



**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**

(Set up by an Act of Parliament)

# E-NEWSLETTER

**RAIPUR BRANCH OF CIRC OF ICAI**

**MAY 2022**

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# THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

## MANAGING COMMITTEE OF RAIPUR BRANCH OF CIRC OF ICAI



**CA AMITABH DUBEY,  
CHAIRMAN RAIPUR BRANCH**



**CA DHAWAL SHAH, SECRETARY  
RAIPUR BRANCH**



**CA RAVI GWALANI VICE  
CHAIRMAN RAIPUR BRANCH**



**CA RAVI JAIN, TREASURER  
RAIPUR BRANCH**



**CA VIKAS GOLCHHA, GMCS-CHAIRMAN  
& EXECUTIVE MEMBER**



**CA GOPAL AGRAWAL, CICASA  
CHAIRMAN RAIPUR BRANCH**



**CA RASHMI BHANGLA, WOMEN EMPOWERMENT  
COMMITTEE CHAIRPERSON &  
EXECUTIVE MEMBER**



**CA KISHORE BARDIA, VICE CHAIRMAN CIRC &  
EX-OFFICIO MEMBER OF RAIPUR BRANCH**

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## MESSAGE



**CA Amitabh Dubey**  
**Chairman**  
**Raipur Branch of CIRC of ICAI**

**From the Desk of the Chairman**

**Dear Members,**

One more month, one more opportunity for communication, in a slightly relaxed month of May.....

The Month of May was an eventful one. This month, the branch had organized a Seminars & Workshop on Personality Development Program, Full Day Workshop on Company Audit, One Day Training Program for Peer Reviewer, Orientation Program of Sub Committee, Half Day Seminar on Direct Tax.

This month for the first time ICAI Raipur & ICSI Raipur jointly organized a seminar based on Insolvency & Bankruptcy Code & GST (E Invoicing & Eligibility of ITC).

I'd like to acknowledge and admire your excitement and active involvement in the seminars and events during the month of May-2022, and I hope the same type of response from you all in the next activities.

In light of recent developments and updates on economic and financial topics, our Newsletter committee has attempted to cover as much information as possible by summarizing it in this May 2022 issue to keep our professional colleagues up to speed and for their convenience.

The Raipur branch has a large number of programs planned for its members in the near future.

I anticipate enormous support from all members in the form of active involvement and cooperation.

**Warm Regards**

**CA Amitabh Dubey, Chairman**  
**Raipur Branch of CIRC of ICAI**



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## MESSAGE



**CA Dhawal Shah,  
Secretary  
Raipur Branch of CIRC of ICAI**

**From Secretary Desk.....**

**Dear Members,**

Warm regards!!!

To begin, I'd want to thank you all for attending the recent lectures & Workshop on Personality Development, GST, corporate issues, income tax, & Training Program for Peer Reviewer in such large numbers. Your positive feedback helps a lot.

I assure you, on behalf of the Managing Committee that we will be motivated & will continue to make every effort to organize such a valuable event, providing seminars on current problems that are important to our community by securing the best faculties available in the country

I would earnestly request members to contribute to our Newsletter with articles of interest to our members. Also feedback is welcome.

Wishing all great days ahead.

Jai Hind! Jai ICAI!

**Warm Regards  
CA Dhawal Shah, Secretary  
Raipur Branch of CIRC of ICAI**

# THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

## MESSAGE



**CA Gopal Agarwal**  
**Chairman CICASA**  
**Raipur Branch of CIRC of ICAI**

**My Dear Professional Colleagues,**

It is a pleasure to share my views and thoughts with you all as a CICASA Chairman of Raipur Branch of CIRC of ICAI. I would like to express my sincere thanks to all the members for their trust in me for giving this responsibility.

For Raipur Branch this month was a month of honour as due to the great effort of our Energetic Vice Chairman of CIRC of ICAI CA Kishore Bardia and our Branch Chairman CA Amitabh Dubey, Raipur Branch hosted the 1st ever Regional Elocution contest in Raipur, where students from all branches from Central Region participated and the winners were selected for participating in National Level. For this event I also thank all of our CICASA team members for their active participants and support, which made this event a grand success.

Also the Industrial Visit at Sarda Dairy was a knowledgeable study tour which created curiosity among the students for this new sector to explore new dimensions in this sector. Also we are thankful for the management of Sarda Dairy for their hospitality and arranging for such a great tour.

Also I would request all of CA Students that kindly provide your valuable suggestions, articles and programs so that we can accommodate them.

Lastly I want to assure you all that managing committee of Raipur Branch are committed to enriching the knowledge bank of their members and students and motivating them to keep serving the profession with new energy and enthusiasm.

**Regards,**  
**CA Gopal Agarwal**  
**Chairman CICASA, Raipur Branch of CIRC of ICAI**  
**Partner ABG & Associates, Mob.No.- +91 98279-11225**



# THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

## MESSAGE



**CA Gyan Chandra Mishra,  
Central Council Member, ICAI**

**My Dear Professional Colleagues,**

At the outset, my warm greetings to everyone. It's an immense pleasure to write for the people of my fraternity. As almost every profession is increasingly reliant on digital technology and E-Publications are the norm today, I would congratulate Managing committee of Raipur Branch as well as Members of the Newsletter Committee for this monthly e-newsletter, serving the profession and society.

“To give real service you must add something which cannot be bought or measured with money, and that is sincerity and integrity.” – Douglas Adams Being a partner in nation building and to spearhead the country's economic growth, ICAI has always been at the forefront so keeping abreast of these facts and the eminence of our profession, we all members of this revered organization should work in the direction of growth of our accountancy profession and Nation at large with sincerity and integrity.

The Institute of Chartered Accountants of India (ICAI) is set to host the 21st World Congress of Accountants (WCOA), the Kumbh of accountants, for the first time in 118 years of its existence. About 6000 top accountants from 130 countries will participate in the programme physically. The theme for 2022 would be 'Building Trust Enabling Sustainability'. In this pursuit, all the members are requested to join the same (<https://www.wcoa2022mumbai.org/register>) to add to the fruitful deliberations and for the enrichment of our profession.

At the end, as you are aware, the journey of Azadi Ka Amrit Mahotsav (AKAM) commenced on 12th March 2021 with the 75-week countdown to celebrate 75th anniversary of India's Independence. The Institute along with the entire nation is celebrating "AKAM" by undertaking various activities. To this effect, I would request everyone through this medium to let the wholehearted efforts and commitment of CA fraternity make a difference.

Looking forward for your suggestions and feedback to serve you better.

**Warm Regards**

**CA Gyan Chandra Mishra**

**Central Council Member, ICAI**

**Central Council Member, ICAI: Vice Chairman, CPE Committee: Vice Chairman, IASB**

# THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

## MESSAGE



**CA Sumit Chawla**  
**Chairman,**  
**Newsletter Committee**

**Respected Fraternity Members**

**A Very Warm Greeting to Everyone,**

I feel extremely honoured to assume this distinguished position as the Chairperson of Newsletter Committee of Raipur Branch of CIRC of ICAI. It's a great privilege for me to update all the members every month regarding current affairs of our profession. The trust and confidence reposed in me by my colleagues in the committee fills me with unparalleled joy and happiness. With pride, coupled with a sense of responsibility, I pen my first communication as chairperson of the committee.

To begin with my three months of Chairmanship in newsletter committee, had get great experience and also support of all to making the newsletter as valuable and helpful for all the readers. Firstly, my warm thanks to all who provide their valuable time for giving articles and other knowledge for our newsletter.

Through the Newsletter we are establishing a professional learning community to continually look to improve & update knowledge and support to every member by providing relevant and reliable articles.

"Do not say, 'It is morning,' and dismiss it with a name of yesterday. See it for the first time as a new born child that has no name."-Rabindra nath Tagore

As we gear up to face another new season of filings, I remember the above words of Sri Rabindra nath Tagore, which gives new boost to our energies, in its very raw form.

This month being the examination month of student of ICAI, I wish them best of their efforts in their results.

**Thanking You & Regards**

**CA Sumit Chawla**

**Chairman, Newsletter Committee**



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# ARTICLES



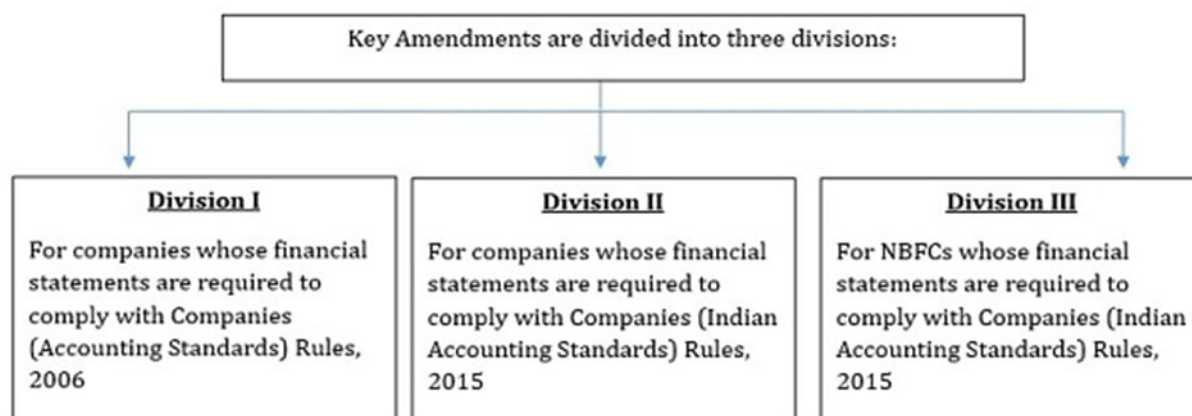
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## MAJOR CHANGES IN BALANCE SHEET & AUDIT REPORT OF COMPANIES FOR FY 2021-22

The Financial year 2021-22 has ended and now it is time for us to Audit the Books of Accounts and Financial Statements prepared by the Company for the year ended on 31st March 2022. Ministry of Corporate affairs has made amendments in Schedule III which are applicable for reporting in this financial year. CARO 2020 is also applicable for reporting from this Financial Year. Let us look into the major changes to be done in our reports to comply with both the amended provisions.

### A. Amendments in Financial Statements as per Schedule III

The notification for amendment in Schedule III has been divided in following divisions:



Changes for Division I entities are shown below. (Few disclosures are presented here. Please refer the notification dated 24th March 2021 for the detailed amendments.)

In Part I- Balance Sheet:-

#### (A) On face of Balance Sheet

Under the heading "II Assets" , under sub-heading "Non-current assets" :

- after the words "Property, Plant and Equipment", the words "and Intangible assets" shall be inserted and ,
- For the words "Tangible Assets", the words "Property, Plant and Equipment" shall be substituted.

#### (B) Notes

- (I) under the heading "A. Share Capital", after item (I), the following shall be inserted:



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## A Company Shall Disclose Shareholding of Promoters As Below

Shares held by promoters at the end of the year				% Change during the year***
S. No	Promoter name	No. of Shares**	% of total shares**	
Total				

\*Promoter here means promoter as defined in the Companies Act, 2013.

\*\* Details shall be given separately for each class of shares

\*\*\* percentage change shall be computed with respect to the number at the beginning of the year or if issued during the year for the first time then with respect to the date of issue. "

(III) After the heading "FA. Trade Payables" and the entries, following shall be inserted:

### "FB Trade Payables Due For Payment"

#### Trade Payables ageing schedule

(Amount in Rs.)

Particulars	Outstanding for following periods from due date of payment#				Total
	Less than 1 year	1-2 years	2-3 years	More than 3 years	
(i) MSME					
(ii) Others					
(iii) Disputed dues – MSME					
(iv) Disputed dues - Others					

# similar information shall be given where no due date of payment is specified in that case disclosure shall be from the date of the transaction.

Unbilled dues shall be disclosed separately;

The following ageing schedule shall be given for Trade payables due for payment:-

(VIII) Under the heading "M. Other non-current assets" :-

(a) after item (i), "(ia) Security Deposits" shall be inserted :

(b) after item (iii), the following ageing schedule shall be given for "(iv) For trade receivables outstanding" :-

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## Trade Receivables ageing schedule

(Amount in Rs.)

Particulars	Outstanding for following periods from due date of payment#					Total
	Less than 6 months	6 months - 1 year	1-2 years	2-3 years	More than 3 years	
(i) Undisputed Trade receivables – considered good						
(ii) Undisputed Trade Receivables – considered doubtful						
(iii) Disputed Trade Receivables considered good						
(iv) Disputed Trade Receivables considered doubtful						

# similar information shall be given where no due date of payment is specified, in that case disclosure shall be from the date of the transaction.

Unbilled dues shall be disclosed separately.”;

(XI) Heading “X.” shall be omitted and following shall be inserted :-

### “Y. Additional Regulatory Information

(i) Title deeds of Immovable Property not held in name of the Company.

Relevant line item in the Balance sheet	Description of item of property	Gross carrying value	Title deeds held in the name of	Whether title deed holder is a promoter, director or relative# of promoter*/director or employee of promoter/director	Property held since which date	Reason for not being held in the name of the company**
PPE -	Land Building	-	-	-	-	**also indicate if in dispute
Investment property -	Land Building					
PPE retired from active use and held for disposal -	Land Building					
others						

#Relative here means relative as defined in the Companies Act, 2013.

\*Promoter here means promoter as defined in the Companies Act, 2013.



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\* Property held under lease is not shown here.

- (ii) Following disclosures shall be made where Loans or Advances in the nature of loans are granted to Promoters, directors, KMPs and the related parties either severally or jointly with any other person, Those are:

Type of Borrower	Amount of loan or advance in the nature of loan outstanding	Percentage to the total Loans and Advances in the nature of loans
Promoters		
Directors		
KMPs		
Related Parties		

- (a) Repayable on demand or  
(b) Without specifying any terms or period of repayment.

## (iii) Capital-Work-in Progress (CWIP)

- (a) For Capital-work-in progress, following ageing schedule shall be given:

### CWIP ageing schedule

(Amount in Rs.)

CWIP	Amount in CWIP for a period of				Total*
	Less than 1 year	1-2 years	2-3 years	More than 3 years	
Projects in progress					
Projects temporarily suspended					

\*Total shall tally with CWIP amount in the balance sheet.

## (viii) Relationship with Struck off Companies

Name of struck off Company	Nature of transactions with struck-off Company	Balance outstanding	Relationship with the Struck off company, if any, to be disclosed
	Investments in securities		
	Receivables		
	Payables		
	Shares held by stuck off company		
	Other outstanding balances (to be specified)		

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(xii) Following Ratios to be disclosed:-

S.NO.	Particulars	Numerator	Denominator	31.03.2022	31.03.2021	Variation (In %)*
(a)	Current ratio (in times)	Current Assets	Current Liability			
(b)	Debt Equity Ratio (in times)	Total Debt (Borrowing and lease liabilities)	Total Equity (Excl. Revaluation)			
(c)	Debt Service coverage Ratio (in times)	Earning for Debt Service (Net Profit after taxes + Non -cash operating expenses + Interest)	Debt service (interest and principal repayment)			
(d)	Return on Equity Ratio (%)	Profit After Tax less Preference dividend	Total Equity (Excl. Revaluation)			
(e)	Inventory Turnover Ratio (in times)	Cost of Goods Sold	Average Inventory			
(f)	Trade Receivables turnover Ratio (in times)	Net Sales	Average Receivables			
(g)	Trade Payables turnover Ratio (in times)	Net Purchase	Average Payable			
(h)	Net Capital turnover Ratio (in times)	Net Annual Sales	Average Working Capital (Total CA - Total CL)			
(i)	Net profit Ratio (%)	Profit After Tax	Net sales			
(j)	Return on Capital Employed (%)	Earning Before Interest & Tax	Capital Employed			
(k)	Return on investment (in %)	Income On Investment	Amount Invested			

\*If ratio changes by more than 25% as compared to the preceding year, explanation shall be provided.

\*If ratio changes by more than 25% as compared to the preceding year, explanation shall be provided.

**In Part II- Statement of Profit and Loss:-**

- (A) Under the heading "III. Total Revenue (I +II)", for the word "Revenue", the word "Income" shall be substituted;  
 (B) Under the heading "General Instructions for Preparation of Statement of Profit and Loss",-



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(I) in paragraph 2, in item (A), after sub-item (b), the following shall be inserted, namely:-

“(ba) Grants or donations received (relevant in case of section 8 companies only)”;

(II) in paragraph “5. Additional information”, after item (viii) and the entries relating thereto, the following shall be inserted, namely:-

## **(ix) Undisclosed income**

The Company shall give details of transactions not recorded in the books of accounts that has been surrendered or disclosed as income during the year in the tax assessments under the Income Tax Act, 1961 and also state whether the previously unrecorded income and related assets have been properly recorded in the books of account during the year.

## **(xi) Details of Crypto Currency or Virtual Currency**

Where the Company has traded or invested in Crypto currency or Virtual Currency during the financial year, the following shall be disclosed:-

- (a) profit or loss on transactions involving Crypto currency or Virtual Currency
- (b) amount of currency held as at the reporting date,
- (c) deposits or advances from any person for the purpose of trading or investing in Crypto Currency/ virtual currency.”

## **B.**

### **COMPANIES (AUDITOR’S REPORT) ORDER, 2020**

The reporting under CARO 2020 is applicable from Audit Reports of Financial Year 2021-22. The applicability of CARO, 2016 & CARO, 2020 is same. The reporting under the clauses has been updated to make it more relevant and specific for the users. The amendments in schedule III as discussed above have been made in line to correlate with the reporting requirements under CARO. Let us take a broader look into the clauses under CARO 2020 and an overview on the changes made in it from the earlier CARO 2016.

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Clause No.	Matter	Change	Remarks
I	Maintaining record of Plant, Property , Equipment & Intangible assets	Amended	New sub clauses are added in this clause. Previous Clauses are also amended.
II	Physical Verification of Inventories	Amended	Previous clause is amended and a new clause for Company having sanctioned limit in excess of Rs.5Crore for working capital from banks or financial institutions to report difference in statements submitted to bank and Books of accounts, if any.
III	Repayment of investments, guarantee, security and loans granted by the Company	Amended	New Sub Clauses inserted here. All loans granted to any person or entity needs to be disclosed along with the details.
IV	Compliance under Section 185 & 186	Same	No change.
V	Acceptance of deposits	Amended	Deposits which are not technically deposit but substantively having the character of deposits are also required to be reported.
VI	Cost Records	Same	No change.
VII	Statutory Dues	Same	No change.
VIII	Disclosure of transactions not recorded in the books	Inserted	Accounting of disclosures made has to be reported.
IX	Default in repayment of loans or other borrowings	Amended	New Sub Clauses have been added. Report all the loan taken, it's purpose, and if any default is made in repayment to any vendor. Diversion of Funds to be checked and report here.
X	Moneys raised by IPO, FPO & preferential allotment / private placement of shares or convertible debentures	Amended	2 Clauses (ix & xiv) of CARO 2016 are merged here.
XI	Fraud reporting	Amended	Para (b) & (c) are additional. These are for compliance of Sec 143 and additional responsibility of whistle blower complaints.
XII	Compliances by Nidhi Company	Amended	Para (c) is additional. Details of default in payment of interest or repayment of deposit should be reported.
XIII	Transactions with the related parties (section 177 and 188)	Same	No change.
XIV	Internal Audit System	Inserted	Report whether company have proper internal audit system and whether work of internal auditor is considered by statutory auditor.
XV	Non – Cash transactions with Directors	Same	No change.
XVI	Registration with Reserve Bank of India	Amended	Auditor is required to report activities carried by the company of NBFC, HFC without valid certificates. The Company is a CIC or the number of CIC in group.
XVII	Cash losses	Inserted	Calculation of cash losses to be done. Separate reporting is also required.
XVIII	Resignation of the statutory auditors during the year	Inserted	Whether the issues, objections, or concerns raised by outgoing auditor has been considered by the incoming auditor appointed to fill the casual vacancy .

Compiled by  
CA Sumeet Kumar Berlia  
(ACA, B.Com, DISA)



## ARTICLE ON MOHIT MINERAL

Supreme Court's Gavel Strikes – No GST on Ocean freight under RCM in CIF contract.

-CA. Venkat Prasad & CA. Bhavesh Mittal

### Introduction

In this week, the Hon'ble SC has pronounced very interesting decision which has widespread in the media. The Hon'ble SC decision, besides holding that Indian importer is not liable for GST under RCM in CIF imports, has also explained several important aspects of Federal Constitution, GST council roles & rules of interpretation etc. In this article, the authors attempted to demystify the 153-page Decision and the possible course of action.

### Legal background

Ocean freight (Transportation) in import transactions is central point of the decision. Popularly there are 2 ways of arranging transportation (contractually) as depicted below along with GST applicability:



**Note 1:** In all aforesaid cases, the Indian importer would be paying applicable IGST at the time of import (including the value of aforesaid Transportation).

**Note 2:** The Notifications made the Indian importer to pay GST in 4th Scenario with a premise to provide level playing field to the Indian Shippers for the reason that if an Indian shipping company ships the goods to India, they would pay the taxes under the forward charge, and thus non taxing the ocean freight charged by the foreign companies would render the Indian shipping industry noncompetitive in CIF contracts.

The Notifications asking Indian importer to pay GST albeit not being a contractual party to the Shipping contract in 4th scenario was challenged before Hon'ble Gujarat HC on multiple counts. After thorough analysis of Constitution, GST provisions, history of Indirect tax on Ocean Freight, the Hon'ble Gujarat HC has held that such notifications as ultra vires the IGST Act, 2017 & unconstitutional inter alia on several grounds as briefed below:



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- The importer of goods on a CIF basis is **not the recipient of the transport services** as Section 2(93) of the CGST Act, 2017 defines a recipient of services to mean someone who pays consideration for the service, which is the foreign exporter in this case.
- Section 5(3) of the IGST Act, 2017 enables the Government to stipulate **categories of supply**, not specify a third-party as a recipient of such supply.
- The supply of service of transportation of goods by a person in a non-taxable territory to another person in a non-taxable territory from a place outside India up to the customs station of clearance in India, is neither an inter-State supply nor an intra-State supply. Thus, no tax can be levied and collected
- The location of the recipient of the service, i.e. the foreign exporter, is not in India but outside India. Thus, the provisions of sub-section (4) of Section 7 are also not applicable in the present case.
- Section 7(5)(c) of the IGST Act dealing with intra-state supply cannot be read so extensively that it conflates the “supply of goods or services or both in the taxable territory” to “place of supply”.
- Sections 12 and 13 of the IGST Act deal with determining the place of supply. Neither of them will apply if both the supplier and recipient of service are based outside India. **The mere fact that the service terminates in India does not make the service of supply of transportation to be taking place in India;**
- The provisions regarding **time of supply**, as contemplated in Section 20 of the IGST Act and applicable to Section 13 of the IGST Act dealing with supply of services, are applicable only vis-à-vis the actual recipient of the supply of service, which is the foreign exporter in this case.
- Section 15(1) of the CGST Act enables the determination of the value of the supply, only between the actual supplier and actual recipient of the service.
- Since the importer is not the “recipient” of the service under Section 2(93) of the CGST Act, it will not be in a position to avail ITC under Section 16(1) of the CGST Act; and
- The provisions relating to the returns apply where the person is either a supplier or a recipient of the supply. If the person is neither a supplier nor a recipient of supply, such provisions do not apply
- The scheme of the GST is that it is a transaction/contract based on value added tax. The tax is levied on each transaction and the tax paid at early stage is available as credit. Hence, it is a tax on consumption and not on business. It is a contract-based levy which depends on the contract between the supplier and the recipient. Thus, where the tax is sought to be levied and collected by a person other than the supplier or the supplier of service, distortions and contingency which the Act does not covers, are bound to occur.
- There is **no territorial nexus** for taxation since the supply of service of transportation of goods is by a person in a non-taxable territory to another person in a non-taxable territory from a place outside India up to the Indian customs clearance station and this is neither an inter-state nor an intra-state supply.

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- Since the **importer pays customs duties** on the goods which include the value of ocean freight, the impugned notifications impose double taxation through a delegated legislation, which is impermissible.

Similar decision was given in service tax context also by the same Hon'ble Guj HC .

Aggrieved by the decision of the Hon'ble Guj HC decision under GST, the Revenue department appealed it before the Hon'ble Apex Court. Painsaking arguments were made on both sides before Hon'ble SC on several aspects of Constitution (relating to GST council role & scope), GST provisions, Rules of interpretation etc.

Recently, the Hon'ble SC delivered decision on 19th May 2022 holding that Indian importer is not liable for GST on the Ocean freight in CIF import contracts under RCM. However, partly overturning the Hon'ble Guj HC, the Hon'ble SC held that Indian importer can be construed as 'Recipient of service' and the Notification is not ultra vires the IGST Act, 2017.

While arriving the decision, the Hon'ble SC elucidated various important principals regarding the Constitution, GST council role, GST law and interpretation rules. The highlights are tabulated below

## The legal arguments and the decision.....

	Taxpayer counsel	Government Counsel	Hon'ble SC verdict
a.	Section 5(3) delegates the power to identify the category of goods or services (and not class of recipient) on which reverse charge applies. That, Nt. 10/2017 ibid. identifies an Indian importer as a service recipient for the purposes of Section 5(3), it is ultra vires the parent Act on the ground of excessive delegation.	<ul style="list-style-type: none"><li>• Recipient [2(93) any reference to a person to whom the supply is made – shall be construed as the reference to the “recipient”. In terms of Section 13(9) the supply is made to the importer.</li><li>• Further, the term “taxable person” means – a person registered or liable to be registered. And Section 24(iii) , casts liability on the importer to get registered, as he is liable to pay tax under the reverse charge.</li><li>• Therefore, both the IGST and CGST Act clearly define reverse charge, recipient and taxable persons. Thus, the essential legislative functions vis-à-vis reverse charge have not been delegated.</li></ul>	<ul style="list-style-type: none"><li>• The stipulation of the recipient in each of the categories in Notification is only clarificatory. The Government by notification did not specify a taxable entity different from that which is prescribed in Section 5(3) of the IGST Act for the purposes of reverse charge.</li><li>• On a conjoint reading of Sections 2(11) and 13(9), read with Section 2(93), the import of goods by a CIF contract constitutes an “inter-state” supply which can be subject to IGST where the importer of such goods would be the recipient of shipping service.</li></ul>

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	Taxpayer counsel	Government Counsel	Hon'ble SC verdict
b.	The importer cannot be validly termed as "taxable person".	From the revenue, the analogy drawn above w.r.t. "recipient", "taxable person" read with Section 24(iii) ibid. was put forward to identify the "importer" as the taxable person.	<p>•Section 24(iii) ibid. alone cannot deem an importer to be a "recipient", however, the argument in respect of Section 29(3)(c) read with 13(9) founds relevance as the place of supply of such services are in India, and the importer would be the recipient in terms of Section 2(93)© ibid.</p> <p>The impugned NT 10/2017 identifies the importer as the recipient liable to pay tax on a reverse charge basis under Section 5(3), the argument of the failure to identify a specific person who is liable to pay tax does not stand.</p>
c.	The value has to be strictly determined by Section 15(1) and not by way of delegated legislation.	Sections 15(4) and 15(5) read with Rule 31 - enable delegated legislation to prescribe methods for determination of value, on the recommendations of the GST Council.	Rule 31 specifically provides for a residual power to determine valuation. Thus, the impugned Nt. 8/2017 cannot be struck down for excessive delegation when it prescribes 10 per cent of the CIF value as the mechanism for imposing tax on RCM. The determination of the value of supply only through rules, and not by notification would be an unduly restrictive interpretation.
d.	The conditions specified under Section 2(11) with regard to "import of services" does not satisfy – as the recipient and the place of supply are both outside India.	Section 13(9) of the IGST Act is applicable - where in case of supply of services of transportation of goods by a supplier located outside India, the place of supply would be the place of destination of such	The supplier, the foreign shipping line, in this case would be a non-taxable person. However, its services in a CIF contract for transport of goods would enter Indian taxable territory as the destination of such goods.



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	Taxpayer counsel	Government Counsel	Hon'ble SC verdict
e.	It was argued that the present case of CIF contract would not be covered within Section 7(1)(b) as it does not define "supply" of import of service without consideration. Here, the consideration is paid by the foreign exporter.	<p>goods and thus the conditions of Section 2(11) Mets.</p> <p>The above analogy of Section 13 (9) read with Section 2(11) was similarly placed. Further, it was argued that Section 2(31) defines "consideration" which includes amount paid by "any other person" within its purview.</p>	<p>The place of supply of shipping service by a foreign shipping line, would thus be India.</p> <p>The fact that consideration is paid by the foreign exporter to the foreign shipping line would not stand in the way of it being considered as a "supply of service" under Section 7(4) of the IGST Act which is made for a consideration.</p>
f.	The transaction takes place beyond the territory of India and is thus, extra territorial in nature. The levy of tax extra-territorially must be provided by Parliament through statute and not by the Union Government through delegated legislation.	That, the decision in GVK Industries clearly recognizes the power of Parliament to legislate over events occurring extra-territorially. The only requirement imposed by the Court is that such an event must have a real connection to India.	The impugned levy on the supply of transportation service by the shipping line to the foreign exporter to import goods into India has a two-fold connection: first, the destination of the goods is India and thus, a clear territorial nexus is established with the event occurring outside the territory; and second, the services are rendered for the benefit of the Indian importer. Thus, the transaction does have a nexus with the territory of India.

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## The game changer arguments

	Party	Arguments	The Court observed
a.	<b>Revenue</b>	Even if the above is not applicable, Section 5(4) [amended w.e.f. 1st Feb 2019] would be applicable in the instant case. Which says – “(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.”The issuance of notification under the incorrect reference i.e.,5(3) instead of 5(4), may not vitiate the action .	<p>This provision brings in a deeming fiction of declaring a class of registered persons “as the recipient” of the supply of taxable goods or service. In deploying the language “as the”, and not “by the” recipient, the applicability of the definition of recipient vis-à-vis Section 2(93) of the CGST Act is no longer necessary for determining the validity of such a notification. The effect of the Amending Act 32 of 2018 has been as follows:</p> <p>I.The powers of the Central Government to specify through a notification has been clarified; and</p> <p>II.The power to specify a class of registered persons as the recipient has been recognized.</p>
b.	<b>Assessee</b>	That the transaction, between the foreign exporter and the Indian importer, the latter is liable to pay IGST on the transaction value of goods under Section 5(1) read with Section 3(7) and 3(8) of the Customs Tariff Act. Although this transaction involves the provision of services such as insurance and freight it falls under the ambit of ‘composite supply’.	<p>The impugned levy imposed on the ‘service’ aspect of the transaction is in violation of the principle of ‘composite supply’ enshrined under Section 2(30) read with Section 8 of the CGST Act. Since the Indian importer is liable to pay IGST on the ‘composite supply’, comprising of supply of goods and supply of services of transportation, insurance, etc. in a CIF contract, a separate levy on the Indian importer for the ‘supply of services’ by the shipping line would be in violation of Section 8 of the CGST Act.</p> <p>The Government at first pleaded to look beyond the agreement with the foreign exporter and treated the transportation and import transaction as one. Now, treating the two legs of the transaction as independent when it seeks to tide over the statutory provisions governing</p>

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	Party	Arguments	The Court observed
			composite supply. For the reasons stated above, the appeals are accordingly dismissed.

## The powers of the GST Council Clarified:

The Hon'ble Apex court held that

The GST council recommendations are not binding on the Union and States and only have a persuasive value to foster cooperative federalism and harmony between the constituent units

The 'recommendations' of the GST Council are the product of a collaborative dialogue involving the Union and States. They are recommendatory in nature. To regard them as binding edicts would disrupt fiscal federalism,

where both the Union and the States are conferred equal power to legislate on GST. It is not imperative that one of the federal units must always possess a higher share in the power for the federal units to make decisions. Indian federalism is a dialogue between cooperative and uncooperative federalism where the federal units are at liberty to use different means of persuasion ranging from collaboration to contestation. The Government while exercising its rule-making power under the provisions of the CGST Act and IGST Act is bound by the recommendations of the GST Council. **However, that does not mean that all the recommendations of the GST Council made by virtue of the power Article 279A (4) are binding on the legislature's power to enact primary legislations.**

## The suggested course of action:

Hon'ble SC gives big sigh of relief to the Indian importers. It would be interesting to see how the Government will react. The suggested course of action is tabulated below:



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S. No	Status	The suggested course of action
1	Not paid GST under RCM on Ocean freight	Not liable to paid & pending demands, if any can be contested
2	GST Paid under RCM, availed it as ITC & utilized	No action required
3	GST Paid under RCM, availed it as ITC but could not be utilized	Reverse unutilized ITC & can claim refund
4	Future period	<ul style="list-style-type: none"><li>➤ Continue to remit if taxpayer can utilize the ITC. This is to shield against the possible amendments to nullify the decision.</li><li>➤ If could not be utilized, can stop paying it or also pay under protest</li></ul>

(For any feedback /queries mail to [venkataprasad@hiregange.com](mailto:venkataprasad@hiregange.com)/[bhaveshmittal@hiregange.com](mailto:bhaveshmittal@hiregange.com))



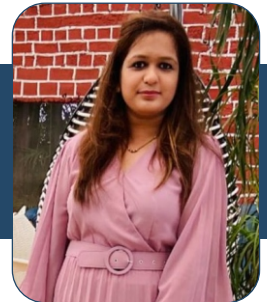
CA Venkata Prasad



CA Bhavesh Mittal

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CA URVASHI VIKAS MITTAL



## SPECIFIED FINANCIAL TRANSACTIONS

### Section 285BA

**Section 285BA of the Income-tax Act, 1961 requires the following persons to furnish a statement of specified financial transaction or any reportable account which is being registered, recorded or maintained by them:**

- An assessee.
- The specified person who belongs to an office of Government.
- A local authority or other public body or association.
- The Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908.
- The registering authority, who is authorized to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988.
- The Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898.
- The Collector referred to in clause (g) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.
- The recognized stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956.
- An officer of the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act.
- A depository referred to in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996.
- A Prescribed reporting financial institution.

### Specified Financial Transactions

Specified financial transactions are transactions of the following kinds:

- Purchase, sale or exchange of goods, property, right or interest in a property.
- Delivering of services.
- Works contract.
- Investment made or expenditure incurred.
- Taking or accepting any loan or deposit.

It is of great importance to note that the Board may prescribe different values for different transactions in respect of different persons by considering the nature of such transactions. The value or the aggregate value of the transactions in the particular financial year shouldn't be less than a sum of Rs 50,000.

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## Due Date for Filing Form 61A or STF

Statement of Financial Transactions needs to be furnished within 31st May of next year for every previous financial year where the transaction occurs.

A penalty under Section 271FA of Rs. 500 per day shall be levied for the initial failure to file within the due date.

The authorities would issue a notice to such an assessee, demanding the assessee to submit the form within 30 days from the issuance of such notice.

In case such assessee continues to be the assessee in default by not answering to such notice, a penalty would be levied on the assessee that would amount to Rs. 1000 per day of such default. This penalty would be calculated from the expiry of the period as stipulated in such notice.

## Filing Defective or Inaccurate Form 61A

If the concerned authority finds that the statement furnished by the respective person is defective, he/she may notify the same to the person and demand the necessary rectifications to be made within a period of thirty days of the date of issue of notice, failing which the statement would be declared void.

## Filing Nil Statement

There's a dilemma many have that if an entity that hasn't entered into any of Specified financial transactions in the financial year but falls into the reporting class of person as provided under the provisions of the Income Tax Act – Do they need to file a NIL Form 61A/Statement of financial transactions.

There have been few circulars issued by the CBDT (Central Board of Direct Taxation) on the same which somewhat hasn't solved the dilemma, however, experts in the field recommend that Nil Statement is not mandatory but to stay on the safer side an assessee could consider filing the STF (Statement of Financial Transactions) or Form 61A

## Different Parts of Form 61A

Form 61A has two parts:

- Part A which contains statement level information is common for all transaction types.
- The report level information has to be reported in one of the following parts (depending on the transaction type):
  - Part B (Reporting of aggregated financial transactions by the person)
  - Part C (Reporting of bank accounts)
  - Part D (Reporting of immovable property transactions)



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## DUE DATES OF JUNE

- **Jun 7, 2022** Income Tax Challan No. ITNS-281 Payment of TDS/TCS of May.
- **Jun 10, 2022** GST GSTR-7 Monthly Return by Tax Deductors for May.
- **Jun 10, 2022** GST GSTR-8 Monthly Return by e-commerce operators for May.
- **Jun 11, 2022** GST GSTR-1 Monthly Return of Outward Supplies for May.
- **Jun 13, 2022** GST GSTR-6 Monthly Return of Input Service Distributor for May.
- **Jun 13, 2022** GST IFF Optional Upload of B2B invoices, Dr/Cr notes under QRMP scheme for May.
- **Jun 14, 2022** Income Tax Form 16B Issue of TDS Certificate for tax deducted u/s 194-IA on payment made for purchase of property in April.
- **Jun 14, 2022** Income Tax Form 16D Issue of TDS Certificate for tax deducted u/s 194M on certain payments by individual/HUF in April.
- **Jun 15, 2022** Provident Fund Electronic Challan cum Return (ECR) E-Payment of PF for May.
- **Jun 15, 2022** ESI ESI Challan ESI payment for May.
- **Jun 15, 2022** Income Tax Challan No.280 Deposit of First Instalment of Advance Tax (15%) by all assesses (other than 44AD & 44ADA Cases)
- **Jun 15, 2022** Income Tax Form 16 & 12BA Issue of Salary TDS Certificates for FY 21-22.
- **Jun 15, 2022** Income Tax Form 16A Issue of TDS Certificates for Q4 of FY 21-22
- **Jun 15, 2022** Income Tax Form 24G Details of Deposit of TDS/TCS by book entry by an office of the Government for May.
- **Jun 20, 2022** GST GSTR-3B Summary Return cum Payment of Tax for May by Monthly filers. (other than QRMP)

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- **Jun 20, 2022** GST GSTR-5 & 5A Monthly Return by Non-resident taxable person for May.
- **Jun 25, 2022** GST PMT-06 Deposit of GST under QRMP scheme for May.
- **Jun 28, 2022** GST GSTR-11 Return by persons with Unique Identification Number (UIN) like embassies etc to get refund under GST for goods and services purchased by them for May.
- **Jun 30, 2022** Companies Act DPT 3 Annual Return of Deposits by Companies other than NBFCs for FY 21-22.
- **Jun 30, 2022** Companies Act MBP-1 Director's Disclosure of Interest and Non-disqualification by Companies.
- **Jun 30, 2022** Companies Act — Holding of Board Meeting for Q1 by Companies.
- **Jun 30, 2022** Equalisation Levy Form 1 Efiling of Annual Statement of Equalisation Levy for 2021-22.
- **Jun 30, 2022** Foreign Trade Policy — Online annual updation of IEC details. If no changes, confirm same online. Else IEC will be deactivated.
- **Jun 30, 2022** Income Tax — Linking of PAN with Aadhaar with late fee of Rs. 500.
- **Jun 30, 2022** Income Tax 26QAA Quarterly return of non-deduction at source by banks from interest on time deposit for January-March quarter.
- **Jun 30, 2022** Income Tax Form 26QB Deposit of TDS u/s 194-IA on payment made for purchase of property in May.
- **Jun 30, 2022** Income Tax Form 26QD Deposit of TDS on certain payments made by individual/HUF u/s 194M in May.
- **Jun 30, 2022** LLP Event Based Form LLP event based e-forms due from 25.2.22 to 31.5.22, without additional fee.
- **Jun 30, 2022** LLP LLP Form – 11 Annual Return of LLP for FY 21-22.
- **Jun 30, 2022** GST GSTR-4 Yearly Details of Invoice wise Outward supplies

## BOX CRICKET LEAGUE



सिटी भास्कर रायपुर 07-06-2022

### सीए इंस्टीट्यूट ने पहली बार रखा बॉक्स क्रिकेट टूर्नामेंट, राहुल चौधरी एंड टीम ने जीता खिताब

सिटी रिपोर्टर | द इंस्टीट्यूट ऑफ चार्टर्ड अकाउंटेंट्स ऑफ इंडिया की रायपुर शाखा की ओर से पहली बार बॉक्स क्रिकेट टूर्नामेंट रखा गया। दो दिवसीय टूर्नामेंट डूमरतराई रायपुर में खेला गया। इसमें चार्टर्ड अकाउंटेंट्स फर्म की 12 टीमों ने हिस्सा लिया। हर टीम में 10 खिलाड़ी शामिल रहे। एक महिला और एक सीनियर खिलाड़ी को अनिवार्य रूप से रखा गया।

फाइनल मैच राहुल चौधरी एंड एसोसिएट्स और मयूर जैन एंड एसोसिएट्स के बीच खेला गया। राहुल चौधरी एंड एसोसिएट्स की टीम विनर रही। टीम के कप्तान सीए अश्विन रंगलानी ने विजेता का



खिताब लिया। सीए रितेश काशवानी को मैन ऑफ द मैच चुना गया। इस दौरान शाखा के अध्यक्ष सीए अमिताभ दुबे, सचिव धवल

शाह, उपाध्यक्ष सीए रवि ग्वालानी, रवि जैन, किशोर बरंडिया, गोपाल अग्रवाल, विकास, रश्मि भंगला व अन्य मौजूद रहे।



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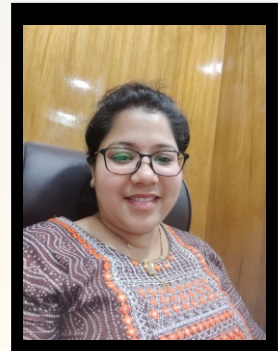
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