



NEWSLETTER

TRICHUR BRANCH OF SIRC OF ICAI

April 2019

From the Chairperson

Warm Greetings Dear Members,

April was a happening month with the pressure and heat of Bank Audits, Elections to the Parliament and various other activities.

The Managing Committee met thrice during the month to decide on various activities of the upcoming larger IT Lab at our old premises, matters of renewals and new contracts and other matters concerning our branch.

At the academic front branch conducted a Half Day Seminar on Recent Amendments in Companies Act and the speaker was CA. Chinnsamy Ganesan from Chennai. It was a Half-day Seminar and was well attended by the members.

A discussion on the Pre Budget Memorandum was held on 26th of April, 2019 wherein the desired changes in Direct Taxes as well as Indirect Taxes were discussed and a memorandum was prepared.

I thank the members who gave their valuable inputs and time for the same.

The branch could also conduct a GMCS programme which concluded on 27th of April with a valedictory session. The Chief Guest of the valedictory session was CMA A.P.Madhu, Past Chairman, ICMAI Trichur



Branch, was the Chief Guest of the session.

A written examination of the recently completed Certificate course on Drafting of Appeals was conducted on the 27th of April, 2019 at the Branch Seminar Hall. 29 delegates took up the exam conducted by the Committee on Capacity Building of ICAI.

As in earlier years our branch conducted a Friendly Cricket Match with the officials of IT Dept on the 27th of April, 2019. The venue of the Cricket Match was Sree KeralaVarma College Ground and the match started sharp at 3.30 pm. Its indeed a matter of pride that the Trichur ICAI team won by 7 runs against the IT Dept team.

Needless to say that without the help of our active members these things could not have been possible. Thanking you all for your continued co-operation and support.

A word cloud graphic with the word 'DEPOSIT' prominently displayed in the center in a large, bold, white font. The word is set against a thick, horizontal red brushstroke that spans across the middle of the image. Surrounding this central element are various other financial and business-related terms in different sizes and orientations, including 'BANK', 'FUND', 'CREDIT', 'DOCUMENT', 'ANALYSIS', 'MORTGAGE', 'PAYMENT', 'RECEIPT', 'FINANCIAL', 'PRICE', 'DISCOUNT', 'FIGHT', 'BUSINESS', 'ACCOUNT', 'MONEY', 'INVESTMENT', 'SALES', 'MARKETING', 'STRATEGY', 'RISK', 'MANAGEMENT', 'OPERATIONS', 'TECHNOLOGY', 'INNOVATION', 'GROWTH', 'DEVELOPMENT', 'RESEARCH', 'ANALYTICS', 'COMMERCE', 'INDUSTRY', 'ECONOMY', 'MARKET', 'COMPANY', 'ORGANIZATION', 'TEAM', 'LEADERSHIP', 'VISION', 'MISSION', 'VALUES', 'ETHICS', 'CULTURE', 'HISTORY', 'FUTURE', 'GOALS', 'OBJECTIVES', 'RESULTS', 'PERFORMANCE', 'EFFICIENCY', 'EFFECTIVENESS', 'QUALITY', 'CUSTOMER', 'SERVICE', 'SUPPORT', 'TRAINING', 'DEVELOPMENT', 'GROWTH', 'INNOVATION', 'RESEARCH', 'ANALYTICS', 'COMMERCE', 'INDUSTRY', 'ECONOMY', 'MARKET', 'COMPANY', 'ORGANIZATION', 'TEAM', 'LEADERSHIP', 'VISION', 'MISSION', 'VALUES', 'ETHICS', 'CULTURE', 'HISTORY', 'FUTURE', 'GOALS', 'OBJECTIVES', 'RESULTS', 'PERFORMANCE', 'EFFICIENCY', 'EFFECTIVENESS', 'QUALITY', 'CUSTOMER', 'SERVICE', 'SUPPORT', 'TRAINING', 'DEVELOPMENT'. The words are in shades of gray and white, creating a layered, textured effect.

2 from the 1st April, 2014 to the date of publication of this notification in the Official Gazette, as specified in Form DPT-3 within ninety days from 31st March 2019 along with fee as provided in the Companies (Registration Offices and Fees) Rules, 2014”

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In this write up, we shall discuss the various FAQs in this respect:

1. WHO SHALL FILE FORM DPT-3?

All the Companies which have accepted deposits or loans which are exempted from the provisions of Section 73 to 76 of the Companies Act, 2013 and such deposits and loans are still outstanding as on the date of 31st March, 2019 are required to file this one time return DPT-3 within 90 days from the closure of financial year i.e by 29th June, 2019.

2. WHAT IS MEANT FOR DEPOSIT?

“Deposit” includes any receipt of money by way of deposit or loan or in any other form, by a company but does not include such categories of amount [Provided in Rule 2(1)(C)] as may be prescribed in consultation with the RBI.

3. WHAT ARE THE EXEMPTED DEPOSITS FROM SEC. 73 TO 76?

The definition of deposit excludes certain transactions from its purview which are given in the Rule 2(1)(C) of the Companies (Acceptance of Deposit Rules), 2014. So, We need to look at Rule 2(1)(C) to see what are the exempted deposits for which this one time DPT-3 is required.

4. IS THERE ANY EXEMPTION TO THIS FORM TO ANY COMPANY/PERSON?

No, there is no exemption as such. Only government Companies are not required to file Form DPT-3.

5. WHAT IS THE TIME LIMIT?

The Form has to be filed within 90 days from the date of publication of said

notification. This was further amended for the words “the date of publication of this notification in the Official Gazette”, the figures, letters and word “31st March, 2019” shall be substituted. Accordingly, we have to file the Form DPT-3 latest by 29th June, 2019.

6. IS THERE ANY FEES FOR FILING THE FORM?

Yes, fees shall be payable as per the Companies (Registration Offices and Fees) Rules, 2014 and it shall vary between rupees two hundred to rupees six hundred depending upon paid up capital of the Company.

7. WHAT INFORMATION IS REQUIRED TO BE FURNISHED?

Every Company shall furnish onetime information about the outstanding receipt of money or loan by a Company but not considered as deposits. However, in case the Company has deposits then also the Company has to file Form DPT-3 providing requisite information about deposits by the end of June, 2019.

8. WHETHER INFORMATION ABOUT SECURED/UNSECURED LOAN/ ECB/ LOANS BETWEEN HOLDING AND SUBSIDIARY IS REQUIRED TO BE FURNISHED?

Yes, as there is no specific exemption in the said notification and accordingly, it can be concluded that information about each and every outstanding loan as on 31.03.2019 is required to be furnished.

9. DO NBFCs ARE REQUIRED TO FURNISH SUCH INFORMATION?

Yes, there is no specific exemption to NBFC from furnishing information and accordingly, details about every outstanding money or loan in the accounts as on 31.03.2019 of NBFCs are also required to furnish.

10. DO WE HAVE TO FILE THIS RETURN EVERY YEAR?

If we see the format of DPT-3 as given in the said notification, then we can opine that for now, onetime particulars of outstanding money or loan not considered as deposits is required to be furnished in Form DPT-3. Maybe however, the Companies in future ought to require furnishing information about loans/money not considered deposits along with the loans/money considered as deposits as well.

11. IF LOAN/MONEY HAS BEEN RECEIVED BEFORE 01.04.2014 AND STILL OUTSTANDING IN THE BALANCE SHEET, THEN ALSO INFORMATION IS REQUIRED TO BE FURNISHED?

Yes, information about any loan/money outstanding in the balance sheet of every

Company except Government Company as on 31.03.2019 is required to be furnished in Form DPT-3.

12. IF LOAN/MONEY HAS BEEN RECEIVED ANYTIME AFTER 01.04.2014 AND REPAYED BEFORE 31.03.2019, THEN ALSO INFORMATION IS REQUIRED TO BE FURNISHED?

No, information only about the outstanding loan/money is required to be furnished.

13. WHAT WILL BE THE CONSEQUENCES FOR NON-REPORTING?

Section 76A and Rule 21 provides punishment for non-compliance with any provisions of the rules.

On the company: A fine of minimum Rs. 1 Crore or twice the amount of deposit so accepted, whichever is lower, which may extend to Rs. 10 Crore; and

On the officers of the Company who is in default: imprisonment upto 7 years and with a fine of not less than Rs. 25 lakh which may extend to Rs. 2 Crore.

GST ON CHARITABLE TRUSTS



Charitable Activities

Charitable activities for the purpose of GST means activities relating to—

(i) Public health by way of,—

(A) Care or counselling of

- Terminally ill persons or persons with severe physical or mental disability;
- Persons afflicted with HIV or AIDS;
- Persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or

(B) Public awareness of preventive health, family planning or prevention of HIV infection;

(ii) Advancement of religion, spirituality or yoga;

(iii) Advancement of educational programmes or skill development relating to,—

- abandoned, orphaned or homeless children;
- physically or mentally abused and traumatized persons;
- prisoners; or
- persons over the age of 65 years residing in a rural area;

(iv) Preservation of environment including watershed, forests and wildlife;



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Exemption to Charitable Trusts

Taxability of receipts of charitable trusts shall be determined primarily based on whether the said activities would fall under the Scope of Supply under Section 7 of the CGST Act, 2017?

As per Section 7 (1) CGST Act, the expression "supply" includes—

- (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business,
- (b) import of services, for a consideration whether or not in the course or furtherance of business and
- (c) the activities specified in Schedule I, made or agreed to be made without a consideration,

Thus, for an activity being classified as supply, Supply to be made by a Person; Supply must be in the course or furtherance of Business; and for a Consideration.

Person; Business ; and Consideration

Section 2(84) defines person for the purpose of GST. As per section 2(84), a person includes

- (a) an individual;
- (b) a Hindu undivided family;
- (c) a company;
- (d) a firm;
- (e) a Limited Liability Partnership;
- (f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;

- (g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013,
- (h) any body corporate incorporated by or under the laws of a country outside India;
- (i) a co-operative society registered under any law relating to cooperative societies;
- (j) a local authority;
- (k) Central Government or a State Government,
- (l) society as defined under the Societies Registration Act, 1860;
- (m) Trust; and**
- (n) every artificial juridical person, not falling within any of the above

As per Section 2 (17) "business" includes –

- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
- (b) any activity or transaction in connection with or incidental or ancillary to (a) ;
- (c) any activity or transaction in the nature of (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
- (e) provision by a club, association, society, or any such body (for a subscription or any other

- consideration) of the facilities or benefits to its members
- (f) admission, for a consideration, of persons to any premises;
 - (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
 - (h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club, and
 - (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities,

As per section 2(31) "Consideration" in relation to the supply of goods or services or both includes

- a. any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of

goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

- b. the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:

PROVIDED that a deposit, given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;

Thus there may be activities which would be within the ambit of Goods and Service Tax.

Exemption under Notification No .12/2017 – Central Tax (Rate)

The following are a gist of exemptions available to charitable trusts in notification no 12/2017 – Central Tax (Rate) as amended.

Sl	Description	Chapter
1	Services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities.	99
2	Services by a person by way of— (a) conduct of any religious ceremony; (b) renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) or a trust or an institution registered under sub-clause (v) of clause (23C) of section 10 of the	9963 or 9972 or 9995 or any other Heading of Section 9

	<p>Income-tax Act or a body or an authority covered under clause (23BBA) of section 10 of the said Income-tax Act:</p> <p>Provided that nothing contained in entry (b) of this exemption shall apply to,—</p> <p>(i) renting of rooms where charges are one thousand rupees or more per day;</p> <p>(ii) renting of premises, community halls, kalyanmandapam or open area, and the like where charges are ten thousand rupees or more per day;</p> <p>(iii) renting of shops or other spaces for business or commerce where charges are ten thousand rupees or more per month.</p>	
3	<p>Services by way of training or coaching in recreational activities relating to—</p> <p>(a)</p> <p>(b) sports by charitable entities registered under section 12AA of the Income-tax Act.</p>	9996
4	<p>Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in,—</p> <p>(i).....</p> <p>(ii) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment,</p>	9995
5	<p>Services by a specified organisation in respect of a religious pilgrimage facilitated by the Government of India, under bilateral arrangement</p>	9991
6	<p>Services by an old age home run by Central Government, State Government or by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) to its residents (aged 60 years or more) against consideration upto twenty-five thousand rupees per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance</p>	99

Taxability of Various Activities of Trusts

Thus Trust is a person for the purpose of GST. Activities of trust may fall in the ambit of GST. Now various activities of the trust can be analysed.

a. Donations

Donations are received by the Trust without any expectation of any supply from the Trust. Donations received by the Trust may not qualify as a "Supplies" within the meaning of Sec. 7 of the Act, as there is no activity being done by the Trust for the receipt of the said Donations.

The same may not qualify as "in the course of Business", as the said Donations are received with the object of furtherance of the objects of the Trust, for Charitable purpose and there is no Business activity involving any Trade, commerce, manufacture, etc., as defined in Sec. 2(17).

b. Sponsorship Receipts for Specific Activity/Conferences

Sponsorship amounts are usually received by the Trust from both Individuals and Corporates for specific programmes Workshops conducted by the Trust. These are usually received with a condition that the Sponsor can advertise his Brand/Product directly or indirectly in the said Programme/Conference, etc. This would fall under the category of "Business" u/s. 2(17).

Notification 13/2017 Central Tax Rate dated 28.06.2017 where in case of "Services provided by way of sponsorship to any body corporate or Partnership Firm by Any person, the said Body Corporate

or Partnership Firm located in the Taxable Territory would be liable to discharge GST on Reverse Charge basis u/s. 9(3) of the Act and not the Trust.

Thus taxability of sponsorship may be summarized as

Situation	Person liable to Discharge GST
Sponsorship received From Body Corporate/Firm	Body Corporate/Firm in Taxable Territory
Sponsorship received in Other cases	The Trust

c. Import of Service

As per serial no 10 of the above mentioned notification Services received from a provider of service located in a non-taxable territory by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) for the purposes of providing charitable activities is exempted from reverse charge. However, this exemption shall not apply to online information and database access or retrieval (OIDAR) services received by charitable trusts. OIDAR services have been defined in section 2(17) of the IGST Act, 2017 and include services such as advertising on the internet, provision of books, movie ware online gaming etc. However, compliance on the charitable trust under reverse charge

d. GST on arranging yoga and meditation camp by charitable trusts

As discussed above, services provided by entity registered under Section 12AA of the Income-tax Act 1961 by way of

advancement of religion, spirituality or yoga are exempt. Fee or consideration charged in any other form from the participants for participating in a religious, Yoga or meditation programme or camp meant for advancement of religion, spirituality or yoga shall be exempt. Residential programmes or camps where the fee charged includes cost of lodging and boarding shall also be exempt as long as the primary and predominant activity, objective and purpose of such residential programs or camps is advancement of religion, spirituality or yoga. However, if charitable or religious trusts merely or primarily provide accommodation or serve food and drinks against consideration in any form including donation, such activities will be taxable. Similarly, activities such as

holding of fitness camps or classes such as those in aerobics, dance, music etc. will be taxable.

e. GST on management of educational institutions by charitable trusts

Activities of schools, colleges or any other educational institutions run by charitable trusts by way of education or skill development of abandoned, orphans, homeless children, physically or mentally abused persons, prisoners or persons over age of 65 years or above residing in a rural area, shall be considered as charitable activities exempt from GST.

ORDER OF UTILISATION OF ITC UNDER GST AS PER NEW RULE



Input Tax Credit

The new order of ITC utilization, rule 88A is brought vide Notification No. 16/2019, dated 29-3-2019. This may bring some relief to the business community, which has anticipated increase in there working capital requirements due to blockage of credit by the amendment made to section 49 vide First Amendment Act made effective from 1st FEB, 2019. Let us analyze the changes that are being brought about by new order of utilization vide rule 88A.

"Rule 88A" Order of utilization of input tax credit.

Input tax credit on account of integrated tax shall first be utilised towards payment of integrated tax, and the amount remaining, if any, may be utilized towards the payment of central tax and State tax or Union territory tax the case may be, in any order.

OLD RULE



REVISED RULE



PROVISO to RULE 88A

Provided that the input tax credit on account of Central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, Central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilized fully.

Liability	IGST	CGST	SGST	
ITC IGST	1st	2nd	2nd	ITC of IGST to be exhausted 1st then only ITC of CGST or SGST can be utilised for respective payments
ITC CGST	2nd/3rd	1st	NA	
ITC SGST	2nd/3rd	NA	1st	SGST/CGST credit will be utilised for the payment of IGST only when there is no other ITC available

Can the GST credit after utilization of IGST liability be utilized partly from CGST or SGST

As the rule 88A provides that integrated tax shall first be utilised towards payment of integrated tax, and the amount remaining, if

any, may be utilized towards the payment of Central tax and State tax or Union territory tax, as the case may be, in any order but it does not mention that balance IGST can be utilized partly from CGST or SGST. It does not prohibit as well. There are a few arguments in both views.

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GLIMPSES



AWARENESS PROGRAMME ON FOUNDATION COURSE, CHAIRPERSON CA SILPA RAMDAS ADDRESSING THE GATHERING



ADVANCED MCS BATCH 7 & 8 PRIZES TO BEST STUDENTS BY CHAIRPERSON CA SILPA RAMDAS



AWARENESS PROGRAMME ON FOUNDATION COURSE PPT PRESENTATION BY FACULTY MS LISHA K SUNIL



CRICKET MATCH WITH INCOME TAX DEPARTMENT TRICHUR ON 27.04.19 PARTICIPANTS



SEMINAR ON COMPANIES ACT ON 20.04.19 FACULTY CA CHINNSAMY GANESAN



INAUGURATION OF CRICKET MATCH WITH IT DEPT TRICHUR ON 27.04.19 BY COMMISSIONER APPEALS SRI VIVEK NANGIA ACCOMPANIED BY JOINT COMMISSIONER CHANDRABABU.