



Editorial Board

CA Mahadevan N V

CA Sivarajan P

CA Manty Anto

CA Beena K

CA Dhanya G

Technical Support

Srikala Renjith

Rajesh K S

Contents

- Chairman's Desk
- Taxation : Income-Tax:
- News & Updates
- Internal Audit :
 - Statutory Compliance :GST : (contd...) :
 - ❖ Aggregate Turnover
 - ❖ Reverse Charge Mechanism [RCM]
- Case Laws
- Save the dates
- Test your skill
- Crossword Puzzle

Chairman's desk:

Dear All,

We are hearing good news about all sectors of economy coming back to life due to ease of lock-down restrictions as well as reduction in active covid cases in the country. But, one should not let one's own guard by throwing all cautions to wind. The more careful you are, the more safe you become.

Covid-19 which started in early 2020, still continues to play havoc in the lives of many. It has adversely affected almost all sectors of the economy, which made one even poorer. Now, we are facing an increase in cost of living due to increase in fuel costs, which naturally force each one of us to reduce costs wherever possible. In these adverse situations, instead of lamenting on the problems we face, if one can focus on how to overcome the problem by thinking about the possible ways, we will be able to live a better life. In order to achieve it, one should understand that a problem gives you an opportunity to find a solution. If you consider a problem as an opportunity, then, it becomes a challenge and will motivate you to find a solution. The more problems you face, more opportunities will come to you and thereby you can expand your horizon which will help you in becoming a 'Lender'. So, one should always welcome 'problems'.

Recently I heard about a story which starts with a puzzling question of "all the men in the world listen to one lady, who is it?" Fascinated I started listening. It indeed was very motivating. The storyline goes like this : (which is real also):

"There was a brilliant student in Tamil Nadu by name Sundararajan. He did his Engineering at IIT, Kharagpur. From there, he went to the United States to do his MS, and joined Stanford University. On successful completion of MS, he joined Pennsylvania University and did his MBA also. In 2004, he joined a very big Multi National Company in US itself. He got married. One day, one of his close friend invited him for a dinner party at his residence. He informed the same to his wife and told her that he will come home a little early from office and together will go for the party and she agreed.



Evening, he once again called his wife & told her that since he is having an urgent meeting, he will be late. So, he asked her to go to his friend's place in her car and he will reach directly there for the party. She agreed. Accordingly, she went in her car and reached the friend's place by 7 PM. The party started, still, Sundararajan has not reached. She called him, but, no response. The friend asked his wife to take food and she reluctantly took the food and waited for her husband to come. Still, no sign of him. The other friends and family who came to attend the party, started leaving one by one. She again tried to get him on the phone, but of no avail. Then by 10.30 or so, she reluctantly left for her home. Sundararajan, meanwhile, reached the friend's place after his wife returned. His friend invited him in and told him about his wife's return and asked him the reason for delay. He sought forgiveness and told him that he lost his way number of times and that was the reason he being late. He took off from there and reached his home. He knew his wife will be very angry and highly nervous as to how to pacify her. He knocked on the door, she refused to open. After some time of continuous knock, she half-opened the door & told him that he cannot come inside and literally threw him out. She was in such an angry mood. So, Sundararajan, decided to go back to his office. Then, he started thinking : "the reason for my being late is that I couldn't find my way in this great city. There will be several people in this whole world who will be experiencing similar plights. So what can be done to solve this problem". The rest is history. Thus, borne the 'Google Map'. Sundararajan, is none other than the Sundar Pichai you all know about who is now the CEO of Google. In that adverse situation in his life, he thought about the **problem**, as a **challenge**, and found a **solution** for the same. In the case of normal human beings, there is every chance that this will end up in divorce.

Regards,
Mahadevan

I. TAXATION : INCOME-TAX :

Amendments to Section 80G (5) of the Income-tax Act, 1961

Section 80G was introduced in the Income-tax Act, 1961 with the objective of providing motivation to the Donors to contribute to philanthropic activities by giving deduction from income.

The Finance Act, 2020 introduced two new clauses u/s 80G (5), by way of **clause (viii) and (ix)** which provided additional conditions for availing deductions, w.e.f**01.04.2021** [Earlier it was 01.06.2020]. And re-approval of Sec. 80G to be obtained by the Trust has been extended upto**31st March, 2022**.

The additional conditions to be satisfied requires the Institution to strengthen their accounting systems in such a way that all compliances are adhereto within the specified dates.

Let us have a look at the additional requirements as per the new **clause (viii) and (ix)** u/s 80G (5) :

Clause (viii) states as follows :

“the institution or fund prepares such statement for such period as may be prescribed and deliver or cause to be delivered to the prescribed income-tax authority or the person authorized by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed”.

“

Clause (ix) :

“the institution or fund furnishes to the donor, a certificate specifying the amount of donation in such manner, containing such particulars and within such time from the date of receipt of donation, as may be prescribed;

Provided that the institution or fund referred to in clause (vi) shall make an application in a prescribed form and manner to the Principal Commissioner or Commissioner, for grant of approval

With the above amendments, additional three requirements came into effect. They are :

1. Filing of application for re-approval of existing approval and for new approvals.
2. Filing of an Annual Return of Donations in the prescribed form; and

3. Issuance of Certificate to the Donor in the prescribed form;

1. (A) Filing of application for Re-approval / Approval :

1. The timeline for filing application has now been extended upto 31st March, 2022.
2. The prescribed form for filing the application for re-approval in all cases is Form No. 10A.
3. The renewal approval is valid for a period of **5 years**, and further to be renewed every **5 years**.
4. In the case of fresh approval, it will be provisional approval only for a period of **three years**.
5. Following enclosures are to be uploaded in case of application for re-approval :
 - 1) Copy of Trust Deed / Bye-laws / MOA-AOA as the case may be;
 - 2) Copy of Registration Certificate
 - 3) Copy of FCRA Registration, if any;
 - 4) Copy of existing approval u/s 80G
 - 5) Copy of last 3 years annual accounts, if IT returns for AY : 20-21 & 21-22 not filed within the specified date.
 - 6) Copy of Darpan ID, if any;
 - 7) Details of Settlers / Trustees / Governing Body Members, as the case may be.

(B) Procedure for on-line filing of Form 10A :

1. Log-in by visiting the e-filing portal.
2. Click on the menu titled ‘e-file’ and then select ‘Income-tax Forms’.
3. Under ‘Income-tax Forms’ – select Form No. 10A.
4. When you click on ‘continue’, the ‘instruction’ page of Form No. 10A opens. Read the same carefully.
5. Next page will be titled ‘Form No. 10A’ – which is divided into **six parts** having a total of **21 columns** as follows :
 - (i) Incorporation / constitution details : 1 to 6

- (ii) Other Registration details : 7 & 8
- (iii) Details of Key Persons : 9
- (iv) Details of Assets & Liabilities : 10 to 19
- (v) Income details : 20
- (vi) Religious activities details : 21

All the above columns are self-explanatory and can be easily filled.

6. Once the above details are filled up and filed on-line, you will get an acknowledgement bearing a number, which is to be used as a reference to track the approval status.
7. After scrutinizing the e-form filed, the CIT will pass an order in Form No. 10AC provisionally approving u/s 80G for a period of 5 years, but, with certain conditions, such as :
 - a) Approval can be withdrawn, if it is later on found that the activities are not genuine;
 - b) Any change the deed or bye-laws can be done as per the concerned law and intimating such changes to the jurisdictional CIT and to the Assessing Officer is mandatory ;
 - c) Any change in Trustees or in their addresses shall be intimated to the jurisdictional CIT/Assessing Officer immediately;
 - d) The accounts shall be got audited;
 - e) Certificate to be issued to Donor in Form No. 10BE;
 - f) Shall file the return of income as per Section 139 (1) / 4 (A) / 4(c) of the Income-tax Act, 1961;
 - g) All the conditions specified u/s 80G (5) shall be satisfied;
 - h) Separate books of account to be maintained, in case the Trust/Society carries on business activities;
 - i) All the provisions of the Income-tax Act/Rules to be complied with, wherever applicable;

II. Filing of Annual Return :

1. Annual Return is to filed electronically in Form 10BD for the donations received in Financial Year beginning from 2021-22.
2. The due date for filing is 31st May, immediately following the Financial Year in which the donation is received.
3. A late fee of Rs. 200/- per day will be levied in case of delay/failure, as per Section 234G.
4. In addition, penalty of Rs. 10,000/- to Rs. 1,00,000/- may be levied, as per Section 271K.
5. The following information has to be maintained by the Institution for each donor w.e.f01.04.2021 :
 - 1) Name of the Donor;
 - 2) PAN / Aadhaar (or any other ID specified);
 - 3) Address of the Donor;
 - 4) Types of Donation [Corpus / Specific Grant / Others]
 - 5) Mode of Receipt : [Cash / Kind / Electronic Mode]
 - 6) Amount of Donation
 - 7) Section under which Donor is allowed to claim deduction : 80G / 35 (1)

III. Issuance of Certificate to the Donor :

1. The Institution has to issue a certificate to each donor in Form 10BE.
2. The said certificate has to be issued on or before 31st May, immediately following the respective Financial Year.
3. The said details of Donor & Donee will be specified in Donor's 26AS which is a pre-condition to avail deduction.
4. Delay / failure to issue certificate can result in levying late fee of Rs. 200/- per day and penalty of Rs. 10,000/- to Rs. 1,00,000/-.

IV. General :

1. The Institution have to ensure that their accounting system captures all the information required regarding donors.
2. It is not clear whether Certificate has to be issued for donation received in cash in excess of Rs. 2,000/- as the donor is not eligible to claim deduction. Similar is the case in respect of donations received in kind.
3. Clarity has to be obtained on whether certificate in Form 10BE has to be issued for each receipt of donation from donor or whether one single certificate for all donations received during the year is enough.
4. Where the type of donation shows that it is received towards **corpus** of the Institution, it should be ensured that the Institution complies with Sec. 11(1)(d) which states that **wef : 1.4.2022**, such voluntary contributions towards corpus fund, in order that, they are not to be included in the 'total income', shall be invested or deposited in one or more of the forms or modes specified in sub-section (5) of Section 11 **maintained specifically for such corpus**.

Once the Institutions start complying with the new requirements, it is expected that the practical issues get resolved.

CA Mahadevan N V

II. News :

Income-tax : New AIS FORMAT

The Income-tax Department has rolled out a new format for Annual Information Statement [AIS]. This can be accessed on the income-tax website :www.incometax.gov.in

The new format will have additional information relating to interest, dividend, securities, mutual fund transactions, foreign remittance information, etc. with facilities for on-line feedback wherein the tax payer can state in correct details and there is system for modification of AIS also. A simplified Tax Payer Information Summary [TIS] will also be generated for each tax payer which will show aggregated value for the tax payer for ease of filing return. This will be used for pre-filing of return, which will be done in a phased manner.

[Source : Business Line : 02.11.2021]

III. Internal Audit:

STATUTORY COMPLIANCE - GST :(continued from previous edition)

1. AGGREGATE TURNOVER

Under GST law **Aggregate Turnover** has been defined as follows :

- **Aggregate Turnover** means the aggregate value of all **taxable** supplies (excluding the value of inward supplies on which tax is payable under reverse charge basis), **exempt** supplies, **exports** of goods or services or both, and **inter-state** supplies of persons having the same PAN, to be computed on all India basis, but, excludes Central tax, State tax, UT tax, Integrated Tax and cess.
- The "Aggregate Turnover" is a crucial parameter for deciding the eligibility of a supplier for deciding the eligibility of a supplier to avail the benefit of exemption threshold of Rs. 40 lakhs / Rs. 20 lakhs / Rs. 10 Lakhs as the case may be.

2. REVERSE CAHRGE MECHANISM [RCM]

- Generally, the supplier of goods or services is liable to pay GST.
- However, in specified cases, the liability to pay GST is on the recipient of goods or services. This is called **Reverse Charge Mechanism [RCM]**.
- There are two types of reverse charge scenarios provided in law :
 1. Nature of Supply; and
 2. Nature of Supplier
- **Nature of Supply :**

The Government may by Notification, specify **categories** of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both.

(i) **Categories of Goods :**

- | | | |
|---|---|--|
| (a) 1. Cashew Nuts,
not shelled or
peeled | } | If supplied by an
Agriculturist to a
Registered Person |
| 2. Beedi Wrapper
Leaves (tendu) | | |
| 3. Tobacco Leaves | | |

(b) Supply of Lotteries : By Government to a
LotteryDistributor /
Agent

(c) Silk Yarn : By Manufacturer to a
Registered Person

(ii) **Categories of Services :**

1. GTA Service
2. Legal Service
3. Directors Remuneration
etc.

➤ **Nature of Supplier :**

Tax in respect of the supply of taxable goods or services or both **by a supplier, who is not registered, to a registered, person**, shall be paid by such person on reverse charge basis as the recipient.

[Note: This section is kept in abeyance till further notice]

➤ **Registration :**

A person who is required to pay tax under RCM has to **compulsory** register under GST.

The threshold limit of aggregate turnover is not applicable to him.

➤ **ITC :**

After discharging RCM liability, credit of the same can be taken by the recipient, if he is otherwise eligible.

IV. Case Law :

Income-tax :

Non-Filing of ITR: Tax Payer to prove Innocence to Avoid Prosecution :

A single judge bench of the Madras High Court highlighted ruling by the Supreme Court [Sasi Enterprises Vs. Asst. C.I.T.] wherein it was clearly stated that filing the return within the stipulated and mandatory period is a duty cast on any person who has taxable income.

The bench held that, the burden lies on the assessee to show that he had no willful intention not to file the return.

This judgement will have a broad influence on the society because many tax payers are not serious about submitting returns and believe that if taxes are paid, they would be able to avoid prosecution.

[Source : Business Line : 30.10.2021]

GST :

Levy of tax on entirety of contribution of Resident Welfare Association – Not correct as per Law :

The Madras High Court in **Greenwood Owners Association Vs UOI** has held that :

“conclusion of the AAR as well as Circular No. 109/28/2019 dt.22.07.2019 to the affect that any contribution above Rs. 7500/- per month per member to exemption, was contrary to the express language of the law”.

It further stated that, the prescription of a slab connotes that income upto that slab would stand outside the purview of tax on eligible to a lower rate of tax and income above that slab would be treated differently. The intendment of the exemption entry in question is simply to exempt contributions till a certain specified limit.

[(2021) 101ITP](G)496 (Mad-HCI)]

Srikala Renjith

“Cash Loan from husband to buy property not to be taxed”

The Income-tax Appellate Tribunal [Jaipur Bench] in the case of **Meera Devi Kumavatr** ruled that “if a woman has borrowed money from her husband to buy a property, it will not attract a tax penalty”. It was argued that the cash of husband and wife cannot be separated and treated as a loan and it is in joint custody. In the case of husband and wife, she argued repayment is not mandatory and there is no interest burden, so, it is not justifiable to impose penalty.

[Source : Business Line : 24.10.2021]

Income-tax : Fees to ROC for Increase in Capital :

In the case of **Moldtek packaging Ltd. Vs. Asst. CIT**, the ITAT (Hyderabad Bench), it was held that :

In view of Supreme Court decision in case of **Brook Bond India Ltd. Vs CIT (1997) 225 ITR 798 (SC)**, **Tax Pub (DT) 1116 (SC)** and **Punjab Industrial Development Corporation Ltd. Vs CIT (1997) 225 ITR 792 (SC)**, ROC Expenses as fees for enhancement of capital was not a revenue expenditure. The AO was justified in treating the payment to ROC for increase in capital as capital expenditure.

Income-tax : Mutually Principle :

In the case of **Brigade Plaza Unit Owners Association Vs ITO (2021) Tax Pub.(DT) 1855 (Karn-HC)**, it was held as follows :

“In view of the decision rendered in the case of **Bangalore Club Vs CIT (2013) 29 Taxman.com 29(SC)**, the incomes received from Pay and Park charges, rent from towers and interest on fixed deposits cannot be considered to be covered by the doctrine of mutuality as the said incomes were undisputedly earned by assessee from non-members and such earning of income was not in the course of providing certain facilities by the assessee to its members.”

V. Save the Dates – NOVEMBER 2021

STATUTORY DATES	
INCOME TAX	
07/11/2021	Due date for deposit of Tax deducted/collected for the month of October, 2021.
14/11/2021	Due date for issue of TDS Certificate for tax deducted under section 194-IA, section 194-IB and section 194-M in the month of September, 2021
15/11/2021	Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending September 30, 2021
15/11/2021	Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of October, 2021 has been paid without the production of a challan
30/11/2021	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, section 194-IB and section 194M in the month of October, 2021.
30/11/2021	Due date for Upload the declarations received from recipients in Form No. 15G/15H during the quarter ending June, 2021
GST	
Due Date	Statement/Return/Certificates to be issued/Furnished
11/11/2021	Due date for filing GSTR 1(October 2021) whose aggregate turnover exceeding Rs.5 crore in the previous financial year
13/11/2021	GSTR-1 IFF Filing (Optional) for the month of October 2021
20/11/2021	Due date for filing GSTR 3B (October 2021)whose aggregate turnover exceeding Rs.5 crore in the previous financial year and who not opted IFF scheme
22/11/2021	Deposit of monthly Tax liability by those who have opted quarterly filing scheme (QRMP)

VI. TEST YOUR SKILL:

1. Which of the following are fundamental ethical principles for professional accountants?
a. Competence; b. Compliance; c. Integrity; d. Objectivity
a. a, b and c only c. b, c and d only
b. a, c and d only d. a, b and d only
2. Indian citizens going abroad (other than to Bhutan and Nepal)for private visits can avail foreign exchange equivalent to
a. USD2000 c. USD5000
b. USD500 d. USD250000
3. The following can make investment in FCNR deposits
a. Overseas Corporate bodies. c. Non Resident Indians Jointly
b. Non Resident Indians d. Non Residents of Indian Origin
4. Importer –exporter code number is issued by
a. Reserve Bank of India c. Customs Department
b. DGFT or its Regional Office d. The AD concerned
5. LORO Account normally refers to
a. Our Account with you c. Somebody's account with us
b. Your Account with us d. Their Account with you
6. A contract which affords adequate protection to an exporter or an importer against exchange risk is
a. Hedging c. Letter of Credit
b. Guarantee d. Forward Contract
7. Any resident Indian can hold Indian rupees during their travel abroad upto
a. Rs7500 c. Rs 25000
b. Rs10000 d. No Limit
8. Which of the following is NOT a capital account transactions
a. Investment in foreign securities. c. Exports and Imports into India
b. Transfer of immovable property outside India d. Raising foreign currency loans in India and abroad
9. NRE accounts can be maintained in the form of
a. SB/CD/TDR in foreign currency c. SB/CD/TDR/RD in Indian Rupees
b. SB/CD only in Indian Rupees d. No such provision in FEMA guidelines
10. The rate of Interest applicable to FCNR deposits is linked to
a. LIBID c. MCLR
b. Base Rate d. LIBOR
11. Which of these are 'Foreign Source' under FCRA
a. Government of Foreign Country c. Both a. and b.
b. International Monetary Fund d. Neither a. nor b.
12. What is Demutualization of Stock Exchange?
a. Conversion of existing Non-Profit Organization into a profit oriented company c. Transforming the legal structure of an exchange from mutual business to a business corporation form
b. Conversion of mutually owned associations to an organization that is owned by shareholders. d. All of above
13. If a company fails to comply with listing conditions or commits a breach shall be punishable with a penalty which shall be :
a. Not Less than Rs 5 lakhs but may extend to Rs 25 Crores. c. Not Less than Rs 5 lakhs but may extend to Rs 1 crore
b. Not less than Rupees 1 lakh but extend to Rs 1 lakh per day during which the failure continues subject to maximum of Rs 1 Crore d. None of above
14. 'Debt' under IBC is defined as :
a. Any amount of money that is owed or due to any party c. Any liability arising in respect of money advanced by a creditor to the debtor.
b. A liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt d. Debts arising out of loans advanced by a financial institution.
15. Which of the following is a related party under IBC?
a. A person controlling more than 30% of voting rights in Corporate Debtor. c. A person controlling more than 25% of voting rights in Corporate Debtor.
b. A person controlling more than 20% of voting rights in Corporate Debtor. d. A person controlling more than 10% of voting rights in Corporate Debtor.

CA Manty Anto
