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Your Quarterly Companion on Tax & Allied Topics

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Leading Tomorrow

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**The Chamber of
Tax Consultants**

Mumbai | Delhi



THE CHAMBER OF TAX CONSULTANTS

3, Rewa Chambers, Ground Floor, 31, New Marine Lines, Mumbai – 400 020
Phone : 2200 1787/2209 0423/2200 2455 • E-Mail: office@ctconline.org
Website : <http://www.ctconline.org>

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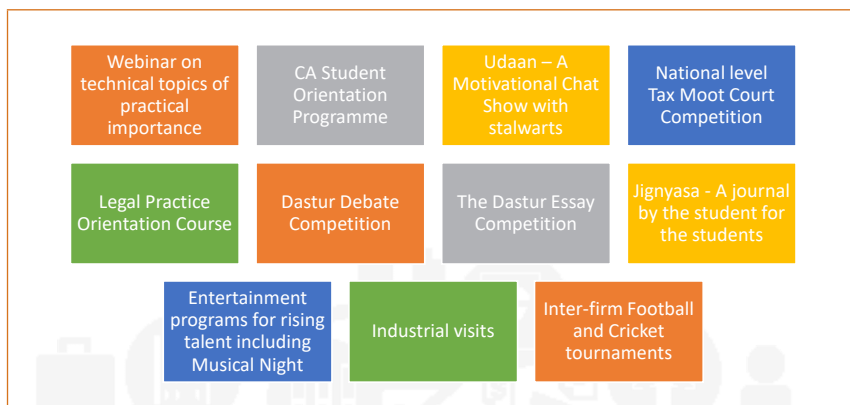
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READER'S SUGGESTIONS AND VIEWS

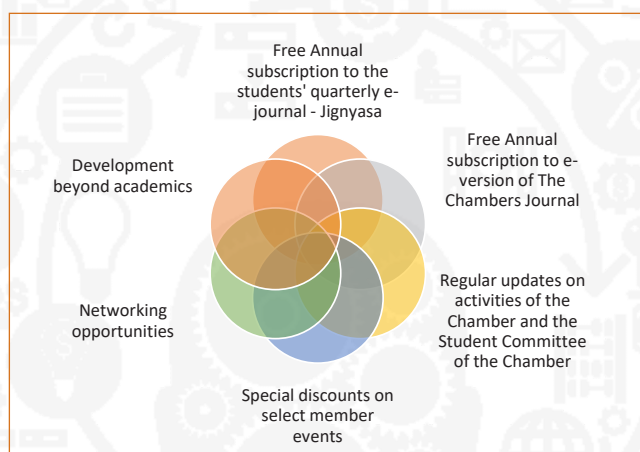
We invite the suggestions and views from readers for improvement of **Jignyasa**. Kindly send your suggestions to office@ctconline.org

Become a Student Member of The Chamber of Tax Consultants

What are the initiatives/programs organised by the Chamber for Students?



What are the benefits of becoming a student member of the Chamber?



Who can become a Student Member?

Any person, who:

- ✓ has completed 18 years of age;
- ✓ is not otherwise eligible to be a member of the Chamber;
- ✓ is pursuing his/her education as a student and has enrolled as a student of Law, Chartered Accountancy, Cost and Management Accountancy, Company Secretary, Chartered Financial Analysts, Business Management or Management Accountancy or Masters in Commerce or such other course approved for this purpose by the Managing Council shall be eligible to be a Student Member.

What are the fees for becoming a Student Member?

The fees for becoming a student member is merely Rs. 590/- [Rs. 500/- + Rs. 90 (GST @ 18%)]

How can one enroll as a Student Member?

You may download the membership form using the below mentioned link

Link : <https://rb.gy/rw3xde>

You can also get in touch with the Chamber's office at:

Address : 3, Rewa Chambers, Ground Floor, 31, New Marine Lines, Mumbai 400 020

Email : office@ctconline.org

For any queries, you can also get in touch with Mr. Hitesh Shah (Manager) at:

Mobile : 7977258507

POLICY FOR CONTRIBUTION OF ARTICLES FOR JIGNYASA

Who can contribute?

The Student Members of The Chamber of Tax Consultants shall be allowed to contribute articles to the students' e-journal "**Jignyasa**"

For which columns shall contributions be accepted?

Every issue of Jignyasa shall have the following four columns for contributions from students:

1. Information Technology
2. Current topics related to the profession
3. SOP on subjects that are related to upcoming due dates
4. A general topic that is relevant to the student members of the Chamber


What is the selection process of the article for publishing?

The selection of the articles to be published shall be based on the following parameters:

1. The topics should be relevant to the Students Members of the Chamber covering the various areas of practice.
2. The Article to be published should be original and must adhere to strict originality guidelines of the Chamber. A declaration to this effect should be submitted to the Chamber.
3. Subjects related to current topics or subjects which are related to the due dates falling in the next quarter shall be given preference.

What are the technical requirements for the article?

1. The article should contain an executive summary of around 100 words.
2. The list of references should be submitted at the end of the article.
3. A photograph of the author should be provided along with the article.
4. The article should be shared only in word format. No other format shall be accepted.

- 
5. There is no specific restriction on the number of words for the article, but preference shall be given to a well written, the most technically correct, complete and concise article.

What is the review process?

The student is advised to approach a member of the Chamber to be his/her mentor for the article. If the interested student cannot find a mentor, the committee shall help him/her approach the members.

Each article shall then be forwarded to an expert for vetting and verification.

The article post vetting and verification shall be forwarded to the author with suggestive changes. Once approved by the author, the amended article shall be forwarded for publishing.

The articles received which are not published in the current issue of Jignyasa shall be parked in the Chamber's locker for the next issue.

Articles that are not found suitable for publication, communication to the Author of the article shall be made to that effect.

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Invitation to STUDENT MEMBERS to contribute articles for Jignyasa

The Student Committee of the Chamber invites the **Student Members** to contribute articles for the e-journal for Students – **Jignyasa**. The objective of the committee is to make a major section of the journal - for the students by the students. The students can contribute articles on latest updates in the tax and allied laws, Standard Operating Procedures that can be used for the upcoming due dates, current scenarios in various industries or any other topic. You can send through your article in word format on office@ctconline.org along with your name, firm name/college name and a photograph. From among the articles received, the ones approved by the committee shall be published. Also, shortly, a suggested bank of topics for the articles. Meanwhile, in case any guidance is required, you may drop an e-mail at the above mentioned email id and we shall get it touch with you.

From the President



My Fellow Students,

"The servant-leader is a servant first... It begins with the natural feeling that one wants to serve, to serve first. Then conscious choice brings one to aspire to lead. That person is sharply different from one who is leader first, perhaps because of the need to assuage an unusual power drive or to acquire material possessions... The leader-first and the servant-first are two extreme types. Between them there are shadings and blends that are part of the infinite variety of human nature."

-Robert K. Greenleaf

This is my first opportunity to dialogue with you through 'Jignyasa'. I am extremely humbled to be officiating as the 44th President of this 94-year young institution, whose history and pedigree fills me with extreme pride. This is the only institution that has displayed inclusiveness with the only common thread in our members being their affinity and affection for education. Professionals from all fields being Chartered Accountants, Lawyers, Cost Accountants, Company Secretaries and Tax Practitioners plus students and corporates and firms, all make up this unified yet diverse family, which is just like our Motherland. And to serve such an institution, is a matter of great privilege and honour.

I address you as fellow students as I have not stopped being a student yet. I believe that all professionals remain students throughout their professional career and the quest and thirst for learning being ever present, is what distinguishes professionals from others and gives them the respect and position in society. Hence, we must never stop learning and it is the Chamber's endeavour to provide the facility and a platform for imparting this learning to its members.

The quote that I have reproduced above is what I personally aspire to be. A leader who serves and in the process of serving, ends up leading others, inspiring them to serve too. And to serve is the greatest gift one gets from the Almighty. I had read a poem titled 'Abou Ben Ahem' by Leigh Hunt, in school and the message of the poem has left an indelible mark on me over the years. I urge each one of you to read the poem and do send your feedback about the impact it had on you.

The pandemic has also left its indelible mark on the face of the earth and has changed the way we interact. Technology and innovation are the buzzwords more than ever in today's times and the aspirant to success has not only to accept and embrace these but quickly adapt to use them to his/her advantage. We at the Chamber's Student Committee as well as the other committees have adopted virtual learning as a mode of imparting education

and facilitating dialogues between our members and faculty. Elsewhere in this issue, you will find details of our initiatives. These are taken after a lot of planning and hard work for which the Student Committee and its members deserve compliments and congratulations. I express my sincere gratitude to all who have played a part in these initiatives.

The students appearing for the CA exams in the month of November are now in the 'slog overs' phase. Here, like in T-20 cricket, it is very important to make each hour of study count and to make full use of the limited time. Like in T-20 cricket, we may not need to hit every ball out of the park but wait for the right moment to play a telling stroke which we, and others, will remember for life. We must do what Rahul Tewatia did. He was, prior to the one over where he hit those five sixes, being criticised heavily by the commentators, who turned into his fans after that one over. I wish you All the Very Best for your exams.

I urge all the readers of Jignyasa to either become members of the Chamber, if you are not, or to renew your membership, in case you have not yet done so.

Swami Vivekananda, who I am a great fan of said these magic words, "Arise, awake, and stop not till the goal is reached." On reflection, one finds that the goalpost changes multiple times in a person's life and the enjoyment of life is in the journey to reach to one goal and the next, and so on. In the next communication, I will share some of my experience on goal setting and the journey to reaching to the goals. Till then, let me bid you au revoir.

Till we meet again...

Anish Thacker
President

Chairperson's Message

My Very Dear Students,

All of us at the Student Committee of The Chamber of Tax Consultants are indeed very happy to release this **second issue** of the e-journal "**Jignyasa**", an educative initiative of the Chamber for the students by the students.



This issue covers articles on some important topics which are relevant for your work season ahead as well as academic updation. The journal also includes updates on various activities conducted and few important upcoming programs for the students. Hope you find it useful and also encouraging for you to participate in various endeavours for learning and self-development that we are undertaking for you.

As I mentioned in my message in the first issue of Jignyasa, I find writing this message as a great opportunity to connect with students at large. My focus would always be to share my thoughts on attributes which I feel are important in shaping one's life as a good and sound human being. So my first message covered my thoughts on being **grateful**. I had also conveyed that my next message would cover one of the greatest human attributes "**Positivity**" or "**Positive approach**".

So as I begin this message let me start by sharing one incident that influenced me immensely in terms of positive thinking. This is about my mentor Late Mr. Jitendra Lalji Gala who was a director in a renowned company which has been very dear to all of us from our school and college days i.e., "Navneet Guides". He was my mentor and I always used to interact with him for guidance on personal and career matters. Unfortunately, at a very early stage of life, both kidneys failed and was advised to go for dialysis. When I got to know about this and had to meet him I was uncomfortable with the thought as to how to face him, comfort him when he is approaching the most undesired phase of life.

However, to my surprise when I met him he was very positive and he himself consoled me.

He Said, "Varsha, God has been very kind to me in giving this disease from all those illnesses he could have given me. I could have lost my senses and would have been of no use to anyone, I could have gotten cancer and both me and my family would have been in absolute pain and distress, I could have become immobile.. anything could have happened. But with this disease I can just pick up my file and go anywhere and do anything and be useful to others."

I was indeed amazed with his thought process and learnt my biggest lesson on "How to stay positive?". Can you imagine, to his good fortune, a miracle happened and he matched with a kidney donor which gave him many more years of healthy life.

Friends, this is the power of positive thinking. Positivity is being happy with what we have while being grateful to the almighty for protecting us from all the wrong that could have happened with us. Positivity is finding happiness in everything that we have, we do and having deep faith in the acts of kindness that we do. Positivity is being confident about all the good things to happen to you and your close ones. Positivity is helping others in making their dreams come true and being thankful to each person who contributes in making your dreams come true.

Positivity is to respect the beautiful creation of God - the nature and sparing time to enjoy it.

The biggest guru I believe for us human beings is the nature which reflects many qualities and virtues that we should possess and cultivate. It teaches us to be strong and powerful, to be generous and kind, to be more respectful.

After every dark night there is a brighter day, every hot summer is followed by pleasing rains and after every autumn follows the spring.

It is an assurance of life's biggest truth that hard times do not last for ever and good time is bound to come. So even in a situation that seems hopeless, stay positive and keep your hopes and dreams alive. You never know at what juncture of your life a miracle is waiting for you. What you need to do is to hold on till that moment with great positivity.

But how do we cultivate positive approach and positive personality? For that it is important to know what creates negativity and pessimism.

Staying away from negative people and negative environment would help you get out of force of external negativity but the most important battle is to win against the inner negativity which the human mind more often than not, falls prey to.

Human mind always craves for importance and sense of belonging and the inner negativity comes out of fear of losing it and fail in life. This leads to doubts which in turn impact your focussed and forceful efforts which in turn impact your performance leading to a sense of being a failure. This is a vicious circle of negative thoughts which needs to be broken with a strong positive mind that stands on the strong foundation of faith.

When there is faith, no doubt can cloud your confidence.

So, deep faith in **"being good, doing good and in turn getting good"** is the foundation of positivity.

The present Covid-19 scenario has put all of us in a state of great uncertainty, especially the students who are going through a lot of negative emotions and are frustrated. This is the time to hold on to the positivity in you.

Understand this to be an act of kindness by God that has forced all of us back to being humans as against the machine-like life we were all leading. It has been a great opportunity to re-establish the bond with our families. We have been granted a chance to pause and cherish all the beautiful moments of life which we never found time for in life's rat race. So let's face this situation with utmost positivity. In fact, feel blessed for being protected from all the worse that could have happened.

Also, till the time this slow phase of life is rolling, please restore the bond with your own real people by staying away from the virtual world. Build those bonds of unconditional love. Shift your focus from making yourself happy to making people around you happy and the happiness would bounce back to you manifold and you enter the circle of super positivity.

One of the best feelings in the life is to know that someone is happy because of you and I must say this is the very starting point for the inner positivity.

All my dear students, I hope each of you even during this turmoil, find bliss and happiness...

Stay positive and safe.

Varsha Rajaram Galvankar
Chairperson
Student Committee

FORTHCOMING PROGRAMMES

Sr. No.	Particulars	Fees (including GST @ 18%)	Date and Time	Link for Registration
1.	Legal Practice Orientation Course	Members - ₹ 400 + GST & Non-Members - ₹ 800 + GST	20th, 21st, 22nd, 27th, 28th, 29th November, 2020 & 5th, 6th December, 2020 5:30 pm to 7:30 pm on Friday & Saturday and 10.00 am to 12 noon on Sundays	https://forms.gle/6USNg8Agb4w7jt8j7
2.	Speed Reading and Memory Retention - 2 Day Workshop	To be decided	December, 2020*	Updates shall be posted on The Chamber's website
3.	Udaan A tête-à-tête with A Stalwart	Free	December, 2020*	Updates shall be posted on The Chamber's website
<i>*tentative schedule</i>				

LEGAL PRACTICE ORIENTATION COURSE FROM CLASSROOM TO COURTROOM

Who should attend?	Students, Young Professionals and anyone who wants to understand the legal field from a practitioner’s perspective.			
The Objective	This course is designed to provide a glimpse into the practical aspects of the legal profession in India. Our distinguished speakers will acquaint the participants with concepts which are required to bridge the gap between academic knowledge and the actual practice of law.			
DETAILS OF THE COURSE:				
Sr. No.	Particulars	Date	Time	Speakers
1.	Overview & Opportunities In Legal Field	Friday, 20/11/2020	05:30 - 8:00 PM	Panel of :- - Mr. Beni Chatterjee, Senior Advocate - Mr. Ashok Gupta, Chief Legal Officer, Aditya Birla Group - Mr. Abhikalp Pratap Singh, AoR, SC - Ms. Almitra Gupta, Associate at Linklaters, Singapore; Solicitor, BILS and Member of New York Bar Association
2.	Selected Topics of Interpretation of Statutes, Deed and Documents	Saturday, 21/11/2020	05:30 - 7:30 PM	Mr. V. Sridharan, Senior Advocate
3.	Civil and Commercial Law Practice and Procedure	Sunday, 22/11/2020	10:00 AM - 01:00 PM	Mr. Prakash Shah (Advocate & Solicitor), Partner at PDS Legal alongwith Mr. Jas Sanghavi, Advocate, PDS Legal
4.	Law of Writs in India	Friday, 27/11/2020	05:30 – 07:30 PM	Mr. Girish Godbole, Advocate
5.	Criminal Law Practice and Procedure	Saturday, 28/11/2020	05:30 - 7:30 PM	Mr. Niranjan Mundargi, Advocate
6.	General Corporate Law Practice in India	Sunday, 29/11/2020	10:00 – 12:00 noon	Ms. Anuradha Iyer (Advocate), Partner at Tatva Legal
7.	Alternate Dispute Resolutions	Saturday, 05/12/2020	05:30 – 07:30 PM	Mr. Ankoosh Mehta (Advocate), Partner, Dispute Resolution Team, Cyril Amarchand Mangaldas
8.	Drafting & Conveyancing	Sunday, 06/12/2020	10:00 - 12:00 noon	Mr. Murtuza Federal (Advocate), Partner of Federal & Co
Fees		For Members - Rs. 400/- + Rs. 72/- (GST) = Rs. 472/- For Non-Members – Rs. 800/- + Rs. 144 (GST) = Rs. 944/-		
Registration Link		Click here to Register.		
Participants attending the full course shall be awarded a certificate of participation from the Chamber of Tax Consultants				

Evolution of Payments in India



Ashay Tejwani

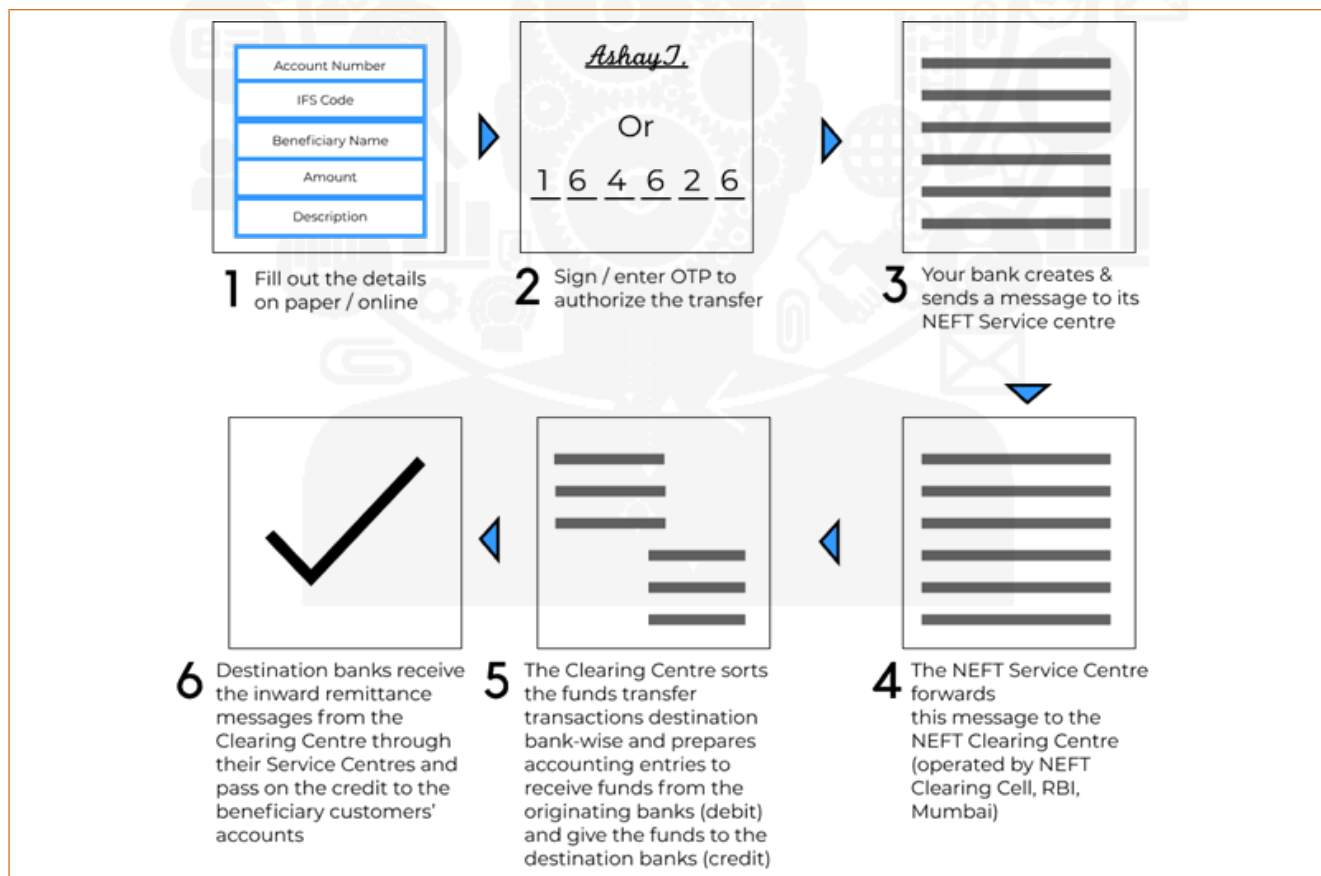
Sometime within the past 30 days, you must have sent money to someone - either your landlord or to your family or to that friend whom you owed for the groceries purchased last week. You logged into an app, selected the recipient, added the amount and description and clicked on send. A few seconds and one OTP/PIN later, done!

India's financial ecosystem has made sending money super convenient. Let's

take a look at how the system evolved to get to its current state, to understand the latest developments better and anticipate what might come next.

National Electronic Funds Transfer (NEFT)

NEFT is a nationwide payment system facilitating one-to-one fund transfer. The Reserve Bank of India maintains the list of bank wise branches that are NEFT enabled.



There are 23 half-hourly settlement batches run from 8 am to 7 pm on all working days of week (Except 2nd and 4th Saturday of the month & bank holidays). The beneficiary can expect to get credit for the NEFT transactions within two business hours from the batch in which the transaction was settled. A Unique Transaction Reference (UTR) number provided at the time of initiating the funds transfer to track it.

Walk-in customers (who do not have a bank account) can also deposit cash at the NEFT-enabled branches, restricted to a maximum of ₹ 50,000/- per transaction. There is no upper limit on the amount that can be transferred using NEFT.

Earlier, the Reserve Bank of India (RBI) would charge banks for routing transactions through its NEFT/RTGS platforms, ranging from ₹1 to ₹50, which banks passed on. However, after the recent budget and impetus for digital transactions, the Reserve Bank of India has removed these charges and asked banks to pass on the benefits to their customers.

Before proceeding to the next system, a short note about IFSC mentioned in the diagram above:

Indian Financial System Code (IFSC) is a code that identifies a bank-branch participating in the NEFT system. Breakdown of the IFSC:

- 11 digit code
- 4 alpha characters representing the bank
- The 5th character is 0
- Last 6 characters representing the branch

Real Time Gross Settlement (RTGS)

This is very similar to NEFT except:

- The minimum amount is ₹ 2,00,000.

- The settlement is done in real time, per instruction instead of settling in batches.

Immediate Payment Service (IMPS)

RTGS was a great advancement over NEFT - you could send large sums of money without having to wait for a few hours till the settlement process went through. However, there were 2 big drawbacks:

- The minimum transaction amount of ₹ 2,00,000.
- It wasn't 24x7 - only 8am to 7pm barring 2nd and 4th Saturdays as well as Bank holidays.

This left out a huge chunk of transactions that were sub ₹ 2,00,000 and urgent in nature - person to person, person to account and person to merchant. Enter IMPS - you could send money to anyone, anytime as long as it is below ₹ 2,00,000.

How it works

- Participating banks have to be on National Financial Switch (NFS) which enables secure and instant communication (managed by National Payments Corporation of India (NPCI)).
- Sending bank debits sender's account.
- Sending bank sends a secure message to receiver's bank.
- Receiving bank assumes these as "good funds" and credits beneficiary account.
- Net settlement between both the banks happens in 3 cycles per day (working days).
- Actual net fund transfer between the banks happens through RTGS for every settlement cycle.

Modes of performing an IMPS transfer

- Using Mobile number & MMID (P2P)

MMID - Mobile Money Identifier (7 digit code) - is linked to a Mobile Number. Different MMIDs can be linked to the same Mobile Number, but not vice versa. You can generate it from your respective bank's mobile/net-banking interface along with the MPIN (Mobile PIN) required to complete a transaction.

Remitter (Sender) transfers funds to beneficiary (Receiver) using Mobile no. & 7digit MMID of beneficiary.

- Using Account number & IFSC Code (P2A)

This is riding on top of the NEFT/RTGS ecosystem since both parties might not have an MMID.

- Using Aadhaar number (ABRS)

Since many bank accounts are linked with the Aadhaar number (earlier this was mandatory), it acts as a financial address, similar to Account Number + IFSC Code. An important utility of this service is the disbursement of subsidy payment i.e. Electronic Benefit Transfer (EBT)/Direct Benefit transfer (DBT) by the Government.

Unified Payments Interface (UPI)

The latest increment in this space - it combines multiple bank accounts into a single interface while catering to all the use cases of IMPS. Two key benefits:

- Simpler and safer - a virtual address masks the actual bank account details, making it more convenient to share (as a text message or a QR code).
- Pull mechanism - the most unique feature - a merchant/person can request a payment from you instead of relying on you to make the payment and enter the exact amount & correct beneficiary.

This has been widely adopted with the advent of BHIM, Google Pay (former Google Tez) and PhonePe along with many banks' individual apps (e.g. PayZapp by HDFC). It is also a preferred mode of payment while using services like Uber (cab aggregator)/Swiggy (food delivery).

UPI 2.0

In 2016, NPCI announced the next version of UPI which focused on:

- Overdraft linkage
 - An individual without any credit history/a credit card, could link their overdraft account (similar to a savings/current account) for use through UPI.
- One time mandate
 - The ability to provide confirmation of a payment to be made on a later date.
- Invoice in the inbox
 - Customers can check the invoice sent by the merchant prior to making a payment.
- Signed intent and QR
 - Allows customers to check the authenticity of merchants while scanning the QR code.

UPI Autopay

While paying your Netflix subscription/monthly instalment for a new bike, you either had to set up the instruction through your credit card, or on your account through ECS/NACH. Given the relatively low penetration of credit cards in India, this 'instant setup of recurring payments' wasn't a widely available option. In July 2020, NPCI launched UPI AutoPay - the ability to set up recurring e-mandates like mobile bills, electricity bills, EMI payments, entertainment/OTT subscriptions, insurance, mutual funds and

loan payments, paying for transit/metro payments, among others.

The current limit for the payments to go through without additional factor authentication is INR 2,000, beyond which the customers need to enter their UPI PIN to complete the transaction every time it is due.

One major benefit is that unlike traditional options that took 2 days to 2 weeks to get a confirmation, UPI AutoPay gives an instant confirmation about the set up of a recurring payment e-mandate. Since this opens up the option of setting up EMIs

or subscriptions on UPI, it improves the affordability of products and services to a wider audience, especially in the current economic scenario.

What's next?

NPCI has set up a new subsidiary, NPCI International Payments Ltd (NIPL), with an ambition to help other countries enjoy the benefits of India's indigenously developed financial technology and adopt RuPay & UPI. Once this is done, we are likely to see interesting use cases develop in the remittance and forex space.



GST - Registration, Amendment and Cancellation



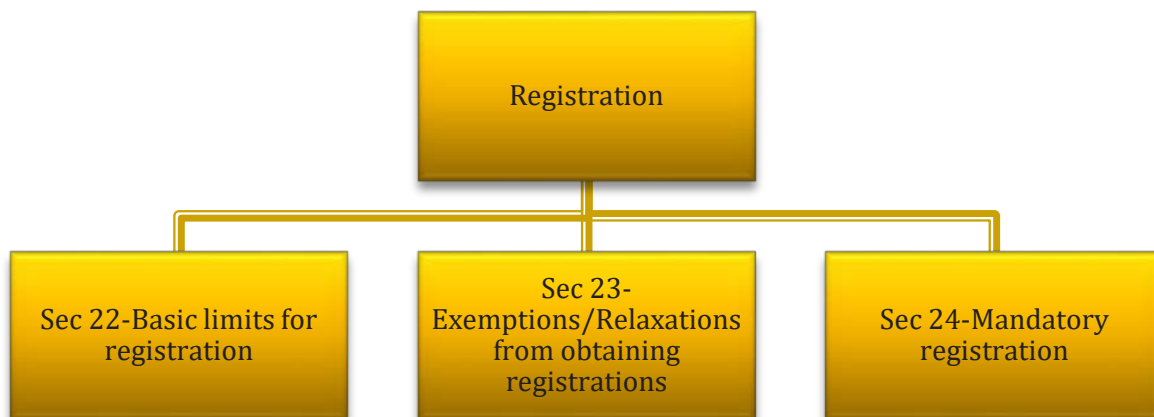
Naziya Phanepure & CA Keval Shah

Registration is the most fundamental requirement for identification of taxpayers ensuring tax compliance. Registration of any business enables benefits of legal recognition of supplier of goods or services, right to collect tax from consumers and availment of Input tax credit. In this article we have highlighted

the provisions of GST Law with respect to Registration, its Amendment and Cancellation.

Registration

The provisions of registration under the CGST law have been broadly provided as under-



Section 22 of CGST Act, 2017 provides that every supplier shall be liable to be registered in the state from where he makes a taxable supply, if his Aggregate

Turnover¹ in a financial year(FY) exceeds Rs. 20 lacs. In case of suppliers making supplies from special category states², the limit for registration is Rs. 10 lacs as

1. Aggregate Turnover- "aggregate turnover" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess.
2. Special category states for the purpose of registration limit has been restricted to the States of Manipur, Mizoram, Nagaland and Tripura.

against Rs. 20 lacs stated above. The term aggregate turnover as defined in the foot note, includes the turnover of a person on a PAN India basis and not restricted to the turnover of a State. Therefore, in cases where assessee have multi-state operations, need to be registered in each state from where they provide supplies even if the supplies in such state are below the limit as specified above.

The said limit of Rs. 20 Lacs has been enhanced to Rs. 40 lacs for assessees engaged in exclusive supply of goods. The said increased in limit is subject to approval by the respective States. In cases where the States desire to continue with the existing limit of Rs. 20 lacs, such States will have the registration limit as Rs. 20 lacs. Further in case of Special Category States³ the registration limit for assessee engaged in exclusive supply of goods has been enhanced to Rs. 20 lacs subject to approval of States. The said increased limit is not applicable in case of following persons:

- a) persons required to take compulsory registration under section 24 of the said Act;
- b) persons engaged in making supplies of the goods namely Ice Cream, Edible Ice, Pan Masala and other tobacco products;
- c) persons engaged in making intra-State supplies in the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand; and
- d) persons exercising option under the provisions of sub-section (3)

of section 25, or such registered persons who intend to continue with their registration under the said Act.

The provision of Section 23 provides for persons who are not liable to take registration under the GST law irrespective of their turnover. The persons who are not liable to take registration are listed below-

1. Persons engaged exclusively in the business of supplying goods and/or services that are not liable to tax or are wholly exempt from tax.
2. Agriculturist to the extent of supply of cultivated product.
3. Person supplying Goods/service that are liable for payment under Reverse charge mechanism⁴.
E.g. – Lawyers, Recovery Agent, Insurance Agent.
4. Person supplying services through E-provided the aggregate T/O does not cross 20/10 lacs⁵.
E.g. - Small-sized restaurants providing services through Zomato/ Swiggy.
5. Casual taxable person supplying handicraft goods or notified goods made by craftsmen⁶.
6. Persons supplying inter-state handicraft goods or notified goods made by craftsmen⁷.
7. Persons supplying inter-state services⁸.

Having discussed the basic limits of GST registration and various relaxations and exemptions from registration, let's further

3. Special category states for the purpose of registration limit has been restricted to the States of Manipur, Mizoram, Nagaland and Tripura.

4. Notification No. 5/2017 - Central Tax, dated 19-6-2017.

5. Notification No. 65/2017-C.T., dated 15-11-2017.

6. Notification No. 56/2018-C.T., dated 23-10-2018.

7. Notification No. 3/2018-I.T., dated 22-10-2018.

8. Notification No. 10/2017-I.T., dated 13-10-2017.

discuss on the categories of persons for whom it is mandatory to obtain registration. Sec 24 provide for assessee/ categories of services which require mandatory registration. The same has been discussed as below:

1. Person making inter-state taxable supply subject to assessee covered by exemptions provided under Sec 23 (point 6 & 7 mentioned in earlier part of this article).
2. Person liable to pay GST under Reverse Charge Mechanism (RCM).
3. Electronic Commerce Operator (ECO) who is liable for deduction of Tax Collected at Source (TCS).
4. Electronic Commerce Operator who are required to pay tax under Section 9(5) of CGST Act, 2017.
5. Person liable to deduct Tax at Source (TDS) u/s 51 of CGST Act, 2017.
6. Casual Taxable Person (CTP)⁹.

7. Non-Resident Taxable Person (NRTP)¹⁰.

8. Person supplying Goods/Services through Electronic Commerce Operator subject to assessee covered by exemptions provided under Sec 23 (point 4 mentioned in earlier part of this article).

9. Person supplying goods/services on behalf of taxable person as an agent or otherwise.

10. Input Service Distributor (ISD).

11. Person supplying Online Information database Access and retrieval services (OIDAR) from outside India to non-taxable online recipient.

E.g. Cloud services like Google Drive, Amazon Prime services to Mr. X.

On the basis of above provisions the following tabulations may provide an easy reference for the purpose of understanding the GST registration applicability.

Particulars	Pointers to check
Intra-state Supplier of goods in special category states	<ul style="list-style-type: none"> • Check whether turnover is upto Rs. 10 lacs. Some Special Category States might have provided a relaxation for turnover upto Rs. 20 lacs. • Check whether goods are supplied through ECO – If yes, Mandatory registration.
Intra-state supplier of goods other than special category states	<ul style="list-style-type: none"> • Check whether turnover is upto Rs. 20 lacs. Some States might have provided a relaxation for turnover upto Rs. 40 lacs. • Check whether goods are supplied through ECO – If yes, Mandatory registration.

9. Person who occasionally undertakes transactions of supply of Goods/service/both in course of business whether as a Principal or agent in a State/Union territory where he does not have a permanent place of business.

E.g. Craftsworld Events is an event management Co registered in Maharashtra. It undertook a contract of event management in Amritsar, Punjab. Craftsworld Events has to register as a CTP in Punjab, even though they do not have a fixed place of business.

10. Person from outside India who occasionally undertakes transactions involving supply of Goods/service/ both in a State/Union territory where he does not have a permanent place of business.

Particulars	Pointers to check
Inter-state supplier of goods in special category states	<ul style="list-style-type: none"> Check whether Supplier of Handicraft goods or notified goods by craftsmen, then exempt upto Rs. 10 lacs. Check whether goods are supplied through ECO – If yes, Mandatory registration.
Inter-state supplier of goods other than special category states	<ul style="list-style-type: none"> Check whether Supplier of Handicraft goods or notified goods by craftsmen, then exempt upto Rs. 20 lacs. Check whether goods are supplied through ECO – If yes, Mandatory registration.
Intra-state supplier of services in special category states	<ul style="list-style-type: none"> Check whether turnover is upto Rs. 10 lacs. Check whether services covered u/s 9(5) are supplied through ECO – exemption upto Rs. 10 lacs.
Intra-state supplier of services other than special category states	<ul style="list-style-type: none"> Check whether turnover is upto Rs. 20 lacs. Check whether services covered u/s 9(5) are supplied through ECO – exemption upto Rs. 20 lacs.
Inter-state supplier of services in special category states	<ul style="list-style-type: none"> Check whether turnover is upto Rs. 10 lacs. Check whether services covered u/s 9(5) are supplied through ECO – exemption upto Rs. 10 lacs.
Inter-state supplier of services other than special category states	<ul style="list-style-type: none"> Check whether turnover is upto Rs. 20 lacs. Check whether services covered u/s 9(5) are supplied through ECO – exemption upto Rs. 20 lacs.

Basis the above tabulation, one also needs to also check whether the assessee is covered under any of the specific criteria as provided under section 24 of the CGST Act, 2017. To quote an example, suppose an assessee does not meet the turnover criteria but is obtaining services from a Goods Transport Agency, he is supposed to discharge GST under RCM and it will make him get registered with the GST department.

Special Categories of Registration

In addition to the above provisions with respect to registration under GST Law, there are certain other special requirements for registration under the GST Law. They have been summarized below:

Transfer of Business/Amalgamation

In case of transfer of business or in case of amalgamation or demerger as per court/tribunal order, transferee is required to obtain registration.

Unique Identity Number

Foreign Embassy, Consulate, International organisations registered under United Nation Act, 1947 are required to get separate registration.

Supplies made from Territorial Waters

If supply is made from territorial waters of India registration is required in the coastal state/UT where the nearest point of the appropriate base line is located.

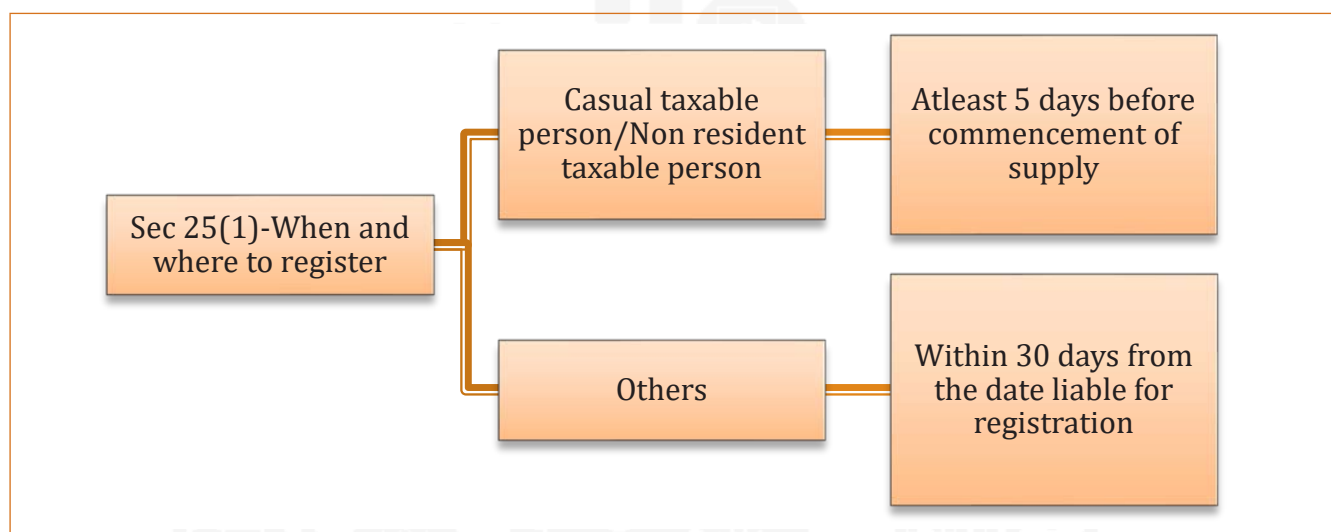
Multiple GST registrations in the same state

In case there are multiple branches in a state, each branch may get registered separately under the same PAN. In such a case, both branches would be considered as distinct person u/s 25(4) and supplies between them would be taxable.

Special Economic Zone

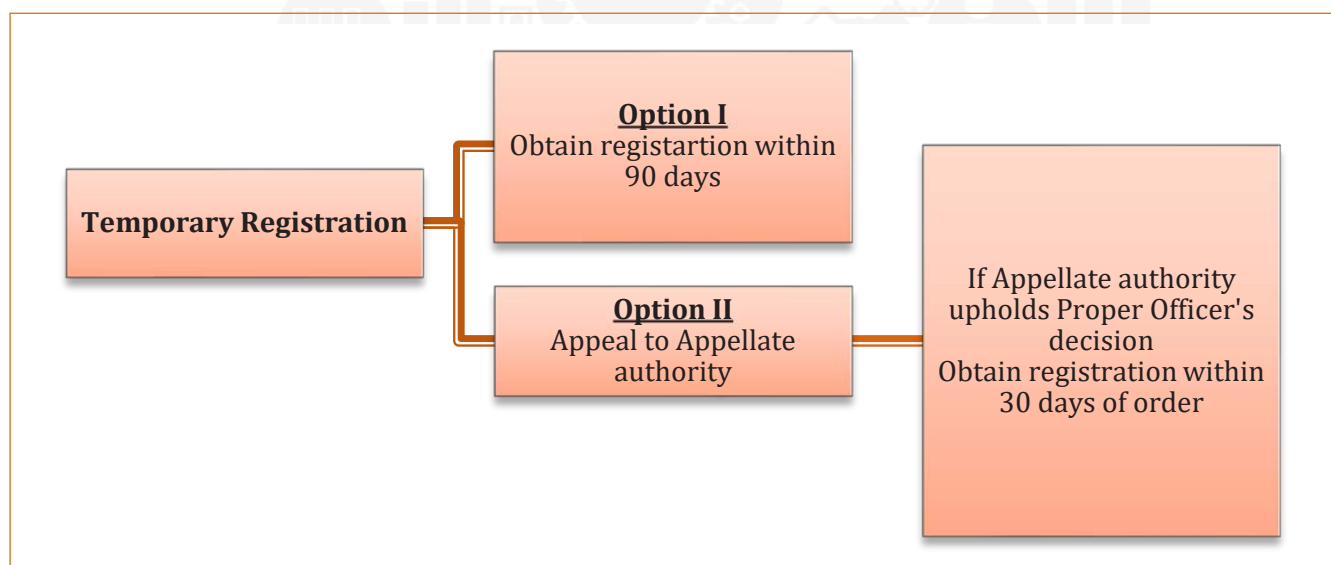
A person having a SEZ unit as well as other DTA units, then he is required to obtain separate registration for SEZ unit and separate registration for other units.

Time limit to claim registration – Voluntary/Crossing the turnover criteria



Time limit to claim registration – Registration by Officer

If proper officer has investigated any person who is liable for registration but not registered

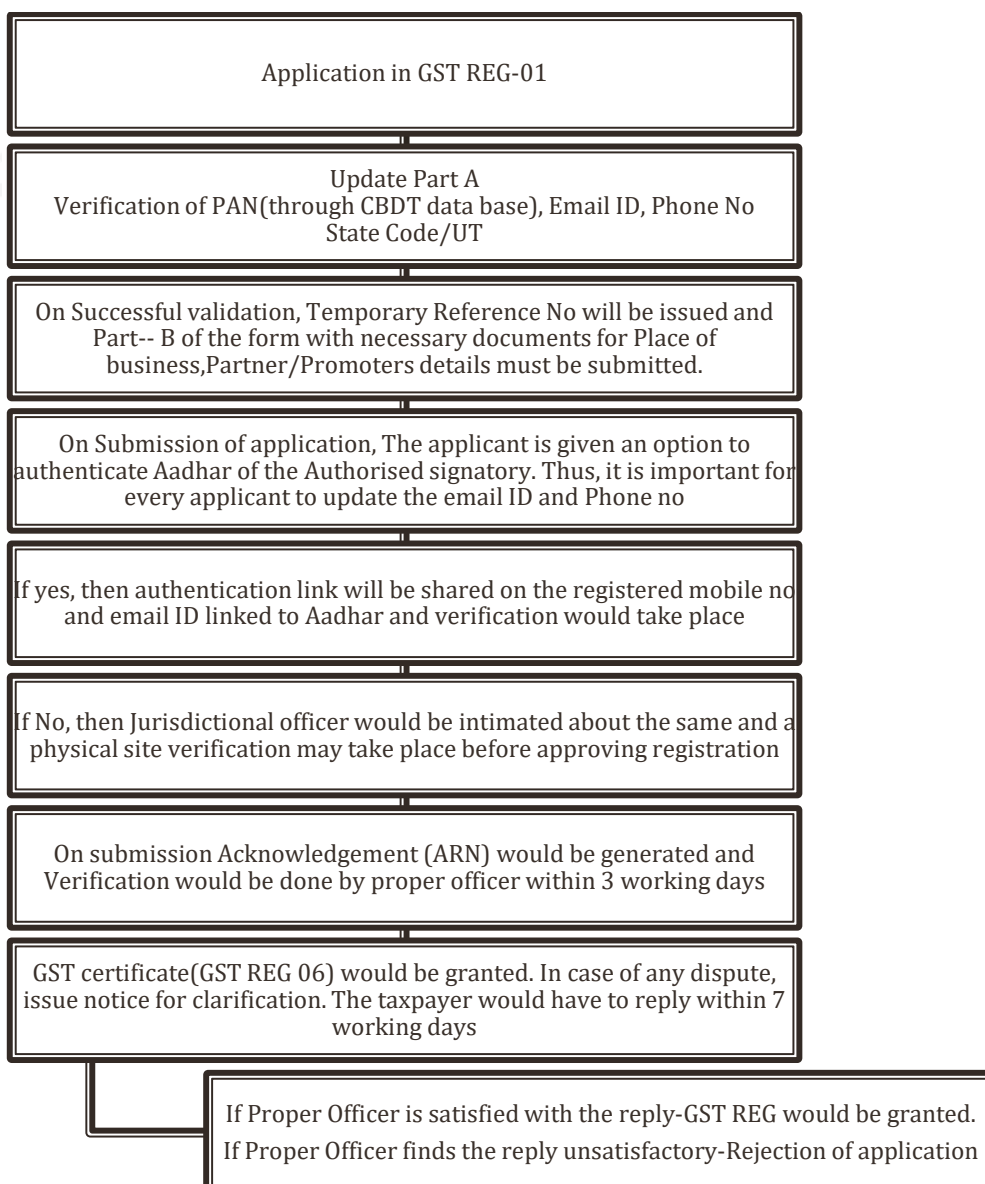


Effective Date of Registration

- If person liable for registration applies within 30 days from the date when became liable, then the effective date of registration shall be the date on which the person became liable.
- In other cases, the Effective date of registration shall be the date of issue of registration certificate.
- The following tabulation shall give insights on the effective date of registration.

Liabe for registration	23/11/2019	23/11/2019
Date for application of registration	12/12/2019	25/12/2019
Registration certificate issued	14/12/2019	27/12/2019
Effective date of registration	23/11/2019	27/12/2019

Process of Registration



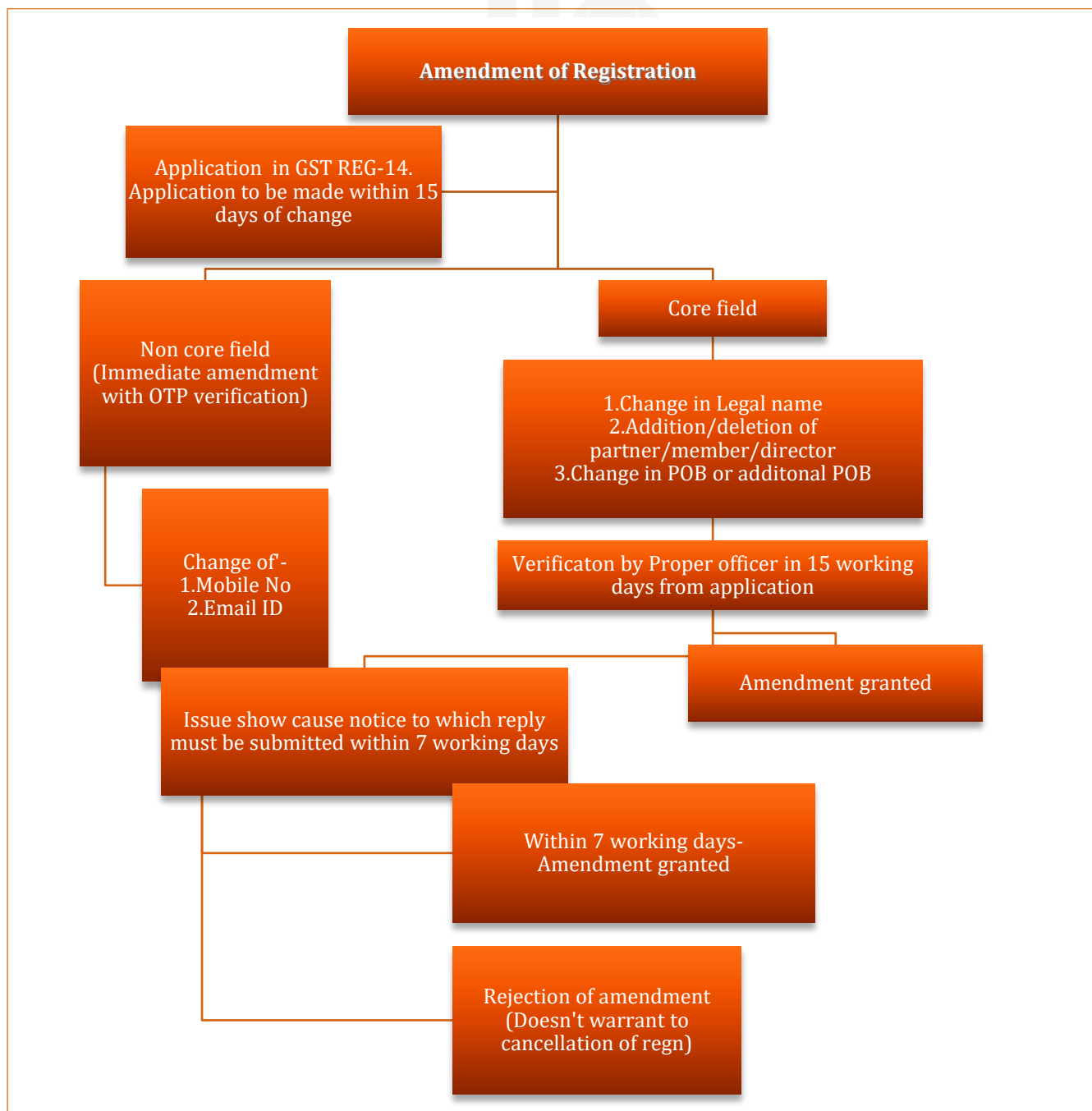
Amendment in Registration

Any changes in registration needs to be communicated to the Department by means of an amendment in registration. The changes in registration are mainly of two types:

Core Field Amendment: Major amendments like address, change in composition of partners, promoters etc.

Non-Core Field Amendment: Minor changes like phone number, email id, details of authorized signatory etc.

The following table further elaborates on the amendment of GST Registration.



Cancellation of registration

Cancellation of Registration may be carried out by the Registered Person mainly on account of the following reasons:

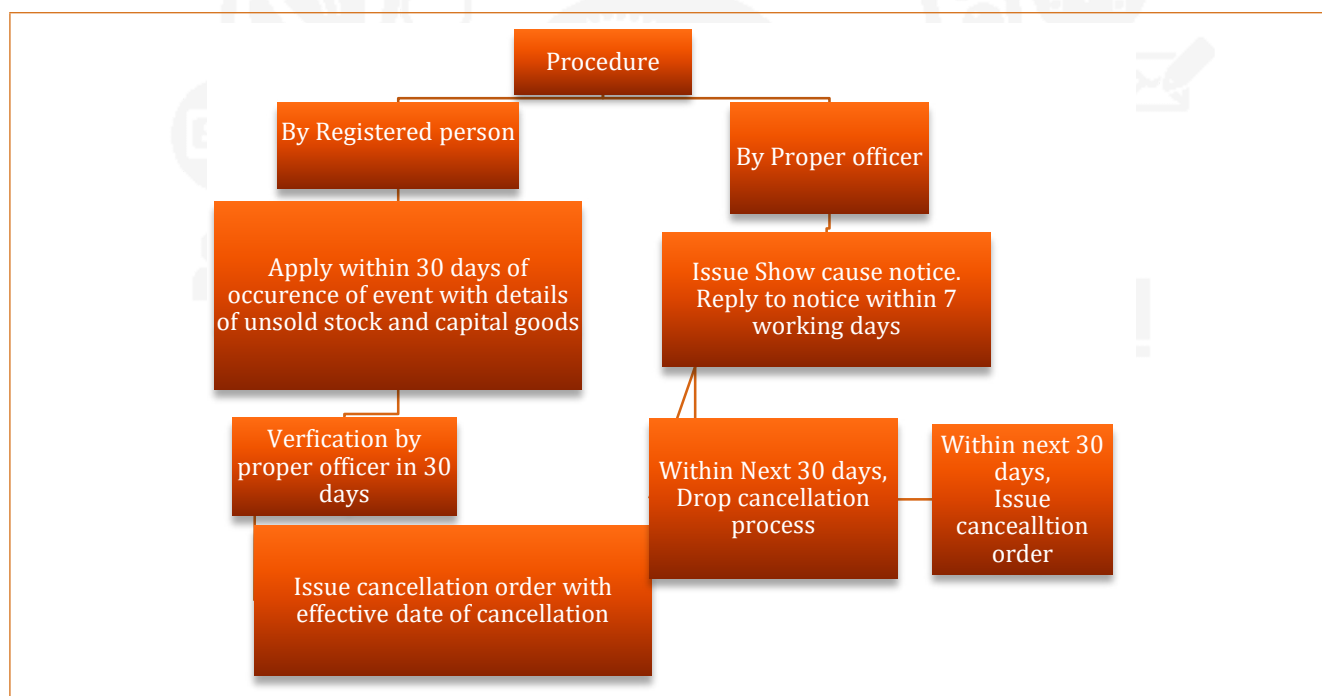
- Closure of business
- Assessee is no longer a taxable person
- Transfer of business
- Change of constitution of business
- On death of Proprietor

In addition to above, the proper officer can also cancel the registration of a taxable person in case:

- Assessee is carrying business from a place other than registered/declared place of business (POB).

- Assessee is issuing invoices without actual supply.
- Assessee who is covered by the provisions of Anti-profiteering u/s 171.
- Non filing of returns:
 - a. Regular taxpayer has not filed returns for last 6 months.
 - b. Composition taxpayer has not filed returns for last 3 tax periods.
- Voluntary registered person not commenced business within 6 months from registration.
- Registration obtained by fraud, wilful misstatement/suppression of facts.

The procedure for cancellation of registration can be understood as under:

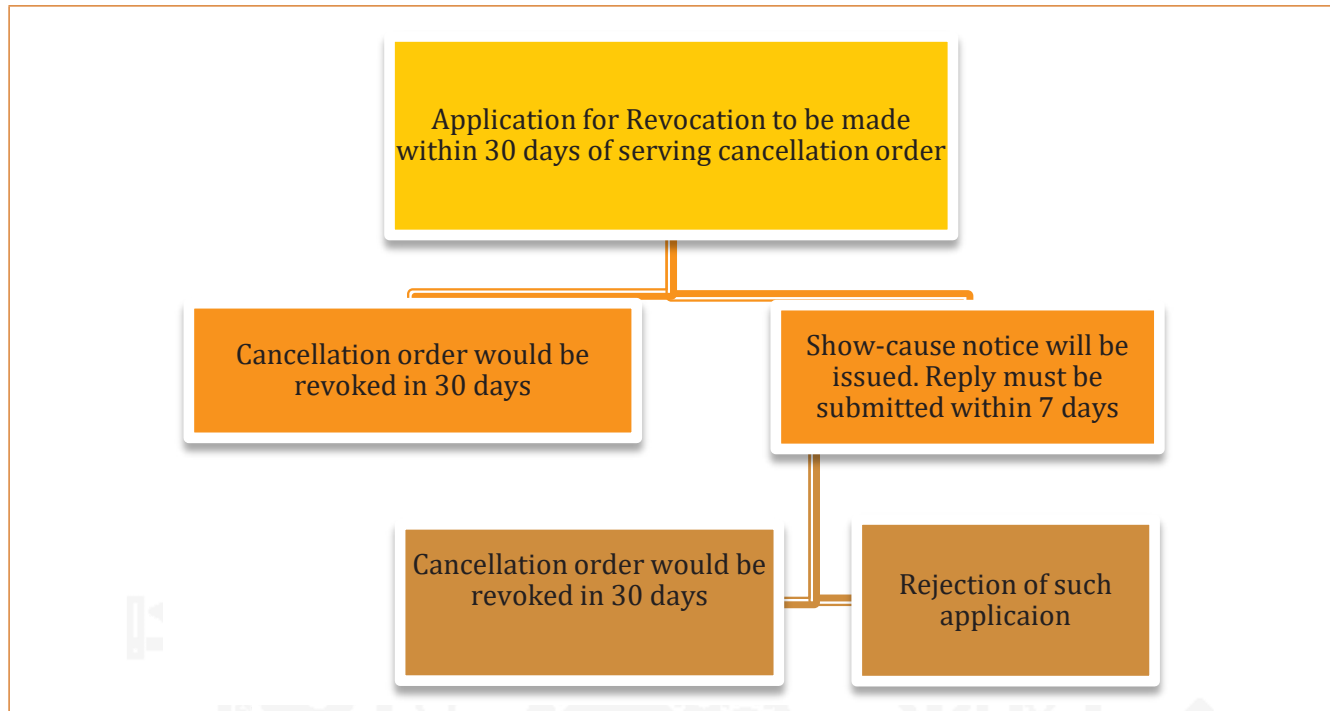


Other points on cancellation of GST Registration

1. UIN holders cannot apply for cancellation of GST registration.
2. Cancellation of Registration will not affect liability of registered person under the act for any period prior to the date of cancellation.
3. No return filing allowed for the period after date of cancellation.

Revocation of Cancellation

If a GST registration has been cancelled, he can apply for revocation based on following procedure:



Note-If cancellation is due to failure of registered person to furnish return then before making application for revocation, Taxpayer must furnish all returns up to date of cancellation within 30 days of cancellation order.

Details and Documents required for Registration

Category of persons	Documents required for GST registration
Sole proprietor/ Individual	PAN card of the owner
	Aadhaar card of the owner
	Photograph of the owner
	Bank account details
	Address proof
	Email ID and Mobile Number
Partnership firm (including LLP)	PAN card of all partners (including managing partner and authorized signatory)
	Copy of partnership deed
	Photograph of all partners and authorized signatories
	Address proof of partners (Passport, driving license, Voters identity card, Aadhaar card etc.)

Category of persons	Documents required for GST registration
	Aadhaar card of authorised signatory
	Proof of appointment of authorized signatory
	In the case of LLP, registration certificate/Board resolution of LLP
	Bank account details
	Address proof of principal place of business
	Email ID and Mobile Number
HUF	PAN card of HUF
	PAN card and Aadhaar card of Karta
	Photograph of the owner
	Bank account details
	Address proof of principal place of business
	Email ID and Mobile Number
Company (Public and Private) (Indian and foreign)	PAN card of Company
	Certificate of incorporation given by Ministry of Corporate Affairs
	Memorandum of Association/Articles of Association
	PAN card and Aadhaar card of authorized signatory. The authorised signatory must be an Indian even in case of foreign companies/branch registration
	PAN card and address proof of all directors of the Company
	Photograph of all directors and authorised signatory
	Board resolution appointing authorised signatory/Any other proof of appointment of authorised signatory
	Bank account details
	Address proof of principal place of business
	Email ID and Mobile number



Tax Audit – Objective, Reporting & Audit Procedures



Aliasger Jawadwala & CA Jayna Shah

Are you new to Tax Audits? Or do you just want to quickly brush-up your concepts? The objective behind writing this article is to explain the “Why” & “How” behind the various clauses of the Tax Audit Report in Form 3CD and to provide a starting point for auditing these clauses. This article covers the major clauses of the Form 3CD in respect of its objective, reporting requirements and necessary audit procedures required to be performed and is restricted to audit u/s. 44AB of the Income Tax Act, 1961.

Why is Tax Audit required?

Tax Audit is required to be done u/s. 44AB of the Income-tax Act, 1961 (“the Act”) if a turnover above a certain limit is achieved or a particular percentage of turnover is not offered as net profit. The objectives achieved through Tax Audit are multi-fold for the assessee as well as the Tax Authorities. Tax Audit ensures proper maintenance of books of accounts and other relevant records in a manner that the financials reflect the true and correct net profit of the assessee (if the accounts of the assessee are not audited under any other Law). Further, the eligibility and amount of various deductions or exemptions available to an assessee are reported by the assessee and duly certified by an auditor in Form 3CD of the Tax Audit Report. This helps to compute correct taxable income of the assessee saving considerable time of

the Tax Authorities spent doing routine verifications during assessments.

Who is required to get Tax Audit done?

Section 44AB of the Act stipulates that every person carrying on business or profession is required to get his accounts audited by a Chartered Accountant before the “specified date” and furnish by that date the report of such audit, if the total sales, turnover or gross receipts exceed the following prescribed limits:

- In case of Business: Total sales, turnover or gross receipts exceeds Rs.1 crore in any Previous Year (“PY”)
 - This limit is increased to Rs.5 crore in case where the aggregate cash receipts and cash payments during the year do not exceed 5% of total receipts and total payments respectively (*amendment vide Finance Act, 2020 w.e.f. AY 2020-21*)
- In case of Profession: Total gross receipts exceeds Rs.50 lakh in any PY
- Presumptive Income u/s. 44AD: In case 5 years have not lapsed since the assessee opted for Section 44AD, then the assessee now opts out of such presumptive income and his income exceeds the ceiling for chargeability of income tax

- Presumptive Income u/s. 44ADA, 44AE, 44BB & 44BBB: Tax audit is required to be carried out if the assessee claims his income is lower than the deemed profits.

What constitutes Tax Audit Report?

Tax Audit Report comprises of an Audit Report by a Chartered Accountant in Form 3CA or Form 3CB along with reporting of prescribed particulars in Form 3CD and annexures thereto.

Form of Audit Report	When to use?	Responsibility of whom?
Form 3CA	If accounts have been audited under any other law	Tax Auditor
Form 3CB	If accounts are not audited under any other law	Tax Auditor
Form 3CD	Annexed to Form 3CA/3CB, as the case may be	Management (duly certified by Tax Auditor)

The Tax Auditor is required to give his opinion in Form 3CA/3CB, as the case may be, on whether the prescribed particulars furnished by the assessee in Form 3CD are true and correct, subject to any observations & qualifications.

What is the due date for filing the Tax Audit Report?

In order to facilitate pre-filing of Income Tax Returns ("ITR"), the Finance Act, 2020 has w.e.f. Assessment Year ("AY") 2020-21, pre-poned the due date for filing audit reports under the Act to 1 month prior to due date of furnishing ITR for the relevant AY. The relevant dates applicable for FY 2019-20 (AY 2020-21) are as below:

	Tax Audit Due Date	ITR Due Date
Tax Audit for Assessee not subject to Transfer Pricing	30-Sept-2020 *	31-Oct-2020 *
Tax Audit for Assessee subject to Transfer Pricing	31-Oct-2020	30-Nov-2020

(*) On account of continued spread of COVID-19 pandemic across India, the due date for filing Tax Audit and ITR for AY 2020-21 in case of assessee's not subject to Transfer Pricing has been extended to 31-Oct-2020 and 30-Nov-2020 respectively.

What is the penalty for not furnishing Tax Audit Report?

In case the Tax Audit Report is not furnished, then penalty may be levied u/s. 271B of the Act to the extent of (a) 0.5% of total sales, turnover or gross receipts in such PY or (b) Rs.1,50,000, whichever is lower.

How is the Tax Auditor required to conduct Tax Audit?

As regards prescribed particulars in Form 3CD, the Tax Auditor is required to give his opinion as to whether the particulars are "true and correct". In such case, the Tax Auditor will have to:

- apply the generally accepted auditing procedures

- use his professional skill, expertise and judgement
- apply sampling techniques depending on the nature and volume of transactions, the materiality involved and the internal control procedures followed by the assessee
- apply such audit tests and technique of sampling as the circumstances of the case may require, considering the contents of the audit report
- keep & maintain all necessary working papers about the evidence on which he has relied upon while conducting the audit (such as work done, explanations and information given during the course of the audit, decision taken on various issues taken, judicial precedents relied upon and certificates issued by the client/management letters)

The "Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961 (Revised 2014 Edition)" and the "Implementation Guide w.r.t. Notification No. 33/2018 dated 20.7.2018 effective from 20.8.2018" issued by the ICAI assist in understanding and resolving critical issues arising during the Course of a Tax Audit.

With this background, let us now dive into the major clauses of Form 3CD affecting the computation of taxable income and understand the reporting requirements and necessary audit procedures required to be carried out.

A. Clause 13: Maintenance of Books of Accounts & Impact of Income Computation and Disclosure Standards (ICDS)

Clause 13(a) to 13(c):

While maintaining the books of accounts, an assessee has an option to either use Cash System or Mercantile System (i.e., Accrual System) of book-keeping. In this clause, the assessee is required to disclose the method of accounting employed in the PY and whether it is consistent with the method followed in the immediately preceding AY. The assessee has the option to change the method of accounting, however, in that case, the assessee is required to disclose the effect thereof on the profit/loss for the PY in which such change took place.

Clause 13(d) to 13(f):

Vide Notification No.87/2016 dated 29-Sept-2016, the CBDT has notified 10 ICDS u/s. 145(2) of the Act to bring uniformity and consistency in the computation of income under the head "Profits & Gains from Business or Profession" and "Income from Other Sources". The ICDS are applicable to all assessee's following mercantile system of accounting except individuals/HUFs who are not required to get their books of accounts audited u/s. 44AB. The objective of this clause is to determine whether there is any impact on profit/loss on account of deviation from ICDS in the respective previous year, making necessary adjustments to the profit/loss in order to comply with the ICDS and providing information relating to disclosures required by the various ICDS.

Audit Procedures

1. Examine the Financial Statements of the assessee.
2. Identify areas where the treatment as per AS/Ind-AS may vary compared to provisions of relevant ICDS.
3. Quantify the effect of deviation, if any, from ICDS.

Audit Procedures

4. The "Technical Guide on Income Computation and Disclosure Standards" issued by the ICAI is a useful guide for understanding and implementing the ICDS provisions.

B. Clause 14: Valuation of Inventory and purchase/sale of Goods & Services based on Inclusive Method of Accounting

As per AS/Ind AS, inventory valuation is done based on 'exclusive' method of accounting, i.e., the value of inventory does not include any taxes, duty or cess paid at the time of purchase, if these taxes are to be refunded or adjusted against the payment of taxes (for example: Input Tax Credit). However, Section 145A of the Act requires that valuation of purchase and sale of goods or services and of inventory shall be adjusted to include the amount of any tax, duty, cess or fee actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation, i.e., 'inclusive' method of accounting. According to the Guidance Note on Tax Audit issued by ICAI and as held by the Supreme Court in the case of CIT v. Indo Nippon Chemical Company

Ltd. (261 ITR 275), there will not be any impact on profitability of the assessee due to valuation of purchase and sale of goods or services and of inventory as required by Section 145A of the Act.

Clause 14 of Form 3CD requires disclosure of the method of valuation of closing stock employed by the assessee (i.e., method employed in books of accounts) and impact on profit/loss on account of deviation from inclusive method of accounting mandated u/s. 145A of the Act. This clause would assume significance in case of manufacturing sector. It may be noted that Section 145A also requires reporting of taxes paid on purchase and sale of "services", whether paid under Reverse Charge Mechanism or otherwise. In the current scenario, the main tax paid or incurred on purchase and sale of goods and services is Goods and Service Tax ("GST") as compared to erstwhile period of excise duty, central sales tax, value added tax and service tax.

Audit Procedures

1. Verify whether GST on opening stock of raw materials has been correctly carried forward from GST attributable to closing stock of raw materials of immediately preceding AY.
2. Determine Input GST paid or incurred during the PY on purchase of raw material and services and output GST paid/payable on sale of finished goods and services. This can be verified from the books of accounts of the assessee and the GSTR-1 returns and GSTR-3B returns filed by the assessee.
3. Determine GST availed & utilised on raw material and services consumed during the PY and balance GST lying in closing stock of raw materials.
4. Clause 14 requires inclusive method of accounting for items affecting the Profit & Loss account and hence, any GST paid on capital expenditure is not required to be considered. Any GST paid on account of inter-state stock transfers between branches/units of the assessee need not be considered since the effect of the same would be eliminated on consolidation. Proper reconciliations for such taxes would need to be maintained.

C. Clause 27(a): Amount of CENVAT Credits Availed of or Utilised during the PY & its Treatment in the Profit & Loss Account and Treatment of Outstanding CENVAT Credits In The Accounts

The audit of clause 14 and clause 27(a) go hand-in-hand. As detailed above, since the assessee is required to follow exclusive method of accounting in its books of accounts, the GST Input Tax Credit ("ITC") will be recognized as a

Receivable in the books to be credited as and when the ITC is utilized. Therefore, such availment and utilization will not have an impact on the Profit & Loss account. It may be noted that the wordings of the clause require reporting of CENVAT credits (i.e., credit of excise duty & service tax). However, the JAVA utility of Form 3CD as released by the CBDT requires disclosure of CENVAT/GST ITC and hence, GST ITC figures must be reported under this clause.

Audit Procedures

1. Verify GSTR-3B Returns filed by the assessee during the PY to ascertain the amount of ITC availed and utilized during the year.
2. Obtain Electronic Credit/Cash Ledgers (ECL) for checking the opening and closing ITC available.
3. Ensure that figures disclosed under clause 27(a) are reconciled with figures reported under clause 14.
4. Verify that there is a proper reconciliation between balance of ITC in the books of accounts with the GST records. Reconcile the closing ITC available as per GST records with the closing balance standing as ITC Receivable in the books of accounts. In case of any difference, it is advisable to show a reconciliation in the Tax Audit Report.

Disclosure can be given in the following format:

Particulars	Amount	Treatment in Books of Accounts
Opening Balance of ITC (As per GST Records)	xxx	Not routed through P/L
(+) ITC Availed during the year	xxx	Not routed through P/L
(-) ITC Utilised during the year	(xxx)	Not routed through P/L
= Closing Balance of ITC (As per GST Records)	xxx	Not routed through P/L
Closing Balance of ITC (As per Books of Accounts)	xxx	Shown under 'Other Current Assets' in the Balance Sheet
Reconciliation, if any		

D. Clause 17: Valuation of Immovable Property u/s. 50C or 43CA, as applicable

This clause deals with reporting on transfer of an immovable property (i.e., land or building or both) during the PY for a consideration less than its Stamp

Duty Value ("SDV"). The objective is to facilitate in the computation of Capital Gains u/s. 50C (if such land or building were held as capital assets) or in the computation of Business Income u/s. 43CA (if such land or building were held as stock-in-trade). The Tax Auditor is

required to disclose the details of the properties transferred, consideration received/accrued and the SDV assessed/assessable for such properties. This clause

assumes significance especially in case of real estate sector and joint development agreements.

Audit Procedures

1. Obtain a certified list of all immovable properties transferred by the assessee during the PY from the management. Also, carry out independent examination of the financial statements of the assessee (for example, reduction in Tangible Assets in the Balance Sheet, whether any profit/loss on sale of immovable property has been recorded in the Profit & Loss account, changes in cash flow on account of investing activities).
2. Verify consideration received/accrued from amount disclosed in books of accounts
3. Verify SDV assessed/assessable from registered sales deed or through certification obtained from third party experts.
4. Report under clause 17 is to be made only if consideration on transfer is less than SDV assessed/assessable.
5. Whether leasehold rights/development rights/TDR/FSI etc. would fall under this provisions or not would require to be evaluated based on facts & circumstances of transactions. Relevant judicial precedents may be referred to for resolving the issue.

E. Clause 18: Depreciation u/s. 32 of the Act on Tangible and Intangible Assets

This clause requires special attention on multiple aspects such as confirmation of ownership and actual use of asset by the assessee, classification of asset based on pre-defined blocks and application of corresponding depreciation rate as per

New Appendix – I (Rule 5), satisfaction of conditions for additional depreciation, etc. It may be noted that scrutiny of Fixed Asset register under this clause would aid in reporting under several other clauses of Form 3CD such as clause 19, 24 and 34.

The specific disclosure requirement under clause 18 is as under:

Description of assets/ Block of Assets	Rate of Dep.%	Actual Cost or Opening WDV	Additions during the year		Sales/ Disposal during the year	CENVAT credit claimed & allowed	Change in rate of exchange of currency u/s. 43A	Subsidy, grant or reimbursement received	Depreciation Allowable	Closing WDV
			< 180 days	>= 180 days						
(a)	(b)	(c)	(d)	(d)	(d)	(d) - (i)	(d) - (ii)	(d) - (iii)	(e)	(f)

Certain specified taxpayers can opt to pay tax as per concessional rates introduced u/s. 115BAA or 115BAB (w.e.f.

FY 2019-20) or 115BAC or 115BAD (w.e.f. FY 2020-21) subject to satisfaction of stipulated conditions, one of which is

that such taxpayer claims depreciation u/s. 32 in a manner as may be prescribed. The CBDT vide notification no. 82/2020 dated 1-Oct-2020 [Income-tax (22nd Amendment) Rules, 2020] notified the manner of claiming depreciation for the purpose of availing benefit of concessional tax rate under the New Regime and also the manner of adjustment of any depreciation allowance or allowance for unabsorbed depreciation in the WDV of the block of the asset as

on 1-April-2019 by amending proviso to Rule 5(1) of the Income-tax Rules, 1962.

A new sub-clause (ca) and (cb) has been inserted under clause 18 of Form 3CD vide the aforesaid CBDT notification to disclose "Adjustment made to the written down value u/s. 115BAA (for AY 2020-21 only)" and the "Adjusted WDV" respectively in accordance with the above amended Rule.

Audit Procedures

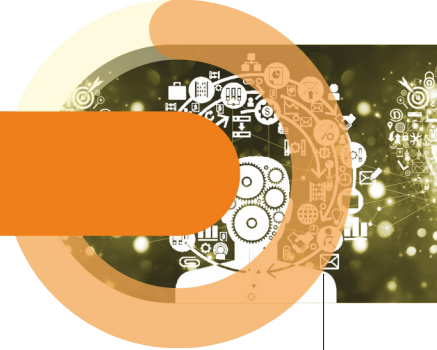
1. Verify whether closing WDV of immediately preceding AY has been correctly taken as opening of the current AY from the signed Form 3CD of immediately preceding AY. In case, any depreciation in earlier years is disallowed by the Tax Authorities, the WDV should be increased or adjusted accordingly.
2. Obtain Fixed Asset Register from the assessee to verify additions and sales during the PY.
3. Check whether the assessee satisfies the primary conditions of ownership and actual use of assets for business purposes for claiming depreciation u/s. 32 on additions of assets made during the PY.
4. Determination of cost of an asset as per Section 43(1) of the Act.
5. Depreciation is not allowable in case where an asset is acquired by cash payment of more than Rs. 10,000 per person per day.
6. Ensure whether all fixed assets put to use during the PY have been bifurcated appropriately based on period: (a) held for less than 180 days or (b) held for 180 days or more and ensure depreciation at 50% of the actual rate is computed for assets held for less than 180 days. Check supporting documents such as invoices, installation certificates, etc. for verifying date of 'put to use' of asset. Please bear in mind that assets are capitalized in books of accounts based on date of 'ready to use' whereas depreciation u/s. 32 of the Act is granted only when asset is actually 'put to use' and these dates may be different and even fall in different AYs.
7. Scrutinise the description of each addition of asset made during the PY to verify the correct classification in each block of asset.
8. Check whether rate of depreciation taken is as per New Appendix I under Rule 5 of Income Tax Rules, 1962. Motor cars (other than those used in hiring business) acquired on/after 23-Aug-2019 but before 1-April-2020 & put to use before 1-April-2020 are eligible for depreciation u/s. 32 @ 30%.
9. Maintain a reconciliation between additions as per books and additions as per Income-Tax. Differences could arise on account of freehold & lease hold land, asset not owned by the assessee but capitalized in the books of accounts, assets in respect of which 100% of the cost has been claimed in the year of acquisition

Audit Procedures

- [for example, assets used for in-house R&D eligible for weighted deduction u/s. 35(2AB)].
10. **Sale:** In case of sale/disposal of assets, the sales proceeds received/receivable are required to be deducted from the block and not the WDV of such assets.
 11. **43A Forex adjustment:** Verify the adjustments in cost of fixed assets in relation to foreign exchange gain/loss incurred on actual payment in foreign currency towards the cost of imported fixed assets in accordance with Section 43A. In books of accounts, foreign exchange gain/loss may have been accounted as per AS/IND-AS whereas as per Section 43A, only foreign exchange gain/loss incurred on actual payment in foreign currency are to be considered.
 12. **Subsidy:** Verify whether any subsidy, grant or reimbursement received towards acquisition of any asset, either directly or indirectly from Central or State Government has been reduced from the cost of such asset.
 13. **Additional Depreciation:** In case of assessee engaged in manufacturing sector, check whether assessee is eligible to claim additional depreciation u/s. 32(1)(iia) of the Act on plant & machinery acquired during the PY subject to satisfactions of conditions stated therein. Verify claim of balance 50% additional depreciation being claimed, if any, in respect of new plant & machinery acquired for less than 180 days in the immediately preceding AY (if only 50% of the amount of total additional depreciation available was claimed in the preceding AY).
 14. **In case of domestic company opting for concessional rate of tax u/s. 115BAA or 115BAB:**
As per CBDT Notification no. 82/2020 dated 1-Oct-2020, for such companies, depreciation u/s. 32 in respect of any block of asset entitled to more than 40% shall be restricted to 40% on the WDV of such block of assets. Additionally, if the option for paying tax u/s. 115BAA is exercised for FY 2019-20, then any depreciation allowance in respect of block of asset from any earlier assessment years or allowance of unabsorbed depreciation u/s 72A, which is attributable to depreciation u/s. 32(1)(iia) shall be added to the WDV of the block of assets as on 1-April-2019. The adjustments on this account are to be reported under new sub-clause (ca) and (cb) in clause 18 of Form 3CD.
 15. Borrowing cost as per ICDS IX is to be duly capitalised.

Other clauses of Form 3CD related to audit procedures performed under clause 18

1. **Investment Allowance u/s. 32AD:** In case of assessee who has set up an undertaking in a notified backward area, verify claim of investment allowance u/s. 32AD based on additions of plant & machinery made during the PY and report the same under clause 19 of Form 3CD.
2. **Deemed profits u/s. 32AC:** Scrutinise whether investment allowance u/s. 32AC was claimed in respect of any sale of plant & machinery during the PY resulting in deemed profits u/s. 32AC and make necessary disclosures in clause 24 of Form 3CD.



3. **Purchase of Land:** In case the assessee has purchased land or building during the PY, verify compliance with TDS provisions u/s. 194-IA and report the corresponding amount of purchase and TDS, if any, under clause 34 of Form 3CD.

F. Clause 19: Weighted Deductions and other admissible deductions for computing Business Income

The assessee can claim deduction under sections 32AC, 33AB, 33ABA, 35, 35ABB, 35AC, 35AD, 35CCA, 35CCB, 35CCC, 35CCD, 35D, 35DD, 35DDA and 35E

subject to the terms and conditions mentioned in these Sections. The Tax Auditor should indicate the amount debited to the Profit & Loss Account and the amount actually admissible in accordance with the applicable provisions of law.

Audit Procedures

1. Check the eligibility of expense/payment for deduction and compliance by the assessee of prescribed conditions (including approval from relevant authority).
2. In case the assessee has obtained a separate Audit Report for claiming deductions under any of these sections, verify the said Report [for example, Audit Report in Form 3CLA for deduction u/s. 35(2AB) for in-house R&D expenditure].
3. *In case the assessee is a domestic company opting for concessional rate of tax u/s. 115BAA or 115BAB, then specified deductions/exemptions such as investment allowance u/s. 32AD, weighted deductions for R&D related expenses u/s. 35, etc. are not available to such assessee. If assessee provides a declaration that they are opting for tax u/s. 115BAA or 115BAB (reported under new clause 8a inserted in Form 3CD vide CBDT notification no. 82/2020 dated 1-Oct-2020), then care must be taken to not report any amounts against deductions specified under clause 19 which are not available to such assessee. A suitable note may be provided on the same in the notes to Form 3CD.*

G. Clause 21: Disallowance of certain expenditure while computing Business Income

This is another important clause affecting the computation of Business Income which requires special attention of the

Tax Auditor. The disallowances of various types of expenditure on account of non-compliance of conditions prescribed under the Act covered under this clause and the related audit procedures are as under:

Audit Procedures

Clause 21(a): Expenditure in nature of capital, personal, advertisement, fines, penalty etc.

- Scrutinize all ledger accounts of expenses for any capital items booked as revenue, personal expenses, club membership expenses, fines/penalty of penal/criminal nature which are charged to Profit & Loss account.

Audit Procedures

Clause 21(c): Amount inadmissible u/s. 40(b)/40(ba) and its computation thereof

- Where the assessee is a Firm, AOP or BOI, check whether amounts debited to Profit & Loss Account towards interest, salary, bonus, commission or remuneration are within limits specified u/s. 40(b)/40(ba).

Clause 21(d): Disallowances/deemed income u/s. 40A(3) read with Rule 6DD

- Scrutinize cash ledger for cash payment (in aggregate) to a single person exceeding Rs.10,000 in a day.
- Verify if such expenses fall within the exceptions listed under Rule 6DD to determine disallowance of revenue expenses u/s. 40A(3).

Clause 21(e)/(f): Provision for payment of gratuity not allowable u/s. 40A(7) & any sum paid by the assessee as an employer not allowable u/s. 40A(9)

- Verify whether assessee maintains an approved gratuity fund/superannuation fund/recognised provident fund from the approval order of the Commissioner of Income-tax, verify the date from which it is effective & also whether provision/contribution has been made as provided in the trust deed.
- If employee welfare funds are not approved, then disallow provision/contribution debited to Profit & Loss account & report under clause 21(e)/(f), as applicable.

Clause 21(h) – Disallowance u/s. 14A read with Rule 8D

- Determine whether any income earned by the assessee during the PY is exempt from tax (such as dividends, interest on tax-free bonds, share of profit from partnership firm, etc.).
- Determine expenses incurred by the assessee towards earning such exempt income. If not directly ascertainable, proportionate expenses based on allocation keys can be considered for disallowance u/s. 14A to the extent of % of exempt income to total investment income.
- If expenses cannot be ascertained based on the above, determine disallowance as per formula prescribed under Rule 8D.
- This issue is highly litigious and support may be taken of various judicial precedents on the issue depending on the facts and circumstances involved in the case of the assessee. A suitable note of assumptions made or reliance on judicial precedents should be made in the notes to Form 3CD.

Clause 21(i) – Amount of interest expense inadmissible u/s. 36(1)(iii)

- If the assessee has taken a loan for the purpose of acquisition/construction of an asset, then the Tax Auditor is required to ensure that the interest expense incurred from the date of borrowing till the date of 'put to use' of such asset is capitalized to the cost of such asset for income-tax purposes. Reference may also be made to ICDS IX on 'Borrowing Costs' for this purpose.

H. Clause 22: Amount of interest inadmissible u/s. 23 of Micro, Small and Medium Enterprises Development Act, 2006

With more and more indigenous companies registering under the MSME Act, this clause becomes all the more important since it seeks to disclose disallowance of the interest paid by the assessee to an MSME. Section 16 of the MSME Act provides for the computation of interest paid/payable to an MSME.

Also, section 22 of the MSME Act lays down the disclosure requirements of interest paid, payable by an assessee who is required to get his books audited under any law. The auditor is required to disclose the interest paid to an MSME by the assessee during the relevant PY. The purpose behind the insertion of this clause is to reduce the defaults in payments to be made to MSMEs since the government seeks to increase competitiveness of MSMEs and facilitate their promotion and development.

Audit Procedures

1. Obtain a certified list of MSME suppliers/service providers.
2. Check whether necessary disclosures as required u/s. 22 of MSME Act have been made by the assessee in its Financial Statements.
3. If the assessee has expensed/provided for such interest in the books of accounts, the Tax Auditor is required, on a test check basis, to check the accuracy and correctness of such expenses.
4. Scrutinize the expenses & liabilities for any interest paid/payable to an MSME but which has not been disclosed by the assessee.
5. If the necessary information is not made available, or necessary disclosures have not been made by the assessee, then the Tax Auditor should give an appropriate qualification in Form 3CA/3CB, as applicable.

I. Clause 26: Disallowance of certain specified expenditure u/s. 43B

Section 43B of the Act provides for allowance of certain specified expenses only if such amounts are actually paid during the PY or paid on/before the due date of filing the ITR for the relevant AY. Clause 26 seeks to provide information of such allowances/disallowances of specified expenses u/s. 43B based on verification of actual payment. The following expenses are specified u/s. 43B of the Act:

- a) any tax, duty, cess or fee, by whatever name called, payable by the assessee under any law (other than income tax) for the time being in force;
- b) any sum payable as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees;
- c) any bonus or commission payable by the assessee to its employees for services rendered, where such sum would not have been payable to him as profits or dividend, if it had not been paid as bonus or commission;
- d) interest on any loan or borrowing from any PFI/SFC/SIIC in accordance with the terms & conditions of the loan/borrowing agreement;
- da) interest on any loan or borrowing from a deposit taking NBFC or systemically important non-deposit

taking NBFC, in accordance with the terms & conditions of the loan/borrowing agreement;

- e) interest on any loan or advances from a scheduled bank or a co-operative bank, other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank, in accordance with the terms & conditions of the loan/advances agreement;
- f) any sum payable by the assessee as an employer in lieu of any leave at the credit of his employee;

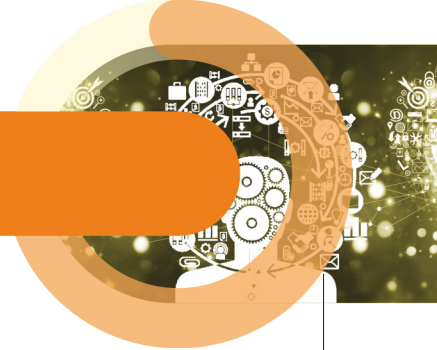
- g) any sum payable by the assessee to the Indian Railways for the use of railway assets.

Reporting under this clause is divided into 2 parts:

1. Expenses disallowed u/s. 43B in past AYs (i.e., pre-existed on the first day of the PY) which are paid (or not paid) during the PY – Clause 26(A).
2. Expenses pertaining to current PY (i.e., liability incurred during the current PY) which are paid (or not paid) on or before the due date of filing ITR u/s. 139(1) – Clause 26(B).

Audit Procedures

1. Ensure all disallowed expenses [under Clauses 26(A) & 26(B)] of immediately preceding AY have been considered as opening (i.e., pre-existed on the first day) under clause 26(A) of the current AY.
2. Scrutinise expense and liability accounts to determine expenses falling under Section 43B.
3. Verify whether these expenses have been paid during the PY or on/before due date of filing ITR u/s. 139(1), as the case may be, by checking supporting documents (challans, vouchers, ledger extracts, etc.). From AY 2020-21 onwards, the due date of filing ITR is after one month of the due date of filing Tax Audit Report, therefore, appropriate disclosure should be made mentioning that the payments upto the finalization of report are only considered.
4. In respect of provision for leave encashment u/s. 43B(f), due regard may be given to the recent judgement of the Supreme Court in the case of *Union of India v. Exide Industries Limited [(2020) 116 taxmann.com 378]* wherein it was held that leave encashment payable to employees is deductible only on payment basis.
5. Support can be drawn from judicial precedents to determine whether expenses fall within the ambit of Section 43B. A suitable note may be given in the notes to Form 3CD for any specific expense.
6. Expenses for use of Railway Assets:
 - Payments for the use of railway assets will include amounts payable for hire of railway wagons, or for hire of rail sidings, or lease rent payable for use of railways land or buildings.
 - Payments for the use of railway assets would not include basic rail freight or demurrage.



Audit Procedures

- In case of payments for use of hoardings/display panels put up on railway premises, go through the terms of contract to check whether the payment is for use of railway assets or not.
- Obtain a list of amounts payable to the railways for the concerned PY from the assessee.
- Verify the correctness of such amounts. Analyse such amounts, bifurcating them between payments for the use of railway assets and other payments.

Points to be noted

1. The above particulars are required to be given irrespective of the fact whether they have been debited to Profit & Loss Account or not and such a fact should be stated under this clause.
2. If the interest payable on borrowings is converted into a loan or an advance, it is not considered as actually paid. Such unpaid interest shall be allowed in the year it is actually paid (i.e., principal repayment of such loan).
3. Where due date of filing of ITR is extended, the payments made of such expenses up to the extended due date shall also qualify for deduction u/s. 43B.

J. Clause 30A: Adjustment to Transfer Price by way of Secondary Adjustments u/s. 92CE read with Rule 10CB

Due to globalization and the rapid development of the IT sector, it has become easy for carrying on business in different countries having different domestic tax laws. This gave rise to the problem of shifting of funds from a high tax jurisdiction to a low or NIL tax jurisdiction, which led to reduced tax revenue for the resident country. A very common means of shifting funds was by way of incorporating shell companies in Tax Haven countries as subsidiaries etc. of the parent company. In order to restrict such practices, the provisions of Transfer Pricing contained in Section 92 to 92F were introduced in the Act along with Rules thereto. These provisions are applicable when an assessee enters into any International Transaction or any Specified Domestic Transaction wherein, the transaction price is less than the Arm's Length Price (ALP).

Before starting with this clause, it is important to be well versed with certain terminologies.

1. **Excess Money:** Difference between the ALP determined in primary adjustment and the price at which the international transaction has actually been undertaken
2. **Primary Adjustment:** Determination of transfer price in accordance with the ALP resulting in an increase in the total income or reduction in the loss, as the case may be, of the assessee
3. **Secondary Adjustment:** An adjustment in the books of account of the assessee and its Associated Enterprise ("AE") to reflect that the actual allocation of profits between the assessee and its AE are consistent with the transfer price determined as a result of primary adjustment, thereby removing the imbalance between cash account and actual profit of the assessee

Clause 30A requires reporting of whether primary adjustment to transfer price has been made during the relevant PY. If there are no primary adjustments required, i.e., transaction carried out at ALP, no further reporting required. However, if any primary adjustment has been made, then the assessee is required to give disclosures with respect to the amount of primary adjustment,

whether such excess money paid have been repatriated to India, whether repatriated within the prescribed time, if not, the interest income (deemed) imputed thereon. Secondary adjustments are applicable only in respect of transfer pricing adjustments relating to international transactions, and not in respect of domestic transfer pricing adjustments.

Audit Procedures

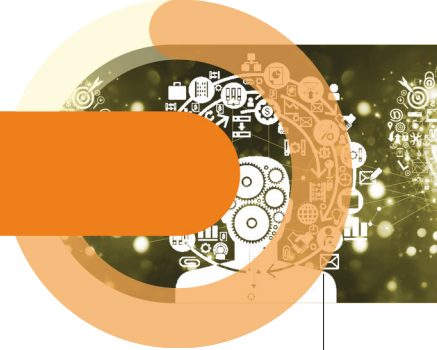
1. Verify whether any primary adjustment is made in terms of S. 92CE(1) "during" the PY under consideration. The primary adjustment made may not necessarily relate to PY under consideration.
2. Disclosure under clause 30A should be done in respect of each and every type of primary adjustment made during the PY, irrespective of the PY to which this adjustment pertains to.
3. Determining whether excess money, if any, has been repatriated to India within the prescribed time. If not, verify the computation of deemed interest on such excess money and inclusion of the same in the taxable income of the assessee for the PY.
4. Obtain a certificate/management representation from the assessee, on the information obtained to be true and accurate, basis on which the disclosure in the Tax Audit Report is required to be made.

K. Clause 30(B): Thin Capitalization Rules – Disallowance of interest expense u/s. 94B in excess of 30% EBITDA

As per section 94B of the Act, the deduction for expenditure incurred by way of interest or of similar nature, exceeding Rs.1 crore, by an Indian Company or a Permanent Establishment (PE) of a Foreign Company in India in respect of debt issued by a non-resident, being its AE, is restricted to lower of: (i) 30% of its earnings before interest, taxes, depreciation and amortization (EBITDA) or (ii) interest paid to AE. For this purpose, the debt shall be deemed to be treated as issued by an AE where it provides an implicit or explicit guarantee to the

lender or deposits a corresponding and matching amount of funds with the lender. The provisions allow for carry forward of disallowed interest expense to 8 years immediately succeeding the year for which the disallowance was first made and deduction against the Business Income to the extent of maximum allowable interest expenditure. Banks and Insurance business are excluded from the ambit of the said provisions.

Clause 30B requires reporting for the purposes of examining allowability of expenditure by way of interest in respect of debt issued by a non-resident AE u/s. 94B, while computing Business Income.



Audit Procedures

1. Item (i) of sub clause (b): Details of expenditure by way of interest or of similar nature.

For this purpose, in computing the limit of Rs. 1 crore, only interest and expenditure of similar nature which is deductible while computing Business Income should be considered, and not interest deductible under any other head of income or interest which is otherwise not deductible.
2. Item (ii) of sub clause (b): Amount of EBITDA.

While computing the EBITDA, we need to ensure that the figures as per the final audited stand-alone accounts of the entity is considered.
3. Item (iii) of sub clause (b): Amount by which the interest as per item (i) exceeds 30% of EBITDA.

In case the EBITDA is negative, the entire interest and other similar expenditure as per item (i) need to be given here, without any adjustment for the negative figure, the negative figure being taken as NIL.
4. Item (iv) of sub clause (b): Details of b/f excess interest disallowed in earlier years, which is available for deduction during the PY under audit.

For this purpose, verify the computation of income as per the ITR filed of the relevant earlier years.
5. Item (v) of sub clause (b): Details of c/f excess interest.

For this purpose, verify the draft computation of income certified by the management/tax advisor.

L. Clause 31: Reporting on acceptance (u/s. 269SS) & repayment (u/s. 269T) of loans/deposits and specified sums & cash receipts of Rs. 2,00,000/- and more (u/s. 269ST)

The scope of clause 31 has been extended to include repayment of loans advanced (Dr.) by the auditee and repaid during the PY (refer clause 31(c), (d) and (e) below).

No person shall take or accept from any other person ("depositor") any loan or deposit or any specified sum of Rs.20,000 or more, and no person shall repay such loan or deposit or specified sum,

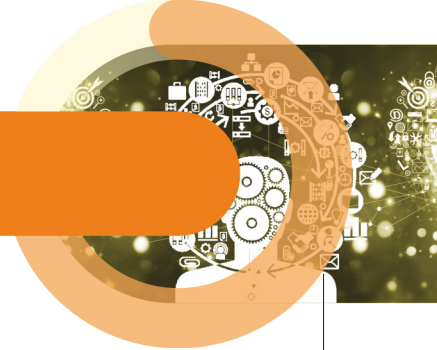
otherwise than by an account payee cheque or account payee bank draft or use of ECS through a bank account or through prescribed electronic modes. Violation of these provisions attracts penalty u/s. 271D/271E of an amount equivalent to amount of loan/deposit/ specified sum taken/accepted/repaid. These provisions were introduced to curb the practice of cash transactions prevalent in the Indian economy.

A summary of the sub-clauses under clause 31 of Form 3CD & related disclosure requirements is given below:

Clause	Particulars		Disclosure Requirement
Clause 31(a)	Details of each loan or deposit	Taken or accepted in an amount exceeding limit specified u/s 269SS (i.e., Rs.20,000)	i. Whether accepted through cheque, bank draft or ECS. ii. If yes, whether cheque or bank draft was account payee cheque or bank draft
Clause 31(b)	Details of any specified sum		
Clause 31(ba)	Particulars of each receipt in an amount exceeding the limit specified u/s 269ST (i.e., Rs.2,00,000)	In aggregate from a person in a day, or in respect of a single transaction or in respect of transactions relating one event or occasion from a person	Whether received by other than cheque, bank draft or ECS (i.e. in cash)
Clause 31(bb)	Particulars of each payment exceeding the limit specified u/s 269ST (i.e., Rs.2,00,000)		Whether received by cheque or bank draft but not an account payee cheque or bank draft
Clause 31(bc)	Particulars of each payment exceeding the limit specified u/s 269ST (i.e., Rs.2,00,000)	In aggregate to a person in a day, or in respect of a single transaction or in respect of transactions relating one event or occasion to a person	Whether paid by other than cheque, bank draft or ECS (i.e. in cash)
Clause 31(bd)	Particulars of each payment exceeding the limit specified u/s 269ST (i.e., Rs.2,00,000)		Whether paid by cheque or bank draft but not an account payee cheque or bank draft
Clause 31(c)	Particulars of each repayment of loans or deposit or any specified advance (taken by the Assessee) in an amount exceeding the limit specified u/s 269T (i.e., Rs.20,000), made during the previous year		i. Whether repaid through cheque, bank draft or ECS. ii. If yes, whether cheque or bank draft was account payee cheque or bank draft
Clause 31(d)	Particulars of repayment of loans or deposit or any specified advance (given by the Assessee) in an amount exceeding the limit specified u/s 269T (i.e., Rs.20,000), received during the previous year		
Clause 31(e)			Where repayment received by cheque or bank draft but not an account payee cheque or bank draft

Audit Procedures

1. Scrutinise all loans, deposit or specified advance/sum accounts for any receipt or repayment made exceeding the specified limit. Such scrutiny is required to be made party-wise, i.e., for each lender/borrower.



Audit Procedures

2. Ensure that repayment of even Re.1 of loan/deposit is reported by the assessee if the original loan/deposit accepted was of Rs.20,000 or more.
3. Verify the maximum amount outstanding for each such loan, deposit or specified advance/sum taken by the assessee.
4. Verify whether loan, deposit or specified advance/sum was squared off (i.e., fully repaid) during the PY.
5. Clause 31(c): Report transactions of loan/deposit discharged by means of transfer entries in the books of accounts as the same constitutes repayment of loan/deposit otherwise than by a/c payee cheques/drafts.
6. Ensure whether PAN of all such lenders/borrowers is disclosed and no duplication exists.
7. Scrutiny of cash ledger for any receipt/payment in excess of the specified limit.
8. There is a practical difficulty in determining whether the cheque/bank draft was account payee or not, in such case, relevant disclosure should be given in Form 3CA/3CB with respect to the non-availability of relevant supportings for verification of the same.

M. Clause 34 read with Clause 21(b)(i) and 21(b)(ii): TDS/TCS related disclosures & corresponding disallowance, if any, u/s. 40(a)(i) or 40(a)(ia)

The objective behind insertion of this clause is to monitor the assessee's compliance with the applicable TDS/TCS provisions. Apart from generating revenue to the Government, since TDS/TCS so deducted/collected is available as credit to the deductee, it becomes all the more important for the Tax Authorities to ensure whether the deductor assessee is compliant with the provisions of the Act and Rules thereto.

Under Clause 34, the Tax Auditor is required to report whether TDS/TCS has been correctly deducted and deposited within the prescribed time limits, whether relevant returns have been filed by the assessee within the time limits and whether the assessee is liable for any interest for any default or delay in complying with the TDS/TCS provisions. Any non-compliance in deduction/deposit of TDS would trigger reporting of such expenses under clauses 21(b)(i)/(ii) of Form 3CD depending on whether the payments are made to non-residents [disallowance u/s. 40(a)(i)] or to residents [disallowance u/s. 40(a)(ia)].

Audit Procedures

1. Extract relevant reports (e.g. TDS/TCS Register) from the ERP used by the assessee. Where no such report is available, determine how the information is maintained by the assessee for the purpose of payment of TDS/TCS and filing of TDS/TCS Returns.
2. Scrutinise expense ledgers to understand nature & purpose of expenses, determine whether TDS is applicable and whether TDS has been deducted under the correct section and rate as per the class of deductee. Where the transactions are voluminous, this can be done on a test check basis by applying the concept of materiality.

Audit Procedures

3. Where TDS has been deducted at a lower rate, obtain Lower Deduction Certificate ("LDC") and check whether the lower rate has been taken correctly for the deductee, whether LDC is valid for the period & lower rate is applied to the extent of threshold specified therein.
4. The assessee is required to maintain PAN details of all the deductees. Where PAN is not mentioned, the Tax Auditor is required to check whether TDS has been deducted at a higher rate as per Section 206AA.
5. Checking for PAN duplication, i.e., same PAN for 2 or more separate deductees and *vice-versa*.
6. Obtain TDS/TCS payment challan to check whether the amount of TDS/TCS so deducted/collected has been deposited with the Tax Authorities within the prescribed time.
7. Obtain Form 27A & acknowledgement receipt for TDS/TCS returns along with TDS/TCS returns in excel for each quarter to check whether the requisite details have been filed correctly and within the prescribed time.
8. Where the assessee has defaulted/delayed in deduction or non-deposit of TDS, determine whether interest as computed u/s. 201(1)/(1A) or 206C(7) has been determined and paid.
9. Check whether any TDS/TCS defaults made by the assessee during the PY from the assessee's account on the TRACES portal.
10. **For verification of TDS on foreign remittances:** Examine the nature of expenses, provisions of the Act read with relevant Double Tax Avoidance Agreement (as modified by the Multilateral Instrument – MLI), check the Tax Residency Certificate (TRC) issued by the country of residence of the payee, examine whether the payee has a Permanent Establishment (PE) in India, check Form 15CA/15CB issued by CA – in order to determine whether the sum is chargeable to tax in India or not.

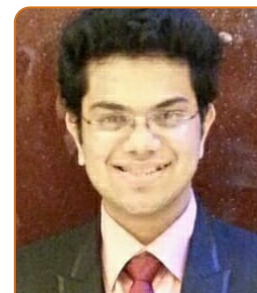
In a practical scenario, it would be difficult to reconcile the expenses with the TDS records maintained due to the voluminous nature of transactions. This becomes a limitation on the part of the Tax Auditor to comment on correctness of such records and compliance of the assessee. In such cases, it is advisable to give a note or qualify the same in the Tax Audit Report in Form 3CA/3CB. The following note can be given:

"In view of voluminous nature of information required to be verified by us (Auditor) in respect of requirements under clause 34 in relation to compliance with the provisions of Chapter XVII-B

and Chapter XVII-BB of the Act, we have verified the same in accordance with Standards of Auditing generally accepted in India, which includes the principle of materiality test checks based on which substantive checks and compliance checks have been applied to satisfy the effectiveness of the internal process and system established by the Assessee. Based on the above, no non-compliance has come to our attention."

With this article, we have endeavoured to cover the basic audit procedures required to be carried out while auditing the major clauses of Form 3CD having an impact on the taxable income of an

TCS Provisions w.e.f. October 1, 2020



Priyank Parekh & Rohan Shah

"Change is the heartbeat of Growth!"

Introduction

- Tax collected at source (TCS) is an amount collected as tax by a seller (collector) of specified goods from the buyer (collectee) at the time of sale over and above the sale amount and is remitted to the government.
- The collectee from whose income, tax has been collected at source would be entitled to get credit of the amount so collected on the basis of Form 26AS or TCS certificate issued by the collector.

Explanation of the new provisions under TCS applicable w.e.f. 1st October, 2020

"Government's view of the economy could be summed up in three simple

phrases – If it moves, tax it; If it keeps moving, regulate it; If it stops moving, subsidize it!"

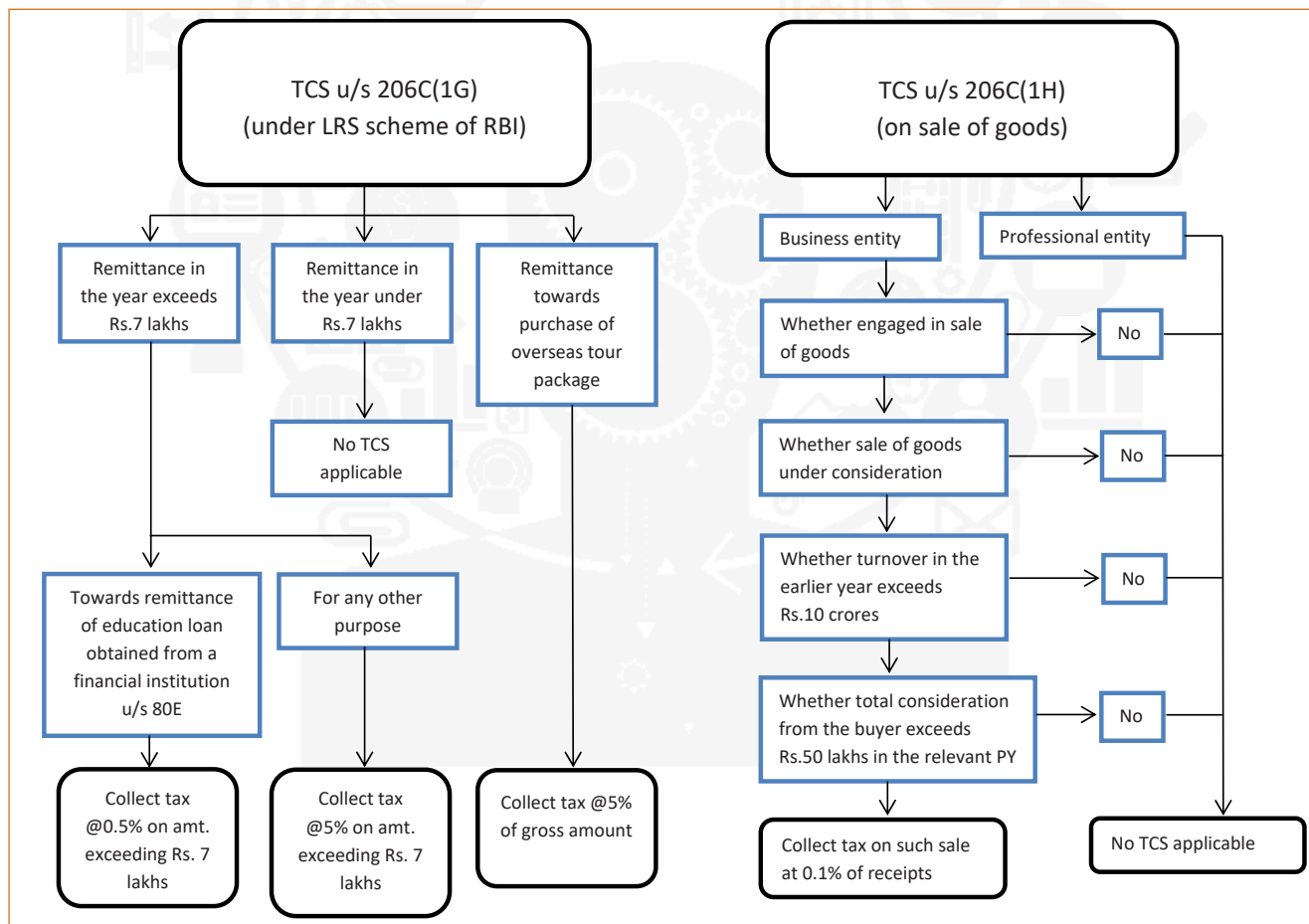
- The Finance Act, 2020 was passed on 23rd March 2020 in the Lok Sabha with more than 40 plus clauses from the proposed Finance Bill, 2020, during the budget session held amidst the Covid-19 pandemic.
- Among other changes which have been both substantive and/or procedural in nature, one that has stood out and caught the eye of many individuals and businesses alike has been that of widening and deepening the scope of tax collected at source (TCS) by introducing two new provisions u/s 206(1G) and 206(1H), w.e.f. 10th October, 2020.

Section	Nature of Transaction Goods and/or Services liable to TCS	Rate of TCS	
		If PAN or Aadhaar is furnished	If PAN or Aadhaar is NOT furnished
206C(1G) (w.e.f. 01-10-2020)	Remittance under Liberalized Remittance Scheme (LRS) of RBI exceeding Rs. 7 Lakh		
	(a) If the remittance is a loan obtained from any financial institution as defined in section 80E, for the purpose of pursuing any education	0.5%	5%

Section	Nature of Transaction Goods and/or Services liable to TCS	Rate of TCS	
		If PAN or Aadhaar is furnished	If PAN or Aadhaar is NOT furnished
	(b) Others	5%	10%
	Sale of the Overseas Tour Package	5%	10%
206C(1H) (w.e.f. 01-10-2020)	Sale of goods in excess of Rs. 50 Lakh in a year by a seller whose turnover is more than Rs. 10 Crore in earlier year	0.1%	1%

Please note: In case of Non-Resident buyers, the above TCS rates shall be increased by applicable surcharge (Ranging from 10%-37% for Non-Resident Individual) and Foreign Co. (Ranging from 2%-5%) depending upon Income and cess of 4%

Interpreting section 206C(1G) and section 206C(1H)



Important points to note w.r.t. section 206C(1G)

1. Two provisos have been inserted to sec 206(1G) which states that no tax is to be collected on amount not exceeding Rs.7 lakh in an F.Y., i.e. tax to be collected by the AD bank on any amount exceeding Rs.7 lakh only. (This proviso is not applicable where a tour package has been purchased).
2. The threshold limit of Rs.7 lakh for remittances under the LRS is not applicable for payments made for overseas tour program package. Accordingly, TCS is applicable invariably irrespective of the amount of package. Such payments attract TCS at the rate of 5%.
3. A buyer of an overseas tour package might face a situation where the tax is collected by both – the authorised dealer as well as the tour package provider. A proviso has been inserted on account of the same, stating that the authorised dealer shall not collect any such amount from the buyer on which tax has been collected by the tour package provider.

Important points to note w.r.t. section 206C(1H)

1. Only those seller whose total sales, gross receipts or turnover from the business carried on by it exceed Rs.10 crore during the immediately earlier financial year, shall be liable to collect such TCS.
2. TCS shall be collected from a buyer from whom consideration of more than Rs.50 lakh will be received in the financial year. Such sales consideration received will be

considered from 1st April of the relevant previous year. For AY 2021-2022, however, the applicability of TCS is from 1st October, 2020.

3. TCS under 1H is not collectible or applicable -
 - o From the Central Government, a State Government and an embassy, a High Commission, commission, consulate, the trade representation of a foreign State, and a local authority.
 - o In case of export or import of goods.
 - o If the seller is liable to collect TCS under other provision of section 206C or the buyer is liable to deduct TDS under any provision of the Act and has deducted such amount.
4. Section 206C(1I) empowers the Board (with approval of Central Government) to issue guidelines for the purpose of removing difficulties. In light of various representations received by the Board, following guidelines have been issued¹ -
 - o TCS under section 206C(1H) would not be collectible in case of transactions in securities and commodities which are traded through recognized stock exchanges or cleared by recognized clearing corporation, including recognized stock exchanges or recognized clearing corporation located in an International Financial Service Centre.
 - o Tax under section 206C(1H) shall not be collectible in case

1. Refer circular no. 17 of 2020 issued by CBDT(TPL Division), F. No. 370133/22/2020-TPL, dated 29th September 2020.

of transactions in electricity , renewable energy certificates and energy saving certificates traded through power exchanges registered in accordance with Regulation 21 of CERC.

- o Applicable threshold (Of INR 50 lacs) for the FY 2020-21 shall be computed taking into account consideration received from 1st April 2020 onward, however the TCS under section 206C(1H) shall be effective only from 1st October 2020 (i.e only on sales consideration received on or after 1st October, 2020)
- o Tax under section 206C(1H) shall not be collectible in case of sale of motor vehicle if tax has already been collected under section 206C(1F). However, TCS shall be collectible under section 206C(1H) if no tax has been collected under section 206C(1F) for eg: sales consideration received per vehicle is under INR 10 lacs but the aggregate consideration on purchase of

multiple vehicles exceeds INR 50 lacs

- o No adjustment on account of sale return or indirect taxes including GST is required to be made for collection of tax under section 206C(1H), since the collection is made with reference to receipt of amount of sale consideration
- o No tax under section 206C(1H) shall be collectible in case of fuel supplied to non-resident airlines at airports in India

Analysis of section 206C(1G) -

- Resident Indians remitted a record \$18.75 billion under the Liberalized Remittance Scheme (LRS) in the financial year ended March 31, 2020, as reported by the Indian Express².
- A look into the LRS data for the FY20 shows that while travel accounted for \$6.94 billion worth of remittance, those for the purpose of study amounted to \$4.99 billion. The other two major heads were maintenance of close relatives (\$3.4 billion) and gift (\$1.9 billion).

Remittance LRS scheme (US\$ bn) FY 2019-20

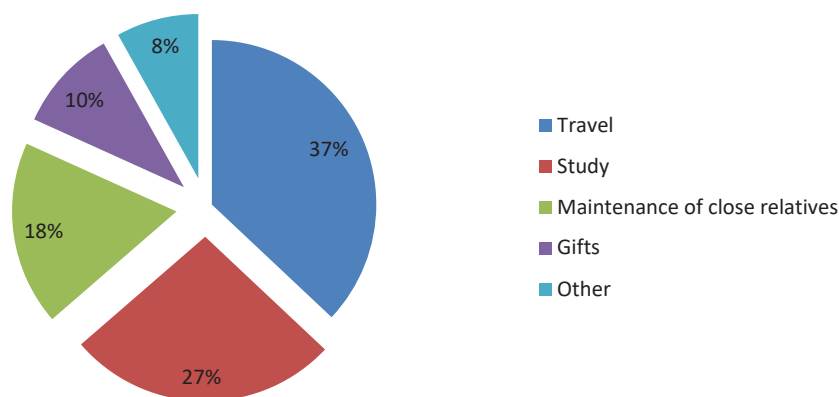


Figure 1

2. The Indian Express, 16th May, 2020. (ref. links)

- It can be observed here (fig.1) that these remittances which had not been brought under the radar of the income-tax department so far are increasing year-on-year. This may be due to the lack of investment opportunities or amenities in the domestic market.
- It shall, nonetheless, be noted that March 2020 travel remittances under LRS had dropped by 28.8% year-on-year due to the Covid-19 pandemic – a trend which has not seen any upscale in the past few months.
- Assuming such increase in reporting, the actual effect of which will surface only in FY 2021-22, the question remains, whether this move will discourage individuals to spend more overseas. Let's analyze this in a phased manner:

o Overseas tour package –

Let's assume one would like to go on a foreign tour by purchasing a package worth INR 10 lakhs. TCS levied on it, straightaway increases the cash outflow by 5% (i.e. INR 50,000) thereby scaling up the total outflow to INR 10.5 lakhs – though INR 50,000 would be available for set-off against income tax payable or claimed as refund as the case maybe

o Educational loan disbursal –

Let's assume an education loan of INR 50 lakhs. The immediate increase in costs of remittances of such amount in a phased manner (say INR 10 lakhs each time) would be subject 0.5% of TCS every time (or INR 5,000), in addition to other processing costs. This should not deter any remittances, given the quantum of TCS levied. However, the Government will definitely benefit

from it without putting a dent on the individual's pocket.

To avoid TCS being attracted at an increased rate of 5%, individuals might be encouraged to consider obtaining an educational loan (on which they will be able to claim deduction on payment of interest u/s 80E). As an effect, we might witness an increasing demand for educational loans in the domestic market. How intensely this situation might impact the economy positively or otherwise, can be known only in the years to come.

o Other remittances –

With the imposition of TCS, other remittances in the form of any possible and permitted capital account or current account transactions by any individual might hit them and hike the cost by 5%.

In the years to come, it needs to be seen whether this would really impact the individual's decision to remit money abroad, or this implication would have no major impact on their decision. Also, whether this would bear any direct impact on the foreign exchange reserves would be determined in the times to come.

- So far the remittances under LRS would go unchecked till the limit of USD 250,000/- would be exceeded. This move will, among other things, absolutely put a check on any remittances made and plug loopholes. If we are to view the recent changes in 26AS and IT returns along with this, we can read a message between the lines that the department really does want to scrutinize expenses made in an individual capacity, too.

Analysis of section 206C(1H)

- For collections u/s 206C(1H), since the applicability is beginning only from 1st October, 2020, as well as the Government's move to reduce the rates by 25% as a relief measure due to COVID-19, the actual rate levied up to 31st March, 2021 will be only 0.075% of total sales consideration. This will not provide the IT dept. with the desired boost to revenues during the FY 2020-21.
- In the case of high-seas sales, there is some ambiguity. It is clear now that export of goods are not subject to TCS u/s 206(1H), however, if the high-seas sale is made by a resident vendor to a resident client should be subject to collection of TCS at the prescribed rate u/s 206(1H), since the sale has been made to a domestic party and there is no export or import of goods involved in the bilateral transaction between the two domestic parties.
- The Government has so far made section 206C(1H) applicable only on sale of goods, and not services. However, if we are to retrospectively observe the tumultuous effect that service tax made to the economy, we can see something similar coming for TCS too. When, Service tax was first introduced, it was applicable to only 3 services which later on went to be applicable to all services except a handful few, which got covered in the negative list. If, in the future the Government takes a similar view, the introduction of Section 206C(1G) and Section 206C(1H) might just be the introductory bell and in the times to come, the scope of TCS might widen further making it applicable for several other transactions.

Way forward

Is this move then an attempt just to increase revenue for the department or does it really serve the purpose of plugging the loopholes by taxing both foreign remittances and high value domestic sales. We can observe from the above analysis a few details –

- It can be observed from a macro level that the IT department can keep a close eye on high value transactions. This move will also allow them first hand access to information related to sales made by parties exceeding INR 50 lakhs, without relying much on other government departments for the data, as well as an increased level of transparency between the taxpayer and department
- We shall anticipate further increase in reporting requirement in these areas, as the momentum slowly gathers in the economy after it withers the aftershocks of the ongoing Covid-19 pandemic.
- This amendment definitely will help the department to collect some sizeable data and increase the reporting requirements. The Government at the same time is working at easing and simplifying the return filing process for both – individuals and companies alike.

Nonetheless, someone has always found a way to work around such provisions, and sooner or later the Government will come up with new levies to cheer us up and help the department keep the revenues coming in, so they may be put to better use.



4TH THE CHAMBER OF TAX CONSULTANTS NATIONAL ONLINE MOOT COURT COMPETITION, 2020

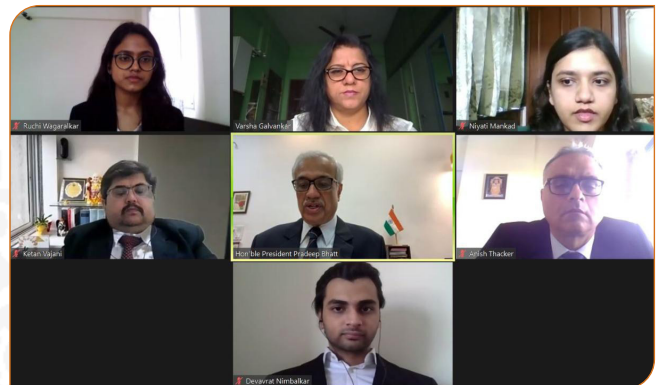
The Chamber of Tax Consultants in association with the **Government Law College, Mumbai** organised the "4th The Chamber of Tax Consultants National Online Moot Court Competition, 2020" on 26th and 27th September, 2020.

The moot problem for this edition of the competition was based on the **General Anti-Avoidance Rule (GAAR)** under Chapter X-A of the Income Tax Act, 1961.

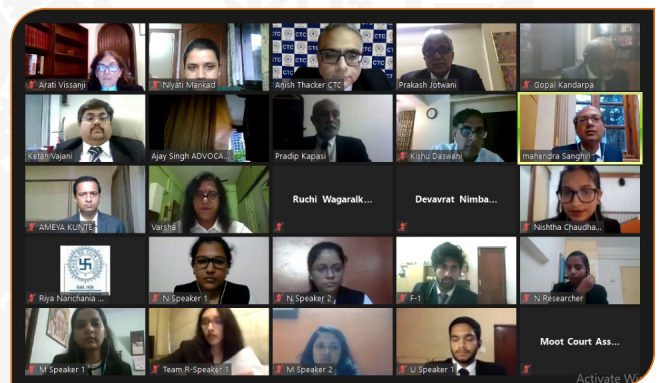
The objective for organizing this Moot Court Competition is to improve advocacy skills, court craft, research and arguing skills of Students and giving them a platform to argue a tax problem before eminent lawyers, chartered accountants, Hon'ble Tribunal Members and Hon'ble High Court Judges. This year students benefited to get a glimpse of virtual court proceedings.

20 teams from all over India competed through Preliminary Rounds, Quarter-Final Round, Semi-Final Round and then the Final Round.

The Competition was inaugurated by **Hon'ble Shri Justice P. P. Bhatt (Retd.)**, President of the Income Tax Appellate Tribunal.



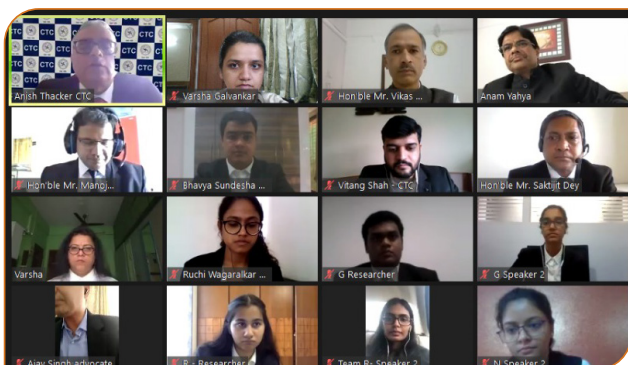
A total of **48 eminent legal and tax professionals** judged the Preliminary and the Quarter Final Rounds.



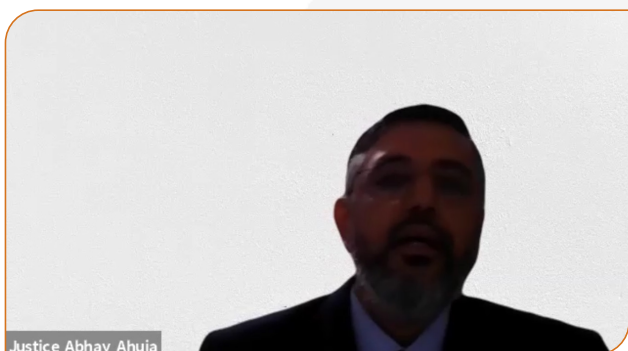
The **tradition** of the **Semi-Final round** being judged by **the members of the Hon'ble Income Tax Appellate Tribunal, Mumbai** and that of the **Final round** being judged by **the sitting judges of the Hon'ble Bombay High Court** was upheld even during the COVID pandemic with the unwavering support of the Hon'ble members and the Hon'ble judges.



The **Semi-Final Round** was judged by the members of the **Hon'ble Income Tax Appellate Tribunal, Mumbai i.e. Hon'ble Shri Shamim Yahya, Hon'ble Shri Saktijit Dey, Hon'ble Shri Vikas Awasthi and Hon'ble Shri Manoj Kumar Aggarwal.**



The **Final Round** was judged by and the **Valedictory Function** was graced by the sitting judges of the Hon'ble Bombay High Court i.e. **Hon'ble Shri. Justice Ujjal Bhuyan** and **Hon'ble Shri Justice Abhay Ahuja.**



The Valedictory Function was also attended by **Hon'ble Shri Pramod Kumar** (Vice-President of the Income Tax Appellate Tribunal, Mumbai) along with the judges of the Semi-Final round, President of Bombay Chartered Accountants Society (BCAS), President of All India Federation of Tax Practitioners (AIFTP) amongst others.

In view of the COVID-19 Pandemic, the current edition of the Competition was **held on e-platform** of Zoom. The Moot Court Competition was never before organised on an e-platform. However, the Students Committee of Chamber of Tax Consultants alongwith the strong support of the Moot Court Association of Government Law College, Mumbai managed to organise a seamless event considering its scale involving management of 10 Court Rooms, 60 Participants, 54 Judges, Special Invitees and audience over a tight schedule of 2 days. The allied preparations including drafting of the moot proposition, inviting judges, running trial rounds of meetings over e-platform, drawing of lots, facilitating exchange of memorials, monitoring and resolving technical glitches required equally hard efforts by the organising team.

The moot problem was immensely appreciated by the sitting judges of the Hon'ble Bombay High Court judging the Final Round as well as the Hon'ble Mumbai Tribunal Members judging the Semi-Final Round of the Competition.

The judges of all the rounds of the Competition appreciated the research and drafting skills depicted *vide* the Memorials, the argumentative skills represented while arguing and presenting before the judges and the confidence displayed by the teams throughout the Competition. The Judges felt that the Future of India is indeed very bright.

The Winners of the Competition were as follows:-

Category	Winners	Cash Prize
Best Team	Government Law College, Mumbai (Priyanshi Chokshi, Aanchal Maheshwari & Tejal Kale)	INR 13,000/-
Runner-up Team	School of Law, Christ University (Sharan Sanjay Goud, Adhya M, Niranjan Kumar)	INR 7,000/-
Best Memorial	School of Law, Christ University (Sharan Sanjay Goud, Adhya M, Niranjan Kumar)	INR 4,000/-
2nd Best Memorial	The National University of Advanced Legal Studies (Varun M. Nair, Neha Maria Antony, Rithika Rarichan)	INR 3,500/-
Best Speaker	Ms. Aanchal Maheshwari (Government Law College, Mumbai)	INR 4,000/-
2nd Best Speaker	Ms. Priyanshi Chokshi (Government Law College, Mumbai)	INR 3,500/-

The huge success of 4th The Chamber of Tax Consultants National Online Moot Court Competition, 2020 alongwith heartfelt appreciation from everyone involved including the judges, the participants, eminent professionals and

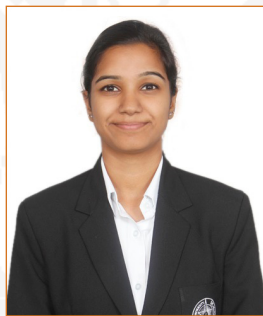
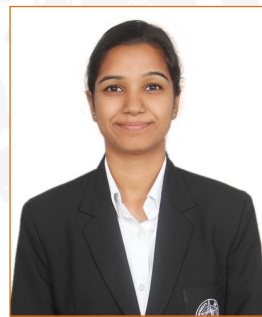
professional bodies has boosted the morale of the Student Committee of the Chamber of Tax Consultants and the Committee is indeed geared up to organize more such programs for the benefit of Students in near future.

4TH THE CHAMBER OF TAX CONSULTANTS NATIONAL ONLINE MOOT COURT COMPETITION, 2020



Best Team :
Ms Priyanshi Chokshi,
Ms Aanchal Maheshwari &
Ms Tejal Kale

Runner-up Team
Mr. Sharan Sanjay Goud,
Ms Adhya M,
Mr. Niranjana Kumar



Best Memorial :
Mr. Sharan Sanjay Goud,
Ms Adhya M,
Mr. Niranjana Kumar

2nd Best Memorial:
Mr. Varun M. Nair,
Ms Neha Maria Antony,
Ms. Rithika Rarichan



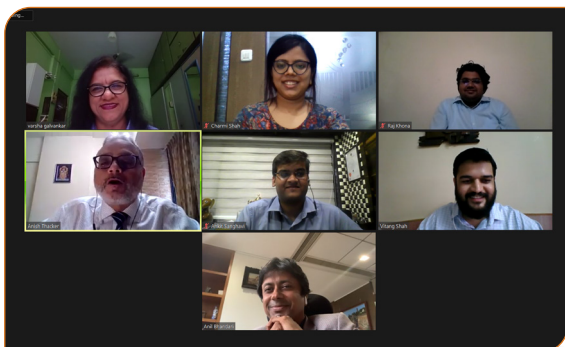
Best Speaker
Ms Aanchal Maheshwari



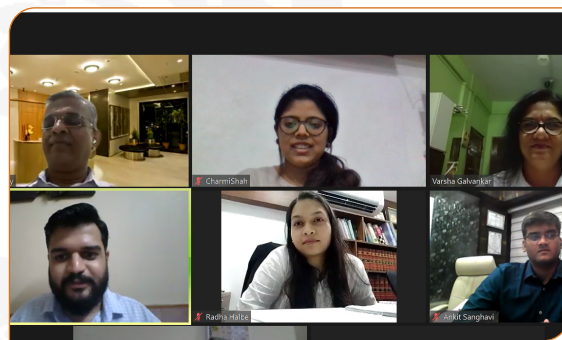
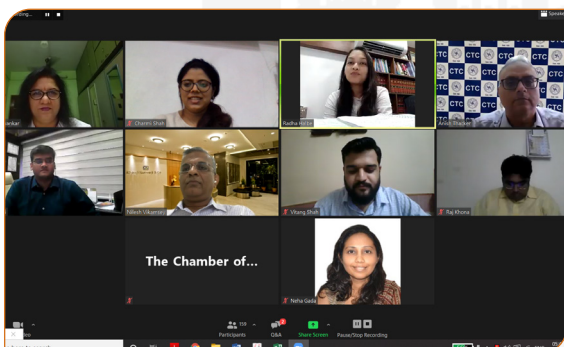
2nd Best Speaker
Ms. Priyanshi Chokshi



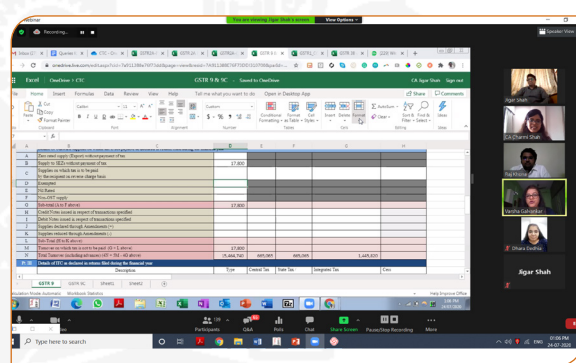
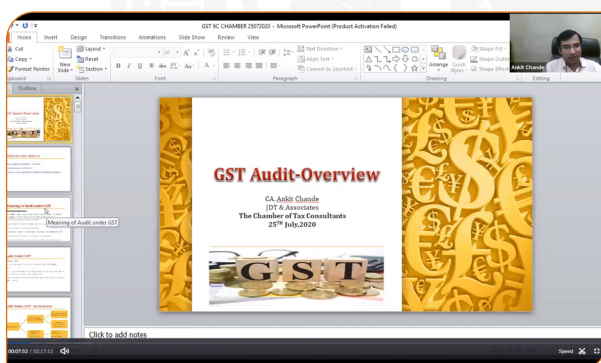
GLIMPSES OF THE PAST PROGRAMMES OF THE STUDENT COMMITTEE



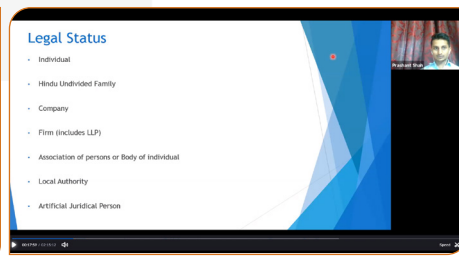
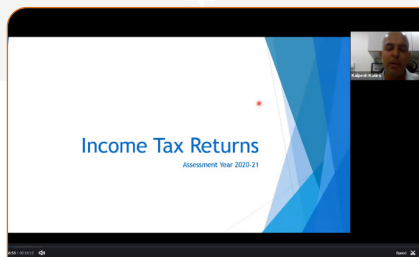
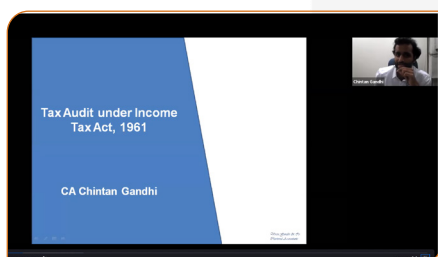
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2nd episode of Chat Show Udaan - Learning today Leading Tomorrow with CA Nilesh Vikamsey



A Two day workshop on **GST Audit and GST Annual Return** with speakers CA Jigar Shah & CA Ankit Chande



Session on Tax Audit - CA Chintan Gandhi

Session on Income Tax Return - CA Kaplesh Katira & CA Prashant Shah

The Chamber of Tax Consultants



Estd. 1926

Vision Statement

The Chamber of Tax Consultants (The Chamber) shall be a powerhouse of knowledge in the field of fiscal laws in the global economy.

The Chamber shall contribute to the development of law and the profession through research, analysis and dissemination of knowledge.

The Chamber shall be a voice which is heard and recognised by all Government and Regulatory agencies through effective representations.

The Chamber shall be pre-eminent in laying down and upholding, among the professionals, the tradition of excellence in service, principled conduct and social responsibility.

Unveiled by **Shri S. E. Dastur**, Senior Advocate on 30th January, 2008.

JIGपुवइव



THE CHAMBER OF TAX CONSULTANTS

3, Rewa Chambers, Ground Floor,
31, New Marine Lines, Mumbai – 400 020
TEL. : 2200 1787/2209 0423/2200 2455
E-mail: office@ctconline.org
Website : <http://www.ctconline.org>

Delhi Chapter :

C/o.: 1A-1D Vandana Building,
11 Tolstoy Marg, New Delhi-100 001.
Tel. : 011-4710 2200 | M. 9891677316
E-mail: ctc.delhichapter@gmail.com