



NEWSLETTER

Raipur Branch Of CIRC Of ICAI

The Institute of Chartered Accountants Of India
(Set up by the act of Parliament)

**"A New Year,
A New Start
And
Way To Go"**



HAPPY FINANCIAL YEAR 2019-20

EDITION : APRIL | 2019

www.icairaipur.org



Dear Colleagues,

When I speak of passion, I mean the powerful feeling of enthusiasm we all have inside of us. When we are enthusiastic and proud of the work we do, the better equipped we'll be to overcome the many obstacles that will surely arise in our professional life. Also, the more enthusiasm we have, the more inclined we are to work harder at improving ourselves.

Ensuring we are passionate about our work will provide us with both, a meaningful career as well as excellent financial opportunities. It is passion which differentiates between the ordinary and the extra ordinary. One of the most successful companies in the world today is Apple whose ex-CEO, the late Steve Jobs, believed in the power of passion, and once said, **"The only way to do great work is to love what you do"** and claimed that the passion he had for his work made all the difference.

This makes me strongly believe that if all CA's utilise their passion by sharing their ideas, brainstorming, seizing on thoughts and theories and conceiving ways to put them into practice, we will definitely rise above and beyond the ordinary. This makes me strongly believe that if all CA's utilise their passion by sharing their ideas, brainstorming, seizing on thoughts and theories and conceiving ways to put them into practice, we will definitely rise above and beyond the ordinary.

I am reminded of the fact that the Indian general election is a phenomenal political event showcasing the largest democracy in the world. Approximately 900 million people — more than the entire population of Europe — will be eligible to vote in the world's biggest democratic exercise. Around 930,000 polling stations will be set up for the month-long election using electronic voting machines. However, all these preparations at the cost of hundreds of crores will be useless if people do not exercise their right to vote, especially the middle class. In fact, India needs people to vote in order to elect a stable government, which in turn will provide stability, push forward reforms and put India back on the track to economic growth. In the words of John F. Kennedy, "The ignorance of one voter in a democracy impairs the security of all".

Thus, it is clear that India's democracy is our responsibility. For now, I exhort every Member and Student to be responsible citizens and conscientiously vote in the elections. In the words of Goethe, "Knowing is not enough; we must apply. Willing is not enough; we must do"

With best regards,

CA. CHANDRA PRAKASH BHATIA

Chairman, Raipur Branch of CIRC of ICAI



Q. Whether a Chartered Accountant will be deemed to be guilty of professional misconduct if he accepts his appointment as an auditor immediately after intimating his appointment over the phone to the previous auditor?

A. Yes, the member would be held guilty of professional misconduct for the following reasons: (a) That he had failed to

communicate with the retiring auditor in writing; and (b) That he did not wait for a reasonable length of time for a reply to be received from him.

Q. Whether a Chartered Accountant or a firm of Chartered Accountants can charge or offer to charge professional fees based on a percentage of turnovers?

A. No, in terms of Clause (10) of Part I of First Schedule to the Chartered Accountants Act, 1949, it is not permitted to a Chartered Accountant or a firm of Chartered Accountant to charge fees on a percentage of turnover, except in the circumstances provided under Regulation 192 of the CA Regulations, 1988. As per Regulation 192. Restriction on fees

No Chartered Accountant in practice shall charge or offer to charge, accept or offer to accept, in respect of any professional work, fees which are based on a percentage of profits, or which are contingent upon the findings, or results of such work:

Provided that:

- (a) in the case of a receiver or a liquidator, the fees may be based on a percentage of the realization or disbursement of the assets;
- (b) in the case of an auditor or a co-operative society, the fees may be based on a percentage of the paid up capital or the working capital or the gross or net income or profits; and
- (c) in the case of a valuer for the purposes of direct taxes and duties, the fees may be based on a percentage of the value of the property valued."

Q. Can a Chartered Accountant working in a CA firm hold COP?

A. Yes, a Chartered Accountant working in a C.A. firm can hold COP. However, w.e.f.1.4.2005, he is not entitled to do any attest function.

Q. Whether a Chartered Accountant in practice is entitled to accept teaching assignment?

A. Yes, a Chartered Accountant in practice is allowed to accept teaching assignment in university, affiliated colleges, educational institution, coaching organization, private tutorship, provided the direct teaching hours devoted to such activities taken together do not exceed 25 hours a week with effect from 1.4.2005.

6% PRESUMPTIVE SCHEME UNDER GST



The Central Board of Indirect Taxes (CBIC) has notified a New Scheme in GST vide Notification No. 2/2019-Central Tax (Rate), dated March 7, 2019 in which a tax payer has been allowed to pay GST on a presumptive basis at the rate of 6% (3% CGST and 3% SGST/UTGST). It is a new scheme (herein after referred to as 'Presumptive Scheme'). The primary reason for not considering this as a composition scheme is that the relevant notification does not refer to Section 10 of the CGST Act, 2017 which is the enabling provision for the composition levy.

This new scheme has been introduced by the CBIC by exercising the powers granted to it under Section 9 (Levy and Collection),

Section 11 (Power to grant exemption from tax) and Section 16 (Eligibility and condition for taking input tax credit) of the CGST Act, 2017. The reference to Section 10 of the said Act is completely missing in the notification.

Consequently, it has been inferred that this 'Presumptive Scheme' is similar to the existing composition scheme but is not a composition scheme. Had it been deemed as composition scheme, the relaxation, allowed to the composite supplier would have been same in this new scheme.

However, the notification does not offer similar relaxation to the suppliers opting for this scheme.

6% PRESUMPTIVE SCHEME UNDER GST

The salient features of this scheme are enumerated below.

1.EFFECTIVE DATE OF APPLICABILITY:- The benefit of this scheme can be taken by eligible registered persons on or after April 1, 2019 only in respect of Intra-State supplies of goods or services or both.

2.ELIGIBILITY:- A registered person can claim the benefit of this presumptive scheme provided it complies with the following conditions:

- His turnover in preceding financial year does not exceed Rs. 50 lakhs. Thus, the suppliers intending to opt for this scheme in the Financial Year 2019-20 should not have the turnover of more than Rs. 50 lakhs during the Financial Year 2018-19. That turnover limit of Rs. 50 lakhs shall be calculated on PAN basis.
- He is not eligible to pay tax under composition scheme governed by Section 10 of the CGST Act.
- He is not engaged in the business of making any supplies on which GST is not leviable under this Act (i.e., petro products or alcoholic liquor).
- He is not engaged in the business of supply of ice-cream and other edible ice, pan masala, tobacco or its substitutes.
- He is not making any Inter-State outward supplies.
- He is neither a casual taxable person nor a non-resident taxable person.
- He is not making any supply through e-commerce operator (ECO) on which TCS applies.

3.RATE OF TAX:- If registered person is eligible to take the benefit of this scheme, he shall pay GST at the rate of 6% (3% CGST and 3% SGST/UTGST) on his total supply up to Rs. 50 lakhs. If turnover from goods or services or both (mixed supplies) during the current year exceeds this limit, he shall continue to be eligible to avail of this scheme in that year. However, the benefit of concessional tax shall be available on the turnover of first Rs. 50 lakhs and the turnover which exceeds this limit shall be subject to GST as per the applicable rates.

The supplier opting for this scheme shall pay GST at the rate of 6% on all supplies made by him, irrespective of the fact whether such supply is exempt from tax or has different tax rates. For payment of tax, he is not allowed to claim the credit of taxes paid for inputs, input services or capital goods so procured by him. Meaning thereby he shall be paying GST at the rate of 6% from his pocket. Where supplier has taken the GST registration for the first time, the presumptive tax at the rate of 6% shall be payable on the supplies made by him only after the date of registration.

6% PRESUMPTIVE SCHEME UNDER GST

Supply consists of	Tax under Composition Scheme	Tax under Presumptive Scheme
Goods	1%	-
Restaurant or Catering Services (other than from serving liquor)	5%	-
Goods and Services (deemed as composite Supply)	1% Provided turnover of services does not exceed 10% of total turnover in preceding year or Rs. 5 lakhs, whichever is higher	-
Goods or Services or both (deemed as mixed supplies)	-	6%

4.HOW TO CALCULATE TURNOVER? :- The turnover of immediately preceding year shall be considered for determining the eligibility of the supplier to opt for this scheme. That turnover limit of Rs. 50 lakhs shall be aggregate of taxable supplies, exempt supplies, nil or zero rated supplies, but shall exclude the interest earned from deposits made.



The notification has inserted an Explanation to clarify that the supplies made even before the date of the registration shall be considered while calculating the turnover limit. In other words, if supplier takes the GST registration for the first time, the value of total supplies made during the relevant period shall be considered for determining his eligibility to opt for this scheme.

5.COMPLIANCES INVOLVED :- The supplier opting for this scheme shall not collect any tax from the buyer in respect of goods or services supplied by him. On every bill of supply, he has to mention 'Taxable person paying tax in terms of Notification no 2/2019-Central Tax (Rate), not eligible to collect tax on supplies'.

A supplier eligible to pay tax on presumptive basis under this scheme shall be liable to pay tax at applicable rates in respect of all inward supplies attracting reverse charge under Section 9(3) or Section 9(4) of the CGST Act.

6.CASE STUDIES :-

Example 1:- On April 1, 2019 Mr. R starts rendering architectural services from Delhi and he expects that his gross receipts for the Financial Year 2019-20 shall be up to Rs. 20 lakhs. With effect from April 1, 2019, a supplier of services is required to take the GST registration if his receipts exceed or are likely to exceed Rs. 20 lakhs¹. As he is not required to take the registration and if he doesn't opt for voluntary registration, he shall not be liable to pay any GST in respect of such architectural services.

Example 2:- if in above example, he expects that his receipts shall be more than Rs. 20 lakhs but less than Rs. 50 lakhs, then he has to get the GST registration. He now has an option to pay tax on presumptive basis under this scheme at the rate of 6%, in respect of services rendered by him after taking the GST registration or pay tax under normal provision as per applicable tax rate. When he chooses to pay tax as per applicable tax rates, he can issue tax invoice to pass on the credit of the taxes collected by him on such services.

Example 3:- if in above example, he expects that his gross receipt during the year shall exceed Rs. 50 lakhs then he has following two options:

- a. To get registered from the date of commencement of profession and pay GST under normal provisions; or
- b. Take the registration once his gross receipt exceeds Rs. 20 lakhs and pay GST on presumptive basis at the rate of 6% on next supplies of up to Rs. 50 and pay GST at applicable rates for the gross receipts exceeding Rs. 70 lakhs.

In the subsequent year, he shall not be liable to opt for this scheme, as his gross receipts in the preceding year have exceeded the threshold limit of Rs. 50 lakhs.

6% PRESUMPTIVE SCHEME UNDER GST

CONCLUSION :-

This notification restricts a supplier from opting for this scheme if he makes any inter-State supply of services. If a supplier never intended to make any inter-State supply but eventually ends up in rendering some services in different States, then how such situation should be dealt with?

The notification does not specify anything in this regard whether the scheme shall be deemed to have been withdrawn retrospectively or prospectively. If it is deemed to have been withdrawn retrospectively, whether the differential tax amount shall be payable with or without interest is also not clear.

Further, it is also not specifically mentioned whether the unutilized balance in e-credit ledger shall lapse or it shall continue to be available which can be used on opting out of this scheme. This scheme has left some unanswered queries which the supplier or service provider may raise and it is advisable that CBIC should immediately issue clarifications in this regard. Though this scheme looks to be very attractive, yet the conditions attached with it are very rigid. Pointers to reflect how this scheme is different from existing composition scheme are enumerated in the table below.

<i>Particulars</i>	<i>Composition Scheme</i>	<i>Presumptive Scheme</i>
Governing Provision	Section 10	Section 9
Threshold on turnover or gross receipt during the relevant year	Rs. 1.50 crores	Rs. 50. lakhs
Which supplies to be considered in turnover or receipt	Only taxable supplies	Both taxable and exempt supplies
What to mention in bill of supply	'Composition Taxable Person - Not eligible to collect tax on Supplies'	'Taxable Person paying tax as per Notification No-02/2019-Central Tax (Rate), not eligible to collect tax on supplies'
How to avail?	Taxable person has to opt for this scheme by filing a form CMP-02	It can be availed of automatically with effect from April 1, 2019
Applicability of Compensation Cess	No	Not yet stated
GST Return to be filled	GSTR 4	Not yet stated

Agricultural Income in India: Questions & Answers

Agricultural income in India is categorized as a source of income and includes:

- income from sources that comprise agricultural land,
- income from buildings on or related to an agricultural land and commercial produce from an agricultural land.
- Agricultural income is defined under section 2(1A) of the Income Tax Act and such income earned by a taxpayer in India is exempt under Section 10(1) of the same. Here we list 5 issues related to agricultural income and their answers, along with the relevant case laws.

Q: Whether income derived from sale of forest produce of spontaneous growth is income from agriculture?

A. Short answer: No

Case: CIT vs. Raja Benoy Kumar Sahas Roy | Supreme Court | Cited 190+ times

Reasoning: The Supreme Court in this case discussed the question of what amounted to carrying out of agriculture. After discussing numerous precedents and authorities, the court observed that agriculture involved certain basic operations which were needed to be carried out on the land for such activity to be categorized as agriculture. Another part involved taking care of produce from the land. While the two activities conjunctively would no doubt amount to agriculture, just the performance of the latter part would not render the activity as agricultural.

“This basic conception is the essential sine qua non of any operation performed on the land constituting agricultural operation. If the basic operations are there, the rest of the operations found themselves upon the same. But if these basic operations are wanting the subsequent operations do not acquire the characteristic of agricultural operations. All these operations no doubt require the expenditure of human labour and skill, but the human labour and skill spent in the performance of the basic operations only can be said to have been spent upon the land. The human labour and skill spent in the performance of subsequent operations cannot be said to have been spent on the land itself, though it may have the effect of preserving, fostering and regenerating the products of the land.”

Q: Whether dividend received as a shareholder of a tea company can be classified as income from agriculture?

A. Short answer: No.

Case: Mrs. Bacha F. Guzdar vs. CIT | Supreme Court | Cited 118+ times

Reasoning: The court ruled that for income to be called as income from agriculture it had to be revenue derived from land. The court made a pertinent distinction by observing that the right of the shareholder was limited simply to a share in the profits of the company and not ownership of the property of the company. Hence, dividend income, even if it arose out of agriculture, would simply be a share of the profits for the shareholder and hence could not be classified as agricultural income.

“Agricultural income as defined in the Act is obviously intended to refer to the revenue received by direct association with the land which is used for agricultural purposes and not by indirectly extending it to cases where that revenue or part thereof changes hands either by way of distribution of dividends or otherwise. In fact and truth dividend is derived from the investment made in the shares of the company and the foundation of it rests on the contractual relations between the company and the shareholder. Dividend is not derived by a shareholder by his direct relationship with the land. There can be no doubt that the initial source which has produced the revenue is land used for agricultural purposes but to give to the words 'revenue derived from land' the unrestricted meaning, apart from its direct association or relation with the land, would be quite unwarranted.”

Q: Whether interest on money borrowed for purchase of a plantation is allowable as a deduction from agricultural income?

A. Short Answer: Yes

Case: State of Madras vs. G.J. Coelho | Supreme Court | Cited 82+ times

Reasoning: The court proceeded on a two-pronged approach to determine the outcome in this case. Firstly, it held that the expenditure incurred by payment of interest was a revenue and not capital in nature and hence would be liable for deduction. Secondly, it would not amount to personal expenditure as even though the obligation to pay was a personal obligation, it was wholly related to the business of the assessee.

“The payment of interest on the amount borrowed for the purchase of the plantation when the whole transaction of purchase and the working of the plantation is viewed as an integrated whole, is so closely related to the plantation that the expenditure can be said to be laid out or expended wholly and exclusively for the purpose of the plantation...”

No farmer would treat interest paid on capital borrowed for the purchase of the plantation as anything but expenses, and as long as the deductions he claims, apart from any statutory prohibition, can be fairly said to lead to the determination of the true net agricultural income, these must be allowed under the Act. In principle, we do not see any distinction between interest paid on capital borrowed for the acquisition of a plantation and that between interest paid on capital borrowed for the purpose of running an existing plantation; both are for the purposes of the plantation.”

Q: Whether compensation received for loss of agricultural income can be classified as agricultural income?

A. Short answer: No

Case: Malabar Industrial Company Ltd. Vs. CIT | Supreme Court

Reasoning: The assessee in this case sold a plantation for which it was to receive regularly scheduled payment. Since the buyer failed to adhere to the schedule, it paid a certain sum of money, allegedly as compensation for loss of agricultural income. The court held that such a statement could not be accepted simply on the basis of a claim made by the assessee. Moreover, the assessee had already stopped agricultural operations on the land and hence the amount could not reasonably be said to be compensation for loss of agricultural income.

“In the instant case, the Commissioner noted that the Income-tax Officer passed the order of nil assessment without application of mind. Indeed, the High Court recorded the finding that the Income-tax Officer failed to apply his mind to the case in all perspective and the order passed by him was erroneous. It appears that the resolution passed by the board of the appellant- company was not placed before the Assessing Officer. Thus, there was no material to support the claim of the appellant that the said amount represented compensation for loss of agricultural income. He accepted the entry in the statement of the account filed by the appellant in the absence of any supporting material and without making any inquiry. On these facts the conclusion that the order of the Income-tax Officer was erroneous is irresistible.”

GST Updates - Non Filing of GST returns may restrict E-way Bill Generation (w.e.f 21st June,2019)

(As per Notification issued by CBIC on 23rd April 2019)

Post implementation of GST, the major challenge of Government has been to increase the number of return filings and to maintain a steady growth in GST revenue. With the return filing front of the GSTN Portal stabilizing, now the Government has shifted its focus to revenue growth by arresting tax evasion.

Government has decided to introduce the provision w.e.f. 21 June 2019 as amended by GST (Amendment) Rules, 2018 - notified vide Notification No 74/2018 - Central tax dated 31 December 2018 to restrict furnishing information in Part A of Form GST EWB - 01 for certain taxpayers which are as under -

- For Composition Dealer (paying tax U/s 10 of CGST Act, 2017) - Non furnishing the return for two consecutive tax periods.
- Being person other than Composition Dealer - Returns for consecutive period of two months.

The amended provision shall come into force from 21 June 2019.

In cases of non-filing of GST Returns for prescribed period as enumerated above, the E-Way bill may not be generated either by Consignor, Consignee, Transporter, e-commerce operator or a courier agency.

It is an interesting development since this may not only impact the business directly but also shall impact the businesses where the defaulting party is its vendor or supplier. The restriction shall be placed at GSTIN level of the defaulting party and even when the E-Way Bill is requested by the buyer or courier agency same may not get generated. It is interesting to see how the above system is configured for the regular taxpayers who have opted for quarterly filing of returns (GSTR 1 - Quarterly). Going forward, It shall become very important for the business to keep track of filing status of their vendors along with their own filing.

New Clauses 31(ba) to (bd) inserted in Form 3CD

(As per IT(Eighth Amdt.) Rules, 2018)

Reporting to be done is as follows:

31 (ba) Particulars of each receipt of Two lakhs or more, in aggregate from

- A person in a day or
- In respect of single transaction or
- In respect of transactions relating to one event or occasion from a person,

During the previous year, where such receipt is otherwise than by

- Cheque or
- Bank draft or
- Use of electronic clearing system through a bank account.

Details to be reported are as given follows:

- Name address and PAN of the payer
- Nature of transaction
- Amount of receipt
- Date of receipt

31 (bb) Particulars of each receipt of Two lakhs or more, in aggregate from

- A person in a day or
- In respect of single transaction or
- In respect of transactions relating to one event or occasion from a person

Received by a cheque or bank draft **not being**

- An account payee cheque or
- An account payee bank draft.

During the previous year.

Details to be reported are as given follows:

- Name address and PAN of the payer
- Amount of receipt

31 (bc) Particulars of each payment made of Two lakhs or more, in aggregate TO

- A person in a day or
- In respect of single transaction or
- In respect of transactions relating to one event or occasion to a person

Otherwise than by a

- Cheque or
 - Bank draft or
 - Use of electronic clearing system through a bank account,
- During the previous year

Details to be reported are as given follows:

- Name address and PAN of the payee
- Nature of transaction
- Amount of receipt
- Date of receipt

31 (bd) Particulars of each payment made of Two lakhs or more, in aggregate TO

- A person in a day or
- In respect of single transaction or
- In respect of transactions relating to one event or occasion to a person

Made by a cheque or bank draft not being

- An account payee cheque or
 - An account payee bank draft or
- During the previous year

Details to be reported are as given follows:

- Name address and PAN of the payee
- Amount of receipt

IMPORTANT NOTES:- Particulars in (ba), (bb), (bc) and (bd) need not to given in case of receipt BY or PAYMENT to:

- A Government Company,
- A banking Company,
- A post office savings bank,
- A cooperative bank
- In case of transaction referred in section 269SS i.e. transaction of loan or deposit.
- In case of persons referred in Notification No. S.O. 2065(E) dated 3 July 2017

GLIMPSE OF EVENTS | APRIL 2019 |



Raipur Branch of CIRC of ICAI organized a Lecture Meeting at ICAI Bhawan, Moudapara, Raipur on 1st April, 2019. The Lecture meeting was organized to discuss about "INC 22 and SA 701". The speakers were one of the renowned members CA CS Aриhant Jain and CA Alok Agrawal. Detailed discussions were made by the speakers and the session was interactive and informative.



Raipur Branch of CIRC of ICAI along with ITBA, Raipur organized a Workshop on GST at Hotel Grand Neelam, VIP Road, Raipur on 20th April, 2019. The work shop was organized for updating the members about "Amendments In GST Under Real Estate Sector", "GST Audits" and "Form 9 and 9C". Detailed discussions were made by the speakers and the session was interactive and informative and will definitely help us in upcoming GST audits.



Raipur Branch of CIRC of ICAI along with Income Tax Bar Association, Raipur organized a Lecture meet on "Income Tax" at ICAI Bhawan, Mahavir Gaushala Complex, Modhapara, Raipur on 27th April, 2019. The speakers were one of the most renowned members CA Shakshi Gopal Agrawal and Adv. Rajeshwar Rao.

Detailed discussions were made by the speakers and the session was interactive, interesting and informative.

UPCOMING EVENTS

EVENT	DATE
Panel Discussion On Industrial Policy (2 CPE Hours)	4th May, 2019
Two Days Mega Event Hosted By: Bilaspur Branch of ICAI Jointly With Raipur Branch of ICAI (12 CPE Hours)	1st & 2nd June, 2019
Certificate Course on Forensic Audit And Fraud Detection	From 8th June, 2019- 23rd June, 2019
Fresh Batch of Information System Audit	From 3rd August, 2019- 1st September, 2019

Interested Members are requested to register themselves for the courses as early as possible and take part in the upcoming events with great enthusiasm.

May 2019						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

7 MAY 2019

- Due date for deposit of Tax deducted by an office of the government for the month of April, 2019. However, all sum deducted by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan.

11 MAY 2019

- Due date for filing GSTR-1 for the month of march in case of turnover exceeding 1.5 crores or opted for filing monthly return.

15 MAY 2019

- Due date for issue of TDS certificate for tax deducted under section 194-IA and under section 194-IB in the month of March, 2019
- Quarterly statement of TCS deposited for the quarter ending March 31, 2019

TAX CALENDER- FOR MAY

- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of April, 2019 has been paid without the production of a challan

20 MAY 2019

- Due date for filing GSTR-3B for April,2019.

30 MAY 2019

- Submission of a statement (in Form No. 49C) by non-resident having a liaison office in India for the financial year 2018-19
- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA and under section 194-IB in the month of April, 2019

31 MAY 2019

- Quarterly statement of TDS deposited for the quarter ending March 31, 2019
- Return of tax deduction from contributions paid by the trustees of an approved superannuation fund
- Due date for furnishing of statement of financial transaction (in Form No. 61A) as required to be furnished under sub-section (1) of section 285BA of the Act respect of a financial year 2018-19.
- Due date for e-filing of annual statement of reportable accounts as required to be furnished under section 285BA(1)(k) (in Form No. 61B) for calendar year 2018 by reporting financial institutions.
- Application for allotment of PAN in case of non-individual resident person, which enters into a financial transaction of Rs. 2,50,000 or more during FY 2018-19 and hasn't been allotted any PAN.

Editor of edition April 2019 : CA Deepak Menghani