



**NEWSLETTER**

**THRISSUR BRANCH OF SIRC OF ICAI**

October 2019

## From the Chairperson

**W**arm Greetings Dear Members,

The busiest month for Tax professionals, fondly known as the tax audit month, just passed by. All of us could have stretched to the maximum possible during this month to complete the professional work with utmost diligence and care.

We also celebrated DIWALI the festival of lights in the midst of all our busy professional engagements on 27th of October. Hope all the members had a joyous Diwali and had quality time with their families.

Our branch started the 6th batch of Diploma in Information Systems and Audit (DISA) for our members. The DISA classes were conducted on 5th and 6th October by CA Babu Nambi, on 12th and 13th October by CA Raghavendran and on 19th, 20th, 21st and 22nd by CA Vikas Kamath. 40 of our members are attending DISA Classes.

On 11th of October we conducted a Half-day CPE Seminar on "Real Estate and Works Contract under GST, post April 2019 amendments". We had a learned faculty from Chennai CA. Sankara Narayanan to explain to us the minute details involved in GST on real estate and works contract.

Our branch was fortunate enough to receive the President of South Asian Federation of Accountants (SAFA) CMA Dr. Jaganmohan Rao to address our members on the 12th of October. He talked to us



about the functions of SAFA and the necessity of our members and students taking part in the activities organised by SAFA. We also conducted a Press Conference with the President through which he wanted to popularise the activities SAFA is undertaking to support various accountancy professions across nations. This press meet was hosted by our branch and all leading dailies were represented by their reporters.

In continuation to the SAFA President's visit our branch conducted a Half-day CPE Seminar on "Recent amendments, planning and taxation of Capital Gains". Our Regional council Member of SIRC Dr. CA Abhishek Murali was the speaker of the day. He talked about various case laws concerning capital gains and many other practical implications.

On 19th of October CA Petchi Thangavel from Chennai was our faculty for another Half-day CPE Seminar on "Procedures and Issues in E-assessment". We also had a study circle meeting on Sabka Vishwas (Legacy Dispute Resolution), 2019 on 21st of October. The faculty of this study circle

meeting was none other than our own learned member CA Tony M.P.

The branch also laid down another landmark by starting REGULAR CLASSES for CA Final students. The timings of these classes are from 7am to 9am so that the article ship timing of CA final students are not interrupted. As all of you know our branch is regularly conducting classes for CA Foundation and Intermediate students and now the branch has taken another leap

forward by starting CA Final classes for both Group 1 and Group 2.

The Managing Committee met twice during the month to decide on various matters of administration and to finalize the half yearly audited financial statements.

Even in the midst of all busy schedules the members supported the branch in conducting various meetings and seminars. Looking forward to your continued support and Thanking You.

# KNOW YOUR ETHICS

Taken from ICAI Journal as Contributed by the Ethical Standards Board of ICAI



**Q. Whether a member in practice will be liable if he fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances?**

A. Yes, as per Clause (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances.

**Q. Whether a member in practice will be held liable for failing to keep moneys of his client in a separate banking account or to use such moneys for purposes other than they are intended for?**

A. Yes, as per Clause (10) of Part I of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to keep moneys of his client other than fees or remuneration or money meant to be expended in a separate banking account or uses such moneys for purposes other than they are intended for.

**Q. Whether a member in practice will be liable in a case where he was alleged to have signed two balance sheets on two different dates for the same financial year, the first one with a clean report and the second one with a qualified report?**

A. Yes, the action of the member in signing two balance sheets on two different dates for the same financial year will constitute professional misconduct under Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949, which states that a member in practice shall be deemed to be guilty of professional misconduct, if he is grossly negligent in the conduct of his professional duties.

**Q. Whether a member in practice will be liable if he fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion?**

A. Yes, as per Clause (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion.

**Q. Whether a member of the Institute will be liable, if he contravenes any of the provision of the Chartered Accountants Act, 1949 or the Chartered Accountants Regulations, 1988 or the Guidelines issued by the Council?**

A. Yes, as per Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he contravenes any of the provisions of Chartered Accountants Act, 1949 or the Chartered Accountants

Regulations, 1988, made thereunder or any guidelines issued by the Council. Generally Accepted Audit Procedure

**Q. What constitutes “generally accepted audit procedure” for the purpose of Clause (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949?**

A. The expression “generally accepted audit procedure” would depend upon the facts and circumstances of each case, but guidance is available from the various pronouncements of the Institute issued from time to time by way of Quality Control and Engagement Standards, Statements, General Clarifications, Guidance Notes and Technical Guides, Practice Manuals, Studies and Other Papers

**Q. Is there any ceiling on the number of tax audit assignments that can be taken up by a member in practice?**

A. Yes, in the exercise of the powers conferred by Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949, the Council of the Institute has issued Council General Guidelines, 2008, chapter VI of which specifies that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he accepts, in a financial year, more than the specified number of tax audit assignments under Section 44AB of the Income-tax Act, 1961. The number specified for tax audits is 60.

**Q. Where a Firm of Chartered Accountants has more than one partner, how many tax audits can be signed by one partner on behalf of other partners?**

A. As per Chapter VI of Council General Guidelines, 2008, in case of Firm of Chartered Accountants in practice, specified number of tax audit assignments means tax audit assignments per partner of the firm, in a financial year. Therefore, if there are 10 partners in a firm of Chartered Accountants in practice, then all the partners of the firm can sign 600 tax audit reports. The maximum limit of 600 tax audit assignments may be distributed between the partners in any manner whatsoever. It is needless to say that the tax audit assignment should be in accordance with the Standard on Quality Control (SQC) 1: Quality Control for Firms that Perform Audits and Reviews of Historical Financial Information, and Other Assurance and Related Services Engagements.

**Q. Can a Chartered Accountant receive his professional fees in advance partly or in full?**

A. Yes, as such there is no bar in the Chartered Accountants Act, 1949 or in the Chartered Accountants Regulations, 1988, as well as Code of Ethics in taking the fees in advance.

**Q. Whether a member of the Institute in practice is required to maintain books of accounts?**

A. Yes, in the exercise of the powers conferred by Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949, the Council of the Institute has issued Council General Guidelines, 2008, Chapter V of which specifies that a member of the Institute in practice or the firm of Chartered Accountants of which he is a partner shall maintain and keep in respect of his/its professional practice, proper books of account including the following:- (i) a Cash Book; (ii) a Ledger.



## GSTR 3B – Recent Amendment



**Aswathy Rahul**

### **GST Returns – As Proposed and Actual**

Return filing mechanism in the GST Act was designed to incorporate uploading of invoices, auto-population of input tax credit from returns of supplier to that of recipient, and invoice level information matching. To achieve complete matching of invoices of supplier and recipient, GSTR-3 has been prescribed as monthly return which summarizes or auto-populates the details of outward supplies furnished in GSTR-1 and the details of inward supplies furnished in GSTR-2.

IT infrastructure of the newly designed GST portal was lacking in many respects to execute auto-population of data in GSTR-3 from respective GSTR-1 and GSTR-2. This led to deferment of filing of GSTR 2 and GSTR 3 initially for few months and subsequently, for an indefinite period. However, GSTR-1

remained operational for furnishing of details of outward supplies on the basis of invoices.

To ensure that tax collection does not suffer, GSTR-3B was introduced as monthly return, which would enable taxpayers to furnish summarized data of outward supplies, input tax credit and pay tax accordingly.

GSTR 3 is the return prescribed under Rule 61(1) of the CGST Rules, 2019, read with Section 39(1) of the CGST Act, 2017 to be filed by every registered person other than Input Service Distributor, non-resident taxable person, composition taxpayer, person deducting TDS under Section 51 or person collecting TCS under Section 52.

Vide notification no. 10/2017 (Central Tax) dated June 28, 2017, it was provided in Rule 61(5) of the CGST Rules that where the time limit for furnishing of details in Form GSTR-1

and in Form GSTR-2 have been extended, then return in Form GSTR-3B, in lieu of Form GSTR-3, may be furnished.

Later on, vide Notification No. 17/2017 – Central Tax, dated July 27, 2017, the CBIC omitted the wordings 'return in Form GSTR-3B, in lieu of Form GSTR-3'. Therefore, it was made clear that GSTR-3B is not a return in lieu of GSTR-3.

### **Amendment to Rule 61**

Recently, CBIC has amended Rule 61 of the CGST Rules, 2017 retrospectively w.e.f. July 1, 2017 vide Notification No. 49/2019-Central Tax, dated October 9, 2019, according to which:-

1. A proviso has been inserted in Rule 61(5) which states that where a return is furnished by a person in GSTR-3B then such person is not required to furnish return in GSTR-3.

2. Earlier Rule 61(6) was inserted for matching of discrepancies between GSTR-3 and GSTR-3B and has been omitted now. Since GSTR-3 was not operationalized yet, matching details of GSTR-3 and GSTR-3B would not be possible and, hence, omission of this rule was justified.

CBIC took a lot of time to understand the repercussions of not notifying GSTR-3B as a return in lieu of GSTR-3 as prescribed under Section 39 (1). As per the earlier judgement pronounced by the Gujarat High Court in the case of AAP & Co., Chartered Accountants v. Union of India [2019] 107 taxmann.com 125/75 GST 192 GSTR-3B is not a return required to be filed in lieu of GSTR-3. On the basis of this ruling, taxpayers can pray for relief in respect of the following: -

#### **1. Time limit for availing of Input tax credit (ITC)**

According to Section 16(4), ITC cannot be availed after the due date of furnishing a return GSTR-3 u/s 39 or filing of annual return,

whichever is earlier. If GSTR-3B is not a return in lieu of GSTR-3 u/s 39 and in the absence of GSTR-3's due date, it was concluded that the person can avail of ITC till the date of filing of annual return.

#### **2. Interest & Late Fees**

As per Section 50, interest needs to be paid if the tax liability has not been deposited till the due date prescribed in Section 39. Similarly, late fees is levied if a registered person fails to furnish the return prescribed in Section 39. If GSTR-3B is not a return u/s 39, then interest and late fee cannot be levied.

#### **3. Cancellation of Registration**

The proper officer has been authorized under Section 29 to cancel GST registration of a registered person, if it has not furnished returns for a continuous period of 6 months. If GSTR-3B is not a return u/s 39, then the authorization given to the proper officer to cancel GST registration will become irrelevant.

#### **4. Declaring details of Debit & Credit Notes**

Any registered person cannot furnish the details of credit or debit notes issued for supplies made in a financial year, not later than due date of return for the month of September following the end of the financial year in which such supply has been made, or the date of furnishing of annual return, whichever is earlier. Similarly, in this case also the person can furnish the details of credit or debit notes till the date of furnishing of annual return.

### **Impact of Amendment in Rule 61**

If GSTR-3B is not considered as return in lieu of GSTR-3, then wherever the CGST Act refers to the return u/s 39, it would mean return in terms of GSTR-3 and not GSTR-3B. As GSTR-3 is not operationalized since GST implementation date, but only arises through



law, relief in respect of availment of ITC, payment of interest and late fees, cancellation of registration, etc., as discussed above and similar other provisions which mention return u/s 39, will not hold any relevance until and unless GSTR-3 is made effective. Therefore, if GSTR-3B is not considered a return, it would certainly create hue and cry for the department.

Necessary amendment was required which could put to rest various irrational conclusions emerging from the Gujarat HC's judgment. So, it was logical and welcoming decision of govt. to notify GSTR-3B as return in lieu of GSTR-3 retrospectively w.e.f. July 1, 2017, as it is

currently being used for payment of taxes monthly where the details of outward and inward supplies are furnished in summarized form. This move has aligned and closed the gap between law and practical scenario. By declaring GSTR-3B as a return, the Gujarat HC's judgment and all other litigations which were pending for disposal, challenging the legal validity of GSTR-3B as a return hereby become irrelevant.

New return system will commence from April, 2020 and eventually filing of GSTR-3B will be done away with and it is expected that the said system will flow smoothly and will not face the same fate as the present return filing system.

## GLIMPSES



SICASA ONE DAY SEMINAR ON 11-10-2019 -  
SICASA CHAIRMAN CA. JEEN PAUL INTRODUCING  
THE FACULTY CA. SHANIL USMAN MOHAMED



HALF DAY SEMINAR ON 11-10-2019 - REAL  
ESTATE & WORK CONTRACT - SESSION BY CA.  
SANKARA NARAYAN, CHENNAI



SICASA ONE DAY SEMINAR ON 11-10-2019 -  
SESSION BY CA. SHANIL USMAN MOHAMED



RECEPTION TO PRESIDENT OF SAFA Dr. P V S  
JAGAN MOHAN RAO ON 12-10-2019



HALF DAY SEMINAR ON 11-10-2019 - REAL  
ESTATE & WORKS CONTRACT - WELCOME  
ADDRESS BY CHAIRPERSON CA. SILPA RAMDAS



REPLY SPEECH BY PRESIDENT OF SAFA Dr. P V S  
JAGAN MOHAN RAO ON 12-10-2019 AT BRANCH  
SEMINAR HALL





PRESIDENT OF SAFA Dr. P V S JAGAN MOHAN RAO INAUGURATES HALF DAY CPE SEMINAR ON CAPITAL GAINS ON 12-10-2019 BY LIGHTING LAMP



SESSION BY FACULTY CA. PETCHI THANGAVEL ON HALF DAY SEMINAR ON E-ASSESSMENT ON 19-10-2019



SESSION BY FACULTY Dr. CA. ABHISHEK MURALI, CHENNAI ON CAPITAL GAINS - HALF DAY SEMINAR ON 12-10-2019



WELCOME ADDRESS BY CHAIRPERSON CA. SILPA RAMDAS - STUDY CIRCLE MEETING ON LEGACY DISPUTE RESOLUTION ON 21-10-2019



CA. RAJ MOHAN INTRODUCING THE FACULTY CA. PETCHI THANGAVEL ON HALF DAY SEMINAR ON E-ASSESSMENT ON 19-10-2019



SESSION BY CA. TONY M P IN STUDY CIRCLE MEETING ON LEGACY DISPUTE RESOLUTION ON 21-10-2019



ISA-PT CLASS CONDUCTED AT THRISSUR BRANCH



ISA COURSE SESSION AT THRISSUR BRANCH