their ISA Professional Training after 1st April, 2016 are eligible for 25 CPE credit for successful completion of classes and 5 CPE for qualifying ISA Assessment Test (AT).



Two Day Seminar on Litigation Skill Development Program - ITAT on 15-12-2017 & 16-12-2017

Mega Summit





Tally ERP-9 as Audit Tool on 16-12-2017



Total Quality Life and Achieving Excellence in Profession on 18-12-2017



1st IND AS Study Group Meeting on 19-12-2017



Seminar on GST on 20-12-2017



Mega Summit 2017 at Ahmedabad on 22-12-2017 & 23-12-2017



Study Group on Insolvency & Bankruptcy on 21-12-2017



Seminar on Business Opportunities in USA on 4-12-2017



Two Day Seminar on Important aspects & latest developments on 29-12-2017 & 30-12-2017

RRC



5th Residential Course on GST at White Rann of Kutchh, Dhordo on 01-12-2017 to 03-12-2017



Certificate Course on Forex and Treasury Management on 09-12-2017

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