

SURAT BRANCH OF WIRC OF ICAI

E-NEWSLETTER

JULY 2020





SURAT BRANCH OF WIRC OF

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

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CHAIRMAN's MESSAGE

Dear Professional Colleagues,

Greetings of the season, month of July has different significance for chartered accountants profession. This year our esteemed institute have become 72 years young, celebrating the cherishing years of our true professionalism and contribution in nation building. The Institute of Chartered Accountants of India has aged like an old wine, increasing its presence and worth with passing years, developing and adopting new avenues of working, ever updating itself with changing economy and adopting new technologies and thereby increasing its global acceptance and more transparent. In light of it Surat branch of WIRC of ICAI has also celebrated the Chartered Accountants Day at its branch premises with proper precaution considering the ongoing pandemic situation.



Another significant event that I would like to highlight is Prime Minister Narendra Modi's mention of Tax Payer for their support in betterment of nation and its development and also supporting Pradhan Mantri Garib Anna Yojna in his recent National address. This brings moment of pride for every tax payer and also to our fraternity that worked day and night to make everyone Tax laws compliant. Considering the ongoing situation government have come out with various policies that would help in reviving the economy and had allowed businesses to reopen and operate at controlled workforces, along with it our members too have to start their working. I would urge our members to take proper precautions and try to improve their immunity.

In this edition of July 2020, new updates have been incorporated and other topics are also covered to cater updates to our members. Further I would like to emphasis maximum use of technology for working and to keep minimum physical interaction. The ICAI have integrated various courses for members and other study materials for professional upgradation and I would recommend our member to take benefit of the same. Last but not the least spread the word.

#Be Vocal for Local.

CA. Ishwar Jivani



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EDITORIAL MESSAGE:-

Dear Professional Colleague,

Greetings on the occasion of our 72nd CA Day. We feel proud to be part of such noble profession. Since we have now entered in to Second Unlock period, offices and place of businesses being opened phase wise, it's time for us to observe proper guidelines and maintain immunity levels to stay healthy and protect our professional as well as personal life.

We are grateful to the overwhelming response given by professional brethren for their valuable contribution and expect to receive the same in coming future also. For the coming month, we would lay more emphasis on articles covering the topics such as, how to unlock the new opportunities and recent changes in the economic policies and it's after effects, various amendments in Direct as well as Indirect taxes, etc. Further, there are many amendments introduced in different acts, which can be the topic for expressing your writing skills. You may write to us at surat@icai.org.



Stay healthy, wealthy and safe....

CA IP Pradeep Kabra

Relief To Cash Crunched Tax Payer During The period February To August 2020

1) In light of recent Covid- 19 outbreak , government has issued many notifications and given the relief for late fees, interest etc to the various classes of tax payers .

2) In the view of the Author, a very big relief has been given by the government vide notification 30/2020 C.T. dated 03/04/2020 to tax payer , by inserting proviso under sub -rule (4) of Rule 36 of CGST Rules 2017 .New inserted proviso as:-

“Provided that the said condition shall apply cumulatively for the period February ,March, April ,June ,July and August 2020 and the return in Form GSTR -3B for the tax period September 2020 shall be furnished with the cumulative adjustment of input tax credit for the said months in accordance with the condition above.”



3) By Rule 36 (4) of CGST Rules 2017 government has imposed restriction on availment of ITC in case where invoices / Debit Notes not furnished in GSTR -1 by the corresponding suppliers. Rule 36(4) stipulates that the input tax credit to be availed by the registered person in respect of the invoices/ Debit Note, details of which have not been uploaded by the supplier under section 37(1) i.e. GSTR-1 , shall not exceed 10% of the eligible credit available in respect of invoices/ Debit Notes , the details of which have been uploaded by the suppliers in Form GSTR 1 and corresponding Invoices and Debit Note reflected/ auto populated in Form GSTR-2A.

4) Since Form GSTR 2A is a dynamic documents therefore amount of ITC available in respect of documents not uploaded by the suppliers shall be seen on the due date of filling of Form GSTR 1 of the suppliers i.e. 11th day of every month .The new rule 36(4) has been inserted vide notification no.49/2019 C.T. dated 09/10/2019.

After this rule even though the registered person has valid invoice in position, but since that invoice was not reflected / auto populated in Form GSTR -2A , So full ITC was not eligible to get set- off against the output tax liability of that month . Therefore registered person liable to pay differential amount of output tax liability **from cash ledger**, though valid invoices are available with him. Due to this reason tax payer started to fell **cash crunched**.



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- 5) During the period of problem due to Covid – 19 outbreak the government has given the relaxation for the period of February 2020 to August 2020, by way of allowing full ITC for the invoices / Debit Notes , which is not shown in Form GSTR- 2A .But this relaxation is with condition that cumulative adjustment of ITC as per the provision of Rule 36(4) should be made in the return of Form GSTR-3B for the month of September 2020.

Example:-

| Month | ITC As Per Invoice /Debit Note Available | ITC eligible as per GSTR 2A | ITC Allowed Due To Relaxation |
|---------------|--|-----------------------------|-------------------------------|
| February 2020 | 11,000 | 10,000 | 11,000 |
| March 2020 | 9,000 | 8,000 | 9,000 |
| April 2020 | 12,000 | 11,000 | 12,000 |
| May 2020 | 10,000 | 9,800 | 10,000 |
| June 2020 | 11,000 | 10,500 | 11,000 |
| July 2020 | 9,000 | 8,500 | 9,000 |
| August 2020 | 11,000 | 10,000 | 11,000 |
| | 73,000 | 67,800 | 73,000 |

Note:-ITC claim excess/short will be adjusted in the month of September 2020 Form GSTR 3B return, according to provision of Rule 36(4).

| | | | |
|----------------|--------|--------|--------|
| September 2020 | 10,000 | 5,000 | 7,080 |
| Total | 83,000 | 72,800 | 80,080 |

- Please Note that in the month of September 2020 , registered person had ITC available as per invoice Rs. 10,000 but due to restriction under proviso of Rule 36(4), ITC allowed Rs.7,080 i.e. ITC for the period February 2020 to September 2020 Rs. 72,800 , as per invoice/ debit note reflected / auto populated in Form GSTR 2A + 10% of eligible credit Rs. 7,280, Total comes to Rs.80,080. Registered person was eligible for ITC Rs.83,000 as per invoice/debit note available with him for the period February 2020 to September 2020, but due to proviso under rule 36(4) ITC was restricted upto Rs.80,080 in the , month of September 2020 only .

- 6) The adjustment of ITC availed excess /short for the period February 2020 to August 2020, shall be made in September 2020 . So there may be chances that tax payer has availed excess ITC during this period February 2020 to August 2020. Then in this situation excess availed ITC has to reverse in the GSTR 3B return for the month of September 2020 and should be shown in column “Other ITC Reversed”.

Example:-

| Period | ITC As Per Invoice Available | ITC eligible as per GSTR 2A | Remarks |
|----------------|------------------------------|-----------------------------|---------------------|
| Feb – Aug 2020 | 70,000 | 60,000 | 70,000 (Availed) |
| September 2020 | 2,000 | 1,000 | (2,900)(Reversible) |
| Total | 72,000 | 61,000 | 67,100 |

Note:- Eligible ITC for the period Feb – Sep 2020 Rs.67,100 = Rs.61,000+ 10% Of 61,000.

So Rs.2900 excess ITC taken during period February 2020 to August 2020 , which need to be reversed in the return Form GSTR 3B for the month of September 2020.

- 7) In the opinion of Author, that this relaxation is for Tax Payer for limited period, so it should not be taken lightly. Tax Payer must regularly follow the supplier , whose invoice/ debit notes are not auto populate in GSTR 2A , in the same ,manner, has followed during past period , because ultimately excess availed credit during the period



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February 2020 to August 2020 will have to be reversed in the month of September 2020 in GSTR 3B return. But for excess availed ITC, **interest will not be applicable.**

- 8) In other words the return GSTR 3B furnished during the period February 2020 to August 2020, the condition of 10% excess credit of eligible credit under Rule 36 (4) is not applicable. Therefore tax payer is eligible to take full ITC as per invoice/debit note in their possession. But in GSTR 3B return for the month of September 2020, shall be furnished after adjustment of cumulative ITC calculated for the said period.



Contribute by CA. Mukund Chouhan

GST Refund Due Inverted Duty Structure:-

There is no any definition of Inverted Duty Structure in GST Laws. There may be a situation where the tax rates on inputs is higher than tax rates paid on outward supplies called “Inverted Duty Structure”. Inverted duty structure will generally result in accumulation of excess/unutilized input tax credits. There was not any provision in earlier indirect tax laws regarding the refund of unutilized input tax credits.

Section 54(3) (ii) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period: where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council Provided further that no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty. Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies. If supplier has 100% Export Turnover they can claim Refund on Export. If Supplier has Both Turnover Local & Export they can claim Refund Proportionately in Both Case.

Section 54(10) Where any refund is due under sub-section (3) to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may— (a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be; (b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.

Section 54 (1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the **expiry of two years from the relevant date** in such form and manner as may be prescribed:

Explanation - For the purposes of this sub-section, the expression “**Relevant Date**” shall mean the last date for filing an appeal under this Act.

Explanation for the purpose of the Section 54:-

“Relevant Date” Means: -

in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises; (Amended from w.e.f. 01.02.2019 by CGST Amendment Act-2018)

Notification No.05/2017 Central Tax (Rate) Dt.28-06-2017

no refund of unutilised input tax credit shall be allowed, where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supplies of such goods (other than nil rated or fully exempt supplies) In the goods of the Following HSN Code:-

| | |
|---|---|
| Tariff item, heading, sub-heading or Chapter | 5007, 5111 to 5113, 528 to 5212, 5309 to 5311, 5407, 5408, 5512 to 5516, 60,8601, 8602, 8603, 8604, 8605, 8606, 8607, 8608, |
|---|---|



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Notification No.20/2018 Central Tax (Rate) Dt.26-07-2018

In the notification No 05/2017, in the opening paragraph the following proviso shall be inserted, namely: - “Provided that, - (i) nothing contained in this notification shall apply to the input tax credit accumulated on supplies received on or after the 1st day of August, 2018, in respect of goods mentioned at serial numbers 1, 2, 3, 4, 5, 6, 6A, 6B, 6C and 7 of the Table below; and (ii) **in respect of said goods, the accumulated input tax credit lying unutilised in balance, after payment of tax for and upto the month of July, 2018, on the inward supplies received up to the 31st day of July 2018, shall lapse.**”...

In case of

- woven textile fabrics falling under specified headings in chapter 50 to 55
- knotted netting of twine, cordage of rope, made up of fishing nets or other made up nets, of textile fabrics, falling under heading 5608 (inserted w.e.f. 14-11-2017)
- Corduroy fabrics falling under heading 5801 (inserted w.e.f. 22-09-2017)
- Narrow woven fabrics falling under heading 5806 (inserted w.e.f. 14-11-2017)
- Knitted or crocheted fabrics (all goods) falling under chapter 60.

Textile articles refund was not available in respect of inverted duty structure up to 01-08-2018. Now refund of excess input tax credit will be admissible w.e.f.01-08-2018, if ITC on inputs is more than GST payable on final Product. The refund was not admissible up to 01-08-2018 Hence, any ITC availed and accumulated up to 31-07-2018 and lying unutilized after payment of tax up to and for the month of July 2018 will lapse.

Circular No.56/30/2018-GST Dated 24-08-2018. – Clarification by Department

- There is no Lapse of Credit of Input Service & Capital Goods Availed Before 31-07-2018.
- No reversal of credit if you are in business of Exports.
- Calculation mechanism for lapsing of input tax credits.
- No lapse of Credits of stock lying as on date 31-07-2018.
- Compulsory lapse Credit in GSTR-3B of August-2018.

Circular No.79/53/2018-GST dated 31-12-2018

- No Refund of ITC on Capital Goods & Service.

Circular No.94/13/2019-GST dated 28-03-2019

- The person who has reversed ITC after month of August 2018 is liable to pay interest @ 18% on delayed reversal.
- If still pending regarding reversal of ITC same amount may reversed through DRC-03 instead of GSTR-3B
- If person reversed the same amount through Form GSTR-3B of the subsequent Month of August-2018 then it is valid.

Circular No.135/05/2020-GST dated 31-03-2020

- More than Two Financial Years Refund Claim Can Be Filled In Single Refund Application.
- Refund For that Invoices which are reflected in GSTR-2A Will Be Available Only.
- HSN/SAC Code to Be Mentioned in Annexure-B. (Format Of the Annexure-B Is Being Changed).

Rule 89(5):- In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula:-

Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC ÷ Adjusted Total Turnover} - tax payable on such inverted rated supply of goods and services.

Explanation:- For the purposes of this sub-rule, the expressions – (a) “Net ITC” shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and (b) “Adjusted Total turnover” shall have the same meaning as assigned to it in sub-rule.

General:-

- If Refund is not paid within 60 days from the date of receipt of application under section 54(1) interest @ 6% shall be paid for the delay.



Contributed by CA Ketan Gadhiya



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IND AS 102 – Share Based Payments

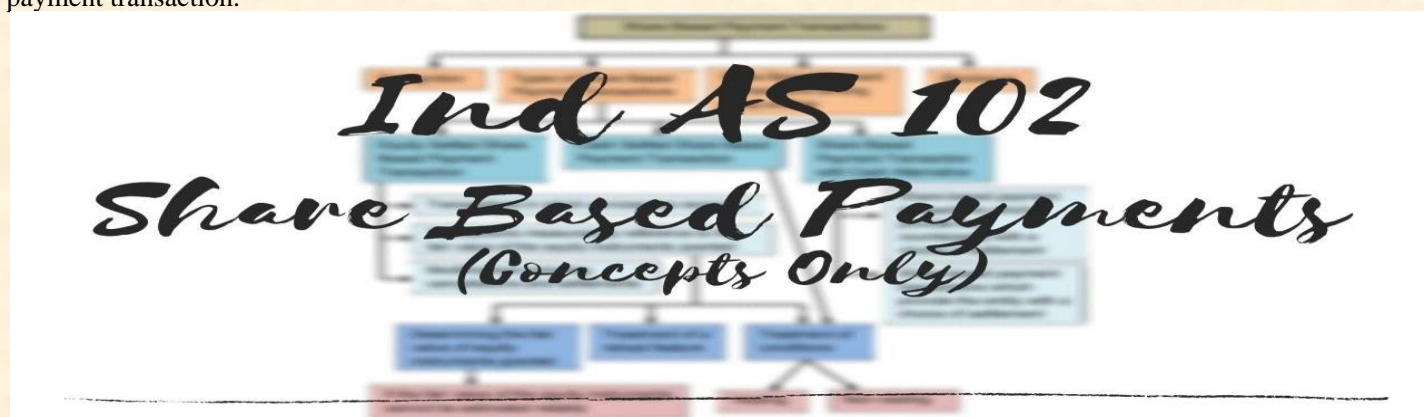
“Age old technique, in new form”

Bartering – the age old technique that became reality around 6000 B.C. by exchanging goods and/or services as consideration for another kind of goods or services. Barter system traces back to Mesopotamia tribes, gradually this technique of transaction lost its significance because of widely acceptance of other forms of currency but it still remains within financial and economic boundaries and is still used in one or other way. In share based payments, share instruments are exchanged for goods or services. Share based payments stimulate entities acquiring power and reduces requirement of liquidity, this form of transaction is used for receiving goods or services within the organisation as well as from third parties. Ind AS 102 – Share Based Payments, is formed for record keeping of this type of transaction and to create standard representation of such transaction irrespective of category or type of organisation.

Ind AS 102 – Share Based Payments provide specified methodology for recording variety of transaction which involves exchange of share instruments for goods and/or services in its financial statements. Share based payments allows companies to undertake various transaction without necessary liquidity on hand. In exchange of goods and/or services an entity issues its shares at fair market value determined at the time of undertaking transaction. Time is essence in Ind AS 102 – Share based payments, as all kinds of transaction are of different nature.

Objective of Ind AS 102:

The objective of this standard is to provide methodology of financial reporting of share based payment transaction. Specifically, it requires an entity to reflect the transaction in its profit & loss and Statement of affairs the effect of share based payment transaction.



Scope of Ind AS 102:

An entity shall apply this Standard in accounting for all share-based payment transactions, whether or not the entity can identify specifically some or all of the goods or services received, including:

- (a) equity-settled share-based payment transactions,
- (b) cash-settled share-based payment transactions, and
- (c) transactions in which the entity receives or acquires goods or services and the terms of the arrangement provide either the entity or the supplier of those goods or services with a choice of whether the entity settles the transaction in cash (or other assets) or by issuing equity instruments,

Except where share based payment is made by one of the group entity and goods or services are received by another group entity.

Recognition:

An entity shall recognise the goods or services received or acquired in a share-based payment transaction when it obtains the goods or as the services are received. The entity shall recognise a corresponding increase in equity if the goods or services were received in an equity-settled share-based payment transaction or a liability if the goods or services were acquired in cash settled share based payment transaction.

When the goods or services received or acquired in a share-based payment transaction do not qualify for recognition as assets, they shall be recognised as expenses.

A. Equity Settled Share based Payment Transaction:

For equity-settled share-based payment transactions, the entity shall measure the goods or services received, and the corresponding increase in equity, directly, at the fair value of the goods or services received, unless that fair value cannot be estimated reliably. If the entity cannot estimate reliably the fair value of the goods or services received, the entity shall



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measure their value, and the corresponding increase in equity, indirectly, by reference to the fair value of the equity instruments granted.

B. Cash Settled Share based Payment Transaction:

For cash-settled share-based payment transactions, the entity shall measure the goods or services acquired and the liability incurred at the fair value of the liability, subject to the treatment of vesting and non-vesting conditions. Until the liability is settled, the entity shall remeasure the fair value of the liability at the end of each reporting period and at the date of settlement, with any changes in fair value recognised in profit or loss for the period.

C. Share based Payment Transaction with Cash Alternatives:

For share-based payment transactions in which the terms of the arrangement provide either the entity or the counterparty with the choice of whether the entity settles the transaction in cash (or other assets) or by issuing equity instruments, the entity shall account for that transaction, or the components of that transaction, as a cash-settled share-based payment transaction if, and to the extent that, the entity has incurred a liability to settle in cash or other assets, or as an equity-settled share-based payment transaction if, and to the extent that, no such liability has been incurred.

For further details on Ind AS 102 – Share based payment; reader shall refer to original detailed text on the standard published by the ICAI.



Contributed By:
CA. Gaurav Jain

Direct and Indirect Tax Updates

1. Date of various compliances or payments under Income Tax Act

| Sr. No. | Return Payment date | Earlier Date | Revised Date |
|---------|--|--|--------------------------------|
| 1 | Last date of Return Filling for F.Y. 2018-19 | 30 th June 2020 | 31 st July 2020 |
| 2 | Investment/Payments to Claim Deduction for F.Y. 2019-20 | 30 th June 2020 | 31 st July 2020 |
| 3 | TDS Return 24Q 2019-20 (For Govt. Employee) TCS-Return-Q4 2019-20 (27EQ) | 30 th June 2020 | 15 th July 2020 |
| 4 | TDS-Return-Q4 2019-2020 (24Q, 26Q & 27Q) | 30 th June 2020 | 31 st July 2020 |
| 5 | File Return (All Cases) For F.Y. 2019-2020 | 31 st July 2020 31 st Oct 2020 | 30 th November 2020 |
| 6 | File Tax Audit Report (44AB) for F.Y. 2019-2020 | 30 th September 2020 | 31 st October 2020 |

2. GST Compliances - Due dates, Fee and Interest

| GSTR-3B | | | | | |
|---|--------------------------|------------|-----------------------------|-------------------------------|--|
| Type of Taxable Person | Notification reference | Tax period | No Interest No Late fees | Interest @ 9% No late fees | Interest @ 18% + Late Fee from as applicable |
| Agg. Turnover > 5 Cr. (refer note-1) | 52/2020 - Central Tax | Feb-20 | 04-Apr-20 | 05 April to 24 June | Interest after June 24, 2020 Late Fee as applicable |
| | | Mar-20 | 05-May-20 | 06 May to 24 June | |
| | | Apr-20 | 04-Jun-20 | 05 June to 24 June | |
| | 36/2020 - Central Tax | May-20 | 27-Jun-20 | -- NA -- | Int & Late Fee after June 27 |



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| Type of Taxable Person | Notification reference | Tax period | No Interest No Late fees | Interest @ 9% + Late Fee as applicable | Interest @ 18% + Late Fee as applicable |
|--|--------------------------|------------|-----------------------------|--|--|
| Rs. 0.00 ≥ Agg. Turnover ≤ 5 Cr (refer note-1) (North Indian States only) | 52/2020 - Central Tax | Feb-20 | 30-Jun-20 | 01 July to 30 Sept | Interest after Oct 1, 2020 Late Fee as applicable |
| | | Mar-20 | 05-Jul-20 | 06 July to 30 Sept | |
| | | Apr-20 | 09-Jul-20 | 10 July to 30 Sept | |
| | | May-20 | 15-Sep-20 | 16 Sept to 30 Sept | |
| | | Jun-20 | 25-Sep-20 | 26 Sept to 30 Sept | |
| | | Jul-20 | 29-Sep-20 | 30-09-2020 (one day) | |
| | 54/20 - Central Tax | Aug-20 | 03-Oct-20 | -- NA -- | After Oct 3 |

Notes:

1) Aggregate turnover will be considered for the preceding financial year.

GSTR-1

| Type of Taxable Person | Notification reference | Tax Period | | Due Date |
|-------------------------|--------------------------|------------|------------------|-----------|
| Agg. Turnover > 1.5 Cr. | 53/2020 - Central Tax | Monthly | Mar-20 | 10-Jul-20 |
| | | | Apr-20 | 24-Jul-20 |
| | | | May-20 | 28-Jul-20 |
| | | | Jun-20 | 05-Aug-20 |
| Agg. Turnover ≤ 1.5 Cr. | 53/2020 - Central Tax | Quarterly | Q4 : 2019- 20 | 17-Jul-20 |
| | | | Q1 : 2020- 21 | 03-Aug-20 |

Compliances for Composition Taxpayers

| Type of tax payer | Notification reference | Tax Period | Due Date |
|------------------------|------------------------|---------------------------|-----------|
| GST CMP-08 - Quarterly | 34/2020-Central Tax | Qtr. ended March 31, 2020 | 07-Jul-20 |
| GSTR-4 - Annually | | FY 2019-20 | 15-Jul-20 |

Constitutional Mandate of taxation

Reliance Industries Limited vs. State of Gujarat :- Special Civil Application No. 14206 of 2018 – Date 16.04.2020

A. Facts

1. In view of judgment of the apex court, dated 22.09.2017, in case of other dealer, Addl. Commissioner issued revision notice on 06.11.17 u/s 75 of GVAT Act.
2. On 16.03.2018, high court set aside the revision notice being beyond period of limitation period.
3. By virtue of the VAT Amendment Act, 2018, Section 84A came to be added in the VAT Act to be operative retrospectively w.e.f 01.04.2006, *inter alia*, providing for the exclusion of the period commencing from the date of the decision of high court dated 18.01.2013 rendered against the revenue upto the date of the decision of the Supreme Court i.e., 22.09.2017 being in favour of the revenue and thereby removing the basis of the judgment dated 16.03.2018.

B. Points of challenge

4. On basis of above Addl. Commissioner issued another revision notice dated 01.09.2018 which is challenged on following grounds;
 - 4.1 Section 84A of the GVAT Act is ultra vires and beyond the legislative competence of the State under Entry 54 of List II of the seventh schedule to the Constitution of India.



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4.2 Section 84A of the GVAT Act is manifestly arbitrary and violative of the Articles 14 and 19(1)(g) of the Constitution of India.

4.3 Section 84A of the GVAT Act is not a validating Act.

C. Reasoning

5. After insertion of Article 246A (to enact law relating to GST) of constitution, the scope of Entry 54 has been drastically curtailed to six specific products only and State Legislature does not have the competence to enact any law under Entry 54 except the law concerning only the six specific products. Therefore, the power to amend any law with respect to levy of tax on the sale or purchase of goods such as “Gujarat VAT Act” could be said to have been abolished with the aforesaid amendment in the Entry 54 in List II in Schedule VII of the Constitution of India.
6. If at the time of the amendment, the Legislature does not have the competence, then the law cannot be enacted on the ground that the same is concerning the period when the Legislature had the necessary competence.
7. Section 84A of the VAT Act is not saved under Article 246A of the Constitution. Article 246A of the Constitution was inserted by the 101st Constitution Amendment Act with the prime object of subsuming multiple indirect taxes and to confirm concurrent power upon the Parliament and State Legislature to impose “Goods & Services Tax” in accordance with the recommendations of the Goods & Services Tax Council constituted under Article 279A of the Constitution.
8. Section 84A has been inserted in the Gujarat Value Added Tax Act, 2003 with retrospective effect. However, it does not provide for any validation of various acts of the revenue authorities namely the assessment, re-assessment, collection etc. Accordingly, the said Act cannot be treated as a “validating Act”.
9. Section 64 of VAT Act requires the dealer to preserve books of accounts only for a period of six years from the end of the relevant accounting year. The proviso thereto requires further preservation of books of accounts only to the extent a matter is pending in appeal or revision. However, the impugned provision exposes the dealer to assessment/reassessment/ revision for an indefinite period which is excessive and disproportionate. In fact, the retrospective operation of the provision w.e.f 1st April, 2006 allows reopening of assessments of years in respect of which a dealer was not required to preserve the books of accounts and, therefore, the retrospective operation is all the more onerous and manifestly arbitrary.
10. If unlimited time period is available to the Revenue for assessment/reassessment/revision in any case based on a decision rendered in the case of any other dealer the same would lead to an irreparable situation and, in such circumstances, it renders Section 84A manifestly arbitrary and unreasonable.

D. Conclusion

11. Accordingly, the amendments were held to be beyond legislative competence, manifestly arbitrary and not being validating act and were struck down.

Contributed By:-

CA Jayraj P Dhakan



Congratulations!



CA Rupin Patchigar Past Vice Chairman of WIRC of ICAI and Past Chairman of Surat Branch of WIRC of ICAI has been appointed as Chairman of Board of Management of Prime Co-Op. Bank Ltd. Surat.



CA Haresh Dhirubhai Kapadiya has been Appointed by The Varachha Co.-Op. Bank Ltd. as member of Board of management.



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Glimpse of 72nd CA Day Celebration



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