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DTPA-J

Direct Taxes Professionals' Association Journal

Volume 1 - 2019-20 | December, 2019

For Private Circulation only

- **AMENDMENTS**
- **CHANGES**
- **COMPLIANCE**
- **REVIEW**





Diwali & Bijaya Get together at Panache Banquet (Merlin Homeland Mall) on 1st November, 2019



INTERNATIONAL TRIP





EDITORIAL



First of all, I express my gratitude towards the President and the Committee Member for giving me responsibility of Chairman of Our esteem DTPA Journal Editorial Board for the Year 2019 -2020 and wish all of you a very Happy and Prosperous New Year.

Every time there are changes in law and we Professionals have to upgrade ourselves with all the changes so that we can serve the nation better and make us as well our clients' statute compliant. In this Journal we have tried to contribute through Valuable articles on contemporary topics which will enhance our knowledge and provide clarity on the issue.

Stricter reporting regime coming soon for auditor and the Ministry of Corporate Affairs (MCA) is expected to take a major step to revamp the auditors report that accompanies Company Balance Sheet, placing more onus on statutory auditors to full fill their Professional responsibility. The move is expected in February. Besides overhauling the Companies Auditors Report Order (CARO), the government is also likely to make changes to the Secretarial audit reporting that is mandated under the Company law.

As we all know that economy is facing critical Challenge and on 1st February 2020, we have Annual Budget and there are Lot of expectations from this Budget, which will put the economy back on rail.

Members who are interested to contribute article in DTPA Journal may share their knowledge through DTPA Journal & their efforts are very much welcome.

Happy New Year once again and Happy Budget 2020.

With Warm Regards

CA Mahendra K Agarwal
Chairman DTPA Journal Committee
5th January 2020

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FROM THE DESK OF **THE PRESIDENT**



Dear Members,

It gives me immense pleasure in writing this message through DTPA Journal for the first time and as I sit to pen this message in the first week of January, with the advent of new year -2020 , the first thing that comes to my mind is to wish each one of you – “A very Happy and Prosperous New Year”.

The pressure of time barring assessments is just over and its time to submit appeals, more importantly related to the addition of one of the most taxing sections of the Income Tax Act 1961 , the section 115BBE. However I am sure all of us are equipped with professional excellence and will be able to tackle with the situation. Moreover, our Association will also hold study circle meeting to address the issue.

As we move ahead, there will shortly be announcements of the Annual Budget on 1st of February 2020, a budget in most critical conditions of the Economy, in recent times within the last decade. In these difficult times, one may wonder as to how the Hon’ble Finance Minister would do justice with the expectation of the masses including individuals, trade and industry . We have planned a Budget Seminar on 3rd February 2020 at Kalamandir to address the implications of the provisions of the Finance Bill, where experts across the city and other cities of the country would deliberate. In this Journal we also print the results of the survey conducted by our association with pictorial graphs as received from the professionals, which may be considered appropriate by the Government, while drafting the Finance Bill.

The two day Residential Conclave 2020 on 22nd and 23rd Feb will also be one of our programmes to follow, which we have started last year only and it will be our endeavour to make complete provision of dissemination of knowledge and fellowship together.

Well this is not the place where I should only be mentioning of programs, in this Journal we have made an attempt to give you some articles composed by experts on various topics of professional interest. My sincere appreciation and heartfelt thanks to the authors, who have taken out their precious time to compose the articles.

While I with the continuous support and co-operation of my colleagues in the Office Bearer Group and Executive Committee and the expert suggestions from Former Presidents make every possible attempt to achieve the goals and objects of the Association, might be missing on some important issues, for which I request all of you to feel free to communicate. Feel free to communicate at president@dtpa.org.

With Warm regards and once again a Happy New Year.

CA Narendra Kumar Goyal

President -DTPA
5th January 2020



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NBFC Landscape in India : Recent Developments

Debashis Ghosh, FCA

Non-banking finance companies (NBFCs) form an integral part of the Indian financial system. They play an important role in nation building and financial inclusion by complementing the banking sector in reaching out credit to the unbanked segments of society, especially to the micro, small and medium enterprises (MSMEs), which form the cradle of entrepreneurship and innovation. NBFCs' ground-level understanding of their customers' profile and their credit needs gives them an edge, as does their ability to innovate and customise products as per their clients' needs. This makes them the perfect conduit for delivering credit to MSMEs.

With the ongoing stress in the public sector banks due to mounting bad debt, their appetite to lend (especially in rural areas) is only going to deteriorate, thereby providing NBFCs with the opportunity to increase their presence. **The success of NBFCs can be clearly attributed to their better product lines, lower cost, wider and effective reach, strong risk management capabilities to check and control bad debts, and better understanding of their customer segments.**

However, NBFCs operate under certain regulatory constraints, which put them at a disadvantage vis-à-vis banks. While there has been a regulatory convergence between banks and NBFCs on the asset side, on the liability side, NBFCs still do not enjoy a level playing field. This needs to be addressed to help NBFCs realise their full potential and thereby perform their duties with greater efficiency.

As of March 2019, there were 9,659 NBFCs registered with the Reserve Bank of India, of which 88 were deposit-accepting. There were 263 systemically important nondeposit accepting NBFCs. They face prudential regulations such as capital adequacy requirements and provisioning norms, besides reporting requirements. Housing finance companies (HFCs) have capital requirement of 12% versus 15% for NBFCs and 9% for banks. (NBFCs whose asset size are of ₹ 500 cr or more as per last audited balance sheet are considered as systemically important NBFCs). The Reserve Bank of India (RBI) cancelled licences of 1,701

non-banking financial companies (NBFCs) in the year ended 31 March for failing to meet minimum capital requirements, according to data compiled by *Mint*.

As top 50 non-banking finance companies need Rs 95,000 crore to repay debts, of which Rs 70,000 crore are commercial papers, and banks will have to lend more to the sector to avoid defaults, says a report.

ILFS Saga

How it started

L&FS Ltd, or Infrastructure Leasing & Finance Services, is a core investment company and serves as the holding company of the IL&FS Group.

Infrastructure Leasing & Financial Services Ltd (IL&FS) was a trusted name in the financial sector or infrastructure sector. It had been associated with landmark projects such as the tunnel under the Zoji La Pass, Delhi-Noida toll bridge, Gujarat International Finance Tec-City (GIFT) and a host of road, power, water and port projects. Developments included the Chenani-Nashri tunnel — India's longest road tunnel at 9 kilometres (5.6 miles)

Three of its group companies are listed on the stock markets. They are IL&FS Investment Managers Ltd., IL&FS Engineering and Construction Company Ltd. and IL&FS Transportation Networks Ltd.

Thus, when a company with a debt of over Rs 90,000 crore defaults, news about it travels fast and wide. It started when Infrastructure Leasing & Financial Services (IL&FS) defaulted on its payment obligations, followed by downgrades by credit agencies in the past two months. On 17 September, rating agency ICRA downgraded IL&FS's credit rating to default, after it failed to meet repayment obligations of ₹12,000 crore in short-term and long-term borrowings.

It earlier defaulted on Rs1,000 crore loan from the Small Industries Development Bank of India on 13 September. The next day, it failed to redeem commercial papers worth Rs105 crore. The Reserve

Bank of India (RBI) ordered a special audit of the firm. So far, all defaults have taken place at the holding company level. The SPVs set up for specific projects have continued to meet their interest payment obligations.

Who owns IL&FS?

The LIC owns 25.34 per cent stake while SBI owns 6.42 per cent. Orix Corporation of Japan is also one of the largest shareholders of IL&FS with 23.54 per cent stake.

On the other hand, Abu Dhabi Investment Authority, HDFC and Central Bank of India also hold 12.56 per cent, 9.02 per cent and 7.67 per cent stake respectively.

Who is responsible?

The management of IL&FS is mainly responsible for the default. Poor management decisions resulted in IL&FS financing and getting itself involved in projects that were either unviable or had a long gestation period.

Asset Liability Mismatch

The long gestation period of the projects was not matching with the short-term, high-cost fund that the company was able to raise, thus causing an asset-liability mismatch. Simply put, the company borrowed many times its equity (10-18 times its equity) to fund its infrastructure projects, most of which bring in returns over 20-25 years. Making things worse, IL&FS's borrowings were all repayable in the short to medium-term of roughly 8-10 years. Usually, these would be rolled over at the end of the term.

Infra projects getting stalled

Where IL&FS ran into trouble was in its projects stalling and not being completed due to various reasons ranging from statutory approvals not coming in, problems of land acquisition and projects simply becoming unviable as it happened in the case of power plants.

Red Flags

In its limited review report for the quarter ended June 20, 2018, the statutory auditor SRBC & Co has drawn the company's board of directors attention to the "existence of material uncertainty on the company's ability to continue as a going concern" and the "management plan to raise funds.

Reports say the Risk Management Committee of IL&FS did not even meet for three years.

Govt./RBI Reaction & Current Situation

Government decided to move the National Company Law Tribunal (NCLT) to take over IL&FS by replacing all board members. The government superseded the existing board of IL&FS with six new board members. A Serious Fraud Investigation Office (SFIO) has also initiated.

Kotak Mahindra Bank MD Uday Kotak has been appointed as the Chairman of the board.

Separately, the Institute of Chartered Accountants of India (ICAI) and the National Financial Reporting Authority started examining the role of the auditors and whether they colluded with the board to hide information. The preliminary enquiry report of the Mumbai regional director of the corporate affairs ministry has highlighted "corporate-related deficiencies" in the IL&FS holding company and its subsidiaries.

Govt stepped in to ensure that adequate liquidity was provided to NBFCs, mutual funds and small and medium enterprises, after stock and bond markets were rattled.

Impact on NBFC's & Future Trend

About half the incremental credit in the past five years came from NBFCs and HFCs, and top 10 para banks contributed about 30%. Most NBFCs have short-term loans, which fund long-term borrowings.

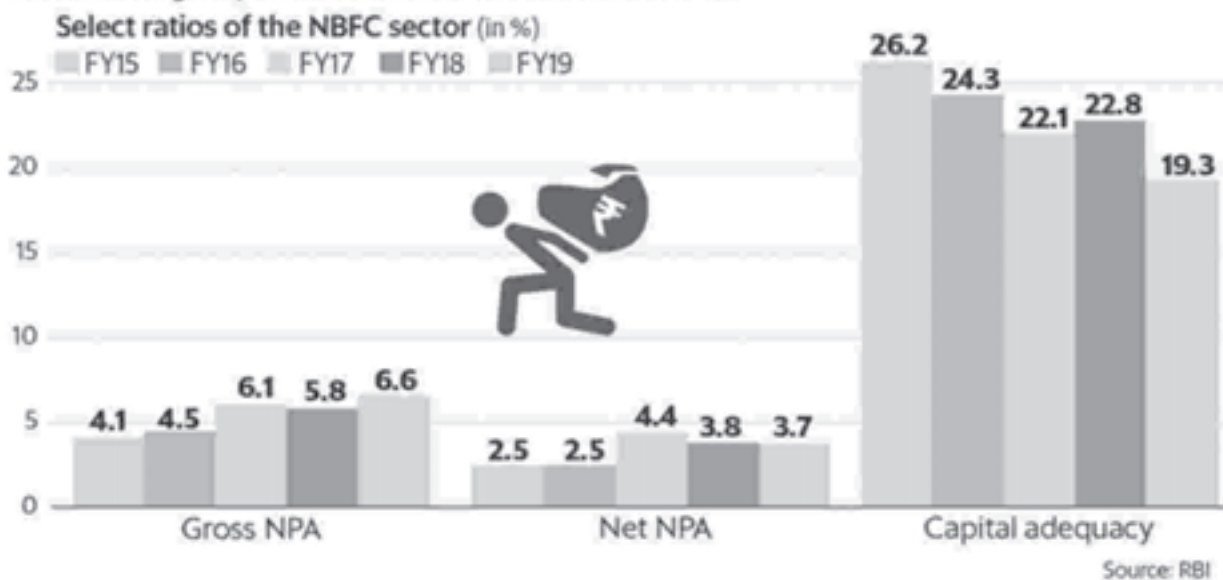
Bank assets and liabilities are regulated by Reserve Bank of India (RBI). NBFCs borrow from banks. According to the Financial Stability Report, 2018, **banks had 44% exposure to NBFCs**, followed by asset management companies managing mutual funds at 33%, and insurance companies at 19%.

In Current time of liquidity crisis - The regulator and government should support these entities while monitoring them in a reasonably stringent manner rather than clubbing them with approx. 10,000 NBFCs in the country

NBFCs had harnessed increased demand, banking stress, digital disruption, credit bureaus, and distribution reach to expand. But they must now reinvent their financing models – align asset and liability tenures – to survive. So, NBFCs need to generate the business but either securitises the liabilities or hive them off their books quickly to always align their outbound cash flows with the inbound.

Bad to worse

RBI data shows that gross bad loans of the NBFC sector, as a percentage of total advances, increased from 5.8% in FY18 to 6.6% in FY19. However, the net non-performing asset ratio declined marginally from 3.8% in 2017-18 to 3.7% in 2018-19.



Bigger Questions

1. While a detailed probe is needed to understand how IL&FS collapsed from AAA to junk grade in such a short span of time, and why the rating agencies did not see it coming. The much bigger question is if the government is going to allow status-quo, by bringing in money by asking LIC to invest more, or will they have the courage to put the company through a public auction, like in the case of Satyam.
2. A detailed investigation would be needed to understand what really happened and to what extent were project costs inflated due to gold-plating, to provide money to those within the IL&FS system.
3. It also needs to be analysed how a company listed as “systemically important” managed to fly under the radar with mis-governance. The debt pile-up due to over-leveraging did not happen overnight.
4. A crisis of this nature also puts the spotlight once again on the entire framework of corporate governance. Are the shareholders, which are well-known institutions, guilty of

misplaced faith in the management, or were they negligent?

5. The IL&FS case shows the gaps that exist in our financial systems especially asset liability mismatches or the credit risk in the NBFC space even now, which need to be plugged quickly.
6. IL&FS is a case study of all that is wrong with infrastructure financing in India - long gestation period and related payments by government. In case of disputes, the arbitration processes take four-five years. Even after being awarded, the payments do not flow to the developers. Delays cost businesses working capital shortages, liquidity problems and consequent defaults.

Conclusions

NBFCs will find new innovations and opportunities and they will also get their asset liability sorted out. In the short term, there may be some challenges, but these things will get rebalanced in a proper way. Going ahead - NBFCs will have to borrow longer tenors to minimise the risk asset liability mismatches

“As Darwin says, it's not the strongest that survives: the most adaptable will survive,”

“There will be NBFCs that adapt and ones that don't.”



Beyond Reasonable Assurance

Arijit Roy, FCA

1.1. The Challenge

The term “reasonable assurance” has been around in the auditing profession since the formation of PCAOB and issuance of AS 5. The underlying connotation of the term is that the auditor provides the Board of Directors a reasonable assurance (not absolute assurance) - that there are no material misstatements in the financials of a company. In other words, the auditor provides an acceptable level of comfort that the underlying control environment and activities are strong enough to prevent or detect any internal control weakness that could lead to a significant misstatement. To peel the onion further, the design and operating effectiveness of the controls (manual and automated) should be in place to prevent and/or detect errors or frauds that could lead to material or significant deficiency and impair veracity of the numbers reported and accuracy/adequacy of the disclosures made. The underlying emphasis is therefore, on the control environment and the control activities.

The control environment in today's business is far more complex, risky and dynamic than it was in early 2000. The personal risk exposure of KMPs, Audit committee members and independent directors are significantly higher than before. This had raised the bar on audit quality by several notches along with it the expectations of the audit committees. The audit committees are delving into the details and asking crunchy questions on risk assessments, fraud risk exposures, data quality, audit approach and tests performed, control environment of third party service providers etc. Though the expectation is not “**absolute assurance**” but it is certainly beyond “**reasonable assurance**”. In view of the limited time, ever expanding audit risk and margin pressures, how does an auditor exceed audit quality expectations and also cover its own risk exposures?

1.2. The Solution

The control environment which is an integral part of the audit universe, now encompasses elements that are beyond the internal ecology of an entity. Currently, the skill set of the auditors, are limited to scan the control

environment, map the audit universe, develop the audit plan, design the test programs to match the ever expanding expectations.

COSO 2013, in its new corporate governance and control framework has aptly described the current environment and has laid significant emphasis on the non-financial and external reporting aspect, in addition to the financial and internal reporting considerations. It has embraced the extended enterprise concept, particularly in view of prolific use of third party service providers and has laid significant emphasis on information technology.

What is the secret sauce that would make an auditor embrace the business ecology that transcends beyond its own eco-system? We think, it is the ability of an auditor to:

- Grasp the overall business environment, the potential disrupters, technology and macroeconomic drivers
- Understand the data (internal and external), their structure and flow, in the control environment of an entity and the factors, which influence the control environment
- Delineate and disseminate and discern patterns to make data predictable and insightful
- Link data to businesses processes and controls
- Conduct predictive analysis and forecast future risks with the probability of occurrence
- Transit amongst the varied roles – of analysts, control experts, consultants, teachers, partners, financial advisers, compliance experts and more.

Long burdened by manual processes and tedious tasks, IA departments can now turn much of the "grunt work" over to digital auditors who don't mind working 24*7 without fatigue and who rarely make mistakes when managed properly. This has the potential to increase efficiency, effectiveness, and quality throughout the IA life cycle, thereby creating more value for the business and making better use of the most precious resource of all—intelligent, highly skilled human talent.

1.3. Data Demography

The age of automation has arrived and with it brings the opportunities for integrating Internal Audit (IA) Robotic Process Automated (RPA) into the third line of defence i.e. Internal Audit. IA function can begin their much exciting and rewarding journey of automation by

expanding their use of traditional analytics to include predictive models, RPA and Cognitive Intelligence (CI).

To provide a high degree of comfort auditors need to look into both structured and unstructured data sources both within and outside the entity. Examples of such data sources are given below:

Structured Data	Unstructured Data
Internal systems, spreadsheets, customer and vendor transactions	Social media, blogs, Messages, Media & Press, personal emails
Official emails, RFIDS, IOT sensors	Video streaming
ERP	Weather patterns, Stock, bond & commodity exchanges Crypto currency exchanges

1.4. Use case

Industry	Manufacturing
Process	Procurement
Activity	Vendor selection
Risk	Vendor default

	Conventional Approach	Digital Approach
Audit Objective	Checking internal controls design and operating effectiveness to prevent or detect risks arising out of vendor default	Checking internal controls design and operating effectiveness to prevent or detect risks arising out of vendor default
Risk	Process does not always ensure selection/hiring of a credible vendor	Process does not always ensure selection/hiring of a credible vendor
Internal Control Checks (Illustrative)	<ul style="list-style-type: none"> Compliance with internal SOP for selection of vendors Internal controls that look at past history of on-time delivery and quality of delivery as a preventive check Process to prevent concentration risks 	<p>In addition to what is stated under the conventional approach, analyze data from:</p> <ul style="list-style-type: none"> Social Media Credit Rating Agencies Business Forums Chambers of Commerce Newspaper and Media Reports Industry intelligence reports/blogs
	<ul style="list-style-type: none"> Process to ensure on time corrective measure/s if the risk is detected 	<ul style="list-style-type: none"> Emails Database of court cases Field visits <p>Information from competitors to develop a profile of the vendor/s that could predict possible vendor failure</p>

<i>Data Source and Types</i>	<i>Primarily Historical Mostly internal, financial Few qualitative and non-financial</i>	<i>Combination of Current and Historical Internal and External Structured and Unstructured</i>
<i>Audit Analytics</i>	Checking Compliance with the SOP based on samples Static Data Analysis based primarily on internal and structured data	<i>Based on the risk and audit objective define the data points Dynamic. Continuous analysis of data. Ability to generate patterns and possibility of prediction At an advanced stage ML and Cognitive Learning can be used to detect/prevent critical control failures.</i>

Illustrative Use Cases are given below:

SL #	Major Processes - Activities
1	Procure to Pay
1.1	- Split Purchase Orders
1.2	- Duplicate vendor accounts
1.3	- Vendor details same/ similar to employee's details
2	Administration
2.1	- Travel expenses claimed beyond eligibility and/or unauthorization
2.2	- Flight booking at short notice at higher tariff resulting to avoidable higher cost
2.3	- Stay booking (within eligibility) at higher tariff than available (via various modes)
3	Order to Cash
3.1	- Reperformance testing like Bank Reconciliation, GST Reconciliation, etc.
3.2	- Long pending overdue from customers beyond credit period
3.3	- Sales Order pending to be delivered beyond due date
3.4	- Discounts not as per Schedule of Authority
4	Hire to Retire
4.1	- Training calendar set as per the requirements specified in PDP of employees
4.2	- Whether leave without pay and absent is deducted in computation of pay days for payroll
5	Inventory Management
5.1	- Old aged inventory without consumption over considerable period, further procured
5.2	- Delays in creation of Goods Receipt in system post physical receipt of goods

The use case given below is a walk-through of the concept of digital audit approach.

An automated audit approach using audit bots will bring about the following advantages to the organization and the Internal Audit function:

- Increased Risk Intelligence
- Enhanced governance
- Control self assessment
- More business value
- Effective and efficient
- Comprehensive

- Insightful presentations
- Continuous Testing and Monitoring (near Just in Time)
- Early detection
- Focused and timely mitigation through predictive capabilities

1.5. Approach

Our audit approach is based on the power of Robotics Process Automation (RPA) and advanced analytics platform, which will automate a significant part of operating effectiveness testing and analyze near real

time the exceptions, deviations and errors.

The bots will do data parsing – i.e. mine and assess the results from multiple perspectives to establish new relationships, patterns and correlations. The ability to uncover trends in large volumes of data will enable us to provide greater insight and also visualize the resultant output. The bots are self-learning as a result of which they continuously improve the outcome of tests as the data volume increases.

Audit bots tests 100% of data population on a continuous basis. The direct result is Audit Just-in-Time which will enable the management to take remediation measures promptly which promotes the 'Control Self-Assessment' culture. The audit will no more remain a "post-mortem" activity rather it becomes a dynamic process with capabilities to forecast the future trend of risks. The tool also automates the more routine activities for resources to do a deeper dive on the more strategic and complex issues. It has cognitive ability therefore can provide a 'root-cause' analysis.

With greater coverage (enhanced population and continuous auditing), **Audit bot** will support in increasing the level of assurance provided on the overall risks and controls. The strength of the tool also lies in its ability to adapt quickly to an ever-changing audit landscape.

The platform has wide range of analytic capabilities, such as Dashboards and Alerts, Charts, Graphs, Statistics and Machine learning, and, Data Management enabling 360 degrees analytics.

On descriptive analytics, it provides a host of standards to advanced visualization options including performance management, benchmark comparison, trends, geo-spatial etc.

On predictive analytics, the platform provides multiple in-built advanced statistical and data mining algorithms. It also provides extremely fast Google-like search (elastic) as its core functionality.

1.6. Value Proposition

While the concept is not new, the difference is the mechanics of the solution and execution process. **AuditWise** is a digital audit platform that provides end-to-end solution by integrating domain knowledge, audit understanding and technological capabilities. It reduces cost of control by automating the test of operating effectiveness of control. Digitization lowers the audit risk exposure since it analyses 100% of the transactions. It also enhances the level of assurance and improves the control environment by cascading the stewardship of controls to the process owners.

However, the seminal importance of digital audit is early detection of control failures that could impact organizations and diminish stakeholder value. The key questions, therefore, that the CAEs need to ask are:

- The disruptions or control failures that would erode stakeholder value
- The process that would qualify for digitizing audits (based on data availability) from the perspective of improving the control environment
- The risks that need to be monitored continuously
- Efficiency and economies of scale

1.7 About Us

TCG Digital (www.tcgdigital.com) the flagship technology consulting and solutions Company of The Chatterjee Group (TCG) that solves complex business problems with products, solutions and services leveraging modern technologies and deep expertise in analytics, mobility, cyber security, digital sourcing, block chain and robotics process automation.

TCG Digital focus on achieving excellence by delivering value-driven business solutions enabled with technology. Our investments in creating IP, nurturing talent and building knowledge assets for specific industry verticals like Aviation, Travel, Financial Services, Insurance, Power & Utilities, Consumers, Retail, Manufacturing, Pharmaceutical & Healthcare and Government & Public Sector help our clients maximize their returns on their investments. We continue to deliver strategic application development and maintenance services with our Offshore Knowledge Centers that form the core of most businesses.

TCG Digital's strength lies in our flexible and scalable solutions that are built on modern technology and deliver in-premise/ on the cloud.

We customize them to the unique needs of each of our customers. These, coupled with our quality human capital and industry benchmarked processes, make us the preferred choice for clients. We aim to be strategic consulting and technology partners for our clients and offer solutions that have long-term and sustainable benefits.

With prestigious clients across North America, Europe, Middle East and Asia Pacific, TCG Digital is present in eight cities i.e. New York, New Jersey (Somerset) and Chicago in USA, Singapore, Dubai in UAE and Kolkata, Delhi and Mumbai in India. A world class talented team consists of 1000+ Digital and Consulting minds focus on serving clients around the world.



SC ruling on Essar Steel Limited

CA Binay Kumar Singhania

Promotion of investments, time bound insolvency resolution, maximisation of the value of assets under distress, and promotion of entrepreneurship are the objectives of the Insolvency and Bankruptcy Code, 2016 (IBC). The IBC was enacted at a time when several Indian corporates were facing major financial difficulties.

Essar Steel, a company promoted by the Ruias, has been in news since it was included among the 12 companies against whom RBI had issued the 12th February, 2017 circular. The Corporate Insolvency Resolution Process against the company was initiated in August 2017 by the adjudicating Authority, National Company Law Tribunal, Ahmedabad.

ABOUT THE COMPANY

The company, which runs a 10 million tonne steel plant in Hazira, Gujarat, owed its bankers over Rs. 54,550 crore at the time that it couldn't pay back. The steel mill brings with it an iron ore pelletization plant each at Visakhapatnam and Paradip, and a downstream steel hub in Pune, close to one of India's automotive manufacturing hubs, offering a high-margin business of selling auto grade steel.

INSOLVENCY RESOLUTION OF ESSAR STEEL

Unlike the other corporate debtors, Essar Steel never faced any shortcomings in the number of prospective resolution applicants. There were several suitors for the asset - which included Numetal, Vedanta and JSW Steel.

However, the winning bidder was Lakshmi Mittal's Arcelor Mittal, the world's largest steel company, in partnership with Japan's Nippon Steel and Sumitomo Corporation, which offered to take over the asset by paying ₹42,000 crore and a further Rs.8,000 crore of equity infusion into the plant.

INITIAL HURDLES FOR ACCELORMITTAL

The bid made its way through multiple judicial courts and benches such as the NCLT, Ahmedabad bench, the National Company Law Appellate Tribunal (NCLAT), the Supreme Court, till the committee of creditors (COC) in October 2018 approved ArcelorMittal's Resolution Plan. To qualify to be an eligible resolution applicant as per provisions of section 29A of the code, Lakshmi Mittal had to pay about Rs.7469 crore towards the outstanding debt of two other insolvent assets -

Uttam Galva and KSS Petron - in which he held some equity shares

The promoters of the corporate debtor, Ruias then made a final attempt to save the asset by offering to pay back lenders the full ₹54,550 crore, which was yet again rejected by the Bench. The resolution plan of ArcelorMittal was approved by the NCLT on March 8, 2019.

NCLAT ORDER: OC TO BE GIVEN EQUAL PREFERENCE

NCLAT judgment given in Essar Steel matter had the effect of taking insolvency resolution processes under the IBC completely off track, the NCLAT being dissatisfied of the payout ratios, took the view that operational creditors stood on an equal footing as financial creditors and their claims had to be considered at par with those of financial creditors.

The most striking feature of the judgment of the NCLAT is the view taken that the CoC is not empowered to decide the manner in which claims of creditors are to be dealt with.

Under the proposed resolution plan the operational creditors against whom total claim of Rs.4976 crores was admitted shall receive a sum of Rs.1,200 crore resulting to a sharp haircut of 75.88%. Further Standard Chartered Bank, one of the formal lenders, having a claim of ₹3,487 crore shall receive Rs.60.71 crore which hardly 1.74% of the claim admitted. While the rest of the RS 42,000 crore would go to the secured financial lenders.

Therefore, the appellate tribunal ruled that unsecured lenders and operational creditors shall get 60.7% of their outstanding claims and proportionately share the money that ArcelorMittal has offered to pay for the Indian firm, which in rupee terms entails a payment of Rs.30,030 crore to financial creditors and Rs.11,969 crore to operational creditors.

Furthermore, the operational creditors with admitted claim amounts of less than Rs.1 crore would get 100%, while for those with claims of more than ₹1 crore, the payment would be 60.26%.

The other aspect of NCLAT's judgment was that claims decided by the resolution professional and affirmed by the NCLT or the NCLAT are considered to be final and binding on all creditors.

On the contrary, NCLAT took the view that operational creditors have separate classes within themselves and can be classified into sub-classes for the purpose of distribution.

This order amending the proposed resolution plan was not encouragingly accepted by the secured financial creditors, as it diminished their priority rights to the proceeds generated from the sale or liquidation of a bankrupt entity, including the settlement mechanism in future insolvency cases.

The day after the NCLAT judgement, the Union cabinet approved several changes to the bankruptcy law, including upholding secured creditors' priority rights on the sale or liquidation proceeds of insolvent companies.

The amendment was a welcome change for the secured financial creditors and hence a plea of relief was filed with the Hon'ble Supreme Court.

SUPREME COURTS VERDICT

In a landmark judgment pronounced by the Hon'ble Supreme Court on 15th November, 2019, which upheld the supremacy of the claim of Committee of Creditors comprising the financial creditors of the bankrupt firms over the distribution of claims.

The order shall finally end resolution process of Essar Steel, one of the oldest cases in the IBC process. With this verdict, steel tycoon Lakshmi Mittal can now finally bring his global giant ArcelorMittal to India to set up his business here.

Synopsis of the Verdict by Hon'ble Supreme Court

The Supreme Court quashed the earlier NCLAT order which brought parity between financial and operational creditors of Essar Steel in matters of distribution of proceeds. Aggrieved of the NCLAT ruling, the financial creditors had approached the apex court stating that the NCLAT order exceeds the scope of the IBC. They also argued that secured creditors have the first right over funds, an argument that had been used to deny Standard Chartered the same treatment as other financial creditors. With the Supreme Court finally upholding CoC's primacy over distribution of funds, a major area of concern has been addressed.

PROVISIONS AND ISSUED ADDRESSED IN THE ORDER

● Role of the Resolution Professional

The order laid down the Role of Resolution Professional as under:-

- (a) manage the affairs of the corporate debtor (CD) as a going concern during corporate insolvency resolution process (CIRP),
- (b) appoint and convene meetings of the CoC, so that they may decide upon resolution plans, and
- (c) collect, collate and finally admit claims of all

creditors, which must be examined for payment, in full or in part or not at all, by the resolution applicant and be finally negotiated by the Committee of Creditors (CoC).

Further it was also stated that the role of the RP is not **adjudicatory but administrative**.

● Role of the Prospective Resolution Applicant

- (a) The prospective resolution applicant has a right to receive complete information as to the CD, debts owed by it, and its activities as a going concern, prior to the commencement of CIRP. It has a right to receive information contained in the information memorandum as well as the evaluation matrix mentioned in Regulation 36B of the CIRP Regulations.
- (b) The resolution plan submitted by the prospective resolution applicant must provide for measures as may be necessary for the insolvency resolution of the CD for maximisation of the value of its assets, which may include transfer or sale of assets or part thereof, whether subject to security interests or not. The plan may provide for either satisfaction or modification of any security interest of a secured creditor and may also provide for reduction in the amount payable to different classes of creditors.
- (c) The resolution plan must (a) provide that the amount due to operational creditors (OCs) shall be given priority in payment over FCs, (b) must include provisions as to how to deal with the interests of all stakeholders, including financial creditors (FCs) and OCs of the CD, (c) provide for the term of the plan, management and control of the business of the CD during such term, and its implementation, and (d) demonstrate that it is feasible and viable, and that the resolution applicant has the capability to implement the said plan.

● Role of CoC in CIRP

- a. It is the commercial wisdom of the CoC to decide as to whether or not to rehabilitate the CD by accepting a particular resolution plan. The rationale for only FCs handling the affairs of the CD and resolving them have been deliberated upon by the BLRC, which formed the basis for the enactment of the Insolvency Code.
- b. The insolvency resolution is ultimately in the hands of the majority vote of the CoC. It may approve a resolution plan by a vote of not less than 66% of the voting share of the FCs, after considering its feasibility and viability, and various other requirements as may be prescribed by the Regulations.

- c. What is left to the majority decision of the CoC is the “feasibility and viability” of a resolution plan, which obviously takes into account all aspects of the plan, including the manner of distribution of funds among the various classes of creditors.
- d. It is the commercial wisdom of the majority of creditors to determine, through negotiation with the prospective resolution applicant, as to how and in what manner the CIRP is to take place.

● Jurisdiction of the AA and NCLAT

- a. The limited judicial review available to AA has to be within the four corners of section 30(2) of the Code. In respect of the NCLAT, it has to be within parameters of section 32 read with section 61(3) of the Code. Such review can in no circumstance trespass upon a business decision of the majority of the CoC.
- b. The residual jurisdiction of the NCLT under section 60(5)(c) cannot, in any manner, whittle down section 31(1) of the Code, by the investment of some discretionary or equity jurisdiction in the AA outside section 30(2) of the Code, while adjudicating a resolution plan.
- c. There is no doubt whatsoever that the ultimate discretion of what to pay and how much to pay each class or subclass of creditors is with the CoC, but, the decision of such Committee must reflect the fact that it has taken into account maximising the value of the assets of the CD and the fact that it has adequately balanced the interests of all stakeholders including OCs. While the AA cannot interfere on merits with the commercial decision taken by the CoC, the limited judicial review available is to see that the CoC has taken into account the fact that the CD needs to keep going as a going concern during the insolvency resolution process; that it need to maximise the value of its assets; and that the interests of all stakeholders including OCs has been taken care of. If the AA finds, on a given set of facts, that the aforesaid parameters have not been kept in view, it may send a resolution plan back to the CoC to re-submit such plan after satisfying the aforesaid parameters. The reasons given by the CoC while approving a resolution plan may thus be looked at by the AA only from this point of view, and once it is satisfied that the CoC has paid attention to these key features, it must then pass the resolution plan, other things being equal.

● Secured and Unsecured Creditors

- a. Protecting creditors in general is, no doubt, an important objective. Protecting creditors from each other is also important.
- b. If an “equality for all” approach recognising the rights of different classes of creditors as part of an insolvency resolution process is adopted, secured FCs will, in many cases, be incentivised to vote for liquidation rather than resolution, as they would have better rights if the CD is liquidated. This would defeat the objective of the Code which is resolution of distressed assets and only if the same is not possible, should liquidation follow.
- c. The amended Regulation 38 does not lead to the conclusion that FCs and OCs, or secured and unsecured creditors, must be paid the same amounts, percentage wise, under the resolution plan before it can pass muster. Fair and equitable dealing of OCs rights under the Regulation 38 involves the resolution plan stating as to how it has dealt with the interests of OCs, which is not the same thing as saying that they must be paid the same amount of their debt proportionately. So long as the provisions of the Code and the Regulations have been met, it is the commercial wisdom of the requisite majority of the CoC which is to negotiate and accept a resolution plan, which may involve differential payment to different classes of creditors, together with negotiating with a prospective resolution applicant for better or different terms which may also involve differences in distribution of amounts between different classes of creditors.
- d. Quite clearly, secured and unsecured FCs are differentiated when it comes to amounts to be paid under a resolution plan, together with what dissenting secured or unsecured FCs are to be paid. And, most importantly, OCs are separately viewed from these secured and unsecured FCs in Sl. No. 5 of paragraph 7 of statutory Form H of the CIRP Regulations.
- e. The Code and the Regulations, read as a whole, together with the observations of expert bodies and the Supreme Court's judgment, all lead to the conclusion that the equality principle cannot be stretched to treating unequals equally, as that will destroy the very objective of the Code - to resolve stressed assets. Equitable treatment is to be accorded to each creditor depending upon the class to which it belongs: secured or unsecured, financial or operational.

f. The re-avital difference between the jurisdiction of the High Court under section 392 of the Companies Act, 1956 and the jurisdiction of the AA under the Code. The AA is to decide on whether a resolution plan passes muster under the Code and there is no residual jurisdiction not to approve a resolution plan on the ground that it is unfair or unjust to a class of creditors, so long as the interest of each class has been looked into and taken care of.

● **The constitution of sub-committee by the CoC**

- a. The powers of the CoC under section 28(1)(h) in respect of matters which have a vital bearing on the running of the business of the CD, though administrative in nature, shall not be delegated to any other person. The CoC alone must take the decisions mentioned in section 28.
- b. The power to approve a resolution plan under section 30(4) cannot be delegated to any other body as it is the CoC alone that has been vested with this important business decision which it must take by itself. However, this does not mean that sub-committees cannot be appointed for the purpose of negotiating with resolution applicants, or for the purpose of performing other ministerial or administrative acts, provided such acts are ultimately approved and ratified by the CoC.

● **A time bound and speedy resolution**

The delay in the resolution of insolvent corporate debtors occurs due to pending litigation initiated mostly on account of operational creditors expressing their unhappiness over the distribution of funds. Their stance is that they get a raw deal from the IBC process and have to take steep haircuts.

The Supreme Court's verdict will put those concerns to rest as it said that even though the Committee of Creditors will have a final say on apportioning the funds received, it has to take care of the interests of the operational creditors as well. This ruling is premised on the fact that no concern can function without operational creditors.

● **The 330-day deadline for CIRP**

The Supreme Court has done away with the 330-day mandatory deadline for the resolution of insolvency and bankruptcy cases after which liquidation will be invoked.

The 330-day deadline was brought in through amendments by the government this year with the

purpose of bringing down litigation time. The original window of 270 days had been breached in many cases on account of litigation. Courts treated the time spent in litigation as outside of the 270-day window, thereby causing major delays to the resolution process. The 330-day deadline included time spent on litigation. The Supreme Court has given the adjudicating authority the powers to decide if it needs more time to decide on a specific case.

● **The Waterfall table for distribution of funds**

IBC follows a waterfall table mechanism which essentially portrays the order in which the liquidation proceeds will be distributed among the different categories of creditors. Under section 53 of the code. According to the provision of Section 53 of the code, secured financial creditors hold the first right over the distribution of funds followed by unsecured financial creditors and operational creditors, in that order.

WATERFALL TABLE AT A GLANCE

I	Insolvency Resolution Cost & Liquidation Cost in full
II	Workmen Dues (past 24 Months) & Debts owed to secured creditors with relinquished Interest
III	Wages and unpaid dues owed to employees other than workmen
IV	Financial Debts owed to unsecured creditors
V	Government Dues & debts owed to secured creditors following enforcement of security interest.
VI	Any other remaining debt
VII	Preference Shareholder (if any)
VIII	Equity shareholders

Currently as the government is considering of a fixed proportion for operational creditors in order to cut down on frivolous litigations. They shall have to factor in the waterfall table mechanism because committee of creditor may favour liquidation in the event of them taking a more steeper haircuts.

CONCLUSION

The IBC's biggest USP was its time-bound resolution of bankrupt firms and allowing them to remain as going concerns; companies are referred for liquidation only in extreme cases.

A faster IBC resolution is in the interest of all stakeholders as it will relieve the banking sector of the stress it is currently facing in terms of NPAs. This is important for improving India's business climate and ease of setting up new businesses.



Conditions and Restriction under ITC

CA Madhulika Jain

Input tax Credit is the backbone of the GST and it is also a mechanism to avoid Cascading effect of taxes. One of the radical features of GST is the seamless flow of input credit across the chain from the manufacture of goods till it is consumed, more peculiarly across the country. It was expected that in GST regime, seamless credit would be allowed to business houses. Astonishingly, inter-alia, the credit restrictions mentioned under section 17(5) among other things, continue to remain (in respect of both goods and services) in the GST regime. This continuation of denial will lead to substantial tax cascading. Also, another round of litigation will result as interpretation issues would crop up while determining eligibility or otherwise of GST paid.

As per section 16(1) of the CGST Act, 2017 “any registered person can avail credit of tax paid on the inward supply of goods or services or both which is used or intended to be used in the course or furtherance of business and the said amount shall be credited to electronic credit ledger”.

A registered person will be eligible to claim Input Tax Credit (ITC) on the fulfilment of the following conditions:

1. Possession of a tax invoice or debit note or document evidencing payment
2. Receipt of goods and/or services
3. Tax has been paid to the government.
4. Furnishing of a return.

Apart from the above conditions there are some more conditions laid down in section 16 and section 17 of the CGST Act, 2017 and rule 36 of the CGST rules, now a new restriction is imposed on ITC as per newly inserted rule 36(4).

Restriction on availment of the input tax credits (ITC) not appearing in form GSTR-2A

The government has taken a pre-emptive action to curb fraudulent Input Tax Credit (ITC) claims after various frauds were unearthed in the past year on claimed ITC on fake invoices, or through physically non-existent businesses, which were totaling in crores.

In a major move to linked the ITC of the recipient with the payment of the taxes by the suppliers of the services, Government of the India, Ministry of the Finance vide Notification no.75/2019- Central Tax dated 26th December, 2019 has again amended . (Earlier it was amended vide Notification No.49/2019-

Central Tax dated 09th October 2019)

As per the said rules, in rule 36, after sub-rule (3), the following sub-rule (4) has been inserted:

“(4) Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed 10 percent of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37.”

Note: Earlier the said restriction was 20% of eligible Invoices. With effect from 1st January 2020 it has been restricted to 10%.

Pre-requirement: Eligible ITC should satisfy the conditions u/s 16 & 17 of CGST Act along with rule 36 of CGST Rules.

To simplify further, ITC admissible would be 110% of the eligible ITC reflected in GSTR-2A of the month or eligible ITC available in books of accounts, whichever is lower.

Now, to clarify the circumstances or situations to avail ITC under sub-rule (4) of Rule 36 the Department has issued a Circular No. 123/42/2019-GST dated 11th November 2019. The said circular clarified the following points:

- **Restriction is on self assessment basis:**

It has been clarified that the ITC restriction is not imposed through the common portal and it is the responsibility of the taxpayer to ensure that the credit is availed in terms of the said rule. Hence, the availment of restricted credit in terms of Rule 36(4) is required on self-assessment basis by the taxpayers.

- **Date of the applicability:**

The circular has stated that the restriction of the Rule 36(4) will be applicable to the invoices/debit notes on which credit is availed after 09-10-2019. Accordingly, the ITC availed till 09-10-2019 will remain unaffected by the restriction of this new rule. Therefore, restriction is prospective and not retrospective. However, the restriction of 10% is applicable from 1st January 2020.

- **Invoices which are under the ambit:**

This restriction of ITC is only applicable to invoices or debit notes which are required to be uploaded by

suppliers in Form GSTR-1 and taxpayers can avail of full ITC of those invoices which are not required to be reported in Form GSTR-1 such as IGST paid on import, documents issued under RCM, credit received from ISD, etc.

- **Calculation of credit on consolidated basis and not on supplier basis**

The credit available under Rule 36(4) is linked to total eligible credit from all the suppliers against all supplies whose details have been uploaded by the suppliers in Form GSTR-1 and which are reflected in Form GSTR-2A. Hence, the restriction of credit is not supplier-wise and is on consolidated basis.

- **Cut-off date for calculation of ITC**

Since GSTR 2A is dynamic in nature, the taxpayer needs to ascertain the ITC from the auto-populated Form GSTR 2A as available on the due date of filing of Form GSTR-1.

- **Calculation of ITC as per Rule 36(4)**

The calculation of limit of 10% of the eligible credit available in Form GSTR-2A for the invoices not uploaded by the supplier in Form GSTR-1 can be understood with the help of an illustration of cases discussed below, where a registered person 'A' receives 100 invoices for inward supplies involving ITC of Rs. 10 lakhs during the month.

Particulars	Case 1	Case 2	Case 3
ITC as per invoices -A	10,00,000.00	10,00,000.00	10,00,000.00
ITC as per 2A (assuming all are eligible credits) -B	7,00,000.00	8,00,000.00	9,50,000.00
10% of eligible credits -C	70,000.00	80,000.00	95,000.00
ITC to be taken in GSTR 3B - (B+C) to the maximum extent of A	7,70,000.00	8,80,000.00	10,00,000.00

- **Availing of balance ITC**

The balance ITC can be claimed in any of the succeeded months provided details of requisite invoices are uploaded by the suppliers. In simple words, taxpayer may avail full ITC in respect of a tax period as and when the invoices are uploaded by the suppliers to the extent of 110% of the Eligible ITC.

This circular has failed to address the situation

- Where suppliers have opted for quarterly filing of GSTR-1 while the recipient files monthly GSTR-1. This will create hardship for small taxpayers as recipients would try to get supplies from the dealers (big dealers) who opt for monthly filing of GSTR-1.
- Exporters are also confused in terms of credit to be availed in GSTR 3B and the refund they have to apply for in accordance with the new rule of 36(4). Timely clarification is sought to avoid future litigations.

Impact of 10% Rule

Restriction imposed in Rule 36(4) will certainly impact working capital of taxpayers as they have to pay more taxes when suppliers file belated returns in Form GSTR-1. Also, this reconciliation exercise of ITC is going to consume lot of man hours every month. Will a taxpayer keep reconciling the credits every month or

will he is do his business?

As per Section 17(5) of the CGST Act, 2017 there are certain supplies on which input tax credit under GST are blocked

1. Motor Vehicles

Motor vehicles for transportation of persons having the seating capacity of not more than thirteen people (including driver) here, ITC is blocked except when used for specified purposes mentioned below

- Further supply of such motor vehicles; or
- Transportation of passengers; or
- Imparting training on driving such motor vehicles

Vessels and aircraft have been included in the blocked credit except when they are used for specified purposes mentioned below,

(i) For making the following taxable supplies, namely:—

- Further supply of such vessels or aircraft; or
- Transportation of passengers; or
- Imparting training on navigating such vessels; or
- Imparting training on flying such aircraft;

(ii) For transportation of goods;

Further credit is blocked for services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft.

However, the input tax credit in respect of such services shall be available where the motor vehicles, vessels or aircraft are used for the purposes specified, manufacturer of such motor vehicles, vessels or aircraft and to those engaged in supply of general insurance services in respect of such motor vehicles, vessels or aircraft. ITC on renting or hiring of motor vehicles, vessels or aircraft is allowed when they are used for purpose specified.

Section 17(5), has been amended to exclude other conveyance meaning whereby credit in respect of dumpers, work trucks, fork lift trucks, and other special purpose motor vehicle will be available.

2. Food, beverages, club memberships and others

ITC is not available for the supply of following goods or services or both:

- Food and beverages
- Outdoor catering
- Beauty treatment
- Health services
- Cosmetic and plastic surgery

However, ITC will be available if the category of inward and outward supply is same or the component belongs to a mixed or composite supply under GST.

ITC in respect of food and beverages, health services, renting or hiring of motor vehicles, vessels and aircraft, travel benefits to employees etc., can be availed where the provision of such goods or services is obligatory for an employer to provide to its employees under any law for time being in force. This provision will benefit the manufacturing sector where it is mandatory to provide food as per factories Act, but the service sector will not be able to avail this benefit, hence disparity in ITC availment for goods and services.

For Example :

1. XYZ Firm arranges for an office party for its employees. It will not be able to claim ITC on the food & beverages served.
2. XYZ Firm provides lunch to its employees free of cost, then no ITC available. However if the same firm charges for the lunch from the employees then ITC available as it in the course or furtherance of business and the definition of Business includes any activity or transaction in connection with or incidental or ancillary to the main business.

3. Sale of membership in a club, health, fitness centre

No ITC will be allowed on any membership fees for gyms, clubs etc.

For Example, X, a Managing Director has taken membership of a club and the company pays the membership fees. ITC will not be available to the company or Mr. X.

4. Rent-a-cab, life insurance, health insurance

ITC is not available for rent-a-cab, health insurance and life insurance.

However, the following are exceptions, i.e., ITC is available for-

- a) Any services which are made obligatory for an employer to provide its employee under current law in force.
- b) If the category is same for the inward supply and outward supply or it is a part of the mixed or composite supply

For example, ABC Travels lends out a car to XYZ Travels. Then XYZ Travels can claim ITC on the same.

5. Travel

ITC is not available in the case of travel, benefits extended to employees on vacation such as leave or home travel concession. ITC will be allowed for travel for business purposes.

For example, ABC Ltd. offers a travel package to its employees for personal holidays. ITC on GST paid by ABC Ltd. for the holiday package will not be allowed.

It is pertinent to note that as per the CGST(Amendment Act), 2018 irrespective of the prohibitions placed u/s 17(5), ITC shall be available for provision of goods or services (i.e. food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels and aircraft (except when used for specified purpose), life insurance and health insurance, membership of club, health and fitness centre, travel benefits extended to employees on vacation such as leave or home travel concession, where it is obligatory for employer to provide to its employees goods or services under any law for the time being in force. As per CGST Act, 2017 this clause is only applicable for Rent-a-cab, Life Insurance and Health Insurance but as per Amendment Act it has been extended to all the above services if it is obligatory under any law for time being in force. So, ITC pool has been widened.

6. Works contract

ITC shall not be available for any works contract services. ITC for the construction of an immovable property cannot be availed, except where the input service is used for further works contract services.

For example, XYZ organization is constructing an immovable property. They cannot claim any ITC on the

works contract. However, XYZ hires ABC Contractors for a portion of the works contract, then XYZ can claim ITC on the GST charged by ABC Contractors.

7. Constructing an immovable property on own account.

No ITC is available for goods/services for construction of an immovable property on his own account. Even if such goods/services are used in the course or furtherance of business, ITC will not be available.

But this rule does not apply to plant or machinery both for works contract and construction of immovable property. ITC is available on inputs used to manufacture plant and machinery for own use.

It is pertinent to note that ITC is restricted only to the extent of capitalization in the books of accounts. Therefore any expenses which has been taken to profit and loss accounts as revenue expenditure, ITC is available.

As per the explanation provided the word construction includes re- construction, renovation, additions or alterations or repairs, to the extent capitalized to the said movable property.

Example-

- PQR Steel Industries repairs an office building for its headquarters. ITC will not be available if capitalized. However if booked as a revenue expenditure, then ITC will be available.
- PQR Steel Industries also constructs a blast furnace to manufacture steel. ITC is available, since it is a plant.

8. Composition Scheme

No ITC would be available to the person who has availed the composition scheme in GST law.

9. No ITC for Non-residents

ITC cannot be availed on goods/services received by a non-resident taxable person. ITC is only available on any goods imported by him.

10. No ITC for personal use.

No ITC will be available for the goods/ services used for personal purposes and not for business purposes.

11. Free samples and destroyed goods.

No ITC is available for goods lost, stolen, destroyed, written off or given off as gift or free samples. ITC is only blocked for inputs/goods lost and not loss of inputs while manufacturing, so one needs to be extra careful.

12. No ITC in fraud cases.

ITC will not be available for any tax paid due to fraud cases which has resulted into –

- a) Non or short tax payment or
- b) Excessive refund or
- c) ITC utilised or

Fraud cases include fraud or willful misstatements or suppression of facts or confiscation and seizure of goods.

ITC on Restaurants

The restaurants ITC is also blocked with 5% GST. The same would be applicable for restaurants with hotels where room tariff is less than 7500 per day. However, where room tariff is more than 7500 per day than 18% GST with ITC is applicable. However, this blockage of ITC is affecting the restaurant industry and the concept of seamless flow of credit is affected.

Conclusion : Credit availing phenomena is one of the crucial business aspect. Flawless availment of credit holds paramount significance as tax implications essentially depends on it. Restriction on availment of the input tax credits (ITC) not appearing in form GSTR-2A, how viable is it or how long will this rule exist, time will judge. As it is not practical to reconcile the same every month.

A blocked credit availed could have serious effect on business along with penalty and taxes and can also lead to litigations. So, both trade and industry needs to be prudent while deciding whether credit can be availed or not in each and every instance. ITC credit is also blocked on place of supply provisions, so the seamless flow of credit concept is not factual in real sense and this is a crucial matter of concern and needs to be addressed on a priority basis.



Faceless E- Assessment Scheme

CA R R Modi

1) Background :-

E-assessment is not a new thing altogether. We have been made used to it in slow doses. In 2015, a pilot project was launched in five metros on voluntary basis to make email-based assessment. In 2016, more cities were covered. In 2017, options were given to taxpayers and facility was put on E Portal. In 2018, CBDT instructions No. 1/2018 dated 12.02.2018 subjected many cases to e-assessment. Finance Act, 2018 introduced amendments in the Income Tax Act and framed guidelines.

2) Following new sections were introduced by Finance Act 2018 :-

- **SEC 143 (3A)**- It enables prescription of new proceedings - Notification No. 61/2019
- **Sec 143 (3B)**- It enables to modify or to adapt the applicability of provisions of Income Tax Act - Notification No. 62/2019
- **Sec 143 (3C)** – It provides for lying before both House of Parliament, every notification issued under 143(3A) & 143(3B).

3) Introduction :-

It came into effect from the date of publication in official Gazette i.e. on **12th Sept' 19**. National E-assessment Center has been formally inaugurated on 7-10-2019. Sections under Income Tax Act, 1961 in which E-assessment is described are Sec. **143(3A)** to **143(3C)**. Under E-Assessment Scheme, taxpayers will not be aware of IT Officer who carries out the assessment. Its main purpose is to reduce Human Interface between Tax administrative and Taxpayer.

4) Following two Notifications were issued on 12/09/2019 :-

Notification No.61/2019 - CBDT notifies Income Tax E-assessment Scheme'19(hereinafter referred to as "the schemes") Notification No.62/2019 -Direction for giving effect to Income Tax E-assessment Scheme'19 are prescribed in this notification.

5) Some Definitions Borrowed from Information Technology Act 2000 :-

All section numbers mentioned hereunder are of the Scheme, unless specified otherwise.

(a)Addressee - Sec 2(1) (b); (b)Computer resources - sec 2(1) (k); (c)Computer system - sec 2(1) (l);

(d)Digital signature - sec 2 (1) (p); (e) Electronic Records - sec 2(1) (f); (f) Hash Function/Hash Result - sec 3(2)

6) Some definition given in E-Assessment Scheme'19

Designated Portal: -Clause 2(xii) of the scheme. The web portal designated as such by the Principal Chief Commissioner or Principal Director General, in charge of the National e-assessment Centre Computer Resource of the assessee: -Clause 2(x) of the scheme. It is an inclusive definition.

Assessee's registered account in designated portal of the Income-tax Department, the Mobile App (Aaykar-setu) linked to the registered mobile number of the assessee, the email account of the

assessee with his email service provider

Real Time Alert:-Clause 2(xx) of the scheme. Any communication sent to the assessee, by way of Short Messaging Service (SMS) on his registered mobile number, or by way of update on his Mobile App, or by way of an email at his registered email address, so as to alert him regarding delivery of an electronic communication.

In the above definition, it is to be noticed that all three modes of alerts are joined by word "or". So the communications by ITD may not necessarily be given over all three modes. Further it may also be noted that whatsapp is not included in the above three modes.

Mobile App (Aaykar-setu):-Clause 2(xviii) of the scheme. The application software of the Income-tax Department developed for mobile devices which is downloaded and installed on the registered mobile number of the assessee.

Registered E-mail address:-Clause 2(xxii) of the scheme. It means the e-mail address at which an electronic communication may be delivered or transmitted to the addressee, including

- the email address available in the electronic filing account of the addressee registered in designated portal; or
- the e-mail address available in the last income-tax return furnished by the addressee; or
- the e-mail address available in the Permanent Account Number database relating to the addressee; or

- in the case of addressee being an individual who possesses the Aadhaar number, the e-mail address of addressee available in the database of Unique Identification Authority of India; or
- in the case of addressee being a company, the e-mail address of the company as available on the official website of Ministry of Corporate Affairs; or
- any e-mail address made available by the addressee to the income-tax authority or any person authorised by such authority

Registered Mobile Number: Clause 2(xxiii) of the scheme. The mobile number of the assessee, or his authorised representative, appearing in the user profile of the electronic filing account registered by the assessee in designated portal.

Automated Allocation System (AAS):- Clause 2(v) of the scheme. It means an algorithm for randomised allocation of cases, by using suitable technological tools, including artificial intelligence and machine learning, with a view to optimise the use of resources.

Automated Examination Tool (AET): -Clause 2(vi) of the scheme. It means an algorithm for standardised examination of draft orders, by using suitable technological tools, including artificial intelligence and machine learning, with a view to reduce the scope of discretion.

7) Difference between AAS & AET :-

AAS will be used for allocation of cases whereas AET will be used for examination of Draft Assessment order.

8) Difference between Digital Signature (DS) & Electronic Signature (ES) :-

- Purpose: - DS is used to secure a document whereas ES is mainly used to verify a document
- Regulation: -DS is regulated by certification authorities whereas ES is usually not authorised.
- Security: - DS is comprised of more Security features whereas ES is comprised of less Security features.
- Types of Signature: - Common types of digital signature are based on Adobe and Microsoft whereas of electronic signature are verbal, electronic ticks or scanned signatures.
- Verification: - DS can be verified whereas ES cannot be verified
- Preference: - DS is more preferable than ES due to high level of authenticity.

9) Scope of the Scheme :-

The assessment under this Scheme shall be made in respect of such territorial area, or persons or class of persons, or incomes or class of incomes, or cases or class of cases, as may be specified by the Board.

Note :

- Nothing so far has been specified by the Board.
- Recently it has been announced that 58322 cases have been picked up for e-assessment for AY 2018-19 and notices u/s 143(2) are already issued by NAC before 30-9-2019
- Search & survey cases are currently out from e-assessment.

10) Eco-system of E-assessment

For the purpose of E-assessment, CBDT set up the National & Regional Level centres and these Centres are supported by specialized units in Tax Department for carrying out specific functions related to various aspects of an assessment. These centres and units are as follow: -

- National e-assessment centre
- Regional e-assessment centre
- Assessment unit
- Verification unit
- Technical unit
- Review unit

11) National E-assessment Centre (NAC): -

NAC located at Delhi would be the nodal point for all the communication between the tax department & Taxpayer (Centrally Control the e-assessment). NAC will be an independent office that will look after the work of e-Assessment scheme which is recently notified for faceless e-assessment for income tax payers. NAC is to be headed by Principal Chief Commissioner of Income Tax. Following are the Functions of NAC: -

- Co-ordinate between different units in the tax department
- Gathering Information
- Verify & Review information between by tax payer
- Review Draft order framed by Assessment Order
- Issue Final assessment order, along with the demand notice if applicable, and issue the notice for initiating any penalty proceeding

12) **Regional e-assessment Centre (RAC) :-**At present there are eight RAC set up in India i.e. New Delhi, Mumbai, Chennai, Kolkata, Ahmedabad, Pune, Bangalore, Hyderabad. Each RAC shall house the specialized units such as Assessment Units, Technical Units, Verification Units, and Review Units.

13) **Assessment Units (AU):-**AU functions under NAC and RAC . Following are the functions of AU

- Review the Tax return,
- Identifying the points or issues,
- Material for determination of any Liability (including

refund),

- Analyzing the information,
- Frame the Draft Assessment order & share the same with NAC
- May Revise (on assessee's response)or modify (on receiving suggestions from review units) the draft assessment order under direction from NAC

14) **Verification Units (VU)** : - VU facilitates the conduct of Assessment Unit. The following are its functions:-

- Enquiry
- Cross Verification
- Examination of Books of A/c
- Examination of Witnesses
- Recording of statement, etc.

15) **Technical Units (TU)** : -TU facilitates the conduct of Assessment Units. The following are the functions:-

- Legal,
- Accounting,
- Forensic,
- Information technology,
- Valuation,
- Transfer pricing
- Data analytics, etc.

16) **Review Units (RU)** : -RU assist the NAC in carrying out review on Draft assessment order submitted by assessment units. Review not only check the Arithmetical correctness, but also check

- relevant material evidence brought or recorded,
- law have been duly incorporated in draft order
- whether applicable judicial decision have been considered & dealt with in draft order

17) **Incharge of Specialized Units (AU,VU, RU & TU)** : -

- Additional Commissioner / Director /Joint Commissioner / Joint Director, as the case may be
- Deputy Commissioner / Deputy Director / Assistant Commissioner / Assistant Director /

Income-tax Officer, as the case may be

- Such other income tax authority, Ministerial staff, executive & consultant, as considered necessary by the board.

18) **Mode of communication** :-

All the communication between whether internal or external shall be carried out only by electronic mode and it should be routed through NAC .They aimed to create Centralized Manner of communication. Electronic Mode includes E-mail, Mobile-app,

uploading of documents on e-filing portal.

19) **Video Conferencing** : - Under the following two scenarios the proceedings may be conducted through video conferencing:-

- In case where modification is proposed in the draft assessment order & taxpayer makes a request for personal hearing- (Clause 11(2) of the Notification No.61)

- Any examination or recording of statement of the taxpayer or any other person (other than sec 133A)- (Clause 11(3) of the Notification No. 61)

20) **Procedure for E-assessment** :-

- Stage 1:-Passing of Draft assessment order / Revised Draft assessment Order/Final Draft Assessment Order

- Stage 2:-Passing of Final assessment order

- Stage 3:- Post Assessment Order

21) **Stage 1** :-

Passing of Draft assessment order / Revised Draft assessment order / Final Draft Assessment order

- NAC shall serve a notice on the taxpayer making inquiry on specific issues to which taxpayer has to **respond within 15 days**.

- On the receipt of the response from the taxpayer, NAC shall **assign the selected cases** to a **specific Assessment unit** in any one of the Regional Centre through an Automated Allocation System (Random allocation of cases by using artificial intelligence)

- For conducting the assessment, the assessment unit may request the NAC to:-

- **Obtain further information, documents or evidence from the taxpayer** or any other person. NAC shall issue appropriate notice or requisition to the taxpayer or any other person for obtaining such details

- To conduct **enquiry or verification through Verifying Unit** which may be allocated to any Verifying Unit through Automated Allocation System by NAC

- To seek **technical assistance from the Technical Unit** in such case NAC shall assign the request to Technical Unit in any one RAC through Automated Allocation System

- After considering the inputs from the above process, **the Assessment Unit shall pass draft assessment order** either accepting taxpayer's returned income or modifying the returned income. Assessment Unit shall also recommend initiation of penalty with details of the relevant issues

22) **Stage 2** :-

Passing of Final Assessment order

- NAC shall **examine draft assessment order** in accordance with risk management strategy by

way of an automated examination tool and thereafter NAC shall either:-

- Finalize the assessment as per the draft assessment order and serve a copy of such order on the taxpayer ,or
- Provide an opportunity to assessee, in case of modification is proposed, by serving a notice
- Transfer the draft assessment order to Review Unit for review.
- If Review Unit concurs with the draft assessment order, NAC shall pass final assessment order or, in case of modification, provide an opportunity to the taxpayer to defend his/her case
- Alternatively, Review Unit may make suggestions to NAC for modification in the draft assessment order which shall be communicated to the Assessment Unit through NAC for passing **Final draft assessment order**.
- If modification is proposed in the draft assessment order/final draft assessment order, NAC

shall provide opportunity to the taxpayer for defending such modification

- If no response is received from the taxpayer, NAC may pass final assessment order
- If taxpayer responds, NAC shall transfer the response to Assessment Unit for passing **revised draft assessment order**. On receipt of the revised draft assessment order, the NAC may proceed as follows:-

a. If the revised order is not prejudicial to the taxpayer – NAC shall pass final assessment order

b. If the revised order is prejudicial to the taxpayer – an opportunity may be granted to the taxpayer before passing final assessment order.

A detailed flow chart of entire e- assessment proceedings is given at the end of this article.

23) Stage 3 : - Post Assessment order

On completion of the assessment, NAC shall **transfer all the electronic records** of the case to the Assessing Officer having jurisdiction over such case for all other functions allocated to Assessing Officer like

- (a) Imposition of penalty
- (b) Collection and recovery of demand
- (c) Rectification of mistake (d) Giving effect to appellate orders
- (e) Submission of remand or any other report
- (f) Any representation to be made, or any record to be produced before the Commissioner (Appeals), Appellate Tribunal or Courts, as the case may be, and
- (g) Proposal seeking sanction for launch of prosecution

and filing of complaint before the Court.

24) Penalty proceeding for Non-Compliance : -

● On failure to comply with any notice, direction or order issued under this Scheme on the part of the taxpayer or any other person, any of the units may send recommendation to the NAC **for initiation of penalty proceedings**, against such taxpayer or any other person.

● On receipt of such recommendation, **NAC shall serve a show-cause notice** on the taxpayer or any other person, on why penalty should not be imposed on him/her under the relevant provisions of the IT Act

? Once taxpayer responds to the show-cause notice, the response shall be sent by the NAC to the concerned unit which has made the recommendation for penalty.

● The e-assessment unit shall, after taking into consideration the response furnished by the taxpayer or any other person

● Make a draft order of penalty and send a copy of such draft to NAC

● Drop the penalty after recording reasons, under intimation to the NAC

● NAC shall levy the penalty as per the said draft penalty order and serve a copy of the same on the taxpayer or any other person

25) Different Draft Order : -

- Draft Assessment Order (in every case)
- Revised Draft assessment Order
- Final Draft Assessment Order

26) Fails Safe Clause 5(xx) of the scheme : -

Notwithstanding anything contained in paragraph (xx) of the scheme, the National e-assessment

Centre (NAC) may **at any stage of the assessment**, if considered necessary, transfer the case to the

Assessing Officer having jurisdiction over such case.

CAUTION:

Everyone expects that this discretion of NAC will be utilized by them only in complicated matters on reasoned consideration.

27) Authentication of Electronic record : -

An electronic record shall be authenticated by the originator, being taxpayer or any other person, by affixing his/her digital signature, electronic signature or electronic authentication technique in

accordance with the provisions of the Information Technology Act.

However for others as per clause 9 of the scheme the authentication by the originator shall be by affixing his digital signature only.

28) Delivery of Notice :-

In case of addressee being Assessee

- placing in the assessee's registered account
- Sending to the registered email address of the assessee or his authorised representative
- Uploading on the assessee's Mobile App In case of addressee being any other person
- Sending to the registered email address of the such person.

29) Precautions to be taken :-

● Ensure that fields used in the return are consistent as it is totally automated. Clerical errors without having a bearing on the tax payable may initiate assessment proceeding.

- Ensure that **mobile number** and the **e-mail id** are updated as the assessee would be notified through an SMS/e-mail.

30) Advantages of E-Assessment Scheme :

- No harassment
- No travelling cost to attend hearings
- Waiting time for hearing avoided
- Non receipt of notice/delayed delivery issues will not arise
- Better transparency
- Greater efficiency
- Remove biasness
- Remove corruption
- Radical & path breaking

31) Let us discuss some issues that might crop up in future :-

- **Issue 1:-** The Assessing Officer does not sign the order as sent by NAC. Its team based dynamic jurisdiction. There is no application of brain by the Jurisdictional AO.
- **Issue 2:-** Since the queries and responses travels through various processes, only rigid, conservative and non-assessee friendly views are likely to be taken
- **Issue 3:-** In the faceless e-assessment, there is no scope of personal hearing and explanation. Therefore, understanding specific business transactions become difficult through emails.
- **Issue 4:-** Assessee is required to give explanations to same queries and submit the same documents repeated number of times during the course of assessment.
- **Issue 5:-** E – assessment involves use of IT infrastructure, whereas the tax payers and professionals are not system friendly.

● **Issue 6:-** Whether recording of video conferencing will be provided or not, is still a question.

● **Issue 7:-** Notice and other communication are received through emails or on e-portal only, hence daily checking of emails and income tax portal is necessary.

● **Issue 8:-** Responsibility of error or wrong action by the unit is not fixed

● **Issue 9:-** Clarification is required regarding referring the matter to dispute resolution and referring the matter for special audit etc

● **Issue 10:-** Department should clarify position on various litigated issues.

● **Issue 11:-** It seems like a big complicated network with so many authorities transferring shuttles from one court to another

● **Issue 12:-** TDS mismatch, particularly in professionals cases

● **Issue 13:-** Time saving perspective gets diluted when for intended addition, video conferencing is provided

● **Issue 14:-** Involvement of IT Infrastructure sometimes result in technical glitches and system crash.

● **Issue 15:-** Uploading of voluminous data in the specified capacity (mb limit, data format) becomes a challenging task

● **Issue 16:-** Non-use of special characters and misinterpretation of file name as uploaded by assessee

● **Issue 17:-** There is no specific mention of appeal , unlike Final Assessment Order, against penalty orders passed by NAC for non-compliance of notices. Suitable

● **Issue 18:-** Can assessee, after failing to comply with requisition under e-assessment scheme, within stipulated time, submit the requisite information/details belatedly?

● **Issue 19:-** How to seek adjournment?

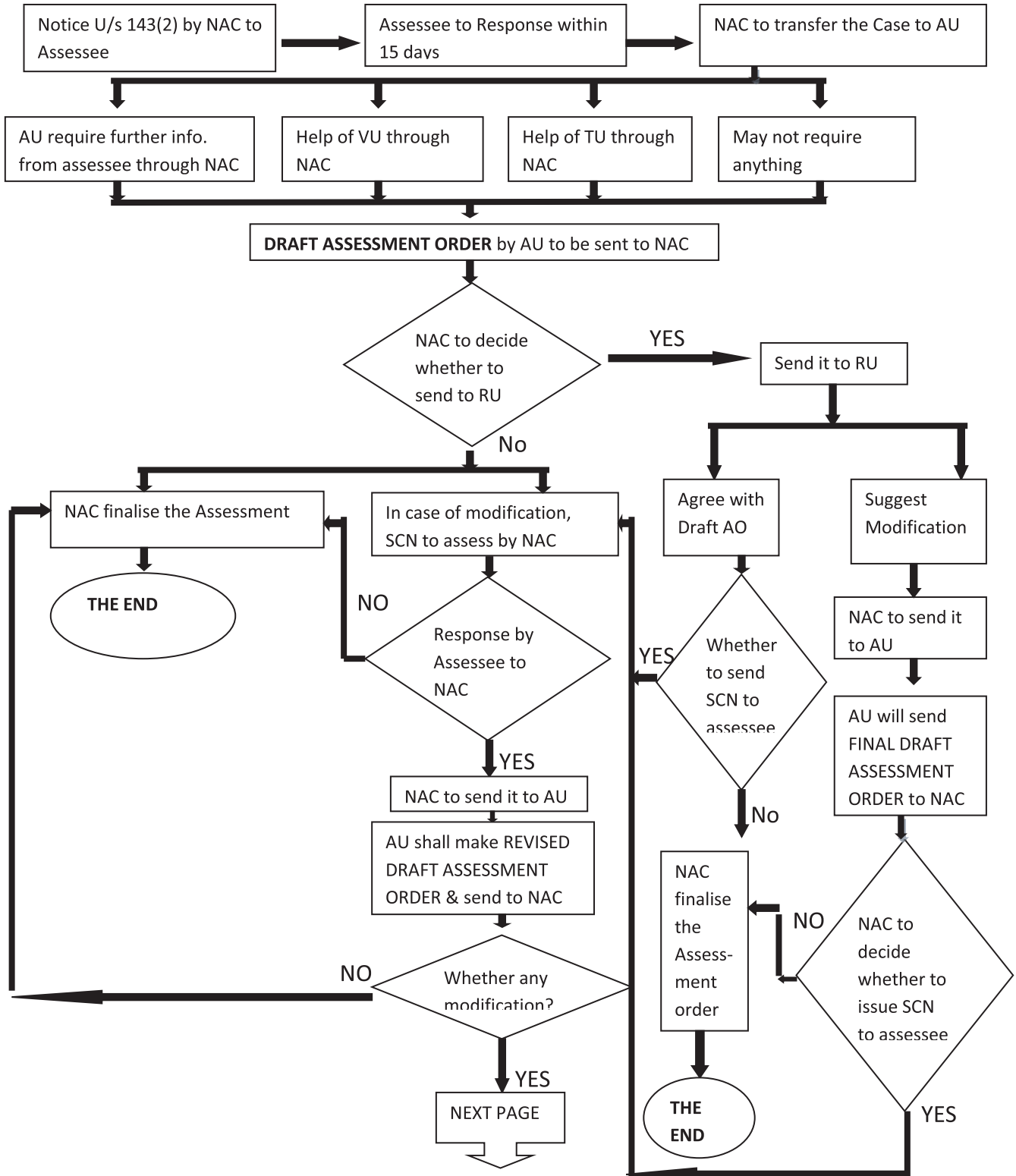
● **Issue 20:-** How to lodge complaint?

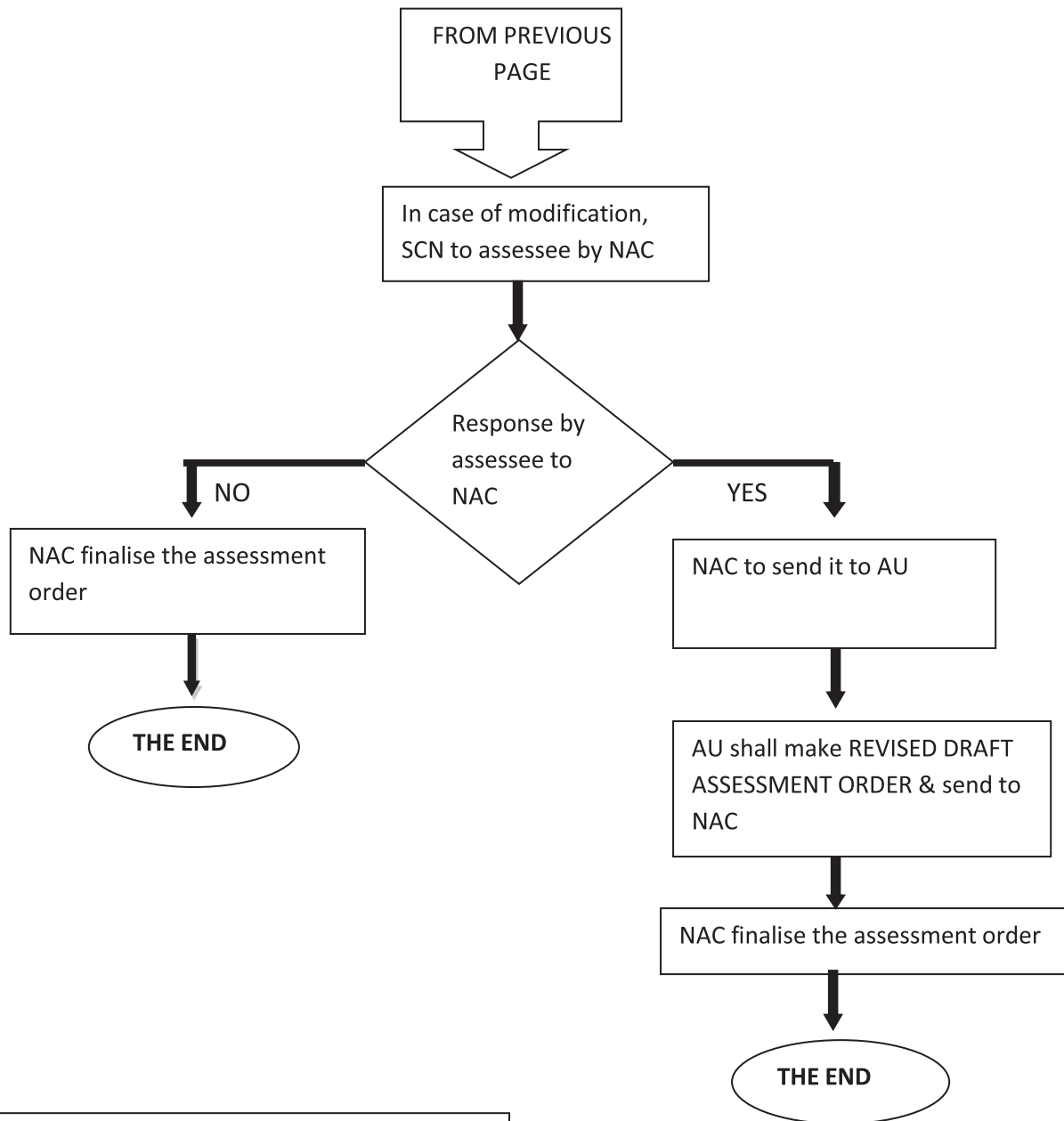
32) Expectation from Tax Practitioners :

The new faceless E-assessment scheme requires the tax consultants and professionals to be expert in making pointed written submissions with relevant facts and law.

Conclusion : The author feels that inspite of all these possible issues, the scheme of faceless assessment will be a real boon to all assesseees. These initial issues/problems will settle down as the law will evolve in future. Like GST and IBC, E-assessment will also be seen as a revolutionary measure by Central Government.

E-Assessment Flow Chart





Abbreviation used in the flow chart

NAC- National e-assessment Centre

AU-Assessment Unit

VU-Verification Unit

TU-Technical Unit

SCN-Show Cause Notice

AO-Assessment Order



Recent Changes in IEPF (Investor Education and Protection Fund) Rules

CS Atul Kumar Labh

(A) **Notified on** : 14.08.2019

(B) **Effective from** : 20.08.2019 / *20.09.2019

(C) **Salient Features** :

- Amount required to be credited by the Company to IEPF will be credited *on-line* now. Henceforth, IEPF-1 form will be uploaded first followed by transfer of the amount to IEPF on the basis of the SRN of IEPF-1 form and then uploading of the relevant Excel Sheet post linking of the UTR No.
- The new process is just reverse to that of the earlier system wherein the amount was required to be transferred to IEPF first and

(d) Matured debentures.

IEPF-1 form alongwith Excel template was required to be filed subsequently on the basis of SRN of the receipt evidencing transfer of amount to IEPF.

- The Company will have to file *new form IEPF-1A* alongwith Excel template, *by 18.10.2019*, separately for each transfer of any of the following amount to the Central Government / IEPF on or after 31.10. 1998 :

- (a) Amounts in the unpaid dividend accounts;
- (b) The application money received for allotment of any securities and due for refund;
- (c) Matured deposits;

Form	Purpose	Due Date	Filing Fee
IEPF-1	For transfer of the specified amount u/s 125(2) to IEPF	To be filed within 30 days of the due date of transfer of the specified amount u/s 125(2) (Form with Excel Template to be filed first. On-line payment for transfer to be made thereafter)	Yes
IEPF-1A	For (a) Unclaimed and unpaid Dividend; (b) pending application money; (c) matured Deposits or (d) matured Debentures : transferred u/s 205C(2)(a)-(d) of CA, 1956 to the Central Government / IEPF Authority (31.10.1998 upto 06.09.2016)	To be filed with MCA by 18 th October, 2019 (for transfers from 31.10.1998 upto 06.09.2016)	No
IEPF-2	For Position of unclaimed amount u/s 125(2) as at the end of the financial year	To be filed within 60 days of the date/due date of AGM (separate files for every year) (position as on 31 st March) (on the website of the Company too)	Yes

IEPF-2	For Appointment of Nodal / Deputy Nodal Officer or changes therein	To be filed within 15 days initially, i.e., by 03.09.2019 for the appointments. Thereafter, within 7 days for changes in particulars. Post approval of IEPF-2 Form, Nodal Officers/Deputy Nodal Officers are required to register themselves as Nodal Officer-IEPF on MCA website with their PAN.	Yes
IEPF-3	For Shares not transferred to IEPF authority due to the reason stated in IEPF Rules	By 30 th April	Yes
IEPF-4	For transfer of Shares/entitlements related to transferred shares to IEPF authority	Within 30 days of the date of transfer (copy of newspaper publication to be attached)	Yes
IEPF-5	For seeking refund from the IEPF authority by the shareholders	N.A. to the Company	No
IEPF-6	<i>deleted w.e.f. 20.08.2019</i>		
IEPF-7	For filing of information to IEPF authority regarding transfer of amount to them	Within 30 days of transfer of amount to IEPF authority	Yes

- However, the above form is not required to be filed for any such transfer if the Excel template for such transfer has already been filed earlier.
- IEPF-2 form alongwith Excel template, showing position of unclaimed amounts (*position as on the date of closure of the financial year now instead of the earlier requirement of the position as on the Date of the AGM / Due date of AGM*), is now required to be filed *within 60 days* of the Date of the AGM/Due date of AGM, instead of the earlier requirement of filing the said form within 90 days.
- Now, encashment of dividend by the owner of the shares (apart from the existing provision of encashment only by the beneficial owner of shares) will also make the shares ineligible for transfer to IEPF.
- *All shares in respect of which dividend has been transferred to IEPF on or before 07.09.2016, shall also be transferred by the Company to IEPF.* Hence, all shares for which dividend has been transferred to IEPF during the period 01.10.2001 to 07.09.2016, may be eligible for transfer to IEPF.
- Now, IEPF-4 form is mandated to be filed within 30 days of the transfer of shares to IEPF. Henceforth, the *copy of newspaper advertisements* are also required to be attached with IEPF-4 form.
- *All benefits accruing on shares already transferred to IEPF, like bonus shares, split, consolidation, fraction shares and the like except right issue and as required to be transferred to IEPF, shall also be required to be filed vide IEPF-4 form within 30 days of such transfer.*
- **Nodal Officer :**
 - (a) Every Company “required to credit / deposited” any amounts or shares to IEPF, has to appoint a Nodal Officer (any director/ CFO/ CS)

- (b) Company may appoint one or more officer as Deputy Nodal Officer to assist the Nodal Officer.
- (c) Company will have to file IEPF-2 form for such appointments by 03.09.2019.
- (d) In case of any change in particulars of the Nodal Officer / Deputy Nodal Officer, IEPF-2 form need to be filed within 7 days of such change.
- (e) Nodal Officer will be solely liable for all actions under IEPF Rules.
- (f) The Company shall display the name of Nodal Officer and his e-mail ID on its website.
- (g) In case of non-appointment of any Nodal Officer, every director of the Company shall be deemed to be nodal officer and be liable for any failure to comply with requirement of these rules.

➤ Filing of IEPF – 6 form has been dispensed with.

- * Now, the Nodal Officer have been entrusted with the job to process the verification report and follow the various time-lines as have been envisaged to process the request of the claimant for refund of shares and dividend as transferred to IEPF.

- * Procedure to be followed while disposing the claim has been streamlined and documents to be submitted to the Authority to register transmission of securities and in case of loss of securities have been illustrated.
- * Different time-lines have been fixed for processing the request by the Company or by the applicant, as the case may be, for speedy processing of the claim application.
- * Stipulation to file only one consolidated claim in respect of a Company in a financial year has been removed.

(D) IEPF forms Summary :

Disclaimer : *The above note/analysis has been prepared by our research team for guidance purpose only. For authentication of data/information provided, please refer the respective acts, rules and laws. For any further query in the matter, you may contact us at aklabhcs@gmail.com or aklabh@aklabh.com Please visit at www.aklabh.com to know more about us and our services.*



Air Traffic Control

Guru Prasad Makam, FCA

As a Chartered Accountant in practice we most often are buried amidst a myriad of laws, regulations and returns. By the time the advance tax estimates are done, the year close steps in. This would be followed by the statutory audit, the corporate law work, and Corporate law annual returns, and then immediately the tax audits, and the GST + Transfer pricing audits follow through. A breather of a couple of weeks brings in Dec close work, and we are getting ready for the March advance tax and cycle repeats.

There are thousands of returns which goes from a CA office, be in individual tax returns or a corporate Tax returns. To punctuate these, we are getting even matters of FEMA, FCRA filings and the whole lot of documents and returns.

We would land up filing tens of returns to hundreds of clients, amidst thousands of provisions and millions of transactions – the maze of data would run in zillions and the poor CA mind is most time filled with these dates. Where on earth, will we be able to think. A Chartered Accountant is required to be a financial advisor, a wizard, but now it almost seems that the lives are hanging on a excel spread sheet which drives our practice, profession, and updating the same to keep a track of client compliances has become a bane and pain.

Let us take the analogy of our Chartered Accountancy lives to an Air traffic control. The next few paragraphs would give have a figment of imagination

It was a visit to the Air traffic control. The maze of machines, the radars, the variety of screens, looked like a spaceship. Air traffic Controls [ATC] is a room where the engineers control the traffic of airplanes. The operations were similar to that of a traffic police, but with a lot more complexities and the slightest mistake could endanger hundreds of lives. Just visualise a person holding a red & green flag, waving at flights coming in and going out indicating accordingly.

The job of the ATC controller was hectic when the flights landed or took off. A team of professionals monitor every inch with dexterity, and it appeared as if the divine giants kissed the ground or pumped the clouds.

The control appeared to be mostly near the airports and once the flights were airborne, they were on an auto pilot mode. The arrival of the flight in the screen started the activity and its exit stopped the activity.

This is how we function many a times. When there is a

problem in our radar screen activity starts, and the moment the problem is off the screen, it is off our minds too. Similarly, when we see an opportunity in our screen our focus is enhanced. The mind is occupied with the situation as long as it is in its span, and the moment the object moves outside we become ATC engineers.

Let us go back to our day and see the situations where we have been ATC, controlling only the circle of visibility and being oblivion of what is happening outside the visibility. This happens in most situation of the famed “tax audit season” or the famed “filing dead lines”

Check your mailbox. It is like an ATC. A mail pops in, and a reply pops out. Many of us attend only to the unread mails or the flagged one. A mail lands on your desktop; it is similar to a flight landing. The mail is replied, either by a forward or a sentence or with a buck stops here attitude. After the loop is closed, the mail is out of the radar, we do not see post that event. Today's communication has made us reactive beings rather than pro-active beings.

I had a bout of cold, a hair splitting headache. I popped a few pills of different colours; a couple of days rest and the bout is out of my mind. I handled the cold when it appeared and forgot about it as it left me. It was an attack on the problem and not a probe on the cause. Focus on the cause would have given light on building an immune system.

The medical test revealed high cholesterol, or fatty lever. The medical test is the radar screen. An exercise regiment, a diet, balanced life and the whole works, follows it. The focus was alive as long the threat loomed, and fazed out over the weeks. Fitness would have been part of life if the radar of health had expanded.

It is a common sight for a partner in a CA firm to blow hot winds when a document is missing. The moment it is traced; the attention is on the document. The reason that the document missed is not a matter of concern. If the reason was in the radar, a document management system might have emerged.

Many a times people lead lives as an ATC. If a situation is in the radar it gets attention and post that, there is no situation. These are instances of knee jerk reactions. We start our filing work for September season only in July because the excel shows that there is a tax season. We respond to deadlines, instead of professionals

setting up our deadlines.

Focus on your day. Can you recollect and list out the areas, which require attention, but it is not being done. Have you defined what is your radar? The challenge appears and action joins. Have you focussed on the radar, and more importantly the size of the radar? The radar needs to see much ahead and on a wider perspective. Is it restricted to a few days, a problem, a short term Over draft facility with the bank, a pill, your email, a couple of hours of more work, a TDS return, an LUT, FCRA forms or, are we focussing on an area outside the area of attention.

Expanding the area of the radar would give a wider thought process to the situations of life. It need not be a challenge always; it could be an opportunity also. The opportunity would be missed, the future would not be seen, if your radar had not spotted the loop in the hockey stick. Many would miss the opportunity to invest in the outskirts of your city and just in a few years the outskirts have become a part of the city. A market potential, a new product range, a target audience all could be outside your radar. There can be customers in Pacific region for the pickles manufactured down South India. If the radar is restricted to the neighbourhood, the pickles would never have got a passport.

The radar and its size needs to grow. In our Chartered Accountancy profession – the growth, in your education – the career, in your technology – the utility, in your network – the geography, in your thought process – the radar, it needs to grow relentlessly. A boundary is there only to be erased, the faster you erase the faster you grow. It would be a dream if there were no boundary line at all. Boundary line of radar creates a confinement.

Do a simple mortal experiment. Think business strategies in a small cubical as opposed to thinking looking at the sea, the results would be different. When you look into bounties your thoughts also fly. When you look at a wall, sometimes the wall can become a block too. There are thousands of opportunities for a

professional, but the opportunities are in the world outside and not just the Multi Purpose Empanelment form.

Expand your ATC, expand your vision, let there be an urge to go out of the circle and peep in. The end of the circle is not visible, yet go to the end, and you could see a small light. Follow the light, it would lead to another circle, the circle might be so big that our playground seems so small.

Many Chartered Accountants would sigh a relief the moment the monthly tax returns commitments are done, and find themselves in the same mind night or every year. A temporary credit is a reply to the problem of landing; a credit policy is expanding the radar. Hiring a new accountant when the earlier one quits is a ATC reaction, think about outsourcing, think about long term back up, what about automation, change in accounting policies, all these would mean that the thought has gone beyond the area of visibility.

Let us expand our vision; let us not just reply to an email. Search the beyond, explore, count your thoughts, and challenge your sight. Let us not just try to get a share in the pie, can the pie be expanded. Get we see beyond the airport, beyond the landing & take offs. There is a sky above.

Search the sky, you would not be a problem solver or a solution provider. As a professional if I would deploy 90% of my time in tax saving thought process, when will I engage in increasing sales solutions for clients. Is it not the job of a chartered Accountant to offer solutions for cost optimisation policies. The profession is time tested, a Chartered Accountancy exams is one of the toughest on this planet, yet we would fathom the idea to have a Tax season where we can also celebrate Diwali. You would find new paths, new business opportunities. Great products, inventions, markets, would never have been seen but for some ATC engineers viewing beyond the airport. The sky is not the limit, wishing you Most and More.



Taxation Amendment Bill, 2019

CA Manoj Tiwari

The Taxation Laws (Amendment) Act, 2019

Economic developments after the enactment of the Finance (No. 2) Act, 2019 (Finance Act) along with the reduction of the rate of corporate income tax by many countries world over necessitated the provision of additional fiscal stimulus to attract investment, generate employments and boost the economy. As these could have been achieved through an amendment to the Income-tax Act, 1961 (IT Act) or to the Finance Act and the Parliament was not in session, it was done through the promulgation of The Taxation Laws (Amendment) Ordinance 2019 (the Ordinance) in September 2019. Later on it was presented on the floor of the Parliament and promulgated by both Houses in the first week of December, 2019.

Salient features of the amendments made by the Ordinance are provided in the following paras:-

In order to promote growth and investment, a new provision was inserted in the IT Act to provide that with effect from the current financial year 2019-20, an existing domestic company may opt to pay tax at 22% plus surcharge at 10% and cess at 4%, if it does not claim any incentive/deduction. The effective tax rate for these companies comes to 25.17% for these companies. They would also not be subjected to Minimum Alternate Tax (MAT).

In order to attract fresh investment in manufacturing and provide boost to 'Make-in India' initiative of the Government, another provision was inserted to the IT Act, to provide that a domestic manufacturing company set up on or after 1st October, 2019 and which commences manufacturing by 31st March, 2023, may opt to pay tax at 15% plus surcharge at 10% and cess at 4% if it does not claim any incentive/deduction. The effective rate of tax comes to 17.16% for these companies. They would also not be subjected to MAT.

A company which does not opt for the concessional tax regime and avails the tax exemption/incentive shall continue to pay tax at the pre-amended rate. However, these companies can opt for the concessional tax regime after the expiry of their tax holiday/exemption period. After the exercise of the option, they shall be liable to pay tax at the rate of 22%.

Further, in order to provide relief to companies which continue to avail exemptions/incentive, the rate of MAT was reduced from existing 18.5% to 15%.

In order to provide relief to listed companies, the buy-back tax on shares of listed companies introduced through the Finance Act will not apply to buy-backs in respect of which public announcement was made before 5th July, 2019.

In order to stabilise the flow of funds into the capital market, it was provided that the enhanced surcharge

introduced through the Finance Act on capital gains arising on account of transfer of listed equity share or certain units which are liable to securities transaction tax will not apply. Further, it was also provided that the enhanced surcharge will not apply to capital gains income of FPIs arising out of the transfer of any security including derivatives, having concessional tax regime.

Highlights of the Ordinance and the Bill Currently, domestic companies with an annual turnover of up to Rs 400 crore pay income tax at the rate of 25%. For other domestic companies, the tax rate is 30%. The Bill provides domestic companies with an option to pay tax at the rate of 22%, provided they do not claim certain deductions under the Income Tax Act. The Bill provides new domestic manufacturing companies with an option to pay income tax at the rate of 15%, provided they do not claim certain deductions. These new domestic manufacturing companies must be set up and registered after September 30, 2019, and start manufacturing before April 1, 2023. A company can choose to opt for the new tax rates in the financial year 2019-20 (i.e. the assessment year 2020-21) or in any other financial year in the future. Once a company exercises this option, the chosen provision will apply for all subsequent years. Provisions regarding payment of Minimum Alternate Tax (MAT) will not apply to companies opting for the new tax rates.

MAT is the minimum amount of tax required to be paid by a company, in case its normal tax liability after claiming deductions falls below a certain limit. The Bill adds that the provisions regarding MAT credit will also not apply to companies opting for the new rates.

The Ordinance reduces the MAT rate (applicable for companies not opting for the new tax rates) from 18.5% to 15% with effect from the financial year 2019-20. The Bill amends this provision by making it effective from the financial year 2020-21. Key Issues and Analysis In 2017-18, 29% of the 8.4 lakh companies paid tax at an effective rate higher than 25%. The Bill allows these companies a lower statutory tax rate option of 25.17%. These companies contributed 69% of the total income tax paid by all companies in 2017-18. In case of the manufacturing sector, the effective tax rate after deductions was 28% in 2017-18. This is much higher than the 17.16% statutory tax rate option provided under the Bill for new domestic manufacturing companies.

The Ministry of Finance has estimated the revenue impact of new tax rates and other measures under the Ordinance (includes exemptions to capital gains of certain investors from increased surcharge rates) at Rs 1.45 lakh crore. This could increase the fiscal deficit for the year 2019-20 from 3.3% of GDP to 4% of GDP.



Taxability of the transportation services

CA Shubham Khaitan

There are various modes of transport which can be adopted for the purpose of movement of goods. For goods transport services, HSN code of 9965 is applicable. Their description and taxability have been given as below:

a. Transport of goods by rail – In case of movement by rail, transportation can be carried out by either by Indian Railways or any other person. In case of transport of goods by Indian Railways, the rate of 5% is applicable (Notification no. 11/2017-Central tax (rate) dated 28th June 2017 and other corresponding SGST/UTGST/IGST notifications). If transport is made in containers by rail by any other person other than Indian Railways, the rate of 12% is applicable (Notification no. 11/2017-Central tax (rate) dated 28th June 2017 and other corresponding SGST / UTGST / IGST notifications).

b. Transport of goods by vessel – In case of transport of goods in a vessel, the rate of 5% is considered to be applicable (Notification no. 11/2017-Central tax (rate) dated 28th June 2017 and other corresponding SGST/UTGST/IGST notifications). However, services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India is considered to be exempt upto 30th September 2019 (Notification no. 12/2017-Central tax (rate) dated 28th June 2017 and other corresponding SGST/UTGST/IGST notifications).

c. Transport of goods by aircraft – There is no specific entry for the transport of goods by air within the Notification no. 11/2017-Central Tax (rate) dated 28th June 2017. Thereby, it would fall within the generic 'Goods Transport Services' for which the rate is 18%. However, services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India is considered to be exempt upto 30th September 2019 (Notification no. 12/2017-Central tax (rate) dated 28th June 2017 and other corresponding SGST/UTGST/IGST notifications).

d. Transport of goods by road – Transportation of goods can be carried out by various categories of transporters. It is primarily pertinent to first classify the nature of the transporter before getting into their taxability. Following can be the categories of transporters:

i. Courier agency – Services provided by courier agencies are taxable under forward charge at the rate of 18% under the HSN code 9968. On the

services received by them from these agencies, the ITC is freely available to the recipient. However, it must be noted where the destination of goods is outside India, then the place of supply would also be outside India in respect of the transportation services.

ii. Goods transport operators – As per entry 18 of Notification no. 12/2017-CT(rate) dated 28th June 2017 which discusses about exemption, all services of transportation of goods by road except the services of goods transport agency and courier agency would be exempt. For a transporter to be classified as a goods transport agency, it should be liable to issue consignment note legally. Individual transport and carriage owners do not get classified within goods transport agency. So, if these operators provide any services without issuance of consignment note, then such supplies would not be liable to GST either under forward or reverse charge.

However, it should be noted that a business should take adequate measure in order to establish the fact that the services have been received from goods transport operators not liable to issue consignment note. Simply because consignment note is not present may not sufficient to confirm this fact. To safeguard oneself during departmental proceedings, they should ideally take a declaration from the goods transport operator stating that they are not liable to issue any consignment note and cannot be categorized as goods transport agencies.

iii. Goods transport agency – "Goods transport agency" means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called. The rate of GST applicable on these would be either exempt or 5% or 12% depending on certain conditions and category of persons.

- Exempt – The following services provided by goods transport agency can be considered as exempt :
 - Services provided by a goods transport agency, by way of transport in a goods carriage of –
 - (a) agricultural produce (for e.g. raw cotton);
 - (b) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees;
 - (c) goods, where consideration charged for transportation of all such goods for a single

consignee does not exceed rupees seven hundred and fifty;

- Services provided by a goods transport agency to an unregistered person, including an unregistered casual taxable person other than the person on whom reverse charge is applicable.
- Services provided by a goods transport agency, by way of transport of goods in a goods carriage, to, -
 - (a) a Department or Establishment of the Central Government or State Government or Union territory; or
 - (b) local authority; or
 - (c) Governmental agencies, which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under Section 51 and not for making a taxable supply of goods or services
- Rate of 5% or 12% - Goods transport agency when providing services of transport of goods to certain category of persons, the same would be considered as taxable either under 5% or 12% on the choice of the transporter.

If the transporter wishes to avail input tax credit and then charge taxes on forward charge basis from the consignor / consignee (i.e. the person engaging the transporter), then the rate of 12% would be applicable.

However, if the transporter does not wish to charge taxes, he cannot avail input tax credit either. In such a situation, the tax would be paid by the recipient under reverse charge basis at the rate of 5%. Of course, the recipient of the transportation services is free to avail the input tax credit on the receipt of such services.

The categories of persons on whom this is applicable are the following:

- (a) Any factory registered under or governed by the Factories Act, 1948(63 of 1948); or
- (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or

(c) any co-operative society established by or under any law; or

(d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or

(e) anybody corporate established, by or under any law; or

(f) any partnership firm whether registered or not under any law including association of persons; or

(g) any casual taxable person; located in the taxable territory

As already stated above, any services provided by goods transport agency to unregistered persons not falling within the above category of persons would be considered as exempt.

In the case of Popular Logistics v. Commissioner of Central Excise, Customs & Service Tax, Cochin [2014] 46 taxmann.com 435 (Kerala), it was held that if assessee is providing GTA services falling under reverse charge, prima facie, no demand can be raised from him.

e. Multi-modal transportation of goods – The rate of 5% has been specified in respect of multi modal transportation of goods. The following has been given under the explanations to Notification no. 11/2017-Central Tax (rate) dated 28th June 2017:

“Multimodal transportation” means carriage of goods, by at least two different modes of transport from the place of acceptance of goods to the place of delivery of goods by a multimodal transporter.

“Mode of transport” means carriage of goods by road, air, rail, inland waterways or sea.

(c) *“multimodal transporter” means a person who-*

(A) enters into a contract under which he undertakes to perform multimodal transportation against freight; and

(B) acts as principal, and not as an agent either of the consignor, or consignee or of the carrier participating in the multimodal transportation and who assumes responsibility for the performance of the said contract”

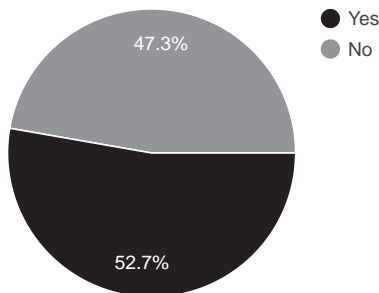
However, the given entry would only be applicable in case of transport of goods from a place to another place in India. For any transport outside India, this entry would not be applicable.

DTPA Survey - Budget 2020

DTPA carried out a general Pre Budget Survey on various Economic ,Income Tax and GST issues and received response from 91 professionals. The pictorial view of the responses is given here-in-below –

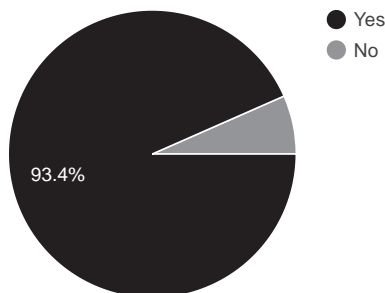
1. Whether DTPA Member ?

91 responses



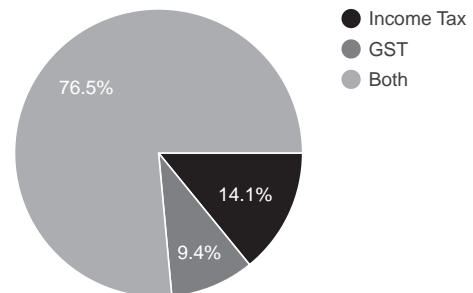
2(a). Considering the present economic slow down, do you think Indian tax system needs a major change ?

91 responses



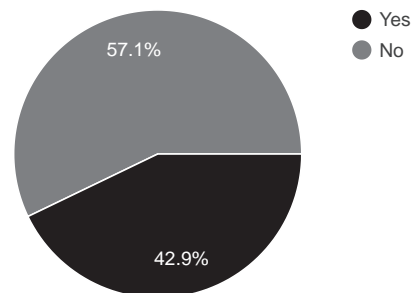
2(b). If yes- in income tax or or GST

85 responses



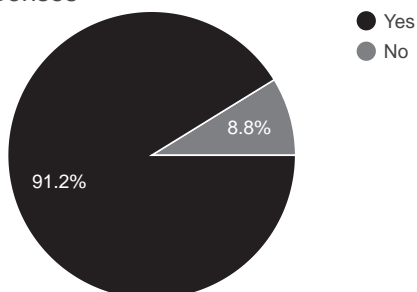
3. Has there been a positive effect in arresting slow down post reduction rates of income tax on companies with specified turnover ?

91 responses



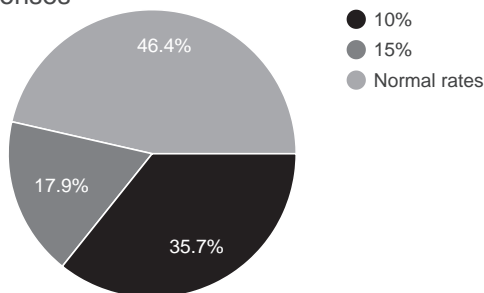
4(a). Do you think agricultural income above Rs.10 lakhs per annum needs to be brought under income tax ?

91 responses



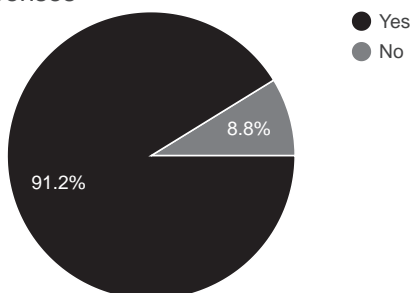
4(b). If yes- at what rate?

84 responses



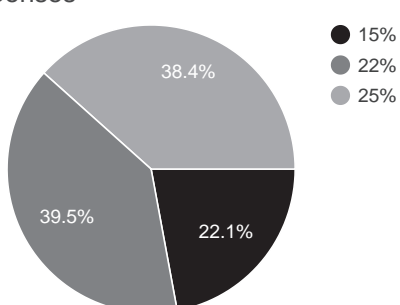
5(a). Do you think individual peak income tax rate need to be slashed down in line with corporate tax rate

91 responses



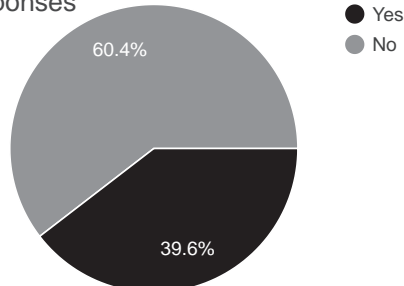
5(b). If yes peak tax rate should be-

86 responses



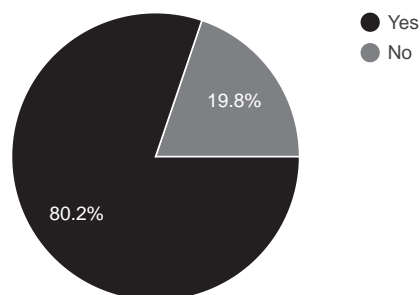
6. Does India need a super rich tax (In terms of Surcharge) on Income from Salaries of employees who are non related parties ?

91 responses



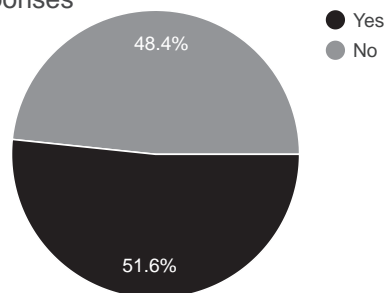
7. As a measure of simplification - will it fair to absorb surcharge and cess in the rates itself ?

91 responses



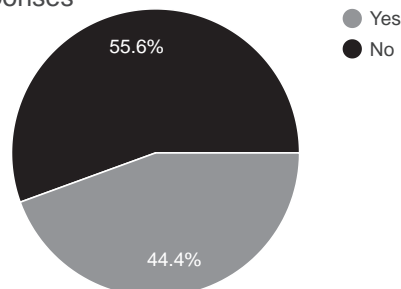
8. Does boost to Indian capital market still depends on tax soaps ?

91 responses



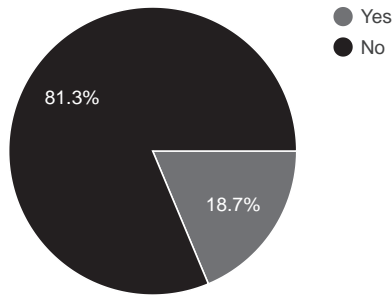
9. If the peak rate of income tax is slashed to 22%, whether further need tax incentive for short term capital gains also needed ?

90 responses



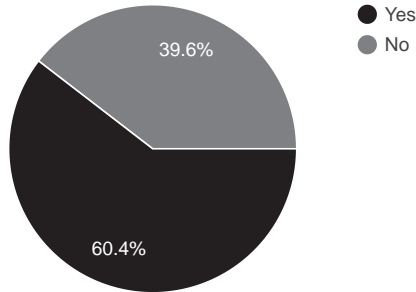
10. Is dividend tax justified ?

91 responses



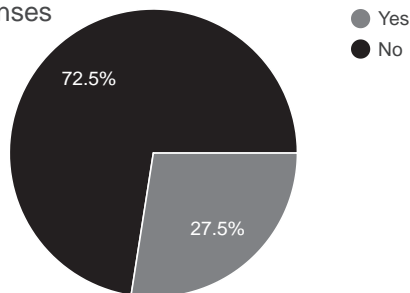
11. Income from renting – should it be applicable on renting of assets other than house property ?

91 responses



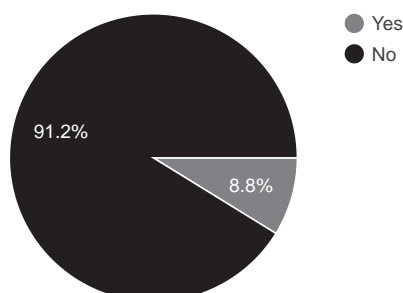
12. Do you think AMT is justified on proprietorship firms ?

91 responses



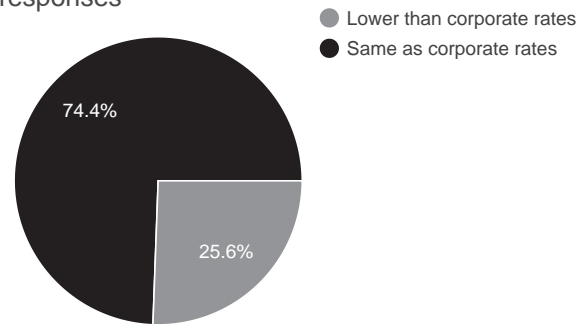
13(a). Is taxation of firms and LLPs justified at a rate higher than the rate for corporates ?

91 responses



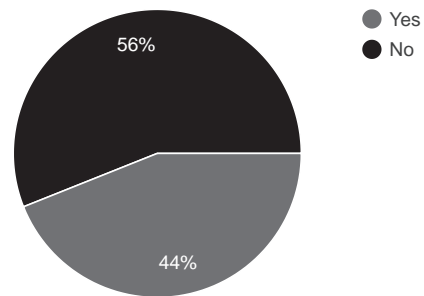
13(b). If no – what should be the rate ?

86 responses



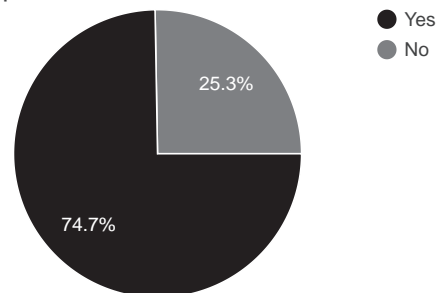
14. Is it justified that MAT will lapse if the option for reduced income tax rates is exercised in accordance with taxation amendment ordinance 2019.

91 responses



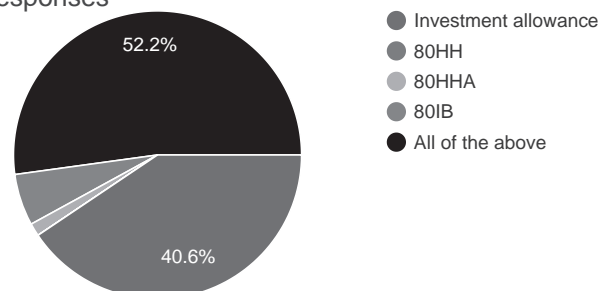
15(a). Does India need tax incentives on capital investment by industry on the lines investment allowance or 80 HH 80HHA or 80 IB which stand repealed as on date ?

91 responses



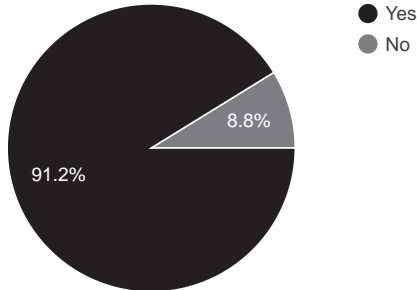
15(b). If yes – which one

69 responses



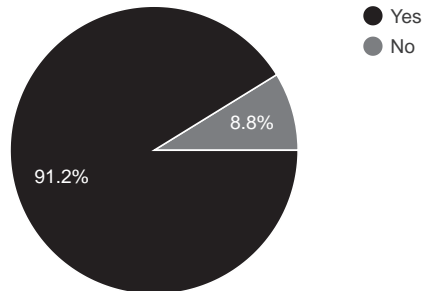
16. Do you think – an amnesty scheme is seriously required for lowering the huge pile of income tax disputes on the lines of sabka vikash legacy dispute resolution scheme?

91 responses



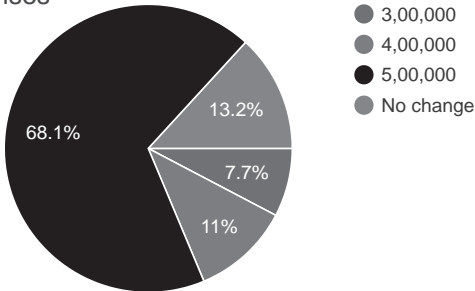
17. In order to encourage genuine spending - CSR expense should be an allowable expense ?

91 responses



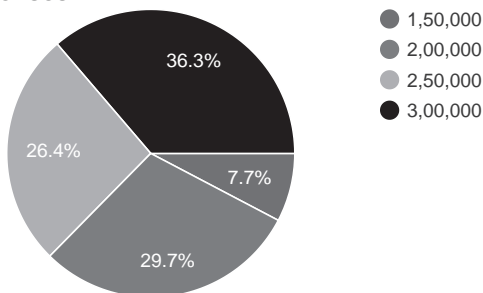
18. Threshold limit of individual tax should be raised to

91 responses



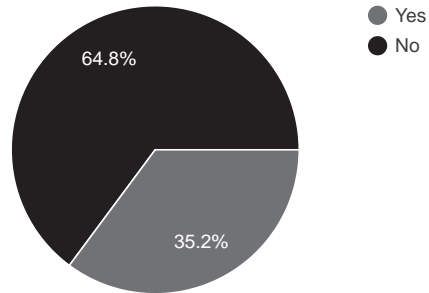
19. Deduction under section 80C , in view of falling savings rate, should be –

91 responses



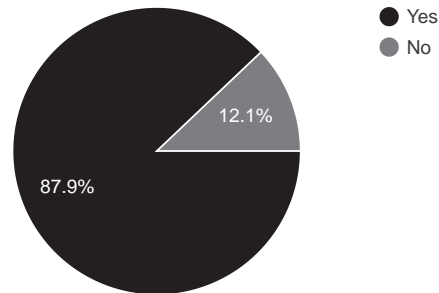
20. Is it fair to apply provisions of advance tax u/s 207(2) on HUF assessee, when individual assessee enjoy an exemption to this and HUF is synonymous to Individual assessee at most places in the act ?

91 responses



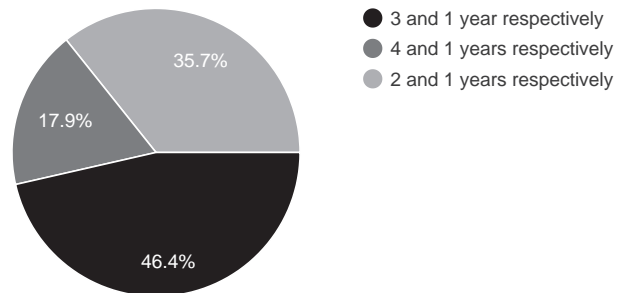
21(a). Now that the deadlines for filing returns, completing assessments have been reduced substantially in last 5 years- should the period of reopening of assessments u/s 147 and 263 be not reduced ?

91 responses



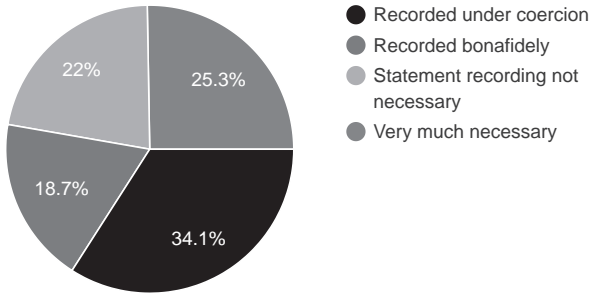
21(b). If yes – should be reduced to

84 responses



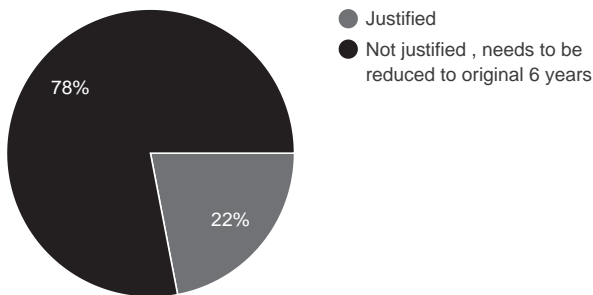
22. In your opinion – are the statements required to be recorded in case of search and survey , as mostly the same are recorded under coercion ?

91 responses



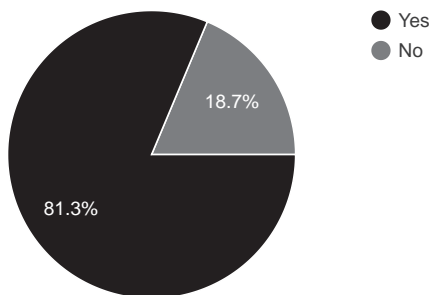
23. Is the extended period of 10 years incriminating evidence in case of search and seizure justified ?

91 responses



24. Should the benefit of tax u/s 45(5A) to charge capital gain on sale of immovable property in a JDA to tax in the year in which completion certificate is issued , as available to individuals and HUF be extended to company and LLPs ?

91 responses

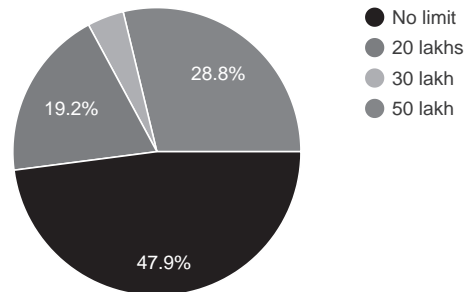


25(a). In your opinion , to ensure a level playing field, should any income over Rs 25 lakhs per annum remain in the list of income not forming part of total income ?

91 responses

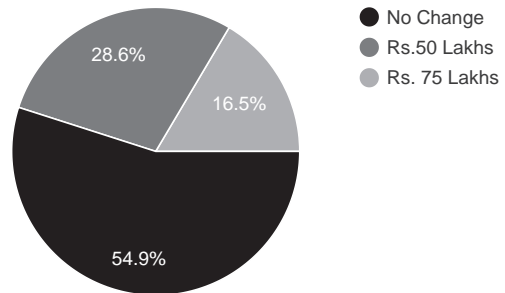
25(b). If answer is No – what should be upper limit-

73 responses



26. Should the threshold limit for GST registration be changed from the current limits ?

91 responses

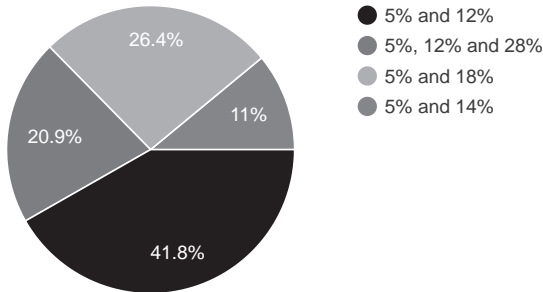


27. Should the ITC be allowed on Immovable properties acquired/constructed for business purposes or for leasing?

91 responses

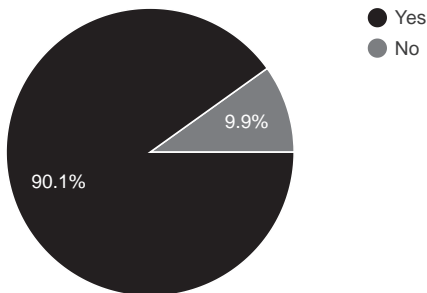
28. Currently there are various GST rates. What should be the GST rates in order to reduce the multiplicity of rates and bring it down?

91 responses



29. Whether credit on purchase and repair/maintenance of passenger vehicles used for business purposes be allowed?

91 responses

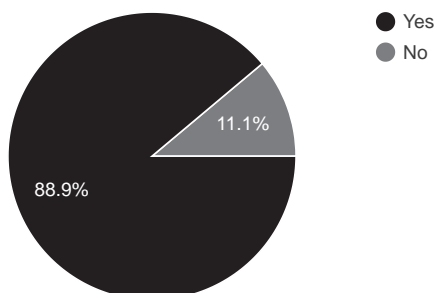


30. Whether the new GST ITC restriction as per limit of 20% of ITC appearing in GSTR 2A justified?

91 responses

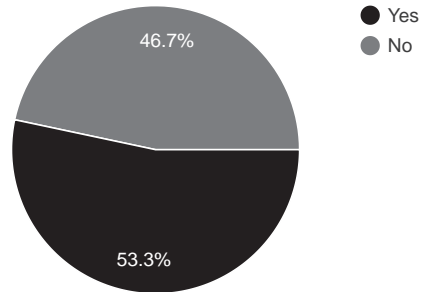
31. Whether the Advance Ruling and Appellate Advance Ruling authorities be independent judiciaries instead of the revenue officers?

90 responses



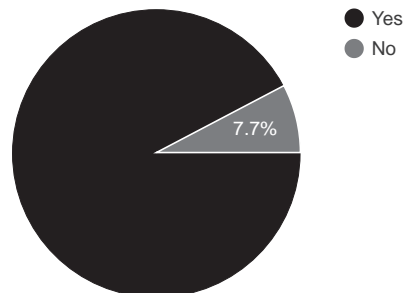
32. Should the financial year be changed to January to December and accordingly the due date of filings be advanced by 3 months?

90 responses



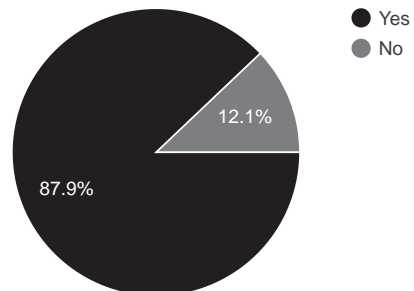
33. Should the multiple compliance forms for companies like ITR-6, 61A (IT), AOC-4, MGT-7/8 (MCA), etc. be clubbed into single unified form to be filed annually once?

91 responses



34. Should the amendments carried out throughout the year under various laws by way of Notifications issued from time to time be restricted to twice an year?

91 responses



FROM THE DESK OF GENERAL SECRETARY ACTIVITIES SINCE 11.09.2019

Date	Name of Programme	Speaker
11.09.2019	Annual General Meeting at DTPA Conference Hall	
18.09.2019	1st Study Circle Meeting at DTPA Conference Hall & Sabka Viswas (Legacy Dispute Resolution) Scheme, 2019 & Recent Judicial Pronouncements & Important Changes in ITR 6 & Tax Audit Report	CA Avinash Poddar & CA Manoj Tiwari
01.10.2019	1st E. C. meeting at Conclave	
16.10.2019	S. C. Meeting on Taxation Laws(Amendment) Ordinance 2019 & Sabka Viswas Indirect Tax Dispute Resolution Scheme And Critical Issues to take care while filing GST Returns of September at DTPA Conference Hall	CA S. S. Gupta & CA Ankit Kanodia
01.11.2019	Diwali & Bijaya Get together at Panache Banquet(Merlin Homeland Mall)	
08.11.2019	"Code of ethics 2019 by ICAI and case studies related to important disciplinary cases" at DTPA Conference Hall	CA Ranjeet Kr. Agarwal & CA A. P. Singh
15.11.2019	" Important Issues in GST Annual Return and Audit" & GST implications on 'Not for Profit Entities' including Real Estate deals" at DTPA Conference Hall	CA Shubham Khaitan & Adv. Vinay Shraff
19.11.2019	Felicitation programme at Aayakar Bhawan to Shri Gunjan Prasad, Shri Ashish Verma , Smt. T. Tonsinghprasad as elevated CCIT.	
19.11.2019	Meeting with Shri B. N. Jha, Pr. CCIT W. B. & Sikkim for holding on interactive session faceless scrutiny.	
22.11.2019	Felicitation programme at Aayakar Bhawan Ruby to Shri K. C. P. Patnayak	
28.11.2019	An interactive session was organised by the Chief Commissioner, CGST, Kolkata Zone on issues related to GST New Returns & SVLDRS scheme, at GST Bhawan which was attended by GST Committee Advisor, Chairman and Co-chairman.	
05.12.2019	Group Discussion meeting on "Electronic payments mandatory for Business having turnover Rs. 50 Crore Under Section 269 SU* of Income Tax Act". at DTPA Conference Hall	Adv. Subash Agarwal
06.12.2019	2nd Executive Committee Meeting at DTPA Conference Hall	
11.12.2019	S. C. meeting on " Valuation-overview, opportunities-valuation of equity shares under income tax" & "Valuation under Companies Act" at DTPA Conference Hall	CA Debayan Patra & CA Vidhi Chandak
18.12.2019	Interactive Session on "NSR EMERGE" AT HHI	
20.12.2019 to 21.12.2019	DTPA participate in Venue Co-ordination of 44th Regional conference of ICAI-EIRC	
27.12.2019	S. C. meeting on "Prosecution Notices for Disqualified Directors " & "How to tackle recent notices issued by ROC on various documents filings" at DTPA Conference Hall	ADV. Rites Goel & CS. Mohan Ram Goenka

Forthcoming Programme:		
31.12.2019	Holy Trip for Vaishnodevi	
14.01.2020	S. C. meeting on " Assessment of income under section 115BBE (Demonetisation period) and penalty provisions as per section 271AAC." at DTPA Conference Hall	CA. Anand Kr. Tibrewal
16.01.2020	DTPA Jointly programme with MCC, BCC, CCC & ACAE at Oberoy Grand Hotel , Special Session & Interaction with Shri Anurag Singh Thakur, Hon'ble Minister for State for Finance & Corporate Affairs.	
16.01.2020	Gazal Programme at Shisha	
26.01.2020	DTPA Picnic at Kalyan Bharati Foundation (Heritage Project Kheadaha, Challapara, Kolkata - 700150)	
29.01.2020	Saraswati Puja at DTPA CONFERENCE HALL	
01.02.2020	Live Budget meeting at DTPA Conference Hall	
02.02.2020	Inter Study Circle Cricket Tournament at Space Circle Club	
03.02.2020	Union Budget meeting at Kalamandir	
09.02.2020	Cricket Match with IRS Association at Sambaran Banerjee Cricket Academy Ground	
22.02.2020 & 23.02.2020	Residential Conclave at Holiday INN , Ulberia	

DTPA NEW MEMBERS LIST APPROVED ON 06.12.2019

SL. NO.	NAME	QUALIFICATION	PROPOSED BY
1	MR. NIKUNJ KANODIA	CA.	MR. N. K. GOYAL
2	MR. ABHISHEK SARAOGI	B. COM (Certified Jewellery Valuer)	MR. RAJESHAGRAWAL
3	MR. SUMIT DEVRALIA	COST ACCOUNTANT & CS	MR. RAJESHAGRAWAL
4	MR. ROHIT SURANA	CA., CS., IMAA CHARTER HOLDER	MR. VIKASH PARAKH
5	MR. PRIYAM PULASARIA	CA., CS.	MR. AJIT KR. TULSIAN
6	MS. NEHA AGARWAL	CS.	MR. SHYAM AGARWAL
7	MS. POOJA VIMAL	CA. CS.	MR. RITESH VIMAL
8	MR. INDRANIL DAS	B. COM(H), CA.	MR. N. K. GOYAL
9	MS. RISHITA DAS	CA & CS.	MR. N. K. GOYAL
10	MR. ASHISH KR. MANDAWEWALA	B.COM(H), CA.	MR. RAMESH KR. CHOKHANI
11	MR. VIVEK AGARWAL	B.COM(H), CA.	MR. AJIT KR. TULSIAN
12	MR. HARSH DUGAR	CA., DISA	MR. RAJESH KR. AGRAWAL
13	MR. UEDIT JALAN	B.COM, CS, CA(INTER)	MR. VIKASH PAREKH
14	MRS. MINU JAISWAL	B.COM, FCA	MR. RAJESHAGRAWAL
15	MR. VIVEK JAISWAL	B.COM, FCA, DISA	MR. RAJESHAGRAWAL
16	MR. ASHOK KR. AGARWALA	B.Com, LL.B, FCA.	MR. RAJESHAGRAWAL
17	MR. DEEPAK KR. AGARWAL	B.COM(h), FCA	MR. RAMESH KR. CHOKHANI



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Annual General Meeting at DTPA Conference Hall on 11th September 2019



1st Study Circle Meeting at DTPA Conference Hall & Sabka Viswas (Legacy Dispute Resolution) Scheme, 2019 & Recent Judicial Pronouncements & Important Changes in ITR on 18th September 2019



CA Avinash Poddar



CA Manoj Tiwari



1st Executive Committee Meeting at Conclave on 1st October, 2019



Study Circle Meeting on Taxation Laws (Amendment) Ordinance 2019 & Sabka Viswas Indirect Tax Dispute at DTPA Conference Hall 16th October, 2019



CA Ankit Kanodia





“Code of ethics 2019 by ICAI and case studies related to important disciplinary cases” at DTPA Conference Hall 8th November, 2019



CA Ranjeet Kr. Agarwal



CA A. P. Singh



Study Circle Meeting Important issues in GST Annual Return And Audit at DTPA Conference Hall on 15th November, 2019



CA Shubham Khaitan



Adv. Vinay Shraff



Felicitation Programme on 19th November, 2019



Interaction with Shri Biswanath Jha ji, Principal Chief Commissioner of Income Tax, West Bengal & Sikkim and Shri Kaushalendra K. Singh ji, Chief Commissioner of Income Tax (ReAC), on 19 Nov., 2019



Team DTPA congratulating and wishing Shri K.C.P.Patnaik on his elevation as CCI



Group Discussion meeting on “Electronic payments mandatory for Business having turnover Rs. 50 Crore Under Section 269 SU* of Income Tax Act” at DTPA Conference Hall on 5th December, 2019



Study Circle meeting on “Valuation-overview, opportunities-valuation of equity shares under income tax” & “Valuation under Companies Act” at DTPA Conference Hall on 15th December, 2019



CA Debayan Patra



CA Vidhi Chandak



Interactive Session on “NSR Emerge” SME Listing Platform Opportunities for Practicing Professionals on 18th December, 2019



Study Circle meeting on 27th December, 2019



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