



ज्ञानं परमं बलम्

# THE CTC NEWS

Monthly Newsletter of The Chamber of Tax Consultants

(For Private Circulation - Members Only)

JULY 2021



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यदा हि नेन्द्रियार्थेषु न कर्मस्वनुषज्जते ।  
सर्वसङ्कल्पसंन्यासी योगारूढस्तदोच्यते ॥

When one is neither attached to sense objects nor to actions,  
that person is said to be elevated in the science of Yog,  
for having renounced all desires for the fruits of actions.



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**Note : All the events will be held through virtual platform (Zoom App)**

**Kindly enrol at the earliest to avoid disappointment. Participation Fees to be paid online on the website : [www.ctconline.org](http://www.ctconline.org)**

**In view of the current COVID-19 situation and Government Notification, office has been temporarily closed and all staff members are working remotely.**

**If members have any query, kindly contact the following staff members.**

**Hitesh G. Shah : Chief Manager - 9821889249 | Pradeep Nambiar - Dy. Manager-Events - 8080254129  
Bindu Mistry : Dy. Manager-Technical - 9637692312 Manisha Kasbe : Dy. Manager-Accounts - 8104816841**



## BRIEF REPORT OF 94TH ANNUAL GENERAL MEETING

At the 94th Annual General Meeting held on Saturday, 3rd July, 2021, the following business was transacted:

- i) The Annual Report for the year 2020-21 was approved & adopted.
- ii) The Accounts for the year ended 31<sup>st</sup> March, 2021 were adopted.
- iii) CA J. L. Thakkar, was appointed as Auditor for the year 2021-22 and will hold office up to the next AGM.
- iv) Results of the elections for the year 2021-22 were declared by the Election Officer, Shri Keshav Bhujle, Past President as follows:
  - **Ketan Vajani** was declared elected as President
  - The following fourteen members were declared elected to the Managing Council

1. Atul Mehta	8. Nishtha Pandya
2. Bhavik R. Shah	9. Parag Ved
3. Dharan Gandhi	10. Rahul Hakani
4. Dinesh Poddar	11. Rajesh P. Shah
5. Maitri Savla	12. Tejas Parikh
6. Mehul Sheth	13. Vijay Bhatt
7. Neha Gada	14. Vitang Shah

## THE DASTUR ESSAY COMPETITION:

Hon'ble Shri Justice Nitin W. Sambre, High Court, Bombay, was the judge of the Essay Competition.

The Top 3 Winners of the Essay Competition are:

Rank	Participant Name	Topic	Associates/College
1	Mr. Vijaykumar Puri	Freedom of expression is a Citizen's inalienable rights	Government Law College, Mumbai
2	Ms. Vaishali Jitendra Lund	Impact of covid 19 on human behaviour, habits and how should one tackle the problem	Vishal H. Shah & Co.
3	Ms. Rutvi Doshi	Freedom of expression is a Citizen's inalienable rights	NMIMS School of Law

## THE NEW TEAM FOR 2021-22

- i) In the First Managing Council Meeting held on Sunday, 4th July, 2021, the following members were appointed as Office Bearers:

Sr. No.	Name	Designation
1.	Parag S. Ved	Vice President
2.	Mehul R. Sheth	Hon. Jt. Secretary
3.	Neha R. Gada	Hon. Jt. Secretary
4.	Vijay U. Bhatt	Hon. Treasurer

ii) The following nine members were Co-opted to the Managing Council for the year 2021-22:

1. Ashok Sharma	4. Kishor Vanjara	7. Paras K. Savla
2. Hinesh Doshi	5. Mahendra Sanghvi	8. Paresh P. Shah
3. Jayant Gokhale	6. Nilesh Vikamsey	9. Vipul Choksi

iii) The following members will be special invitees to the Managing Council for the year 2021-22:

1. K. Gopal	2. Hitesh R. Shah
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iv) EDITOR & EDITORIAL BOARD OF THE CHAMBER'S JOURNAL:

Mr. Vipul B. Joshi was appointed as the Editor of "The Chamber's Journal".

The following were appointed as Editorial Board Members:

1. A. S. Merchant	4. Kishor Vanjara
2. K. Gopal	5. Pradip Kapasi
3. Keshav Bhujle	6. Vipul Choksi

The following were appointed as Asst. Editors:

1. Ajay Singh	3. Manoj Shah	5. Kumarmangalam Vijay	7. Sanjay Parikh
2. Haresh Chedda	4. Nishit Gandhi	6. Rakesh Upadhyay	8. Vikram Mehta

v) COMMITTEES

The following Committees were formed and their Chairpersons & Co-Chairpersons were appointed:

Committees	Chairman/Chairperson
1. Accounting & Auditing	Tejas Parikh
2. Commercial & Allied Laws	Dharan Gandhi
3. Direct Taxes	Dinesh Poddar
4. Indirect Taxes	Atul Mehta
5. International Taxation	Rajesh P. Shah
6. International Tax Journal	Paresh P. Shah
7. I.T. Connect	Maitri Savla
8. Journal	Paras K. Savla
9. Law & Representation	Mahendra Sanghvi
10. Membership & Public Relations	Nishtha Pandya
11. Office Premises	Kishor Vanjara
	Hitesh R. Shah, <i>Co-Chairman</i>
12. Research & Publication	Rahul Hakani
13. Residential Refresher Course	Bhavik R. Shah
14. Student	Vitang Shah
15. Study Circle & Study Group	Ashok Sharma

## DELHI CHAPTER

The following members were appointed as Core Team of the Delhi Chapter:

1. Sanjiv Chaudhary	<i>Chairman</i>
2. Prakash Sinha	<i>Vice Chairman</i>
3. Harpreet Singh	<i>Jt. Hon. Secretary</i>
4. Richa Sawhney	<i>Jt. Hon. Secretary</i>
5. Parul Jolly	<i>Hon. Treasurer</i>



## 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 | **Visit us at:** www.ctconline.org  
**WhatsApp No.:** 9004945579 **FB Page:** https://www.facebook.com/ctcconnect

### RENEWAL NOTICE – 2021-22

Dear Members,

#### SUB: PAYMENT OF ANNUAL MEMBERSHIP FEES FOR 2021-22

1st March, 2021

It is our privilege to have been of service to you over the years. We truly appreciate and value your association. It is time to renew annual membership and subscription of The Chamber's Journal, Study Group and Study Circle Meetings and other subscription of The Chamber of Tax Consultants ("The Chamber"). The renewal fees for Annual Membership, Study Group and Study Circle and other Subscription for the financial year 2021-2022. We thank you for your subscription. Your involvement is important and very much appreciated. We hope you will always continue to support The Chamber in its activities and growth as done in the past.

Thanking You,

**For The Chamber of Tax Consultants**

**CA Parag S. Ved**

*Hon. Treasurer*

Sr. No.	Particulars	Fees	GST @18%	Total
<b>I</b>	<b>MEMBERSHIP</b>			
1	LIFE MEMBERSHIP FEES	15000	2700	17700
2	ORDINARY MEMBERSHIP FEES - YEARLY (APRIL '21 TO MARCH '22)	2500	450	2950
3	ADMISSION FEES - ORDINARY MEMBERSHIP	750	135	885
4	ASSOCIATE MEMBERSHIP - YEARLY (APRIL '21 TO MARCH '22)	7500	1350	8850
5	ADMISSION FEES - ASSOCIATE MEMBERSHIP	1000	180	1180
6	STUDENT MEMBERSHIP - INCLUDING E JOURNAL (APRIL '21 TO MARCH '22)	500	90	590
<b>II</b>	<b>CHAMBER'S JOURNAL SUBSCRIPTION - YEARLY ( HARD COPIES )</b>			
1	JOURNAL SUBSCRIPTION - LIFE MEMBERS	1350	0	1350
2	JOURNAL SUBSCRIPTION - NON-MEMBERS	2500	0	2500
3	JOURNAL SUBSCRIPTION - STUDENT MEMBERS	1000	0	1000
<b>III</b>	<b>CHAMBER'S E - JOURNAL SUBSCRIPTION ( SOFT COPIES )</b>			
1	E JOURNAL SUBSCRIPTION - LIFE MEMBERS (YEARLY)	700	126	826
2	E JOURNAL SUBSCRIPTION - NON-MEMBERS (YEARLY)	1000	180	1180
<b>IV</b>	<b>ITJ SUBSCRIPTION</b>			
1	INTERNATIONAL TAX JOURNAL SUBSCRIPTION (QTRLY)	1400	0	1400
<b>V</b>	<b>STUDY CIRCLES &amp; STUDY GROUPS (RENEWAL)</b>			
1	STUDY GROUP ( DIRECT TAXES )	2400	432	2832
2	STUDY CIRCLE (DIRECT TAXES )	2000	360	2360
3	STUDY CIRCLE (INTERNATIONAL TAXATION)	1800	324	2124
4	STUDY CIRCLE (INDIRECT TAXES )	2250	405	2655
5	COMMERCIAL AND ALLIED LAW STUDY CIRCLE	1500	270	1770
6	INTENSIVE STUDY GROUP ON DIRECT TAX	2000	360	2360
7	FEMA STUDY CIRCLE	1800	324	2124
8	PUNE STUDY GROUP + MUMBAI STUDY CIRCLES	3500	630	4130
9	PUNE STUDY GROUP ONLY	2000	360	2360
10	BENGALURU STUDY GROUP	1600	288	1888
11	HYDERABAD STUDY GROUP	2000	360	2360

#### NOTES:

- 10% Discount applicable for the registration of 3 or more Study Circles & Study Groups
- Members are requested to visit website www.ctconline.org for online payment.
- Payments should be made by Account Payee Cheque/Demand Draft in favour of "THE CHAMBER OF TAX CONSULTANTS". Outstation members are requested to send payments only by "Demand Draft or At Par Cheque". Members who are paying by NEFT are requested to share the UTR NO for the payment done.
- A consolidated Cheque/Draft may be sent for all payments.
- Please also update your Mobile number & e-mail address to ensure receipt of regular updates on activities of The Chamber.
- Please write your full name on the reverse of Cheque/DD.
- Kindly pay your membership fees by 31st July, 2021 for uninterrupted service of the Chamber's Journal.
- Members are requested to download the Renewal Form from Chamber's website www.ctconline.org
- Renewal Notices are also sent separately and members are requested to fill up the same and send it to The Chamber's office along with the cheque.
- Renewal Notice contains entire information of Members as per CTC database. In case of any change in information of Member as shown in Form, kindly provide updated information along with the form.

**Dates**

17, 18, 19, 20, 21, 21, 23, 24,  
25, 26, 27, 28, 28, 30,  
31st August, 2021

**FEMA Basics – In Digital Classroom**

The International Taxation Committee of The Chamber of Tax Consultants (CTC) has organised course on basics of FEMA in a classroom style. If you are a student who has appeared for CA Final or a budding professional desiring to commence practice in FEMA, then this course is right for

you to seek conceptual clarity. This course will also help existing professionals in FEMA practice and in industry to equip and update themselves with the relevant provisions, procedures and various issues affecting day-to-day practice to assist them while executing transactions under FEMA.

Sr. No.	Day, Date & Time	Topics	Speakers
1.	Tuesday, 17-08-2021 6.00 p.m. - 8.00 p.m.	Overview of FEMA, basic concepts and important definitions	CA Pares P. Shah
2.	Wednesday, 18-08-2021 6.00 p.m. - 8.00 p.m.	Definition of Residential Status (including implications due to change in Residential Status) and Capital & Current Account transactions	CA Manoj Shah
3.	Thursday, 19-08-2021 6.00 p.m. - 8.00 p.m.	Overview of Outbound Investments (Including by individuals) with Case studies and Issues (including concept of round tripping)	CA Kartik Badiani
4.	Friday, 20-08-2021 6.00 p.m. - 8.00 p.m.	Setting up Liaison/Branch/Project Offices in India and outside India	CA Hinesh Doshi
5	Saturday, 21-08-2021 3.45 p.m. - 5.45 p.m.	Deposits & Bank Accounts including remittance and repatriation facilities (Liberalised Remittance Scheme ('LRS') and USD 1 million scheme) for Residents and NRI's	CA Rajesh L. Shah
6	Saturday, 21-08-2021 6.00 p.m. - 8.00 p.m.	Investment on non-repatriation basis & FDI in Limited Liability Partnership (Schedule 4 & 6 of NDI Rules 2020)	CA Vishal Gada
7	Monday, 23-08-2021 6.00 p.m. - 8.00 p.m.	Import and Export of Goods & Services	Mr. Ajit Shah
8	Tuesday, 24-08-2021 6.00 p.m. - 8.00 p.m.	Acquisition of Immovable Properties in India by Foreign Nationals and other Entities and Acquisition of Immovable Properties outside India by Residents	CA Natwar Thakrar
9	Wednesday, 25-08-2021 6.00 p.m. - 8.00 p.m.	Borrowing and Lending in Indian Rupees and External Commercial Borrowing	CA Palav Parekh
10	Thursday, 26-08-2021 6.00 p.m. - 8.00 p.m.	Overview of FDI, Doing Business in India through Joint Venture and Wholly Owned Subsidiary & Downstream Investment in India	CA Rutvik Sanghvi
11	Friday, 27-08-2021 6.00 p.m. - 8.00 p.m.	FEMA from an Auditor's Perspective	CA Hardik Mehta

Sr. No.	Day, Date & Time	Topics	Speakers
12	Saturday, 28-08-2021 3.45 p.m. - 5.45 p.m.	Practical aspects of various FEMA reporting	CA Isha Sekhri
13	Saturday, 28-08-2021 6.00 p.m. - 8.00 p.m.	Compounding of offences – major areas, general guidelines and procedural aspects including ED matters, Appeals and Adjudication	CA Deepender Kumar
14	Monday 30-08-2021 6.00 p.m. - 8.00 p.m.	Interplay of FEMA with Benami, PMLA and Black Money Act	CA Ashwani Taneja
15	Tuesday, 31-08-2021 6.00 p.m. - 8.00 p.m.	Case Studies	<b>Panelist:</b> Eminent faculties

**Fees (For all sessions)**

<b>Student Members</b>	₹ 1,000/- + 180/- (GST) = ₹ 1,180/-
<b>Student Non-Members</b>	₹ 1,500/- + 270/- (GST) = ₹ 1,770/-
<b>CTC Members</b>	₹ 2,000/- + 360/- (GST) = ₹ 2,360/-
<b>Non-Members</b>	₹ 3,000/- + 540/- (GST) = ₹ 3,540/-



**Membership & Public Relations**

**Chairperson:** Nishtha Pandya; **Co-Chairman:** Premal Gandhi; **Vice-Chairperson:** Ashita Shah; **Convenors:** Tanvi Vora, Bandish Hemani; **Advisor:** Sujal Shah

**Day & Date**  
Tuesday, 10th August, 2021  
**Time**  
05.30 p.m. to 07.30 p.m

**SAS Meeting on Science of Change**

**SPEAKER**

**Mr. Ganesh Kohli** (Ganesh Kohli is a teacher, counselor, entrepreneur, and life-long learner who has founded, nurtured and led multiple education-focused organizations over the past 23 years and his endeavour is to bring meditation and mindfulness to millions of people in the execution of their work through regularly scheduled meditation and mindfulness talks and events)

We as professionals undergo a lot of stress in our profession as well as personal life. Stress can lead to nervous breakdown or depression. Many professionals have already undergone this during Pandemic. But have we ever figured out the reason and means and ways to bounce back in life. The major issues that many of us face are anxiety, conflicts with family members and co-workers, economic hardships, and emotional instability. This has a lot of psychological impact on human. Neuroscience plays a vital role in Psychology. Neuroscience is important to create a relationship between the mind and body, it is across a wealth of disciplines including Psychology. A new theory "Quantum Cognition" suggests that the mathematical principles behind quantum mechanics could be used to better understand human behaviour.

To explore the scientific elements of change and stay ahead of the current challenges, the Membership and Public Relations Committee proudly presents SAS Meeting on "Science Of Change".

**What will you learn in this workshop?**

- Concepts from Quantum physics, Neuroscience and psychology will be simplified to bring back purpose and joy in everyday living during and post Pandemic.
- The session will explore the scientific elements of change and prepare you stay ahead of the current challenges.

**All are  
cordially  
invited**



**Dates**

07, 10, 12, 14, 17,  
19, 21, 24, 26, 28th August, 2021

**GST Advance Orientation Course**

Goods & Services Tax (GST) is a comprehensive indirect tax levied on goods as well as services rolled out 4 years back on 1st July, 2017. GST is a consumption-based tax levied on the basis of "Destination principle." GST is a game changing reform for the Indian economy by creating a common Indian market and reducing the cascading effect of tax on the cost of goods and services. Main object of GST is to simplify and harmonize the indirect tax regime in the country. It impacted the tax structure, tax incidence, tax computation, tax payment, compliance, credit utilization and reporting, leading to a complete overhaul of indirect tax system.

Being value-added tax, GST needs to be collected at each stage of the supply chain, with taxes on inputs credited against taxes on output. The GST domain includes varied concepts from registration, payment, returns, refunds, classification and valuation, place and time of supply, input/output credit, and compliance system along with various other new concepts.

In spite of 4 years elapsed, there are various issues and challenges faced by taxpayers as well as professionals in

complying to the statute. Besides issues related to GST portal, there are various nuances involved in statutes, which makes the legislation complex. Being a nascent piece of legislature, we have very few precedents available on this statute.

The course gives a comprehensive insight about principles of GST as well as other nuances of the new indirect tax regime. In order to empower participants to gain an understanding about GST as well as groom participants for addressing challenges that lie ahead in this statute, CTC has designed the advanced orientation course spread over 10 days and 25 hours.

The coverage of the course is very exhaustive enough to abreast the participant about the entire concept of GST. Every session will be addressed by eminent faculty along with very seasoned technical chairman, wherein they will not only cover the provisions of law but also a few interesting case studies on the topic, which will make the session very interesting for participants to grasp the contents.

Sr. No.	Day, Date & Time	Topics	Speakers
1.	Saturday, 7th August, 2021 5.00 p.m. to 7.30 p.m.	<ul style="list-style-type: none"> <li>Important Definitions (Section 2),</li> <li>Concept of levy and Supply covering mixed &amp; composite supply (Section 7, 8 &amp; 9 of CGST Act);</li> <li>Important Transactions covering Schedule I, II &amp; III with emphasis on: <ul style="list-style-type: none"> <li>Mutuality;</li> <li>Actionable claims;</li> <li>Intellectual Property Right;</li> <li>High Seas Sale;</li> <li>Out and Out transactions, etc.</li> </ul> </li> </ul>	<b>Chairman</b> : Adv. Harsh Shah <b>Speaker</b> : CA Mandar Telang
2.	Tuesday, 10th August, 2021, 5.00 p.m. to 7.30 p.m.	<ul style="list-style-type: none"> <li>Few important Exemptions and RCM (Section 11 of CGST Act, Notification 11&amp; 12-2017-CT(R) as amended from time to time).</li> </ul>	<b>Chairman</b> : CA Abhay Desai <b>Speaker</b> : CA Vasant Bhat
3.	Thursday 12th August, 2021, 5.00 p.m. to 7.30 p.m.	<ul style="list-style-type: none"> <li>Place of Supply of Goods/Services or Both (Section 10, 11, 12 &amp; 13 of IGST Act).</li> </ul>	<b>Chairman</b> : CA Sunil Gabhawalla <b>Speaker</b> : CA Keval Shah
4.	Saturday 14th August, 2021 5.00 p.m. to 7.30 p.m.	<ul style="list-style-type: none"> <li>Value of Taxable Supply and</li> <li>Time of Supply of Goods &amp; Services (Section 12, 13, 14 &amp; 15 of CGST Act).</li> </ul>	<b>Chairman</b> : CA Rajiv Luthia <b>Speaker</b> : CA Hemang Shah



Sr. No.	Day, Date & Time	Topics	Speakers
5.	Tuesday 17th August, 2021 5.00 p.m. to 7.30 p.m.	<ul style="list-style-type: none"> <li>Input Tax Credit, Block credit, Relevance of GSTR 2A &amp; 2B with relation ITC claim (Section 16, 17 &amp; 18 of CGST Act).</li> </ul>	<b>Chairman</b> : CA Vinod Awtani <b>Speaker</b> : CA Yash Parmar
6.	Thursday 19th August, 2021 5.00 p.m. to 7.30 p.m.	<ul style="list-style-type: none"> <li>Concepts such as Job Work, Branch transfers, Consignment sale, Goods sent on approval, Distribution of free samples, ISD &amp; Cross Charge (Section 19, 20 &amp; 21 of CGST Act)</li> </ul>	<b>Chairman</b> : CA Vikram Mehta <b>Speaker</b> : CA Jinit Shah
7.	Saturday 21st August, 2021 4.00 p.m. to 6.30 p.m.	<ul style="list-style-type: none"> <li>Various Refunds under GST (Section 54, 55, 56, 57 &amp; 58 of CGST Act)</li> </ul>	<b>Chairman</b> : CA Pranav Kapadia <b>Speaker</b> : CA Sumit Jhunjunwala
8.	Tuesday 24th August, 2021 5.00 p.m. to 7.30 p.m.	<ul style="list-style-type: none"> <li>Registration and Records, cancellation of registration, invoice, E-way Bill including confiscation of goods, E-invoicing, QR code. Matching concept, various returns including annual return (Section 22 to 48 of CGST Act)</li> </ul>	<b>Chairman</b> : CA Ashit shah <b>Speaker</b> : CA Shreyas Sangoi
9.	Thursday 26th August, 2021 5.00 p.m. to 7.30 p.m.	<ul style="list-style-type: none"> <li>Assessment and Adjudication (Section 60 to 64 of CGST Act).</li> <li>Appeals &amp; Revision (Section 107 to 116 of CGST Act)</li> <li>Demand and Recovery (Section 73 to 84 of CGST Act)</li> <li>Interest &amp; few important penalties</li> </ul>	<b>Chairman</b> : Adv. Bharat Raichandani <b>Speaker</b> : Adv. Vinay Jain
10	Saturday 28th August, 2021 4.00 p.m. to 7.00 p.m.	<ul style="list-style-type: none"> <li>Brain Trust Session</li> </ul>	<b>Moderator</b> : CA Naresh Sheth <b>Panelists</b> : CA A.R.Krishnan CA S. S. Gupta

Fees	
CTC Members	₹ 1,250/- + ₹ 225/- (18% GST) = ₹ 1,475/-
Non-Members	₹ 1,750/- + ₹ 315/- (18% GST) = ₹ 2,065/-

- Notes:**
- The Sessions will be conducted online on virtual platform.
  - The faculties will discuss provisions of law for 1 hour and remaining time will be allocated for issues and participants queries.
  - The course is intended to cover theoretical as well as practical aspects of GST.
  - One month viewing right of sessions will be extended to all registered participants.
  - Please contact following representatives of Chamber for any support,

Clarification or elaboration you may need in this regard:		
CA Hemang Shah	– Convenor of Indirect Taxes Committee	+91-92232 73189
CA Kush Vora	– Convenor of Indirect Taxes Committee	+91-98213 05187
CA Keval Shah	– Convenor of Indirect Taxes Committee	+91-98674 42965

### Days & Dates

Friday, 20th August, 2021  
Saturday, 28th August, 2021



## ...Unlocking the Talent within...

## ...a Talent Contest for the CTC Members & the CTC Students



The Membership & Public Relations Committee and The Students' Committee of the CTC are pleased to announce the Online Talent Contest in the following categories of Solo Performances:

- Singing
- Dancing
- Other Performing Arts: Instrumental Music, Beat Boxing, Mimicry & Stand-up comedy.

### Who can participate:

- a Member of the CTC,
- a Student Member of the CTC
- a Student, who is not registered as a CTC Student Member, but who is an Articled Student registered under a CTC Member.

### Day 1

Elimination Round : Friday, 20th August, 2021

CTC Students' Elimination Round : Time: 03.30 p.m. to 06.30 p.m.

CTC Members' Elimination Round : Time: 06.45 p.m. to 08.15 p.m.

### Day 2

Final Round : Saturday, 28th August, 2021

CTC Students' Final Round : Time: 11.00 a.m. to 1.00 p.m.

CTC Members' Final Round : Time: 01.45 p.m. to 03.00 p.m.

### Basic Structure:

- The Members' Talent Contest shall be separate from the Students' Talent Contest.
  - The number of entries shall be restricted to 25 for Members & 50 for Students on First Come-First Serve basis.
  - Each contestant can participate in maximum of any 2 categories.
  - Elimination Round:**
    - 3 minutes for each Performance.
    - Top 7 participants from Members' Category and Top 10 participants from Students' Category will enter the Finals.
  - Final Round:**
    - 5 minutes for each Performance.
    - Top 3 participants from both the categories will be winners.

However, the number of contestants for the finals & number of prizes for each category, shall be decided by the organizers, depending upon the number of entries received for each categories, which decision shall be final & binding.
  - Singers/ Musicians/ Dancers may perform with their own Karaoke/Music track. Alternately, maximum of two accompanist musicians may be allowed for Singers/ Dancers and one accompanist may be allowed for Instrumental Performance.
  - For the Elimination Round, the candidates will have to send video recording of their performances as under:
    - The video recording may be done with mobile or normal camera in horizontal mode.  
**The video recording should not be done on selfie mode, due to technical reasons for relaying on Zoom platform.** The video should be without any audio or video disturbance, with sufficient light on the candidate, having good and clear sound quality.
    - Before presenting the performance, the participant must introduce himself/herself by stating his/her name, town, whether CTC Member/ Student member/ Other student and name of his Principal and category of participation.**
    - The video may be uploaded on google drive and the link should be shared with Event Coordinators, Ms. Varsha Galvankar on 982111875 and CA Suresh Subramanian on 9833209454.**
  - For the Final Round, all the performances shall be Live and no streaming of pre-recorded performances will be permitted. **Also, the performances presented in the Preliminary Round shall not be allowed to be repeated.**
  - Each category shall have different criteria for marks viz. Sur, Taal, Tempo, expressions, content, presentation etc. Each category shall be judged by a panel of 2 or more judges.
  - The Judges' decision shall be final & binding.
- The Interested Members & the Students are requested to send their entries By Email to the office of the CTC at office@ctconline.org, stating their name, Status-CTC Member/CTC Student/CTC Member's student, name of the Firm, Category (Max 2), age, mobile no., Email ID.
- The Members & the Students are requested to enrol for this First ever Talent Contest of the CTC. CTC wishes to promote performances by the students at this program and hence, request the firms to encourage their talented students to participate for this Talent Contest.

**Co-Ordinators: Ms. Varsha Galvankar (982111875) Mr. Suresh Subramanian (98332 09454)**



## Student

**Chairman:** Vitang Shah; **Vice-Chairpersons:** Niyati Mankad, Charmi G. Shah;  
**Convenors:** Charmi A. Shah, Priyanshi Chokshi; **Advisor:** Ajay Singh

**Day & Date**  
Thursday, 5th August, 2021  
**Time**  
05.30 p.m. to 06.30 p.m.

## Udaan: Learn today.... Lead tomorrow Unleash the Power within : Be an effective Performer

### SPEAKER

CA Charanjot Singh Nanda

"In this Episode, we shall have a tete-a-tete with a Stalwart of the CA Profession - CA Charanjot Singh Nanda, with a motive to

help Students to 'Unleash the Power Within' and 'Be an 'Effective Performer'.



## Commercial and Allied Laws

**Chairman:** Dharan Gandhi; **Co-Chairman:** Makrand Joshi; **Vice-Chairperson:** Mallika Devendra; **Convenors:** Gautam Mota, Ravi Sawana; **Advisor:** Anish Thacker

**Dates**  
13, 14, 20, 21st August, 2021

## "A 360° approach to Insolvency and Bankruptcy Code"

Insolvency and Bankruptcy Code, 2016 has turned out to be a game-changer which has been instrumental in resolving various disputes. The law has evolved a lot since its original avatar. Keeping in mind the rapid changes taking place in this arena, to revisit the old provisions and to create awareness amongst the members about the impact of changes carried out over a period of time and the landmark rulings, a detailed course is being organized by the Commercial and Allied Laws Committee of the Chamber of Tax Consultants.

The structure of the said course is designed in a comprehensive manner covering 5 presentations and 1 panel discussion over 2 weekends covering important aspects of IBC. The Course so designed will give participants a 360-degree view of the subject on the important and frequently visited topics. The sessions would be addressed by eminent faculties having in-depth knowledge and expertise on the subject.

Sr. No.	Day, Date & Time	Topics	Speakers
1.	Friday, 13th August, 2021 6.00 p.m. to 8.00 p.m.	IBC: Overview & Learnings (with emphasis on Landmark Court Rulings)	CA V. Dinkar, Partner of Ernst & Young and Adv. Nilang Desai, Partner of AZB
2.	Saturday, 14th August, 2021 11.00 a.m. to 1.00 p.m.	Practical consideration while drafting Resolution Plan - Successful resolution plan formulation with maximisation of asset value	Dr. Rajendra Ganatra
3.	Saturday, 14th August, 2021 4.00 p.m. to 6.00 p.m.	Personal Guarantors and Accountability under IBC (including do's and don'ts of personal guarantee)	Eminent faculty
4.	Friday, 20th August, 2021 6.00 p.m. to 8.00 p.m.	Pre-pack insolvency process for MSME	CA Pulkit Gupta
5.	Saturday, 21st August, 2021 11.00 a.m. to 1.00 p.m.	Successful discharge of role of Resolution Professional (with emphasis on drafting of Information Memorandum)	IRP VijayKumar Iyer, Partner of Deloitte
6.	Saturday, 21st August, 2021 4.00 p.m. to 6.00 p.m.	Panel Discussion: Impact of IBC on Direct tax, Indirect tax and Accounting aspects	Moderator cum Panelist: CA Abizer Diwanji Panelists: CA Anish Thacker, CA Shrawan Jalan and CA Bhavna Doshi

### Fees

CTC Members	₹ 800/- + ₹ 144/- (18% GST) = ₹ 944/-
Non-Members	₹ 1,200/- + ₹ 216/- (18% GST) = ₹ 1,416/-





## Direct Taxes

**Chairman:** Dinesh Poddar; **Co-Chairman:** Ashok Mehta; **Vice-Chairman:** Abhitan Mehta;  
**Convenors:** Chintan Gandhi, Radha Halbe, Viraj Mehta; **Advisor:** Mahendra Sanghvi

### Day & Date

Monday, 26th July, 2021

### Time

06.00 p.m. - 08.00 p.m.

## Recent Case Laws

### SPEAKER

Devendra Jain, Advocate



## Indirect Taxes

**Chairman:** Atul Mehta; **Vice-Chairman:** Sumit Jhunjhunwalla;  
**Convenors:** Hemang Shah, Keval Shah, Kush Vora; **Advisor:** Rajiv Luthia

### Day & Date

Tuesday, 27th July, 2021

### Time

05.00 p.m. - 07.00 p.m.

## GST Issues revolving around Taxability of Services provided by Intermediary

### GROUP LEADER

CA Keval Shah

### CHAIRMAN

CA Rajiv Luthia

Bombay HC (Division Bench) has recently delivered important judgement in the case of Dharmendra M. Jani vs. UOI on the issue of taxability of intermediary services under GST. The Division Bench comprising of two judge have presented divergent views on constitutional validity of the said issue. Thus, the fate of taxability of intermediary services has become highly uncertain and unpredictable.

In light of above judgment, it is of paramount importance to understand intermediary services, place of supply and taxability under GST. Accordingly, IDT Committee of CTC has organized a Study Circle meeting on GST issues in transactions through intermediary.

Our convener CA Keval Shah has agreed to lead the study circle and IDT Committee advisor CA Rajiv Luthia Ji has agreed to chair the session.

### Fees

CTC Members	₹ 200/- + ₹ 36/- (18% GST) = ₹ 236/-
Non-Members	₹ 400/- + ₹ 72/- (18% GST) = ₹ 472/-



## Study Circle & Study Group

**Chairman:** Ashok Sharma; **Vice-Chairman:** Sanjay Chokshi;  
**Convenors:** Dinesh R. Shah, Dipesh Vora, Dhaval Shah; **Advisor:** Keshav Bhujle

### Day & Date

Thursday, 29th July, 2021

### Time

05.00 p.m. to 7.15 p.m.

## Study Circle Meeting on Provisions Relating to Reconstitution & Dissolution of Partnership Firms along with Relevant Rules & Guidelines

### SPEAKER

CA Praful Poladia

The Study Circle and Study Group committee of The Chamber of Tax Consultants has organised a webinar on "Provisions relating

to Reconstitution & Dissolution of Partnership Firms along with relevant rules & guidelines" scheduled on July 29, 2021.

### Fees

For Study Circle Members	NIL
CTC Members	₹ 200/- + ₹ 36/- (18% GST) = ₹ 236/-
Non-Members	₹ 400/- + ₹ 72/- (18% GST) = ₹ 472/-

## IMPORTANT DECISIONS UNDER GST AND SERVICE TAX LAWS

By Vinay Kumar Jain and Sachin Mishra, Advocates

1. **Whether Section 13(8)(b) and Section 8(2) of the Integrated Goods and Services Tax Act, 2017 are ultra vires Articles 14, 19, 245, 246, 246A, 269A and 286 of the Constitution of India and Section 9 of the Central Goods and Services Tax Act, 2017?**

**Facts and Pleadings:** Dharmendra M. Jani (hereinafter "Petitioner") was engaged in providing marketing and promotion services to customers located outside India ('principal') and received consideration towards such services in foreign currency. The customers located in India directly placed purchase order on the principal, and upon receipt of payment from such customers, the principal paid commission to the Petitioner. The Petitioner was an 'intermediary' of the principal as per Section 2(13) of the IGST Act, and consequently as per Section 13(8)(b) of the IGST Act, the place of supply was the location of the Petitioner, thus qualifying as an intra-state supply as per Section 8(2) of the IGST Act. In this background, the Petitioner challenged the validity of Section 13(8)(b) and Section 8(2) of the IGST Act on various grounds.

The Petitioner argued that the levy of tax on export of services is ultra vires Article 246A read with Article 269A and Article 286 of the Constitution of India. The Petitioner further submitted that, Section 8(2) and Section 13(8)(b) of the IGST Act are *ultra vires* the charging section in Section 5 of the IGST Act as also Section 9 of the CGST Act. The Petitioner argued that since GST is a destination-based tax on consumption, the services provided by a service provider in India to a service receiver located outside India which is treated as export of service, cannot be taxed. The Petitioner submitted that other similarly placed services are all treated as an export of service, therefore, Section 13(8)(b) is violative of Article 14. The Petitioner also submitted that right of the petitioner to carry on trade and business under Article 19(1)(g) of the Constitution of India is jeopardized inasmuch as it incentivizes the principal to set up liaison office in India at the cost of intermediaries like the Petitioner. The Petitioner argued that an indirect tax must be capable of being passed on to the end receiver of the service, therefore, it is trite that an agent cannot be burdened with GST. Lastly, it was submitted that levy of GST on an 'intermediary services' would lead to double taxation on the same service by imposition of

IGST on commission received by the Petitioner and simultaneous taxation of the same in the hands of the principal in the importing country.

The Respondents submitted that even under the pre-GST regime, the place of supply in case of 'intermediary services', has been the location of the intermediary. They argued that since the services are actually performed and enjoyed at the place where the intermediary is located, therefore, Section 13(8)(b) is constitutionally valid. The Respondents further submitted that if place of supply for all intermediary services were to be the location of the recipient, such supplies would go outside the tax net. Taxing services provided by intermediaries would incentivize FDI, and hence, such taxation is in consonance with Make in India programme. They submitted that intermediary services are not export of services within the meaning of Section 2(6) of the IGST Act as all the five conditions are not satisfied. The Respondents also submitted that the principal would be eligible to claim deduction in respect of services received from the Petitioner, hence, there is no question of double taxation. Lastly, the Respondents stated that an identical challenge was decided by the Gujarat High Court in Material Recycling Association of India v. Union of India [2020-VIL-341-GUJ], and therefore the same should be uniformly followed throughout the territory of India.

**Judgment:** The matter was to be decided by a Division Bench of the Court. However, there was divergence in opinion between the two judges. The findings contained in each of these opinions are captured hereinafter:

**Justice Ujjal Bhuyan:** Hon'ble Justice Bhuyan held Section 13(8)(b) as *ultra vires* the Constitution. Justice Bhuyan stated that the Constitution does not empower imposition of tax on export of services out of territory of India by treating the same as a local supply. He further held that a law may have extra-territorial operation to subserve an object which is related to something in India, and that it is inconceivable that a law should be made by Parliament in India which has no relationship with anything in India. Justice Bhuyan observed that by artificially creating a deeming fiction in the form of Section 13(8)(b) of the IGST Act, the place of supply has been treated as the location of the

supplier in India. This runs contrary to the scheme of the CGST Act as well as the IGST Act besides going beyond the charging sections of both the Acts. Justice Bhuyan held that the extra-territorial effect given by way of Section 13(8)(b) has no real connection or nexus with the taxing regime in India, and the same runs completely counter to the very fundamental principle on which GST is based i.e., it is a destination-based consumption tax as against the principle of origin-based taxation. Justice Bhuyan further held that insofar as the decision of the Gujarat High Court in *Material Recycling Association of India* which decided an identical challenge, is concerned, the judgment of one High Court is not a binding precedent on other High Courts. Justice Bhuyan also stated that not challenging the Place of Provision of Service Rules, 2012 can be no valid ground for non-suiting the Petitioner from instituting the present challenge.

**Justice Abhay Ahuja:** Hon'ble Justice Ahuja held Section 13(8)(b) as *intra vires* the Constitution. Justice Ahuja held that firstly the legislature has enacted a specific provision defining 'intermediary' in Section 2(13) and to govern intermediary services in Section 13(8)(b), therefore the question of application of general provision of Section 2(6) of export of services would not arise. Secondly, a conjoint reading of Article 269A(1) with Article 269A(5) and Article 246A exclusively empowers the Parliament to make law on what is inter-state supply and what is not, and once the Parliament has in its wisdom stipulated the place of supply in case of intermediary services, no fault can be found with the provision by artificially attempting to link it with another provision to demonstrate constitutional or legislative infraction. Justice Ahuja held that all that Section 13(8)(b) does is to provide for place of supply in respect of intermediary service, therefore, there is no question of extra territorial legislation here. Justice Ahuja observed that the Petitioner who is providing intermediary service to a recipient outside India is on a different footing, and that there is a reasonable classification founded on intelligible differentia which has a rational relation / nexus to the object sought to be achieved. Therefore, whether a foreign exporter would set up a liaison office in India is a matter which is in the individual freedom of such an exporter. It has no bearing on deciding the constitutionality of Section 13(8)(b). Justice Ahuja also stated that when the Constitution has empowered the Parliament to formulate principles

determining the place of supply, Section 13(8)(b) cannot be said to be ultra vires the charging section. Lastly, Justice Ahuja held the commission paid by the recipient would generally be entitled to deduction in the foreign country and therefore, it would not be a case of double taxation.

Owing to divergence in opinion, the Registry has been directed to place the matter before the Chief Justice of the Bombay High Court for determining further course of action.

**Dharmendra M. Jani v. Union of India & Ors. High Court of Bombay, Judgment dated 09.06.21 by Justice Ujjal Bhuyan and Judgment dated 16.06.21 by Justice Abhay Ahuja, in Writ Petition No. 2031 of 2018.**

## 2. **Whether Rule 31A(3) of the CGST Rules is ultra vires the CGST Act? Whether the Petitioners are liable to pay GST on the commission set apart or on the total amount collected in the totalisator?**

**Facts and Pleadings:** Bangalore Turf Club Limited (hereinafter "Petitioners") are carrying on the business of a race club. The Petitioners particularly conducts horse racing and facilitates betting by the punters. The Petitioners by themselves do not bet, but only facilitates punters in their betting activity, it is the punter who places the bet either with a totalisator run by the Petitioners or a book-maker licensed by the Petitioners. The price money is then distributed by the Petitioner to the winning punter, and out of this amount a commission is set apart to be taken by the Petitioner. Till the onset of GST, the Petitioner were treated as service providers under the Finance Act, and the service tax was levied only on the Petitioner's commission alone. However, after the GST regime began, an amendment was brought into Rule 31A by insertion of Rule 31A(3) to the CGST Rules, which made GST payable by the Petitioners on the entire amount of the bet that gets into the totalisator. It is this amendment that Petitioners have challenged as being beyond the powers conferred under the CGST Act.

The Petitioners submitted that Rule 31A violates Article 246A read with Article 366 (12A), and exceeds the constitutional mandate given to the Parliament and the Legislature to levy tax only on the supply of goods and services on the principle that if there is no supply there is no tax. The Petitioner further submitted that Rule 31A(3) in effect imposes tax on the Petitioners on



the entire bet value without the Petitioners supplying any bet, thus violating the mandate of Article 246A. The Petitioners also submitted that without assessment of all the four components of every tax i.e. taxable event, taxable person, rate and measure of tax, the imposition of tax is contrary to law. It was also submitted that the impugned Rule 31A(3) is *ultra vires* Section 7 of the CGST Act, since the supply of bets is not in the course or furtherance of the Petitioner's business, and even then the Petitioner is made liable to pay tax, therefore the impugned rule exceeds the mandate under Section 7 by levying GST on the amount that is not received by the Petitioners as consideration.

The Respondents submitted that the Act itself has mandated levying of tax on an actionable claim, and as per the definition of actionable claim, 'betting' is also an actionable claim in terms of the Rules, and therefore, the Petitioners cannot contend that for the first time under Rule 31A the Petitioners were liable for payment of GST on the amount received through totalisator. The Respondents further submitted, that since actionable claim is and was existing in the Act from the beginning, the amendment has only clarified the role of the Petitioners in the field of betting, thus the contention of the Petitioners that Rule 31A is *ultra vires* the Act and the amendment is to be rejected, is a figment of imagination and cannot be construed to be legally sound and thus the writ petition is to be dismissed.

**Judgment:** The Hon'ble High Court of Karnataka held that as per the case of *Dr. K. R. Lakshman v State of T.N.* (1996) 2 SCC 226, the activities carried out by a race club is not gambling but is gaming and a game of skill. The Court observed that 'totalisator' has been interpreted by the English Courts and the Supreme Court to mean a fixed commission which is earned irrespective of the outcome of the race and cannot be seen to be indulging in a betting activity. Therefore, the Court stated that betting is neither in the course of business or in furtherance of business of a race club for the purposes of the CGST Act. The Court observed that the Petitioners hold the amount received in the totalisator for a brief period in its fiduciary capacity, and once the race is over they distribute the same to the winners. It is for this brief period that they hold the money in its fiduciary capacity, that the Petitioners receive commission as the consideration.

The Court observed that Rule 31A(3) completely wipes out the distinction between the bookmakers and a totalisator by making the Petitioners liable to pay tax on 100% of the bet value. The Court stated that the by making the entire bet amount that is received by the totalisator liable for payment of GST would take away the principle that a tax can be only on the basis of consideration, even under the CGST Act. The Court observed that the consideration that the Petitioners receive, is by way of commission for planting a totalisator, and the same can be nothing different from that of a stock broker or a travel agent, both of whom are liable to pay GST only on the commission that they earn and not on all the monies that pass through them. Thus, the Court held that Rule 31A(3) insofar as it declares that the value of actionable claim in the form of chance to win in a horse race of a race club to be 100% of the face value of the bet is beyond the scope of the Act. The Court observed that Rule 31A(3) travels beyond what is conferred upon the rule making authority under Section 9, which is the charging section, by way of an amendment. The Court further observed that the totalisator is brought under a taxable event without it being so defined under the Act nor power being conferred in terms of the charging section which renders the Rule being made beyond the provisions of the Act. Therefore, the Court held Rule 31A(3), which does not conform to the provisions of the Act, as *ultra vires* the enabling Act and consequently the Court struck down Rule 31A(3) of the CGST Rules and Rule 31A of the KSGST Rules as being contrary to the CGST Act. The Court also held that the Petitioners are liable for payment of GST only on the commission that they receive for the service that they render through the totalisator and not on the total amount collected in the totalisator.

**Bangalore Turf Club Limited v State of Karnataka, UOI & Ors, High Court of Karnataka, decided on 02.06.21, in W.P. No. 11168 of 2018.**

3. **Whether an appeal application filed by a Petitioner be dismissed under the OGST Act, 2017 due to a delay in furnishing a certified copy of the order appealed against, on the grounds that the appeal was not presented within the prescribed time limit?**

**Facts and Pleadings:** M/s. Shree Jagannath Traders (hereinafter "Petitioners") had filed an appeal against an impugned order dated 18.08.2020. The last date for filing the appeal against the said order was 17.11.2020,

whereas the Petitioner had filed an appeal on 13.11.20 electronically, accompanied by a downloaded copy of the order appealed against. As per Rule 108(3) of the OGST Rules 2017, the appeal had to be accompanied by a certified copy of the order appealed against, and the same had to be submitted within seven days of the filing of the appeal. Further, as per the proviso to Rule 108(3), if the certified copy is submitted within seven days of the filing of the appeal, then the date of filing of the appeal would be the date of the issue of the provisional acknowledgement, otherwise the date of appeal would be the date of submission of such certified copy.

However, in the present case, the Petitioner could furnish a certified copy of the order appealed against, only on 09.03.2021, because of which, the Appellate Authority dismissed the appeal as not having been preferred in time, since the delay could not be condoned. Aggrieved by the said decision the Petitioner has filed the present writ petition.

The Petitioners submitted that while the appeal was accompanied the downloaded printed copy of the order appealed against at the time of filing the appeal, it was not accompanied by the certified copy thereof at that stage since the lawyer who had filed the appeal was in self quarantine as he had come into contact with a client who had tested positive for Covid-19.

**Judgment:** The Hon'ble High Court of Orissa held that, in the present case, it is not in dispute that the Petitioner in fact had filed the appeal within a period of three months from the date of the impugned order, and that it was only on the account of the appeal not being accompanied by the certified copy of the order appealed against, within a period of seven days, that the appeal has been rejected on the ground of delay. The High Court observed that the difficulties faced by lawyers in applying for and obtaining certified copies of orders is generally known, and that the explanation offered for the delay ought to have been accepted by the Appellate Authority, even the wording of Section 107(4) is such that the authority is not precluded from condoning a delay of a longer period. Further, the High Court held that the explanation offered by the Petitioner is a plausible and not an unreasonable one, especially in these Covid times, and further considering that a downloaded copy thereof was in fact submitted along with the appeal which was otherwise filed within time, the mere

delay in enclosing a certified copy of order appealed against should not come in the way of the Petitioner's appeal for being considered on merits. The Court observed that the present case is a case of substantial compliance and the interests of justice ought not be constrained by a hyper technical view. The Court stated that a more liberal approach is warranted in matters of condonation of delay, which cannot be said to be extraordinary. The Court also stated that as long as the appeal is accompanied by an ordinary downloaded copy of the order appeal against, verified as a true copy by the Advocate for the Appellant, the delay in filing such certified copy, subject to it not being extraordinary, be condoned. Therefore, the Court set aside the impugned order rejecting the Petitioner's appeal on the ground of delay.

**M/s. Shree Jagannath Traders v Commissioner of State Tax Odisha, Cuttack and Ors, High Court of Orissa, decided on 07.06.21, in W.P.(C) No. 15058 of 2021.**

4. **Whether reversal of Cenvat credit (which was carried forward in the TRAN1 under GST) in GSTR-3B amounts to credit not been taken for claiming refund under the provisions of Cenvat Credit Rules, 2004?**

**Facts and Pleadings:** Chariot International Pvt. Ltd. (hereinafter "Appellants") are engaged in the manufacture and export of granite slabs and tiles classifiable under Chapter sub-heading 68022390 of

CETA, 1985 and were availing the Cenvat credit of service tax paid on input services used in the manufacture of their finished goods under the provisions of Cenvat Credit Rules, 2004(CCR). Therefore, the Appellants had filed three refund applications for refund of Cenvat credit under Rule 5 of CCR, 2004 read with Notification No.27/2012-CE(NT) dated 18.06.2012. However, the Appellant received a show cause notice proposing to reject claims on the ground that the Appellant had not debited the amount on the Cenvat register as required under para 2(h) of the aforesaid Notification. Thereafter, the Appellants filed a reply to the SCN and submitted that the Cenvat Credit balance they had, was carried forward in the TRAN1 under GST, and that the amount claimed as refund had been debited in the GSTR3B for the period December 2017. Subsequently, the original authority sanctioned the refund by

holding that non-reversal of the credit at the time of filing refund claims is only a minor procedural lapse and reversal is ensured before sanctioning of refund, hence delay is condoned. Aggrieved by the said order, the Department then filed three appeals before the Commissioner (Appeals), who set aside the Order-in-Original and disallowed the refunds on the ground that credit reversal in GSTR-3B pertains to GST credit and not Cenvat credit and therefore, by invoking section 142(3) and Section 142(4), he disallowed the Refunds. Aggrieved by the said decisions, the Appellant filed the present appeal.

**Judgment:** The Hon'ble CESTAT Bangalore, firstly observed that neither the eligibility of the Appellant to claim refund nor the fact that the Appellant has debited the amount claimed in GSTR-3B was disputed. Secondly, the Tribunal observed that it has been consistently held that credit reversed without being utilized is considered as if credit has not been taken, therefore the credit reversed in GSTR-3B tantamounts to not been taken credit. Further, the Tribunal placed

reliance upon the case of *Hello Minerals Water (P) Ltd. v UOI 2004-(7)-TMI-98*, wherein it was held that since the Cenvat credit initially taken was reversed without being utilized, it is to be treated as if the assessee has not taken the same and hence he would be eligible for exemption benefits under the exemption notification. The Tribunal also placed reliance upon the *Sandoz Pvt. Ltd 2015-VIL-841-CESTAT-MUM-ST* case, wherein it was held that the conditions prescribed in the notification having met although on a later date, is not such a lapse that it would debar the appellants from the refund. Therefore, the Tribunal in the present case, held that the Appellants had reversed the credit in the GSTR-3B, but there was only a delay in debiting the same, and that this delay was just a procedural delay and not a technical lapse in nature, thus the same will not disentitle the appellant from claiming the refund.

**Chariot International Pvt Ltd v Commissioner of Central Tax, Bengaluru East, CESTAT Regional Bench, Bangalore, decided on 17.06.21, in Central Excise Appeal No. 20158 of 2020.**

**Note : THE FULL DECISIONS CAN BE DOWNLOADED FROM THE WEBSITE [WWW.CTCONLINE.ORG](http://WWW.CTCONLINE.ORG) UNDER SEMINAR PRESENTATIONS - UNREPORTED DECISIONS**

## UNREPORTED TRIBUNAL DECISIONS

By **Ajay R. Singh, Advocate**

### 1. **S. 40A(2)(b): Disallowance of Interest paid to related Parties – Unsecured loans vis a vis bank loan :**

The assessee is an individual, carrying on the business in a proprietorship firm. He had taken unsecured loans in the proprietorship firm from his relatives and paid interest @ 24% totaling to ₹ 17,81,293/-. A deduction of the above expenditure was claimed by the assessee in the return of income. The Assessing Officer has restricted the rate of interest payment to 15% and disallowed an amount of ₹ 6,67,990/- on account of excessive interest payment under section 40A(2)(b) of the Act.

The CIT-Appeal, upheld the action of the Assessing Officer thus the assessment order was upheld.

Before Hon'ble ITAT, appellant submitted that on bare perusal of section 40A(2)(a) of the Act would contemplate that if an assessee incurs any expenditure in respect of which payment has been or is to be made to any person referred to in clause (b) of this sub-section, and the Assessing Officer is of opinion that such expenditure is excessive or unreasonable having regard to the fair market value of the goods,

services or facilities availed from the persons to whom such payment was made, then he can disallow the excess payment. Assessing Officer failed to bring any evidence on record which can show that the interest paid at 25% by the assessee is not inconsonance with the market rate. If since some service or goods availed at a legitimate rate from the open market then difference between the rate at which facilities would be availed vis-a-vis actually availed should be disallowed to the assessee. According to the Assessing Officer the loan which have been availed by the assessee from the persons falling in clause (b) of section 40A(2) would be availed at the rate of 15%, hence the interest paid over and above the rate of 15% was considered as excessive. These are unsecured loans for which assessee was not required to pledge anything or give any security. He was not required to fulfil other formalities which is to be fulfilled if loans were availed from the Banks. These aspects have not been looked into by the Assessing Officer while considering market rate of interest payment on the loans at 15%. Thus, it was held that interest payment @24% on unsecured loans is not excessive.



**Anurag Goel vs. ITO Ward 5(3)(1), Ahmedabad [I.T.A. No. 2906/Ahd/2015 AY: 2012-13 "SMC", DOH: 29/08/2017]**

**2. S. 68: Penny stock- Assessee discharged the primary onus – cross examination not allowed- addition cannot be made :**

The assessee being resident HUF was assessed u/s. 143(3) wherein the assessee was denied exemption u/s. 10(38) on certain Long-term capital gains (LTCG) earned on sale of shares and the said gains were added to the assessee's income as unexplained cash credit u/s. 68 of the Act. ₹ 38.47 Lacs were also added on account of estimated commission income which was consequential to the main addition. The aforesaid gains arose on sale of shares of an entity namely M/s. Moryo Industries Ltd. (MIL). In support of purchase transactions, the assessee furnished share allotment advice as well as its bank statements evidencing payment through banking channels. In support of sale transactions, the assessee furnished contract notes issued by the brokers, Account statements issued by the broker, bank statement evidencing inflow of funds through banking channels were also submitted. The shares were sold by the assessee at stock exchange in online mode of transaction. On the basis of these documentary evidences, the assessee substantiated the stated transaction. Subsequently, in the background of investigation carried out by Kolkata investigation wing in the matter of penny stocks, it was alleged by Id. AO that gains were arranged, premeditated and bogus. During the investigation, statements of various operators, entry providers and stock brokers were recorded wherein the said facts of their engagement in providing accommodation entries in the form of Long-Term Capital Gains (LTCG) / Short-Term Capital Losses (STCL) were admitted. In the above background, the gains earned by the assessee were alleged to be pre-arranged in connivance with the operators of the scrip. Notices issued u/s 133(6) to all the buyers did not elicit any satisfactory response. Upon analysis of financials of M/s MIL, it was observed by the AO that its net worth was negligible and it was alleged that the share prices were artificially rigged by operators to accommodate desirous beneficiaries. During survey u/s 133A by investigation wing on directors of the stock-broking entities, they admitted to have helped various persons to obtain accommodation entries in various scrips including the scrip of M/s MIL. The

assessee submitted that in the absence of such cross-examination, those statements could not be used against the assessee, the findings of investigation wing were general in nature without implicating the assessee specifically, the price of the scrip would be totally dependent upon market perception and sentiment in which the assessee would have no role to play and allegations of Id. AO were termed as based on mere presumption and surmises.

Hon'ble ITAT while allowing Assessee's Appeal, held that the assessee had furnished all the requisite documentary evidences to substantiate the transactions and discharged the primary onus as required under law to establish the genuineness of the gains so earned during the year. No defect has been pointed out by the revenue in documentary evidences furnished by the assessee. Therefore, the onus had, thus, shifted on revenue to disprove assessee's claim and establish with cogent evidences that the transactions were non-genuine transactions through which assessee's unaccounted money has flown back to assessee in the garb of bogus capital gains. However, except for general findings of investigation wing and third-party statements on the basis of which it has been alleged that the scrip of M/s MIL was penny stock, there is nothing in the kitty of the revenue to prove the assessee's involvement in manipulating the prices of the scrip. No exchange of cash between the assessee and the various exit providers could be proved. Therefore, the onus as casted upon revenue to dislodge the assessee's claim could not be discharged. Also, the prices would be guided more by the market forces rather than the financials or other parameters. When both the parties would agree upon a price, the trade is matched and that price would become new market quotation. Therefore, the financials of underlying entities, in such cases, would lose much relevance in so far as the price movement of scrip is concerned. No additions could be made merely on the basis of suspicion, conjectures or surmise. The addition thus made purely on the basis of third-party statement recorded at the back of the assessee could not be sustained in the eyes of law unless the same are confronted to the assessee and the same are backed by any corroborative material.

**Jagdish B. Prajapati HUF v. ACIT-24(2) [ITA NO.: 548/MUM/2019, A.Y. 2014-15, Date of Hearing: 03/05/2021]**

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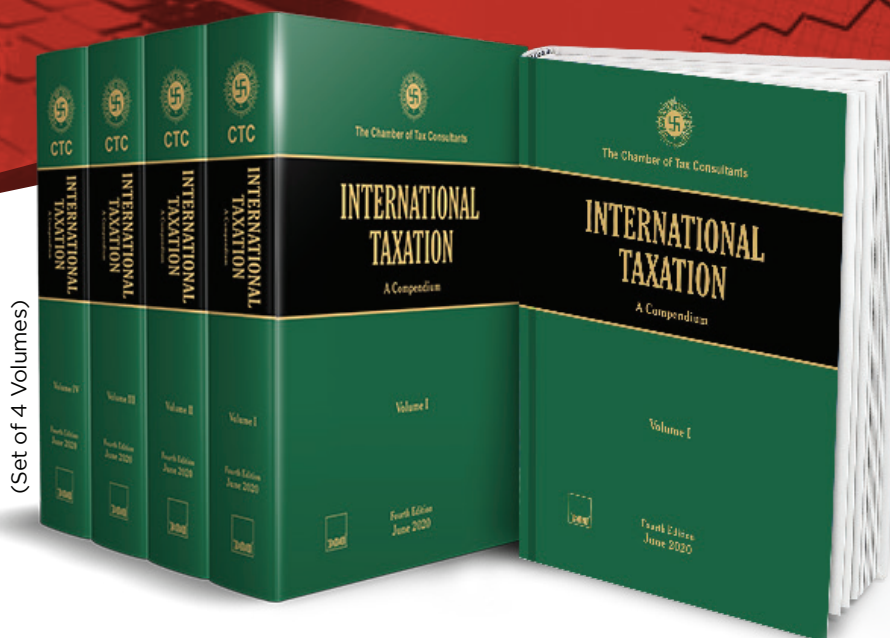
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